

# Transnational Marriages And Family Laws In Bangladesh: Contemporary Legal Issues And Post-Marital Challenges

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## **Abstract:**

*This article examines the evolving legal landscape surrounding transnational marriages involving Bangladeshi citizens, highlighting key legal frameworks, social barriers, and consequential issues emerging in cross-border marital unions. As more Bangladeshi people move and live in other countries, marriage migration, and global mobility, Bangladesh's family law system—anchored in religious personal codes and colonial-era statutes—struggles to adapt to transnational dynamics. Challenges include citizenship, marriage registration, inheritance, gendered discrimination, trafficking, forced and deceptive marital arrangements, child welfare, and jurisdictional conflicts with aftermath consequences. Drawing on constitutional provisions, statutory laws, case studies, policy advisories, and comparative perspectives, this article identifies legal lacunae and proposes policy recommendations for harmonizing cross-border family relations within national and international law.*

**Keywords :** *Transnational Marriages, Family Laws in Bangladesh, Marital Rights, Inheritance, and Post-Marital Challenges.*

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## **I. Introduction**

### ***Defining Transnational Marriages in the Bangladeshi Context***

Transnational marriages involve individuals from different countries, often bringing together diverse legal and cultural backgrounds. In the context of Bangladesh, this phenomenon frequently encompasses unions between Bangladeshi citizens and foreign nationals, as well as marriages between members of the extensive Bangladeshi diaspora residing abroad and individuals within Bangladesh. These unions introduce a unique set of complexities, necessitating a balanced understanding of how different legal systems and cultural norms intersect and, at times, clash. This study aims to meticulously examine the intricate legal landscape and socio-cultural dynamics surrounding transnational marriages in Bangladesh. It will highlight contemporary legal issues that arise from these cross-border unions, analyze their multifarious consequences for individuals and families, and propose evidence-based recommendations for a more equitable and effective legal framework. The significance of this research lies in its contribution to addressing the growing complexities faced by transnational families in an increasingly globalized world, ensuring the protection of human rights, and fostering greater legal clarity for all parties involved.

### ***Overview of Bangladesh's Legal and Socio-Cultural Landscape***

Bangladesh, a nation with a predominantly Muslim population<sup>1</sup>, operates a pluralistic legal system where family law is largely governed by religious personal laws<sup>2</sup>. This framework exists despite the country's constitution upholding secularism and prohibiting religious discrimination. This inherent duality creates significant challenges, particularly for marriages that cross religious and national boundaries. The socio-cultural context is further shaped by traditional patriarchal norms, which, while gradually evolving due to globalization, continue to exert considerable influence on family structures and individual rights within marital relationships.

## **II. Legal Frameworks Governing Marriage In Bangladesh**

### ***The Pluralistic System of Personal Laws***

Bangladesh's family law system is fundamentally based on religious personal laws, meaning that legal provisions concerning marriage, divorce, maintenance, and inheritance vary significantly according to the

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<sup>1</sup> Bangladesh with a population exceeding 170 million where approximately 90% are Muslim.

<sup>2</sup> *Muslim Personal Law (Shariat) Application Act, 1937* (Act No XXVI of 1937).

religious identity of the individuals involved.<sup>3</sup> While the state's broader legal framework is secular in many respects, family matters remain deeply intertwined with religious doctrines. This creates a fundamental tension i.e. the substance of family law is religious, yet its enforcement takes place within secular courts. This inherent paradox presents considerable challenges, particularly for individuals navigating different legal traditions in transnational marriages, where the religious basis of family law can conflict with secular legal principles prevalent in other jurisdictions. A notable disparity exists in the registration of marriages.<sup>4</sup> While Muslim marriages are mandated by law and subject to penalties for non-compliance, registration for Hindu and Christian marriages remains optional and is often not pursued. This optionality directly impacts legal recognition and protection, creating significant vulnerabilities for individuals, especially women, in non-Muslim marriages. The absence of formal legal documentation can make it challenging to assert marital status, inheritance rights, or child custody in disputes, particularly when dealing with foreign legal systems that rely on official records.

