

## **Negotiating gender equal Inheritance rights:**

### **Rise of Islamic politics and global feminist landscape in Bangladesh**

#### **Abstract**

The inheritance right in Bangladesh is a highly contested issue. It is interpreted differently in the two major religions in Bangladesh such as, Islam and Hinduism. Using the concepts of ‘legal pluralism’ and ‘feminist institutionalism’, we aim to understand different contestations and debates and the multiplicity of practices in these religions on this issue. Such contestation challenges the formulation of gender-equal inheritance policies in Bangladesh. To understand the challenges, in this paper, we identify the major actors involved in the policy formulation and investigate the key factors and events that led the state to formulate such policy and later, withdrew it. Based on the qualitative case-study method, we observe that gender-equal inheritance right provision depends on multiple political factors and events. On the one hand, the international mandate of ensuring gender equality and donors’ support influenced the formulation of equal inheritance right provision in the National Women Development Policy (NWDP). On the other hand, opposition from the Islamic fundamentalist parties created tension in formulating such policy and in the face of violent opposition, the government feared being framed as ‘anti-Islamic’, withdrew the equal inheritance rights policy in Bangladesh in the policy formulation stage.

**Key Words:** Gender equality, inheritance right, legal pluralism, political Islam, feminist Institutionalism, Bangladesh

## **Introduction**

Policies that aim at changing the social fabric of a nation usually mobilize different interests both opposing and supporting these. Mobilization of different forces and the resources and strategies these different interests generate decide the fate of policies. Sometimes policies fold back and nipped in the bud in the policy formulations stage. Policies may fold back when there are legal pluralism and the opposition and resistance to a policy are such that it is difficult to resist and sustain it. The policy formulation is often identified as a political process that reflects the interests, benefits, and ideas of policymakers (Bacchi, 2009), and lead complex power play among different actors and institution (Nazreen et al., 2019). Therefore, it is important to identify the role of different actors, events and institutions, and their interactions within the socio-political power space in formulating a gender-equitable policy. Informal institutions, such as religion, culture and customs may play an influential role in the formulation and implementation of a policy (Waylen, 2017). However, the challenge of formulating an equitable policy becomes bigger when there exist multiple interpretations of laws as well as policies and the co-existence of contradictory regulations emanating from different sources such as state and religion. Such multiplicity can create uncertainty, confusion, diverse perceptions, and conflicting behaviour amongst citizens.

To explain this, the article focuses on a policy issue of inheritance rights in Bangladesh. In the last few decades, women in Bangladesh have radically progressed in terms of mobility, education, health, and employment (Hossain and Tisdell, 2005; Kabeer 2011; Heady et al. 2015; Rahman et al. 2017; Heintz et al. 2018). Bangladesh formulated different gender equitable laws and policies to comply with its constitutional commitment and global feminist mandates. However, there is a legal deficit when it comes to equal inheritance rights for women and men. Inheritance law in Bangladesh comes with multiple interpretations explained in four different religions (Islam, Hinduism, Buddhism, and Christianity). Nonetheless, as a state, the constitution and international mandate confirm that Bangladesh is committed to ensuring gender equality in every aspect of life. Therefore, such contestation between different religions and state provisions produces several debates and confusions. This policy which is called the National Women's Development Policy (NWDP) ensured women equality in inheritance met several challenges and violent oppositions in the formulation stage in 2011, threatened peace and security in Bangladesh. This policy intended to ensure equal rights to women in terms of inheritance of property but was withdrawn by the government in the formulation stage. This policy was based on constitutional

principles of equality before the law and legal rationality challenged the age-old inheritance of property practices based on traditional and religious laws. The ruling coalition, therefore, entered into a negotiation with Islamic religious groups and withdrew the policy with the provision that contained the gender-equal rights of inheritance.

Against this backdrop, the paper analyses the equal inheritance right provision in NWDP from three different perspectives; first, it aims to reveal legal pluralism and multiple interpretations of inheritance rights as practised in the two major religions in Bangladesh, i.e., Islam and Hinduism respectively. Second, it aims to understand the equal inheritance right perspective from the global feminist agenda and national gender initiatives of Bangladesh and finally, it positions equal inheritance right within the rise of political Islam perspectives of Bangladesh. In this vein, the paper identifies the socio-political drivers of formulating and withdrawal of provisions containing equal inheritance rights policy. In doing this, it explores the interaction and power dynamics among major actors, events and institutions involved in this policy formulation stage that led the ruling coalition of Bangladesh to initiate formulating an equal inheritance policy but stepped back from formulating that policy.

