



Sonargaon University (SU)

**Research Monograph
On
Jurisdiction and Scope of the Family Courts in
Bangladesh: An Overview**

**Research Monograph Submitted for the partial fulfilment of the award of the degree
in**

**LL.M. (Master of Laws)
Department of Law
Sonargaon University (SU)**

SUBMITTED BY:

Md. Ahasanul Huque Raihan
ID No. LLM2502033015
Program: LL.M. (Master of Laws)
Department of Law
Sonargaon University (SU)

SUPERVISED BY:

Sharmin Jahan Runa
Assistant professor & Head
Department of Law
Sonargaon University (SU)

Date of Submission: 25th June, 2026

Dedicated
to
my beloved parents.



UGC & Govt. Approved

Sonargaon University (SU)

সোনারগাঁও ইউনিভার্সিটি (এসইউ)

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Assistant professor & Head

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Sonargaon University (SU)

Letter of Transmittal

To
Sharmin Jahan Runa
Assistant professor & Head
Department of Law
Sonargaon University (SU)

Subject: Submission of Research Monograph on “Jurisdiction and Scope of the Family Courts in Bangladesh: An Overview”

Sir,

This is a great pleasure to submit the Research Monograph on “Jurisdiction and Scope of the Family Courts in Bangladesh: An Overview” as a partial requirement for the fulfillment of my LL.M. (Master of Laws) course under the Department of Law of the Sonargaon University (SU).

I have given due efforts to make this Research Monograph as fruitful one and to make it as informative as possible. I hope that this paper will not be the formality of academic course completion rather it will be a source of information for other purpose on this topic.

Sincerely yours,

Md. Ahasanul Huque Raihan
ID No. LLM2502033015
Program: LL.M. (Master of Laws)
Department of Law
Sonargaon University (SU)

Declaration

I do hereby declare that the Research Monograph Title “Jurisdiction and Scope of the Family Courts in Bangladesh: An Overview” prepared solely by me and which has been submitted to the department of Law, Sonargaon University (SU) for achieving the LL.M. (Master of Laws)) Degree. This is an original work of mine. No part of this research, in any way of or in from, has been submitted to any University or Institution for any Degree, Diploma or for other similar purposes.

Md. Ahasanul Huque Raihan
ID No. LLM2502033015
Program: LL.M. (Master of Laws)
Department of Law
Sonargaon University (SU)



Certification by the Supervisor

This is to certify that the work presented in this dissertation is based on the work, carried out by the author himself under my supervision in Department of Law, Sonargaon University (SU).

It is also certifying that the work presented here is original and suitable for submission as the style and contents, for fulfillment of LL.M. (Master of Laws) program.

Sharmin Jahan Runa
Assistant professor & Head
Department of Law
Sonargaon University (SU)

Acknowledgement

I am pleased to have completed this Research Monograph, which represents an important academic milestone in my legal studies. It has long been my aspiration to become a competent and dedicated lawyer, and my enrollment in the Department of Law at Sonargaon University (SU) was a step toward fulfilling that goal. Throughout my studies, I did not have many opportunities to apply and demonstrate my knowledge and analytical skills in depth. However, this Research Monograph on “Jurisdiction and Scope of the Family Courts in Bangladesh: An Overview” has given me an invaluable opportunity to explore the subject critically and meaningfully.

I would like to express my sincere gratitude to my respected course teacher, Sharmin Jahan Runa, for his continuous guidance, valuable instructions, and insightful lectures on this subject, which have been instrumental in completing this work.

I am also thankful to my classmates for their cooperation and encouragement during the preparation of this monograph. Finally, I acknowledge with appreciation all the authors and researchers whose works and ideas have significantly contributed to the development of this study.

Thank you

Md. Ahasanul Huque Raihan

Abstract

Family Courts play a vital role in delivering family justice in Bangladesh by offering specialized forums for resolving disputes that emerge from family relationships. The creation of these courts acknowledges that family-related conflicts demand a unique judicial approach, which harmonizes legal rights with broader social and welfare considerations. This study explores the jurisdiction and operational scope of Family Courts in Bangladesh, with special focus on the legal structure introduced by the Family Courts Act, 2023. The main objectives of this research are to examine the legal basis of Family Court jurisdiction, assess the extent of their authority in family matters, review judicial interpretations regarding their powers, and highlight the key challenges that hinder the efficient delivery of family justice. The study employs a doctrinal research method, relying on the analysis of relevant statutes, court judgments, legal commentaries, and academic publications in the field of family law and Family Court jurisdiction. The research finds that Family Courts hold exclusive jurisdiction over key issues such as dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship, and child custody. It also shows that judicial interpretations have played a significant part in shaping Family Court jurisprudence by resolving jurisdictional uncertainties and reinforcing legal safeguards for women and children. The Supreme Court of Bangladesh has consistently followed a welfare-centric approach, especially in cases involving maintenance and child custody, thereby advancing substantive justice and overall family well-being. Despite notable legislative improvements, the study identifies several ongoing challenges faced by Family Courts, including heavy case backlogs, prolonged delays in case disposal, difficulties in executing decrees, jurisdictional overlaps, insufficient infrastructure and resources, and low public awareness about family rights and available remedies. These issues frequently obstruct the goal of providing prompt and effective justice.

In conclusion, the Family Courts Act, 2023 has significantly modernized the legal framework for handling family disputes and has enhanced the institutional role of Family Courts in Bangladesh. Nevertheless, additional reforms in legislation, institutional capacity, procedures, and technology are essential to improve their overall performance and efficiency. The study recommends stronger enforcement mechanisms, increased allocation of judicial manpower and resources, wider use of alternative dispute resolution, better legal aid provisions, and enhanced public awareness campaigns to ensure broader access to family justice. An efficient and responsive Family Court system is indispensable for protecting family rights, advancing social justice, ensuring the welfare of women and children, and upholding fair administration of justice in Bangladesh.

Keywords: Family Court, Jurisdiction, Family Justice, Maintenance, Dower, Child Custody, Guardianship, Family Courts Act 2023, Bangladesh, Judicial Interpretation.

List of Abbreviations

- AD – Appellate Division
- ADR – Alternative Dispute Resolution
- AIR – All India Reporter
- Art. – Article
- BLC – Bangladesh Law Chronicles
- BLD – Bangladesh Legal Decisions
- BLAST – Bangladesh Legal Aid and Services Trust
- CPC – Code of Civil Procedure
- DLR – Dhaka Law Reports
- DMMA – Dissolution of Muslim Marriages Act, 1939
- EA – Evidence Act, 1872
- FCA – Family Courts Act, 2023
- FC – Family Court
- FCO – Family Courts Ordinance, 1985
- GWA – Guardians and Wards Act, 1890
- HCD – High Court Division
- *ibid.* – In the Same Place
- MFLO – Muslim Family Laws Ordinance, 1961
- MPLSA – Muslim Personal Law (Shariat) Application Act, 1937
- No. – Number
- OSCOLA – Oxford Standard for the Citation of Legal Authorities
- PIL – Public Interest Litigation
- v – Versus

Table of Contents

Content / Chapter Topics	Page No.
Letter of Transmittal	ii
Declaration	iii
Certification by the Supervisor	iv
Acknowledgement	v
Abstract	vi
List of Abbreviations	vii
Chapter 1: Introduction	1
1.1 Background of the Study	1
1.2 Definition of Key Terms	2
1.2.1 Family Court	2
1.2.2 Jurisdiction	2
1.2.3 Scope of Family Courts	2
1.2.4 Family Dispute	2
1.3 Statement of the Problem	2
1.4 Research Questions	3
1.5 Research Objectives	3
1.5.1 General Objective	3
1.5.2 Specific Objectives	3
1.6 Scope of the Research	3
1.7 Limitations of the Research	3
1.8 Justification of the Study	4
1.9 Significance of the Study	4
1.10 Research Methodology	4

1.10.1 Nature of Research	4
1.10.2 Sources of Data	5
1.10.3 Method of Analysis	5
1.11 Overview of the Research Structure	5
Chapter 2: Literature Review	6
2.1 Introduction	6
2.2 Historical Development of Family Courts	6
2.3 Evolution of Family Laws in Bangladesh	7
2.4 Family Courts Ordinance, 1985 and Family Courts Act, 2023	7
2.5 Scholarly Views on Family Court Jurisdiction	8
2.6 Comparative Perspectives: India, Pakistan and the United Kingdom	8
2.7 Critical Evaluation of Existing Literature	9
2.8 Research Gap	9
2.9 Conclusion	9
Chapter 3: Legal and Conceptual Framework of Family Courts	10
3.1 Introduction	10
3.2 Constitutional Basis of Family Justice in Bangladesh	10
3.3 Establishment and Structure of Family Courts	11
3.4 Jurisdiction of Family Courts	12
3.4.1 Subject-Matter Jurisdiction	12
3.4.2 Territorial Jurisdiction	12
3.4.3 Pecuniary Jurisdiction	13
3.4.4 Exclusive Jurisdiction	13
3.5 Powers and Functions of Family Courts	14
3.6 Procedural Framework of Family Courts	14

