

## Women's Empowerment in Bangladesh: Legal Strategies Sidestepping Social Norms

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### Abstract

*Women's economic empowerment remains a significant challenge in Bangladesh despite notable progress in education, health, and political participation. Women's engagement in economic activities continues to be constrained by entrenched gender norms, unpaid care work, and internalised beliefs that limit their agency. This article examines the relationship between law, social norms, and behavioural change in advancing women's economic empowerment. Drawing on post-structuralist theory, particularly Foucault's concepts of discourse and power, it argues that gender inequality is sustained through dominant narratives that shape perceptions of women's roles and capabilities. The article contends that law can serve as a transformative instrument by producing alternative discourses that challenge existing power structures. It further proposes a pragmatic behavioural strategy that leverages prevailing social preferences, especially concerns for child welfare, to encourage women's economic participation. Rather than directly confronting social norms, this approach seeks to expand women's agency and promote gender equality through gradual and socially acceptable pathways.*

**Keywords:** *Gender Inequality, Post-structural Theory, Social Discourse, Transformative Law, Women Empowerment,*

### I. Introduction

Women's Empowerment is a process in which women elaborate and recreate what they can be, do, and accomplish in circumstances that they were previously denied.<sup>2</sup> This denial may come from the self-helplessness attitude that leads women to think they are unable to achieve anything or provide for

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<sup>2</sup> Sarah Mosedale, *Assessing Women's Empowerment: Towards a Conceptual Framework*, 17(2) J. Int'l Dev. 243, 243–57 (2005).

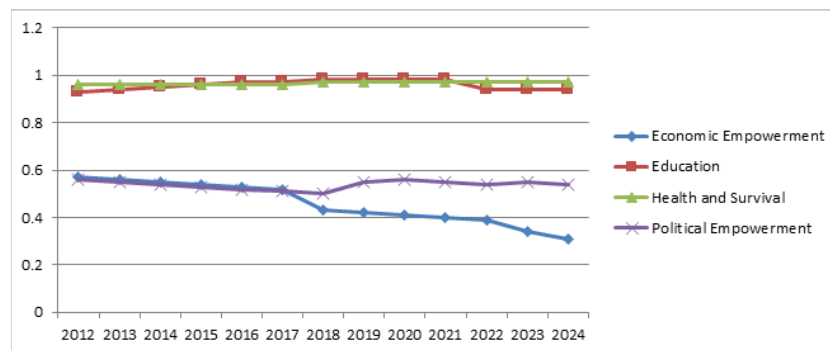
those they care about without others' FINAL VOL help.<sup>3</sup> Along with the self-help attitude, constrained empowerment may also come through the social and cultural restraints that women face in their society.<sup>4</sup> For instance, women in our society frequently hear many restraining phrases, 'it is not for you', 'you cannot do that', or 'it is not good for you', and so on, from their family and society.<sup>5</sup> Listening to these restraining voices, many of our women build their gender role ideology and develop a helpless attitude that reinforces the traditional gender role of women embedded in society.

Therefore, women remain less empowered, having less agency for change due to their internalised self-restrained attitudes and traditional gender role ideologies that reinforce each other.

## II. Context of Women's Empowerment in Bangladesh

Under intense political leadership, Bangladesh has achieved different Millennium Development Goals (MDGs), including promoting gender equality and empowering women. However, reaching gender equality in the MDGs results in the attainment of gender parity in education only.

**Figure 1: Evolution of Gender Gap Index, Bangladesh (2012-2024)**



Source: adapted from *The Global Gender Gap Reports 2014*, World Economic Forum

<sup>3</sup> Jamila Chowdhury, *Gender Power and Mediation: Evaluative Mediation to Challenge the Power of Social Discourses* (Cambridge Scholars Publ'g 2012).

<sup>4</sup> Seema Jayachandran, *Social Norms as a Barrier to Women's Employment in Developing Countries*, 69 IMF Econ. Rev. 576 (2021).

<sup>5</sup> Chowdhury, *supra* note 3.

As indicated in Figure 1, during the period from 2012 to 2024, Government initiatives gradually closed down the gender gap in educational attainment and health. Nevertheless, the overall score fell to a relatively lower level due to women's insufficient economic participation<sup>6</sup> and political empowerment. Further, in many cases, it is observed that women's economic participation and political empowerment remain complementary. For instance, in one earlier study in Africa, Congolese women identified low economic participation as their primary barrier to political involvement<sup>7</sup>.

The same may remain valid for Bangladesh<sup>8</sup>. Though several women's rights organisations in Bangladesh are now raising legal awareness to improve women's empowerment, the end result, as shown in the figure above, remains largely ineffective. Women remain less empowered because of the gender gap in economic empowerment that persists and gets even worse over the years. Therefore, the study scope is limited to discussing women's barriers to economic participation and how effective communication of normative legal leverages may improve women's economic participation and promote empowerment. Standalone emphasis on women's empowerment is in line with renewed SGD targets, where Gender Equality (Goal 5) is kept as a separate goal from Equal Education (Goal 4), which may not reflect women's agency to participate.

Further, the importance of women's economic empowerment, in particular, was observed around the globe. According to a UNDP report, two-thirds of the developing countries have already attained gender parity in education, yet, on average, women get only 77 cents against every dollar earned by their male counterparts. Still, only 13% of agricultural landholdings are represented by women. The extent of gender-based violence and deprivation also remains high.

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<sup>6</sup> Jamila A. Chowdhury & Ifat Mubina Eusuf, *Women's Empowerment in the Justice Delivery System of Bangladesh: Social Milieus and Women's Sluggish Progression in Bar and Bench*, 51(3) Kanagawa L. Rev. 57, 57–94 (2019).

<sup>7</sup> EASSI & Int'l Alert, *Women's Political Participation and Economic Empowerment in Post-conflict Countries: Lessons from the Great Lakes Region in Africa* (Int'l Alert 2012).

<sup>8</sup> Selim Raihan & Sayema Haque Bidisha, *Economic Dialogue on Inclusive Growth in Bangladesh* (Asia Found. 2018).

