

**POLICY BRIEF**

# **Ending Impunity for Child Marriage in Bangladesh:**

**NORMATIVE AND IMPLEMENTATION GAPS**

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NORMATIVE AND IMPLEMENTATION GAPS



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# GLOSSARY

**1929 CMRA** *Child Marriage Restraint Act, 1929*

**2017 CMRA** *Child Marriage Restraint Act, 2017*

**BANGLADESH PENAL CODE** Penal Code

**BDRA** *Births and Deaths Registration Act, 2004*

**BDT** Bangladeshi Taka

**BEIJING RULES** United Nations Standard Minimum Rules for the Administration of Juvenile Justice, 29 November 1985

**BOY** Male under the age of 18

**CCPR** International Covenant on Civil and Political Rights

**CEDAW** Convention on the Elimination of All Forms of Discrimination Against Women

**CHILD** Person under the age of 18

**CRC** Convention on the Rights of the Child

**DSS** Department of Social Services

**GIRL** Female under the age of 18

**HINDU WOMAN'S ESTATE** An estate that gives females certain rights of use and earnings from use but does not entail proprietary rights of ownership and disposition

**ICCPR** International Covenant on Civil and Political Rights

**ICDDR** International Centre for Diarrhoeal Disease Research, Bangladesh

**ILO** International Labour Organization

**IPCC** Intergovernmental Panel on Climate Change

**MAN** Male over the age of 18

**MEHR** A right that accrues to a Muslim woman upon marriage, part or all of which may be payable on demand on the dissolution of marriage. It is paid by the husband or his family and can take the form of money or property

**MOWCA** Ministry of Women and Children's Affairs

**NCP** *National Children Policy, 2011*

**NDHS** National Demographic and Health Survey

**NWDP** *National Women's Development Policy, 2011*

**OHCHR** Office of the United Nations High Commissioner for Human Rights

**PSHTA** *The Prevention and Suppression of Human Trafficking Act, 2012*

**SDG** Sustainable Development Goals

**SHALISH** A traditional alternative dispute resolution method used to mediate family, land, and criminal matters

**STRIDHAN** Property or gifts received by a Hindu woman during her lifetime

**UN** United Nations

**UNFPA** United Nations Population Fund

**UNICEF** United Nations Children's Fund

**USD** United States Dollar

**USDS** United States Department of State

**WHO** World Health Organization

**WOMAN** Female over the age of 18



# INTRODUCTION AND OVERVIEW OF CHILD MARRIAGE IN BANGLADESH

Bangladesh continues to have one of the highest child marriage rates worldwide, and the highest rate of marriage involving girls under 15.<sup>1</sup> Among women between the ages of 20-49, 71 percent are married by age 18.<sup>2</sup> Over the last three decades, there has been a slow and steady decline in the age at which Bangladeshi women first marry, from a median age of 15 years for women in their mid to late 40s to 17.2 years for those in their early 20s.<sup>3</sup> In spite of the progress, however, the evidence shows that child marriage continues to occur on a large scale in Bangladesh, and women and girls continue to suffer from the human rights violations that result from the practice.

Child marriage in Bangladesh is governed by a series of laws. The recently enacted Child Marriage Restraint Act of 2017 (2017 CMRA) replaced an older piece of legislation from the colonial era, the Child Marriage Restraint Act of 1929 (1929 CMRA). The 2017 CMRA sets the minimum age of marriage at 18 years for girls and 21 for boys.<sup>4</sup> In addition to the 2017 CMRA, there are a series of religious-based personal laws that impute different requirements and circumstances when it comes to ascertaining children's, particularly girls', rights in relation to marriage. Due to gaps and loopholes in the law, as well as numerous obstacles to implementation further analyzed below, child marriage persists in Bangladesh in spite of the legal prohibition.

## **Factors Contributing to Child Marriage**

The prevalence of child marriage in Bangladesh can be attributed to several factors, including, in no particular order, its use to create or maintain family ties and relationships, the persistence of gender inequality and adherence to discriminatory and patriarchal attitudes regarding the safeguarding of virginity for family honor, poverty and the lack of economic opportunities for women, demand for increased dowry as a girl ages, fear of sexual violence, and non-enforcement and inconsistency in laws aimed at preventing or punishing child marriage and its various dimensions.<sup>5</sup>

Gender-based stereotypes are a driving factor behind the prevalence of child marriage. Girls are often considered financial burdens who must be passed from their family to their husband's family<sup>6</sup> or are married off to protect their "honor" and chastity.<sup>7</sup> As a result, parents often arrange for their daughters' marriages, which are seen as necessary and inevitable.<sup>8</sup> Child marriages are often initiated by a man's family or arranged by both families jointly.<sup>9</sup> Societal pressures and gender inequality remove a girl's ability to give full, free, and informed consent when she marries. These harmful, gendered views are also engrained in religious personal laws in Bangladesh, further legitimizing gender-based discrimination and child marriage.<sup>10</sup>

Additionally, poverty and lack of education contribute to the prevalence of child marriage in Bangladesh.<sup>11</sup> Girls from poorer and less educated families are at a greater risk of being forced into child marriage because of the dowry system<sup>12</sup> and the belief that education for girls is a wasted investment.<sup>13</sup> Poorer families are also more likely to find it difficult to raise daughters or invest in their education, leaving marriage as a more financially viable option.<sup>14</sup>

Recent research has also shown an increase in child marriage occurring after natural disasters as a means of financial survival for affected families.<sup>15</sup> Bangladesh's geophysical location makes it susceptible to extreme natural disasters. In fact, the country holds the highest disaster mortality rate in the world.<sup>16</sup> The Intergovernmental Panel on Climate Change describes Bangladesh as one of the countries most vulnerable to climate change "in terms of its exposure to extreme events and lack of capacity to cope and adapt."<sup>17</sup> As rural families struggle to make a living from agriculture amid natural calamities, increased migration to cities has heightened the perceived security risks for girls.<sup>18</sup> Consequently, families practice child marriage as a means of keeping girls "safe" in new or insecure environments.<sup>19</sup> In a 2012 report for the United Nations Population Fund Asia Pacific Regional Office, the International Center for Research on Women reported that out of all the married children in Bangladesh, 62 percent were married in the 12 months following Cyclone Sidr in 2007.<sup>20</sup> Additionally, Human Rights Watch conducted interviews with affected families after Cyclone Aila struck in May 2009, which killed more than 200 people and left 500,000 people homeless.<sup>21</sup> Their interviews revealed links between families marrying off young daughters after natural disasters, showing families resorting to child marriage as a desperate survival strategy.<sup>22</sup>

Another group vulnerable to child marriages are the Rohingya refugees, who have been forced to flee to Bangladesh following military operations by the Myanmar government as part of its ethnic cleansing campaign against the Rohingyas.<sup>23</sup> Since August 25, 2017, when Myanmar security forces intensified their attacks against

the Rohingyas, killings, rapes, arbitrary arrests, and mass arsons of homes by Myanmar security forces have caused an estimated 750,000 Rohingya refugees to cross the border into Cox's Bazar, Bangladesh. Approximately 60 percent of these new arrivals are women and girls.<sup>24</sup> Rohingya women and girls who have been displaced by the violence and are now in Bangladeshi refugee camps face grave risks to their sexual and reproductive health both from pregnancies resulting from sexual violence in Rakhine as well as conditions in the camps themselves.<sup>25</sup> Rohingya girls in refugee camps are being forced into child marriage, in part because it is a common cultural practice in the community, but largely in order to relieve the economic pressure on families in refugee camps.<sup>26</sup> Since food rations by some humanitarian agencies such as the United Nations World Food Programme are allocated by household, it has been reported that parents are marrying off girls in order to reduce the number of mouths to feed and create new households for food quotas.<sup>27</sup>

## **Continuum of Harms Suffered by Women and Girls as a Result of Child Marriage**

Child marriage affects both boys and the girls; however, it disproportionately harms girls' ability to enjoy their rights and freedoms, especially due to the serious risks of sexual and reproductive harms associated with this practice. Child marriage triggers a continuum of reproductive and sexual health harms and violations by exposing girls to forced initiation of sex and unprotected sex, as well as early, unplanned, and frequent pregnancies.<sup>28</sup> Early pregnancies are linked to higher rates of maternal mortality and morbidity,<sup>29</sup> with maternal mortality for adolescents in Bangladesh occurring at double the national rate.<sup>30</sup> Early pregnancy also exposes young girls, who are not fully physically developed, to complications such as obstetric fistula, which leads to infection, incontinence, and pain.<sup>31</sup> Due to the harmful effects of early pregnancy, the World Health Organization (WHO) has explicitly recommended a standard minimum marriage age of 18 years old and the empowerment of adolescents to delay pregnancy until age 20.<sup>32</sup> In the South Asia region, Bangladesh has the highest rate of pregnancy before the age of 18, at 40 percent in the South Asia region.<sup>33</sup> According to the 2014 National Demographic and Health Survey (NDHS), 31 percent of adolescents ages 15-19 in Bangladesh have begun childbearing and 6 percent are pregnant with their first child.<sup>34</sup>

Girls married young and women married as girls are also more likely to experience domestic violence, including sexual violence, than women who marry later in life, including sexual violence.<sup>35</sup> The diminished ability to negotiate safe sex because of their young age further contributes to their risk of exposure to sexually transmissible infections.<sup>36</sup> Besides physical harms, early marriage also exposes girls

to psychosocial harms. Married girls can suffer significant mental health harm due to the loss of childhood, forced sexual relations, and the denial of free will they often experience within a child marriage.<sup>37</sup> Consequently, it is not surprising that married girls report experiencing extreme depression and feelings of hopelessness.<sup>38</sup>

Moreover, child marriage is linked to slavery-like practices such as servile marriage, sexual slavery, child servitude, child trafficking, and forced labor.<sup>39</sup> Women married as girls are often denied educational and employment opportunities, which may trap girls in child marriages by limiting their financial, social, and physical autonomy and decision-making authority.<sup>40</sup> The difficulty in leaving a child marriage is exacerbated by the acceptance of and support for the practice in Bangladesh, including stigma around divorce and restrictive laws which limit girls' and women's abilities to end a child marriage.<sup>41</sup> The daughters of women who were married as children are at a greater risk of being married as girls themselves.<sup>42</sup> This results in a cultural practice that perpetuates inter-generational cycles of poverty and absence of opportunity, hampering social and economic development in societies that tolerate it.<sup>43</sup>

### **Purpose of This Policy Brief**

The purpose of this brief is to identify and inform law and policymakers, law enforcement officials, and human rights defenders of the key legal gaps and inconsistencies that have undermined efforts to address child marriage in Bangladesh, particularly in light of constitutional guarantees, national laws and policies, and international human rights standards. This assessment highlights multiple challenges faced in the implementation of the existing affirmative laws and makes linkages to other causes of systemic discrimination in law and practice that contribute to impunity. It puts forward a set of concrete recommendations for addressing the gaps and challenges in order to promote access to justice for the victims of child marriage. This report uses a broad definition of access to justice that includes “access by people, in particular from poor and disadvantaged groups, to fair, effective, and accountable mechanisms for the protection of rights, control of abuse of power, and resolution of conflicts. This includes the ability of people to seek and obtain a remedy through justice systems.”<sup>44</sup>

# CURRENT LEGAL FRAMEWORK ON CHILD MARRIAGE

## National Legal and Policy Framework

The Constitution of the People's Republic of Bangladesh (the Constitution) guarantees certain “fundamental” rights to all its citizens and certain rights to noncitizens.<sup>45</sup> This section will discuss how the Constitution operates to protect children's rights in addition to a discussing the new 2017 CMRA and national policies relating to child marriage.

## The Constitution

The Constitution provides the legal framework of the People's Republic of Bangladesh. Part III of the Constitution sets out the “fundamental rights,” some of which are applicable to all persons while others apply exclusively to Bangladeshi citizens. Fundamental rights are enforceable by the High Court Division of the Supreme Court.<sup>46</sup> Further, Article 7(2) of the Constitution explicitly states the Constitution is the supreme law of Bangladesh and that any inconsistent laws are void to the extent of the inconsistency. While the Constitution and national courts have yet to discuss child marriage as a fundamental rights violation, child marriage is recognized globally to be linked to several fundamental rights protected under the Constitution, including:

- the right to life (which has been recognized by national courts to include the right to health), liberty, and security of the person;<sup>47</sup>
- the right to freedom from forced labor;<sup>48</sup>
- that women shall have equal rights with men in all spheres of the State and public life;<sup>49</sup>
- the right to equality before the law; and<sup>50</sup>
- the right to freedom from torture or to cruel, inhuman, or degrading punishment or treatment.<sup>51</sup>

The Constitution specifically recognizes women's rights and discusses state obligations to address and ensure accountability for gender-based discrimination and inequality. For example, the Constitution states that special provisions in favor of women and children for their advancement will not violate the right to equality

enshrined in the Constitution.<sup>52</sup> The Constitution also directs the government to establish a “uniform, mass-oriented and universal system of education and extending free and compulsory education to all children.”<sup>53</sup>

These fundamental rights must be recognized as an important part of the national framework on child marriage. However, despite the constitutional guarantees and the purported legal protection afforded to children, child marriage is still a common occurrence in Bangladesh and leads to ongoing violations of women’s and girls’ rights, often with impunity.<sup>54</sup>

### Legislation on Child Marriage

The National Parliament of Bangladesh passed the 2017 CMRA on February 27, 2017, which repealed and replaced the 1929 CMRA and strengthened penalties for child marriage. However, it also introduced retrogressive measures and remains silent on several existing gaps in the legal framework on child marriage.<sup>55</sup> Under the 1929 CMRA, Bangladesh saw minimal improvement in its position as one of the countries with the world’s highest rates of child marriage.<sup>56</sup> National stakeholders recognized numerous gaps and weaknesses in the law, in addition to its poor implementation, including weak penalties; restrictive procedural requirements to bring claims; the failure to create obligations for government officials to report child marriages and to clarify the process of filing injunctions to stop such marriages; and inconsistencies with other laws.<sup>57</sup> In July 2014, Prime Minister Sheikh Hasina pledged to reform the law, finalize a national action plan to end child marriage under the age of 15 by 2021, and end all marriage before the age of 18 by 2041.<sup>58</sup>

The 2017 CMRA was finally adopted into law three years later and increased the punishment for those who marry or assist in the marriage of children. An adult man or a woman who marries a child could face up to two years’ imprisonment, a fine of up to BDT 50,000 (USD 592), or both, and the license of the registrar of the marriage may be canceled.<sup>59</sup> Similar punishments would be applicable to the parents or guardians who arrange or negligently fail to prevent a child marriage.<sup>60</sup> The 2017 CMRA prescribes higher punishments than the 1929 CMRA, where perpetrators faced imprisonment of up to one month and/or a fine up to BDT 1,000 (USD 12).<sup>61</sup>

The 2017 CMRA further clarified governmental responsibility to prevent child marriages. Section 3 calls for the formation of “prevention committees” comprising “government officials of national, district, sub-district and union level, local government representatives, officials of non-government organizations and local elite persons” to work toward the prevention of child

marriages.<sup>62</sup> Section 4 identifies the roles of existing government officers, including local government officers, education officers, and police officers who are mandated to prevent child marriages or take necessary steps to bring legal action upon receipt of news of child marriages through any media.<sup>63</sup>

The 2017 CMRA maintained 18 and 21 years as the minimum legal age of marriage for girls and men, respectively. However, it also introduced a retrogressive exception that allows child marriages without any minimum legal age in “special cases.” Section 19 of the 2017 CMRA states that “in special cases for the greater good of an adolescent, by the order of the court and with the consent of parents following the procedure of the law, a marriage of such girl will not be considered a crime.”<sup>64</sup> Interpretation of this provision will depend on the content of the 2017 CMRA's implementing rules and regulations, which are yet to be issued, as well as the perspectives of the judiciary. *See Gaps and Loopholes in Bangladesh's Laws on Child Marriage, p. 15, for more information.*

## Personal Laws

Issues relating to marriage are largely determined by personal laws, statutory and non-statutory, which are specific to each religious community.<sup>65</sup> Various personal laws provide for different ages of majority for the purposes of marriage.