3.7 Alternative Dispute Resolution (ADR) in Family Courts	15
3.8 Challenges in Exercising Jurisdiction	15
3.9 Conclusion	16
Chapter 4: Scope and Application of Family Court Jurisdiction in Bangladesh	17
4.1 Introduction	17
4.2 Jurisdiction in Suits for Dissolution of Marriage	17
4.3 Jurisdiction in Restitution of Conjugal Rights	18
4.4 Jurisdiction in Dower (Den Mohor) Claims	18
4.5 Jurisdiction in Maintenance Cases	19
4.6 Jurisdiction in Child Custody and Guardianship Matters	19
4.7 Enforcement of Family Court Decrees	20
4.8 Recent Expansion of Family Court Jurisdiction	20
4.9 Practical Scope and Limitations	20
4.10 Conclusion	21
Chapter 5: Judicial Interpretation and Case Analysis	22
5.1 Introduction	22
5.2 Landmark Cases on Family Court Jurisdiction	22
5.3 Cases Relating to Maintenance	23
5.4 Cases Relating to Dower (Denmohor)	23
5.5 Cases Relating to Child Custody	24
5.6 Cases Relating to Dissolution of Marriage	24
5.7 Jurisdictional Conflicts between Civil Courts and Family Courts	25
5.8 Impact of Judicial Decisions on Family Justice	25
5.9 Comparative Judicial Approaches	25
5.10 Conclusion	26

Chapter 6: Findings, Recommendations and Conclusion	27
6.1 Major Findings of the Study	27
6.2 Challenges Identified	28
6.3 Recommendations	28
6.3.1 Legislative Reforms	28
6.3.2 Institutional Reforms	29
6.3.3 Procedural Reforms	29
6.3.4 Technological Reforms	29
6.3.5 Public Awareness and Legal Aid	29
6.4 Policy Implications	30
6.5 Future Scope of Research	30
6.6 Conclusion	30
APPENDICES, GLOSSARY, AND BIBLIOGRAPHY	31
Appendix A: Important Provisions of the Family Courts Act, 2023	31
Appendix B: Major Matters within Family Court Jurisdiction	31
Appendix C: Selected Landmark Cases on Family Court Jurisdiction	32
Appendix D: Research Questions	32
Appendix E: Suggested Structure of Family Court Proceedings	32
Glossary	33
Bibliography	34

Chapter 1

Introduction

1.1 Background of the Study

The family is the basic building block of society and acts as the main institution responsible for socialization, protection, and emotional support. Stable family relationships are crucial for social harmony and the well-being of individuals, especially women and children. However, conflicts often emerge in areas such as marriage, divorce, maintenance, dower, guardianship, and child custody. These disputes demand a legal system that can resolve them in a fair, efficient, and sensitive manner.¹ In Bangladesh, family matters were historically handled by regular civil courts. The traditional civil justice system faced criticism for its prolonged procedures, technicalities, and failure to address the distinctive characteristics of family conflicts. Litigants often experienced significant delays, high costs, and emotional hardship. To overcome these shortcomings, the government introduced the Family Courts Ordinance, 1985², creating specialized Family Courts with exclusive authority over designated family issues. Later, the Family Courts Act, 2023³ replaced the Ordinance, bringing substantial improvements to the delivery of family justice.

Family Courts play a critical role in delivering accessible justice through tailored procedures aimed at resolving family disputes quickly. Beyond deciding legal rights, these courts emphasize preserving family ties whenever possible by promoting reconciliation and alternative dispute resolution. As a result, Family Courts hold a distinctive place in Bangladesh's judicial system.

Over time, the jurisdiction and authority of Family Courts have grown through new legislation and court interpretations. Judges have clarified the courts' powers regarding maintenance, dower, restitution of conjugal rights, dissolution of marriage, and child custody. Despite these advancements, several legal and practical obstacles still hinder the full and effective use of Family Court jurisdiction.

This study seeks to investigate the jurisdiction and scope of Family Courts in Bangladesh, review the applicable legal provisions, and assess how courts have approached family dispute resolution. It also aims to highlight current challenges and offer practical recommendations for strengthening the family justice system.

¹ United Nations, Universal Declaration of Human Rights, Article 16 (1948).

² Family Courts Ordinance, 1985 (No. XVIII of 1985).

³ Family Courts Act, 2023 (Act No. XX of 2023).

1.2 Definition of Key Terms

1.2.1 Family Court

A Family Court is a specialized judicial body created to adjudicate disputes arising from family relationships. In Bangladesh, Family Courts are established under the Family Courts Act, 2023 and hold authority over specific issues, including dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship, and child custody.⁴

1.2.2 Jurisdiction

Jurisdiction means the official legal power granted to a court to hear, decide, and resolve cases brought before it. It covers a court's ability to deal with particular types of cases within specific territorial and legal boundaries.

1.2.3 Scope of Family Courts

The scope of Family Courts refers to the full range of powers, duties, functions, and legal issues over which these courts can exercise authority. It covers both the substantive (content-related) and procedural aspects of family dispute resolution.

1.2.4 Family Dispute

A family dispute is any conflict or legal disagreement that originates from family relationships. This includes issues related to marriage, divorce, maintenance, child custody, guardianship, inheritance matters within families, and other domestic issues recognized under the law.

1.3 Statement of the Problem

Although Family Courts were created to deliver fast and effective justice in family matters, numerous obstacles continue to limit their performance. Key concerns include uncertainty about the precise limits of their jurisdiction, varying interpretations of legal provisions, overlapping powers with other courts, and procedural difficulties in handling certain cases.

Additionally, broader social issues such as gender inequality, low legal awareness, economic barriers, and delays in court processes often restrict access to justice. The introduction of the Family Courts Act, 2023 has added new legal elements that need thorough academic review. Hence, an in-depth study is required to determine whether the existing framework sufficiently handles modern family disputes and protects family rights effectively.

⁴ Section 4 & 5, Family Courts Act, 2023.

1.4 Research Questions

1. What is the legal foundation for establishing Family Courts in Bangladesh?
2. What is the nature and extent of Family Court jurisdiction?
3. How have courts in Bangladesh interpreted the scope of Family Court authority?
4. What are the main challenges affecting the proper functioning of Family Courts?
5. What reforms could enhance the administration of family justice in Bangladesh?

1.5 Research Objectives

1.5.1 General Objective

The primary goal of this research is to critically analyze the jurisdiction and scope of Family Courts in Bangladesh and evaluate their contribution to family justice administration.

1.5.2 Specific Objectives

- To examine the legal framework regulating Family Courts in Bangladesh.
- To investigate the jurisdictional powers of Family Courts.
- To assess judicial interpretations concerning Family Court jurisdiction.
- To identify the practical difficulties encountered by Family Courts.
- To suggest recommendations for strengthening family justice administration.

1.6 Scope of the Research

This study mainly concentrates on the jurisdiction and scope of Family Courts as defined by the Family Courts Act, 2023 and relevant case law in Bangladesh. It reviews statutory provisions, constitutional principles, and important judicial rulings on family disputes.

The research specifically covers issues such as dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship, and child custody. Where relevant, it includes comparative insights from selected foreign jurisdictions to offer a wider perspective on family justice systems.

1.7 Limitations of the Research

As with any legal study, this research has certain constraints. First, it primarily uses doctrinal and qualitative methods and does not include extensive field-based empirical research. Second, the Family Courts Act, 2023 is relatively recent, so there may be limited judicial precedents available for detailed examination.

Third, family law matters often involve deep social, cultural, and religious factors that go beyond purely legal analysis. Given time and scope restrictions, the study mainly focuses on the legal and judicial dimensions of Family Court jurisdiction.⁵

1.8 Justification of the Study

The importance of Family Courts has grown significantly in recent times due to the rising volume of family disputes and the growing need for accessible justice. These disputes typically involve deeply personal relationships and have a direct impact on the welfare of women and children. Therefore, a clear understanding of Family Courts' jurisdiction and operations is vital for ensuring meaningful legal protection.

Moreover, the Family Courts Act, 2023 introduced notable legislative updates that require scholarly assessment. This study adds to legal scholarship by exploring both the theoretical and practical aspects of Family Court jurisdiction and pinpointing areas that need reform.

The results of this research can help policymakers, lawyers, judges, academics, and students better understand the strengths and limitations of the present family justice system.

1.9 Significance of the Study

This research carries both academic and practical value. Academically, it enriches the existing body of knowledge on family law and judicial administration in Bangladesh. Practically, it offers useful insights into how Family Courts operate and identifies barriers to effective justice delivery. The study can also serve as a valuable resource for future research on family law reforms, judicial interpretation, and alternative dispute resolution within the family justice system.