Though we cannot change the social structure of gender disparity and violence overnight, gradual changes in society's discursive practices through improved knowledge may make the overall target of gender equality attainable over time.<sup>9</sup> As elaborated in the following few sections of this paper, law is a solid vehicle to generate an alternate truth contrary to social discourses<sup>10</sup>. It has authority, is a binding force, and is generally considered authentic or true.

### III. Social Discourses Restraining Women's Socio-Economic Status in Bangladesh

Because of social customs, many women in Bangladesh have to remain at home to perform household work. Even when they get involved in economic activities, they are employed as unpaid family workers or are engaged in part-time activities<sup>11</sup>. A recent labour force survey by the Bangladesh Bureau of Statistics indicates women are increasingly being engaged in the labour force. However, most women still have to work as unpaid family workers (60.1 percent). Compared to their male counterparts (9.7 percent), the incidence of such unpaid female labour is remarkably higher in rural areas (71.8 percent) compared to its incidence among urban women (22.3 percent).

Because of gender role socialisation, women generally have lower social status, 'lower reward expectation'<sup>12</sup>, and 'lower self-esteem'<sup>13</sup>, which all work together

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<sup>9</sup> Jamila A Chowdhury, 'Gender Justice in Bangladesh: A Time and Cost Impact to Resolve Family Disputes through Litigation vs Court Connected Mediation' (2011) 22(2) 77-92.

<sup>10</sup> Jamila A. Chowdhury, *Gender Parity through Evaluative Mediation: Controlling Disparity under the Post-structural Notion of Power*, 25(1) Dhaka U. Stud. Part F 31, 31-52 (2014).

<sup>11</sup> Shamim Hamid, *Why Women Count: Essays on Women in Development in Bangladesh* 32-36 (U. Press Ltd. 1996); see also Jahanara Haq, *Empowerment of Women in Bangladesh: Nairobi to Beijing* 62 (Women for Women 1995).

<sup>12</sup> Penelope E. Bryan, *Killing Us Softly: Divorce Mediation and the Politics of Power*, 40 Buffalo L. Rev. 475, 475-76 (1992).

<sup>13</sup> Diane Neumann, *How Mediation Can Effectively Address the Male-Female Power Imbalance in Divorce*, 9 Mediation Q. 227, 227-39 (1992); see also Bryan, *supra* note 12, at 441-523.

to make women less efficient as negotiators<sup>14</sup>. These factors result from gender role socialisation, which attributes men as the creators of their fate while explaining the success of women as an outcome of their good luck rather than their own actions. The culturally defined role of women ultimately creates gender role ideology in society<sup>15</sup>.

In the study conducted by Jahan (1994), women were primarily identified as housewives or involved in other informal jobs like part-time domestic workers, hawkers, agricultural workers, or construction workers.<sup>16</sup> In another study by Nasir (1995), respondents were engaged in formal sector jobs, such as machine operators, tailors, school clerks, family planning field workers, nurses, library assistants, school teachers, or even headmistresses.<sup>17</sup> Empirical study conducting for this paper indicates that social mindset on women's limited employment outside home has not changed much even in current days.

#### **IV. Competing Social Roles and Juggling Responsibilities of Working Mothers, Limiting Career Progression**

In past decades, women in Bangladesh were not engaged much in responsible public positions. However, a gradual change in social outlook is taking place through the increased involvement of women in high-income-earning activities mentioned earlier. Currently, the Prime Minister, Home Minister, and Foreign Minister of Bangladesh are all women. Women are sitting as judges in the HCD and AD of the Supreme Court, and are being recruited in the armed forces too. However, women in our society still face social resistance to working outside their home<sup>18</sup>.

Specially, rural women are not engaged in employment outside their home. Traditionally, men are involved in agricultural activities in the field and women perform as the caretakers of agricultural production through husking, boiling, etc., and also take care of the poultry, livestock, etc., at home<sup>19</sup>. Thus, though

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<sup>14</sup> Bryan, *supra* note 12; *see also* Neumann, *supra* note 13.

<sup>15</sup> Bryan, *supra* note 12.

<sup>16</sup> Haq, *supra* note 11.

<sup>17</sup> Rasheda I. Nasir, *Women's Income, Education and Decision Making Process: A Few Observations*, Bangladesh Soc. Rev. (Special Issue) 57, 57–68 (1995).

<sup>18</sup> Chowdhury, *supra* note 3; Chowdhury & Eusuf, *supra* note 6.

<sup>19</sup> Haq, *supra* note 11, at 63.

linked with agriculture, work done by women at home is taken as their household responsibilities and is mostly unpaid.

The culturally defined role of women in agriculture could be the reason why women in rural areas constitute a disproportionately high share of unpaid family workers, despite their day-long hard work at home. Statistics gathered under the United Nations System of National Accounts in 1991/92 show that in the rural habitats of Bangladesh, men spend 23 percent of their daily time on marketable work (agriculture or non-agriculture) and only 2 percent of their daily time performing non-market household activities like water collection, home care or family care. On the other hand, women spend 23 percent of their total time performing different non-market activities. The remaining time for both men (75 percent) and women (68 percent) is spent as personal time, leisure, study, or going to school and going to the Bazaar [shopping]<sup>20</sup>. However, a more recent study indicates that the position of women in society is changing gradually. As observed by Sultana<sup>21</sup>.

Over the last decades, norms that segregated and protected women have been breaking down. Hence, it has been seen that the overwhelming majority of women in Bangladesh are caught between two opposite positions. One is determined by custom, which restricts their activities in private space, and the other is a crisis from poverty, forcing them into public spaces for economic survival. As explained by Kabir et al. 2019, women are increasingly getting involved in various income-generating agricultural activities, such as home gardening to grow vegetables, to fill the gap of their migrating husbands joining the urban informal sector<sup>22</sup>. Statistical data on gender-segregated labour force shown in Table 1 also validates this finding.

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<sup>20</sup> Hamid, *supra* note 11, at 32–36.

<sup>21</sup> Nahar Sultana, *Polygamy and Divorce in Rural Bangladesh*, 11 Empowerment, 75, 75-96 (2004).

<sup>22</sup> Md. Shahjahan Kabir, Mirjana Radović Marković & Dejan Radulović, *The Determinants of Income of Rural Women in Bangladesh*, 11 Sustainability 5842 (2019).