#### **Conceptual understanding: Legal pluralism of inheritance right and feminist institutionalism**

In many societies in the world, multiple legal and normative frameworks coexist. Many social scientists, and especially legal anthropologists argue that law is not limited to legal acts, rules, administrative orders, court decisions or, only enacted or made by the various state organs (Moore, 1973; Meinen-Dick et al., 2002; Tamanha, 2008). Law needs to be understood broadly as ‘cognitive’ and ‘normative’ orders generated and maintained in a social field such as a village, an ethnic community, an association, or a state (Moore, 1973). Therefore, *Legal pluralism* denotes a situation in which formal laws exist together with traditional norms, conventions, interpretations, and practices in each socio-cultural context (Meinen et al., 2002). To provide a definition, “legal pluralism” referred primarily to ‘the incorporation or recognition of customary law, norms, or institutions within state law, or to the independent coexistence of indigenous norms and institutions alongside state law (whether officially recognized)’ (Griffiths, 1986; Ibid, p. 390). In the late 1980s, the concept of legal pluralism was deployed in socio-legal studies when proponents of these disciplines labelled it ‘a central theme in the re-conceptualization of the law-society relation’ (Ibid, p. 390). However, this coexistence of multiple legal orders does not mean that all laws are equal,

or equally powerful. Many of these rules and laws themselves are subject to negotiation, reinterpretation, and change, interact and influence each other, not isolated from one another, and thus, “mutually constitutive” (Guillet, 1998).

In this vein, we put feminist institutionalism (FI) lens to analyse the complexities and contestations in formulating gender-equitable policy. FI lens facilitates us to understand the existing inheritance practices from discrimination, equality, and justice perspectives depending on gender and religion (Waylen, 2014; 2017). Ensuring gender equity is a question of power. FI demonstrates how such power operates and interplays historically and defines our everyday life and practices. The power interplay between formal and informal institutions represented by statutory laws and customary laws respectively analyses how women have been historically dominated and oppressed in different institutions (such as religions) and even in formal policy settings (ibid). By informal institution, we refer to ‘socially shared rules, usually unwritten, that are created, communicated, and enforced outside of officially sanctioned channels’ (Helmke and Levitsky (2004, p.272). From a policy perspective, we concentrate on how informal institutions guided by cultural norms, customs, religious practices, and enforcement capabilities of government agencies interact and negotiate with formal rules, such as- the constitution or legislation in the policy formulation (Khan, 2010; Mirja, 2013).

When we talk about the role of informal institutions to formulate formal policy, we also stress the role of ‘political Islam’ in the process (Hasan, 2011; 2012; Riaz, 2006; 2010). ‘Political Islam’ is a contested concept that represents Muslim political movements with the demand of establishing Sharia law (Esposito, 1997). Through understanding the rise of ‘political Islam’ in Bangladesh which is the third-largest Muslim majority country in the world, in our paper, we put focus on how Islam as a religion plays a role and often being capitalized for gaining political benefits, (re)shaping political space, and (re)negotiating policy agenda. More specifically, we are interested to see how the Islamic political parties spread Islamic values and ideology in politics and how it challenges ensuring gender equality. One example being their vehement opposition to the equal inheritance policy. Based on these reflections, we analyse three important components through a combination of legal pluralism and feminist institutionalism lens: a) plurality regarding inheritance norms and practices in different religions and multiple interpretations of them, (b) conflicts among different interpretations, constitutional regulations, and international mandates, and (c) major actors, key factors and events that influence formulation and withdrawal of the equal provision of the right.

[Table 1 HERE]

### **Methodology**

The study followed a qualitative case study method to understand gender equality contention in Bangladesh. To understand the dynamics and complexities (as outlined in the foregoing paragraphs), the case-study employed primary and secondary sources of data. Secondary sources include religious books on Hinduism and Islam (Quran, Manusmriti, etc.), their interpretations, relevant blogs, and newspaper articles. For primary sources, we carried out in-depth semi-structured interviews, focus-group discussions, group interviews, and interviews with key actors in society. The interviews were carried out in the period between September 2019 and February, 2020 both online and face to face. We used purposive sampling to choose respondents who were a) directly involved in the policy process (policymakers and officials); b) those who opposed the state policy (Muslim religious scholars and clergies); and c) those who advocated for the adoption of the policy (key actors, lawyers, and feminist activists). The research follows necessary ethical protocols including obtaining informed consent, anonymity and confidentiality. Both oral and written consent were taken either through explaining the informed consent form verbally or by sending the form via email prior to the interview. Ethical protocols were approved by grant provider [anonymised].

[TABLE 2 HERE]

### **Inheritance rights: Unpacking the debate**

This section presents different debates on inheritance rights that emanate from inheritance laws and practices in Muslim and Hindu communities in Bangladesh. As stated above, although Bangladesh is known as a secular state with non-discriminatory laws and policies, different practices and interpretations are leading to variations of personal and family laws. This situation pertains especially to the regulation of marriage, divorce, inheritance, and other family-related issues. The following sub-sections highlight the major Islamic and Hindu regulations guiding social practices of inheritance in Bangladesh, and the debate as it is presented by different proponents.

#### ***Inheritance system in religion: Reflections from Islam***

Islamic inheritance law, known as *al-faraid*, combines ideas from the holy Quran and the Sunnah (Zuleika & Desintha, 2014). Faraid gives very clear guidance on property distribution (Khan et al. 2016) through three major regulations. First, the Quran states that there is always a

fixed share of inheritance for both men and women: ‘From what is left by parents and those closest related, there is a share for men and a share for women whether small or large—a fixed share’ (Quran 4: 7).