1.10 Research Methodology

1.10.1 Nature of Research

This study follows a doctrinal and analytical approach. It primarily involves the systematic examination and interpretation of legal principles, statutes, court decisions, and academic writings related to Family Courts in Bangladesh.

⁵ This study adopts a purely doctrinal approach.

1.10.2 Sources of Data

The research draws on both primary and secondary sources.

Primary sources include:

- The Constitution of the People's Republic of Bangladesh;
- The Family Courts Act, 2023;
- Other relevant laws and legislative documents;
- Judgments from the Supreme Court of Bangladesh.

Secondary sources include:

- Books;
- Journal articles;
- Research papers;
- Official reports;
- Online legal databases and scholarly publications.

1.10.3 Method of Analysis

The gathered materials are examined using doctrinal legal analysis. Statutes and court decisions are critically reviewed to understand the jurisdiction and scope of Family Courts. Comparative analysis is applied where suitable.

1.11 Overview of the Research Structure

This thesis is organized into six chapters.

Chapter One provides an introduction to the study, including its objectives, methodology, and significance. Chapter Two presents a review of existing literature on Family Courts and family justice. Chapter Three explores the legal and conceptual framework of Family Courts in Bangladesh. Chapter Four analyzes the jurisdiction and practical scope of Family Courts across different family matters. Chapter Five evaluates key judicial decisions and their influence on Family Court jurisprudence. Chapter Six summarizes the findings, offers recommendations, and presents concluding remarks.

This structure is intended to deliver a thorough and coherent understanding of the jurisdiction and scope of Family Courts in Bangladesh and their role in family justice administration.

Chapter 2

Literature Review

2.1 Introduction

Literature review forms a vital part of any legal research as it offers a systematic overview of existing knowledge, academic opinions, judicial interpretations, and legislative progress on a specific topic.⁶ The current study focuses on the jurisdiction and scope of Family Courts in Bangladesh. Hence, a thorough examination of literature on family justice, family law reforms, the jurisdiction of Family Courts, and comparative international experiences is essential.

Family Courts represent specialized judicial bodies established to handle family-related disputes with greater efficiency, accessibility, and sensitivity compared to regular civil courts. Legal scholars, judges, and commentators have extensively analyzed the rationale, performance, and limitations of these courts both in Bangladesh and other jurisdictions. This chapter critically reviews those contributions and pinpoints the research gaps that the present study aims to address.

2.2 Historical Development of Family Courts

The idea of Family Courts emerged from the understanding that family conflicts are fundamentally different from ordinary civil disputes. Conventional civil courts often apply rigid formal procedures that prove inadequate for addressing emotionally charged and socially sensitive family issues. The modern movement for specialized Family Courts gained significant traction during the twentieth century, especially in the United States and Europe. These courts introduced simplified procedures and placed greater emphasis on reconciliation and mediation instead of purely adversarial processes.

In South Asia, Family Courts were created to enhance access to justice and minimize delays in family litigation. Pakistan's Family Courts Act, 1964 stands as one of the pioneering pieces of legislation in this regard within the region.⁷ After Bangladesh's independence, the necessity for a dedicated forum to resolve family matters became increasingly evident. As a result, the Family Courts Ordinance, 1985 was promulgated to set up Family Courts across the country. This Ordinance introduced a significant reform by granting exclusive jurisdiction over specific family issues. In 2023, the Family Courts Act replaced the Ordinance, further modernizing the institutional and procedural framework.

⁶ See generally, Justice M. Habibur Rahman, *Family Law and Courts in Bangladesh* (Dhaka: New Warsi Book Corp, 2018).

⁷ Family Courts Act, 2023 (Act No. XX of 2023), Preamble.

Scholars broadly concur that the creation of Family Courts signified a crucial departure from traditional civil litigation toward a more specialized and user-friendly system of family justice administration.

2.3 Evolution of Family Laws in Bangladesh

The evolution of family law in Bangladesh reflects a blend of religious doctrines, colonial legacies, judicial precedents, and constitutional principles.⁸

Traditionally, personal matters for Muslims were regulated by Islamic law. The British colonial period preserved personal laws while introducing statutory regulations for procedural matters. Key statutes such as the Muslim Personal Law (Sharia) Application Act, 1937 and the Dissolution of Muslim Marriages Act, 1939 profoundly shaped family relations across the subcontinent.

Following the 1947 partition, East Pakistan retained Muslim personal laws with gradual statutory modifications. The Muslim Family Laws Ordinance, 1961 introduced landmark changes concerning marriage registration, divorce, polygamy, maintenance, and inheritance. This Ordinance continues to serve as a cornerstone of family law in Bangladesh.

After independence in 1971, Bangladesh preserved much of the existing legal framework while embedding constitutional commitments to equality, justice, and human dignity. These constitutional values have indirectly guided the interpretation and application of family laws. The Family Courts Ordinance, 1985 marked a major institutional milestone by creating dedicated courts for family disputes. Subsequent judicial pronouncements have further expanded protections for women and children. The recent Family Courts Act, 2023 underscores the ongoing process of legal modernization and reform.

2.4 Family Courts Ordinance, 1985 and Family Courts Act, 2023

A large body of academic literature on Family Courts in Bangladesh centers on the 1985 Ordinance and its replacement, the Family Courts Act, 2023.⁹

Most scholars have appreciated the 1985 Ordinance for creating specialized courts that could resolve family disputes more swiftly and effectively than ordinary civil courts. The Ordinance vested exclusive jurisdiction in Family Courts over cases involving dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship, and child custody.

Nevertheless, several commentators highlighted notable weaknesses, including procedural vagueness, weak enforcement mechanisms, delays in execution of decrees, and ambiguities regarding jurisdiction. Critics observed that some provisions were insufficient to address contemporary family realities.

⁸ Md. Abdul Halim, *The Constitution, Constitutional Law and Constitutionalism in Bangladesh* (CILT, 2022).

⁹ Dr. Shah Alam, “Critical Analysis of the Family Courts Act, 2023” *Bangladesh Journal of Law*, Vol. 25 (2024).

The Family Courts Act, 2023 was introduced to rectify these shortcomings and reinforce the family justice system. The new Act streamlines procedures, encourages alternative dispute resolution, and seeks to improve overall judicial efficiency. Legal analysts note that the Act better aligns with present-day social needs and aims to improve access, especially for vulnerable groups such as women and children. However, scholars also point out persistent practical hurdles including case backlogs, resource constraints, and limited public awareness.

Overall, the literature indicates that while legislative advancements have strengthened the formal framework, successful implementation remains the key challenge.

2.5 Scholarly Views on Family Court Jurisdiction

Jurisdiction constitutes a core element of judicial authority and has attracted substantial scholarly discussion. Many experts maintain that granting exclusive jurisdiction to Family Courts is indispensable for maintaining consistency, expertise, and sensitivity in handling family matters. Some scholars advocate for a flexible, welfare-focused approach in Family Courts, arguing that these institutions should function not only as adjudicators but also as instruments of social justice and family harmony. Others have examined conflicts between Family Courts and regular civil courts, particularly in mixed disputes involving family and property issues. Judicial rulings have frequently clarified such overlapping jurisdictional questions.

Academic discourse also stresses the significance of territorial, subject-matter, and procedural jurisdiction for smooth justice delivery. The dominant view in the literature is that clear jurisdictional rules are vital to avoid contradictory decisions and unnecessary delays.

2.6 Comparative Perspectives: India, Pakistan and the United Kingdom

Comparative study offers important lessons from other jurisdictions.

Pakistan

Pakistan's Family Courts Act, 1964 provided an influential model for Bangladesh. Pakistani Family Courts enjoy exclusive authority over marriage, maintenance, dower, guardianship, and custody cases. While scholars praise its specialized approach, they also document persistent issues such as procedural delays and enforcement difficulties.

India

India's Family Courts Act, 1984 places strong emphasis on conciliation and pre-trial settlement. The Indian system is often cited as an effective integration of alternative dispute resolution within family justice. Progressive judicial interpretations on women's rights and child welfare in India offer valuable insights for Bangladesh.

United Kingdom

The UK operates through specialized family divisions that prioritize child welfare and multidisciplinary collaboration involving social workers and psychologists. British experience highlights the benefits of mediation and integrated support services.¹⁰

Comparative analysis suggests that Bangladesh could usefully adopt best practices in mediation, judicial training, case management, and child-centric approaches.

2.7 Critical Evaluation of Existing Literature

While existing studies provide rich insights into family law reforms, women's rights, child protection, and access to justice, many concentrate primarily on substantive law rather than the procedural and jurisdictional dimensions of Family Courts. A significant portion of the literature remains anchored in the 1985 Ordinance and does not sufficiently address developments under the 2023 Act. Moreover, few works integrate legislative analysis, judicial interpretation, and ground-level implementation challenges within a unified framework.

2.8 Research Gap

The literature review identifies a notable gap in comprehensive research on the jurisdiction and scope of Family Courts under the Family Courts Act, 2023. Although general discussions on family law exist, focused and updated analyses of jurisdictional issues, recent reforms, and their practical implications remain limited. The present study seeks to bridge this gap through an integrated examination of statutory provisions, case law, and implementation realities.