### **Muslim Marriage & Divorce: Law and Procedure in Bangladesh**

Muslim marriages in Bangladesh are primarily governed by the Muslim Marriages and Divorces (Registration) Act, 1974, which mandates their registration.<sup>5</sup> Individuals known as *Kazis*, officially designated as 'Nikah Registrars',<sup>6</sup> are government-appointed public servants responsible for registering these marriages and divorces within their specified localities. While their primary legal function is registration, *Kazis* commonly perform the religious ceremonies as well, blurring the lines between civil and religious solemnization. This dual role can lead to ambiguity for foreign nationals, who may not fully grasp the distinct legal and religious requirements of marriage in Bangladesh, potentially impacting the recognition of their marriage abroad. Under Muslim law, men are permitted to practice polygamy, allowing them to have up to four wives, provided they need obtaining the written consent of their existing wives. However, the provisions for interfaith marriages differ significantly based on gender. Muslim men are permitted to marry women who are '*Kitabi*' (scripturalists), which includes Christians or Jews. Conversely, marriage to polytheists, such as Hindus or Buddhists, is prohibited for Muslim men. For Muslim women, the restrictions are even more stringent i.e. they are strictly prohibited from marrying non-Muslim men, including Christians or Jews. If a Muslim woman wishes to marry a non-Muslim, she is typically required to declare herself an atheist or convert to another non-Muslim faith before the marriage can be solemnized under the Special Marriage Act.<sup>7</sup> This gender-based discrimination in interfaith marriage creates substantial barriers for transnational interfaith couples and often compels one party to convert or renounce their faith, with profound personal and legal consequences. Divorce for Muslim men typically involves the pronouncement of *Talaq*<sup>8</sup> and subsequent registration at the local Union Council. This process can be relatively quick if both parties consent. While Muslim wives generally have fewer unilateral divorce rights compared to their husbands. The Muslim Family Law Ordinance, 1961 provides legal avenues for women to seek divorce through family courts.<sup>9</sup>

### **Hindu Marriage Law: Registration, Indissolubility, and Property Inequality**

Historically, Hindu marriages in Bangladesh have been governed by religious ceremonies and customs, with no statutory requirement for registration until the Hindu Marriage Registration Act, 2012.<sup>10</sup> Despite this Act, registration remains optional, resulting in a significant number of Hindu marriages remaining undocumented. This lack of formal recognition leaves individuals, particularly women, vulnerable in legal matters, making it difficult to prove marital status for purposes of inheritance, property rights, or divorce. Unlike the legal reforms in India, polygamy remains permissible under Hindu law in Bangladesh. Furthermore, Hindu marriages are traditionally considered indissoluble, meaning there is no legal recourse for divorce in Bangladesh, although informal separations or 'divorces' may occur without legal standing. Hindu women also face significant discrimination in inheritance matters, often being unable to inherit property under family law. The legal definition of 'Hindu' in Bangladeshi law is also restrictive and ambiguous, further complicating the application of Hindu personal law. These archaic aspects of Hindu family law create profound legal vulnerabilities for Hindu women, particularly in transnational marital disputes where legal recourse is limited and formal documentation is often critical for recognition in foreign jurisdictions.

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<sup>3</sup> *Ibid.*

<sup>4</sup> Under Bangladeshi law, the failure to register a Muslim marriage does not affect its validity under personal law, but it constitutes a punishable offence. Section 5(4) of the *Muslim Marriages and Divorces (Registration) Act 1974 (Act no. LII of 1974)*.

<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*, Section-4.

<sup>7</sup> *Special Marriage Act, 1872 (Act No. III of 1872)*.

<sup>8</sup> *Muslim Family Laws Ordinance, 1961 (Ordinance No. VIII of 1961)*, Section-7.

<sup>9</sup> *Muslim Family Law Ordinance, 1961 (Ordinance No. VIII of 1961)*, Section-8.

<sup>10</sup> *The Hindu Bibaho Nibondhon Ain, 2012 (2012 Shoner 40 No Ain)*.

### ***Christian Marriage Laws: Monogamy and Divorce Provisions in Bangladesh***

Christian marriages in Bangladesh are primarily governed by the Christian Marriage Act, 1872. This Act mandates monogamy, prohibiting individuals from having more than one spouse concurrently. The Divorce Act of 1869 provides specific provisions for the dissolution of marriage, nullity of marriage, and judicial separation for Christian couples. Similar to Hindu marriages, the registration of Christian marriages with the state is optional and often rare. This can lead to similar issues of legal recognition in transnational contexts. Interfaith marriages involving Christian parties can be complex; if one party is Muslim, Muslim law may apply, or they may resort to the Special Marriage Act. While Christian marriage law offers more clarity regarding monogamy and divorce compared to Hindu law, its applicability is confined to Christian parties, and interfaith marriages involving Christians often default to other personal laws or the problematic Special Marriage Act. This highlights the inherent limitations of personal laws in addressing the complexities of a diverse society and the challenges faced by individuals in interfaith and transnational unions.

