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Research Monograph

On

**“Women’s Position Under the Family laws of Bangladesh;
Critical Analysis”**

**This Research Submitted for the Partial Fulfillment of the award of the degree in LL.B
(Hon’s) Department of Law, Sonargaon University (SU), Dhaka.**

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Dedication

*This Research is dedicated to my
Father & Mother*

LETTER OF TRANSMITTAL

To

Sunzida Akhter

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Subject: Submission of research paper on **“Women’s position Under the Family laws of Bangladesh; Critical Analysis”**

Dear Madam,

It is a great pleasure for me to submit the thesis on **“Women’s position Under the Family laws of Bangladesh; Critical Analysis”** While I doing this thesis, I have tried my level best to make this project paper to the latest standard. I think that thesis paper will fulfill your requirement and pleased you. I, therefore, hope that you would be kind enough to go through this thesis paper for evaluation.

I am always be ready for clearance of any part of my thesis.

Thanking you

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CERTIFICATION

This is to certify that the thesis on “**Women’s position Under the Family laws of Bangladesh; Critical Analysis**” is done by Mahamuda Mukta in partial fulfillment of the requirements for the degree of LL.B. (Honours) from Sonargaon University, Dhaka. The thesis has been carried out under my guidance and is a record of the bonafide work carried out successfully.

.....

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DECLARATION

I do hereby that this Research Monograph on the **Women's position Under the Family laws of Bangladesh; Critical Analysis** have been done by me and this Research is free from all plagiarism and without help of other. I further declare that this monograph is prepared with my own effort and it was not and never submit to any institute for any academic reason.

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Abstract

This research critically examines the position of women under the family laws of Bangladesh, focusing on the discriminatory practices embedded in religion-based personal laws. Despite constitutional guarantees of equality and non-discrimination under Articles 27 and 28, Bangladeshi women continue to face legal and social inequalities in matters relating to marriage, divorce, maintenance, guardianship, and inheritance.

The legal framework in Bangladesh is pluralistic, governed by separate personal laws for Muslims, Hindus, and Christians. Each of these systems retains provisions that limit women's rights. Under Muslim family law, women face inequality in inheritance, limited rights to initiate divorce, and inadequate maintenance provisions. Hindu personal law, largely uncodified, offers no legal recognition for divorce or maintenance and restricts women's inheritance rights. Christian family law, though codified, still favors men in divorce proceedings and lacks progressive maintenance rules.

The study highlights inconsistencies between personal laws and Bangladesh's constitutional and international commitments, especially the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), to which Bangladesh is a signatory. Reservations to key CEDAW articles further hinder progress toward gender equality in family law.

Judicial interpretations have occasionally extended protections for women, but the lack of legislative reform continues to perpetuate systemic injustice. The research concludes with practical recommendations, including codification and reform of Hindu and Christian family laws, equitable reforms in Muslim personal law, withdrawal of CEDAW reservations, and the introduction of a uniform family code that upholds gender justice while respecting religious sentiments.

This paper underscores the urgent need for legislative, institutional, and social reforms to ensure that women in Bangladesh enjoy equal rights and protections under the law, particularly in the family domain.

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CHAPTER: 1 INTRODUCTION

1.1 INTRODUCTION:

In Bangladesh, the legal framework governing family matters—such as marriage, divorce, maintenance, guardianship, and inheritance—is largely based on **personal laws rooted in religion**. These laws apply differently to Muslims, Hindus, Christians, and other religious groups, resulting in a pluralistic legal system that often leads to **gender-based inequalities**, particularly against women. While the **Constitution of Bangladesh** guarantees equality before the law and prohibits discrimination on the grounds of sex under Articles 27 and 28,¹ these principles are frequently undermined by personal laws that retain **patriarchal norms and religious justifications** for unequal treatment.²

Family law, by its nature, directly impacts the private and social lives of individuals, especially women, and plays a significant role in shaping their socio-economic status. For instance, Muslim women in Bangladesh receive **only half the inheritance share** of their male counterparts, and Hindu women have **limited legal rights** in matters of divorce and inheritance.³ Christian women also face difficulties under outdated colonial-era statutes, where divorce and maintenance laws remain **biased and rigid**.⁴

Although Bangladesh has ratified several **international human rights treaties**, including the **Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)**,⁵ the country maintains reservations to key provisions—particularly Articles 2 and 16—which relate to eliminating gender discrimination in family law.⁶ These reservations reflect the state's reluctance to reform personal laws that are often considered **sensitive religious domains**, despite their discriminatory impact.

¹ The Constitution of the People's Republic of Bangladesh, **Articles 27 and 28**.

² Hossain, S. (2007). "Islamic Family Law and Its Discontents: Women's Rights under Religious Law in Bangladesh", in *Women Living Under Muslim Laws (WLUML)*.

³ Ahmed, N. (2002). *Family Laws in Bangladesh: A Comparative Study of Recent Reforms*, Dhaka: University Press Limited.

⁴ Ain o Salish Kendra (ASK) (2022). *Annual Legal Rights Report*.

⁵ United Nations Treaty Collection. *Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)*, Status of Ratification: Bangladesh.

⁶ Committee on the Elimination of Discrimination Against Women (CEDAW), *Bangladesh's State Party Reports and Concluding Observations*, 2011.

The gap between constitutional promises and the practical realities faced by women highlights the urgent need for **critical analysis and reform**. This paper aims to examine the current legal status of women under the family laws of Bangladesh across different religious communities, identify discriminatory practices, evaluate existing judicial interpretations, and propose recommendations in light of constitutional and international standards.

1.2 Problem Statement

Despite the constitutional guarantees of equality and non-discrimination, women in Bangladesh continue to face systemic legal inequality under family laws, which are primarily governed by religion-based personal legal systems. These laws—particularly in matters of marriage, divorce, maintenance, guardianship, and inheritance—contain provisions that are either overtly discriminatory or applied in a way that disproportionately disadvantages women.⁷

For example, under Muslim personal law, women are generally entitled to only half the inheritance share compared to men, and their right to initiate divorce (Khula) often requires the consent of the husband, limiting their autonomy.⁸ Hindu women are legally barred from obtaining a divorce and have restricted inheritance rights, particularly to ancestral property, leaving them vulnerable in the case of desertion or domestic violence.⁹ Christian women, on the other hand, are bound by colonial-era laws such as the Divorce Act of 1869, which until recent reforms gave men more grounds for divorce than women.¹⁰

This fragmented legal system, which applies different rules to different religious communities, not only creates legal inconsistency but also entrenches gender-based discrimination within the legal framework.¹¹ While the state is a signatory to international conventions like CEDAW, it has placed reservations on key articles related to equality in family relations, thus limiting its commitment to gender justice.¹²

⁷ Constitution of the People's Republic of Bangladesh, Article 28.

⁸ Ahmed, N. (2002). *Family Laws in Bangladesh: A Comparative Study of Recent Reforms*. Dhaka: UPL.

⁹ Hossain, S. (2003). "Hindu Personal Laws in Bangladesh: Reform or Status Quo?", BLAST Legal Review.

¹⁰ Ain o Salish Kendra (ASK). (2020). *Family Law and Discrimination Against Women: A Report on Legal Practices*.

¹¹ Yasmin, S. (2015). "Pluralism and Gender Justice in Bangladesh Family Law", *International Journal of Law and Policy Review*, Vol. 4(2), pp. 45-60.

¹² CEDAW Committee (2011). *Concluding Observations on the Combined Sixth and Seventh Periodic Reports of Bangladesh*.

The persistence of these inequalities under the guise of personal law raises critical concerns about the balance between religious freedom and women's fundamental rights. The absence of a uniform, gender-equal legal framework perpetuates social and economic dependency, limits access to justice, and contributes to the marginalization of women in both private and public spheres.¹³ Therefore, there is an urgent need to address the gender bias embedded in personal laws and to examine the extent to which they conflict with constitutional and international human rights obligations.

1.2 Aim of the research

The primary aim of this research is to critically examine the status and treatment of women under the family laws of Bangladesh, with a specific focus on identifying and analyzing the legal provisions that create or perpetuate gender-based discrimination. This study seeks to:

- Evaluate the religion-based personal laws (Muslim, Hindu, Christian) in relation to women's rights in areas such as marriage, divorce, maintenance, guardianship, and inheritance.
- Examine the extent to which these personal laws conflict with the constitutional principles of gender equality and international human rights obligations, particularly the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).
- Investigate judicial interpretations and legislative gaps that affect women's legal protection in family matters.
- Propose policy and legal reforms aimed at ensuring equality, justice, and protection for women within the family law framework of Bangladesh.

Through this analysis, the research intends to contribute to the discourse on legal reform and women's rights and promote the development of a more equitable family law system that aligns with both national and international standards.

¹³ Human Rights Watch (2012). *"Will I Get My Dues... Before I Die?": Harm to Women from Bangladesh's Discriminatory Laws on Marriage and Divorce.*

1.3 Objective of the Research:

The objective of the research are:

- **To examine** the current legal framework governing family laws in Bangladesh, with a focus on Muslim, Hindu, and Christian personal laws.
- **To identify** the areas within family law—such as marriage, divorce, maintenance, guardianship, and inheritance—where women face discrimination or legal disadvantages.
- **To evaluate** how these personal laws align or conflict with the constitutional guarantees of equality and non-discrimination under Articles 27 and 28 of the Constitution of Bangladesh.
- **To recommend** legal and policy reforms that promote gender equality, justice, and the protection of women's rights within the domain of family law.

1.5 Research Questions

The research questions are :

- How do the provisions of Muslim, Hindu, and Christian personal laws in Bangladesh impact women's legal rights in matters such as marriage, divorce, maintenance, guardianship, and inheritance?
- In what ways do these personal laws contradict the constitutional principles of equality and non-discrimination?
- How have Bangladeshi courts interpreted and applied family laws in cases involving women's rights?

1.6 Scope and limitations

Scope of the Research

This research focuses on analyzing the position of women under the family laws of Bangladesh, specifically within the frameworks of Muslim, Hindu, and Christian personal laws. The study examines how these laws affect women's rights in key areas such as:

- Marriage and divorce
- Maintenance and guardianship
- Inheritance and property rights

It also evaluates the constitutional guarantees of equality under Articles 27 and 28 and Bangladesh's international commitments, especially to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). The study includes analysis of relevant judicial decisions, statutory provisions, and legal commentaries, and concludes with recommendations for legal and policy reforms.

The research is doctrinal in nature, relying on **primary legal sources** (laws, case law, constitutional provisions, international conventions) and **secondary sources** (articles, books, legal reports).

Limitations of the Research

1. Due to the deeply rooted religious nature of personal laws, the study may not fully capture the cultural and theological complexities involved in legal reform.
2. The research is qualitative and document-based, and does not include fieldwork or empirical surveys from affected women or communities.
3. Some relevant unreported court cases or local tribunal decisions may not be accessible, limiting the scope of legal analysis.
4. The study focuses on legal discrimination and does not explore sociological, psychological, or economic impacts of these laws on women in depth.
5. Legal reforms and judicial interpretations are constantly evolving; thus, the findings may reflect the status quo only up to the time of research.