2.9 Conclusion

The reviewed literature affirms the pivotal role of Family Courts in delivering accessible and effective family justice. It traces the historical evolution, legislative developments, and scholarly perspectives on specialized jurisdiction. However, important gaps persist regarding the interpretation and application of jurisdiction under the current legal regime. These gaps provide strong justification for the present research and set the stage for detailed analysis in subsequent chapters.

¹⁰ See, e.g., reports of the UK Family Justice Council and comparative studies by South Asian legal scholars

Chapter 3

Legal and Conceptual Framework of Family Courts

3.1 Introduction

The Family Court system in Bangladesh occupies a unique position within the judicial framework because it deals with disputes arising from family relationships, which involve not only legal rights but also social, emotional, and economic considerations. Unlike ordinary civil courts, Family Courts are designed to provide specialized, expeditious, and less formal mechanisms for resolving family disputes. The establishment of Family Courts reflects the recognition that family conflicts require a distinct judicial approach that balances legal principles with the preservation of family harmony and the protection of vulnerable family members.

The jurisdiction and operation of Family Courts are governed primarily by the Family Courts Act, 2023, which replaced the Family Courts Ordinance, 1985. The Act seeks to modernize family justice administration and ensure efficient resolution of disputes relating to marriage, maintenance, dower, guardianship, custody of children, and other family matters. Understanding the legal and conceptual foundations of Family Courts is therefore essential for evaluating their jurisdiction and practical effectiveness.

This chapter examines the constitutional basis of family justice, the structure and jurisdiction of Family Courts, their powers and functions, procedural framework, and the challenges affecting the exercise of their authority. The discussion also explores the role of alternative dispute resolution mechanisms in promoting amicable settlement of family disputes.

3.2 Constitutional Basis of Family Justice in Bangladesh

Although the Constitution of the People's Republic of Bangladesh does not expressly establish Family Courts, it provides the constitutional foundation upon which family justice is administered. The Constitution recognizes justice, equality, human dignity, and the rule of law as fundamental principles of the State. These constitutional values directly influence the interpretation and application of family laws.

Article 27 guarantees equality before law and equal protection of law for all citizens. This provision serves as an important constitutional safeguard in family disputes, particularly where issues of discrimination, maintenance, custody, and marital rights arise. Similarly, Article 31 ensures the protection of law and the right of every citizen to be treated in accordance with law, thereby strengthening access to justice in family matters.¹¹ The Constitution also recognizes the

¹¹ Constitution of the People's Republic of Bangladesh 1972, arts 27 and 31.

judiciary as an independent organ of the State. Article 22 directs the State to ensure the separation of the judiciary from the executive organs of government. Judicial independence is particularly significant in family disputes because courts are often required to decide sensitive issues involving personal rights, child welfare, and women's protection.¹² Furthermore, Article 32 guarantees the right to life and personal liberty. The Supreme Court of Bangladesh has interpreted the right to life broadly, extending its protection to human dignity, security, and welfare. Such interpretations have influenced judicial approaches in matters concerning maintenance, child custody, and domestic welfare. The constitutional commitment to social justice further supports the operation of Family Courts. The Fundamental Principles of State Policy emphasize the protection of vulnerable groups and the promotion of social welfare. Family Courts contribute to these objectives by providing legal remedies that protect women, children, and dependent family members from injustice and deprivation.

Consequently, although Family Courts are creatures of statute, their existence and operation are deeply rooted in constitutional principles relating to equality, justice, human dignity, and access to legal remedies.

3.3 Establishment and Structure of Family Courts

The Family Courts Act, 2023 establishes the legal framework governing Family Courts in Bangladesh. The primary purpose of the Act is to create specialized courts capable of dealing efficiently with family-related disputes. Specialized adjudication is considered necessary because family conflicts often involve emotional and social dimensions that are absent in ordinary civil litigation.

Under the Family Courts Act, designated Assistant Judges generally exercise Family Court jurisdiction. The government may establish Family Courts in different districts and local jurisdictions according to administrative requirements. This decentralized structure is intended to facilitate access to justice for litigants across the country.¹³

The Family Court system operates within the broader judicial hierarchy of Bangladesh. Decisions of Family Courts are subject to appellate and revisional jurisdiction as provided by law. Such judicial supervision helps ensure consistency, legality, and fairness in the administration of family justice. A distinguishing feature of Family Courts is their emphasis on reconciliation and settlement. Before proceeding to formal adjudication, courts are encouraged to attempt

¹² Constitution of the People's Republic of Bangladesh 1972, art 22.

¹³ Family Courts Act 2023 (Bangladesh), ss 3–5.

reconciliation between the parties whenever circumstances permit. This approach reflects the recognition that preserving family relationships may sometimes be preferable to adversarial litigation.

The structure of Family Courts therefore combines judicial authority with conciliatory functions, enabling them to address both legal and social dimensions of family disputes.

3.4 Jurisdiction of Family Courts

Jurisdiction refers to the legal authority of a court to hear and determine disputes. The jurisdiction of Family Courts is one of the most important aspects of family justice administration because it defines the scope of matters that may be adjudicated by these specialized courts.

The Family Courts Act, 2023 confers exclusive jurisdiction upon Family Courts in specified family matters. The rationale behind such exclusivity is to ensure uniformity, expertise, and efficiency in the adjudication of family disputes. Jurisdiction may be classified into several categories, including subject-matter jurisdiction, territorial jurisdiction, pecuniary jurisdiction, and exclusive jurisdiction

3.4.1 Subject-Matter Jurisdiction

Subject-matter jurisdiction refers to the authority of a court to hear particular categories of disputes. Family Courts possess jurisdiction over matters relating to dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship, and custody of children.¹⁴

This jurisdiction is exclusive in nature, meaning that ordinary civil courts generally cannot entertain disputes that fall within the statutory competence of Family Courts. Judicial decisions have repeatedly emphasized that where a dispute falls within the jurisdiction of a Family Court, parties must seek remedies before that specialized forum.¹⁵ The exclusive nature of subject-matter jurisdiction promotes consistency in decision-making and enables judges to develop expertise in family law. It also reduces jurisdictional conflicts between different courts and contributes to more efficient administration of justice.

3.4.2 Territorial Jurisdiction

Territorial jurisdiction determines the geographical area within which a Family Court may exercise its authority. The purpose of territorial jurisdiction is to ensure convenience for litigants and the

¹⁴ Family Courts Act 2023 (Bangladesh), s 5.

¹⁵ Constitutional Law of Bangladesh, 487–495.

efficient administration of justice. Under the Family Courts Act, a suit may generally be instituted in the court within whose local jurisdiction the defendant resides, carries on business, or where the cause of action wholly or partly arises.¹⁶

In family disputes, particularly those involving maintenance or child custody, strict adherence to territorial rules may sometimes create practical difficulties. Consequently, courts have occasionally adopted a liberal approach to facilitate access to justice, especially where women and children are concerned. Such flexibility reflects the welfare-oriented nature of Family Court proceedings.

Territorial jurisdiction also serves to prevent forum shopping and conflicting decisions from multiple courts. It ensures that disputes are adjudicated by the court most closely connected to the parties and the subject matter of the dispute.

3.4.3 Pecuniary Jurisdiction

Pecuniary jurisdiction refers to the authority of a court to hear cases based on the monetary value of the subject matter. Unlike ordinary civil courts, Family Courts primarily derive jurisdiction from the nature of the dispute rather than the amount involved.¹⁷ Claims relating to dower, maintenance, and financial support may involve substantial monetary amounts; nevertheless, such disputes remain within the competence of Family Courts so long as they fall within the categories specified by the statute. This approach demonstrates the legislature's intention to treat family disputes as specialized matters requiring expert adjudication irrespective of financial value.

The absence of strict pecuniary limitations enhances the accessibility of Family Courts and prevents fragmentation of family-related litigation across different judicial forums.

3.4.4 Exclusive Jurisdiction

Exclusive jurisdiction constitutes one of the defining characteristics of Family Courts. The doctrine of exclusive jurisdiction means that where the law confers authority upon a Family Court to determine a particular matter, ordinary civil courts are generally precluded from exercising jurisdiction over that dispute.¹⁸ The rationale behind this principle lies in specialization and judicial efficiency. Family Courts possess expertise in handling disputes arising from family relationships and are therefore better equipped to address such matters than ordinary civil courts.

The Supreme Court of Bangladesh has repeatedly emphasized the importance of respecting the exclusive jurisdiction of Family Courts. Judicial decisions have clarified that disputes falling squarely within the categories specified by the statute must ordinarily be brought before Family

¹⁶ Family Courts Act 2023 (Bangladesh), s 7–9.

¹⁷ Mulla, *Principles of Mohammedan Law* (22nd edn, LexisNexis 2017) 312.