### ***The Special Marriage Act, 1872: A Civil Alternative for Inter-Religious Unions***

The Special Marriage Act, 1872, was introduced to provide a form of marriage for persons who do not profess any of the major religions (Christian, Jewish, Hindu, Muslim, Parsi, Buddhist, Sikh, or Jaina). It also extends to individuals who profess the Hindu, Buddhist, Sikh, or Jaina religions, and aims to legalize certain types of marriages whose validity might otherwise be doubtful. Furthermore, the Act is intended to address cases of inter-religious marriages and unions between nationals, citizens, and foreigners. The Act extends to the entirety of Bangladesh. Conditions for marriage under this Act include neither party having a living spouse (ensuring monogamy), the man having attained 18 years of age and the woman 14 years (though consent of a father or guardian is required if either party has not completed 21 years), and the parties not being related to each other within prohibited degrees of consanguinity or affinity. The procedural requirements involve one of the parties giving written notice to a Marriage Registrar in a district where at least one party has resided for 14 days prior to the notice. This notice is then filed and entered into a 'Marriage Notice Book'.<sup>11</sup> The period of 14 days for objections follows, after which the marriage can be solemnized in the presence of the Marriage Registrar and three witnesses, who must sign a declaration. A marriage certificate is subsequently issued. A critical and widely criticized aspect of the Special Marriage Act, 1872, is its Section 2, which is considered 'blatantly unconstitutional'.<sup>12</sup> This section effectively bars individuals professing Islam, Hinduism, Buddhism, or Christianity from opting for interreligious marriage under the Act unless they first renounce their faith. Case law has affirmed that if parties with differing religious beliefs do not abandon their religion, their marriage under this Act will be deemed void. This requirement creates a significant legal and practical barrier for interfaith couples seeking formal recognition without undergoing a conversion or renunciation, directly conflicting with constitutional guarantees of religious freedom and equality.<sup>13</sup> The Special Marriage Act, despite being the only civil option for interfaith marriages, is thus fundamentally flawed by this clause, rendering it practically unworkable for many interfaith couples and forcing a difficult choice between legal recognition and religious identity.

### ***India's Special Marriage Act, 1954: A Secular Marriage Model***

In contrast to Bangladesh's 1872 Act, India's Special Marriage Act, 1954, replaced the older legislation in India. The Indian Act provides a framework for secular civil marriage, or "registered marriage," for all Indian nationals, whether in India or abroad, irrespective of their religion or faith. This includes provisions for inter-religious couples, atheists, and agnostics. Crucially, the Indian Act does not require either party to convert or renounce their faith to solemnize a marriage under its provisions. This fundamental difference highlights the Indian Special Marriage Act, 1954, as a potential model for Bangladesh to consider in reforming its own outdated legislation to better accommodate diverse and transnational unions without imposing religious renunciation.

## **III. Legal Challenges Of Transnational Marriages In Bangladesh**

### ***Jurisdictional Conflicts and Recognition of Foreign Decrees***

The enforcement of foreign judgments in Bangladesh is governed by Section 44A of the Code of Civil Procedure (CPC), which permits the execution of decrees passed by a 'superior Court of any reciprocating territory'.<sup>14</sup> Currently, Bangladesh maintains a reciprocal arrangement only with India. This limited reciprocity

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<sup>11</sup> Under the *Special Marriage Act, 1872*, individuals marrying outside personal laws must give written notice to the Marriage Registrar. This notice is recorded in the Marriage Notice Book, which is open for public inspection to allow objections before the marriage is solemnized (Sections 4–7).

<sup>12</sup> In Bangladesh, any law or action that goes against the Constitution is considered unconstitutional and invalid under Article 7(2). The Supreme Court can cancel such laws or actions through judicial review under Article 102.

<sup>13</sup> Constitution of the People's Republic of Bangladesh 1972, art 41(1)–(2).