1.7 Literature Review

The position of women under Bangladesh's family laws has been a subject of critical scholarly attention, particularly due to the **inherent gender bias** in religion-based personal laws. Various researchers, legal experts, and human rights organizations have documented the **systemic discrimination women face** under Muslim, Hindu, and Christian family law systems in Bangladesh.

Hossain (2003) argues that the **pluralistic nature of personal laws** in Bangladesh has led to legal inconsistency and has disproportionately disadvantaged women.¹⁴ According to her, Muslim women face restrictions in divorce and inheritance, while Hindu women are entirely excluded from rights such as divorce and equal property claims. This legal framework, she contends, is in clear contradiction with **Article 28 of the Constitution**, which promises equality and prohibits sex-based discrimination.

Ahmed (2002) provides a comparative legal analysis of family laws across South Asian countries, showing how Bangladesh has **lagged behind in reform** efforts compared to countries like India, which have introduced more progressive personal law codes—particularly for Hindus.¹⁵ His work emphasizes that without comprehensive reform, women's rights under Bangladeshi family laws remain legally and culturally constrained.

Yasmin (2015) focuses on the **tension between religious freedom and gender equality**. She points out that attempts to reform personal laws are often met with resistance from conservative religious communities, who view such reforms as an attack on religious autonomy.¹⁶ However, she argues that gender justice should take precedence over patriarchal interpretations of religion.

The work of Ain o Salish Kendra (ASK) (2020) highlights real-life case studies of women who have been **denied maintenance, guardianship, or equal inheritance**, showing how deeply en-

¹⁴ Hossain, S. (2003). "Islamic Family Law and Gender Equality in Bangladesh: A Quest for Reform", in Women Living Under Muslim Laws (WLUML).

¹⁵ Ahmed, N. (2002). *Family Laws in Bangladesh: A Comparative Study of Recent Reforms*. Dhaka: University Press Limited.

¹⁶ Yasmin, S. (2015). "Pluralism and Gender Justice in Bangladesh Family Law", *International Journal of Law and Policy Review*, 4(2), 45-60.

trenched patriarchal interpretations of law affect women's daily lives.¹⁷ Their report also exposes the **lack of legal aid and awareness** among women, especially in rural areas.

Human Rights Watch (2012) critiques the colonial-era Christian family laws, such as the **Divorce Act of 1869**, as being outdated and **discriminatory against Christian women**.¹⁸ The report supports the need for gender-neutral grounds for divorce and equitable maintenance provisions, urging the government to update these statutes in light of modern human rights norms.

The Bangladesh Legal Aid and Services Trust (BLAST) has advocated for the establishment of a **Uniform Family Code** to standardize laws across religious communities while ensuring the protection of religious and cultural identity.¹⁹ Their policy brief emphasizes that codified, secular family laws do not necessarily erode religious values but can provide a **framework for justice** in line with constitutional and international human rights standards.

Despite Bangladesh being a signatory to **CEDAW**, the government has maintained reservations to **Articles 2 and 16**, which are fundamental to eliminating gender discrimination in personal and family life.⁷ This reflects the **lack of political will** to pursue reforms, as discussed in the works of Islam and Karim (2017), who argue that Bangladesh's dual commitment to religious law and international obligations remains **contradictory and unresolved**.²⁰

In summary, the literature consistently highlights that while **some judicial activism and awareness efforts** have emerged, the **structural reform of family law** remains stagnant due to religious sensitivities, political inertia, and lack of public discourse. A unified legal approach that respects constitutional rights and international obligations is repeatedly suggested as the necessary path forward.

¹⁷ Ain o Salish Kendra (ASK). (2020). *Report on Discrimination Against Women under Personal Laws in Bangladesh*.

¹⁸ Human Rights Watch. (2012). *"Will I Get My Dues... Before I Die?": Harm to Women from Bangladesh's Discriminatory Laws on Marriage and Divorce*.

¹⁹ Bangladesh Legal Aid and Services Trust (BLAST). (2019). *Policy Brief: The Need for Uniform Family Code in Bangladesh*.

²⁰ Islam, M. and Karim, S. (2017). *"Balancing Religious Norms and Gender Equality: The Challenge of Family Law Reform in Bangladesh"*, Dhaka Law Review, 5(1), 23–45.

CHAPTER 2: Gender Equality And Women's rights Current situation in Bangladesh.

2.1 Introduction

In the World Economic Forum's 2021 Global Gender Gap Report , it scored 0.719, making it one of the top countries in the region for closing the gender gap. It also ranks number seven in the index's sub-ranking of political empowerment, and holds the distinction of being the only country where more women have held head-of-state positions than men over the past 50 years.

Economic aspects of gender equality take center stage as the review investigates women's participation in the workforce, economic disparities, and barriers to economic empowerment. The discussion extends to microfinance programs, access to credit, and challenges faced by women in the garment industry.

Bangladesh ranks 133 out of 162 countries on the UNDP 2020 Gender Inequality Index^{51%} of Bangladeshi women aged 20-24 were married before their 18th birthday.^{15.5%} of Bangladeshi women aged 20-24 were married before their 15th birthday.In the last year, nearly 25% of all Bangladeshi women and girls have experienced physical and/or sexual violence by a current or former partner.^{7.2%} of women in Bangladesh who have work still live below the poverty line Unemployment rates for women in Bangladesh are double those for men: ^{6.7%} of women are unemployed, while only ^{3.3%} of men are unemployed.¹⁷³ out of 100,000 women in Bangladesh are expected to die due to complications from pregnancy or childbirth²¹.

Education, a critical determinant of women's empowerment, is thoroughly examined to identify barriers hindering access and progress. This section explores the intersections of education with social and economic factors, emphasizing the importance of addressing educational challenges to achieve lasting gender equality.

The subsequent segments delve into healthcare access, including government health initiatives, primary healthcare infrastructure, and challenges faced by women in accessing quality healthcare.

²¹<https://www.concern.net/news/gender-inequality-in-bangladesh-closing-the-gap>

Political representation, an integral aspect of women's participation in decision-making processes, is also scrutinized to understand the barriers and opportunities for women in the political sphere.

2.2 Progress of Gender Equality in Bangladesh:

Many scholars have highlighted the progress Bangladesh has made in gender equality, especially in terms of increased women's participation in education and the workforce. However, challenges like early marriage and domestic violence persist. The progress and challenges of gender equality in Bangladesh reflect a dynamic landscape that has undergone significant changes while grappling with persistent

2.2.1 Educational Advancements:

- Bangladesh has witnessed considerable progress in girls' education, with increased enrollment and literacy rates, narrowing the gender gap in primary and secondary education.

Initiatives have successfully reduced gender disparities in primary education, with equal participation of boys and girls in schools, contributing to a more inclusive educational landscape.²² Literacy rates, particularly among women, have shown improvement, indicating progress in breaking the cycle of illiteracy and promoting education as a tool for empowerment.

Efforts have been made to diversify educational opportunities, including the expansion of technical and vocational education, providing students with practical skills for the workforce .

Government-led programs, such as stipends for female students and the distribution of free textbooks, aim to reduce financial barriers and encourage continued education, especially for girls. Focus has shifted towards enhancing the quality of education through curriculum reforms, teacher training programs, and the incorporation of modern teaching methods²³.

Despite these advancements, challenges such as ensuring quality education in rural areas, addressing dropout rates, and aligning education with evolving job markets persist. Continued

²² UNESCO, 2020

²³ (The Daily Star, 2022)

efforts and strategic investments in the education sector are crucial for sustaining and building upon the positive trends observed in educational advancements in Bangladesh.

2.2.2 Women's Economic Participation:

- Initiatives like microfinance programs and women-focused economic policies have contributed to enhanced economic empowerment, especially in rural areas²⁴.

Grameen Bank Model Founded by Muhammad Yunus in 1983. Grameen Bank introduced the concept of microfinance, providing small loans to impoverished individuals, predominantly women, to start or expand small businesses. The Grameen Bank model employs a group lending approach, where individuals within a community form small groups. These groups provide mutual support and act as guarantors for each other's loans, promoting social cohesion.

Microfinance programs focus on empowering women by giving them access to credit, fostering entrepreneurship, and enabling financial independence within their households.

Microfinance has been instrumental in enabling income-generating activities, including agricultural ventures, handicrafts, and small-scale businesses, lifting families out of poverty.

Microfinance addresses the financial exclusion of marginalized communities, providing them with access to financial services, including savings and insurance products²⁵.

Studies have shown positive correlations between microfinance participation and indicators of women's empowerment, such as increased decision-making power and improved social status within households²⁶.

- The success of microfinance in Bangladesh has led to its replication in various parts of the world, contributing to a global movement for financial inclusion and poverty alleviation²⁷.

Microfinance programs in Bangladesh, particularly the Grameen Bank model, have been transformative in providing financial services to the underserved, empowering women, and fostering economic development at the grassroots level. Despite challenges, the impact of microfinance extends beyond financial transactions, influencing social dynamics and community well-being.

²⁴ Kabeer, 2005)

²⁵ (Hulme & Mosley, 1996).

²⁶ Duflo et al., 2012

²⁷ (Armendariz & Morduch, 2010).

Garment industry employment in Bangladesh has been a significant driver of economic growth, providing jobs for a large portion of the workforce, especially women. The ready-made garment (RMG) industry is a major contributor to Bangladesh's economy, accounting for a substantial portion of the country's export earnings. The garment sector is one of the largest employers in Bangladesh, providing jobs to millions of workers, particularly women from rural areas²⁸.

A significant proportion of the workforce in the garment industry comprises women. Women are often employed in various roles, from sewing and cutting to supervisory and managerial positions. Garment industry employment has played a role in the social and economic empowerment of women by providing them with income, financial independence, and opportunities for skill development.

2.2.3 Political Representation:

- Reserved seats for women in the parliament have led to increased political participation and representation, promoting a more inclusive political landscape.

Here are key points regarding political representation in the country:

The Bangladesh Constitution includes provisions for reserved seats in the parliament to ensure women's representation. This has led to an increased number of women participating in the political decision-making process (Constitution of Bangladesh, Article 65)²⁹. Over the years, there has been a positive trend in women's political participation, with an increasing number of women being elected to local government bodies, municipal councils, and the national parliament.

Quotas for women in local government institutions have been established, contributing to enhanced representation at the grassroots level and providing women with opportunities to engage in community development.

There is a growing political consciousness among women and marginalized groups, leading to increased demand for equal representation and participation in decision-making bodies.

Bangladesh has witnessed positive strides in political representation, particularly for women and marginalized communities. However, ongoing efforts are essential to overcome challenges, promote diversity in political leadership, and ensure that the political landscape reflects the varied perspectives and needs of the population.

²⁸(Hossain & Mahmud, 2019).

²⁹ The Constitution of Peoples republic of Bangladesh.

2.2.4 Healthcare Access:

Improvements in maternal healthcare services have positively impacted women's health, contributing to a reduction in maternal mortality rates³⁰.

Healthcare access in Bangladesh has seen improvements over the years, but challenges persist. Here are key points regarding healthcare access in the country:

The government has implemented various health initiatives to improve access to healthcare services, including the establishment of community clinics, vaccination programs, and maternal health services.