For the majority of Bangladesh's population, which is Muslim, laws relating to inheritance, marriage, and divorce are to be governed by Islamic law, as declared by the Muslim Personal Laws (Shariat) Application Act 1937.<sup>66</sup> The Muslim Family Law Ordinance 1961 (MFLO) governs the solemnization and termination of marriage. Under Muslim law, a contract known as a *Nikahnama* is a requirement for entering into marriage. Consent of both parties is an essential element for a valid marriage. A husband can unilaterally terminate a marriage, whereas a wife may terminate the marriage unilaterally only if she has been delegated the right to do so by her husband in the *Nikahnama*. The MFLO does not establish a minimum legal age of marriage. Under generally accepted principles of Muslim law, however, the age of majority is puberty, which is presumed to be fifteen for girls.<sup>67</sup> Under the Muslim Marriages and Divorces (Registration) Act 1974, a marriage contracted by a Bangladeshi Muslim must be registered with a duly licensed Nikah Registrar.<sup>68</sup> However, non-registration will not render a marriage invalid, even if the failure to register renders a person liable to imprisonment (up to three months) or a fine of BDT 500 (approximately USD 6).<sup>69</sup>

The marriage of Hindus in Bangladesh is governed by Hindu customary law.<sup>70</sup> Under Hindu law, there is no minimum age of marriage. Minors may be given in marriage by their guardian. The Hindu Marriage

Registration Act of 2012 allows Hindus to register their marriages but does not make it mandatory to do so.<sup>71</sup> Marriage among Christians is governed by the Christian Marriage Act 1872 (CMA). Marriage of a “minor,” which is defined as a person under 21 years of age, is permitted with the consent of the minor’s father or guardian, in case of death of father.<sup>72</sup> Under the CMA, registration of marriages is compulsory with the church authorities or Marriage Registrar.<sup>73</sup>

The Special Marriage Act 1872 (SMA) enables individuals to enter into marriages across religious communities or where a party to the marriage does not profess the Christian, Hindu, Muslim, Jewish, Buddhist, Sikh or Jain faiths.<sup>74</sup> Either party must be a Hindu, Sikh, Buddhist or Jain, or a person who does not profess the Christian, Hindu, Muslim, Jewish, Buddhist, Sikh or Jain faiths.<sup>75</sup> Under the SMA, the minimum age of marriage is 18 for a male and 14 if female.<sup>76</sup> However, if any party is younger than 21, he or she must obtain prior consent of a guardian.<sup>77</sup>

### **Applicable Policies Relating to Child Marriage**

In addition to specific child marriage legislation, Bangladesh has also implemented a series of policies that relate to child marriage:

- the National Plan of Action to End Child Marriage, 2018-2030 (NPA)<sup>78</sup>
- the National Children Policy, 2011 (NCP)<sup>79</sup>
- the National Women’s Development Policy, 2011 (NWDP)<sup>80</sup>
- the National Strategy for Adolescent Health 2017-2030 (NSAH)<sup>81</sup>
- the Population Policy, 2012.<sup>82</sup>

In 2018, the Government of Bangladesh adopted the NPA with the goal to end the marriage of girls under 15, reduce by one-third the rate of marriage for girls under 18 by 2021, and to completely eliminate child marriage by 2041.<sup>83</sup> The strategic objectives of the NPA include enhancing awareness of harmful effects of child marriage through community mobilization, introducing legal remedies for girls whose rights are violated by child marriage, and scaling up existing and future social safety net programs to eliminate child marriage.<sup>84</sup>

The NCP specifically recognizes the right of all adolescents (defined to mean 14-18) to be protected from “violence, marriage, trafficking and forcing into commercial sex.”<sup>85</sup> It also states that “discriminatory behaviour toward [the] female child shall be eliminated.”<sup>86</sup> The



NWDP also has objectives to ensure “stern enforcement legislation against minor matrimony, rape of female child, abuse and repression.”<sup>87</sup> Neither the NCP or NWDP mention whether implementing the policy is subject to a time frame. Although the NWDP mentions setting fixed timeframes for implementation of work plans and programs, it is silent on whether the overall policy is timebound. Additionally, the NWDP contains a footnote stating that despite anything contained in the policy “anything contrary to the Holy Quran and Sunnah shall be void.”<sup>88</sup> However, it is silent as to how the Holy Quran or Sunnah is to be interpreted to determine whether there is a contradiction. There is no uniform interpretation of the Holy Quran and Sunnah, and interpretations vary by sects and schools of jurisprudence. If some Muslim personal laws are believed to follow from the Holy Quran or Sunnah, then the goal to “abolish all discriminatory laws” may run against the principle that any law or policy against the Holy Quran or Sunnah will be found void. The vaguely worded caveat in a footnote leads to considerable ambiguity regarding the policy’s effectiveness in promoting gender equality, especially since it provides no further explanation as to the criteria for assessing whether a legal or policy measure is incompatible with the Holy Quran and Sunnah. *See Other Legal Issues Contributing to the Continuation of Child Marriage on p. 20 for further discussion.*

The NSAH notes that the prevalence of child marriage and the corresponding high rate of adolescent pregnancy is a “significant concern.”<sup>89</sup> One of the objectives of the NSAH is to “promote positive social norms” in order to address child marriage.<sup>90</sup> It aims to build the capacity of the health and social protection sector to respond to child marriage and calls for the development of evidence-based programs to prevent and mitigate the consequences of child marriage.<sup>91</sup> The Population Policy, 2012 also calls for an Adolescent Welfare Program, which aims to encourage later marriage through information dissemination promoting such marriages, creating employment opportunities for unmarried women, and educating adolescents on health and life issues.<sup>92</sup>

## **Gaps and Loopholes in Bangladesh’s Laws on Child Marriage**

Despite the constitutional guarantees and the legal protection afforded to children under existing legislation, the legal framework in Bangladesh fails to address and combat several critical causes and consequences of child marriage. Some of these shortcomings are discussed in more detail in this section.

### **The “special cases” exception risks legalizing child marriage without any minimum age**

As discussed briefly above, Section 19 of the 2017 CMRA reads:

*No matter what is said in other clauses in special cases for the greater good of an adolescent, by the order of the court and with the consent of parents following the procedure of the law a marriage of such girl will not be considered a crime.*

The law’s failure to define “special cases” or “the greater good of the adolescent,” or to specify a minimum age of marriage at all, leaves the exception open to wide abuse. The ambiguity in the special provision further creates the possibility of it being invoked by parents in cases of sexual violence to compel their daughters to “preserve their honor” by marrying their abuser.<sup>93</sup> Furthermore, whether or not a particular exception applies is to be determined by the court with the consent of the parents; the consent or wishes of the adolescent are not required to be considered. Therefore, the law does not seem to prioritize the views or welfare of the adolescent. Rules under the 2017 CMRA may provide further clarity but they have not been passed yet.

### **Inconsistencies in defining the minimum legal age of marriage**

As mentioned above, marriage in Bangladesh is largely regulated by personal laws. These laws consist of codified and uncodified rules, which are officially recognized, applied, and enforced by the Supreme Court of Bangladesh.<sup>94</sup> While the 2017 CMRA prohibits child marriage, it does not clarify that it has primacy over contradictory provisions of personal laws that condone it, thereby preventing general laws from being effectively implemented or enforced.<sup>95</sup> The 2017 CMRA does not clarify if it has primacy over prior legislation, including religion-based personal status laws that govern the areas of marriage and divorce and specify differing legal ages for marriage.

| <b>TABLE 1: AGE OF MARRIAGE ACCORDING TO PERSONAL LAWS IN BANGLADESH</b>   |  |   |
|--|--|---|
| <b>RELIGION</b>  | <b>APPLICABLE LAW</b>  | <b>SPECIFIED LEGAL AGE FOR MARRIAGE</b>   |
| <b>Islam</b>   | Muslim Family Law Ordinance of 1961 <sup>96</sup><br><br>Uncodified personal law | 15 years for girls and 18 years for boys. Under uncodified Muslim personal law, a girl and boy may marry when they reach puberty. <sup>97</sup> |
| <b>Hinduism</b>  | Hindu Marriage Registration Act of 2012 <sup>98</sup>                            | 18 years for girls<br><br>21 years for boys   |
| <b>Christianity</b>  | Christian Marriage Act of 1872 <sup>99</sup>                                     | A minor is under 21 years old, but parents/guardian can consent to a minor marrying with no minimum age specified.                              |
| <b>Other (not Christian, Jewish, Hindu, Muslim, Parsi, Buddhist, Sikh, Jain, or inter-religious marriages)<sup>100</sup></b> | The Special Marriage Act of 1872 <sup>101</sup>                                  | 14 years for girls<br><br>18 years for boys<br><br>Prior consent of father/guardian is required for any party below 21 years.                   |

As set out above in Table 1, almost all personal laws permit child marriage, despite prohibition within the 2017 CMRA.

### **Marriages in violation of the 2017 CMRA are valid unless voided under applicable personal laws**

Child marriage, even though a punishable offence, is not void *ab initio* under Bangladeshi law.<sup>102</sup> When the 1929 CMRA was effective, the Supreme Court declared that, in the case of Muslim parties, a marriage will be found valid if the parties have reached puberty in accordance with Muslim personal law.<sup>103</sup> In numerous other cases discussed below, superior courts in Bangladesh have not declared marriages of girls below the age of 18 to be invalid. The 2017 CMRA is silent with respect to the validity of a marriage that violates the minimum age requirement, nor does the 2017 CMRA contain any provisions regarding the voidability of a child marriage. A girl or woman seeking to have her child marriage voided would have to follow the procedures set forth in the applicable personal laws. However, these procedures can be quite restrictive and difficult to access, especially for girls who have limited

capacity to avail legal procedures. Under Muslim personal law, a girl may seek dissolution of a marriage entered into when she was under the age of 18; however, dissolution of marriage on this basis is possible only where the marriage has not been consummated and the marriage must be repudiated by the age of 19.<sup>104</sup> This option provides a very short window for a girl to have her child marriage dissolved, and therefore is likely to be practically unavailable to many. *See Challenges to Ending Impunity For Child Marriage on p. 34.*

### Inconsistent definitions of “child”

There is no consistent definition of “child” in Bangladeshi law. As stated earlier in the report under Table 1, personal laws dictate differing “legal” ages for marriage, ranging from 14 to 21 depending on the child’s gender.<sup>105</sup> However, Bangladesh’s civil laws also do not have a uniform definition of a child. The Bangladesh Labour Act, 2006 defines a *kishore*, or adolescent, as someone who has reached the age of 14 but is under 18 years old.<sup>106</sup> The Vagrancy Act, 1943 defines a child as a person under the age of 14.<sup>107</sup> The Prevention of Oppression Against Women and Children Act, 2000 states a child is someone under 16 years of age<sup>108</sup> and the Majority Act, 1875 deems a person to have reached their majority at 18 years of age.<sup>109</sup> The lack of uniformity in the laws contributes to the social acceptance that a child under the age of 18 may be treated like an adult despite their lack of maturity and may even be punished like adults and enter into marriage.

**TABLE 2: INCONSISTENT DEFINITION OF “CHILD” IN VARIOUS LAWS**

| LAW  | AGE OF MARRIAGE  |
|--|--|
| <b>Bangladesh Labour Act of 2006</b>                                   | Defines adolescent as a person between the ages of 14 and 18 |
| <b>Vagrancy Act of 1943</b>  | Child defined as a person under the age of 14                |
| <b>Prevention of Oppression Against Women and Children Act of 2000</b> | Child is a person under 16                                   |
| <b>Majority Act of 1875</b>  | Age of majority is 18 years                                  |

### **Free and full consent is not defined in the law**

Forced marriage is criminalized in Bangladesh under very particular circumstances. It requires kidnapping or abducting a woman with the intent to compel her to marry against her will.<sup>110</sup> Laws in Bangladesh take inconsistent approaches to whether free and full consent is required in marriage, and if parental consent may be permitted to substitute for individual consent in the case of minor girls.<sup>111</sup> For example, under Muslim personal law, the consent of both parties is required for a valid marriage contract or *Nikahnama*.<sup>112</sup> However, Muslim personal law considers a boy and a girl capable of consent to marriage when they reach puberty, which is presumed to be 15,<sup>113</sup> thereby permitting the marriage of children between the age of 15 and 18. The Special Marriage Act, 1872 does not explicitly require consent but obligates each party to vow “I take thee as my lawful spouse.”<sup>114</sup> While the 2017 CMRA does not invalidate a child marriage on the basis that the child does not have the capacity to consent, it permits the marriage of “adolescents” (without defining the term) for their “greater good” with parental consent and does not make the consent of the adolescent a requirement.<sup>115</sup> Therefore, in the current context, it is unclear whether the laws of Bangladesh consider a minor to be capable of free and full consent to marriage, and if so, whether the consent of the minor is a pre-requisite to a valid marriage.

### **Inadequate punishment and compensation**

The 2017 CMRA punishes anyone who conducts or solemnizes a child marriage by imprisonment of a minimum of six months up to two years and/or a fine up to BDT 50,000 (USD 592).<sup>116</sup> However, the law’s ability to deter solemnization of such marriages may be undermined by Section 10, which permits exemptions from punishment if the accused “provides a deposition or bond in the form prescribed by the Rules that he shall not be involved with any incidents of child marriage and shall endeavor to prevent child marriage in his/her nearby community.”<sup>117</sup> Implementing rules that are currently being drafted should provide a mechanism to monitor all persons making such a deposition or bond to ensure accountability for subsequent violations. Further, as discussed above, child marriage often involves serious physical and sexual violence. The punishment for the same forms of violence and harm outside the context of child marriage is much more severe. For example, rape is punishable by imprisonment for a term not less than 10 years and a fine or for life.<sup>118</sup> However, forced sex within child marriage is not recognized as rape when the girl is above the age of 14, as explained in more detail below.

### **Inadequate enforcement**

Legislation prohibiting child marriage is not adequately enforced. The 2014 NDHS found that 59 percent of the women surveyed aged 20-24 were married before 18,<sup>119</sup> in spite of the legal prohibition. The lack

of data on the number of prosecution of persons breaching the provisions of the CMRA creates a significant barrier for assessing the impact of the legislation and efficacy of the state's efforts in addressing the problems of child marriage.<sup>120</sup> Further, there is reportedly widespread complicity by local government officials in facilitating child marriages, including accepting bribes to falsify birth certificates showing girls' ages as over 18.<sup>121</sup> Enforcement is further hampered by the existence of parallel justice systems in the form of village arbitrations or *shalish*. The *shalish* are presided over by local influential persons and they often perpetuate child marriage, such as forcing marriage as a form of reconciliation between a rape victim and her attacker.<sup>122</sup> Since the rape of a girl is seen to dishonor her and her family, marriage to her rapist is viewed as a way of restoring the family's honor.<sup>123</sup> The trauma of being forced to marry one's rapist and the likelihood of facing more abuse and violence are often ignored.

### **Insufficient statute of limitations**

Under the 2017 CMRA, a complaint of an offense must be made within two years.<sup>124</sup> This is too short a time limitation, since in many instances girls may not be able to bring a complaint to the police or court within two years of the offense due to obstacles in accessing justice. The short time frame provided to bring a complaint is likely to mean that many violations of the law will go unpunished.

### **Other Legal Issues Contributing to the Continuation of Child Marriage**

In Bangladesh, patriarchal attitudes and deep-rooted stereotypes about the roles and responsibilities of women and men in the community prevent women from reaching equal legal status in comparison to men.<sup>125</sup> This section analyzes some of the gaps in the laws that fail while safeguarding women and girls from rape and domestic violence, or protect their economic rights in marriage. Such laws exacerbate young girls' vulnerabilities in relation to child marriage.

#### **Rape**

Married girls are likely to be forced into sex by older spouses. However, forced sex by a man with a girl above the age of 14 who is his wife is not considered rape. There are two applicable laws regarding rape: the Bangladesh Penal Code (Penal Code) and the Prevention of Oppression Against Women and Children Act 2000. Section 375 of the Penal Code provides that sexual intercourse by a man with a woman without her consent is considered rape, and that sexual intercourse with a girl under the age of 14 "with or without consent" is rape.<sup>126</sup> However, under Section 375

nonconsensual sex by a man with a girl 13 years of age or older to whom he is married is not considered rape.<sup>127</sup> Therefore, the law legitimizes rape within child marriage where the girl is above 13 years of age.