<sup>14</sup> Section 44A of the *Code of Civil Procedure, 1908 (Act No. V of 1908)*.

poses a significant challenge for transnational families seeking to enforce judgments from other countries. Foreign judgments may be refused enforcement on several grounds, including a lack of jurisdiction of competency, the judgment not being founded on the merits of the case, appearing to be based on an incorrect view of international law, being opposed to natural justice, obtained by fraud, or sustaining a claim erected on a breach of Bangladeshi law. Bangladesh operates as a dualist state, meaning international treaties or conventions only take effect once incorporated into domestic law, further complicating the recognition of foreign legal instruments. Regarding foreign divorce decrees, United States courts, for example, require a formal decree of divorce from Bangladeshi authorities, and do not automatically recognize a divorce simply because one party has renounced their faith. The recognition of a foreign divorce decree in a US court depends on factors such as consistency with state law and public policy, proof of due process, and the jurisdiction of the issuing court. In Bangladesh, a Muslim divorce (*Talaq*) involves a specific procedure i.e. a notice must be served, an arbitration board must be faced, and a 90-day waiting period must elapse before a registration certificate can be obtained. For a foreign *Talaq* to be recognized in another country, legal advice in that foreign country is essential to ascertain its validity. Child custody disputes in Bangladesh are primarily governed by the Family Courts Ordinance 1985 and the Guardians and Wards Act 1890. Bangladeshi courts consistently prioritize the welfare of the child as the convincing factor, often overriding strict personal law provisions. While the father is traditionally considered the natural and legal guardian under both Muslim and Hindu laws, the mother typically retains custody of a son until he turns seven and a daughter until she reaches puberty (around 15 years). However, a mother's custody rights may cease if she remarries, is deemed morally unfit, or cannot adequately care for the child. A recent notable case involving a Japanese mother and a Bangladeshi father highlighted the complexities of transnational child custody disputes in Bangladesh<sup>15</sup>, particularly given that Bangladesh is not a signatory to The Hague Convention on the Civil Aspects of International Child Abduction.<sup>16</sup> This non-signatory status can lead to prolonged and challenging legal processes for foreign parents seeking to secure or enforce custody of their children.

#### ***Citizenship and Residency for Foreign Spouses***

Bangladeshi citizenship laws present significant gender disparities concerning foreign spouses. Under the Bangladesh Citizenship (Temporary Provisions) Rules 1978, a foreign wife of a Bangladeshi man can apply for Bangladeshi citizenship after residing in Bangladesh for two years. However, there are currently no similar provisions for the foreign husband of a Bangladeshi woman, despite government plans to review these rules. This creates an unequal situation where the path to citizenship for foreign husbands is significantly more challenging. For general naturalization, foreigners can apply for Bangladeshi citizenship after legally residing in Bangladesh for at least five years<sup>17</sup>, provided they are of good character, have proficiency in Bengali, and intend to reside permanently in Bangladesh, often requiring them to relinquish other citizenships. Bangladesh does allow dual citizenship under specific circumstances, primarily for citizens of Bangladeshi origin who hold nationality in another country, enabling them to apply for a Dual Nationality Certificate (DNC) for other countries. The 'No Visa Required' (NVR) sticker is available for foreign citizens of Bangladeshi origin, their foreign-born spouses, and children, allowing multiple entries into Bangladesh and unlimited duration of stay within the validity of their passports. Requirements for foreign spouses include a copy of the marriage certificate and a notarized affidavit declaring the marriage is unbroken. However, bureaucratic challenges can arise, as the Consulate may request in-person interviews or additional documents, and the issuance of an NVR can be delayed if further administrative clearance from Bangladesh is required.

#### ***Inheritance Rights of Foreign Spouses: A Legal Grey Area in Bangladesh***

Inheritance rights in Bangladesh are predominantly governed by religious personal laws, meaning the rules for property devolution differ based on the deceased's religious affiliation. Under Muslim law, women inherit a share that is typically half of what a male counterpart would obtain. A widow, for instance, receives a specific share, such as one-eighth of her deceased husband's estate if she is his only wife, with the remainder divided among the children, where each female child receives half of the share of a male child.<sup>18</sup> In stark contrast, Hindu women in Bangladesh generally do not inherit property under Hindu family law.<sup>19</sup> For individuals married

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<sup>15</sup> *Nakano v Imran Sharif* (High Court Division, 13 February 2024) concerned a transnational custody dispute between a Japanese mother and a Bangladeshi-born U.S. citizen father. The High Court partially upheld the father's appeal and issued a split custody order: the eldest and youngest daughters to reside with their mother, the middle daughter with their father, with mutual visitation rights.