**Table 1: Gender-segregated labour force data**

|               | 1999-2000                  | 2016-2017 | Change | 1999-2000                   | 2016-2018 | Change  |
|---------------|----------------------------|-----------|--------|-----------------------------|-----------|---------|
|               | Agri labor force (in '000) |           | (%)    | Total labor force (in '000) |           | (%)     |
| <b>Male</b>   | 16,200                     | 13,565    | -16.26 | 31,100                      | 42,182    | 35.633  |
| <b>Female</b> | 3800                       | 11,128    | 192.84 | 7900                        | 18,646    | 136.027 |
| <b>Total</b>  | 20,000                     | 24,693    | 23.46  | 39,000                      | 60,828    | 55.97   |

Source: Kabir et al. 2019, p.4

Despite women's engagement in the job market, working women lead a very hard life, combining their household and family responsibilities because of a higher concentration on household duties. Moreover, as husbands in Bangladesh do not share household duties due to social norms, these working women have to limit their time to cope with their dual responsibilities at home and outside<sup>23</sup>. Recent study results, however, indicate that rural women in Bangladesh consider their husbands' non-cooperation or discouragement as the least probable constraint against their involvement in home-based income-generating activities. Women who get involved in home-based income-generating activities also feel empowered, happier in their lives, and have higher prestige in society<sup>24</sup>. It indicates that society has a revealed preference for home-based income-generating activities that can empower women without sacrificing much of their household responsibilities.

Women also face discriminatory attitudes from society regarding education. Due to a government subsidy for female education, the net enrolment ratios of females exceeded that of males (109 female students enrolled per 100 male students) in primary and (71.35 female students per 100 male students) in secondary levels of education. On the other hand, the percentage of females in education decreases at higher levels of education, where no such subsidy is available for women. Social mindset discouraging family investment on women's higher study remains responsible for that.

<sup>23</sup> Nasir, *supra* note 17; see also Salma Akhter, *Changing Role and Status of Working Women in Urban Bangladesh: A Study of Dhaka City*, 17(1) Soc. Sci. Rev. 233, 233–45 (2000).

<sup>24</sup> Kabir et al., *supra* note 22.

For instance, according to a UNICEF study, parents of school-going girls responded that their daughters could learn only a little of their required roles and responsibilities through the school curriculum. Therefore, while gradually permitting women's conflicting agency roles in their families, a large quarter of our society remains biased towards the usual familial role of women and taking formal education or formal jobs as an ornament. No matter how supportive families may demonstrate toward female education, until families' behavioural intention to support women's empowerment and employment, women may continue to struggle. For instance, in a recent study, it was demonstrated that not only low-income women but also educated working women, including female Judges and Lawyers, are also facing problems in balancing their family responsibilities with their professional commitments.<sup>25</sup>

## **V. Factors Inhibiting Women's Agency and their Capability to Participate**

### **A. Power of Masculinity: A Construct of Social Discourse**

As a post-structuralist philosopher, Foucault (1980) explained how social discourses (object) create and preserve the power dynamic in society and how such power may change over time through the discursive practices of the people (subject) in that society<sup>26</sup>. He elucidated how power lies in social discourses (object), identified knowledge as an agent that promotes changes in social discourses and a consequent change in power, and expounded how a dominant group (subject) in society may change power by the normalisation of knowledge<sup>27</sup>. Therefore, unlike Saussure, in Foucault's theory, subjects and objects are interdependent. Though social discourse may change over time, notions of “truths” or “rights” in a society depend on existing discourses of the society.

As observed by Foucault<sup>28</sup>:

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<sup>25</sup> Chowdhury & Eusuf, *supra* note 6.

<sup>26</sup> Michel Foucault, *Power/Knowledge: Selected Interviews and Other Writings, 1972–1977* (Colin Gordon ed. & trans., Pantheon Books 1980).

<sup>27</sup> Gary Gutting, *Foucault: A Very Short Introduction* (Oxford U. Press 2005).

<sup>28</sup> Foucault, *supra* note 26, at 85.

The notion of truth may change as social discourses change. [The] formation of new truth or change in existing social discourses, on the other hand, depends on the acceptance of new knowledge by society.

The notion of truth may change as social discourses change. The formation of 'new' truth or a change in existing social discourses, on the other hand, depends on the acceptance of new knowledge by society. However, the formation of truth [knowledge] does not simply happen. It is an outcome of the struggles and tactics of power. It indicates the disqualification of specific knowledge as idiocy and a fight for others as truth<sup>29</sup>. Through discursive practices, the dominant group in society tries to normalise knowledge that can preserve and strengthen their power<sup>30</sup>. Similarly, power in social discourses may create "gender" by setting social norms that place men advantageous over women. As observed by Bagshaw<sup>31</sup>:

Stories and "truths" are inevitably framed by dominant cultural discourses that specify what is normal and what can or cannot be talked about, by whom, and in what contexts.

This notion of power suggests that power remains in a social network and cannot be possessed by an individual<sup>32</sup>. When people want to legitimise their position, they try to do so by using the power of the dominant discourses of a society<sup>33</sup>. Though individuals cannot possess power, they remain as vehicles of power. Therefore, people who are privileged through dominant social discourses and remain influential and powerful in society may carry the same dominant discourses, integrate those discourses into society, family, and try to legitimise their position while marginalising others.

However, explicit use of dominant discourses may not always be necessary to overpower others. People who enjoy a privileged position in social discourses

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<sup>29</sup> Mark Haugaard, *The Constitution of Power: A Theoretical Analysis of Power, Knowledge and Structure* (Manchester U. Press 1997).

<sup>30</sup> Dale Bagshaw, *The Three M's—Mediation, Postmodernism, and the New Millennium*, 18 Conflict Resol. Q. 205, 205–30 (2007).

<sup>31</sup> *Id.*

<sup>32</sup> Michel Foucault, *The Archaeology of Knowledge and the Discourse on Language* (Vintage Books 1982).