The Prevention of Oppression Against Woman and Children Act 2000 (POWC Act) raised the age at which sex with a girl within marriage would be considered rape to 14 years.<sup>128</sup> Section 9 of the POWC Act explicitly states that nonconsensual sexual intercourse will be considered rape if the girl is over 14, where the sex is outside “lawful marriage,”<sup>129</sup> thereby implying that nonconsensual sexual intercourse within lawful marriage will not be considered rape if the girl is over 14. It also states that, where the girl is 14 or under, sex with her will be considered rape with or without her consent, without making any exception for sexual intercourse within a lawful marriage.<sup>130</sup>

Under Section 375 of the Penal Code, consensual sex between adolescents where the girl is under the age of 14 would also be considered rape. The provision holds a “man” liable for rape, which has been defined in the Penal Code as a male person of any age.<sup>131</sup> This provision exposes very young adolescent boys who have engaged in sexual activity with girls under the age of 14 to criminal penalties. It may also pressure adolescents who wish to engage in consensual sex to marry so that an adolescent boy can escape criminal liability for rape.

Poor enforcement of laws on rape and sexual violence also impact the rights of married girls and women married as girls. While slightly more than half of men reported in a 2011 survey and in a 2013 UN survey that they physically or sexually abused their intimate partners,<sup>132</sup> almost an equal percentage of men also stated that they were not worried about any consequences.<sup>133</sup> The 2013 UN survey reported that, of the Bangladeshi men surveyed who had perpetrated rape against a girl or women, 88 percent to 95 percent experienced no legal consequences.<sup>134</sup>

### **Domestic violence**

Married girls are more susceptible to domestic violence than women who marry later in life, and often face increased barriers when leaving abusive marriages.<sup>135</sup> It is estimated that 72.6 percent of ever-married women experience domestic violence in their lifetime,<sup>136</sup> 73 percent do not disclose their experience to anyone,<sup>137</sup> and only 2.6 percent have ever taken legal action after experiencing domestic violence.<sup>138</sup> The most common reasons for failing to take legal action include not considering it necessary,<sup>139</sup> being afraid of their husbands, being afraid of their children’s future, and stigma.<sup>140</sup> Twenty-eight percent of ever married women in Bangladesh believe that “wife beating” is justified.<sup>141</sup> The proportion of married girls who believe that wife beating is justified is also high: 28.8 percent of married women between the age of 15 and 19 believe that “wife beating” could be justified.<sup>142</sup>

In 2010, Bangladesh passed the Domestic Violence (Prevention and Protection) Act (DV Act) legally recognizing domestic violence as an offense and a violation of human rights,<sup>143</sup> and in 2013, rules were passed under the act.<sup>144</sup> The DV Act provides a range of remedies, including protection orders, residence orders, and compensation.<sup>145</sup> However, the penalties set forth under the DV Act are compoundable,<sup>146</sup> which means that the perpetrator may enter into a compromise with the victim and evade punishment.<sup>147</sup> The DV Act also imposes certain duties on police officers, including informing the victim about the availability of medical and legal aid services.<sup>148</sup> Despite the broad definition of “domestic violence,”<sup>149</sup> implementation and prosecution of the law has been weak.<sup>150</sup> Many enforcement officers have little knowledge about their obligations under the DV Act,<sup>151</sup> often encouraging victims to file complaints under stricter laws.<sup>152</sup> The impunity of perpetrators, which is in the majority of cases based on political patronage and economic influence, negatively impacts the laws aimed at addressing domestic violence. Such impunity is often encouraged by police inaction and bias toward the more powerful perpetrator.<sup>153</sup>

The DV Act does not provide for special measures for girls who are subject to violence within child marriages.<sup>154</sup> It also fails to provide a strategy for identifying child abuse within the family or provide practical assistance to ensure children have access to services.<sup>155</sup> Although a child may apply for legal relief, the remedies available for children are in reference to the relief available to their mothers.<sup>156</sup>

### **Dowry**

The dowry system engrains the vulnerability that women and girls experience in Bangladesh,<sup>157</sup> and creates a situation where daughters are susceptible to being treated as financial burdens by their families.<sup>158</sup> Families may consider it economical to give away girls in marriage since child marriages may lead to smaller dowry payments. These marriages relieve families of the additional cost of raising their daughters combined with an expensive dowry upon marriage.<sup>159</sup> Failure to fully pay a dowry is a major risk factor for men perpetrating domestic violence against their partners.<sup>160</sup> The Dowry Prohibition Act enacted in 1980 prohibits dowry in all its forms and makes it punishable by fine, imprisonment of up to five years, or both.<sup>161</sup> In spite of the prohibition, dowry demands continue to be made by the husband’s family and dowry-related violence is still prevalent across Bangladesh.<sup>162</sup> Women whose families are unable to satisfy demands of dowry suffer threats of abandonment, beatings, cigarette burns, deprivation of food and water, acid attacks and, in some cases, death.<sup>163</sup>



## Registration of births

Birth registration records are essential to ensure that women and girls have proof of age to avail themselves of legal remedies for child marriage. In 2004, Bangladesh introduced the Births and Deaths Registration Act (BDRA), requiring the registration of birth for every child within 45 days<sup>164</sup> and production of birth certificates as proof of age upon registration of marriage.<sup>165</sup> Violating the BDRA results in penalty of up to two months' imprisonment and a fine of BDT 500 (USD 6).<sup>166</sup>

Despite the law and steps by the government to introduce online birth registrations to increase use and awareness,<sup>167</sup> Bangladesh's Bureau of Statistics reported in 2006 that only 1 in 10 children under the age of 5 years was registered at birth.<sup>168</sup> According to the 2014 NDHS, this number had only risen to 20 percent by 2014.<sup>169</sup>

The low rates of birth registration indicate a weak enforcement of laws mandating it. Other reasons for the insufficient registration include the lack of awareness regarding its importance, and poor coordination between the health and education sectors and the birth registration systems, which results in many births remaining undetected by the registration system.<sup>170</sup> Birth registration is also strongly linked with socio-economic status. According to the 2014 NDHS, children under 5 from the highest wealth quintile are significantly more likely to have their births registered (28 percent) than children from the lowest wealth quintile (15.4 percent).<sup>171</sup> Given the correlation between child marriage and poverty,<sup>172</sup> the girls more likely to be married as children are also most likely to lack birth registration and therefore proof of age. Efforts to prevent child marriages are also negatively impacted because fake birth certificates are easily obtainable in Bangladesh, only costing BDT 100 (USD 1).<sup>173</sup> Without a dependable registration system and robust accountability, enforcement of the minimum legal age for marriage will remain a challenge.

## Registration of marriage

Insufficient marriage recording hinders the enforcement of the prohibition on child marriage.<sup>174</sup> The absence of marriage registration means that many of these cases will go undetected, and many women and girls will lack crucial documentation that would help them to access legal remedies. Bangladesh lacks uniform laws on the registration of marriages, and instead relies on a patchwork of personal laws to regulate marriage registration.<sup>175</sup> Christian and Muslim personal laws do require the registration of marriages, with licensed marriage registrars but due to a lack of enforcement in religious communities this is rarely adhered to.<sup>176</sup> The Muslim Marriages and Divorces (Registration) Act requires registration of a Nikahnama (marriage contract);<sup>177</sup> however, marriages are not invalidated by reason of failure to register the Nikah.<sup>178</sup> Christians are also required to register their marriages,<sup>179</sup>

but failure to register a marriage does not invalidate it. The Hindu Marriage Registration Act 2012 provides that registration of a Hindu marriage is optional and lack of registration will not invalidate the marriage.<sup>180</sup> The law provides that a marriage of a male under 21 or a female under 18 cannot be registered under the provisions of the law.<sup>181</sup> As such, it is unlikely a failure to register a Hindu marriage will carry any punishment.

### **Women's rights to divorce, maintenance, and marital property**

Muslims, Hindus, and Christians have separate laws governing divorce, maintenance, and marital property.<sup>182</sup> All three sets of personal laws contain discriminatory provisions, which are inconsistent with fundamental rights guaranteed by the Constitution.<sup>183</sup>

#### ***Muslims***

Muslim personal laws recognize marriage as a contract. A husband may unilaterally divorce his wife for any reason, whereas Muslim women must have that right delegated to them by their husband in the *Nikahnama*.<sup>184</sup> The Dissolution of Muslim Marriages Act 1939 (DMMA) permits a woman to terminate her marriage on certain specified grounds through court intervention. Under the DMMA, a girl, who was married before reaching puberty (assumed to be at 15 years of age)<sup>185</sup> may repudiate the marriage by exercising the “option of puberty.”<sup>186</sup> However, this option is available only if the marriage has not been consummated and must be exercised before the girl reaches the age of 19.<sup>187</sup> Other grounds for dissolving a marriage include “cruelty”<sup>188</sup> and failure to fulfill “marital obligations for a period of three years.”<sup>189</sup>

Under Muslim personal law, wives have a right to *mahr*, which is a property right against the husband or his family that is payable on demand and upon the termination of marriage.<sup>190</sup> However, in practice this rarely occurs with an estimated 12 percent of Muslim women receiving *mahr* in full and 22 percent being paid in part, according to the 2015 Bangladesh Bureau of Statistics on Violence Against Women.<sup>191</sup> Muslim wives also have a right to maintenance during marriage, but after divorce, maintenance can only be provided during the *iddat* period or 90 days after divorce.<sup>192</sup> However, family courts have denied maintenance on the grounds the wife had not been “dutiful,” “chaste,” or of “good character” during her marriage.<sup>193</sup> Further, it is reported that men seeking divorce often ignore the procedures, backdating notices to avoid paying maintenance during that 90 day period.<sup>194</sup>

### **Hindus**

Under Hindu law, marriage is a holy union and is considered indissoluble.<sup>195</sup> However, Hindu women can seek a court decree for a separate residence and maintenance on very limited grounds.<sup>196</sup> Examples of the grounds include when the husband “treats her with cruelty,” abandons her, remarries, or converts to another religion.<sup>197</sup> A Hindu woman is not entitled to maintenance if she is “unchaste,” converts to another religion, or fails to comply with a court decree for restitution of conjugal rights.<sup>198</sup> The amount of maintenance is determined by the court with regard to both parties’ social standing.<sup>199</sup>

### **Christians**

Christians can divorce pursuant to the Divorce Act, 1869. However, the grounds for divorce are limited. A husband can divorce his wife on the basis of adultery,<sup>200</sup> whereas wives must prove adultery in addition to another ground: conversion to another religion, bigamy, incest, rape, sodomy, bestiality, desertion for two years, or cruelty.<sup>201</sup> The unequal divorce laws have been subject to a Law Commission of Bangladesh review, with it recommending that the law be amended to include a provision for divorce by mutual consent and to widen and make equal the grounds for men and women to seek divorce.<sup>202</sup> The Married Women’s Property Act, 1874 protects Christian married women’s right to their own wages as separate from matrimonial property. Also, in the case of a divorced Christian woman, personal law obliges a husband to pay his wife maintenance if she is “chaste.”<sup>203</sup>

### **Marital Property**

Bangladesh has no legal regime for marital property, despite the fact that Bangladeshi women often make significant contributions to the marital home.<sup>204</sup> There are minor protections under the DV Act, which provide for women’s rights to reside in a “shared residence”<sup>205</sup> and recognizes “economic abuse” as a form of domestic violence.<sup>206</sup> Apart from the protection under the DV Act, neither civil nor personal laws recognize, define, or set out rules for control over marital property during marriage or divorce.<sup>207</sup>

### **Obstacles to accessing justice**

The unequal divorce rights under personal laws, and the absence of laws governing marital property, perpetuate married women’s economic dependence on men.<sup>208</sup> This traps married girls and women in abusive relationships where the option of divorce often means destitution.<sup>209</sup> In the instances where women attempt to assert their limited rights under personal laws in Bangladesh, they are faced with procedural and practical barriers that often severely delay or defeat remedies.<sup>210</sup> Women seeking *mehr* or maintenance

through the formal court process face severe court backlogs and delays,<sup>211</sup> which is problematic given that these women often need immediate economic support to manage the loss of housing and financial support from their husbands.<sup>212</sup> Further, the vague criteria for receiving maintenance, as described above, often means women face humiliating court proceedings where their husbands attempt to demonstrate how their wives were not “dutiful” or were “adulterous”<sup>213</sup> to discount them from receiving maintenance.<sup>214</sup>

### **Marriage for the purpose of trafficking**

The absence of stringent marriage registration requirements coupled with the prevalence of child marriage in Bangladesh, has created pathways for trafficking children across country borders to India and Pakistan.<sup>215</sup> There have been reports of trafficking rings recruiting men to marry girls in order to sell those girls to traffickers.<sup>216</sup> Although Bangladesh has passed laws to combat human trafficking,<sup>217</sup> the implementation and enforcement of those laws is still lacking.<sup>218</sup>

Under Section 3 of the Prevention and Suppression of Human Trafficking Act, 2012 (PSHTA) the definition of “human trafficking” is broad enough to encompass child marriage for the purposes of trafficking.<sup>219</sup> Section 3 also criminalizes those who abet and/or assist traffickers. Nevertheless, the Bangladeshi government has yet to finalize the implementing rules of the PSHTA.<sup>220</sup> This hampers the identification, rescue, and rehabilitation of trafficking victims. Further, concerns have been raised in relation to the complicity of government officials in human trafficking offenses by their continued failure to investigate these allegations.<sup>221</sup>

### **Child labor**

Child brides are likely to be coerced into a myriad of activities classified as child labor, including being forced to perform the majority of housework and to attend to the daily needs of their older husbands.<sup>222</sup> Child marriage may create conditions giving rise to “child servitude,” where child brides are forced into domestic or manual labor.<sup>223</sup> This kind of labor fulfills the International Labour Organization (ILO) definition of child labor as “work that deprives children of their childhood, their potential and their dignity...”<sup>224</sup> and includes work that interferes with a child’s education and which is mentally, physically, socially, or morally dangerous and harmful to the child.<sup>225</sup> Bangladesh has ratified numerous ILO Conventions against forced labor including the Worst Forms of Child Labour Convention, 1999.<sup>226</sup> The Labour Act, 2006 applies to “domestic servants,”<sup>227</sup> but fails to recognize that child marriage may give rise to child labor thereby denying numerous married girls safe working hours, conditions, and recourse to remedies for forced domestic labor.

