

***Legal registration of marriage in Bangladesh:
An intervention to strengthen women's economic and social position and protect them against
domestic violence?***

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The government of Bangladesh and NGOs concerned with improving women's rights and gender equity have used a variety of channels to raise awareness of longstanding national laws and policies relating to marriage and the family, and to encourage compliance with them. Despite these efforts, families often disregard such laws—notably, those establishing a minimum age at marriage and prohibiting the taking of dowry. Recent data from a study of gender inequality and marriage in rural Bangladesh which began over a decade ago suggests that a law requiring legal registration of marriages constitutes an exception to this pattern. This paper explores the statistical correlates of marriage registration and the social and cultural meanings attached to it, with an eye to understanding whether the promotion of marriage registration is in fact an effective intervention for empowering women within marriage.

Background

This paper presents findings from an ongoing study of gender inequality and marriage in rural Bangladesh. In Bangladesh, as in much of South Asia, and, indeed, in the rest of the world, gender inequality is closely linked to the institution of marriage. Limited education, early marriage of girls, social pressure to produce offspring, and women's lack of access to resources all limit women's life options, compromising reproductive health, and keeping fertility and population growth rates high (Amin et al. 1998; Barua and Kurz 2001; Jejeebhoy 1993, 1996; Mensch, Bruce, and Greene 1998; Naved et al. 2001). Husbands are considered their wives' guardians and are the primary means through which women have access to social status, property, and control over resources (Cain 1984, Cain et al. 1979). Marriage is understood to give men the right to sex on demand and the right to use physical force against their wives. Women themselves see men as having these prerogatives and control over them (Schuler et al. 1998; in India, Geetha 1998, Jejeebhoy 2002).

In Bangladesh, as in most of South Asia, marriage is "universal" at least in a normative sense. The pressures to marry and lack of alternatives to marriage mean that unmarried or widowed, divorced, or abandoned women are often severely disadvantaged, both socially and economically. They have little social legitimacy or control over their living arrangements and other circumstances (Rahman et al. 1992, Rahman 1993). Religious and social traditions emphasize the symbolic importance and social legitimacy of a woman's first marriage and disparage women who divorce; as a result, although women do remarry after being divorced or

widowed, the conditions of second marriages are often disadvantageous for women (e.g., the second marriage may be polygamous, the economic condition of the new household may be quite desperate, or the new husband may have a reputation for violence or infidelity). The laws governing property rights are inequitable towards females (daughters are entitled to inherit only half the share of familial property that sons inherit), and in practice most women do not claim or receive even the half share that they are entitled to, for fear that taking the property might reduce their brothers' inclination to provide assistance at times of extreme need. Parents do invest in their daughters by providing a dowry, but typically this is under control of the woman's husband and in-laws, and it can be difficult for a woman to secure for her own use should the marriage terminate.

We have undertaken research in Bangladesh that combines both qualitative and quantitative data, and allows us to explore in-depth the complex relationships between gender inequality, social institutions such as marriage, and outcomes related to women's health and well-being. The purpose of this research is to identify social and economic "enabling" factors that contribute to gender equity and women's empowerment, to understand the health and social effects of women's empowerment, and to describe the mechanisms through which changes occur. An assumption underlying this research is that the effects of policies, programs, and economic opportunities on gender equity and women's empowerment are often mediated through strategies developed by individuals, families and larger social entities regarding marriage, family formation and economic survival. Accordingly, this research uses both qualitative and quantitative data to explore strategies and decisions involving the timing of marriage, age differences between spouses, female education and employment, spousal abandonment and divorce, remarriage, and related transfers of property.

A preliminary finding providing a context for the present paper is that family decision-making related to marriage takes national laws and policies into account very selectively. Laws establishing legal minimum ages at marriage have been "on the books" since 1929, and a law prohibiting the taking of dowry was enacted in 1980. These laws have been promoted in recent years through a variety of channels, but families typically disregard them. Similarly a law requiring legal registration of marriages has existed since 1974, and has recently been promoted by officials as well as NGOs interested in supporting women's rights. Although there is no legal statute requiring it, it has become customary when registering a marriage to insert stipulations related to divorce in the marriage contract (Emory University). Legal registration of a marriage thus provides a woman with a basis for filing legal suit to recover both the dowry paid by her parents and a cash payment of an amount specified at the time of registration (*den mohor*) should her husband desert or divorce her.¹ In contrast to other laws and policies related to the family, such as those governing age at marriage and the practice of demanding dowry from the parents

¹ In Islamic traditional law, the *mehr* (known as *den mohor* in our research sites), sometimes translated as "dower" is property to be given by the groom and his family to the bride at the time of marriage. Often it is "deferred" – that is, it is to be handed over only upon divorce or death of the husband (Mahbub ul Haq Development Centre, 2000, p. 82).

of a bride, the marriage registration law has been adhered to in the majority of recent marriages in our study sites, and was less common even ten years ago (in our sample, 80% of women below age 25 had registered marriages compared to 42% of women age 45+). This paper will explore the statistical correlates of marriage registration and the social and cultural meanings attached to it, with an eye to understanding whether the promotion of marriage registration is in fact an effective intervention for empowering women within marriage.