<sup>16</sup> *Hague Convention on the Civil Aspects of International Child Abduction* (adopted 25 October 1980, entered into force 1 December 1983) 1343 UNTS 89. It delimits its application in cross-border custody disputes involving the country.

<sup>17</sup> Two years if married to a Bangladeshi citizen, though this specific provision appears to apply only to foreign wives.

<sup>18</sup> The Qur'anic rules of inheritance are primarily outlined in *Surah An-Nisa* [4:11–12].

<sup>19</sup> Under the Dayabhaga school (mostly followed by Hindus in Bangladesh), a widow may inherit her husband's property as a limited owner (life estate) in the absence of male heirs—a departure from the Mitakshara rule excluding widows from

under the Special Marriage Act, 1872, particularly those professing the Hindu, Buddhist, Sikh, or Jain religions, succession to their property is regulated by the provisions of the Succession Act, 1925. The Succession Act, 1925, applies to cases of intestacy (dying without heir or a will) for individuals other than Hindus, Muslims, Buddhists, Sikhs, or Jains. Under this Act, property devolves upon the wife or husband or kindred of the deceased, with specific shares allocated to the widow/widower and lineal descendants. The domicile of the deceased at the time of death also regulates the succession to movable property. In a progressive move, proposed legislation aims to ensure inheritance rights for transgender people in Bangladesh, aligning with Islamic sharia law and the constitution. Securing property rights for foreign spouses in Bangladesh typically requires approval from the Bangladesh Investment Development Authority (BIDA), filing relevant paperwork with local police for security, and providing proof of financial capability through income documentation.<sup>20</sup> Non-Resident Bangladeshis (NRBs), including foreign spouses, are legally permitted to purchase land or property and can appoint a trusted person as their legal representative through a registered Power of Attorney (POA) from abroad to facilitate transactions in their absence.<sup>21</sup>

### **Human Trafficking and Marriage Fraud**

There are rising concerns regarding human trafficking and marriage fraud schemes targeting Bangladeshi citizens, particularly women and girls. The Chinese embassy in Bangladesh has issued warnings to its citizens against illegal cross-border marriages and matchmaking scams, especially those facilitated via platforms like TikTok<sup>22</sup>. The modus operandi often involves luring women with false promises of jobs, only to exploit them in sex or labor trafficking upon arrival in the destination country. Criminal syndicates are frequently behind these operations, targeting vulnerable women, including indigenous women from the Chittagong Hill Tracts<sup>23</sup>, partly due to their Sino-Tibetan features<sup>24</sup> which may resemble Chinese ethnic groups. The gender imbalance in China, resulting in an estimated 30 million 'leftover men', has fueled the demand for foreign brides, contributing to these exploitative practices. Bangladesh has legal mechanisms in place to combat these crimes. The Prevention and Suppression of Human Trafficking Act, 2012 criminalizes sex trafficking and labor trafficking, prescribing stringent penalties ranging from five years to imprisonment for life and substantial fines.<sup>25</sup> Seven Anti-Human Trafficking Tribunals have been established in divisional capitals to expedite cases.<sup>26</sup> These tribunals were established in 2020 to reduce case backlogs, these courts have judges and special prosecutors focused on trafficking cases. Despite their efforts, many cases remain pending—about 5,781 as of mid-2022 in one survey—with low conviction rates. Some trafficking-prone districts like Jessore and Cox's Bazar still lack dedicated courts, limiting timely justice. These tribunals represent progress but require further improvements in infrastructure and case management. Although the government has reported increased investigations, prosecutions, and convictions against traffickers, significant challenges still persist. Courts frequently sentence traffickers to fines rather than proportionate jail time, which weakens deterrence and undermines anti-trafficking efforts. Victim protection remains insufficient, and officials often lack a victim-centered and trauma-informed approach. Furthermore, limited expertise in investigations, inadequate evidence, and a heavy reliance on victim-witnesses hinder law enforcement, alongside issues in police-prosecutor collaboration and persistent case backlogs.

## **IV. Socio-Cultural Dynamics And Evolving Attitudes**

### **Social Stigma and Acceptance of Interfaith Marriages**

In Bangladesh, interfaith marriages—particularly involving Muslims and non-Muslims—remain highly stigmatized, despite constitutional promises of equality.<sup>27</sup> Social resistance is especially strong when the union is both interfaith and transnational, intersecting with rigid religious norms and cultural expectations. Legally, such

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coparcenary. See Jimutavahana, *Dayabhaga* (tr HT Colebrooke, 1810); Mulla, *Principles of Hindu Law* (22<sup>nd</sup> edn, LexisNexis 2022) para 563.