<sup>33</sup> Foucault, *supra* note 26.

may remain influential and powerful even without any explicit deployment of such power. For example, a husband who does not want his wife to disclose family violence to others in society may not need to influence his wife in this regard. Likewise, women may remain silent of their own volition if disclosing such violence is considered shameful to women in society.<sup>34</sup>

Following these mechanisms, social discourses may create a subjugated position for women, framing limited opportunities for them and perpetuating the dominance of men to develop 'gender' in society. For example, discourses such as "*it is useless to spend more on a daughter's education because they cannot help their parents after marriage,*" or that "*higher education makes women arrogant*"<sup>35</sup>, could deprive women of the opportunity to attain a better education and therefore their ability to get better employment outside of the home. A later discussion further illustrates how social discourses may cause women's subjugated position in society. However, before initiating such a discussion, the following section presents a brief account of the factors inhibiting women's agency.

#### **B. Women's Perceived Capability for Effective Participation**

Mere participation of women may take place when they join an activity. However, effective participation requires an "*agency or sense of ownership*" of what they try to attain or accomplish through participation. Factors inhibiting women's participation over a period of time may develop a self-helpless attitude among them and grow a sense of a lack of capability or a lack of need to participate. A lack of capacity for women may create a self-helplessness perspective to participate in various income-generating and decision-making activities. As demonstrated in Table 3, only 29 per cent of women have very low or almost no confidence that they can solve their own problems.

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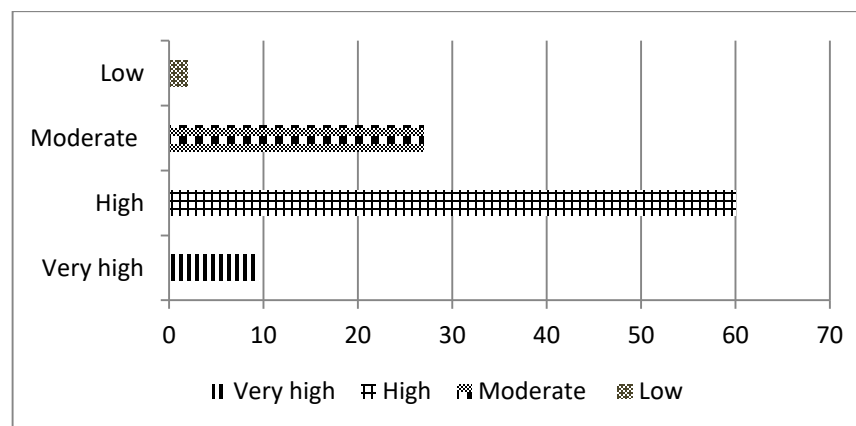
<sup>34</sup> Foucault, *supra* note 32.

<sup>35</sup> Niels-Hugo Blunch & Maitreyi Bordia Das, *Changing Norms about Gender Inequality in Education: Evidence from Bangladesh*, 32 Demographic Res. 183, 198 (2015).

**Table 2: Women's perception of their ability to complete complex tasks**

|                |       |                  |          |                   |
|----------------|-------|------------------|----------|-------------------|
| Strongly agree | Agree | Moderately agree | Disagree | Strongly disagree |
| 5%             | 20%   | 46%              | 21%      | 8%                |

However, the remaining 71 percent have a high to moderate degree of confidence in their problem-solving skills. High confidence removes the self-helplessness attitude and improves women's initiative to participate. Pertinently, how hard women may continue to work to accomplish a task depends on their perceived responsibility to complete that task. For instance, women were asked what they might do with a problematic household task that was getting hard to accomplish. As demonstrated in Figure 2, only 9 percent admit to putting their arduous effort into completing the task.

**Figure 2: Women's perceived responsibility to complete their difficult tasks**

For another 60 percent of women, after their initial unsuccessful attempt to do it by themselves, they ask for help from their husbands or others but continue their joint efforts. Another 27 percent of women prefer to delegate the task to their husbands or others when it seems complicated for them to complete it themselves. The rest 4 percent have low responsibility, suggesting that they would simply ignore the task after their first unsuccessful attempt.

Therefore, it seems that most women, or around 70 percent firstly believe in their ability to solve their own problems. These women never give up and accomplish their household tasks either solely by themselves or with the support of their husbands or others. However, only 4 percent have low agency to complete their tasks. Hence, it would be easier to develop an entrepreneurial agency for women with proper training and family support.

Empirical data, however, demonstrates that most of the women still have an attitude that the task of women is homemaking and taking care of their family. Only 5 percent of female participants strongly disagreed that “*A man's job is to earn money; a woman's job is to look after the home and family*”. During the empirical study seventy-five percent showed moderate to high confidence in this quote. Therefore, it would be easier to develop women entrepreneurship that have little contradiction with their usual household roles on child care and look after their other family members.

## VI. Law as a Vehicle for Social Change

### A. The Theory of Change

This theory is based on the premise that maximising child well-being is a feature of universal motherhood. *Hence, it can be reasonably assumed that more empowered women with higher agency would be able and willing to ensure better child well-being.* Further, as understood from the definition of empowerment mentioned below, women’s empowerment can be attained through a more striking agency. Thus, a woman with greater agency would be able to participate and pursue the activities they value for themselves and their children. First, however, to understand the “*empowerment process*” or what we need to do to raise women’s agency and make them more empowered, we need to deconstruct the origin of the word empowerment and its implicit meaning applied to this research.

According to the Oxford Advanced Learner's Dictionary, empowerment is “*the act of giving somebody the power or authority to do something*”. Therefore, for this research, we may define women's empowerment as giving women the power or authority to pursue well-being for themselves and their children (whom they care for). Now the question remains, who may authorise women to

exercise power? What would be the source of power to empower the currently disempowered women? What would be the process of empowerment? In answer to the first question, as has been mentioned, women's agency to act for themselves or the person they care for is constrained by two mutually reinforcing factors:

- Firstly, the internalised self-helplessness attitude of women, and
- Secondly, agency barriers women face from their families and society.

A prominent post-structural philosopher, Foucault, explained how social discourses control society's power dynamic and how such a power dynamic may change through new discursive formations. As discussed above, Foucault recognises that in every society, there are some historical *a priori* or social discourses (object). These are historically framed cultural codes based on which people (subjects) in that society understand and explain events in their lives. Foucault termed the complete set of a society's cultural codes as '*episteme*'<sup>36</sup>. However, discursive formations are processes through which a new, pro-women discourse can be formed in a society over time<sup>37</sup>. Contemporary pro-women social discourses bring changes in social behaviour towards women's empowerment. According to the Oxford Dictionary, "*behaviour is how one acts or conducts oneself, especially towards other*"<sup>38</sup>. Therefore, in our society, we see many NGOs and Government agencies that use Behavioural Change Communication (BCC) to disseminate '*new*' knowledge in society. Their ultimate purpose is to change the community members' behaviour to accept new standards on women's empowerment by discarding their old practices as idiocy, never to be revived.