Data and methods

Our quantitative data are drawn from a survey conducted in 2002 measuring socioeconomic status, participation in development initiatives such as micro-credit and girls' education, variables related to marriage and health, and women's empowerment.² In addition, we have conducted qualitative interviews and focus groups with both women and men on a variety of related topics to better understand the social processes supporting gender inequality or promoting women's empowerment. Many of the in-depth interviews conducted in 2001-2003 explore strategies and decisions related to marriage.

The research sites consist of 6 villages in rural Bangladesh where we have been engaged in research for over 10 years. The 2002 survey was administered to three categories of respondents in the 6 sites: women we interviewed in a 1994 survey of all married women 50 years of age and below; all other married women below age 50; and the married sons of women in the target population. The qualitative data come primarily from a sample of 120 households (20 from each village) taken in 1994. The qualitative analysis in this paper is based upon a set of approximately 200 in-depth interviews and focus group discussions done in late 2001 and 2002 which explore the social processes underlying early marriage, gender inequality, and violence within marriage.

This paper operationalizes the construct of gender equality in several ways: women's scores on nine indicators related to women's empowerment,³ a set of questions designed to elicit gender attitudes (whether more vs. less egalitarian), which were included in the 2002

² Based on our previous research, the work of others (Malhotra et al., 2002, Kabeer 2001), and our recent qualitative findings, we are conceptualizing empowerment as an improvement in women's ability to make strategic life choices. Our understanding of empowerment encompasses two key elements: that of process, or change from a state of relative disempowerment, and that of human agency and choice. In our quantitative survey we operationalize empowerment with indicators such as women's access to money and social support, assertiveness and initiative, and autonomy in decision-making. In doing so we implicitly assume that women who exercise greater agency in their day to day lives will also be in a better position to make the strategic choices that may occur relatively infrequently in their lives.

³ The core hypothesized domains of empowerment include mobility, economic security, status and decision-making within the household, ability to interact effectively in the public sphere, and participation in non-family groups. The questions and methods used to construct 8 indicators and an aggregate "empowerment" score are described in Schuler Sidney Ruth, Syed M. Hashemi, and Ann P. Riley. 1997. "The changing roles and status in Bangladesh's Fertility Transition: Evidence from a Study of Credit Programs and Contraceptive Use." *World Development* 25(4): 563-575.

surveys with both men and women, and women's self-reported freedom from domestic violence and sexual coercion.

In this paper we will present multivariate analyses of the social and economic correlates of marriage registration, and of the links between marriage registration and women's empowerment and gender attitudes. We will also look at relationships between marriage registration and other characteristics of marriage, including the timing of marriage, the practice of dowry, and girls' self-perceived agency in marriage decisions. Marriage registration will be treated as an dependent variable in some models (e.g., those examining effects of girls' education on the likelihood that her marriage will be registered), and as an independent variable in others (e.g., in models predicting the likelihood that women whose marriages are registered will be less likely to report domestic violence against them).

Preliminary findings

Results from the qualitative data analyzed thus far point to an ambiguous relationship between marriage registration and women's position within marriage. Study participants generally saw a great potential for legal registration to protect married women. Many respondents said that women whose marriages were registered felt more secure because their husbands would be unlikely to abandon or severely mistreat them, fearing financial repercussions. Some cited cases in which women did receive compensation when their husbands' abandoned them, by filing a case against the man and his family or by threatening to do so. But such cases were relatively few, and there were many stories of abuse and desertion where the fact the marriage was registered seemed to make no difference whatsoever. Furthermore, the court system is widely said to be corrupt and inefficient. We anticipate that further qualitative analysis will enable us to better understand the social dynamics underlying the widely shared view that marriage registration empowers married women. The paper will juxtapose this analysis with analyses exploring statistical relationships between marriage registration and variables reflecting gender attitudes, women's empowerment and other social and economic characteristics of women and their natal and marital families.

These findings similarly suggest that marriage registration may play a complicated role in contemporary rural Bangladeshi society. Our preliminary quantitative analyses suggest that marriage registration is not associated with women's subsequent empowerment as we had predicted, and is associated instead with increased risk of experiencing domestic violence during the year preceding the survey. Thus, although the situation may be in flux, at this point in time women's expectations of benefits from marriage registration may exceed realities. Registration may indeed give women some measure of long term economic security (by decreasing their risk of abandonment and increasing the chances of securing access to money or property should abandonment occur), but it also may have the perverse effect of undermining their immediate physical security within marriage.

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