Second, the amount of the fixed share is dictated by Allah: ‘God enjoins you about your children that a boy’s share is equal to that of two girls. And, if there are only girls among the children and they are more than two, then they shall receive two-thirds of the inheritance, and, if there is only one girl, then her share is half’ (Quran 4: 11). This verse is the root of Faraid, which declares that (a) the share of one son is equivalent to two daughters; (b) a daughter will get half of the property if there is no son; (c) if there is more than one daughter, then they share two-thirds of the property while others will share the rest of the property; (d) if there is only a son, then he is entitled to all the property (Uthaimin 1983, 45).

Third, the husband’s share and the wife’s share are prescribed as follows:

‘And to you belongs half of what your wives leave if they die childless. Moreover, if they have children, a quarter of what they leave shall be yours after payment of any legacies they may have bequeathed and after discharging any outstanding debts. Your wives shall inherit a quarter of what you leave if you die childless. If you have children, then they shall inherit one-eighth, after payment of any legacies you may have bequeathed, and after discharging any of your outstanding debts.’ (Quran 4: 12)

Bangladesh’s Muslim communities which constitute 88% of the total population follow Islamic regulations in distributing property (BBS, 2011). The Muslim Family Laws Ordinance, 1961 also formulated provisions about inheritance based on the direction given in the Quran.

*‘In Islam, women are not supposed to be responsible for their maintenance, rather it is the responsibility of the father, brother, or husband to provide all kinds of maintenance costs for women within his ability. Women are entitled to get dower and father’s and husband’s inheritance.’* [Conversation with Islamic priest, 17<sup>th</sup> March 2019, Dhaka, Bangladesh].

This interpretation of ‘responsibility’ thus excludes the financial responsibility of women, however, women must have to maintain the household, perform chores, and be active in the private home sphere that almost all of them contribute to. At the same time, it is irrational to think that women’s reduced share of inheritance is shored up by the receiving property from both their parental home and the husband’s family; this is because men also get both shares, and in a higher amount than women.

Although women get a share of both parental property and the husband's property after their death, in practice, it is observed that even if women inherit property either from husband or parents, they often are not able to access it, control it, or use it (Sultana 2010). Many women leave the property to their brother, to ensure that they will be given shelter at the paternal house if they are deserted or divorced by the husband (ibid). Many women do not take any legal action because they are unaware of the country's legal system, or they want to maintain a better relationship with their parents, brothers, and husbands. Thus, a continuing problem as observed in almost all continents of the world is the disjuncture between women attaining formal land rights and securing these in practice (Al-Hibri 2000–2002).

### ***Inheritance system in religion: Reflections from Hinduism***

The religion that the Hindus follow is called *Sanatan*, meaning 'ancient or eternal' (Zahur 2016). Hindu communities follow a different custom in inheritance, mostly based on *Sanatana* scripture called *Manusmriti*. Based on that, the Hindu Succession Law 1937 continues as the basis of personal law in Bangladesh.

Hindu women's rights to property fall into two categories: a) absolute ownership of property, called *stridhana*, gives a woman full rights to the property she owns, meaning she can do whatever she wants with it, has full access and control of it, and can dispose of it anytime she wants; b) limited ownership of property, called *women's estate*, means that on the death of the female owner, the property will not pass to her heirs, but to the heir of the last male who previously owned the property (Zahur, 2016).

Manu describes *Stridhana* thus: 'The property or wealth given to a girl before the nuptial fire or at the time of marriage procession, as a token of love and affection, by her brother, by her mother and by her father, constitutes the *Stridhana* of that person' (*Manusmriti* IX: 194).

That means *Stridhana* is mainly the property given before, during, and after marriage. As Zahur (2016) notes, the Hindu legal treatise *Dayabhaga* describes three classes of *Stridhana*: a) *Youtaka* is the gift 'given in the presence of nuptial fire', b) the *anvadhayaka* consists of gifts and inheritances made by the father following the marriage, and c) the *ayautaka* includes the gifts and bequests made by relations other than the father after the marriage. Thus, instead of inheriting property, women in the Hindu community get property, money, jewellery, or other commodities as gifts during or after their wedding.

There are also different regulations for women's estate. Daughters are normally only eligible to inherit in the absence of a son, a grandson, a great-grandson, and widows (Akter and Abdullah 2007). On the other hand, daughters do not inherit until all the widows are dead (Mulla 1986). The current Hindu property act also approves the principle that a Hindu widow can claim a share of her husband's property that is equal to that of a son, yet it also allows for the 'widow's limited estate' (Women's Right to Property Act, 1937: 3(3)). This means a woman inherits from her deceased husband only during her lifetime and cannot sell or dispose of the property.

Like Shariah law, Hindu law confirms that women must be taken care of by men. The idea is that since women have less responsibility than men, particularly about providing financial support for others, they have less need for an equal share of an inheritance.

### **The contestation and debates raised from plurality: Arguments by feminists**

In response to the position put forward by Muslim and Hindu clerics, feminist activists and scholars claim that religion leaves women in a secondary position and makes them unduly dependent on men. Key informants argue that before the Islamic priests oppose the equal provision of shared inheritance, they must ensure the practices of Shariah laws properly. Does every Muslim woman get the maintenance or the dower to which they are entitled? Even if women are given the property that Sharia law says they have a right to, do they have control over it? Can they gain access to it when they need it or get benefits out of it?