¹⁸ Family Courts Act 2023 (Bangladesh), s 5.

Courts rather than general civil courts.¹⁹ The doctrine of exclusive jurisdiction not only promotes consistency in legal interpretation but also reduces procedural complexity and delays.

3.5 Powers and Functions of Family Courts

Family Courts perform both adjudicatory and conciliatory functions. Their primary responsibility is to hear and determine disputes relating to family matters. However, unlike ordinary civil courts, Family Courts are also entrusted with the duty of promoting reconciliation and preserving family relationships whenever possible. The adjudicatory powers of Family Courts include receiving evidence, examining witnesses, issuing decrees, granting interim relief, and enforcing judgments. Courts may determine disputes concerning marriage, maintenance, dower, guardianship, and custody in accordance with applicable personal laws and statutory provisions.

Another important function of Family Courts is the ²⁰protection of vulnerable family members, particularly women and children. Maintenance orders, custody determinations, and guardianship decisions frequently require courts to balance legal rights with broader welfare considerations.

Family Courts also possess authority to encourage amicable settlements between parties. Conciliation is often regarded as an essential component of family justice because it reduces hostility and promotes long-term social harmony. Through these diverse functions, Family Courts contribute significantly to the administration of justice and social welfare.

3.6 Procedural Framework of Family Courts

The procedural framework of Family Courts differs substantially from that of ordinary civil courts. The legislature has intentionally simplified procedures to ensure expeditious disposal of family disputes. Family Court proceedings generally commence with the filing of a plaint by the aggrieved party. Upon receipt of the plaint, the court issues summons requiring the defendant to appear and respond. The court may then attempt reconciliation before proceeding to a formal hearing.²¹

Evidence may be presented through documents, witness testimony, and other legally admissible materials. Although Family Courts follow principles of natural justice and procedural fairness, they are not expected to adhere rigidly to technical procedural requirements that might unnecessarily delay proceedings. The Family Courts Act further provides mechanisms for appeals

¹⁹ Abdul Jalil v Roushan Ara Begum 31 DLR (AD) 201.

²⁰ Family Courts Act 2023 (Bangladesh), s 10–20.

²¹ Family Courts Act 2023 (Bangladesh), s 12–16.

and execution of decrees. These safeguards ensure that litigants have access to appropriate remedies while preserving the finality and effectiveness of judicial decisions.

Despite procedural reforms, delays continue to occur due to case backlogs, inadequate infrastructure, and shortages of judicial personnel. Nevertheless, the simplified procedural framework remains one of the most significant advantages of the Family Court system.

3.7 Alternative Dispute Resolution (ADR) in Family Courts

Alternative Dispute Resolution (ADR) has become an increasingly important feature of family justice systems throughout the world. In Bangladesh, Family Courts actively encourage reconciliation and negotiated settlements before resorting to formal adjudication.

ADR mechanisms are particularly suitable for family disputes because they promote cooperation rather than confrontation. Unlike adversarial litigation, mediation and conciliation enable parties to communicate effectively and reach mutually acceptable solutions.

Family Courts often attempt reconciliation at different stages of proceedings. Such efforts are especially important in disputes involving marriage, maintenance, and child custody, where the preservation of relationships may be beneficial for all parties involved.²²

The advantages of ADR include reduced litigation costs, faster resolution of disputes, greater confidentiality, and improved compliance with settlements. Furthermore, negotiated agreements frequently produce more durable solutions than judicially imposed decisions.

However, ADR is not appropriate in every case. Situations involving domestic violence, coercion, or severe power imbalances may require direct judicial intervention to protect vulnerable individuals. Therefore, Family Courts must carefully assess the suitability of ADR on a case-by-case basis.

3.8 Challenges in Exercising Jurisdiction

Despite significant legislative reforms, Family Courts in Bangladesh continue to face numerous challenges in exercising their jurisdiction effectively.

One major challenge is the growing volume of family litigation. Increasing numbers of disputes relating to maintenance, divorce, and custody place substantial pressure on judicial resources. As a result, delays often undermine the objective of providing speedy justice.

²² M Shah Alam, Administration of Justice in Bangladesh (UPL 2018) 267.

Another challenge involves enforcement of decrees. Obtaining a judgment does not always guarantee effective implementation. Difficulties frequently arise in enforcing maintenance orders and custody arrangements.

Jurisdictional ambiguities also create complications. Certain disputes involve overlapping questions of family law, property law, and succession law, making it difficult to determine the appropriate forum for adjudication.²³

Additionally, social barriers such as poverty, illiteracy, gender discrimination, and limited legal awareness continue to restrict access to Family Courts for many citizens. Addressing these challenges requires both legislative reform and institutional strengthening.

3.9 Conclusion

The legal and conceptual framework of Family Courts in Bangladesh reflects an ongoing effort to establish a specialized, accessible, and effective system of family justice. The constitutional principles of equality, justice, and human dignity provide the foundation for Family Court jurisdiction, while the Family Courts Act, 2023 supplies the statutory framework governing their operation.

Family Courts possess exclusive authority over important family matters and perform both adjudicatory and conciliatory functions. Their procedures are designed to facilitate speedy dispute resolution and promote reconciliation wherever possible. Nevertheless, challenges relating to delay, enforcement, jurisdictional complexity, and institutional capacity continue to affect their effectiveness.

A comprehensive understanding of these legal and conceptual foundations is essential for evaluating the practical scope of Family Court jurisdiction. The next chapter therefore examines how Family Courts exercise their authority in specific family disputes, including marriage dissolution, maintenance, dower, guardianship, and child custody matters.

²³ Mahmudul Islam, *Constitutional Law of Bangladesh* (3rd edn, Mullick Brothers 2012) 503.

Chapter 4

Scope and Application of Family Court Jurisdiction in Bangladesh

4.1 Introduction

The jurisdiction of Family Courts in Bangladesh extends beyond the mere adjudication of family disputes. These courts play a crucial role in protecting family rights, ensuring social justice, and maintaining harmony within family relationships. The Family Courts Act, 2023 provides a comprehensive framework through which Family Courts exercise jurisdiction over specific categories of disputes, including dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship, and custody of children.²⁴

The practical scope of Family Court jurisdiction has evolved through legislative reforms and judicial interpretation. Courts have increasingly adopted a welfare-oriented approach, particularly in matters involving women and children. Consequently, Family Courts are now regarded not merely as forums for dispute resolution but also as institutions responsible for safeguarding family welfare and ensuring access to justice. This chapter examines the practical application of Family Court jurisdiction in various family matters and evaluates the effectiveness of the legal framework governing such disputes.

4.2 Jurisdiction in Suits for Dissolution of Marriage

One of the most significant areas of Family Court jurisdiction concerns the dissolution of marriage. Marriage constitutes the foundation of family life, and disputes relating to its termination often involve complex legal, social, and emotional considerations. Family Courts possess jurisdiction over suits seeking dissolution of marriage under applicable personal laws. For Muslim parties, divorce may occur through Talaq, Khula, Musarrat or judicial dissolution under the Dissolution of Muslim Marriages Act, 1939.²⁵ Where disputes arise concerning the validity or legality of divorce, Family Courts are empowered to adjudicate such matters.

The jurisdiction of Family Courts in divorce-related disputes serves several important purposes. First, it ensures specialized adjudication by judges familiar with family law principles. Second, it promotes procedural efficiency through simplified proceedings. Third, it facilitates reconciliation where there remains a possibility of preserving the marital relationship. Bangladeshi courts have consistently emphasized that Family Courts must consider both legal rights and broader welfare considerations when deciding matrimonial disputes. Judicial intervention is particularly important in cases involving allegations of cruelty, desertion, neglect, or failure to provide maintenance.²⁶

²⁴ Family Courts Act 2023 (Bangladesh), s 5.

²⁵ Dissolution of Muslim Marriages Act 1939, ss 2–5.

²⁶ *Mst Zohra Begum v Md Jalal Uddin* 42 DLR (HCD) 199.

The Family Courts Act, 2023 further strengthens the ability of courts to resolve matrimonial disputes efficiently while ensuring fairness to both parties.

4.3 Jurisdiction in Restitution of Conjugal Rights

Restitution of conjugal rights refers to a legal remedy available to a spouse who has been deprived of the company and consortium of the other spouse without lawful justification. Family Courts possess exclusive jurisdiction over suits relating to restitution of conjugal rights.²⁷ The underlying objective of this remedy is the preservation of marriage and the promotion of family stability. Before granting a decree for restitution of conjugal rights, courts must determine whether the withdrawal of one spouse from the society of the other was justified.

Family Courts generally attempt reconciliation before adjudicating such disputes. This reflects the legislative intention to preserve marital relationships whenever possible. Courts also examine factors such as cruelty, neglect, domestic violence, and other circumstances that may justify separation.

However, contemporary legal scholarship has questioned the continued relevance of restitution of conjugal rights in light of constitutional principles relating to personal liberty, dignity, and privacy. Despite these debates, the remedy remains part of family law and continues to fall within the jurisdiction of Family Courts.