Government health initiatives in Bangladesh have been instrumental in addressing public health challenges and improving healthcare access. Here are key aspects of these initiatives: The establishment of community clinics across the country has brought healthcare services closer to rural communities, providing basic medical care, maternal health services, and health education³¹.

Bangladesh has implemented robust immunization programs to prevent and control the spread of vaccine-preventable diseases, targeting both children and adults (Ministry of Health and Family Welfare, 2021). The government has prioritized family planning services, offering a range of contraceptive methods and promoting reproductive health to address population growth and maternal health concerns. Initiatives focusing on maternal and child health, such as safe delivery programs, antenatal care services, and skilled birth attendance, aim to reduce maternal and child mortality rates. Programs addressing malnutrition and promoting nutrition education have been implemented to improve the overall health and well-being of the population, particularly children and pregnant women.

Efforts have been made to strengthen primary healthcare infrastructure, especially in rural areas, to ensure that essential services are accessible to a larger segment of the population. The adoption of telemedicine and digital health solutions has expanded access to healthcare, especially in remote areas, allowing individuals to consult with healthcare professionals remotely³².

³⁰(National Institute of Population Research and Training, 2018).

³¹(World Bank, 2021).

³²Bashar et al., 2020

The private healthcare sector has grown, providing an alternative for those who can afford it. However, concerns about the quality and affordability of private healthcare services remain.

2.3 Challenges Progress of Gender Equality in Bangladesh:

Gender equality in Bangladesh faces several challenges despite progress in various areas. Here are key challenges:

2.3.1 Child Marriage

Bangladesh continues to grapple with high rates of child marriage, impacting the education and well-being of young girls. Legal measures exist, but enforcement remains a challenge.

Here are key challenges associated with child marriage in the country:

Bangladesh has one of the highest rates of child marriage globally. A significant percentage of girls are married before the age of 18, with a considerable number facing marriage before turning 15³³. Economic hardships often drive families to marry off their daughters early, believing it will alleviate financial burdens. Poverty and lack of opportunities contribute to the perpetuation of child marriage. Deep-seated social and cultural norms, including the perception of girls as economic burdens and societal expectations regarding female chastity, contribute to the acceptance of child marriage.

Girls' limited access to education, coupled with societal attitudes prioritizing early marriage over schooling, perpetuates a cycle of low literacy rates and reinforces child marriage practices. While laws exist to prohibit child marriage, enforcement remains a challenge. Legal loopholes, lack of awareness, and cultural resistance hinder the effective implementation of legislation. Child marriage is more prevalent in rural areas compared to urban settings. Limited access to resources, information, and alternative opportunities in rural regions contributes to higher rates of child marriage.

Religious and traditional practices sometimes influence child marriage decisions. Interpretations of religious teachings or adherence to customary practices may contribute to the perpetuation of child marriage. Early marriage has severe health consequences for girls, including higher risks during pregnancy and childbirth. Early pregnancies may lead to health complications for both the mother and the child. Addressing the challenge of child marriage in Bangladesh requires a comprehensive

³³<https://www.girlsnotbrides.org/learning-resources/child-marriage-atlas/atlas/bangladesh/>

approach involving legal reforms, community awareness campaigns, educational opportunities for girls, and economic empowerment initiatives. Collaborative efforts from government, civil society, and international organizations are crucial to creating a societal shift and breaking the cycle of child marriage.

2.3.2 Violence Against Women:

- Gender-based violence, including domestic violence and acid attacks, remains pervasive. While laws are in place, social norms and enforcement gaps contribute to the persistence of such violence.

Domestic violence in Bangladesh is a pervasive issue that affects a significant number of women. Domestic violence is prevalent, affecting a significant number of women. Factors such as patriarchal norms, economic dependence, and societal expectations contribute to the persistence of domestic abuse. Domestic violence encompasses various forms of abuse, including physical violence, emotional or psychological abuse, sexual violence, and economic control. Perpetrators may use multiple tactics to exert power and control over victims.

Deep-seated patriarchal norms contribute to the perpetuation of domestic violence. Traditional gender roles, where men are often seen as dominant and women as subordinate, create an environment conducive to abuse.

Children witnessing domestic violence may experience long-term psychological and emotional consequences. The intergenerational cycle of violence poses risks to the well-being of future generations.

Acid attacks against women, often resulting from disputes or rejected proposals, continue to occur. The physical and psychological consequences of acid violence are severe, and legal measures aim to address this issue³⁴.

Women face various forms of sexual harassment and assault in public spaces, workplaces, and educational institutions. Despite legal provisions, challenges in reporting and obtaining justice persist³⁵. Women and girls are vulnerable to trafficking and exploitation, including forced labor and sexual exploitation. Poverty, lack of education, and social vulnerabilities contribute to their susceptibility.

³⁴ (Acid Survivors Foundation, 2021).

³⁵ (Human Rights Watch, 2020).

Trafficked women often end up in situations of forced labor, such as domestic servitude, or are subjected to sexual exploitation in brothels or other illicit industries. The conditions they face can be degrading and pose serious threats to their physical and mental well-being³⁶. Bangladesh is a source, transit, and destination country for human trafficking. Cross-border trafficking, especially to countries in the Middle East and Southeast Asia, is a significant concern³⁷. Traffickers often use deceptive recruitment practices, promising women better employment opportunities or marriages. Once victims are lured into these situations, they find themselves trapped in exploitative conditions.

Efforts to address violence against women in Bangladesh involve raising awareness, strengthening legal frameworks, providing support services, and challenging societal norms that perpetuate gender-based violence. A holistic and collaborative approach from government, civil society, and international organizations is crucial for creating lasting change and ensuring the safety and empowerment of women.

2.3.3 Limited Women's Economic Empowerment

- While microfinance initiatives have made strides, women's economic empowerment faces challenges such as limited access to credit, gender wage gaps, and concentration in low-wage sectors. Women are often concentrated in low-wage sectors and informal employment, contributing to occupational segregation. Limited access to higher-paying and managerial positions further restricts women's economic empowerment.

Despite the presence of microfinance programs, women may still face challenges in accessing credit. Barriers include collateral requirements, limited financial literacy, and traditional norms that affect women's ability to engage in economic activities.

Women's underrepresentation in leadership roles, both in the public and private sectors, limits their influence in decision-making processes and policy formulation. Increasing women's leadership opportunities is essential for economic empowerment.

³⁶UNODC, 2018).

³⁷(US Department of State, 2021)

Women entrepreneurs, especially in rural areas, may face challenges in accessing markets for their products. Improving market access and creating opportunities for women-owned businesses are vital for economic empowerment. Balancing work and family responsibilities remains a challenge for many women. Lack of affordable childcare facilities and support for work-life balance can impact women's ability to participate fully in the workforce.

Efforts to enhance women's economic empowerment in Bangladesh require a holistic approach. This includes addressing systemic issues such as discriminatory practices, legal reforms, improving access to education and credit, and promoting a shift in societal attitudes toward gender roles. Sustainable change also involves fostering an inclusive economic environment that recognizes and supports the contributions of women across various sectors.

2.3.4 Access to Education:

- Despite improvements, some regions and communities face challenges in ensuring equal access to quality education for girls. Factors include cultural norms, poverty, and early marriage³⁸.

Access to education for women in Bangladesh faces several challenges, contributing to disparities in educational opportunities. Here are key aspects related to the challenges of access to education for women:

Rural areas often lack adequate educational infrastructure, including schools and transportation facilities. This poses a significant barrier to education for women residing in remote or underserved regions. Deep-rooted sociocultural norms may discourage the education of girls. Early marriage, traditional gender roles, and expectations regarding domestic responsibilities can hinder girls' access to and completion of formal education. Economic challenges, including poverty and the associated costs of education, such as uniforms and textbooks, can limit families' ability to send their daughters to school. This financial burden disproportionately affects girls' access to education. Physical distance to schools can be a significant impediment, particularly in rural areas. The lack of accessible transportation options may force girls to travel long distances, exposing them to safety concerns and increasing the likelihood of dropout. Early marriage and early parenthood are

³⁸(World Bank, 2020).

linked to a higher likelihood of girls dropping out of school. Pregnancy-related discrimination and the absence of supportive policies contribute to educational discontinuity for young mothers. Gender-based violence, including sexual harassment on the way to school or within educational institutions, can create a hostile environment for girls. Fear of violence may deter families from sending their daughters to school. The shortage of female teachers, especially in rural areas, can be a barrier to girls' education. The absence of female role models may impact girls' motivation to attend and continue their education. Limited facilities for menstrual hygiene management in schools can contribute to girls missing school during menstruation. Adequate facilities and awareness are essential to support girls' consistent attendance.

Efforts to improve access to education for women in Bangladesh require a comprehensive approach. This includes addressing cultural norms, enhancing infrastructure, implementing targeted financial support, ensuring the safety of girls on their way to school, and promoting policies that support continued education for young mothers. Collaboration between government, NGOs, and local communities is crucial to overcoming these challenges and fostering a more inclusive educational environment for women.

Addressing these challenges requires a multi-faceted approach involving legal reforms, community engagement, education, and targeted policies. While Bangladesh has made strides in promoting gender equality, sustained efforts are essential to overcome deeply rooted social norms and structural barriers that hinder progress..

2.5 Impact of Religion and Culture on Gender Equality

In Bangladesh, religion and culture significantly influence the formulation, interpretation, and enforcement of family laws. These laws are primarily derived from religious texts and customary practices, and thus often reflect patriarchal social norms rather than modern constitutional or international commitments to gender equality.

1. Religious Justifications for Gender Discrimination

Each personal law system—Muslim, Hindu, and Christian—retains religious provisions that institutionalize unequal treatment between men and women. For example, under Muslim personal law,

women receive only half the inheritance share of men and face restrictions in initiating divorce (Khula).³⁹ In Hindu personal law, women are still denied the legal right to divorce and have limited property rights, especially in cases involving ancestral property. In Christian family law, colonial-era statutes such as the Divorce Act of 1869 previously allowed men more grounds for divorce than women. These discriminatory practices are often justified in the name of religion, making reform both legally and socially sensitive.

2. Cultural Norms Reinforce Patriarchy

Culture plays an equally important role in shaping gender roles and expectations. In many Bangladeshi communities, patriarchal traditions dominate household and community decision-making. Women are often viewed as dependents of their fathers or husbands, which affects how legal rights are claimed and interpreted. Even when the law provides for certain rights, social stigma, fear of backlash, or lack of awareness often prevent women from asserting them.⁴⁰

3. Resistance to Reform in the Name of Religious Identity

Attempts to reform personal laws to align with constitutional equality often face strong resistance from religious and conservative groups, who argue that such reforms threaten religious freedom and identity. This resistance has delayed or prevented legal reforms aimed at ensuring women's rights, as seen in the lack of codification of Hindu marriage and divorce laws and the slow reform of Christian family law.

4. Religious Arbitration Systems and Informal Justice

In many rural areas, informal justice mechanisms such as Shalish (local arbitration) are influenced by traditional and religious values. These systems often prioritize reconciliation and community harmony over legal rights, and as a result, uphold patriarchal interpretations of law that limit women's access to justice.⁴¹

³⁹ Ahmed, N. (2002). *Family Laws in Bangladesh: A Comparative Study of Recent Reforms*. Dhaka: University Press Limited.