## Reproductive rights

Gaps and weaknesses in laws and policies on reproductive rights further contribute to risks faced by married girls. Girls married young are likely to experience pregnancy at a young age. Early pregnancies are linked to higher rates of maternal mortality and morbidity.<sup>228</sup> Complications caused by pregnancy and childbirth are the leading cause of death for adolescent girls aged 15 to 19 globally.<sup>229</sup> Married girls face unplanned, early, and repeated pregnancies as a result of the poor access to contraceptive information and services.<sup>230</sup> Contraception is legal in Bangladesh with utilization increasing since its inclusion in government initiatives to address population growth concerns.<sup>231</sup> Contraceptives are subsidized by the Ministry of Health and Family Welfare, with services available in all divisions of Bangladesh.<sup>232</sup> However, contraceptive use is poor among adolescents, with 53 percent of married girls aged 15 to 19 reporting not using any modern contraception.<sup>233</sup> Common causes for low use include lack of agency and empowerment in the marriage.<sup>234</sup> Reproductive health education is not part of the education curriculum, although both the National Child Policy, 2011 and the Education Policy, 2010 state that measures shall be taken to provide basic reproductive health education in the secondary school syllabus.<sup>235</sup> This in itself is problematic given that only 40 percent of girls aged 16 to 20 attend school.<sup>236</sup> In addition, male-centric contraception, such as condoms, is less prevalent than female-centric contraceptives, thereby increasing the risk of sexually transmitted infections (STIs).<sup>237</sup> Considering girls are married, on average, to a man 8.3 years their elder,<sup>238</sup> there is a risk that girls may contract STIs from their older, more sexually experienced husbands.<sup>239</sup>

Child marriage is also significantly associated with a higher need for pregnancy termination.<sup>240</sup> The ability of girls to terminate unwanted pregnancy is restricted by the fact that abortion is expressly prohibited under the Penal Code save only where it is undertaken in good faith to save a woman's life.<sup>241</sup> However, "menstrual regulation" has been a part of Bangladesh's national family planning program since 1979. Under the National Guidelines on Menstrual Regulation issued by the Ministry of Health and Family Welfare, menstrual regulation is to be performed within 12 weeks<sup>242</sup> of a woman's last menstruation without confirmation of pregnancy.<sup>243</sup> In practice, access to menstrual regulation is limited because of a lack of facilities providing the service,<sup>244</sup> limited awareness of the legality of menstrual regulation,<sup>245</sup> and denials by providers. Studies have shown that more than a quarter of women asking for menstrual regulation are turned away by service providers for social or cultural reasons, including because they lack the consent of their husbands, are told that they are too young, or that they have no children.<sup>246</sup> The quality of accessible menstrual regulation services is also poor, leading 12 percent of women and girls who undergo the procedure to require follow up care.<sup>247</sup> Women and girls who are unable to access legal abortion and menstrual regulation often face serious

health risks as they are left to resort to illegal and often unsafe procedures, which are performed widely.<sup>248</sup> Women and girls married before 18 years are particularly vulnerable, as the prevalence of pregnancy termination was 4 percent higher among women married in childhood than their adult counterparts.<sup>249</sup>

It is also worth noting that the distribution of available maternal health services favors urban areas; many rural areas in Bangladesh do not have access to the same services.<sup>250</sup> For example, pregnant women in urban areas are almost two times more likely than their rural counterparts to receive the recommended four prenatal care visits (46 percent compared with 26 percent).<sup>251</sup> Almost 70 percent of rural women who had given birth did not receive post-natal check-ups, with only 40 percent of urban women.<sup>252</sup> These statistics are particularly concerning in the context of child marriages, as girls in rural areas are more likely to marry at a younger age than girls in urban areas.<sup>253</sup> However, the Ministry of Health and Family Welfare has implemented two operational plans to address the inequity in accessing maternal health by mothers from poorer wealth quintiles.<sup>254</sup>

### Case Law Related to Child Marriage

As discussed above, legislation pertaining to child marriage lacks consistency. The following Supreme Court decisions involving the 1929 CMRA highlight how this legislation has been read down in instances of conflict with personal laws related to marriage. Given that the 2017 CMRA has only recently been introduced, case law on its application is not yet publically available and it is unclear whether it will similarly be read down in the case of inconsistency with personal laws. A case has been initiated in the High Court Division of the Supreme Court of Bangladesh querying whether the “special circumstances” provision of the 2017 CMRA should be declared discriminatory and invalid under the Constitution.<sup>255</sup> The case is still pending before the High Court.<sup>256</sup>

Women and girls do not seem to be utilizing the judiciary to seek stronger enforcement of laws prohibiting child marriage, nor has it been recognized by the courts as an issue of fundamental rights. The most recent annual report published by the Supreme Court of Bangladesh did not contain any reported child marriage cases.<sup>257</sup> In fact, neither the 2014 nor 2013 annual report refer to any child marriage cases.<sup>258</sup> This further indicates that prosecution and enforcement of the 1929 CMRA have been inadequate.

The case law involving the 1929 CMRA often involves marriages which have been challenged by parents of the girls involved on the grounds that the girls were abducted or forced into marriage. Cases discuss the question of custody of the married girl if she is a minor:

whether her parents have lawful custody over her if she is a minor or whether she can be permitted to stay with her husband. Even where courts have held that a married minor girl is to be returned to the custody of her parents until she reaches majority, they have not found the marriage to be invalid. Therefore, case law does not resolve the ambiguity regarding the validity of child marriages.

In *Mst. Bakhshi v Bashir Ahmad & Anr*, 22 DLR 289 (1970), the petitioner filed for restoration of custody of her daughter pursuant to the 1929 CMRA, who being a minor under the act at that time had married the respondent and was living with him.<sup>259</sup> The court found that while procuring child marriage is prohibited, child marriage itself is not invalid.<sup>260</sup> The court further found that under Muslim personal law, the petitioner could not regain custody of her daughter as parental guardianship rights are terminated once a girl above the age of 15 is married.<sup>261</sup>

In *Fatema Begum v. Gageswar Nath & the State*, 9 BLD 469 (1989), the Supreme Court again considered whether a married girl under the age of 16 should be compelled to return to her parents. The girl's father filed a complaint alleging that his daughter was a minor and had been kidnapped. The girl, who was above 16 years of age, and the accused were taken into police custody. When the girl appeared before the court, she stated that she had married the accused of her free will. The Supreme Court held that the girl could not be considered a minor under Section 336 of the Penal Code, which states that any person who takes a female under the age of 16 "out of the keeping of the lawful guardian" is guilty of the offense of kidnapping. The Supreme Court found that there is no basis for compelling the girl to be under the custody of her father, but did not address the issue of whether the marriage was valid under the 1929 CMRA.<sup>262</sup>

On the other hand, in *Krishana Pada Dutta v. The Secretary of Home Affairs & Others*, 10 BLD 301 (1990), the Supreme Court ordered that a married girl be put in her parents' custody, even though the girl asserted before the court that she had married of her free will. The court concluded that the Majority Act read with the Guardian and Wards Act establishes that a girl is to remain under the custody of her parents until she reaches the age of 18.<sup>263</sup> The Supreme Court did not address whether the child marriage was invalid under the 1929 CMRA.

In *Bimal Kanti Roy v. The States and Others*, 46 DLR 541 (1994), a father alleged that his daughter, a minor and Hindu, had been kidnapped. When the girl was recovered by the police, she claimed that she had married the accused of her free will. Upon medical examination, it was found that the girl was above the age of 16. The Supreme Court (High Court Division) concluded that the girl must be held in judicial custody during the pendency of the trial against the accused on charges of kidnapping in order to ensure that she was "free

from all external influences during the trial.” The court reviewed previous decisions under the 1929 CMRA and found them to be “conflicting” and inconclusive with regard to who is entitled to the custody of a girl until she becomes a “major” in circumstances where “she goes away with a boy and gets married to him.”<sup>264</sup>

As the review of case law above shows, courts in Bangladesh have not established that a marriage in violation of the minimum age provisions is *void ab initio*. Nor have they resolved whether a minor girl who enters into a child marriage should be permitted to live with her husband or should be placed in her parent’s custody. The conflicting case law leads to ambiguity regarding how child marriage legislation is to be enforced and undermines its implementation.

### International Legal Obligations

Bangladesh has ratified the main international human rights instruments relevant to child marriage.<sup>265</sup> However, it has made several reservations where Convention articles conflict with Sharia law or personal laws.<sup>266</sup> The Constitution does not provide guidance on the interaction between domestic law and international conventions ratified by Bangladesh,<sup>267</sup> but it does require respect for international law. The Appellate Division of the Bangladesh Supreme Court has encouragingly pronounced that the domestic courts should not ignore the obligations of international laws; if there is no appropriate domestic law in a disputed matter, the courts should defer to the provisions and principles of international instruments.<sup>268</sup> Accordingly, whilst there is a push for Bangladesh to remove its reservations to international conventions, the preliminary issue seemingly lies in the implementation of international law into domestic legislation.

The relevant United Nations treaty monitoring bodies have encouraged Bangladesh to remove its reservations and have reminded the country of its obligations under the relevant international instruments. Examples of their comments are discussed below.

**The CRC Committee:** In the CRC Committee’s concluding observations in 2015, it considered child marriage to be a deeply harmful practice within Bangladesh and stated that the practice contravenes the legislated minimum age for marriage.<sup>269</sup> The committee noted that legislation stipulating the minimum age for marriage is not adequately and systematically interpreted or applied by administrative, legislative, and judicial bodies.<sup>270</sup> To combat this, the committee recommended developing awareness raising campaigns and programs on the harmful effects of early marriage targeted at households, local authorities, religious leaders, and



members of the judiciary.<sup>271</sup> The committee also recommended establishing protection schemes for victims of child and forced marriage and urged Bangladesh to take active measures to put an end to harmful practices against children.<sup>272</sup>

**The CEDAW Committee:** The CEDAW Committee has highlighted the discriminatory laws and provisions within national legislation, such as different definitions of “girl child” and “boy child” in various acts, and the lack of recognition of violence against women in marital relationships.<sup>273</sup> In particular, the CEDAW Committee expressed concern that the personal laws of Bangladesh regulating marriage within various religious groups continue to discriminate against women and girls and that Bangladesh has not adopted a uniform family code.<sup>274</sup> Further, the committee noted that even though the State party has adopted legislation on remedies for domestic violence, specifically the DV Act, there are a number of discrepancies between this and other legislation; for example, stipulating marital rape is not criminalized unless the victim is a child bride below the age of 14 years, which is inconsistent with the minimum age of marriage set forth in the CMRA. Additionally, the committee noted that the patriarchal traditions such as dowry payments and dowry-related violence continue to take place.<sup>275</sup> The Committee recommended adopting a clear unified family code to ensure equality of women in matters of marriage; adopting without delay legislation criminalizing all forms of violence against girls, including marital rape, irrespective of the age of the victim; and implementing awareness-raising programs for the judiciary, police, and law enforcement officials regarding violence against women and girls.<sup>276</sup>

**The Human Rights Committee:** In its first concluding observations in 2017 on review of the state’s first report under the ICCPR, the Human Rights Committee raised concerns with Bangladesh’s high rates of early marriage, particularly in refugee camps where 90 percent of families have at least one married family member under the age of 18.<sup>277</sup> While the committee noted Bangladesh had passed the 2017 CMRA, it remained concerned that marriage before the age of 18 is approved in special circumstances.<sup>278</sup> Accordingly, the committee recommended Bangladesh take immediate measures to reduce early marriage and prevent dowry practices through the implementation of appropriate legislation and campaigns which publicize the legislation outlawing such practices whilst informing girls’ parents and their community leaders of the harmful effects of early marriage.<sup>279</sup> Further, the committee recommended the State party amend the 2017 CMRA to maintain the legal minimum age of children of 18 years without exception, in accordance with international norms.<sup>280</sup>

**The ESCR Committee:** In its first concluding observations in 2018, the ESCR Committee expressed concern regarding the high incidence of child marriage and noted the weaknesses in child marriage legislation,

including the absence of provisions declaring that a child marriage is void and the “special” exception in the 2017 CMRA permitting marriage of adolescents for their greater good and with parental consent.<sup>281</sup> The committee also noted the lack of clarity regarding primacy of the 2017 CMRA over personal laws.<sup>282</sup> It expressed concern regarding the high rates of maternal mortality and morbidity, particularly among adolescent girls due to early marriage and pregnancy.<sup>283</sup> The recommendations put forth by the committee include amendments to the 2017 CMRA to rectify the gaps and loopholes and the availability of effective legal remedies for victims of child marriage.<sup>284</sup> Specifically, it expressed concern that the 2017 CMRA did not include provisions declaring child marriage to be void<sup>285</sup> and also recommended that the provision allowing child marriage in special circumstances be repealed.<sup>286</sup>

**Universal Period Review:** In October 2009, Bangladesh received specific recommendations from member states at the UN Human Rights Council to take actions to eliminate child marriage. These included implementing laws prohibiting child marriages and dowry<sup>287</sup> and taking “steps to address the culture of impunity for human rights violations by law enforcement agencies.”<sup>288</sup> Further, there were recommendations to “take further measures to prohibit all forms of violence against children.”<sup>289</sup> In May 2018, Bangladesh again received specific recommendations from member states at the Human Rights Council to take measures to eliminate the practice of child marriage.<sup>290</sup> Member states also recommended that Bangladesh take steps to prevent abuse of the provision in the 2017 CMRA permitting child marriage in special cases.<sup>291</sup>

**The Special Rapporteurs:** Rashida Manjoo, the then-UN Special Rapporteur on violence against women, its causes and consequences in her 2013 report on Bangladesh, acknowledged that while the government had undertaken legal and institutional initiatives to meet its human rights obligations in relation to women and girls, these had not been “translated into concrete improvements in the lives of the majority of women who remain marginalized, discriminated against and at high risk of being subjected to violence.”<sup>292</sup> In particular, “women’s access to justice and protection is still impeded by generalized impunity, limited access to services and shelters, lack of or insufficient legal representation and limited awareness of rights.”<sup>293</sup> Manjoo recommended that the government undertake further law and policy reform, particularly ensuring women’s constitutional rights and freedoms extended to the public and private sphere and that personal laws be amended to remove discriminatory provisions relating to marriage, divorce, and inheritance.<sup>294</sup> Manjoo also explicitly urged the government to take urgent legislative measures to prohibit child marriages and other harmful practices.<sup>295</sup>

## Political Commitments

Bangladesh has made both international and regional political commitments to end child marriage. At an international level, Bangladesh has committed to the Sustainable Development Goals (SDGs) which include eliminating all harmful practices such as child marriage and all forms of violence against women and girls in both public and private spheres.<sup>296</sup> SDG 5.3 aims to “eliminate all harmful practices, such as child, early and forced marriage.”<sup>297</sup> Indicators for the SDG include assessing the proportion of women married before 15 years of age and before 18.<sup>298</sup> Previously, in response to its adoption of the Millennium Development Goals, the Bangladeshi government had acknowledged the need to amend cultural and traditional practices favoring males over females, which they have also acknowledged has led to harmful practices such as child marriage.<sup>299</sup>

At the Global Girl Summit in 2014, then Prime Minister Sheikh Hasina,<sup>300</sup> pledged to reform the law to set tougher punishments for child marriage; finalize a national action plan on how to end child marriage under age 15 by 2021; and end all marriage of girls below age 18 by 2041.<sup>301</sup> Subsequently, a Bangladesh Girl Summit was held in October of 2014 which was jointly organized by the Ministry of Women and Children’s Affairs (MOWCA) and BRAC, a prominent international development organization.<sup>302</sup>

At a regional level, in 2014, Bangladesh, along with other South Asian Association for Regional Cooperation (SAARC) countries, adopted the Regional Action Plan to End Child Marriage in South Asia (Regional Action Plan), which reflects the government’s commitment to address the underlying causes of child marriage and promote laws and policies aimed at eliminating this practice.<sup>303</sup> In the same year, Bangladesh attended the first regional convention of representatives from SAARC member states and key stakeholders, focusing on the use of law to promote legal accountability to end child marriage.<sup>304</sup> This resulted in the adoption of the Kathmandu Call for Action to End Child Marriage in South Asia (KCA). This document sets out concrete steps to address child marriage, including strengthening enforcement of national laws and ensuring married girls can access institutional support.<sup>305</sup>

# CHALLENGES FOR ENDING IMPUNITY FOR CHILD MARRIAGE

Numerous structural, social and cultural barriers impede the enforcement of the prohibition on child marriage. Poor implementation of the law, dearth of support mechanisms for girls trapped in child marriages, and the lack of clarity in the legal framework enable the practice to continue with impunity. Compounding the effects of these gaps are the entrenched social norms that make it difficult for girls to exercise the agency to end child marriage.