Feminists argue that the privileges that religion entitles women to end up making women submissive to their male counterparts. While the priests blamed social norms for keeping women from getting a fixed share of the inheritance, feminist activists explained that the regulations as prescribed in religion reinforce the discriminatory practices in society. Neither the practice of religious laws nor the practice of socio-cultural norms will allow women to receive an equal share of an inheritance.

### **Mapping major actors and key events in formulating and not formulating gender-equitable policies**

Identifying the key-factors of formulating gender-equitable policies like gender-equal inheritance right in Bangladesh needs an understanding of its socio-political trajectory against the backdrop of neoliberal, hetero-patriarchal and Islamic milieu, and democratic politics in Bangladesh. The recent progress of Bangladesh can be exemplified by reducing maternal mortality rate, higher enrolment of girls in primary and secondary school, increasing number of women's participation



in parliament, representation in bureaucracy and local government through gender quotas and enacting different laws on gender-based violence (Kabir, 2020; Nazreen, 2019) The state took several policy measures to make these changes, while NGOs also played a key role. The question is what are the major factors to undertake the pro-women policy measures by the state? In contrast, what makes the state unfold the equal inheritance policy? In the following section, we bring a discussion about these.

### **Why Bangladesh formulates gender-equitable policy? Global feminist perspective**

The constitution of Bangladesh ensures non-discrimination under various articles such as article 27, which gives all citizens equal protection as a fundamental right, while Articles 28 and 29 disallow discrimination on the grounds of religion, sex, race, caste, and so on (Constitution of Bangladesh 1972). Beyond the state's commitment, the global feminist agendas and conventions are very much influential here, since as a state, Bangladesh has also committed to the world community by signing and ratifying many international mandates, treaties, and conventions that guarantee gender-equal provision for all, irrespective of sex and religious regulations, such as Article 7 of UDHR,<sup>1</sup> CEDAW,<sup>2</sup> ICESCR,<sup>3</sup> and BPFA.<sup>4</sup> Among these treaties, Bangladesh is one of 160 countries that signed CEDAW to eradicate all sorts of discrimination against women all over the world, although it keeps reservation on article 2 (Zahur, 2016). Bangladesh is also a signatory to the Beijing Platform for Action (BPFA) in 1995, which together with CEDAW inspired the government to formulate non-discriminatory policies in favour of women. At the same time, the UN Women's Decade (1975–1985) and donor's interest to fund Women in Development (WID) programs were influential in motivating the states to formulate policies as well as NGOs to initiate programs to address women's needs and rights. In the period 1972-1980, Bangladesh was dependent on foreign aid. Promoting gender and development issue is one of the agendas that the donors suggested, which the state also supported. To integrate with the agenda of WID, the state attempts to create space to bring women into development through gender mainstreaming in policies, planning, and practices. These also led the state to establish pro-women organizations and wings such as Ministry of Women and Children's Affairs (MOWCA), Department of women's affairs, etc., to

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<sup>1</sup> Universal Declaration of Human Rights

<sup>2</sup> Convention on the Elimination of All Forms of Discrimination

<sup>3</sup> International Covenant on Economic, Social and Cultural Rights

<sup>4</sup> Beijing Platform for Action

formulate gender equal policy, prolong the collaboration with international aid donors, and local feminist activists. The aid dependency and state obedience for donor agency also let the Military rule to strengthen their power regime through the support provided by the donors till from 1975-1990 (White, 2012). Meanwhile, the pro-democracy movement in 1980 and the democratic transition in 1990 generated space for feminists and women activists (including women and human rights organizations, researchers, and academics) to create a pro-women coalition and involve in policy formulation through collaboration with states (Nazneen, 2013).

However, the women's movement, as well as feminist activism in Bangladesh has been facing several challenges; the **first** challenge is the blame that they fulfil the 'westernized' agenda in Bangladesh which threaten the cultural and religious norms in the country (Nazneen and Sultan 2014). The other challenge is to tackle the opposition from the rising political Islam in the political space of Bangladesh. Based on these, we identify three major actors who play important roles in formulating and not formulating gender equitable policies, (a) ruling coalition, (b) pro-women activists (including donor and NGOs) and (c) Islamic political party. Depending on the power and interest conflict and constant dialogues, negotiations, and interactions as observed in recent times determine which policy is to be formulated and which policy is to be folded back.

### ***The National Women's Development Policy (NWDP): An Initiative for Equality***

Ensuring equality in inheritance has been a long-term demand of the women's movement, feminist activists and secular society. In the late 1980s and early 90s, feminists in Bangladesh mobilised for a uniform family code with extensive groundwork to pursue required legal changes (Nazneen, 2013; 2017). The uniform family code challenged male privileges based on Shariah law and other religious laws of the minority communities (Ibid). The feminists demand a uniform code that is based on a 'right to equality' that prescribes the same rights in matters related to divorce, guardianship, maintenance, and inheritance for all men and women in different religions (ibid). Women's organizations also collaborated with feminists and human rights lawyers to bring changes in legislation. However, the movement failed to attain its goal as the grass-root support was not solicited, particularly religious priests and leaders and not including men in this mobilization (Ibid). Despite the movement's failure, it influenced several state policy formulations and actions, such as the National Women's Development Policy (NWDP).