However, change in social attitude through BCC is sometimes difficult and takes a long time, or meets limited success. It is difficult because, without any binding authoritative force to change messages, people with power may eventually lead community members to disregard messages to hold their power hegemony. Nevertheless, Foucault suggests an alternative way to normalise

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<sup>36</sup> Haugaard, *supra* note 29.

<sup>37</sup> Foucault *supra* note 26, at 119.

<sup>38</sup> *Behaviour*, Oxford Learner's Dictionaries, <https://www.oxfordlearnersdictionaries.com/definition/english/behaviour> (last visited Feb. 2, 2026).

knowledge of right or wrong in society. As observed by Foucault, the construction of truth is not the:

ensemble of truths which are to be discovered and accepted, rather 'the ensemble of rules according to which the true and the false are separated'... It's not a matter of emancipating truth from every system of power... [e.g., power generated through social discourses] but of detaching the power of truth from the forms of hegemony, social, economic, and cultural, within which it operates at the present time.<sup>39</sup>

Based on this “*notion of change*”, this study explored the relationship between the legal awareness of young women and their empowerment through the attainment of rights in familial and social lives. *The underlying notion is that empowered mothers would get more agency to raise the well-being of their children.* Therefore, the study objectives and rationale are aligned with Sustainable Development Goal (SDG) Five, i.e., achieve gender equality and empower all women and girls. Under the SDG framework, gender equality not only means an equal level of education, health care, and other social services. It also urged to make women free from gender discrimination and gender-based violence that makes women more vulnerable in their family and social lives and may restrain their economic agency, in particular.

#### **B. Law as a Vehicle to Social Change: The Theoretical Underpinning**

Power has been described as '*the ability to influence or control others*'<sup>40</sup> or '*the ability to get what one wants*'<sup>41</sup>. A power arises from the '*control of or access to emotional, economic, and physical resources desired by the other party*'. Hughes also defines power as the '*ability to control resources, or access resources that the other wants or needs*'<sup>42</sup>. These authors define power as the possession of resources like income, education, and employment status, which

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<sup>39</sup> Foucault, *supra* note 32, at 132–33.

<sup>40</sup> Albie M. Davis & Richard A. Salem, *Dealing with Power Imbalances in the Mediation of Interpersonal Disputes*, 6 Mediation Q. 17, 18 (1984).

<sup>41</sup> Neumann, *supra* note 13, at 229.

<sup>42</sup> Scott H. Hughes, *Elizabeth's Story: Exploring Power Imbalances in Divorce Mediation*, 8 Geo. J. Legal Ethics 553, 574 (1995).

enable a person to influence or control others<sup>43</sup>. Therefore, people who possess more income, education, or better employment status are generally considered powerful in our society.

However, as will be clarified further in the following discussion, power is not something that any person can possess under the post-structural theory. Instead, it is a social construct that flows with social discourses and other cultural practices of a society<sup>44</sup>. For example, a husband who does not want his wife to go outside to perform some petty economic activities may not need to convince her in this regard; instead, imposing a direct sanction following existing social norms. Therefore, power remains in social discourses. It is not a commodity, so we cannot measure it<sup>45</sup>. However, the fact that power is not a commodity does not make it unreal; influential people in our society frequently deploy their power to secure what is desired over other disempowered groups of our society. When people try to legitimise their position, they try to do so by deploying the power of dominant discourses in a society<sup>46</sup>. Therefore, a dominant group of society uses social discourses or narratives to legitimise their dominant position and overpower other marginalised voices in society.

As mentioned earlier, Foucault recognises that in every society, there are some historical a priori or social discourses (object). These are historically framed cultural codes based on which people (subjects) understand and explain events in their lives. As cultural practices are interrelated, one cultural practice gets its meaning only when considered together with others. Thus, to understand the importance of an event in a particular culture, one must consider it in the context of a complete set of internally interrelated cultural codes. Foucault termed the complete set of cultural codes of society as '*episteme*'<sup>47</sup>. As a prominent post-structural philosopher, Foucault explained how social discourses control the power dynamic in society and how such a power

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<sup>43</sup> Davis and Salem, *supra* note 40.

<sup>44</sup> Dale Bagshaw, *The Three M's: Mediation, Postmodernism and the New Millennium*, 18 Conflict Resol. Q. 205, 207 (2001). (Note: This appears to be the same or closely related work as note 29.)

<sup>45</sup> Foucault, *supra* note 26, at 93.

<sup>46</sup> *Id.* at 85.

<sup>47</sup> Haugaard, *supra* note 29, at 51.

dynamic may change through “*new discursive formations*,” i.e., the process through which a contemporary discourse is formed in a society<sup>48</sup> over time. Foucault identified knowledge as an agent that may promote change in discursive practices (object) of a society and explained how dominant groups (subject) in society might change power by the generation and normalisation of new knowledge in the society<sup>49</sup>. Therefore, in Foucault's theory, the subjects and objects of power are interdependent.

Through discursive practices, the dominant group in society tries to normalise knowledge to preserve and strengthen its power in society<sup>50</sup>. As people in power create social practices and dominant discourses, the voices of underprivileged people are always marginalised<sup>51</sup>. Privileged groups, or any group member, may benefit from dominant discourses or generate new discourses through knowledge to fulfil their desires over other marginalised groups or members of such marginalised groups in society. Therefore, dominant social discourses may create a subjugated position for women, framing limited opportunities for them and perpetuating the dominance of men in society. For example, discourses that ‘*it is useless to spend more on daughters’ education because they cannot help their parents after marriage*’, or ‘*higher education makes women arrogant*’ could deprive women of opportunities to attain better education and the ability to get better employment outside the home. The following sub-section discusses how the pro-women legal framework might positively change women's economic empowerment in Bangladesh.