4.4 Jurisdiction in Dower (Den Mohor) Claims

Dower, commonly known as Den Mohor, constitutes one of the most important financial rights of a Muslim wife. Under Islamic law, dower is an obligation imposed upon the husband as a consequence of marriage and serves as a form of financial security for the wife.²⁸

Family Courts possess exclusive jurisdiction over suits relating to the recovery of dower. Such claims may arise during the subsistence of marriage, upon divorce, or following the death of the husband. Courts are empowered to determine the amount of dower payable and to enforce payment through appropriate legal remedies.

The jurisdiction of Family Courts in dower matters is particularly important because many women rely upon dower as a source of financial protection following marital breakdown. Judicial decisions have repeatedly affirmed that dower is a legally enforceable right and not merely a moral obligation.²⁹ In exercising jurisdiction over dower disputes, Family Courts must examine relevant documentary evidence, marriage contracts, witness testimony, and applicable personal law principles. Through such adjudication, courts contribute significantly to the protection of women's economic rights.

²⁷ Family Courts Act 2023 (Bangladesh), s 5(b).

²⁸ D F Mulla, *Principles of Mohammedan Law* (22nd edn, LexisNexis 2017) 285.

²⁹ *Abdul Kader v Sufia Khatun* 14 BLD (AD) 126.

4.5 Jurisdiction in Maintenance Cases

Maintenance disputes constitute one of the most common categories of cases brought before Family Courts in Bangladesh. Maintenance refers to the legal obligation of a person to provide financial support to a spouse, child, or other dependent family member.

The Family Courts Act, 2023 confers jurisdiction upon Family Courts to hear and determine claims relating to maintenance.³⁰ This jurisdiction is essential because maintenance directly affects the welfare and survival of vulnerable individuals, particularly women and children.

Courts generally consider factors such as the financial capacity of the respondent, the needs of the claimant, social status, and surrounding circumstances when determining maintenance awards. Judicial decisions have emphasized that maintenance is a legal entitlement rather than a charitable contribution.³¹

The Supreme Court of Bangladesh has adopted a progressive approach toward maintenance rights, recognizing the importance of ensuring financial security for dependent family members. Family Courts therefore play a crucial role in preventing economic hardship and protecting social welfare.

Despite these protections, enforcement of maintenance orders remains a significant challenge. Delays in execution proceedings and non-compliance with court orders often undermine the effectiveness of maintenance remedies. Strengthening enforcement mechanisms remains essential for ensuring meaningful access to justice.

4.6 Jurisdiction in Child Custody and Guardianship Matters

Child custody and guardianship disputes involve some of the most sensitive issues addressed by Family Courts. Such disputes require courts to balance parental rights with the best interests and welfare of the child.

Family Courts possess jurisdiction to determine questions relating to custody and guardianship under applicable laws.³² The paramount consideration in such cases is the welfare of the child rather than the legal rights of either parent.

In deciding custody disputes, courts consider factors such as the age of the child, educational needs, emotional well-being, health, safety, and overall welfare. The wishes of older children may also be taken into account where appropriate.

Judicial decisions in Bangladesh have consistently emphasized that the welfare principle must prevail over all other considerations. This approach reflects international standards concerning child rights and family welfare.

³⁰ Family Courts Act 2023 (Bangladesh), s 5(d).

³¹ Jamila Khatun v Rustom Ali 17 BLC (AD) 45.

³² Guardians and Wards Act 1890, ss 7 and 17.

Family Courts also possess authority to modify custody arrangements where circumstances change significantly. Such flexibility ensures that judicial decisions remain responsive to the evolving needs of children.

4.7 Enforcement of Family Court Decrees

The effectiveness of Family Court jurisdiction depends not only upon adjudication but also upon the enforcement of judicial decisions. A favorable judgment is of limited value if it cannot be implemented effectively.

The Family Courts Act provides mechanisms for the execution and enforcement of decrees relating to maintenance, dower, custody, and other family matters.³³ Courts may adopt various measures to ensure compliance with their orders

Nevertheless, enforcement remains one of the most significant challenges facing Family Courts. Delays, procedural complications, and non-compliance frequently undermine the practical effectiveness of judicial remedies. Improving enforcement procedures is therefore essential for strengthening public confidence in the family justice system.

4.8 Recent Expansion of Family Court Jurisdiction

The scope of Family Court jurisdiction has expanded considerably through legislative reforms and judicial interpretation. Courts increasingly adopt broader interpretations of statutory provisions in order to ensure substantive justice.

The Family Courts Act, 2023 reflects a modern approach to family justice by promoting accessibility, procedural efficiency, and alternative dispute resolution mechanisms. Judicial decisions have also clarified various jurisdictional ambiguities and strengthened the protection of family rights.

This evolving approach demonstrates the willingness of courts and lawmakers to adapt family justice mechanisms to changing social realities. Such developments contribute to the effectiveness and legitimacy of Family Courts in Bangladesh.

4.9 Practical Scope and Limitations

Although Family Courts possess extensive jurisdiction, several practical limitations continue to affect their effectiveness. Heavy caseloads, inadequate infrastructure, shortages of judicial personnel, and delays in execution proceedings frequently hinder the administration of justice.

³³ Family Courts Act 2023 (Bangladesh), s 28–34.

Social factors such as poverty, illiteracy, and limited legal awareness also restrict access to Family Courts for many individuals. Women in rural areas often face additional barriers when seeking legal remedies.

Furthermore, certain disputes involve overlapping issues of family law, succession law, and property law, creating jurisdictional complexities that require judicial clarification. Despite these challenges, Family Courts remain the primary mechanism for resolving family disputes in Bangladesh.

4.10 Conclusion

Family Courts in Bangladesh exercise extensive jurisdiction over a wide range of family disputes, including dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship, and child custody matters. Through specialized procedures and welfare-oriented adjudication, these courts contribute significantly to the protection of family rights and the administration of justice.

The Family Courts Act, 2023 has strengthened the legal framework governing family disputes and expanded opportunities for efficient dispute resolution. Nevertheless, challenges relating to enforcement, institutional capacity, and access to justice continue to affect the practical operation of Family Courts.

The growing importance of Family Courts demonstrates the need for continued legal reform and judicial development. Their success ultimately depends upon balancing legal principles with the broader objectives of social justice, family welfare, and human dignity.

Chapter 5

Judicial Interpretation and Case Analysis

5.1 Introduction

The development of Family Court jurisprudence in Bangladesh has been significantly influenced by judicial interpretation. While the Family Courts Act, 2023 provides the statutory framework governing family disputes, courts have played a crucial role in clarifying jurisdictional ambiguities, expanding legal protections, and ensuring the effective administration of family justice. Through various landmark decisions, the Supreme Court of Bangladesh has interpreted family laws in a manner that promotes fairness, protects vulnerable family members, and strengthens access to justice.

Judicial interpretation is particularly important because family disputes often involve complex social, religious, and constitutional considerations. Family Courts are required to balance legal rights with broader concerns relating to welfare, dignity, and social justice. Consequently, judicial precedents have become an essential source of guidance for Family Courts in exercising their jurisdiction.

This chapter examines important judicial decisions relating to Family Court jurisdiction and analyzes their impact on the development of family justice in Bangladesh.

5.2 Landmark Cases on Family Court Jurisdiction

The jurisdiction of Family Courts has frequently been the subject of judicial scrutiny. Courts have clarified the extent of Family Court authority and resolved conflicts concerning the proper forum for adjudication.

One of the most important decisions in this regard is *Abdul Jalil v Roashan Ara Begum*, where the Appellate Division emphasized that matters specifically assigned to Family Courts must be adjudicated by those courts and not by ordinary civil courts.³⁴ The decision reinforced the principle of exclusive jurisdiction and promoted judicial consistency.

Another significant case is *Mst Farzana Yasmin v Judge, Family Court*, where the High Court Division discussed procedural aspects of Family Court jurisdiction and highlighted the need for a flexible approach in family litigation³⁵. The Court observed that Family Courts should focus on substantive justice rather than rigid technicalities.

Judicial decisions have consistently recognized that Family Courts are specialized institutions established to resolve family disputes efficiently. Courts have therefore adopted interpretations that strengthen the effectiveness of Family Court jurisdiction and prevent unnecessary interference by ordinary civil courts.

³⁴ *Abdul Jalil v Roushan Ara Begum* 31 DLR (AD) 201.

³⁵ *Mst Farzana Yasmin v Judge, Family Court* 55 DLR (HCD) 45.

The jurisprudence developed through these decisions has contributed significantly to the evolution of family justice in Bangladesh.

5.3 Cases Relating to Maintenance

Maintenance disputes constitute one of the most frequently litigated areas of Family Court jurisdiction. Judicial decisions have played an important role in defining the scope of maintenance rights and the obligations of family members.