<sup>20</sup> Documentation includes valid passport, TIN, proof of income, and evidence of foreign currency transfer via a Bangladeshi bank and for real estate, documents like the sale deed, title, and mutation or RAJUK approval needed.

<sup>21</sup> Power of Attorney involving immovable property are governed by section 52A of the **Registration Act, 1908** and the Power of Attorney Act, 2012 (Act No. 35).

<sup>22</sup> *TikTok*, available at: <https://www.tiktok.com> accessed 17 January, 2025.

<sup>23</sup> Chittagong Hill Tracts, SE Bangladesh, covers c.13,295 sq km with indigenous groups like *Chakma, Marma, Tripura*; population approx. 1.6 million. See Bangladesh Bureau of Statistics, Population Census 2011; Anwar Hossain, *The Chittagong Hill Tracts: The Untold Story* (UPL 2013).

<sup>24</sup> The indigenous peoples of the Chittagong Hill Tracts, including Chakma and Marma, speak Sino-Tibetan languages, sharing ethno-linguistic roots, cultural traits, and historical ties with East Asian groups like the Chinese across the Himalayan and Southeast Asian regions.

<sup>25</sup> *Prevention and Suppression of Human Trafficking Act, 2012*, section- 5 & 6.

<sup>26</sup> Anti-Human Trafficking Tribunals located in seven divisional capitals i.e. Dhaka, Chattogram, Rajshahi, Khulna, Rangpur, Sylhet, and Barishal.

<sup>27</sup> *Constitution of the People's Republic of Bangladesh 1972*, arts 28, 41.

unions face further complexity. Islamic personal law does not permit Muslim women to marry non-Muslim men without conversion, and apostasy remains a highly sensitive issue.<sup>28</sup> Although Bangladesh maintains a secular legal framework, conservative religious interpretations often influence informal legal and societal responses. Interfaith and transnational couples may face ostracism, threats, and legal uncertainty regarding marriage registration, citizenship, and child custody. While urbanization and globalization have led to a slow rise in such marriages, strong societal stigma and legal ambiguities continue to create significant post-marital challenges for these couples.

### ***Bangladeshi Diaspora and 'New' Transnational Marriages***

Transnational marriage is a prominent practice within the Bangladeshi Muslim community, particularly among British Bangladeshis. A discernible shift is occurring in the partner selection process, with second- and third-generation Bangladeshis actively constructing notions of a 'new' transnational marriage that affords considerable autonomy to the individuals involved. This represents a departure from traditional practices where partners were primarily identified through extensive ethnic and religious networks, kinship ties, relatives, friends, and professional matchmakers. Factors influencing partner selection in these evolving transnational marriages include social compatibility, emotional attachment, race, ethnicity, religion, and socioeconomic status. Online matrimony services are also gaining immense popularity among Bangladeshi expatriates, serving as a vital bridge to connect them with potential life partners. While the phenomenon of transnational marriages has become politicized in Britain due to concerns about forced marriage and related state regulations.

### ***Cultural Shifts and Family Structures***

Globalization is profoundly influencing behavioral patterns, lifestyles, and consumerism in Bangladesh, leading to a gradual erosion of some traditional values. There is a visible shift from traditional joint family structures towards nuclear families, accompanied by some changes in patriarchal dominance within households, although men still largely retain their position as heads of families. Traditional gender roles persist, with men typically engaged in tasks outside the home, while women primarily manage household chores and child-rearing. Patrilineal ties continue to dominate the ideology of family life, dictating lineage and property devolution.<sup>29</sup> However, matrilineal ties also hold significant practical importance, particularly as women may inherit a share of their fathers' property, thereby maintaining crucial links between their natal and marital families. Forced marriage remains a significant societal problem, often exacerbated by poverty and the perceived economic burden of daughters, leading families to arrange marriages at early ages or without full consent. Transnational marriages in Bangladesh, especially those involving interfaith or intercultural unions, often face intense societal opposition despite being legally permissible under the Special Marriage Act, 1872. While the Constitution guarantees equality (Art. 27) and religious freedom (Art. 41), conservative patriarchal norms frequently undermine these protections. Muslim women, in particular, encounter legal and social barriers, as Islamic personal law restricts their ability to marry non-Muslims without conversion. This intersection of legal inconsistency and societal disapproval fosters a hostile environment where such unions are perceived as threats to family honour. In extreme cases, this has led to honour-based violence, including honour killings, although reliable data remains limited. The lack of institutional safeguards and weak enforcement of rights exacerbate these risks, leaving transnational couples—especially women—vulnerable to familial coercion, ostracism, and violence.<sup>30</sup> These challenges highlight the urgent need for coherent legal reform and stronger protection mechanisms for cross-border and interfaith marital rights in Bangladesh.