In 1997, the ruling coalition (Awami League and its alliance) first intended to include a provision for equality in inheritance right in the NWDP. This policy involves various provisions

for women's advancement in Bangladesh, and when it was first formulated, it expressed the ruling party's commitment to ensure equality in inheritance rights for men and women (Hossain, 2020; Geyan, 2011). Section 7.2 of the 1997 policy stated that *'Women would be given full and equal rights, and control over earnings, inheritance, wealth, loan, land, and wealth earned through technology and market management, and new laws would be enacted to achieve this goal'* (GoB 1997).

Women activists welcomed the 1997's policy, however, the formulation of this policy was discontinued due to the change of government in 2004. Bangladeshi Nationalist Party (BNP) and its alliance formed a new government. The new government had an alliance with Jamaat-e-Islami Bangladesh which is the biggest Islamic party that supports Shariah law. The ruling elites reformulated the policy and omitted the provision containing the equal right of inheritance. In 2008, AL and its alliance formed the government again and as an election pledge/commitment, the new alliance proceeded to reformulate NWDP according to 1997's principles. In 2011, the ruling alliance declared a new NWDP on 8<sup>th</sup> March, International women's day. *'The policy had some confusion and un-clarity in its contents and clauses, particularly regarding inheritance rights'* [Personal communication with key informants on 27 April, 2019].

The policy immediately sparked opposition and was challenged by various Islamic political groups assuming that the new policy would guarantee equality in inheritance. Nonetheless, the new policy in 2011 does not reflect clearly on the equal share of the inheritance (Gayen, 2011). Rather, NWDP, 2011 suggests that women would only get equal access to that property, land, or resources which they already own and have inherited (Hossain, 2020). In contrast, the 1997 NWDP policy proposed full and equal rights, control over earnings, inheritance, wealth, loans, and wealth, and also suggested enacting additional new laws to achieve these goals. Nonetheless, the AL-led ruling coalition did not expect such violent opposition. They omitted the clause that ensured equal inheritance irrespective of gender. At the end of the amended policy, a footnote was added stating that the policy would not include any clause that would go against Islam. The 2011's NWDP is a step back from the mandate of ensuring equality in inheritance compared to the 1997 policy propositions (Hossain, 2020).

### **Why Folding Back? Analysis from political Islamic landscape**

Policy formulation depends on how the problem is situated, represented, and constructed in different institutions in different geographical, historical, and institutional contexts (Bacchi 2009).

What makes the ruling state withdraw the policy containing equal inheritance rights? To answer this question, we situate unequal inheritance practice within political Islam and the authoritarian democratic practice of Bangladesh.

Bangladesh and its political parties have always held a contradictory position concerning women's rights and gender equity (Jahan 1995; Kabeer,1994). On one hand, they have promoted women's inclusion in economic engagement, politics and administration and enacted pro-women laws to protect women from violence (Kabir, 2020). On the other hand, many times they also preserved gender-stereotyped personal and family laws to reinforce male dominance in the country (Nazreen, 2017). Although women's representation increased because of gender quotas, most of these women parliamentarians propose the political agenda of the ruling party rather than advocating for gender equality (Panday 2008; Akter and Nazneen 2014).

Despite having a Muslim majority, Bangladesh has always been portrayed as a secular state where religious freedom exists. However, this does not preclude religious tensions since its independence in 1971 (Griffiths, & Hasan,2015; Hasan, 2000; Riaz and Fair, 2010). Both the Military regimes (1975-1990; 2006-2008) and democratic regimes (1971–1975; 1991–2006; 2009 to present) have significantly used the Islamic sentiments of the people for achieving political gains (Ibid). The military regimes have deducted the secular principle from the constitution in 1977 and declared Islam as the state religion in 1988 (Bhuiyan, 2017). After the democratic transition in 1990-91, two women have led two major political parties - - Sheikh Hasina for the Bangladesh Awami League (AL) and Khaleda Zia for the Bangladesh Nationalist Party (BNP) – who have alternated power since the country's democratic transition to democracy in 1990. Both these parties had allied with Islamist political parties to win elections and nurture different political benefits (Griffiths & Hasan,2015; Nazreen et al, 2019). For example, in 1986, Awami League allied with Jamat-e-Islami and ran the election in 1996. In 1999, it was the BNP who included Jamat-e-Islami, in a four-party alliance with which continued till Jamat-e-Islami was banned in 2013 (Hasan, 2009; Riaz and Fair, 2010). At present, there is an increasing trend in the number of Islamist parties in Bangladesh which stood at 100 in 2006 (Riaz, 2008)

AL is always branded as pro-India, pro-Hindu party, a friend of India and anti-Islamic by the opposition and Islamic groups who also have large sympathizers among the common people. Due to this, the party has secured their vote bank from the Hindu community. AL is also afraid of losing popularity among the Islamic followers and eventually realized the need to be sensitive to

the values and sentiments of the dominant religious group. The severe opposition to the NWDP, 2011 thus puts AL and its alliance in a dilemma. On the one hand, the AL portrays itself as a secular party promoting women's upliftment, on the other hand, it does not want to hurt the religious feelings of the majority, particularly the religion-based political parties. The ruling elites did not formulate equal inheritance right policy because it feared of losing popularity among the Muslims.