In *Jamila Khatun v Rustom Ali*, the Court held that maintenance is not a matter of charity but a legally enforceable right arising from family relationships.³⁶ The judgment emphasized that the financial capacity of the respondent and the needs of the claimant must be carefully considered in determining maintenance awards.

Similarly, courts have repeatedly stressed that maintenance provisions should be interpreted liberally to protect vulnerable individuals, particularly women and children. Judicial decisions have recognized that maintenance serves an important social function by preventing economic deprivation and promoting family welfare.³⁷

The Supreme Court has also clarified that maintenance obligations continue to exist even where disputes arise between spouses. Such interpretations have strengthened the ability of Family Courts to protect economically disadvantaged family members.

Through these decisions, the judiciary has transformed maintenance law from a purely private obligation into an important mechanism of social justice.

5.4 Cases Relating to Dower (Denmohor)

Dower represents a fundamental financial right of Muslim women and has frequently been the subject of Family Court litigation. Judicial interpretation has been instrumental in clarifying the nature and enforceability of dower obligations.

In *Abdul Kader v Sufia Khatun*, the Court recognized dower as a legally enforceable debt owed by the husband to the wife.³⁸ The judgment emphasized that dower cannot be treated merely as a ceremonial aspect of marriage but must be regarded as an enforceable legal right.

Courts have also clarified that a wife may institute proceedings for the recovery of dower during marriage, after divorce, or following the death of her husband. Judicial decisions consistently affirm that Family Courts possess exclusive jurisdiction over such disputes.³⁹

Furthermore, courts have adopted a protective approach towards women's financial rights by ensuring that technical procedural obstacles do not prevent legitimate dower claims. This

³⁶ *Jamila Khatun v Rustom Ali* 17 BLC (AD) 45.

³⁷ *M Shah Alam*, Administration of Justice in Bangladesh (UPL 2018) 281.

³⁸ *Abdul Kader v Sufia Khatun* 14 BLD (AD) 126.

³⁹ *D F Mulla*, Principles of Mohammedan Law (22nd edn, LexisNexis 2017) 286–288.

jurisprudence has strengthened the position of women within the family justice system and enhanced the effectiveness of Family Court remedies.

5.5 Cases Relating to Child Custody

Child custody disputes present some of the most sensitive challenges faced by Family Courts. Judicial decisions in this area have consistently emphasized the welfare of the child as the paramount consideration.

In numerous cases, Bangladeshi courts have held that parental rights must yield to the best interests of the child whenever a conflict arises.⁴⁰ This principle reflects both domestic legal traditions and international standards concerning child welfare. Courts generally consider factors such as the child's age, educational needs, emotional development, health, and overall welfare when determining custody disputes. Judicial decisions demonstrate a willingness to depart from rigid legal presumptions where necessary to protect the interests of children.

The Supreme Court has repeatedly emphasized that custody determinations should not be viewed as contests between parents but rather as mechanisms for ensuring the well-being of the child.⁴¹

This welfare-oriented approach has become one of the defining characteristics of Family Court jurisprudence in Bangladesh.

5.6 Cases Relating to Dissolution of Marriage

Judicial interpretation has also played an important role in the development of law relating to dissolution of marriage. Family Courts frequently adjudicate disputes involving divorce, judicial separation, and the validity of marital dissolution. Courts have consistently recognized that marriage is a legal institution governed by both personal law and statutory regulation. In cases involving dissolution of marriage, Family Courts are required to ensure compliance with legal requirements while protecting the rights of both spouses.⁴²

Judicial decisions have clarified procedural requirements relating to divorce and have strengthened legal protections for women seeking judicial remedies. Courts have also emphasized the importance of reconciliation efforts before granting relief in appropriate cases.

The jurisprudence relating to dissolution of marriage reflects a balance between individual autonomy, religious principles, and the broader objectives of family welfare.

⁴⁰ Guardians and Wards Act 1890, s 17.

⁴¹ Amina Begum v Md Hossain 48 DLR (AD) 112.

⁴² Dissolution of Muslim Marriages Act 1939, s 2.

5.7 Jurisdictional Conflicts between Civil Courts and Family Courts

One of the recurring issues in Family Court litigation concerns jurisdictional conflicts between Family Courts and ordinary civil courts. Such conflicts generally arise where disputes involve both family and property-related issues.

The Supreme Court has repeatedly held that matters falling within the statutory competence of Family Courts should ordinarily be adjudicated by those courts.⁴³ This approach prevents duplication of proceedings and promotes judicial efficiency.

However, certain disputes continue to generate uncertainty regarding the appropriate forum. Questions may arise where family relationships intersect with succession, property ownership, or contractual rights. Judicial decisions have sought to resolve such ambiguities by examining the substance rather than the form of disputes.

The doctrine of exclusive jurisdiction remains the primary mechanism through which courts address jurisdictional conflicts and maintain the integrity of the Family Court system.

5.8 Impact of Judicial Decisions on Family Justice

Judicial decisions have had a profound impact on the development of family justice in Bangladesh. Through progressive interpretation of statutes and personal laws, courts have expanded legal protections for women, children, and other vulnerable family members.

The judiciary has also strengthened access to justice by adopting flexible procedural approaches and emphasizing substantive fairness. Such developments have enhanced public confidence in Family Courts and improved the effectiveness of family dispute resolution.

Moreover, judicial precedents have contributed to the modernization of family law by adapting traditional legal principles to contemporary social realities.

5.9 Comparative Judicial Approaches

Comparative analysis demonstrates that courts in India, Pakistan, and the United Kingdom have similarly adopted welfare-oriented approaches in family disputes. In each jurisdiction, the protection of children and vulnerable family members occupies a central position within judicial decision-making.

Bangladeshi courts increasingly reflect these international trends by emphasizing social justice, gender equality, and child welfare in Family Court litigation.

⁴³ Family Courts Act 2023 (Bangladesh), s 5; *Abdul Jalil v Roushan Ara Begum* 31 DLR (AD) 201.

5.10 Conclusion

Judicial interpretation has played a vital role in shaping the jurisdiction and scope of Family Courts in Bangladesh. Through landmark decisions concerning maintenance, dower, custody, dissolution of marriage, and jurisdictional conflicts, courts have clarified legal principles and strengthened family justice administration.

The case law discussed in this chapter demonstrates the judiciary's commitment to protecting family rights and ensuring access to justice. Judicial precedents have transformed Family Courts into dynamic institutions capable of addressing complex family disputes in a fair and welfare-oriented manner.

The next and final chapter presents the major findings of this study, identifies existing challenges, and offers recommendations for improving the Family Court system in Bangladesh.

Chapter 6

Findings, Recommendations and Conclusion

6.1 Major Findings of the Study

The present study examined the jurisdiction and scope of Family Courts in Bangladesh with particular reference to the Family Courts Act, 2023, relevant family laws, and judicial interpretations. The analysis reveals that Family Courts have become one of the most important institutions for the administration of family justice in Bangladesh.

The study finds that the establishment of Family Courts was a significant legal reform aimed at ensuring speedy, accessible, and specialized adjudication of family disputes. Before the creation of Family Courts, family-related disputes were adjudicated by ordinary civil courts, which often failed to provide efficient and sensitive remedies suitable for family conflicts.⁴⁴ The introduction of specialized Family Courts therefore represented an important step towards improving access to justice

Another major finding is that Family Courts possess exclusive jurisdiction over specific categories of family disputes, including dissolution of marriage, restitution of conjugal rights, dower, maintenance, guardianship, and custody of children.⁴⁵ The doctrine of exclusive jurisdiction has contributed to greater consistency in judicial decision-making and reduced conflicts between Family Courts and ordinary civil courts.

The study further reveals that judicial interpretation has played a significant role in expanding and clarifying Family Court jurisdiction. The Supreme Court of Bangladesh has consistently adopted a welfare-oriented approach, particularly in matters concerning women and children. Judicial decisions have strengthened maintenance rights, protected dower claims, and emphasized the welfare principle in custody disputes.⁴⁶

The research also demonstrates that Family Courts perform not only adjudicatory functions but also conciliatory functions. The emphasis on reconciliation and alternative dispute resolution mechanisms distinguishes Family Courts from ordinary civil courts and reflects the social objectives of family justice.

Furthermore, the Family Courts Act, 2023 represents a significant modernization of the legal framework governing family disputes. The Act seeks to improve procedural efficiency, strengthen dispute resolution mechanisms, and enhance access to justice for litigants.

⁴⁴ Family Courts Ordinance 1985 (repealed); Family Courts Act 2023 (Bangladesh).

⁴⁵ Family Courts Act 2023 (Bangladesh), s 5.

⁴⁶ *Jamila Khatun v Rustom Ali* 17 BLC (AD) 45; *Abdul Kader v Sufia Khatun* 14 BLD (AD) 126.

6.2 Challenges Identified

Despite significant legislative and judicial developments, several challenges continue to affect the effective functioning of Family Courts in Bangladesh.