### C. Mandate to Bring Social Change through Law

As mentioned earlier, power remains in social discourses. It has already been discussed how social discourses may create gender power disparity in society. Therefore, knowing about social discourses or cultural a priori that keep women disempowered is a key to fulfilling this research aim. However, there is a vast philosophical debate on whether we should have a basic set of capabilities like UDHR that would be considered essential for fulfilling the agency and well-

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<sup>48</sup> *Id.* at 119.

<sup>49</sup> Gutting, *supra* note 27, at 101.

<sup>50</sup> Bagshaw, *supra* note 44, at 207.

<sup>51</sup> *Id.*

being of all individuals in this world. However, in this research, we wouldn't engage in that debate; instead, take Article 5 of CEDAW as the guiding Article to identify social discourses. These discourses may create women's subordinate and less empowered position and create a gender role ideology that makes women more submissive and accommodating, rather than having a competing and decision-making role in their family and society.

**i. Convention on The Elimination of All Forms of Discrimination against Women (CEDAW)**

Article 5 of CEDAW stipulates that state parties shall take all appropriate measures:

- (a) To modify the social and cultural patterns of conduct of men and women, with a view to achieving the elimination of prejudices and customary and all other practices that are based on the idea of the inferiority or the superiority of either of the sexes or stereotyped roles for men and women;
- (b) To ensure that family education includes a proper understanding of maternity as a social function and recognising the joint responsibility of men and women in the upbringing and development of their children, it is understood that the children's interest is the primordial consideration in all cases.

The theme of Section 5(a) goes on the same line to modify the social and cultural patterns (discursive practices) that may restrain women's agency and keep them disempowered in society. Though women face discrimination in numerous aspects of their lives, in this research, we mainly focus on social discourses that subjugate women in Bangladesh in terms of income, education, and occupational status. This section further analyses how women in Bangladesh remain at a decided disadvantage in this patriarchal society. Due to very little access to material resources, women lack practical autonomy and decision-making power and therefore remain disempowered within their family, community, and society at large.

Feminist scholars argue that such a subordinated role can be changed through continual good practice in different social institutions. Such institutional practice may greatly influence the construction and reconstruction of social

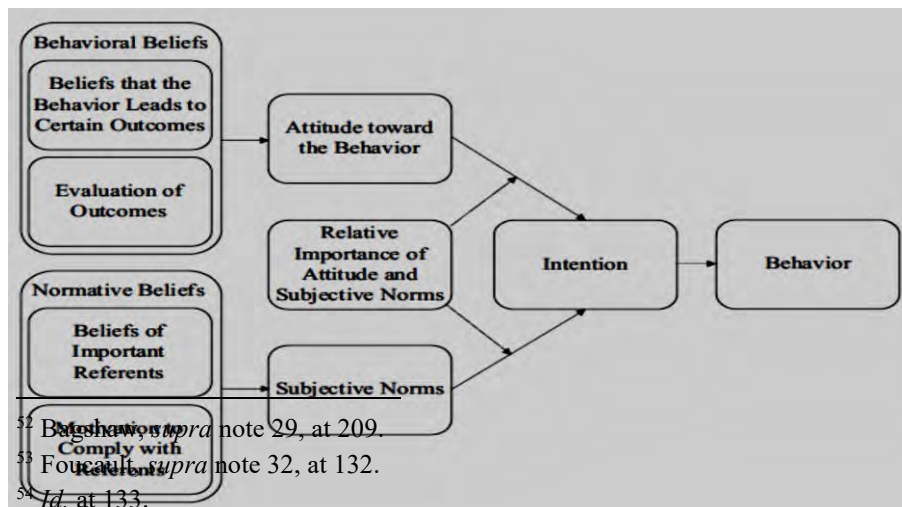
roles<sup>52</sup>. These institutions can normalise new knowledge in society by defining truth or what is right or wrong, “*according to which the true and the false are separated*”<sup>53</sup>. As discussed above, one way of generating such knowledge can be by enacting new laws. This new knowledge may generate power by 'detaching the power of truth' from social, economic, and cultural hegemony within which it operates at present<sup>54</sup>.

However, even when the law creates a binding force for social change, such changes accelerate when society shares a common intention towards planned behaviour change. Based on the '*Planned Behaviour Change Theory*', the following section discusses the theoretical underpinning of how an effective BCC may act as an accommodating force of law to bring such desired behavioural changes in society.

## VII. Theory of Planned Behavior: Exploring the Change Process

In many contemporary Behavioural Change Communication (BCC) practices, the objective is to sensitise society to challenge their dominant discourses and change their normative belief that would ultimately create a space for change in individual behaviour. However, in the planned behavioural change theory adopted in this study, we may change the behaviour of an individual by fulfilling their intention through an alternative pathway that would lead to the desired change in behaviour.

Figure 3: Theory of Planned Behaviour



**Source:** *Adapted from (Kan and Fabrigar, 2017) 'Theory of Planned Behaviour', Encyclopedia of Personality and Individual Differences, Springer.*

It is possible to attain such fulfilment of intention and associated behavioural change for individuals even when society is not sensitised explicitly to accept such change. For this, we need to find out a perceived community preference that is not contradictory and relatively supportive of the planned behavioural change. According to the planned behaviour theory, as shown in Figure 3 above, A person's intention towards a behaviour depends on both 'subjective norms' and an individual's 'attitude towards a behaviour'.

As indicated in Figure 3, we may initiate a change in an individual's intention by changing his attitude towards that behaviour, subject to established social norms. Under existing Behavioural Change Communication (BCC) programs, development agencies frequently try to bring positive social norms to remove social barriers in attaining desired behavioural change among individuals. The niche of this research is to explore how the fulfilment of behavioural intentions through a carefully designed alternate pathway may promote individual preferences without requiring an explicit intervention to change social norms.