Failure to formulate an equal inheritance policy is the result of the ruling elites political stand and their constant negotiation with Islamic political parties for holding power. AL led ruling coalition steered the prosecution of war criminals of the liberation war against Pakistan in 1971 (Griffiths & Hasan,2015). These war criminals were mostly leaders from the Islamic political elites called the Jamaat-e-Islami and a close ally of the BNP, the biggest opposition to the AL. Besides their secular and pro-women belief, AL led ruling coalition wanted to regain their image as pro-Islamic. Withdrawn of equal provision of the inheritance right from NWDP, 2011 is one of the strategies to express their support towards Islamists. Solidarity and collaboration with Islamists would facilitate them to continue holding power through gaining support from religious fundamentalists while sidelining the democratic process and practices of gender mainstreaming. AL has expressed its support to different Islamic parties such as- Hefazat-E-Islam in recent years. Hefazat-E-Islam is an Islamic Advocacy group of madrassah teachers and students gradually gaining popularity among fundamentalists and emerges as an alternative to the major Islamist parties like Jamat-E-Islami (this party is not legally banned but under severe scrutiny by the government and as such is less active politically). After the verdict against most of the leading leaders of Jamat-E-Islami by the International Crime Tribunal (Bangladesh), AL's supportive impression to Hefazat-E-Islam reflects the ambition to create an alternative and be supportive of this Islamic political wing other than Jamat-e-Islami to strengthen their political strength and popularity among Islamic believers. Before, AL also formed their own Islamic sub-wing called Bangladesh Awami Olama League in 1996.

The last two parliamentary elections held under the current AL regime were controversial because of allegations of unfair and rigged voting by both national and international observers and media (Khan and Islam, 2014; Riaz,2 019; 2021; Mostofa, and Subedi, 2020). In addition, corruption, weak governance, politicized judiciary, authoritarian democracy, limited freedom of speech and press, and violation of human rights have weakened the state capacity and increased patron-clientelism

(Jamil et al., 2013; Khan and Islam, 2014; Kamruzzaman et al., 2016; Khan, 2018; Hasan, 2019; Riaz, 2019; 2021; Mostofa and Subedi, 2020). In this vein, the ruling coalition aims to hold on power not through a democratic process but rather through a winning coalition that already comprises the police, the bureaucracy, and the army, and now incorporating the religious groups in this bag. This strategy of 'give and take' has consequences. It ensures support from the Islamic groups but at the same time, gender issues such as equal inheritance property rights for women must be folded back.

[Figure 1]

### **Conclusion**

The paper attempts to understand the non-formulation of the equal inheritance right from three perspectives; a) complexity that arises from legal pluralism; b) the mandates from international feminist agendas and c) the context of rising political Islam. The paper demonstrates that legal pluralism and multiple interpretations of laws may create confusion while the challenge of formulating a gender-equitable policy becomes bigger when such legislations are rooted in religion. To understand the contestation with legal pluralism and multiplicity of norms and practices concerning inheritance practices, we situate our case in the bigger framework of the global feminist agenda and the rise of political Islam in Bangladesh. It evidences that, Bangladesh is motivated to formulate a gender-equal policy to comply with the international feminist mandates on gender equality as well as demands from the women's movement in Bangladesh. However, it brings complexity in many cases, particularly when such mandates led the state to formulate a policy that contradicts with major religion such as- Islam. These complexities pose a serious challenge to the government to formulate such radical policy for ensuring gender equality.

Even though the country has been led by female prime ministers for more than three decades and there is an increasing number of women in parliament and other sectors of administration and development, gender equality in Bangladesh is an incomplete and complex saga. What lessons we learnt from the case study is that there is an urgency of moving beyond the fundamental idea of women inclusion or representation which does not necessarily ensure gender equality. Particularly, in policy perspectives, the multiplicity of laws and multiple interpretations of legislation brings contestation in gender-equitable policy formulation. Besides, power politics and interest conflict among different actors in socio-political space puzzles the policy formulation process. Different actors in interaction with different political events and institutions might ruin the fair intention of policy formulation. Negotiation of benefits, power mechanisms and interest

conflicts among actors are important components to decide what policy would be formulated and what not. Therefore, there is a need to identify the political drivers and what resources and support they can mobilize either to challenge or rally behind a policy proposal such as formulating an equal inheritance right policy for women. All these, through an analysis of a case study from Bangladesh, helps to answer the question of why a state, first, initiates, gender-equitable policy and second, why it steps back from the policy formulation stage.