One major challenge is the growing backlog of cases. Although Family Courts were established to provide speedy justice, increasing litigation and limited judicial resources often result in delays. Such delays undermine the objectives of specialized family justice and create hardship for litigants, particularly women and children.⁴⁷

Another significant challenge concerns the enforcement of Family Court decrees. Maintenance orders, dower decrees, and custody decisions are sometimes difficult to implement effectively. Delays in execution proceedings frequently reduce the practical value of judicial remedies.

The study also identifies jurisdictional complexities as an ongoing concern. Certain disputes involve overlapping issues relating to family law, property law, and succession law, creating uncertainty regarding the appropriate judicial forum.

In addition, social and economic barriers continue to restrict access to Family Courts. Poverty, illiteracy, lack of legal awareness, and gender-based discrimination often discourage individuals from seeking legal remedies. Women residing in rural areas may face additional obstacles due to geographical distance and limited legal assistance.

Institutional limitations, including inadequate infrastructure, shortage of trained judicial personnel, and insufficient technological support, further affect the efficiency of Family Courts.

6.3 Recommendations

In light of the findings and challenges identified, several recommendations may be proposed to improve the Family Court system in Bangladesh.

6.3.1 Legislative Reforms

The government should continue reviewing family laws to ensure consistency with contemporary social realities and constitutional principles. Ambiguities relating to Family Court jurisdiction should be clarified through legislative amendments. Clear statutory guidance would reduce jurisdictional conflicts and improve judicial efficiency.⁴⁸

The legislature should also strengthen provisions relating to the enforcement of Family Court decrees, particularly maintenance and custody orders, to ensure effective compliance.

⁴⁷ M Shah Alam, *Administration of Justice in Bangladesh* (UPL 2018) 285–287.

⁴⁸ Family Courts Act 2023 (Bangladesh), ss 5–9.

6.3.2 Institutional Reforms

Additional Family Courts should be established in districts experiencing heavy caseloads. Increasing the number of judges and court staff would contribute significantly to reducing delays and improving case management.

Specialized training programs should be introduced for judges, lawyers, and court personnel dealing with family disputes. Such training should emphasize child welfare, gender sensitivity, mediation techniques, and contemporary developments in family law.

6.3.3 Procedural Reforms

Procedural mechanisms should be further simplified to facilitate quicker disposal of cases. Greater emphasis should be placed on alternative dispute resolution, particularly mediation and conciliation, where appropriate.

Case management systems should be strengthened to ensure efficient scheduling, monitoring, and disposal of family disputes. Time limits may be considered for certain categories of cases to prevent unnecessary delays.

6.3.4 Technological Reforms

The integration of modern technology into Family Court administration could significantly improve efficiency. Digital case management systems, online filing mechanisms, and virtual hearings may reduce delays and increase accessibility for litigants.

Electronic record-keeping would also improve transparency and facilitate more effective monitoring of judicial proceedings.

6.3.5 Public Awareness and Legal Aid

Public awareness campaigns should be conducted to educate citizens regarding their rights and the jurisdiction of Family Courts. Increased awareness would encourage individuals to seek appropriate legal remedies.

The availability of legal aid services should be expanded, particularly for economically disadvantaged litigants. Effective legal representation is essential for ensuring meaningful access to justice.

6.4 Policy Implications

The findings of this study have important implications for policymakers, legal practitioners, and judicial administrators. Effective Family Courts contribute not only to the protection of individual rights but also to broader objectives of social justice and family welfare.

Strengthening Family Courts can improve public confidence in the legal system and promote social stability. Policymakers should therefore regard family justice as an integral component of national development and governance.

Furthermore, reforms aimed at improving Family Courts may contribute to the advancement of gender equality, child protection, and access to justice, all of which are fundamental constitutional and international commitments of Bangladesh.

6.5 Future Scope of Research

The present study primarily adopts a doctrinal approach focusing on legislation, judicial decisions, and legal principles. Future research may adopt empirical methodologies to examine the practical experiences of litigants, judges, lawyers, and court personnel within the Family Court system.

Further studies may also explore the impact of the Family Courts Act, 2023 on dispute resolution outcomes and evaluate the effectiveness of alternative dispute resolution mechanisms in family litigation.

Comparative research involving South Asian and other international jurisdictions may provide additional insights into best practices for family justice administration.

6.6 Conclusion

Family Courts have emerged as one of the most important institutions within the legal system of Bangladesh. Their establishment reflects a commitment to providing specialized, accessible, and efficient mechanisms for resolving family disputes. The Family Courts Act, 2023 has strengthened the legal framework governing family justice and expanded opportunities for effective dispute resolution.

This study demonstrates that Family Courts possess extensive jurisdiction over matters relating to marriage, maintenance, dower, guardianship, and child custody. Judicial interpretation has further enhanced the effectiveness of Family Courts by promoting welfare-oriented approaches and protecting vulnerable family members.

Nevertheless, challenges relating to delay, enforcement, institutional capacity, and access to justice continue to affect the operation of Family Courts. Addressing these challenges requires coordinated legislative, institutional, procedural, and technological reforms.

Ultimately, the effectiveness of Family Courts depends upon their ability to balance legal rights with broader objectives of family welfare, social justice, and human dignity. A strong and responsive Family Court system is therefore essential for ensuring the protection of family rights and the administration of justice in Bangladesh.

Appendices, Glossary, and Bibliography

Appendix A

Important Provisions of the Family Courts Act, 2023

The Family Courts Act, 2023 is the principal legislation governing Family Courts in Bangladesh. The following provisions are particularly relevant to this study:

- Section 3 – Establishment of Family Courts
- Section 4 – Appointment and Jurisdiction of Family Courts
- Section 5 – Exclusive Jurisdiction of Family Courts
- Sections 7–9 – Territorial Jurisdiction
- Sections 12–16 – Institution of Suits and Procedure
- Section 18 – Reconciliation and Settlement Proceedings
- Sections 28–34 – Execution and Enforcement of Decrees
- Provisions relating to Appeals and Revisions

Appendix B

Major Matters within Family Court Jurisdiction

- Dissolution of Marriage
- Restitution of Conjugal Rights
- Dower (Denmohor)
- Maintenance
- Guardianship
- Custody of Children

Appendix C

Selected Landmark Cases on Family Court Jurisdiction

- Abdul Jalil v Roushan Ara Begum| 31 DLR (AD) 201| Exclusive jurisdiction of Family Courts
- Abdul Kader v Sufia Khatun| 14 BLD (AD) 126| Dower as enforceable legal right
- Jamila Khatun v Rustom Ali| 17 BLC (AD) 45| Maintenance as legal entitlement
- Amina Begum v Md Hossain| 48 DLR (AD) 112| Welfare of child in custody matters
- Mst Farzana Yasmin v Judge, Family Court| 55 DLR (HCD) 45| Procedural flexibility in Family Courts

Appendix D

Research Questions

1. What is the legal basis for the establishment of Family Courts in Bangladesh?
2. What is the scope and extent of Family Court jurisdiction?
3. How have courts interpreted Family Court jurisdiction?
4. What challenges affect the functioning of Family Courts?
5. What reforms are necessary for improving family justice administration?

Appendix E

Suggested Structure of Family Court Proceedings

1. Filing of Complaint
2. Issuance of Summons
3. Written Statement
4. Reconciliation Proceedings
5. Framing of Issues
6. Evidence and Hearing
7. Judgment
8. Decree
9. Execution Proceedings
10. Appeal (where applicable)

Glossary

ADR - Alternative Dispute Resolution, including mediation and conciliation.

Custody- Legal care and control of a child granted by a competent court.

Dower (Denmohor)- Financial obligation payable by a husband to his wife under Muslim law.

Family Court- A specialized court established for adjudicating family disputes.

Family Justice- Legal mechanisms designed to resolve disputes arising from family relationships.

Guardianship- Legal authority to make decisions concerning the person or property of a minor.

Jurisdiction- Legal authority of a court to hear and determine disputes.

Maintenance- Financial support provided to a spouse, child, or dependent family member.

Personal Law- Laws governing family matters based on religious traditions and customs.

Plaintiff- The person who initiates a legal action before a court.

Defendant- The person against whom a legal action is brought.

Reconciliation- Process through which parties attempt to settle disputes amicably.

Restitution of Conjugal Rights- A legal remedy compelling a spouse to resume marital cohabitation where withdrawal is without lawful excuse.

Subject-Matter Jurisdiction- Authority of a court to hear a particular type of dispute.

Territorial Jurisdiction- Authority of a court within a specific geographical area.

Exclusive Jurisdiction- Jurisdiction exercised solely by a particular court, excluding other courts.

Welfare Principle- Legal principle requiring the best interests of the child to be the paramount consideration in custody matters.

Family Courts Act, 2023- The principal legislation governing Family Courts in Bangladesh.

Muslim Family Laws Ordinance, 1961- legislation regulating Muslim family matters in Bangladesh.

Guardians and Wards Act, 1890- Statute governing guardianship and custody matters.

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