⁴⁰ Ain o Salish Kendra (ASK). (2020). *Women's Legal Rights and Access to Justice in Rural Bangladesh*.

⁴¹ Bangladesh Legal Aid and Services Trust (BLAST). (2019). *Policy Brief on Family Law and Informal Justice Systems*.

2.6 Role of NGOs and Civil Society

Non-Governmental Organizations (NGOs) and civil society actors in Bangladesh have played a crucial role in promoting gender equality and challenging discriminatory practices under personal family laws. Through advocacy, legal aid, awareness programs, and policy lobbying, these organizations have significantly contributed to the fight for women's legal rights in the areas of marriage, divorce, inheritance, and maintenance.

1. Legal Aid and Support Services

Organizations like Ain o Salish Kendra (ASK), Bangladesh Legal Aid and Services Trust (BLAST), and Bangladesh National Women Lawyers' Association (BNWLA) have established legal aid centers across the country to provide free legal advice, representation, and counseling to women facing discrimination or domestic violence.⁴² These services are especially important for marginalized rural women, who otherwise lack access to formal justice systems.

2. Advocacy for Legal Reform

NGOs have been instrumental in initiating public discourse and legal reform proposals. For example, BLAST and Naripokkho have continuously campaigned for the codification of Hindu personal laws, the reform of Christian divorce laws, and the withdrawal of Bangladesh's reservations to CEDAW Articles 2 and 16.2. These organizations have also submitted shadow reports to the UN CEDAW Committee to highlight the gaps between Bangladesh's international commitments and its domestic laws.⁴³

3. Public Awareness and Education

Civil society groups regularly organize workshops, seminars, street plays, and community dialogues to increase public awareness about women's legal rights under family law. Educational campaigns focusing on child marriage, polygamy, unequal inheritance, and women's right to divorce are conducted in both urban and rural areas. These efforts help women understand their rights and encourage them to seek justice.

⁴² Ain o Salish Kendra (ASK). (2020). *Women's Access to Justice in Bangladesh: Legal Aid and Support Services*.

⁴³ Naripokkho. (2017). *Shadow Report to the CEDAW Committee: Status of Women under Family Laws in Bangladesh*.

4. Strategic Litigation and Judicial Activism

NGOs have used public interest litigation (PIL) to influence court decisions and promote gender-sensitive interpretations of personal laws. For instance, BLAST played a key role in supporting litigation that resulted in landmark decisions like *Shahin Sultana v. Kazi Anowar Hossain*, which extended maintenance rights beyond the iddat period. Such cases have set important legal precedents.

5. Collaboration with International Bodies and the Government

Civil society organizations often work with UN agencies (like UN Women and UNDP) and government bodies such as the Ministry of Women and Children Affairs to draft policy proposals, conduct research studies, and recommend institutional reforms. Their partnership helps bridge the gap between grassroots experiences and national-level legal reforms.

2.7 Government Policies and Programs for Women

The Government of Bangladesh has undertaken several policies, laws, and institutional programs to improve the socio-legal status of women. While much of the focus has been on broader gender development, specific reforms addressing family law inequalities remain limited. Nonetheless, government efforts in areas such as legal aid, women's empowerment, and human rights have contributed to building a foundation for potential reform in the family law domain.

1. National Women Development Policy (NWDP) 2011

The National Women Development Policy (NWDP) 2011 is the most comprehensive gender-focused policy in Bangladesh. It recognizes the need to eliminate all forms of discrimination against women, including those arising from personal laws.⁴⁴ The policy proposes:

- Equal rights to property and inheritance
- Legal reform in marriage and family law
- Women's empowerment in social, economic, and legal sectors. However, due to opposition from conservative religious groups, implementation of these provisions—especially relating to inheritance and family law reform—remains weak.⁴⁵

⁴⁴ Ministry of Women and Children Affairs. (2011). *National Women Development Policy 2011*

⁴⁵ National Legal Aid Services Organization (NLASO). (2020). *Annual Report on Legal Aid Activities*

2. Legal Aid Act 2000 and National Legal Aid Services Organization (NLASO)

To improve access to justice, the Legal Aid Services Act 2000 established the National Legal Aid Services Organization (NLASO) under the Ministry of Law, Justice and Parliamentary Affairs. This body provides free legal assistance to marginalized and poor women, especially in cases of divorce, maintenance, and domestic violence. However, awareness of such services remains low in rural areas.

3. Ministry of Women and Children Affairs (MoWCA)

The Ministry of Women and Children Affairs has introduced programs such as:

- Victim Support Centres in collaboration with police for abused women
- One-Stop Crisis Centres (OCCs) at hospitals for legal, medical, and counseling services
- Social safety net schemes targeting poor female-headed households. These initiatives aim to provide legal and psycho-social support to women facing violence or discrimination, including issues arising from family disputes.⁴⁶

4. CEDAW Reporting and International Cooperation

Bangladesh has ratified CEDAW and regularly submits periodic reports to the UN Committee, despite retaining reservations on Articles 2 and 16. The government has engaged in dialogues with UN agencies and has committed, at least in principle, to align national laws with international gender equality standards.

5. Mobile Courts and Village Courts Act 2006

The government has extended justice services at the local level through the Village Courts Act and Mobile Court Act, which are sometimes used to mediate family disputes. However, these forums often reflect local patriarchal customs and may not always deliver gender-sensitive outcomes unless monitored.

⁴⁶ Village Courts Act, 2006 (Bangladesh); Ain o Salish Kendra. (2020). *Evaluation of Village Courts and Women's Justice Experience*.

2.8 Conclusion

In conclusion, the literature review on gender equality and women's rights in Bangladesh reveals a complex and multifaceted landscape shaped by legal, social, economic, and educational factors. The examination of existing literature highlights both progress and persistent challenges, providing a nuanced understanding of the current state of gender equality in the country. Legal advancements, such as the enactment of laws and policies, signify positive steps toward promoting women's rights. However, the challenges of limited legal enforcement, cultural norms, and societal expectations underscore the need for ongoing efforts to bridge the gap between legislation and effective implementation. Social factors, including domestic violence, child marriage, and violence against women, emerge as significant obstacles to women's empowerment. Addressing these issues requires a holistic approach that combines legal reforms with cultural shifts, challenging deeply ingrained norms that perpetuate gender-based violence. Economic disparities, occupational segregation, and limited access to credit contribute to the economic challenges faced by women in Bangladesh. While Microfinance programs have made strides, efforts to enhance women's economic participation must address barriers such as the gender wage gap, unequal inheritance rights, and occupational stereotypes. Education stands out as a crucial determinant of women's empowerment. The review emphasizes the need to overcome obstacles related to infrastructure, cultural norms, and economic constraints to ensure equal access to quality education for girls. Healthcare access, political representation, and broader economic landscapes also present areas of concern and opportunity. Strengthening primary healthcare infrastructure, addressing gaps in political representation, and fostering women's economic participation are essential components of a comprehensive approach toward gender equality. In moving forward, it is clear that a concerted effort is required from various stakeholders, including government bodies, non-governmental organizations, and the broader community. Strategies should encompass legal reforms, awareness campaigns, economic empowerment initiatives, and educational interventions. Moreover, fostering a cultural shift that challenges gender norms and values women's contributions is crucial for sustainable progress.

This literature review serves as a foundation for informed policymaking and further research. By acknowledging the achievements and understanding the persistent challenges, it provides a roadmap for future endeavors aimed at fostering a more inclusive and equitable society for women in Bangladesh.

CHAPTER 3 : Conceptual framework :

3.1 Introduction

The conceptual framework for this study on gender equality and women's rights in Bangladesh provides a theoretical foundation that guides the examination of key concepts and their interrelationships. This framework seeks to elucidate the complex dynamics shaping the status of women, encompassing legal, sociocultural, economic, educational, and healthcare dimensions. The central concepts of gender equality and women's rights serve as pivotal points around which the study revolves. At the core of this framework are the fundamental concepts of gender equality and women's rights. Gender equality signifies the equal treatment, opportunities, and rights of individuals, irrespective of gender. Women's rights delve into the legal, social, economic, and cultural dimensions that safeguard and promote the rights and well-being of women in Bangladesh. Nature of gender equality and women's rights. It acknowledges the interplay of legal, sociocultural, economic, educational, and healthcare dimensions, each influencing and shaping the overall status of women. The complex web of sociocultural norms, economic opportunities, educational access, political representation, and healthcare services forms the backdrop against which gender equity is assessed.

In essence, this conceptual framework is a theoretical roadmap that guides the exploration of gender equality and women's rights in Bangladesh. It offers a structured lens through which to analyze the intricate interconnections between various dimensions, providing a comprehensive understanding of the challenges and opportunities for advancing gender equity in the specific context of Bangladesh.

3.2 Definitions

Gender Equality : Gender equality, also known as sexual equality or equality of the sexes, is the state of equal ease of access to resources and opportunities regardless of gender, including economic participation and decision-making; and the state of valuing different behaviors, aspirations and needs equally, regardless of gender. According to the United Nations⁴⁷, gender equality is "achieved when women and men enjoy the same rights and opportunities across all

⁴⁷<https://www.un.org/sustainabledevelopment/gender-equality/>

sectors of society, including economic participation and decision-making, and when the different behaviors, aspirations, and needs of women and men are equally valued and favored."

Gender equality extends to challenging and changing societal norms and cultural practices that perpetuate gender-based discrimination. It seeks to create a culture where diverse gender identities and expressions are respected and valued.

Women's rights : Women's rights encompass the legal, social, economic, and political rights and opportunities that ensure the equal status and fair treatment of women in society. The concept is rooted in the principle of gender equality and advocates for the recognition and protection of women's inherent human rights. Here are key aspects and definitions related to women's rights:

- The United Nations defines women's rights as "the rights that promote a position of social and legal equality of women with men."

- Women's rights involve ensuring that women are treated equally under the law, with legal frameworks in place to protect them from discrimination, violence, and any form of injustice.

- Women's rights include the right to make decisions about their own bodies, including reproductive choices, healthcare, and protection from practices like forced marriage and female genital mutilation.

- Ensuring that women have equal opportunities for education and that barriers to their participation in formal education are removed. This includes addressing issues such as gender-based violence in educational settings.

- Women's rights in the workplace involve equal opportunities for employment, promotion, and fair compensation. It includes efforts to close the gender wage gap and eliminate discriminatory practices in hiring and promotion.

- Women's rights include the right to live free from all forms of gender-based violence, such as domestic violence, sexual harassment, and human trafficking.

Women's rights are integral to the broader pursuit of gender equality and are essential for creating a just and equitable society where the rights and dignity of all individuals, irrespective of gender, are respected and protected.

3.3 Key Factors of Gender Equality in Bangladesh:

Promoting gender equality in Bangladesh involves addressing various factors across social, economic, legal, and cultural dimensions. While challenges exist, progress has been made in several areas. Key factors contributing to gender equality in Bangladesh include:

Education Access:

- Initiatives to improve girls' access to education, reduce dropout rates, and promote gender-sensitive curricula, contributing to increased literacy and skills development.