#### **VIII. Tacit Rather than Explicit Behavioral Change remains the Key**

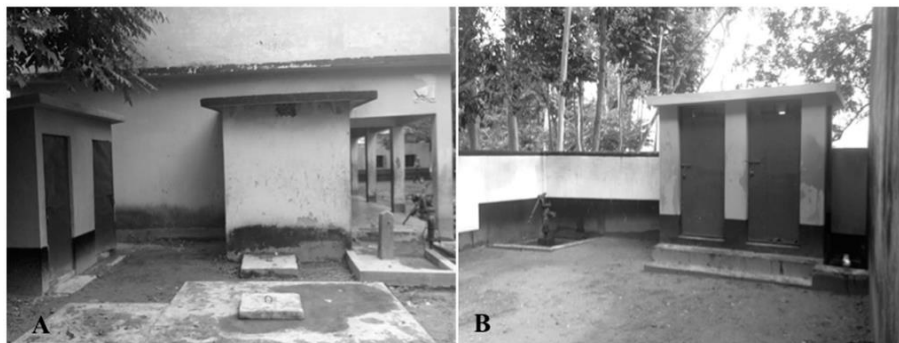
As mentioned at the end of the last section, to accelerate pro-active change in social behaviour, we need to place more emphasis on behavioural intention rather than the explicit emphasis on the change in the desired behaviour itself.

For instance, as shown in Figure 4 below, a group of students attending a World Hand Washing Day campaign stands still because they are reluctant to assemble under the scorching sun and listen to hygiene messages. Therefore, the messages delivered in this program may have a very marginal or no change in their handwashing behaviour in practice.

**Figure 4: Reluctant Students Participating in a Behaviour Change Campaign**



However, a delightful Handwashing tool at the school compound increased the after-toilet Handwashing behaviour of the children<sup>55</sup>.



**Figure 5A: Boosting Hand-washing Without Any Formal BCC (Before)**

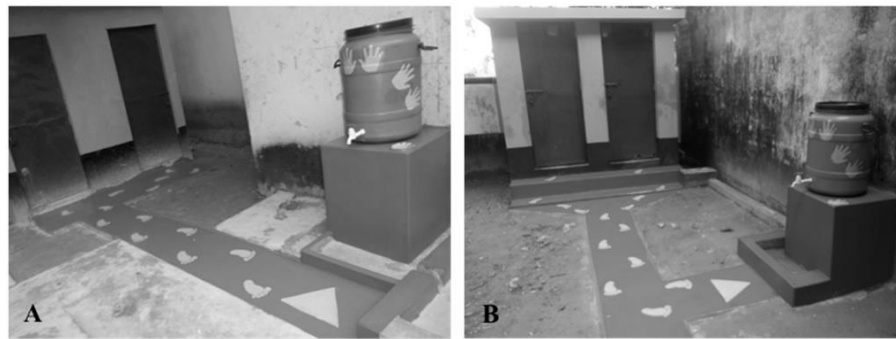
As kids had fun while following the colourful track compatible with their behavioural intention to make fun at school (See Figure 5B below), no additional Behavioural Change Communication was required to boost children's after-toilet hand-washing practice.

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<sup>55</sup> Robert Dreibelbis et al., *Behavior Change without Behavior Change Communication: Nudging Handwashing among Primary School Students in Bangladesh*, 13 Int'l J. Env't Res. Pub. Health 129 (2016).

### Figure 5B: Boosting-up Hand-washing Without Any Formal BCC (After)

Unlike traditional BCC, to explicitly change any intended behaviour, we may



use this alternative communication technique (C4D) to prioritise the development need instead of any exclusive behavioural change. Our purpose would be to explore behavioural intentions among our target beneficiaries and stakeholders more accommodating to our planned behavioural change. Therefore, C4D shall only implicitly focus on those planned behavioural changes.

### ***Promotion of a Planned Behavioral Intention on Child Welfare may Tacitly Promote a Behavioral Change in Favour of Women's (Mothers') Economic Participation***

Based on the theoretical premise suggested by the Planned Behavioural Change Theory, this research suggests that it may be possible to promote women's increased participation in the workforce by express promotion of Child Welfare through increased mother involvement in income-generating activities. However, the remaining challenge is finding a context under which social norms may accept mothers' increased participation in the workforce for better child welfare. At this stage, ***it is essential to clarify further that the promotion of tacit behavioural intentions instead of intended behavioural changes remains the critical factor for C4D communication***<sup>56</sup>.

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<sup>56</sup> Icek Ajzen, *Perceived Behavioral Control, Self-Efficacy, Locus of Control, and the Theory of Planned Behavior*, 32 J. Applied Soc. Psych. 665, 665–83 (2002).

For instance, to explore a tacit behavioural intention that is more accommodating to our intended behavioural change, 80 women respondents in the survey were asked, *“if the following members of your family fall sick simultaneously, who will get priority to see a doctor? Please indicate the priority 1<sup>st</sup>, 2<sup>nd</sup> ... 5<sup>th</sup>”*. The recorded respondent’s response is as follows.

**Table 3: Healthcare Priority of Different Groups in percent of Respondent Families**

|               | 1 <sup>st</sup> Priority | 2 <sup>nd</sup> Priority | 3 <sup>rd</sup> Priority | 4 <sup>th</sup> Priority | 5 <sup>th</sup> Priority |
|---------------|--------------------------|--------------------------|--------------------------|--------------------------|--------------------------|
| Children      | 90%                      | 10%                      | -                        | -                        | -                        |
| Husband       | 10%                      | 60%                      | 25%                      | -                        | 5%                       |
| Woman         | -                        | 10%                      | 30%                      | 55%                      | 5%                       |
| Mother in Law | -                        | 20%                      | 40%                      | 35%                      | 5%                       |
| Others        | -                        | -                        | 5%                       | 10%                      | 85%                      |

As demonstrated in Table 3, children are the most privileged members in 90 percent of the families to receive priority healthcare service. On the contrary, women get the lowest priority in more than half of the families; women get the 4<sup>th</sup> priority in health care services. The findings imply that if the C4D program's objective is centred on children's improved healthcare, it has a greater possibility of succeeding by sensitising husbands and in-laws.

The priority on child welfare in families was examined in the survey of young women and their in-laws through a series of related questions. As previously mentioned, both husbands and in-laws prefer a newborn's life to its mother when both their lives are at stake. Young mothers demonstrated a similar attitude in their daily life activities. For instance, as shown in Figure 6 below, when some household members get sick together, the child receives the highest priority to see a doctor. However, the second priority was given to husbands while women remained at the priority list.