## **Failure to Report Cases of Violence Against Children**

Bangladesh has implemented innovative programs to increase reporting of child abuse, such as a toll-free helpline for abused children. At the time of the helpline's official launch in October 2016, it reported to have already helped prevent 379 cases of child marriage since December 2015.<sup>306</sup> However, the CRC Committee, in its concluding observations of 2015, have nevertheless noted that child abuse including sexual abuse, remained underreported.<sup>307</sup> The Committee has raised further concerns over the lack of information available on the number of abuse cases reported through the helpline that have subsequently been investigated and prosecuted.<sup>308</sup>

Patriarchal attitudes permeate through the community, including law enforcement. Police often consider domestic violence complaints to be social issues, not legal issues.<sup>309</sup> The inaction of the police in this respect creates an atmosphere of impunity that dissuades women and girls from seeking help.<sup>310</sup> There are a number of initiatives to develop Victim Support Centers, including the Victim Support Centre established at Tejgaon Thana Model Police Station, under which rehabilitation services are provided by 10 nongovernmental organizations that have signed a Memoranda of Agreement with the police.<sup>311</sup> Reports indicate that this has encouraged victims to report crimes to the police and access professional services at the same time.<sup>312</sup> However, more must be done to tackle the stigma attached to victims of sexual violence in order to increase reporting and accountability for such crimes.<sup>313</sup>

The 2017 CMRA does not stipulate a defined process to formally bring legal action against adults who support, encourage or cause the occurrence of child marriages. The 2017 CMRA provides that the Court may “if satisfied from information laid before it through a complaint or otherwise that a child marriage in contravention of this Act has been arranged or is about to be solemnized issue an injunction against that child marriage.”<sup>314</sup> However, it does not set forth the form or procedure for the complaint. At the time of publication of this report, rules under the 2017 CMRA have not been issued and so it is not possible to state whether procedures for filing a complaint will be included in the rules. In light of this, it's unknown whether the 2017 CMRA will rectify one of the chief concerns with the 1929 CMRA regarding the lack of accessibility for women and girls to the remedies it provides.

### **Lack of Support Mechanisms for Victims**

There are no provisions in the 2017 CMRA stipulating services or alternative care facilities for girls attempting to leave a child marriage, nor does it refer to the availability of counseling and medical services for victims. Victims of child marriage only have support mechanisms if they bring an action under the DV Act. A court may award interim orders such as protection, residence, maintenance, and safe custody orders, or orders to relocate or shelter victims where they find that domestic violence is likely to occur.<sup>315</sup> The court's power to make such orders is limited to where the court is satisfied that domestic violence is likely to occur, and therefore such orders are not a matter of right for victims of child marriage. Further, there are no provisions in the 2017 CMRA or the DV Act that provide for services to build the livelihood skills of victims of child marriage or domestic violence.

The MOWCA has created a “Central Cell” on the prevention of violence against women by coordinating violence related cases with other agencies.<sup>316</sup> The government has also set up several protection measures including the establishment of seven One-Stop Crisis Centers in public hospitals (where victims receive medical, psychosocial, and legal assistance), a National Trauma Counselling Centre, and a helpline.<sup>317</sup> While government action in this respect is to be commended, research indicates that these legislative provisions remain under-utilized as victims are reluctant to use the law to seek support due to procedural obstacles, community pressure, and stigma.<sup>318</sup> A review of government run and NGO shelters also indicates that there is a limited availability and space in them.<sup>319</sup> Further, these shelters are not specifically intended for married girls and so do not necessarily have the facilities and counselling services that would be required by children. The limited availability and underutilization of safe shelters clearly limits the efficacy of protection and support services offered by the law.

Victims of child marriage may be able to apply for compensation from the court through the Children's Act 2013<sup>320</sup> or the DV Act, provided they meet eligibility requirements.<sup>321</sup> The CEDAW Committee has however recognized that girls and women face disadvantages including legal illiteracy and poverty, which prevent them from engaging in costly legal procedures.<sup>322</sup> Although there is a Legal Aid Fund for persons in need established under the Legal Aid Services Act 2000,<sup>323</sup> administered by the District Legal Aid Committee, and headed by a judge in each district of Bangladesh, the CEDAW Committee remains concerned that it is still largely inaccessible for girls and women without sufficient means.<sup>324</sup>

A key barrier to accessing remedies provided is that the legislation relies on courts to prevent child marriage and violence through injunctions, and relies on victims to report impending child marriage and violence. In this respect, the above legislation fails to recognize the power dynamics involved in child marriages, where girls subjected to them do not possess the resources necessary to seek legal recourse and remedy.<sup>325</sup> The failure to address this powerlessness is a significant impediment to the efficacy of the above legislation and related support services.

### **Poor Knowledge of the Law and Legal Age of Marriage**

Girls' knowledge with respect to the law on child marriage is unclear and difficult to assess without on the ground research. However, research indicates that secondary education attainment is the factor that most influences whether a girl will marry before the age of 18.<sup>326</sup> Accordingly, the low rates of education and literacy among girls are likely to hamper their understanding of the law on restraining child marriage. Knowledge of the legal age of marriage is also impeded by the lack of harmonization of personal laws and the 2017 CMRA on the legal age for marriage. As noted in the discussion of case law on p. 28, these age discrepancies between personal and child marriage legislation have not yet been settled in the case law. Clarity on the legal age of marriage and the legal status of child marriages is required for the general public, and children in particular, to be able to understand their legal rights in terms of challenging imminent and existing child marriages.

## Limited Prosecution of Child Marriage

There is limited data regarding the prosecution of persons pursuant to the 1929 CMRA. A survey of the available case law indicates that the 1929 CMRA is rarely enforced with prosecution.<sup>327</sup> Although Bangladesh has enacted the BDRA which requires the registration of births, there remains significant difficulty in terms of proving the age of individuals at marriage due to poor implementation of this law. According to the 2014 NDHS, the births of only 12.6 percent of children under the age of 2 had been registered.<sup>328</sup> The difficulty around age verification extends to prosecution in child marriage cases. As noted above, Supreme Court annual reports from 2013 to 2015 do not mention any child marriage related cases.<sup>329</sup>

## Limited Knowledge Among Law Enforcement Agencies About Their Roles

Since child marriage is a criminal offense, it relies on investigation by law enforcement agencies and prosecution. In practice, the police lack the capacity to handle these cases sensitively.<sup>330</sup> There are reports of a lack of basic expertise and facilities for conducting investigations, particularly in sexual violence crimes. Further, entrenched patriarchal attitudes often result in police not considering domestic violence as a legal issue, but more a social issue.<sup>331</sup> As such, domestic issues are not taken seriously, and the police sometimes fail to take immediate action against complaints of threats of violence.<sup>332</sup> The difficulty in combatting ingrained cultural beliefs thereby also affects law enforcement responses to complaints of gendered violence.

## Lack of Legal Accountability for Not Taking Required Action

The former Special Rapporteur, Rashida Manjoo, has noted that corruption is another contributing factor preventing women from accessing justice in the criminal system.<sup>333</sup> Victims and their families often have to pay bribes to police officers or use political connections to register a complaint and have investigations conducted.<sup>334</sup> It is not uncommon for perpetrators to have more influence and power than the victim, which are used to delay investigations or pressure the victim to drop the charges.<sup>335</sup> The prevalence of corruption in law enforcement severely hampers and undermines legal accountability of police to take the requisite action to combat child marriage.

### **IN FOCUS: ACCESS TO JUSTICE FOR CHILD MARRIAGE VICTIMS**

The 2017 CMRA is focused on preventing or punishing those responsible for or party to child marriages, but fails to invalidate them. Once a girl is married, it is difficult for her to access justice unless she initiates the termination of marriage. As the policy mapping has discussed, this is difficult due to the lengthy court processes, discriminatory divorce provisions and the fact that these women often face economic and social destitution if they leave the marriage.<sup>336</sup> As such, there is a gap in the law for protections specifically targeted at girls who wish to escape child marriages.

The DV Act provides remedies for women leaving abusive marriages, but it may not necessarily cover victims of child marriage despite the continuum of harm such a practice produces. Shelter homes have been set up where women may reside for up to six months (this may be extended a further six months),<sup>337</sup> temporary shelter services such as the One-Stop Crisis Center, and transitional residential facilities (such as the Victim Support Centers for a five-day maximum stay).<sup>338</sup> However, the 2017 CMRA does not provide for the establishment of institutions catering specifically to the needs of victims of child marriage that enable reintegration into mainstream education or provide skills training to help women married as girls to support themselves. As the current 2017 CMRA stands, married girls will have difficulty accessing justice and support in the absence of guarantees of legal and medical aid, counselling, and financial support.



# CONCLUSIONS AND RECOMMENDATIONS

The government has an obligation to prevent, protect, prosecute, punish and provide redress for acts that perpetuate child marriage, through both legislative and institutional mechanisms. The failure of the government to adequately implement accountability mechanisms and procedures for seeking legal redress for child marriage and to remove barriers to their accessibility violates its obligation to guarantee legal remedies for violations of human rights. In addition, the failure of the government to address gaps and loopholes in the legal framework permits child marriage to continue with impunity.

## Legislative Bodies

- Repeal the provision for “special” exceptions in the 2017 CMRA that allows girls to be entered into marriage through judicial authorization sought by parents or guardians without consideration of their opinions.
- Declare marriage below the minimum legal age as void and having no legal effect under any custom, religion or traditional practice. Take measures to ensure that girls in legally void marriages have access to special measures of protection. Ensure adequate awareness of this legal change before it is implemented and ensure the protection of girls who are married under local custom and may be left vulnerable due to lack of legal status accorded to their marriage.
- Clarify that child marriage legislation prevails over contradictory personal laws with respect to minimum age of marriage.
- Provide legislative guarantees ensuring that victims of child marriage have rights of maintenance, as well as other support mechanisms, including financial, legal, and psychological assistance and access to shelter.
- Introduce penalties for officials, including police and magistrates who do not take action on complaints of incidents of child marriage and take measures to prevent child marriages.
- Review and amend discriminatory laws against women and girls in the area of divorce and maintenance that promote child marriages and exacerbate its harm, specifically personal laws that impose procedural obstacles on women seeking to terminate a marriage and fail to provide adequate financial security to women.

### **National and State Executive Bodies, including Governmental Ministries and Law Commissions**

- Make rules for the implementation of the 2017 CMRA, providing protection mechanisms for children, including guarantees for legal and medical aid, referral to shelters, and economic support.
- Expand the remedies provided to children forced into child marriages by, for example, enabling courts to pass protection, residence, and compensation orders as provided for women in the DV Act.
- Establish child marriage prevention committees as required under Section 3 of the 2017 CMRA and develop clear terms of reference for such committees. Include among the duties of these committees, the responsibility to monitor and record cases of child marriage in their jurisdiction and to assist victims in accessing legal and medical aid and other protection services.
- Develop, in collaboration with the Ministry of Law, Justice and Parliamentary Affairs and Ministry of Women and Children's Affairs, training programs for police officers and local government officials on laws related to child marriage, and steps to take in order to prevent and, if applicable, prosecute child marriages.
- Develop a comprehensive curriculum for engaging the judiciary, police, and public prosecutors concerning child marriage and girls' rights under the 2017 CMRA and related laws, integrating periodic follow-up sessions for all functionaries on legal developments.
- Strengthen the capacity of legal actors to provide legal services to women and girls, including lawyers and NGOs providing legal services.
- Develop and implement media and public education campaigns to highlight the harms of child marriage and raise awareness of the benefits of avoiding child marriage, such as better chances of education and formal employment, especially for girls.
- Take steps to ensure universal and mandatory registration of births and marriages; establish systems for better coordination between health and education sectors and birth registration systems; and develop awareness campaigns to communicate the importance of birth and marriage registration to the public.

## National, State, and Local Judiciary

- Hold government officials accountable for failure to take action as per the law to prevent child marriage and recognize child marriage as a fundamental rights violation.
- Establish a mechanism to systematically track progress in terms of implementing the judicial rulings in cases concerning child marriage.

## National Human Rights Institutions

- Collect, monitor, and investigate reports of child marriage and liaise with law enforcement agents to ensure the provision of effective legal remedies.
- Conduct a national inquiry to identify barriers faced by women and girls in seeking access to justice in the context of child marriage, including legal remedies following a child marriage.
- Develop recommendations to create awareness and promote legal accountability for child marriage.

## Civil Society Organizations

- Lead community campaigns to raise awareness of the illegality of child marriage and the continuum of harms resulting from the practice.
- Support victims of child marriage in accessing protection mechanisms and legal remedies, such as by providing legal counseling, legal aid, and information on their rights and the procedures to claim those rights.
- Promote strategic litigation to hold authorities and officials at all levels accountable for the failure to prosecute, prevent, and investigate child marriage.

## UN Agencies and International Non-Governmental Organizations

- Support the Bangladesh government in strengthening legal mechanisms and procedures to eliminate child marriage and address human rights violations resulting from the practice.
- Take measures to prevent child marriages in Rohingya refugee camps by providing alternative means for families to alleviate economic pressure and increase access to education for Rohingya girls.
- Promote accountability for child marriage, including by providing technical and other support to government agencies for the implementation of recommendations made by UN treaty monitoring bodies and during the Universal Periodic Review.