## References

- Al-Hibri, A. Y. 2000–2002. “Muslim Women’s Rights in the Global Village: Challenges and Opportunities.” *15 Journal of Law & Religion* 37: 37–66.
- Akter, M., and S. Nazneen. 2014. “Inclusive democracy: Engendering political parties.” *The State of Governance Report: Bangladesh 2013*.
- Aktar, S. H. A. R. M. I. N., and A.S.M. Abdullah. 2007. “A comparative study on Hindu law between Bangladesh and India.” *Asian Affairs* 29(4): 61-95.
- Bangladesh Bureau of Statistics. 2011. *Bangladesh Population Census*. Dhaka: Government of Bangladesh.
- Bacchi, C. 2009. *Analysing Policy: What’s the Problem Represented to Be?* Australia: Pearson Higher Education.
- Bhuiyan, J. H. 2017. “Secularism in the Constitution of Bangladesh.” *The Journal of Legal Pluralism and Unofficial Law* 49(2): 204-227.
- Constitution of the People's Republic of Bangladesh. [Bangladesh]. 4 November 1972.  
<http://www.refworld.org/docid/3ae6b5684.html> (accessed 13 March 2017).
- Esposito, J. L. eds. 1997. *Political Islam: revolution, radicalism, or reform?* London: Lynne Rienner Publishers.
- Gayen, K. 2011. “Equal Property Rights’: Much Ado about Nothing.” *Forum – A Monthly Publication of Daily Star*. 5 (05) (May). Retrieved from <http://archive.thedailystar.net/forum/2011/May/right.htm> (Last consulted 24 January 2017).
- Government of Peoples’ Republic of Bangladesh. 1997. *National Women Development Policy*. Dhaka: Ministry of Women and Children’s Affairs.
- Government of Peoples’ Republic of Bangladesh. March 2011. *National Women Development Policy*. Ministry of Women and Children’s Affairs. <https://www.unescogym.org/wp-content/uploads/2017/05/Bangladesh-National-Women-Policy-2011English.pdf> (Last consulted 22 August 2017).

- Griffiths, J. 1986. "What Is Legal Pluralism?" *The Journal of Legal Pluralism and Unofficial Law* 18 (24): 1–55.
- Griffiths, M., and M. Hasan. 2015. "Playing with fire: Islamism and politics in Bangladesh." *Asian Journal of Political Science* 23(2): 226-241.
- Guillet, D. 1998. "Rethinking legal pluralism: Local law and state law in the evolution of water property rights in North-western Spain". *Comparative studies in society and history* 40(1):42-70.
- Hasan, M. 2009. "The geopolitics of political Islam in Bangladesh." *Commonwealth & Comparative Politics* 47: 1-2.
- Hasan, M. 2011. "Democracy and political Islam in Bangladesh." *South Asia Research* 31(2): 97-117.
- Hasan, M. 2012. "Historical Developments of Political Islam with Reference to Bangladesh." *Journal of Asian and African Studies* 47(2):155-167.
- Hasan, M. 2020. *Islam and Politics in Bangladesh*. Palgrave Macmillan: Springer Singapore.
- Hasan, M. 2019. "Who suppresses free speech in Bangladesh?: A typology of actors in Media, extremism and free expression." In *Transnational Othering –Global Diversities*, edited by E.E. Kristin, S. Orgeret, N. Mutluer, 155-170. Nordicom
- Headey, D., J. Hoddinott, D. Ali, R. Tesfaye., and M. Dereje. 2015. "The other Asian enigma: explaining the rapid reduction of undernutrition in Bangladesh." *World Development*, 66: 749-761.
- Heintz J., N. Kabeer., and S. Mahmud. 2018. "Cultural Norms, Economic Incentives and Women's Labor Market Behavior: Embirical Insights from Bangladesh." *Oxford Development Studies* 46 (2): 266–289.
- Helmke, G., and S. Levitsky. 2004. "Informal institutions and comparative politics: A research agenda." *Perspectives on politics*, 2(4): 725-740.
- Hossain, J. 2020. "How Policy Folds Back Before Implementation: A Study on Unequal Inheritance Right in Bangladesh." In *Gender Mainstreaming in Politics, Administration and Development in South Asia*, edited by I. Jamil, S. Aminuzzaman, S. L. Kabir, M. Haque, 37-60. Palgrave Macmillan, Cham. <https://doi.org/10.1007/978-3-030-36012->
- Hossain, M. A., and C.A. Tisdell. 2005. "Closing the gender gap in Bangladesh: inequality in education, employment and earnings." *International Journal of Social Economics*. 32(5).
- Jahan, R. 1995. "Men in seclusion, women in public: Rokeya's dream and women's struggles in Bangladesh." *The challenge of local feminisms: Women's movements in global perspective*, 87-109.