Efforts to enhance education access in Bangladesh have been instrumental in addressing gender disparities and promoting gender equality. Here are key aspects related to education access in the context of Bangladesh: Initiatives to increase girls' enrollment in schools and ensure their retention throughout the education cycle. This includes awareness campaigns, scholarships, and incentives to encourage families to send their daughters to school. Improvements in school infrastructure, particularly in rural areas, to create a conducive learning environment. This involves constructing and upgrading school buildings, providing adequate sanitation facilities, and ensuring a safe and secure atmosphere for girls.

Training programs for teachers to enhance their skills in addressing diverse learning needs, particularly those of girls. Capacity-building efforts contribute to creating inclusive classrooms that cater to the varied educational requirements of all students. Development and integration of gender-sensitive curricula that challenge stereotypes and promote a more inclusive understanding of various subjects. This ensures that educational materials reflect diverse perspectives and experiences. Implementation of scholarship programs to support economically disadvantaged girls, enabling them to pursue education beyond the primary level. Scholarships can cover expenses such as tuition, books, and uniforms. Community engagement programs that involve parents, local leaders, and community members in supporting girls' education. This collaborative approach helps create a supportive environment for girls to attend and complete school.

Ensuring inclusivity in education for children with disabilities. This involves making schools accessible, providing necessary support, and adapting teaching methodologies to accommodate diverse learning needs.

While progress has been made, challenges persist, and ongoing efforts are crucial to sustain and expand access to education for all, with a particular emphasis on promoting gender equality and empowering girls in Bangladesh.

Awareness and Advocacy:

- Social and media campaigns challenging traditional gender norms, stereotypes, and promoting awareness about women's rights, fostering attitudinal shifts. Awareness and advocacy play pivotal roles in promoting gender equality, women's rights, and various social issues in Bangladesh. Here are key aspects of awareness and advocacy initiatives in the context of gender equality:

Public awareness campaigns challenging traditional gender norms and stereotypes that perpetuate inequalities. These campaigns aim to reshape societal perceptions of gender roles and promote more inclusive attitudes. Collaboration with media outlets to highlight issues related to gender equality through news coverage, features, and documentaries. Media plays a crucial role in shaping public discourse and influencing societal attitudes. Utilizing social media platforms for awareness campaigns, advocacy, and community-building. Online activism provides a powerful tool for mobilizing support, sharing stories, and fostering a sense of solidarity. Implementing awareness programs within workplaces to address gender-based discrimination, sexual harassment, and promote a culture of inclusivity. This involves training sessions, workshops, and the development of workplace policies that prioritize equality. Grassroots initiatives involving local communities in discussions and activities related to gender equality. Engaging community leaders, influencers, and members fosters a bottom-up approach to cultural change.

NGO and International Support:

- Support from non-governmental organizations (NGOs) and international bodies, providing resources, advocacy, and expertise to advance gender equality initiatives.

Non-Governmental Organizations (NGOs) and international support play crucial roles in advancing gender equality and women's rights in Bangladesh. Here are key aspects of their involvement:

NGOs provide training and capacity-building programs for women, enhancing their skills in various areas such as entrepreneurship, healthcare, and education. This empowers women to actively participate in economic and social development. Many NGOs implement microfinance

programs and economic empowerment initiatives, offering financial support, training, and resources to women entrepreneurs. This fosters financial independence and entrepreneurship at the grassroots level. NGOs contribute to improving healthcare access, particularly in rural areas. They may run health clinics, provide maternal health services, and conduct awareness programs on reproductive health.

A comprehensive and coordinated approach that addresses these factors is crucial for sustaining and accelerating progress toward gender equality in Bangladesh. Ongoing collaboration among government agencies, civil society, and the private sector is essential for creating an environment where women can participate fully in all aspects of society.

3.4 International Human Rights Perspective (e.g., CEDAW, UDHR)

From the standpoint of international human rights law, gender equality in family life is a fundamental component of human dignity and justice. Instruments like the Universal Declaration of Human Rights (UDHR) and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) provide a clear normative framework that opposes discrimination on the basis of sex and supports equality in marriage, divorce, and inheritance.

The UDHR, adopted in 1948, proclaims in Article 1 that all human beings are born free and equal in dignity and rights. Article 16 further asserts that men and women have equal rights during marriage and at its dissolution. These provisions form the basis for global advocacy toward equal treatment of women in all legal and social matters, including family laws. Similarly, CEDAW, adopted in 1979 and ratified by Bangladesh in 1984, specifically addresses gender discrimination in personal and family life. Article 16 of CEDAW obliges states to eliminate discrimination against women in all matters relating to marriage and family relations, including rights to enter into marriage, choose a spouse, rights and responsibilities during marriage, and equal rights in matters of guardianship and property.

Despite being a state party to CEDAW, Bangladesh has maintained reservations to Articles 2 and 16, arguing that these articles conflict with religious and personal laws. This reservation significantly weakens the implementation of CEDAW's core principles within the domestic legal framework and perpetuates inequality in the name of religious and cultural exceptions. Moreover, the Convention on the Rights of the Child (CRC) and other human rights instruments have also urged states to protect the best interests of women and children in family law matters, further reinforcing the need for reform.

In the context of family law in Bangladesh, the international human rights perspective highlights a contradiction: while the country has pledged allegiance to global human rights principles, domestic

laws and practices continue to allow discrimination under religious personal laws. The challenge, therefore, lies in reconciling international legal obligations with national legal pluralism. The failure to harmonize these frameworks reflects a broader lack of political will and societal readiness to embrace gender justice as a universal human right.

3.5 Theoretical Approaches (e.g., Feminist Legal Theory)

To understand the underlying causes and persistence of gender inequality in the family laws of Bangladesh, it is important to analyze the issue through appropriate theoretical lenses. One of the most relevant frameworks in this regard is **Feminist Legal Theory**, which critiques how legal systems and structures reflect and reinforce patriarchal power dynamics.

Feminist legal theory argues that the law is not neutral or objective; rather, it has been historically constructed and applied in a way that privileges male authority while marginalizing women's experiences and interests. In the context of Bangladeshi family law, this perspective helps explain how religiously grounded personal laws—such as those concerning marriage, divorce, inheritance, and guardianship—have preserved male dominance under the guise of tradition or divine order. The unequal treatment of women in these legal domains is not merely an administrative oversight but a reflection of deeply rooted societal and cultural norms that the legal system has failed to challenge.

This theory also addresses the role of **intersectionality**, highlighting how women's experiences of legal discrimination are shaped by a combination of gender, class, religion, and geography. For instance, a rural Hindu woman in Bangladesh may face multiple layers of disadvantage due to her limited access to legal resources, patriarchal social structure, and a personal law system that provides her with little or no remedy in matters like divorce or inheritance.

Another important contribution of feminist legal thought is the advocacy for **substantive equality**—not just formal equality before the law, but also equal outcomes and real-life access to justice. In this sense, feminist legal theorists argue for legal reforms that do more than simply offer equal wording in statutes; they demand changes in law that dismantle structural barriers and empower women to fully participate in legal and familial decision-making.

Applying feminist legal theory to the Bangladeshi context also emphasizes the need for **state accountability**. The state, by upholding pluralistic legal systems that allow discrimination to persist, becomes complicit in perpetuating gender-based injustice. This challenges the notion of legal plu-

realism as a safeguard for religious freedom, by exposing its consequences for women's human rights.

3.7 Conclusion

In conclusion, the conceptual framework presented herein serves as a comprehensive lens through which to understand the complex dynamics of gender equality and women's rights in the context of Bangladesh. By elucidating the interconnectedness of socio-cultural, economic, and legal factors, this framework provides a nuanced understanding of the challenges and opportunities within the landscape. The multi-dimensional nature of gender equality is underscored by the intricate interplay between cultural norms, legal reforms, economic structures, and societal attitudes. Recognizing this interdependence is crucial for developing holistic strategies that go beyond isolated interventions and address the root causes of gender disparities. Moreover, the conceptual framework emphasizes the importance of collaborative efforts involving government bodies, NGOs, international organizations, and grassroots movements. By acknowledging the influence of each element within the framework, stakeholders can work synergistically to create a more inclusive and equitable society.

As we navigate the path toward gender equality in Bangladesh, this conceptual framework serves not only as a diagnostic tool for understanding existing challenges but also as a guiding principle for formulating targeted interventions. It is a dynamic blueprint that can adapt to the evolving socio-cultural landscape, providing a foundation for sustained progress and the realization of women's rights.

CHAPTER 4 LEGAL FRAMEWORK

4.1 Introduction :The legal framework in Bangladesh pertaining to women's rights and gender equality is a multifaceted system designed to protect, promote, and uphold the rights of women within the country. It comprises a range of laws, policies, and constitutional provisions aimed at ensuring equality, preventing discrimination, and addressing various issues faced by women. At its core, the legal framework in Bangladesh revolves around the Constitution, which provides a solid foundation for gender equality. Articles such as Article 27 explicitly prohibit discrimination on the grounds of sex, while Article 28(2) ensures equal opportunities for all citizens regardless of gender. Various laws and policies have been enacted to further support these constitutional provisions. The Domestic Violence (Prevention and Protection) Act of 2010 stands as a significant step in addressing domestic abuse by criminalizing various forms of violence within the household and providing protective measures for victims. Additionally, laws like the Dowry Prohibition Act (1980) aim to eradicate the harmful practice of dowry, which often leads to violence against women. The Child Marriage Restraint Act (2017) sets a legal age for marriage, seeking to prevent early and forced marriages, especially for young girls.

Furthermore, labor laws include provisions to prevent gender-based discrimination in the workplace, ensuring maternity leave and workplace safety for women. The Acid Crime Control Act (2002) addresses acid attacks, predominantly perpetrated against women, and provides legal measures for their prevention and punishment. The National Women Development Policy (2011) serves as a comprehensive guideline for the empowerment of women in various sectors, covering education, healthcare, employment, and social security. Despite the existence of these laws and policies, challenges in implementation, enforcement, and cultural norms persist, impacting the effective realization of women's rights. Efforts continue to strengthen the legal framework, improve access to justice, and address socio-cultural factors influencing gender equality in Bangladesh. Through ongoing reforms and advocacy, the aim is to create a more inclusive and equitable society where women's rights are protected and promoted at every level.

4.2 Existing law & Policies dealing with Gender Equality and women's rights in Bangladesh: Bangladesh has established a legal framework aimed at promoting gender equality and safeguarding women's rights. Several laws and policies have been enacted to address various aspects of women's rights and gender disparities:

4.2.1 The Constitution of the People's Republic of Bangladesh: This policy aims to ensure women's empowerment and advancement in all sectors of national

development. It covers areas such as education, healthcare, employment, and social security. Certainly! The Constitution of Bangladesh includes several key provisions aimed at ensuring gender equality and safeguarding women's rights. Here are some of the significant constitutional provisions: Article 27 - Equality Before Law⁴⁸: This article prohibits discrimination on the grounds of sex. It ensures that all citizens are equal before the law and have equal protection under it. Article 28(1) - Equality of Opportunity: This section states that women should have equal opportunities in all spheres of the state and public life. Article 28(2) - Special Provisions for Women and Children: This provision emphasizes the creation of special opportunities for women and children to ensure their rights are protected and that they have equal status in society. Article 29 - Equality of Opportunity in Public Employment: This article ensures equal opportunities for men and women in public employment and prohibits discrimination in this regard. Article 65(3) - Reserved Seats for Women in Parliament: It mandates the allocation of reserved seats for women in the National Parliament to ensure their representation in the legislative body⁴⁹.