## Endnotes

- <sup>1</sup> Girls Not Brides, *Bangladesh*, available at <http://www.girlsnotbrides.org/child-marriage/bangladesh/> [hereinafter Girls Not Brides, *Bangladesh*].
- <sup>2</sup> GOVERNMENT OF BANGLADESH, MINISTRY OF HEALTH AND FAMILY WELFARE, BANGLADESH DEMOGRAPHIC AND HEALTH SURVEY 2014, 41 [hereinafter NDHS 2014].
- <sup>3</sup> *Id.*
- <sup>4</sup> Child Marriage Restraint Act 2017, sec. 2(3) [hereinafter CMRA 2017].
- <sup>5</sup> Avon Global Centre for Women and Justice, *Child Marriage in Bangladesh: Causes, Consequences and Legal Frameworks 7-12 (2013)* [hereinafter Avon, *Child Marriage in Bangladesh*]; INTERNATIONAL DEVELOPMENT LAW ORGANIZATION (IDLO), BANGLADESH COUNTRY REPORT: STRENGTHENING THE LEGAL PROTECTION FRAMEWORK FOR GIRLS IN INDIA, BANGLADESH, KENYA AND LIBERIA 73 (2010) [HEREINAFTER BANGLADESH COUNTRY REPORT 2010]; see also World Vision, *Before She's Ready: 15 Places Girls Marry by 15*, 15-16 (2012), available at [http://www.wvi.org/sites/default/files/publications\\_Before%20Shes%20Ready.pdf](http://www.wvi.org/sites/default/files/publications_Before%20Shes%20Ready.pdf) [hereinafter *Before She's Ready*].
- <sup>6</sup> *Id.*
- <sup>7</sup> *Before She's Ready*, *supra* note 5 at 8.
- <sup>8</sup> PLAN ASIA REGIONAL OFFICE AND INTERNATIONAL CENTER FOR RESEARCH ON WOMEN, ASIA CHILD MARRIAGE INITIATIVE: SUMMARY OF RESEARCH IN BANGLADESH, INDIA AND NEPAL, 17 (2013), available at <https://www.icrw.org/wp-content/uploads/2016/10/PLAN-ASIA-Child-Marriage-3-Country-Study.pdf> [hereinafter Asia Child Marriage Initiative].
- <sup>9</sup> Demographic and Health Surveys Program and International Center for Diarrhoeal Disease Research, *Why So Young? The Social Context of Early Childbearing and Contraception among Young Women in Khulna, Bangladesh*, 12 (2016), available at <http://dhsprogram.com/pubs/pdf/FA99/FA99.pdf> [hereinafter the DHS Further Analysis Reports 2016].
- <sup>10</sup> Muslim Family Law Ordinance 1961, sec.6-8 [hereinafter MFLO 1961] (Muslim personal laws for example, which applies to almost 90% of people across Bangladesh, permits polygamy for men and includes unequal provisions on divorce).
- <sup>11</sup> NDHS 2014, *supra* note 2 at 42, Table 4.4 (Median age at first marriage by background characteristics).
- <sup>12</sup> Avon, *Child Marriage in Bangladesh*, *supra* note 5, at 9.
- <sup>13</sup> *Before She's Ready*, *supra* note 5 at 10.
- <sup>14</sup> *Id.*, at 6.
- <sup>15</sup> HUMAN RIGHTS WATCH, MARRY BEFORE YOUR HOUSE IS SWEEP AWAY: CHILD MARRIAGE IN BANGLADESH 132 (2015), available at [https://www.hrw.org/sites/default/files/report\\_pdf/bangladesh0615\\_web.pdf](https://www.hrw.org/sites/default/files/report_pdf/bangladesh0615_web.pdf) [hereinafter Marry Before Your House is Swept Away].
- <sup>16</sup> *Id.*, at 40.
- <sup>17</sup> IPCC ET AL., REPORT ON BANGLADESH LAUNCH OF THE FIFTH ASSESSMENT REPORT (AR5) OF THE INTERGOVERNMENTAL PANEL ON CLIMATE CHANGE 3 (2014), available at <http://cdkn.org/wp-content/uploads/2014/05/Report-on-IPCC-outreach-events-Bangladesh-.pdf>.
- <sup>18</sup> Laurie Goering, *With climate change driving child marriage risks, Bangladesh fights back*, THOMAS REUTERS FOUNDATION (2017), available at <https://www.zilient.org/article/climate-change-driving-child-marriage-risks-bangladesh-fights-back>.
- <sup>19</sup> *Id.*
- <sup>20</sup> INTERNATIONAL CENTER FOR RESEARCH ON WOMEN, CHILD MARRIAGE IN SOUTH ASIA: REALITIES, RESPONSES AND THE WAY FORWARD, 6 (2013), available at [https://www.icrw.org/wp-content/uploads/2016/10/Child\\_marriage\\_paper-in-South-Asia.2013.pdf](https://www.icrw.org/wp-content/uploads/2016/10/Child_marriage_paper-in-South-Asia.2013.pdf).
- <sup>21</sup> *Id.*, at 43.
- <sup>22</sup> MARRY BEFORE YOUR HOUSE IS SWEEP AWAY, *supra* note 15 at 42.
- <sup>23</sup> United Nations Security Council, *Report of the Secretary General on Conflict-Related Sexual Violence*, para. 55, S/2018/250 (23 March 2018).
- <sup>24</sup> INTER-AGENCY WORKING GROUP ON REPRODUCTIVE HEALTH IN CRISES, WOMEN AND GIRLS CRITICALLY UNDERSERVED IN THE ROHINGYA HUMANITARIAN RESPONSE, 1 (2018), available at <https://reliefweb.int/sites/reliefweb.int/files/resources/IAWG%20Statement%20on%20Rohingya%20Humanitarian%20Response.pdf>.
- <sup>25</sup> United Nations Security Council, *8234<sup>th</sup> Meeting: Armed Groups, Government Forces Continue Wielding Sexual Violence as Tool of War Despite Progress in Ending Impunity, Security Council Hears in Day-long Debate (2018)*, available at <https://www.un.org/press/en/2018/sc13299.doc.htm>.
- <sup>26</sup> Fiona Macgregor, *Rohingya Girls As Young As 12 Compelled to Marry Just To Get Food*, THE GUARDIAN (2017) available at <https://www.theguardian.com/global-development/2017/nov/30/young-rohingya-girls-bangladesh-compelled-marry-food-rations>.
- <sup>27</sup> *Id.*
- <sup>28</sup> Avon, *Child Marriage in Bangladesh*, *supra* note 5, at 14-15.
- <sup>29</sup> World Health Organization (WHO) Secretariat, *Early marriages, adolescent and young pregnancies: Report by the Secretariat*, para. 11, A65/13 (Mar. 16, 2012).
- <sup>30</sup> UNICEF, ADOLESCENT EMPOWERMENT PROJECT IN BANGLADESH 1 (2009), available at [http://www.unicef.org/bangladesh/Adolescent\\_Empowerment\\_\(KA\).pdf](http://www.unicef.org/bangladesh/Adolescent_Empowerment_(KA).pdf).
- <sup>31</sup> World Health Organization (WHO), *WHO Guidelines on Preventing Early Pregnancy and Poor Reproductive Outcomes Among Adolescents in Developing Countries*, 2 (2011).
- <sup>32</sup> *Id.*, at 3-4.
- <sup>33</sup> Acharya Dev Raj et al., *Factors Associated with Teenage Marital Pregnancy in South Asia: A Systematic Review*, HEALTH SCIENCE JOURNAL 1, 4 (2010).
- <sup>34</sup> NDHS 2014, *supra* note 2, at 62.
- <sup>35</sup> Avon, *Child Marriage in Bangladesh*, *supra* note 5, at 16.
- <sup>36</sup> UNICEF, EARLY MARRIAGE CHILD SPOUSES, 10 (2001), available at <https://www.unicef-irc.org/publications/pdf/digest7e.pdf> [hereinafter UNICEF, Early Marriage].
- <sup>37</sup> Avon, *Child Marriage in Bangladesh*, *supra* note 5, at 13.
- <sup>38</sup> International Center for Research on Women, "Seeking Policy Solution", *Too Young to Wed: Education and Action Toward Ending Child Marriage* (2015).
- <sup>39</sup> Special Rapporteur on contemporary forms of slavery, including its causes and consequences, *Thematic report on servile marriage*, para. 14-17, U.N. Doc. A/HRC/21/41 (July 10, 2012) (by Gulnara Shahinian) [hereinafter Special Rapporteur, *Thematic report on servile marriage*].

- <sup>40</sup> *Before She's Ready*, *supra* note 5 at 11; Committee on the Elimination of Discrimination against Women (CEDAW) and Committee on the Rights of the Child (CRC), *Joint general recommendation No. 31 of the Committee on the Elimination of Discrimination against Women/general comment No. 18 of the Committee on the Rights of the Child on harmful practices*, para. 22, U.N. Doc. CEDAW/C/GC/31-CRC/C/GC/18 (2014).
- <sup>41</sup> Avon Global Centre for Women and Justice, *Child Marriage in Bangladesh: Impact of Discriminatory Personal Laws (2013)*, available at <http://www.ohchr.org/Documents/Issues/Women/WRGS/ForcedMarriage/NGO/WomenAndJusticeFellow5.pdf> [hereinafter Avon, *Impact of Discriminatory Personal Laws*]; Avon, *Child Marriage in Bangladesh*, *supra* note 5, at 13.
- <sup>42</sup> CEDAW Committee, *General Recommendation No. 21: Equality in Marriage and Family Relations* (1994), at 337, paras. 36-37, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).
- <sup>43</sup> *Id.*
- <sup>44</sup> Office of the High Commissioner for Human Rights (OHCHR) in Nepal, *Opening the Door to Equality: Access to Justice for Dalits in Nepal* 10 (2011) [hereinafter OHCHR, *Opening the Door to Equality* (2011)].
- <sup>45</sup> THE CONSTITUTION OF BANGLADESH, 1972, ART. 7.
- <sup>46</sup> *Id.*, art. 44.
- <sup>47</sup> *Id.*, art. 32. In *Salem Ullah v Bangladesh*, 55 DLR 1 and Dr. Mohiuddin Farooque v. Bangladesh, 22 BLD (HDC) 534 (2002), the High Court Division held that the State is bound to protect the health and longevity of the people by preserving a pollution free environment as it affects the people's right to life. In *Prof. Nurul Islam v. Bangladesh*, 52 DLR 413 (2000), the High Court Division held that the government should have banned advertisements of tobacco products because tobacco consumption is detrimental to the life of an individual. The State has a duty to provide to all its citizens the right to life which includes the right to sound mind and health.
- <sup>48</sup> *Id.*, art. 34.
- <sup>49</sup> *Id.*, art. 28(2).
- <sup>50</sup> *Id.*, art. 27.
- <sup>51</sup> *Id.*, art. 35(5); see also *State v. Secretary, Ministry of Law, Justice & Parliamentary Affairs and Others (Suo Motu Rule No.5621 of 2009)* 29 BLD 656 (2009) (the Bangladesh High Court Division has recognized that separating a child from her mother against her will "can be nothing other than cruel and inhuman treatment" in violation of the CRC and the Bangladesh Constitution).
- <sup>52</sup> THE CONSTITUTION OF BANGLADESH, 1972, ART. 28(4).
- <sup>53</sup> *Id.*, art. 17(a).
- <sup>54</sup> NDHS 2014, *supra* note 2 at 41 (the median age for marriage was 16.1 in 2014).
- <sup>55</sup> M Niaz Asadullah and Zaki Wahhaj, *Child Marriage Law and Freedom of Choice*, THE DAILY STAR (2015), available at <http://www.thedailystar.net/op-ed/politics/child-marriage-law-and-freedom-choice-134188>.
- <sup>56</sup> *Id.*
- <sup>57</sup> SHABINA BEGUM, ENDING EARLY AND FORCED MARRIAGE: BANGLADESH AND UK PERSPECTIVE 5-6 (2016), available at [http://www.ohchr.org/Documents/Issues/Women/WRGS/Earlyforcedmarriage/NGOs\\_Individuals/ShabinaBegum.pdf](http://www.ohchr.org/Documents/Issues/Women/WRGS/Earlyforcedmarriage/NGOs_Individuals/ShabinaBegum.pdf) [hereinafter Ending Early and Forced Marriage].
- <sup>58</sup> Heather Barr, *Huge Step Backwards on Child Marriage in Bangladesh*, HUMAN RIGHTS WATCH (2016), available at <https://www.hrw.org/news/2016/12/01/huge-step-backwards-child-marriage-bangladesh>.
- <sup>59</sup> *Id.*
- <sup>60</sup> *Id.*
- <sup>61</sup> Child Marriage Restraint Act, 1929, secs. 4-6 [hereinafter CMRA 1929].
- <sup>62</sup> CMRA 2017, *supra* note 4, at 3.
- <sup>63</sup> *Id.*, at 4.
- <sup>64</sup> *Id.*, at 19.
- <sup>65</sup> SARAH HOSSAIN AND LYNN WELCHMANN EDS., LEGAL REMEDIES FOR FORCED MARRIAGE IN BANGLADESH, REMEDIES FOR FORCED MARRIAGE: A HANDBOOK FOR LAWYERS 6 (2014) [hereinafter LEGAL REMEDIES FOR FORCED MARRIAGE IN BANGLADESH].
- <sup>66</sup> Muslim Personal Laws (Shariat) Application Act 1937.
- <sup>67</sup> CENTER FOR REPRODUCTIVE RIGHTS, CHILD MARRIAGE AND PERSONAL LAWS IN SOUTH ASIA (2014) citing SIR DINSHAH FARDUNJI MULLA, PRINCIPLES OF MAHOMEDAN LAW, 115 (1907) [hereinafter PRINCIPLES OF MAHOMEDAN LAW].
- <sup>68</sup> Muslim Marriages and Divorce (Registration) Act 1974, sec. 4 [hereinafter MMD Act 1974].
- <sup>69</sup> *Id.*
- <sup>70</sup> LEGAL REMEDIES FOR FORCED MARRIAGE IN BANGLADESH, *supra* note 66.
- <sup>71</sup> Hindu Marriage Registration Act 2012 [hereinafter HMRA 2012].
- <sup>72</sup> Christian Marriage Act 1872, sec. 19 [hereinafter CMA 1872].
- <sup>73</sup> *Id.*, sec. 7.
- <sup>74</sup> Special Marriage Act 1872, Preamble [hereinafter SMA 1872].
- <sup>75</sup> *Id.*
- <sup>76</sup> *Id.*, sec. 2(2).
- <sup>77</sup> *Id.*, sec. 2(3).
- <sup>78</sup> GOVERNMENT OF BANGLADESH, MINISTRY OF WOMEN AND CHILDREN AFFAIRS, EFFORTS AND INITIATIVES TO END CHILD MARRIAGE IN BANGLADESH, 2018-2030 (on file with the Center for Reproductive Rights)
- <sup>79</sup> GOVERNMENT OF BANGLADESH, MINISTRY OF WOMEN AND CHILDREN AFFAIRS, NATIONAL CHILDREN POLICY (2011) available at <http://ecd-bangladesh.net/document/documents/National-Children-Policy-2011-English-04.12.2012.pdf> [hereinafter NATIONAL CHILDREN POLICY 2011].
- <sup>80</sup> GOVERNMENT OF BANGLADESH, MINISTRY OF WOMEN AND CHILDREN AFFAIRS, NATIONAL WOMEN DEVELOPMENT POLICY (2011), available at [http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/64238d39\\_0ecd\\_4a56\\_b00c\\_b834cc54f88d/National-Women-Policy-2011English.pdf](http://mowca.portal.gov.bd/sites/default/files/files/mowca.portal.gov.bd/policies/64238d39_0ecd_4a56_b00c_b834cc54f88d/National-Women-Policy-2011English.pdf) [hereinafter NATIONAL WOMEN DEVELOPMENT POLICY (2011)].
- <sup>81</sup> GOVERNMENT OF BANGLADESH, MINISTRY OF HEALTH AND FAMILY WELFARE, NATIONAL STRATEGY FOR ADOLESCENT HEALTH 2017-2030 (2016), available at [http://dgfp.portal.gov.bd/sites/default/files/files/dgfp.portal.gov.bd/page/3c2651ae\\_a604\\_4f86\\_8a15\\_1b44586ca8d4/](http://dgfp.portal.gov.bd/sites/default/files/files/dgfp.portal.gov.bd/page/3c2651ae_a604_4f86_8a15_1b44586ca8d4/)