- Jamil, I., S. Askvik., and T.N. Dhakal. 2013. "Understanding governance in south Asia." In *search of better governance in South Asia and beyond*, 13-35. New York: Springer.
- Kabeer, N. 1994. *Reversed realities: Gender hierarchies in development thought*. New York: Verso.
- Kabeer, N. 2011. "Between Affiliation and Autonomy: Navigating Pathways of Women's Empowerment and Gender Justice in Rural Bangladesh." *Development and Change* 42 (2): 499–528.
- Kabir, S. L. 2020. "Through the Glass Ceiling, over the Glass Cliff?' Women Leaders in Bangladeshi Public Administration." In *Gender Mainstreaming in Politics, Administration and Development in South Asia*, edited by I. Jamil, S. Aminuzzaman, S. L. Kabir, M. Haque, 87-109. Palgrave Macmillan, Cham. <https://doi.org/10.1007/978-3-030-36012->
- Kamruzzaman, M., M. B. U. Khan., and S. K. Das. 2016. "Extrajudicial killings: The violation of human rights in Bangladesh". *International Journal of Environmental Planning and Management* 2(4): 20-28.
- Khan, I., M. F. Abdullah, N. N. A. Rahman, M. R. B. M. Nor., and M. Y. Z. B. M. Yusoff. 2016. "The Right of Women in Property Sharing in Bangladesh: Can the Islamic Inheritance System Eliminate discrimination?" *SpringerPlus* 5 (1): 1695
- Kieran, C., K. Sproule, C. Doss, A. Quisumbing., and S. M. Kim. 2015. "Examining Gender Inequalities in Land Rights Indicators in Asia." *Agricultural Economics* 46 (S1): 119–138.  
<https://doi.org/10.1111/agec.12202>
- Khan, M. H. 2018. "Political settlements and the analysis of institutions." *African Affairs*, 117(469): 636-655.
- Khan, M. M., and M.S. Islam. 2014. "Democracy and good governance in Bangladesh: Are they compatible?" *Millennial Asia* 5(1), 23-40.
- Manu. 1969. *Manusriti*. Gujrati Printing Press.
- Meinzen-Dick, R., A. Quisumbing, C. Doss., and S. Theis. 2019. "Women's land rights as a pathway to poverty reduction: Framework and review of available evidence." *Agricultural Systems* 172, 72-82.
- Mirza, H. 2013. "Political settlement dynamics in a limited-access order: The case of Bangladesh." ESID Working Paper No. 23. Dhaka: Development Institute, BRAC University
- Moore, S. F. 1973. "Law and Social Change: The Semi-autonomous field as an appropriate field of study." *Law and Society Review*, 70: 719-746.
- Mullah, D. F. 1986. *Principles of Hindu Law* (15th edition), Mumbai: N. M. Tripathi Private Ltd.
- Mostofa, S. M., and D. B. Subedi. 2020. Rise of Competitive Authoritarianism in Bangladesh. *Politics and Religion*, 1-29.

- Nazneen, S. 2013. "Men Aboard? Movement for a Uniform Family Code in Bangladesh." In *Feminist Activism, Women's Rights and Legal Reform*, edited by M. Al Sharmani, 101-124. London: Zed Books.
- Nazneen, S., and M. Sultan, eds. 2014. *Voicing Demands: Feminist Activism in Transitional Contexts*. London: Zed Books.
- Nazneen, S. 2017. "Negotiating Gender Equity in a Clientelist State: The Role of Informal Networks." In *Gender and Informal Institutions*, edited by G. Waylen, 161–82. Lanham, MD: Rowman & Littlefield International.
- Nazneen, S., S. Hickey., and E. Sifaki, eds. 2019. *Negotiating gender equity in the Global South: The politics of domestic violence policy*. London and New York: Routledge
- Panday, P. K. 2008. "Representation without participation: Quotas for women in Bangladesh." *International Political Science Review* 29(4): 489-512.
- Rahman, M. M., R. Khanam., and S. Nghiem, S. 2017. "The effects of microfinance on women's empowerment: new evidence from Bangladesh." *International Journal of Social Economics* 44(12): 1745-1757. doi: <https://doi.org/10.1108/IJSE-02-2016-0070>
- Riaz, A. 2005. "Traditional institutions as tools of political Islam in Bangladesh." *Journal of Asian and African Studies* 40(3): 171-196..
- Riaz A. 2008. *Islamist Militancy in Bangladesh: A Complex Web*. London. Routledge.
- Riaz, A., and Fair, C. C, eds. 2010. *Political Islam and governance in Bangladesh*. Routledge: London
- Riaz, A. 2019. "Bangladesh: From an Electoral Democracy to a Hybrid Regime (1991–2018)." In *Voting in a Hybrid Regime. Politics of South Asia*, 21-31, Singapore: Palgrave Pivot. doi: [https://doi.org/10.1007/978-981-13-7956-7\\_3](https://doi.org/10.1007/978-981-13-7956-7_3)
- Riaz, A. 2021. "The pathway of democratic backsliding in Bangladesh." *Democratization* 28(1): 179-197.
- Sultana, A. 2010. "Patriarchy and Women s Subordination: A Theoretical Analysis." *Arts Faculty Journal*, 1-18
- Tamanaha, B. Z. 2008. "Understanding Legal Pluralism: Past to Present, Local to Global." *Sydney Law Review* 30, 375.
- The Noble Qur'an. <https://Qur'an.com>.
- The Hindu Women's Right to Property Act*, 1937. Bangladesh.
- Uthaimin MISIMI. 1983. *Tashilu al-Faraid*. Dar al-Taibah.
- Waylen, G. 2014. "Informal institutions, institutional change, and gender equality." *Political Research Quarterly* 67(1): 212-223.
- White, S. C. 2012. "Beyond the paradox: Religion, family and modernity in contemporary Bangladesh." *Modern Asian Studies*, 1429-1458.

Waylen, G, eds. 2017. *Gender and Informal Institutions*. Lanham, MD: Rowman & Littlefield International.

Zahur, M. 2016. "Hindu Women's Property Rights: Bangladesh Perspective." *BRAC University Journal* X1 (1).

Zuleika, A., and N.P. Desintha. 2014. "Islamic Inheritance Law (Faraid) and Its Economic Implication." *Tazkia Islamic Finance and Business Review* 8(1)