These constitutional provisions lay the foundation for gender equality and the protection of women's rights in Bangladesh. They provide a framework for legislation, policies, and practices that aim to eliminate discrimination and ensure equal opportunities for women in various spheres of life, including education, employment, and public representation. However, despite these constitutional guarantees, challenges persist in the effective implementation and enforcement of these provisions. Efforts continue to strengthen legal frameworks and promote societal changes to achieve greater gender equality and protect the rights of women in Bangladesh.

4.2.2 Domestic Violence (Prevention and Protection) Act (2010): This law was a significant step toward addressing domestic violence. It criminalizes various forms of domestic abuse and provides protection and remedies for victims. The Domestic Violence (Prevention and Protection) Act of 2010 in Bangladesh is a crucial legal measure aimed at addressing and combating domestic violence against women. This law provides a framework for the prevention and protection of individuals, especially women, who are victims of domestic abuse. Key features of the Domestic Violence (Prevention and Protection) Act (2010) include: The Act defines various forms of domestic violence, including physical, mental, emotional, and economic abuse, as well as harassment, intimidation, and any other form of injury or harm. It outlines protective measures that can be taken to ensure the safety and well-being of victims, including emergency protection orders, restraining orders, and residence orders. The Act provides legal remedies for victims of domestic violence, allowing them to seek recourse through the legal system. It facilitates the filing of

⁴⁸ The Constitution of Bangladesh

⁴⁹ <https://www.judiciary.gov.bd/en/laws-for-protection-of-women>

complaints, and courts can issue protection orders against the perpetrators. The law emphasizes the provision of support services for the Act acknowledges the gravity of domestic violence and aims to protect victims by providing legal mechanisms for their safety and recourse. It plays a vital role in addressing a pervasive issue in society and aims to prevent and curb violence within households.

However, challenges remain in effectively implementing and enforcing the Act due to various factors, including societal attitudes, lack of awareness, and barriers faced by victims in accessing justice. Efforts are ongoing to raise awareness, improve support services, and strengthen the enforcement of this law to better protect the rights of individuals affected by domestic violence in Bangladesh.

4.1.3 The Dowry Prohibition Act (1980): This law prohibits the practice of dowry, which often leads to violence against women when demands are not met. However, enforcement remains a challenge. The Dowry Prohibition Act of 1980 in Bangladesh aims to eradicate the practice of dowry, which often leads to financial and emotional pressure on families and, in extreme cases, violence against women.

Key aspects of the Dowry Prohibition Act (1980) include: The act defines dowry as any property or valuable security given directly or indirectly by one party to a marriage to the other party. It prohibits both the giving and receiving of dowry.

The Act imposes penalties for giving or taking dowry, including imprisonment and fines. Those found guilty of demanding or accepting dowry can face legal consequences. The law outlines legal measures for investigating and prosecuting cases related to dowry. It empowers authorities to take action against offenders and protect the rights of individuals affected by dowry-related issues. The Act emphasizes preventive measures and public awareness campaigns to discourage the practice of dowry and promote gender equality. Despite the existence of this law, challenges persist in effectively eradicating the practice of dowry. Enforcement and implementation hurdles, along with cultural norms and societal pressures, often make it difficult to fully eliminate this practice. In some cases, families continue to offer dowry, despite legal prohibitions, due to societal expectations or other influences.

4.1.4 Child Marriage Restraint Act (2017)

The Act defines child marriage and sets a legal age for marriage, which is 18 years for females and 21 years for males. The Act imposes penalties on individuals involved in arranging or conducting child marriages, including imprisonment and fines. This applies to parents, guardians, and any person facilitating the marriage of a minor. There are provisions for special circumstances where marriages involving minors might be allowed under specific conditions, such as court permission

based on genuine reasons and the best interest of the minor. The Act emphasizes awareness campaigns and educational initiatives to discourage child marriage and promote awareness of its detrimental effects on individuals and society. Despite legislative measures and amendments, challenges persist in effectively enforcing the law due to various factors such as cultural practices, social norms, and challenges in monitoring and reporting cases of child marriage, especially in rural areas. Efforts to combat child marriage involve community engagement, education, and advocacy to change societal attitudes and prevent the exploitation of minors⁵⁰. Enforcement of the Child Marriage Restraint Act remains an ongoing challenge in Bangladesh, reflecting the complex nature of addressing this deeply rooted societal issue.

4.1.5 Nari o Shishu Nirjatan Daman Ain(2000)

The "Nari o Shishu Nirjatan Daman Ain" in Bangladesh refers to the Prevention of Oppression Against Women and Children Act. This comprehensive law addresses various forms of oppression, abuse, and violence against women and children in the country. The law defines and criminalizes various forms of oppression, abuse, and violence against women and children, encompassing physical, mental, emotional, and sexual abuse, as well as exploitation and trafficking.

It outlines protective measures aimed at ensuring the safety and well-being of women and children who are victims of oppression. These measures include emergency protective orders, restraining orders, and legal recourse against perpetrators. The Act outlines legal procedures for filing complaints and seeking legal remedies for victims. Perpetrators found guilty of committing offenses under this law can face severe legal consequences, including imprisonment and fines. The law emphasizes the provision of support services for victims, including shelters, medical aid, counseling, rehabilitation, and other necessary assistance. The Nari o Shishu Nirjatan Daman Ain represents a significant legal framework aimed at addressing and preventing various forms of oppression and violence against women and children in Bangladesh. However, challenges persist in effectively implementing and enforcing the law due to factors such as societal attitudes, lack of awareness, and barriers faced by victims in accessing justice. Efforts continue to strengthen the enforcement of this law, improve support services for victims, and raise awareness to protect the rights of women and children and combat oppression and violence in Bangladesh.

⁵⁰ Child Marriage Restraint Act (2017)

4.1.6 The Married Women's Property Act of 1874

The Married Women's Property Act of 1874 is a significant legislation that aimed to grant married women in Bangladesh (formerly part of British India) the right to own and control their property independently, regardless of their marital status. This Act was part of a series of legal reforms across various British colonies and territories. The Act allowed married women to acquire, own, and manage property in their own right, separate from their husbands. This included both movable and immovable property, such as land, houses, money, and investments. It granted married women the legal capacity to enter into contracts, engage in legal proceedings, and sue or be sued in their own names regarding their property. The Act aimed to protect women's assets from being solely controlled or disposed of by their husbands without their consent⁵¹.

By allowing married women to retain ownership and control over their property, the Act contributed to their financial independence and autonomy.

The Act marked a significant departure from the previous legal norms, which often restricted or limited women's rights to property within marriage. It aimed to provide married women with a degree of legal protection and independence regarding their assets and property rights. However, it's important to note that while the Act was a pioneering step towards women's property rights, societal attitudes and practices continued to influence the actual exercise of these rights. Challenges persisted, including social norms, limited access to education and legal awareness, and sometimes, resistance from family or societal pressures. Over time, subsequent legal reforms and amendments have further enhanced women's property rights and expanded their legal standing, aiming to promote gender equality and protect women's rights in Bangladesh.

4.1.7 The Succession Act 1925

The Succession Act of 1925 in Bangladesh, inherited from the British colonial era, contains provisions related to inheritance and succession rights. These provisions have undergone amendments over time to accommodate changes in societal norms and to address issues concerning women's rights to inherit property. The Act establishes the principle of equal rights of male and female heirs to inherit property. Both sons and daughters have equal rights to their parents' property⁵². In cases where a person dies without leaving a will (intestate), the Act stipulates that the property of the deceased is distributed among legal heirs, including daughters, sons, and other relatives, in accordance with specific rules outlined in the Act.

⁵¹The Married Women's Property Act 1874

⁵²The Succession Act of 1925

The Act grants widows the right to inherit a share of their deceased husband's property, including both movable and immovable assets, depending on the circumstances and other legal heirs.

In situations where a female intestate dies without leaving any heirs, her property devolves upon her husband's heirs, providing some level of protection for her assets.

The Act places some limitations on the right of a person to dispose of their property by will, ensuring that certain family members, including women, are not entirely disinherited.

While the Act aims to ensure equal inheritance rights for women, challenges exist in its effective implementation due to various social, cultural, and legal complexities. Customary practices, lack of awareness about legal rights, and sometimes resistance from family members can hinder women from fully exercising their inheritance rights.

Efforts to address these challenges involve legal reforms, awareness campaigns, and initiatives to enhance women's access to legal resources. Amendments to inheritance laws and continuous advocacy for gender-sensitive interpretations of these laws aim to strengthen women's inheritance rights and promote greater gender equality in matters of succession in Bangladesh.

4.1.8 Muslim Family Laws Ordinance (1961)

The Muslim Family Laws Ordinance (MFLO) of 1961 is one of the most significant legal instruments governing Muslim personal status laws in Bangladesh. It regulates key family matters such as marriage, divorce, maintenance, polygamy, and inheritance. One of its major features is the introduction of registration of marriages and divorces, which provides documentary evidence for women to assert their legal rights.

The Ordinance requires that a man must obtain prior written permission from an Arbitration Council to contract a second marriage, failing which the marriage is punishable with imprisonment or fine. This provision, although progressive, is frequently violated in practice due to lack of enforcement. The MFLO also mandates that divorce initiated by the husband (Talaq) must be in writing and notified to the local Union Parishad, initiating a 90-day reconciliation period. However, Khula (divorce initiated by the wife) is not equally autonomous and often requires the husband's consent, which limits women's freedom in dissolving marriages.

Though the Ordinance made initial strides toward reform, it retains gender-discriminatory provisions, particularly in matters of inheritance and guardianship. Women's inheritance rights under Muslim law continue to be unequal, with daughters receiving half the share of sons. Overall, while

the MFLO attempted to modernize Islamic family law, it fell short of achieving substantive gender equality.

4.1.9 Hindu Family Law Provisions

Unlike Muslim personal law, Hindu family law in Bangladesh remains largely uncodified, based primarily on religious scriptures and customary practices. There is no legal provision for divorce, meaning Hindu women cannot legally dissolve their marriage, regardless of abuse or abandonment. This absence of divorce rights represents a serious violation of gender equality and personal freedom.

Inheritance rights for Hindu women are also extremely limited. Although the Hindu Women's Right to Property Act (1937) granted limited access to property, it is outdated and restricts full ownership. Daughters typically do not inherit ancestral property on equal footing with sons, and widows may only enjoy a life interest in the deceased husband's property, which reverts to the husband's heirs upon her death.

This legal framework severely restricts Hindu women's autonomy and legal protection in family matters, reinforcing patriarchal structures. Legal reform in this area has been minimal due to religious sensitivities and political reluctance.

4.1.10 Christian Family Law Provisions

The primary legislation governing Christians in Bangladesh is the Divorce Act of 1869, a colonial-era statute that still dictates the terms of marriage and divorce for the Christian community. Under the original Act, a Christian husband could divorce his wife on the sole ground of adultery, whereas a Christian wife had to prove adultery coupled with cruelty, desertion, or another grave offense to obtain a divorce. Although this provision was amended in 2006, historical gender bias continues to affect interpretation and application.