Children get similar priority in having good food prepared in a household. However, in the case of food sharing husband seems to compete with the children. Thus, under the current socioeconomic settings where men remain the

primary breadwinners for a family, traditional BCC campaigns focused on child health have a more significant opportunity to succeed than child nutrition. However, under the current research, this distinction gets blurred as it focuses on behavioural intention rather than its behaviour. For instance, in the case of both child nutrition and child health, the behavioural choice of parents is the maximisation of child wellbeing. W. LaMorte of Boston University School of Public Health, ‘behavioural intention’ refers to the motivational factors that influence a given behaviour. Thus, the stronger the intention to perform the behaviour, the more likely the behaviour will be served.

**Figure 6: Preference behaviour of husband for mother, children, and Others**

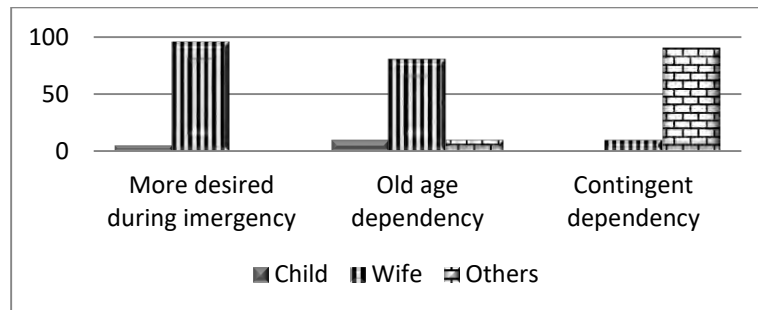


Figure 6 indicates, the behavioural preference of husbands almost always leans towards their wives during childbirth emergencies and for old-age support.

Therefore, the ‘improved healthcare and life expectancy of children has a stronger force of adopting this theory than the ‘improved healthcare and life expectancy’ of the mother. Priority for child well-being over mothers’ well-being was further confirmed by the set of priority-centric questionnaire surveys. For instance, husbands were asked, *“During the first delivery of your wife, if the lives of both mother and the child were at stake and only one of them could be saved, what would be your choice?”* To get husbands' perception of future potential, they were further asked, *“Who would be more supportive of you during your old age?”*

**Table 4: Preference Behaviour of in-laws for women, children and others**

|                            | More aspired to<br>emergency<br>delivery | Old age<br>dependency | Contingent<br>dependency |
|----------------------------|------------------------------------------|-----------------------|--------------------------|
| Grandchild<br>(Children)   | 4%                                       | --                    | --                       |
| Son (Husband)              | --                                       | 12%                   | 80%                      |
| Daughter-in-law<br>(woman) | 96%                                      | 88%                   | 10%                      |
| Others                     | --                                       | --                    | 10%                      |

As shown in Table 4 above, in-laws' preference behaviour is in proximity to the preference behaviour demonstrated by husbands in Table 5. Both husbands and in-laws aspired to save a mother's life when both the delivering mother and the anti-natal baby's lives were at risk. k. Similarly, Similarly, considering old-age dependency, women(daughters-in-law) become the first choice of both husbands and in-laws.

When asked the reason for choosing a mother's life during a delivery emergency, the common answer was the possibility of another baby if the mother survived, and not vice-versa. Moreover, the upbringing of a motherless baby would create an enormous extra burden on the family. Therefore, while considering child welfare or the welfare of other family members, one behavioural intention of both husband and in-laws is to get uninterrupted service from their wives.

Therefore, the behavioural intention to ensure better child welfare may not be enough to allow women to get involved in paid economic activities and earn bread for their families to meet the uncertainty. Though the behavioural intention or motivation for both husband and in-laws was to rely on the financial wealth of wives for better child wellbeing, this intention may be significantly truncated due to a social expectation of getting uninterrupted household services from women.

***Promotion of a Planned Behavioral Intention on Child Welfare: Satisfying the Tacit Wants of Women for Economic Participation***

To balance these two competing '*wants*' of society, we need to explore the contexts where improved child well-being may get even more preference. A

survey in the rural community of *Kurigram* district (one of the remote and less developed districts in Bangladesh) shows 56.8 percent of families as nuclear families, 12.1 percent as additional nuclear families that include parents and unmarried brothers or sisters. In contrast, joint families were only 24.9 percent. Despite the advantages and disadvantages of such social change, such trends make the Planned Behaviour Change Model even more applicable to our society.

Further, the niche of this research is to explore possible applications of the law that would leverage this trend by creating economic incentives for families to maintain this pro-women trend. As discussed earlier, rural women in Bangladesh are now increasingly getting involved in small-scale agricultural activities and working as managers of their family farms, as husbands are migrating to urban areas for better income in the urban informal sector<sup>57</sup>. To promote this pro-women migration trend, policymakers may create an extra incentive for male migration to cities.

On the other hand, to keep women and other family members stuck in their rural homes, the government may design a social safety net to discourage poor rural families from leaving their rural homes and migrating to urban slums. This joint economic force would increase the number of single mothers in rural areas and promote a social change that would support increased mothers' involvement in family farming through changed labour laws and social security laws. The policy can be reversed when a sufficient threshold is developed for women's involvement in income-generating activities.

Therefore, if we carefully choose a behavioural intention towards which people already have a positive attitude, our possibility of attaining the desired change would be higher. To lead the behavioural intention of individuals towards a planned behavioural change, we need to:

- improve their expectation of the desired outcome;
- ensure the outcome will not be contradictory to the existing social norms.

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<sup>57</sup> Kabir et al., *supra* note 23.

Further, the good intentions of husbands and in-laws are not enough to get women involved in economic activities. Women need to perceive themselves as capable enough to get involved in economic activities and gain control over their resources. This research has asked participants questions on their perceived capability to participate in economic activities and household decision-making.<sup>58</sup> The next chapter highlights how an intention-focused C4D may attain this three-pronged objective simultaneously.

The reason for focusing on behaviour change with child welfare (explicit behavioural change intervention) rather than women's welfare (implicit behavioural change) or any other socio-economic factor is to take advantage of low resistance from all stakeholders on this common issue. Therefore, following this framework of change as depicted below, we can attain the desired goal of child welfare and women's empowerment under a global framework. It will also synchronise UNICEF and other world bodies working directly or indirectly for the welfare of women, children, and their families.