## **V. Recommendations**

The analysis of transnational marriages and family laws in Bangladesh reveals a complex interplay of pluralistic legal frameworks, deeply entrenched socio-cultural norms, and evolving global dynamics. The reliance on religious personal laws, coupled with the fundamental flaws in the Special Marriage Act of 1872, creates significant legal ambiguities and gender-based disparities, particularly for interfaith and transnational couples. Challenges in the recognition and enforcement of foreign divorce and custody decrees, coupled with gender-discriminatory citizenship provisions for foreign spouses, further complicate the lives of these families. Moreover, the pervasive issues of human trafficking and marriage fraud underscore critical vulnerabilities within the system. To address these contemporary legal issues and their far-reaching consequences, the following recommendations are put forth:

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<sup>28</sup> See M. A. Mannan, *Muslim Personal Law in Bangladesh* (2nd edn, Bangladesh Law Book House 2015) 45–47; also S. Rahman, 'Apostasy and Marriage under Islamic Law in Bangladesh' (2019) 12 *Journal of Islamic Studies* 78.

<sup>29</sup> See Sylvia Vatuk, 'Islamic Feminism and the Politics of Patriarchy in India' (2008) 13 *Asian Journal of Women's Studies* Vol.1, Issue 5.

<sup>30</sup> See *Constitution of the People's Republic of Bangladesh 1972*, arts 27, 41; M A Mannan, *Muslim Personal Law in Bangladesh* (2<sup>nd</sup> edn, Bangladesh Law Book House 2015).

**i) Legal Reform for the Special Marriage Act, 1872:** It is imperative to amend Section 2 of the Special Marriage Act, 1872, to remove the contentious religious renunciation clause. This clause is a fundamental barrier that conflicts directly with constitutional guarantees of equality and religious freedom. Bangladesh should draw lessons from India's Special Marriage Act, 1954, which provides a secular civil marriage option for all citizens regardless of their religious affiliation, without requiring conversion or renunciation of faith.

**ii) Codification and Harmonization of Personal Laws:** The archaic aspects of Hindu family law, such as the legality of polygamy, the indissoluble nature of marriage, and the significant disparities in women's inheritance rights, must be addressed through comprehensive legal reform. While a full uniform civil code may be a long-term aspiration, immediate steps should focus on codifying and harmonizing personal laws to ensure greater equity and consistency across all religious communities.

**iii) Strengthening Enforcement Mechanisms against Trafficking and Fraud:** The government must enhance its efforts to combat human trafficking and marriage fraud. This includes imposing stricter penalties, prioritizing imprisonment over fines for convicted traffickers, adopting victim-centered and trauma-informed approaches in protection efforts, improving collaboration between police and prosecutors, and establishing additional Anti-Human Trafficking Tribunals to reduce case backlogs.

**iv) Enhancing International Legal Cooperation:** Bangladesh should consider acceding to relevant international conventions, such as The Hague Convention on the Civil Aspects of International Child Abduction, to streamline the resolution of transnational child custody disputes and protect children from parental abduction. Furthermore, expanding reciprocal enforcement agreements for foreign judgments beyond the current arrangement with India would provide greater legal certainty for transnational families.

**v) Addressing Gender Disparities in Citizenship and Residency:** The Bangladesh Citizenship (Temporary Provisions) Rules 1978 should be amended to grant foreign husbands of Bangladeshi women equal citizenship rights as foreign wives of Bangladeshi men. Additionally, bureaucratic hurdles in the No Visa Required (NVR) application process for foreign spouses should be streamlined to ensure efficiency and transparency.

**vi) Promoting Public Awareness and Social Dialogue:** Efforts are needed to raise public awareness about the legal provisions for interfaith marriages and to actively combat the deep-seated social stigma associated with them. Fostering open dialogue on evolving family dynamics, gender equality, and human rights within the context of marriage is crucial for cultivating a more inclusive and harmonious society.