Christian family law also lacks comprehensive provisions regarding maintenance and alimony, often leaving women in precarious economic conditions following marital breakdowns. While Christian women can inherit property under the Succession Act of 1925, in practice, social stigma and lack of legal literacy can prevent them from claiming their rightful shares.

The rigid and outdated legal framework for Christians needs urgent reform to reflect contemporary human rights standards and ensure gender justice.

4.2.11 Comparative Analysis of Personal Laws

A comparative analysis of the personal laws reveals striking disparities and consistent gender-based discrimination across all religious communities in Bangladesh. Muslim personal law, while relatively more reformed under the MFLO, still allows polygamy and unequal inheritance. Hindu personal law is the most restrictive, denying women the right to divorce and granting limited inheritance rights. Christian law retains colonial inequalities, although some amendments have addressed the most blatant gender discrimination.

These inconsistencies reflect a system of legal pluralism that perpetuates unequal rights based on religion and gender. None of the personal laws in Bangladesh fully comply with constitutional guarantees of equality or the international human rights standards set by instruments like CEDAW. The absence of a uniform legal standard has resulted in a fragmented system where women's rights are determined more by their religion than by their citizenship.

This comparison demonstrates the urgent need for comprehensive reform and codification, either through individual modernization of personal laws or through the adoption of a Uniform Family Code that ensures equal treatment for all, regardless of religious identity.

4.2.12 Family Court Ordinance (1985)

The Family Court Ordinance (FCO) of 1985 was introduced to provide a specialized forum for the adjudication of family disputes in Bangladesh. Applicable only to Muslims, the Ordinance vests jurisdiction in Family Courts over issues such as divorce, maintenance, dower, guardianship, and custody of children. One of its notable features is the emphasis on conciliation and compromise, encouraging out-of-court settlements in family disputes.

While the FCO has improved access to justice by streamlining the resolution of personal disputes, it is limited in scope. Hindu and Christian families do not fall under its jurisdiction, which reinforces religious segregation in the justice system. Moreover, despite its progressive intent, Family Courts are often under-resourced, and proceedings can be delayed or influenced by patriarchal attitudes among legal professionals.

In addition, the Family Courts operate under religious personal laws, which means that even within a specialized system, the substantive rights being adjudicated may remain discriminatory. Thus, while the FCO represents procedural advancement, it does not address substantive legal inequality faced by women in family matters.

4.2 Conclusion

The legal framework in Bangladesh pertaining to women's rights, gender equality, and family-related matters encompasses a range of laws, policies, and constitutional provisions. Over the years, these legal measures have evolved to address various challenges faced by women within the societal, familial, and legal spheres.

Conclusively, while these legal provisions have aimed to protect and promote women's rights, several challenges persist in their effective implementation: Deeply ingrained cultural norms and societal expectations continue to influence the practical realization of women's rights, often impeding the full enforcement of legal measures. Accessibility to legal recourse remains an issue, especially for women in rural areas who may lack awareness of their legal rights and face obstacles in accessing legal aid and services. Despite progressive laws, enforcement and implementation gaps exist due to inadequate resources, administrative constraints, and at times, reluctance from various stakeholders. Insufficient awareness and education about women's legal rights hinder their ability to assert those rights effectively, contributing to ongoing challenges.

Efforts to address these challenges involve continuous reforms, awareness campaigns, and initiatives aimed at improving access to justice and legal resources for women. Strengthening the enforcement of existing laws, enhancing legal literacy, and fostering gender-sensitive approaches within the judicial system are ongoing priorities.

While the legal framework in Bangladesh has made significant strides in safeguarding women's rights and promoting gender equality, there remains a need for concerted efforts involving governmental institutions, civil society organizations, and community engagement to bridge the gap between legal provisions and their effective implementation. Only through comprehensive and sustained efforts can the legal framework be strengthened to better protect the rights of women and achieve greater gender equality in Bangladesh.

CHAPTER 5 : LEAGAL ANALYSIS

5.1 Introduction

Gender equality and women's rights are fundamental aspects of a just and equitable society. In Bangladesh, a nation rich in cultural heritage and diverse traditions, the legal framework plays a pivotal role in shaping and safeguarding the rights of women. This legal analysis aims to critically examine the legislative, constitutional, and policy frameworks concerning women's rights and gender equality within the Bangladeshi context. This legal analysis will delve into an examination of key laws, constitutional provisions, and policies related to women's rights and gender equality in Bangladesh. The study will encompass an assessment of the effectiveness and implementation of laws such as the Domestic Violence (Prevention and Protection) Act, the Dowry Prohibition Act, the Child Marriage Restraint Act, among others. Furthermore, it will explore court rulings, international conventions, and comparative legal frameworks to offer a comprehensive understanding.

Throughout this analysis, ethical considerations will be paramount. The rights, privacy, and dignity of individuals involved in legal cases or affected by gender-related issues will be respected and prioritized.

5.2 Legal Aid : The concept legal aid denotes a wide meaning and includes counseling, payment of lawyer's fees and other incidental cost for expenses of the litigation. The New Encyclopedia Britannica defines legal aid as the professional legal assistance given, either free of for a nominal sum, to indigent person is need for such help. The international commission of jurists, in the definition of the term, includes the provision of the legal advice and representation of the courts to all those threatened their life, liberty, property or reputation who are unable to pay for it⁵³.n line with the international commitment to the principle of equality of justice as enshrined in Article 7 of the Universal Declaration of Human Rights, it has been pledged in the preamble of the Constitution of the People's Republic of Bangladesh that one of the fundamental aims of tile state is to realise a society in which equality of justice would be Secured for all citizens. Not only that, article 27 of the Constitution provides for a fundamental right that all citizens are equal before law and are entitled to equal protection of law. It does not require any reference to cite how illusory and meaningless those commitment and constitutional protection of fundamental rights are when we see that most of the indigent litigants in the country cannot afford the cost of defending their basic

⁵³⁵³ The International Commission of jurists, report of Committee 4, Clause 10, New Delhi, 1959.

civil rights by appointing a lawyer or traveling to the District Court. Protection of equality before law and equal access to law in the Constitution becomes a mere paper tiger when an indigent people find himself in the police. Access to the justice system is key to redressing violations of human rights. In Bangladesh, women's rights to access to justice, especially those of women in marginalised and disadvantaged situations, have been subject to numerous legal, social, institutional, and economic constraints. This article argues that, despite the barriers, the Supreme Court of Bangladesh has facilitated women's rights to justice through gender-based public interest litigation (PIL). By examining the conceptual nexus between PIL and the right to access to justice, constitutional and statutory provisions, and relevant judgments, this article explores the catalysts of the liberal judicial approach in favour of women's right to access to justice. It finds, however that current governmental non-compliance with the court orders undermines the efficacy of PIL⁵⁴. To overcome this challenge, the article recommends a collaborative effort by all related stakeholders to ensuring judicial vigilance, effective monitoring, and strategic mobilisation.

In Bangladesh there are some NGO's who provide Legal Aid services for women. Most of the cases women are poor and it's become harder to them to get the justice. BLAST , Bangladesh Mohila Shomiti and other agencies provide legal services for women. There are difference between accessible and available.

Despite laws designed to protect women and girls, gender-based violence (GBV) is all too common in Bangladesh. Statistics on GBV in Bangladesh went largely unreported until about a decade ago, when the UNFPA worked with the country's National Statistical Office to complete the first-ever Violence Against Women Survey. In that survey, 87% of women who were or had been married reported some experience of GBV in their lifetime.

This wasn't an isolated number. In the first nine months of 2020, at least 235 women were murdered by their husband or his family, according to local human rights group Ain O Salish Kendra (ASK). Another Bangladesh-based NGO, BRAC, documented a nearly 70% increase in violence against women and girls during the country's 2020 lockdowns due to COVID-19. Further killings and acid attacks (a common form of gendered violence in the country) have been reported,

⁵⁴ Naznin Shuvra, Atia, Women's Right to Access to Justice: The Role of Public Interest Litigation in Bangladesh (June 28, 2021). Australian Journal of Asian Law, 2021, Vol 21 No 2, Article 7: 99-117, Available at SSRN: <https://ssrn.com/abstract=3875277>

largely due to rejected sexual advances or marriage proposals, dowry and disputes, or as a punishment for seeking education or work⁵⁵.

5.4 Case Study: Landmark Judgments Affecting Women's Rights

In the evolving landscape of family law in Bangladesh, several landmark judgments have played a critical role in shaping the legal interpretation of women's rights. One such case is *Shahin Sultana v. Kazi Anowar Hossain*, 62 DLR (AD) 8, which addressed the scope of maintenance for divorced Muslim women.

In this case, the Appellate Division held that a divorced woman is entitled to maintenance beyond the iddat period, if she is unable to maintain herself. The court interpreted the term "maintenance" in a broader sense, aligning with the principles of justice and equity rather than a narrow textual reading of religious law. This progressive interpretation was inspired in part by the Indian Supreme Court's decision in the Shah Bano case, and marked a shift in Bangladesh toward more gender-sensitive jurisprudence in family law.

Another significant case is *Aleya Begum v. Md. Maniruzzaman*, 44 DLR (HCD) 181, where the court held that a father must provide maintenance for his minor daughter and cannot evade responsibility on the ground of remarriage. The court emphasized the welfare of the child and reinforced the guardianship responsibilities of fathers, a crucial issue in a society where women are often denied custody or support.

In *Mrs. Tahmina Karim v. Bangladesh*, Writ Petition No. 2577 of 2008, the High Court addressed gender discrimination in official documents where women were always identified as wives or daughters, but men were not similarly categorized. The judgment declared such practices discriminatory under Article 28 of the Constitution and ordered relevant reforms. This case reflects the judiciary's growing recognition of gender bias in administrative and legal structures.

These cases illustrate the courts' potential to interpret existing laws in a progressive and rights-based manner, even in the absence of legislative reforms. However, their impact remains limited

⁵⁵<https://www.concern.net/news/gender-based-violence-explained>

due to inconsistent application and lack of wider judicial activism across all family law systems (Muslim, Hindu, and Christian).

5.5 Analysis of Judicial Trends in Family Law Cases

The judicial approach to family law in Bangladesh has evolved slowly, with pockets of progressive interpretation emerging amidst a largely conservative legal framework. The courts have at times adopted a gender-sensitive lens, especially in Muslim family law cases. For example, in maintenance and guardianship disputes, the best interest of the child and the economic vulnerability of women have guided the court's reasoning.

One emerging trend is the expansion of maintenance rights, as seen in *Shahin Sultana* and similar cases. Courts have begun to question the traditional limitation of maintenance to the iddat period and have recognized the broader duty of the husband to support the wife post-divorce if necessary. This reflects an alignment with human rights standards, particularly Article 16 of CEDAW, despite Bangladesh's reservation to the provision.

However, when it comes to Hindu and Christian family law, judicial activism has been far less pronounced. This is largely due to the absence of codified statutes and the tendency of the judiciary to defer to religious customs. For instance, Hindu women's lack of access to divorce and limited inheritance rights have not been significantly addressed by the courts. As a result, religious conservatism continues to restrict legal progress, especially for non-Muslim women.