- DGFP\_National%20ARH%20Strategy,%20Bangladesh%20(2007).pdf [hereinafter NATIONAL STRATEGY FOR ADOLESCENT HEALTH 2017-2030].
- <sup>82</sup> GOVERNMENT OF BANGLADESH, MINISTRY OF HEALTH AND FAMILY WELFARE, BANGLADESH POPULATION POLICY, para. 5.5 (2012), available at [http://bangladesh.gov.bd/sites/default/files/files/bangladesh.gov.bd/policy/98896a22\\_df81\\_4a82\\_b70c\\_24125dec56d7/Bangladesh-Population-Policy-2012.pdf](http://bangladesh.gov.bd/sites/default/files/files/bangladesh.gov.bd/policy/98896a22_df81_4a82_b70c_24125dec56d7/Bangladesh-Population-Policy-2012.pdf) [hereinafter BANGLADESH POPULATION POLICY (2012)].
- <sup>83</sup> NATIONAL CHILDREN POLICY (2011), *supra* note 80 at 11.
- <sup>84</sup> *Id.*
- <sup>85</sup> NATIONAL CHILDREN POLICY (2011), *supra* note 80 at 11.
- <sup>86</sup> *Id.*, at 12.
- <sup>87</sup> NATIONAL WOMEN DEVELOPMENT POLICY (2011), *supra* note 81 at 15.
- <sup>88</sup> *Id.*, at 29.
- <sup>89</sup> NATIONAL STRATEGY FOR ADOLESCENT HEALTH 2017-2030, *supra* note 82 at 10.
- <sup>90</sup> *Id.*, at 13.
- <sup>91</sup> *Id.*
- <sup>92</sup> BANGLADESH POPULATION POLICY (2012), *supra* note 83 at para. 5.5.
- <sup>93</sup> Ruma Paul and Nita Bhalla, *Bangladesh new law allowing child brides may legitimize rape: charities*, REUTERS (2017), available at <http://www.reuters.com/article/us-bangladesh-child-marriage-idUSKBN16855I>.
- <sup>94</sup> *Id.*, at 4.
- <sup>95</sup> ENDING EARLY AND FORCED MARRIAGE, *supra* note 58 at 4-6.
- <sup>96</sup> MFLO 1961, *supra* note 10.
- <sup>97</sup> Bakshi v Bashir Ahmed PLD 1970 SC 323 at 324 (1970) (Uncodified Muslim personal laws have generally held that girls reach puberty at the age of 15 years).
- <sup>98</sup> *Mandatory Registration for Hindu Marriage Must*, THE DAILY STAR (2016), available at <http://www.thedailystar.net/city/mandatory-hindu-marriage-reg-must-ensure-rights-786565> (it must be noted that this Act is for the voluntary registration of Hindu marriages. Registration is not mandated and it prohibits the voluntary registration of marriages between a woman below 18 years of age and a man under 21 years).
- <sup>99</sup> CMA 1872, *supra* note 73.
- <sup>100</sup> SMA 1872, *supra* note 75 sec. 2.
- <sup>101</sup> *Id.*
- <sup>102</sup> CMRA 2017, *supra* note 4.
- <sup>103</sup> CMRA 1929, *supra* note 63.
- <sup>104</sup> Dissolution of Muslim Marriages Act 1939, sec. 2(vii) [hereinafter DMMA 1939].
- <sup>105</sup> See for example the SMA 1872 contrasted against the CMA 1872.
- <sup>106</sup> The Bangladesh Labour Act 2006, sec. 1(8).
- <sup>107</sup> The Vagrancy Act 1943 sec. 2(3).
- <sup>108</sup> The Suppression of Violence against Women and Children Act 2000, sec. 2(k).
- <sup>109</sup> The Majority Act 1875, sec. 3.
- <sup>110</sup> Bangladesh Penal Code, 1860, sec. 376.
- <sup>111</sup> See CMA 1872, *supra* note 73, at sec. 19.
- <sup>112</sup> MFLO 1961, *supra* note 10 at sec. 10.
- <sup>113</sup> PRINCIPLES OF MAHOMEDAN LAW, *supra* note 68 at 115.
- <sup>114</sup> SMA 1872, *supra* note 75, sec. 11.
- <sup>115</sup> CMRA 2017, *supra* note 4, at 19.
- <sup>116</sup> *Id.*
- <sup>117</sup> *Id.*, at 10.
- <sup>118</sup> Bangladesh Penal Code, 1860, sec. 376.
- <sup>119</sup> NDHS 2014, *supra* note 2, at 39.
- <sup>120</sup> THOMSON REUTERS FOUNDATION, PROTECTING THE GIRL CHILD LEGAL ANNEX: USING THE LAW TO END CHILD, EARLY AND FORCED MARRIAGE AND RELATED HUMAN RIGHTS VIOLATIONS, 16 (2014).
- <sup>121</sup> AVON GLOBAL CENTER FOR WOMEN AND JUSTICE, CHILD MARRIAGE IN BANGLADESH: BIRTH AND MARRIAGE REGISTRATION, 10 (2013).
- <sup>122</sup> ODHIKAR, THE BATTLE CONTINUES, ASPECTS OF VIOLENCE AGAINST WOMEN IN BANGLADESH, 10 (2012), available at <http://odhikar.org/wp-content/uploads/2012/12/publication-violence-against-women-2012-part1-eng.pdf> [hereinafter ODHIKAR, THE BATTLE CONTINUES].
- <sup>123</sup> *Id.*, at 10.
- <sup>124</sup> CMRA 2017, *supra* note 4, at 18.
- <sup>125</sup> CEDAW Committee, *Concluding Observations: Bangladesh*, U.N. Doc. CEDAW/C/BGD/CO/8 (2016).
- <sup>126</sup> Bangladesh Penal Code, 1860, secs. 376-376.
- <sup>127</sup> *Id.*, sec. 375.
- <sup>128</sup> Prevention Of Violence Against Women And Children Act 2000, sec 2(k) & 9.
- <sup>129</sup> *Id.*
- <sup>130</sup> *Id.*
- <sup>131</sup> Bangladesh Penal Code, 1860, sec. 10.
- <sup>132</sup> ICDDR,B, ET AL. MEN'S ATTITUDES AND PRACTICES REGARDING GENDER AND VIOLENCE AGAINST WOMEN IN BANGLADESH, 20 (2012), available at <http://menengage.org/wp-content/uploads/2014/06/GBV-Bangladesh-.pdf> [hereinafter MEN'S ATTITUDES AND PRACTICES REGARDING GENDER AND VIOLENCE AGAINST WOMEN IN BANGLADESH]; PARTNERS FOR PREVENTION, WHY DO SOME MEN USE VIOLENCE AGAINST WOMEN AND HOW CAN WE PREVENT IT, 34 (2013), available at <http://www.partners4prevention.org/sites/default/files/resources/p4p-report.pdf> [hereinafter WHY DO SOME MEN USE VIOLENCE AGAINST WOMEN].
- <sup>133</sup> MEN'S ATTITUDES AND PRACTICES REGARDING GENDER AND VIOLENCE AGAINST WOMEN IN BANGLADESH, *supra* note 138 at 25.
- <sup>134</sup> WHY DO SOME MEN USE VIOLENCE AGAINST WOMEN, *supra* note 134, at 45.
- <sup>135</sup> Avon, *Child Marriage in Bangladesh*, *supra* note 5, at 13 (Married girls face difficulty leaving marriages due to their isolation from their support networks and the power imbalance within their marriage).
- <sup>136</sup> GOVERNMENT OF BANGLADESH, MINISTRY OF PLANNING, REPORT ON VIOLENCE AGAINST WOMEN SURVEY 2015 [hereinafter BANGLADESH REPORT ON VAW].
- <sup>137</sup> *Id.*, at 32 (73% of women surveyed did not disclose their experience of domestic violence to anyone).
- <sup>138</sup> *Id.*, at 35.
- <sup>139</sup> NDHS 2014, *supra* note 2, at 194 (1 in 5 women believe wife beating is justified when she argues with her husband).

- <sup>140</sup> BANGLADESH REPORT ON VAW, *supra* note 139 at 37.
- <sup>141</sup> NDHS 2014, *supra* note 2 at 194-195.
- <sup>142</sup> *Id.*
- <sup>143</sup> Domestic Violence (Prevention and Protection) Act 2010, preamble [hereinafter Domestic Violence Act 2010]. See also, *Shahnaz Huda, BNWLA, and Plan International, Five Years After Bangladesh's Domestic Violence (Prevention & Protection) Act 2010: Is it Helping Survivors*, 9 (2016), available at <https://www.planusa.org/docs/phr-domestic-violence-2016.pdf> [hereinafter *Shahnaz Huda, Five Years After Domestic Violence Act*].
- <sup>144</sup> Domestic Violence (Prevention and Protection) Rules 2013.
- <sup>145</sup> Domestic Violence Act 2010, *supra* note 144, secs. 14, 15 and 16.
- <sup>146</sup> *Id.*, sec. 3.
- <sup>147</sup> *Five Years After Domestic Violence Act*, *supra* note 144 at 33.
- <sup>148</sup> Domestic Violence Act 2010, *supra* note 144, at sec. 4.
- <sup>149</sup> *Id.*, sec. 3 (domestic violence is defined broadly to encompass physical, psychological, sexual and economic abuse).
- <sup>150</sup> Special Rapporteur on Violence against Women, *Rep. of the Special Rapporteur on violence against women, its causes and consequences, Rashida Manjoo – Addendum – Mission to Bangladesh*, para. 15, U.N. Doc. A/HRC/26/38/Add.2 (May 20-29, 2013) [hereinafter *Rep. of the Special Rapporteur on violence against women, its causes and consequences, Mission to Bangladesh*].
- <sup>151</sup> *Five Years After Domestic Violence Act*, *supra* note 144 at 35; CEDAW Committee, *Concluding Observations: Bangladesh*, para. 19, U.N. Doc. CEDAW/C/BGD/CO/8 (2016).
- <sup>152</sup> *Five Years After Domestic Violence Act*, *supra* note 144 at 36.
- <sup>153</sup> *Id.*
- <sup>154</sup> *Id.*, at 12.
- <sup>155</sup> *Id.*
- <sup>156</sup> *Id.*
- <sup>157</sup> Farah Deebea Chowdhury, *Dowry, Women, and Law in Bangladesh*, 24(2) INTERNATIONAL JOURNAL OF LAW, POLICY, AND FAMILY, 198 (2010) (dowry refers to the “transmission of large sums of money, jewellery, cash and other goods from the bride’s family to the groom’s family” whereas dower is an amount that is paid by the husband to his wife to show his intention to marry her).
- <sup>158</sup> Ladan Askari, *The Convention on the Rights of the Child: The Necessity of Adding a Provision to Ban Child Marriages*, 5 JOURNAL OF INTL. & COMP. LAW, 126 (1998).
- <sup>159</sup> *Id.*
- <sup>160</sup> WHY DO SOME MEN USE VIOLENCE AGAINST WOMEN, *supra* note 134 at 74.
- <sup>161</sup> The Dowry Prohibition Act 1980, secs. 3-4.
- <sup>162</sup> *Rep. of the Special Rapporteur on violence against women, its causes and consequences, Mission to Bangladesh*, *supra* note 155 at para. 40.
- <sup>163</sup> *Id.*
- <sup>164</sup> Births and Deaths Registration Act 2004, secs. 5, 6, 7 and 8.
- <sup>165</sup> *Id.*, sec. 18.
- <sup>166</sup> *Id.* sec. 21.
- <sup>167</sup> *Id.*, secs. 5 and 18(3). CRC Committee, *Consideration of Reports Submitted by States Parties under Article 44 of the Convention, fifth periodic reports of States parties due in 2012: Bangladesh*, para. 129, U.N. Doc. CRC/C/BGD/5 (2014).
- <sup>168</sup> BANGLADESH COUNTRY REPORT 2010, *supra* note 5 at 3.
- <sup>169</sup> NDHS 2014, *supra* note 2 at 20.
- <sup>170</sup> UNICEF, BIRTH REGISTRATION IN BANGLADESH, 2 (2010), available at [https://www.unicef.org/bangladesh/Birth\\_Registration\(1\).pdf](https://www.unicef.org/bangladesh/Birth_Registration(1).pdf).
- <sup>171</sup> NDHS 2014, *supra* note 2 at 20.
- <sup>172</sup> *Id.*, at 42.
- <sup>173</sup> ENDING EARLY AND FORCED MARRIAGE, *supra* note 58 at 4.
- <sup>174</sup> Avon, *Child Marriage in Bangladesh*, *supra* note 5, at 10-11.
- <sup>175</sup> SMA 1872, *supra* note 75, sec. 4.
- <sup>176</sup> Avon, *Impact of Discriminatory Personal Laws*, *supra* note 41 at 10.
- <sup>177</sup> MMD Act 1974, *supra* note 69, sec. 7.
- <sup>178</sup> HUMAN RIGHTS WATCH, WHEN WILL I GET MY DUES...BEFORE I DIE? HARM TO WOMEN FROM BANGLADESH’S DISCRIMINATORY LAWS ON MARRIAGE, SEPARATION, AND DIVORCE, 38 (2012), available at <https://www.hrw.org/sites/default/files/reports/bangladesh0912ForUpload.pdf> [hereinafter HUMAN RIGHTS WATCH, WHEN WILL I GET MY DUES?].
- <sup>179</sup> CMA 1872, *supra* note 73 at sec. 4.
- <sup>180</sup> HMRA 2012, *supra* note 72 at sec. 3.
- <sup>181</sup> *Id.*, sec. 5.
- <sup>182</sup> HUMAN RIGHTS WATCH, WHEN WILL I GET MY DUES, *supra* note 179 (*Buddhists are governed by Hindu personal laws*).
- <sup>183</sup> See Dina Siddiqi, *Of Consent and Contradiction: Forced Marriages in Bangladesh*, ‘HONOUR’: CRIMES, PARADIGMS AND VIOLENCE AGAINST WOMEN’ (2013).
- <sup>184</sup> *Id.*
- <sup>185</sup> DMMA 1939, *supra* note 105; See also, *Bakshi v Bashir Ahmed PLD 1970 SC 323 at 324 (males and females who have reached puberty may marry of their own free will and without parental consent, and there are decisions to this effect. The case law is not consistent however, and Courts in Bangladesh have also held that girls aged sixteen to eighteen may not have the right to marry of their own choice)*.
- <sup>186</sup> DMMA 1939, *supra* note 105, sec. 2(vii).
- <sup>187</sup> *Id.*
- <sup>188</sup> *Id.*
- <sup>189</sup> *Id.*, sec. 2 (iv).
- <sup>190</sup> HUMAN RIGHTS WATCH, WHEN WILL I GET MY DUES, *supra* note 179.
- <sup>191</sup> BANGLADESH REPORT ON VAW, *supra* note 139 at 31.
- <sup>192</sup> *Id.*, at 6. See also, MFLO 1961, *supra* note 10, sec. 7 (if the wife is pregnant, then maintenance must be paid until the birth of the child).
- <sup>193</sup> *Id.*
- <sup>194</sup> *Id.*
- <sup>195</sup> LEGAL REMEDIES FOR FORCED MARRIAGE IN BANGLADESH, *supra* note 66 at 19.

- <sup>196</sup> HUMAN RIGHTS WATCH, *WHEN WILL I GET MY DUES*, *supra* note 179. See also, Hindu Married Women's Right to Separate Residence and Maintenance Act 1946, sec. 2.
- <sup>197</sup> Hindu Married Women's Right to Separate Residence and Maintenance Act 1946, sec. 2.
- <sup>198</sup> *Id.*
- <sup>199</sup> *Id.*, sec. 3.
- <sup>200</sup> Christian Divorce Act 1869, sec. 10.
- <sup>201</sup> *Id.*
- <sup>202</sup> GOVERNMENT OF BANGLADESH, LAW COMMISSION OF BANGLADESH, A FINAL REPORT ON THE PROPOSED AMENDMENT OF THE DIVORCE ACT 1989 ALONG WITH A DRAFT OF THE DIVORCE ACT, 1869 (AMENDMENT) BILL (2006), available at <http://www.lawcommissionbangladesh.org/reports/72.pdf>.
- <sup>203</sup> Married Women's Property Act 1874, sec.4.
- <sup>204</sup> HUMAN RIGHTS WATCH, *WHEN WILL I GET MY DUES*, *supra* note 179 at 44.
- <sup>205</sup> Domestic Violence Act 2010, *supra* note 144 at secs. 10 and 15.
- <sup>206</sup> *Id.*, at sec. 3(d) (deprivation of economic or financial resources or property or maintenance is considered economic abuse).
- <sup>207</sup> HUMAN RIGHTS WATCH, *WHEN WILL I GET MY DUES*, *supra* note 179 at 46.
- <sup>208</sup> *Id.*, at 51.
- <sup>209</sup> *Rep. of the Special Rapporteur on violence against women, its causes and consequences, Mission to Bangladesh*, *supra* note 151.
- <sup>210</sup> HUMAN RIGHTS WATCH, *WHEN WILL I GET MY DUES*, *supra* note 179 at 60.
- <sup>211</sup> *Id.*, at 63.
- <sup>212</sup> *Id.*, at 64.
- <sup>213</sup> *Id.*, at 43.
- <sup>214</sup> *Id.*, at 70.
- <sup>215</sup> ANTI-SLAVERY INTERNATIONAL, *OUT OF THE SHADOWS, CHILD MARRIAGE AND SLAVERY*, 39 (2013) [hereinafter *OUT OF THE SHADOWS*]; UNITED STATES DEPARTMENT OF STATE, 2016 TRAFFICKING IN PERSONS REPORT, 88 (2016), available at <https://www.state.gov/documents/organization/258876.pdf> [hereinafter *TRAFFICKING IN PERSONS REPORT*].
- <sup>216</sup> Md. Fazole Rabby, *Trafficking of Bangladeshi Women and Children: Victimization of Rights and Dreams*, FOREIGN AFFAIRS INSIGHT & REVIEW (2015) available at <http://fairbd.net/trafficking-of-bangladeshi-women-and-children-victimization-of-rights-and-dreams/>.
- <sup>217</sup> The Prevention and Suppression of Human Trafficking Act 2012 [hereinafter *PSHTA 2012*].
- <sup>218</sup> TRAFFICKING IN PERSONS REPORT, *supra* note 217 at 89.
- <sup>219</sup> PSHTA 2012, *supra* note 219, sec. 3.
- <sup>220</sup> *Id.*
- <sup>221</sup> *Id.*
- <sup>222</sup> UNICEF, *EARLY MARRIAGE*, *supra* note 36 at 7.
- <sup>223</sup> *OUT OF THE SHADOWS*, *supra* note 217 at 7, 22-25.
- <sup>224</sup> ILO, *What is Child Labour?* available at <http://libguides.ilo.org/child-labour-en>.
- <sup>225</sup> *Id.*
- <sup>226</sup> ILO, Worst Forms of Child Labour Convention, C182 (17 June 1999, C182) (Bangladesh ratified this Convention on March 12, 2001).
- <sup>227</sup> Labour Act 2006, sec. 1(4)(o).
- <sup>228</sup> World Health Organization (WHO) Secretariat, *Early marriages, adolescent and young pregnancies*, *supra* note 29 at: *Report by the Secretariat*, para. 11., A65/13 (Mar. 16, 2012).
- <sup>229</sup> World Health Organization, *Adolescent Pregnancy* (Feb 23, 2018) available at <http://www.who.int/news-room/fact-sheets/detail/adolescent-pregnancy>
- <sup>230</sup> GOVERNMENT OF BANGLADESH, MINISTRY OF HEALTH AND FAMILY WELFARE, DEMOGRAPHIC AND HEALTH SURVEY FURTHER ANALYSIS REPORTS No. 99, 1-2 (2014) [hereinafter *NDHS FURTHER ANALYSIS REPORTS*].
- <sup>231</sup> World Health Organization, *Bangladesh and Family Planning, an Overview* available at [http://www.searo.who.int/entity/child\\_adolescent/topics/child\\_health/fp-ban.pdf?ua=1](http://www.searo.who.int/entity/child_adolescent/topics/child_health/fp-ban.pdf?ua=1)
- <sup>232</sup> Richard Hubbard ET AL., *Modern contraceptive options in Bangladesh*, THE DAILY STAR (2017), available at <http://www.thedailystar.net/health/modern-contraceptive-options-bangladesh-1367185>.
- <sup>233</sup> NDHS 2014, *supra* note 2, at 74.
- <sup>234</sup> NDHS FURTHER ANALYSIS REPORTS, *supra* note 232.
- <sup>235</sup> NATIONAL CHILDREN POLICY (2011), *supra* note 80 at 6; GOVERNMENT OF BANGLADESH, MINISTRY OF EDUCATION, NATIONAL EDUCATION POLICY 2010, 41, available at <http://reliefweb.int/sites/reliefweb.int/files/resources/02.National-Education-Policy-2010-English.pdf>.
- <sup>236</sup> NDHS 2014, *supra* note 2, at 74.
- <sup>237</sup> *Id.*
- <sup>238</sup> NDHS 2014, *supra* note 2, at 21.
- <sup>239</sup> Avon, *Child Marriage in Bangladesh*, *supra* note 5, at 15.
- <sup>240</sup> S.M. Mostafa Kamal, *Decline in Child Marriage and Changes in Its Effect on Reproductive Outcomes in Bangladesh*, 30(3) JOURNAL OF HEALTH, POPULATION, NUTRITION 317, 318 (2012) [hereinafter *Decline in Child Marriage and Changes in Its Effect on Reproductive Outcomes*].
- <sup>241</sup> Bangladesh Penal Code, 1860, secs. 312-316.
- <sup>242</sup> Government of Bangladesh, Ministry of Health and Family Welfare, National Guidelines on Menstrual Regulation (2013).
- <sup>243</sup> Susheela Singh et al., *The Incidence of Menstrual Regulation Procedures and Abortion in Bangladesh* 38(3) INTERNATIONAL PERSPECTIVES ON SEXUAL AND REPRODUCTIVE HEALTH, 122, 122 (2012) [hereinafter *Menstrual Regulation Procedures*].
- <sup>244</sup> Guttmacher Institute, *Fact Sheet: Menstrual Regulation and Induced Abortions in Bangladesh (2012)* [hereinafter *Guttmacher Institute, Menstrual Regulation*].
- <sup>245</sup> *Id.*
- <sup>246</sup> *Id.*
- <sup>247</sup> Guttmacher Institute, *Menstrual Regulation*, *supra* note 246.
- <sup>248</sup> Mizanur Rahman ET. AL, *Pregnancy Termination in Matlab, Bangladesh: Maternal Mortality Risks Associated with Menstrual Regulation and Abortion*, 40(3) INTERNATIONAL PERSPECTIVES ON SEXUAL AND REPRODUCTIVE HEALTH 108, 116 (2014); *Menstrual Regulation Procedures*, *supra* note 246.
- <sup>249</sup> *Decline in Child Marriage and Changes in Its Effect on Reproductive Outcomes*, *supra* note 242.
- <sup>250</sup> *Id.*