## **VI. Conclusion**

Transnational marriages involving Bangladeshi citizens present a complex intersection of legal ambiguity, gender inequality, and cross-border socio-legal issues. While globalization and diaspora dynamics expand individual freedoms, existing legal structures—rooted in segmented religious personal laws and antiquated statutes—fail to accommodate cross-border realities. As a result, many couples and children face invisibility, discrimination, or outright criminal liability. To uphold constitutional equality and international human rights commitments, Bangladesh must reform its civil marriage framework, safeguard against trafficking and forced unions, expand registration infrastructure, and provide legal protection for vulnerable parties. Through legislative reform, administrative modernization, and social empowering measures, Bangladesh can better integrate transnational family life into a rights-respecting legal system.

## **References**

- [1]. The Constitution Of The People's Republic Of Bangladesh, 1972.
- [2]. The Muslim Personal Law (Shariat) Application Act, 1937 (Act No XXVI Of 1937).
- [3]. The Muslim Marriages And Divorces (Registration) Act 1974 (Act No. LII Of 1974).
- [4]. The Special Marriage Act, 1872 (Act No. III Of 1872).
- [5]. The Muslim Family Laws Ordinance, 1961 (Ordinance No. VIII Of 1961)
- [6]. The Hindu Bibaho Nibondhon Ain, 2012 (2012 Shoner 40 No Ain).
- [7]. The Code Of Civil Procedure, 1908 (Act No. V Of 1908).
- [8]. The Power Of Attorney Act, 2012 (Act No. 35 Of 2012).
- [9]. The Prevention And Suppression Of Human Trafficking Act, 2012 (Act No. II Of 2012).
- [10]. The Bangladesh Citizenship (Temporary Provisions) Order, 1972 (President's Order No. 149 Of 1972).
- [11]. The Bangladesh Citizenship (Temporary Provisions) Rules, 1978.
- [12]. The Citizenship Act, 1951 (Act No. II Of 1951).
- [13]. The Hague Convention On The Civil Aspects Of International Child Abduction, 1980.
- [14]. Anwar Hossain, *The Chittagong Hill Tracts: The Untold Story* (University Press Limited 2013).
- [15]. Mulla, D.F. *Principles Of Hindu Law* (22nd Edn, Lexisnexis 2022).
- [16]. Chowdhury, F. Deeba, *Islam & Women's Rights In Bangladesh: Exploring Gender Justice, Religious & Secular Laws* (Routledge 2020).

- [17]. Ridwanul Hoque, *Judicial Activism In Bangladesh: A Golden Mean Approach* (UPL 2011).
- [18]. Mulla, D.F. *Principles Of Mahomedan Law* (Thacker, Bombay 1905).
- [19]. Sara Hossain And Lynn Welchman (Eds), *Honour: Crimes, Paradigms And Violence Against Women* (Zed Books 2005).
- [20]. MA Mannan, *Muslim Personal Law In Bangladesh* (2<sup>nd</sup> Edn, Bangladesh Law Book House 2015).
- [21]. Nazrul, Asif. Dr. *Law And Politics Of Autonomy In Bangladesh* (UPL 2008).
- [22]. Chowdhury, Dr. Z.I., *Special Marriage Act 1872 And Family Courts Ordinance 1985, With Commentary* (DLR Publication 2014).
- [23]. Ali, S. Sardar *Gender And Human Rights In Islam And International Law: Equal Before Allah, Unequal Before Man?* (Kluwer 2000).
- [24]. Mizanur Rahman, *Human Rights And Legal Reforms: Realities And Challenges In Bangladesh* (EPL 2002).
- [25]. Law Commission Of Bangladesh, *Reports On The Reform Of Personal Laws* (Multiple Volumes).
- [26]. S Rahman, *Apostasy And Marriage Under Islamic Law In Bangladesh* (2019) 12 *Journal Of Islamic Studies* 78.
- [27]. Sylvia Vatuk, *Islamic Feminism And The Politics Of Patriarchy In India* (2008) 13(5) *Asian Journal Of Women's Studies* 1.
- [28]. Nazli Kibria, *Transnational Marriage And The Bangladeshi Muslim Diaspora In Britain And The United States* (2012) *Culture And Religion* Vol 13, No 2, Pp 227–240.
- [29]. Md Istiak Akondo, *Codification Of Muslim Personal Law In Bangladesh: Problems And Prospects* (2023) *Asian Journal Of Arts, Humanities And Social Studies* Vol 6, Iss 2, Pp 8–14.