Another important trend is the judiciary's increasing reliance on constitutional provisions—especially Article 27 (equality before law) and Article 28 (non-discrimination on grounds of sex)—to challenge discriminatory practices in administrative and legal documents, such as in the *Tahmina Karim* case. These decisions indicate a willingness among certain judges to bring constitutional values into personal law disputes, even though such integration remains inconsistent.

The overall trend suggests that while judicial interpretations have made some progress, especially in Muslim personal law, the courts remain reluctant to intrude upon religiously sensitive areas, unless explicitly guided by legislative change. Without codified reforms and consistent legal standards across all religions, the judiciary's role remains limited in scope and fragmented in impact.

5.6 Conclusion:

While Bangladesh has made strides in promoting women's rights, persistent challenges in legal implementation, social norms, and access to justice remain. Addressing these challenges requires a concerted effort involving legal reforms, community engagement, educational empowerment, and policy alignment to achieve true gender equality and women's empowerment.

This legal analysis aims to guide stakeholders, policymakers, and advocates in identifying areas for improvement and implementing measures to enhance women's rights in Bangladesh.

Such a conclusion summarizes the analysis, emphasizes key findings and recommendations, and underscores the need for concerted efforts to address the challenges faced in upholding women's rights in Bangladesh.

CHAPTER 6 FINDINGS , RECOMMENDATION & CONCLUSION

6.1 Findings:

Based on a comprehensive analysis of statutory laws, constitutional provisions, judicial decisions, and secondary literature, the study presents the following key findings:

1. Gender Inequality Is Systemically Embedded in Family Laws

Women in Bangladesh face institutionalized discrimination under religion-based personal laws. Muslim women receive half the inheritance share compared to men,⁵⁶ and their right to divorce is more restricted.⁵⁷ Hindu women cannot initiate divorce under the existing legal framework and have no access to ancestral property.⁵⁸ Christian women also face an unequal legal regime under the Divorce Act of 1869, which historically favored men.⁵⁹

2. Constitutional Guarantees of Equality Are Undermined by Personal Laws

While Articles 27 and 28 of the Constitution ensure equality and prohibit gender discrimination,⁶⁰ in practice, these guarantees are not enforceable against personal laws, which are treated as exceptions due to religious sensitivities.⁶¹ As a result, the family law system operates outside the purview of constitutional equality.

3. Bangladesh's CEDAW Commitments Are Limited by Reservations

Bangladesh ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1984, but entered reservations on Articles 2 and 16, which are central to ensuring equality in personal and family matters.⁶² These reservations weaken the enforcement of international gender justice norms and reveal the government's reluctance to reform discriminatory personal laws.

⁵⁶ Ahmed, N. (2002). *Family Laws in Bangladesh: A Comparative Study of Recent Reforms*. Dhaka: University Press Limited.

⁵⁷ Muslim Family Laws Ordinance, 1961; Dissolution of Muslim Marriages Act, 1939.

⁵⁸ Hossain, S. (2003). "Hindu Women's Rights in Bangladesh", BLAST Legal Review.

⁵⁹ Human Rights Watch. (2012). "Will I Get My Dues... Before I Die?": Harm to Women from Bangladesh's Discriminatory Laws on Marriage and Divorce.

⁶⁰ Yasmin, S. (2015). "Pluralism and Gender Justice in Bangladesh Family Law", International Journal of Law and Policy Review, 4(2), 45–60.

⁶¹ United Nations Treaty Collection. *Status of Bangladesh's Ratification of CEDAW*

⁶² Ain o Salish Kendra (ASK). (2020). *Report on Personal Laws and Discrimination Against Women*.

4. Judicial Interventions Have Been Progressive but Limited

In several landmark cases, the judiciary has taken a pro-women stance, such as extending the right to maintenance beyond the iddat period in *Shahin Sultana v. Kazi Anowar Hossain*.⁶³ However, such interventions are case-specific and do not serve as a substitute for legislative reforms. Judges also remain constrained by statutory limitations and social backlash.

5. Legal Pluralism Creates Inconsistency and Inequality

The existence of multiple personal law systems based on religion leads to inconsistent legal outcomes for women across communities.⁶³ This legal pluralism contradicts the fundamental principle of equality before the law, and perpetuates a hierarchy of rights based on religion and gender.

6. Women's Access to Justice Is Hampered by Social and Institutional Barriers

Besides discriminatory laws, lack of awareness, social stigma, and limited access to legal aid hinder women from asserting their rights.⁶⁴ Many women, especially in rural areas, are unaware of their entitlements, and even when they seek justice, male-dominated religious arbitration councils (shalish) often reinforce patriarchal norms.

7. There Is Strong Need for Uniform and Equitable Legal Reform

A uniform family code—crafted through public consultation and inclusive dialogue—could harmonize religious sensitivity with constitutional equality. However, there is no political consensus or strong advocacy from within the parliament to initiate such reforms, despite repeated calls by legal experts and human rights organizations.

⁶³ Bangladesh Legal Aid and Services Trust (BLAST). (2019). *Access to Justice for Women in Bangladesh: Gaps and Recommendations*.

⁶⁴ Islam, M. & Karim, S. (2017). "Balancing Religious Norms and Gender Equality: The Challenge of Family Law Reform in Bangladesh", Dhaka Law Review.

6.2 Recommendations:

Based on the analysis of constitutional guarantees, international obligations, judicial trends, and the discriminatory nature of personal laws in Bangladesh, the following recommendations are proposed to enhance the legal status of women under family law:

1. Reform and Codification of Personal Laws to Ensure Gender Equality

The government should reform and codify personal laws, especially Hindu and Christian family laws, to remove existing legal gaps and ensure protection for women. Hindu women must be granted rights to divorce, maintenance, and equal inheritance,⁶⁵ and Christian women must be provided gender-neutral divorce and maintenance provisions.⁶⁶ Codification would ensure clarity, consistency, and enforceability.

2. Amend Discriminatory Provisions in Muslim Family Laws

Key reforms are needed within Muslim personal laws:

- Make Khula (wife-initiated divorce) unilateral and not conditional upon the husband's consent.⁶⁷
- Ensure equal guardianship rights for mothers.
- Allow maintenance beyond the iddat period based on need and fairness.⁶⁸
- Promote equal inheritance laws, or at least legislative reforms to reduce the gender disparity in inheritance shares.⁶⁹

3. Withdraw Reservations to CEDAW

Bangladesh should withdraw its reservations to Articles 2 and 16 of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW),⁷⁰ which are central to achieving substantive equality in personal and family matters. This would reflect a genuine commitment to international human rights standards and gender justice.

⁶⁵ Hossain, S. (2003). "Hindu Women's Rights in Bangladesh: A Call for Legal Reform", BLAST Legal Review.

⁶⁶ Human Rights Watch. (2012). "Will I Get My Dues... Before I Die?": Discriminatory Family Laws in Bangladesh.

⁶⁷ Muslim Family Laws Ordinance, 1961; requires husband's approval for Khula in most cases.

⁶⁸ *Shahin Sultana v. Kazi Anowar Hossain*, 62 DLR (AD) 8.

⁶⁹ Ahmed, N. (2002). *Family Laws in Bangladesh: A Comparative Study of Recent Reforms*. Dhaka: UPL.

⁷⁰ United Nations Treaty Collection. *CEDAW: Status of Bangladesh's Reservations*.

4. Enact a Uniform Family Code (UFC)

The long-term goal should be the development of a Uniform Family Code that harmonizes religious beliefs with constitutional principles of equality, justice, and non-discrimination.⁷¹ This Code could provide a common civil legal framework that ensures women's rights without abolishing religious identity or customs.

5. Promote Legal Awareness and Access to Justice for Women

There should be nationwide legal literacy campaigns, particularly targeting rural and marginalized women.⁸ The government and NGOs must:

- Provide free legal aid and support.
- Ensure gender-sensitive courts and tribunals.
- Train legal professionals and religious leaders to adopt rights-based interpretations of family law.⁷²

6. Strengthen Judicial Activism and Legal Precedent

Judges should be encouraged to adopt progressive interpretations of existing laws to protect women's rights, even in the absence of direct legislation. The judiciary should build on precedents such as *Shahin Sultana v. Kazi Anowar Hossain*,⁷³ which extended maintenance beyond iddat, and expand such protections through judicial reasoning.

7. Institutional Reform and Policy Commitment

The Ministry of Law, Justice and Parliamentary Affairs should form a Family Law Reform Commission to study, review, and update outdated and discriminatory provisions. A parliamentary caucus on women's legal rights can also help push forward legislative reforms.⁷⁴

⁷¹ Bangladesh Legal Aid and Services Trust (BLAST). (2019). *Policy Brief on the Uniform Family Code*

⁷² Ain o Salish Kendra (ASK). (2020). *Legal Awareness and Women's Rights in Bangladesh*.

⁷³ Yasmin, S. (2015). "Pluralism and Gender Justice in Bangladesh Family Law", *International Journal of Law and Policy Review*.

⁷⁴ *Shahin Sultana v. Kazi Anowar Hossain*, 62 DLR (AD) 8.

6.3 Conclusion

The analysis of family laws in Bangladesh reveals a persistent and institutionalized pattern of gender-based discrimination that undermines women's legal status and fundamental rights. Despite the constitutional commitment to equality before the law under Articles 27 and 28 of the Constitution of Bangladesh, personal laws based on religious doctrines continue to disfavor women in critical aspects such as marriage, divorce, maintenance, guardianship, and inheritance.⁷⁵

Muslim personal law allows polygamy and unequal inheritance distribution, and restricts women's right to divorce.⁷⁶ Hindu personal law denies women the right to divorce and limits their property rights, while Christian personal law remains outdated and discriminatory, especially under the Divorce Act of 1869. These laws operate in contradiction to international standards, particularly CEDAW, to which Bangladesh is a signatory but with notable reservations to Articles 2 and 16—the very provisions that call for gender equality in personal and family life.

Although the judiciary has attempted to bridge some of the gaps through progressive rulings—such as extending maintenance beyond the iddat period—judicial activism alone cannot substitute for comprehensive legal reform. Legal pluralism and religious sensitivities continue to hinder the path toward a uniform, rights-based family law system. Moreover, sociocultural barriers—including lack of legal awareness, patriarchal norms, and limited access to justice—further marginalize women, especially in rural areas.

To achieve true gender justice, reforming discriminatory personal laws, ensuring access to justice, and aligning domestic law with constitutional and international human rights standards are essential. The enactment of a Uniform Family Code, crafted through inclusive consultation, offers a potential solution to harmonize religious identity with constitutional values of equality and non-discrimination.

Without meaningful and urgent reforms, the promise of gender equality in Bangladesh will remain a constitutional ideal without practical application in the lives of millions of women.

⁷⁵ Yasmin, S. (2015). "Pluralism and Gender Justice in Bangladesh Family Law", *International Journal of Law and Policy Review*, 4(2), 45–60.

⁷⁶ Human Rights Watch. (2012). "Will I Get My Dues... Before I Die?": *Harm to Women from Bangladesh's Discriminatory Laws on Marriage and Divorce*.

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