- <sup>251</sup> World Health Organization, *Standards for Maternal and Neonatal Care* (2007), available at [http://www.who.int/maternal\\_child\\_adolescent/documents/a91272/en/](http://www.who.int/maternal_child_adolescent/documents/a91272/en/); NDHS 2014, *supra* note 2, at 116.
- <sup>252</sup> NDHS 2014, *supra* note 2, at 126.
- <sup>253</sup> NDHS 2014, *supra* note 2, at 46.
- <sup>254</sup> *Id.*, at 112.
- <sup>255</sup> Ashif Islam Shaon, *HC questions 'special circumstances' in Child Marriage Restraint Act 2017*, DHAKA TRIBUNE (2017) <http://www.dhakatribune.com/bangladesh/court/2017/04/10/hc-questions-special-circumstances-child-marriage-restraint-act-2017>.
- <sup>256</sup> *Id.*
- <sup>257</sup> SUPREME COURT OF BANGLADESH, ANNUAL REPORT 2015, available at [http://www.supremecourt.gov.bd/resources/contents/Annual\\_Report\\_2015.pdf](http://www.supremecourt.gov.bd/resources/contents/Annual_Report_2015.pdf).
- <sup>258</sup> *Id.*; SUPREME COURT OF BANGLADESH, ANNUAL REPORT 2014, available at [http://www.supremecourt.gov.bd/resources/contents/Annual\\_Report\\_2014.pdf](http://www.supremecourt.gov.bd/resources/contents/Annual_Report_2014.pdf).
- <sup>259</sup> *Mst. Bakhshi v. Bashir Ahmad & Anr*, 22 DLA (SC) 289 (1970), cited in BANGLADESH COUNTRY REPORT 2010, *supra* note 5 at 76 (note that in 1970, the CMRA 1929 provided that a child for the purposes of the Act included girls under the age of 16).
- <sup>260</sup> *Id.*
- <sup>261</sup> *Id.*
- <sup>262</sup> *Fatema Begum v. Gageswar Nath & State*, 9 BLD 469 (1989).
- <sup>263</sup> *Krishana Pada Dutta v. Secretary of Home Affairs & Others*, 10 BLD 301 (1990).
- <sup>264</sup> *Bimal Kanti Roy v. The State & Others*, 46 DLR 541 (1994).
- <sup>265</sup> Universal Declaration of Human Rights, *adopted* Dec. 10, 1948, G.A. Res. 217A (II), U.N. Doc. A/810 (1948); the Convention on the Rights of the Child, *adopted* Nov. 20, 1989, G.A. Res. 44/25, U.N. Doc. A/44/49 (1989); Convention on the Elimination of All Forms of Discrimination against Women, 1249 U.N.T.S 12, 19 I.L.M 33 (December 18, 1970); Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriage, G.A. Res. 1763 A (XVII) (November 7, 1962); International Covenant on Civil and Political Rights, *adopted* Dec. 16, 1966, G.A. Res. 2200A(XVI), 999 U.N.T.S 171 (1966); *International Covenant on Economic, Social and Cultural Rights*, *adopted* Dec. 16, 1966, G.A. Res. 2200A(XVI), 993 U.N.T.S 3 (1966); *Supplementary Convention on the Abolition of Slavery, the Slave Trade and Institutions and Practices*, 226 U.N.T.S 3 (1957).
- <sup>266</sup> Bangladesh entered reservations to CEDAW, art. 2, which condemns discrimination against women in all forms, and articles 16(1)(c) and (f) which prescribe equality of rights in marriage and family, on the basis “they conflict with Sharia law based on the Holy Quran and Sunna”. *Bangladesh entered reservations in relation to the Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriage* G.A. Res. 1763 A (XVII) (November 7, 1962) arts. 1 and 2 “in so far as they relate to the question of legal validity of child marriage, in accordance with the Personal Laws of different religious communities of the country”.
- <sup>267</sup> THE CONSTITUTION OF BANGLADESH, 1972, arts. 25 and 145(a).
- <sup>268</sup> *Hussein Mohammad Ershad v. Bangladesh and Others* 21 BLD (AD) 69 (2001); ABUL HASANAT, *Using International Law in National Courts: Bangladesh Perspective*, 13(1&2) BANGLADESH JOURNAL OF Law 49, 50 (2013), available at <http://www.biliabd.org/article%20law/Vol-13/Abul%20Hasanat.pdf>.
- <sup>269</sup> CRC Committee, *Concluding Observations: Bangladesh*, para. 9, U.N. Doc. CRC/C/BGD/CO/5 (2015).
- <sup>270</sup> CEDAW Committee, *Concluding Observations: Bangladesh*, para. 10, U.N. Doc. CEDAW/C/BGD/CO/8 (2016).
- <sup>271</sup> *Id.*
- <sup>272</sup> *Id.*
- <sup>273</sup> CEDAW Committee, *Concluding Observations: Bangladesh*, para. 10, U.N. Doc. CEDAW/C/BGD/CO/8 (2016).
- <sup>274</sup> *Id.*, paras. 10-11.
- <sup>275</sup> *Id.*, para. 16.
- <sup>276</sup> *Id.*, paras. 4-5.
- <sup>277</sup> Human Rights Committee, *Concluding Observations: Bangladesh*, para. 13, U.N. Doc. CCPR/C/BGD/CO/1 (2017).
- <sup>278</sup> *Id.*
- <sup>279</sup> *Id.*, para. 14.
- <sup>280</sup> *Id.*
- <sup>281</sup> Committee on Economic Social and Cultural Rights, *Concluding Observations: Bangladesh*, paras. 49-50, U.N. Doc. 12/BDG/CO/R.1.
- <sup>282</sup> *Id.*, at 50.
- <sup>283</sup> *Id.*, at 66.
- <sup>284</sup> *Id.*, at 51.
- <sup>285</sup> *Id.*, at 50.
- <sup>286</sup> *Id.*, at 51.
- <sup>287</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Bangladesh*, U.N. Doc. A/HRC/11/18 (October 5, 2009).
- <sup>288</sup> *Id.*, at para. 53.
- <sup>289</sup> *Id.*, at para. 18.
- <sup>290</sup> Human Rights Council, *Report of the Working Group on the Universal Periodic Review: Bangladesh*, para. 147, U.N. Doc. A/HRC/WG.6/30/L.10 (May, 2018).
- <sup>291</sup> *Id.*
- <sup>292</sup> *Rep. of the Special Rapporteur on violence against women, its causes and consequences, Mission to Bangladesh*, *supra* note 151, at para. 83.
- <sup>293</sup> *Id.*, at para. 84.
- <sup>294</sup> *Id.*, at paras. 86(iv), (v).
- <sup>295</sup> *Id.*, at para. 86(xiv).
- <sup>296</sup> United Nations General Assembly Res. 70/1, *Transforming our world: the 2030 Agenda for Sustainable Development, Goal 5 on Gender Equality*, A/RES/70/1 (21 October 2015); see also, UNDP, *UNDP Support to the Integration of Gender Equality Across the SDGs Including Goal 5*, 8 (2016), available at [http://www.undp.org/content/undp/en/home/librarypage/sustainable-development-goals/undp-support-to-the-implementation-of-the-2030-agenda/](http://www.undp.org/content/undp/en/home/librarypage/sustainable-development-goals/undp-support-to-the-implementation-of-the-2030-agenda/Economic and Social Council, Report of the Inter-Agency and Expert Group on Sustainable Development Goal Indicators) Economic and Social Council, *Report of the Inter-Agency and Expert Group on Sustainable Development Goal Indicators*, U.N. Doc. E/CN.3/2016/2/Rev.1 (2016).

- <sup>297</sup> *Id.*
- <sup>298</sup> *Id.*
- <sup>299</sup> GOVERNMENT OF BANGLADESH, GENERAL ECONOMICS DIVISION, MILLENNIUM DEVELOPMENT GOALS – BANGLADESH PROGRESS REPORT 2012, 49 (2012), available at <http://www.bd.undp.org/content/dam/bangladesh/docs/MDG/2012%20Report%20MDG.pdf>.
- <sup>300</sup> Girl Summit 2014, *One Year On*, available at <http://www.girlsummit2014.org/Commitment/Show> [hereinafter *One Year On*].
- <sup>301</sup> Heather Barr, *Huge Step Backwards on Child Marriage in Bangladesh*, HUMAN RIGHTS WATCH, (2016) available at <https://www.hrw.org/news/2016/12/01/huge-step-backwards-child-marriage-bangladesh>.
- <sup>302</sup> *One Year On*, *supra* note 302.
- <sup>303</sup> South Asia Initiative to End Violence Against Children (SAIEVAC), Regional Action Plan to End Child Marriage in South Asia (2015-2018), available at [http://www.saievac.org/download/Thematic%20Area%20Resources/Child%20Marriage/RAP\\_Child\\_Marriage.pdf](http://www.saievac.org/download/Thematic%20Area%20Resources/Child%20Marriage/RAP_Child_Marriage.pdf).
- <sup>304</sup> KATHMANDU CALL FOR ACTION TO END CHILD MARRIAGE IN SOUTH ASIA, endorsed 4 November 2014 at Regional Convening on Using Law to Promote Accountability to End Child Marriage (2014), available at [https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/SA%20End%20Child%20Marriage%20Brochure\\_20Nov14\(final\)-2%20\(1\).pdf](https://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/SA%20End%20Child%20Marriage%20Brochure_20Nov14(final)-2%20(1).pdf).
- <sup>305</sup> *Id.*
- <sup>306</sup> Bangladesh launches child protection helpline 1098, PM calls for awareness to stop child abuse, *BDNEWS24.COM* (2016), <http://bdnews24.com/bangladesh/2016/10/27/bangladesh-launches-1098-helpline-for-children> (discusses the launch of the government-initiated helpline).
- <sup>307</sup> CRC Committee, *Concluding Observations: Bangladesh*, para. 40, U.N. Doc. CRC/C/BGD/CO/5 (2015).
- <sup>308</sup> *Id.*
- <sup>309</sup> ODHIKAR, *THE BATTLE CONTINUES*, *supra* note 124 at 9.
- <sup>310</sup> MARRY BEFORE YOUR HOUSE IS SWEEP AWAY, *supra* note 15 at 111.
- <sup>311</sup> *Rep. of the Special Rapporteur on violence against women, its causes and consequences, Mission to Bangladesh*, *supra* note 151.
- <sup>312</sup> *Id.*
- <sup>313</sup> CRC Committee, *Concluding Observations: Bangladesh*, para. 41, U.N. Doc. CRC/C/BGD/CO/5 (2015).
- <sup>314</sup> CMRA 2017, *supra* note 4, at 5.
- <sup>315</sup> Domestic Violence Act 2010, *supra* note 144 at sec. 15.
- <sup>316</sup> *Special Rapporteur, Thematic report on servile marriage*, *supra* note 39 at 15.
- <sup>317</sup> *Id.*, at 15-16.
- <sup>318</sup> *Id.*
- <sup>319</sup> *Id.*
- <sup>320</sup> The Children's Act 2013, sec. 38(24).
- <sup>321</sup> *Id.*, at 19.
- <sup>322</sup> CEDAW Committee, *Concluding Observations: Bangladesh*, para. 12, U.N. Doc. CEDAW/C/BGD/CO/8 (2016).
- <sup>323</sup> Legal Aid Service Act 2000, sec. 14(4).
- <sup>324</sup> *Id.*
- <sup>325</sup> CENTER FOR REPRODUCTIVE RIGHTS, CHILD MARRIAGE IN SOUTH ASIA: INTERNATIONAL AND CONSTITUTIONAL LEGAL STANDARDS AND JURISPRUDENCE FOR PROMOTING ACCOUNTABILITY AND CHANGE, 19 (2013).
- <sup>326</sup> *Id.* at 74, citing INTERNATIONAL CENTRE FOR THE RESEARCH ON WOMEN (ICRW), NEW INSIGHTS ON PREVENTING CHILD MARRIAGE: A GLOBAL ANALYSIS OF FACTORS AND PROGRAMS, 2 (2007); PLAN ASIAN REGIONAL OFFICE, ASIA CHILD MARRIAGE INITIATIVE: SUMMARY OF RESEARCH IN BANGLADESH, INDIA AND NEPAL, 27 (2013), available at <https://www.icrw.org/wp-content/uploads/2016/10/PLAN-ASIA-Child-Marriage-3-Country-Study.pdf>; World Bank Group, Knowledge Brief: Health, Nutrition and Population Global Practice: Basic Profile of Child Marriage in Bangladesh, Chata Male and Quentin Wodon, 3 (2016) available at <http://documents.worldbank.org/curated/en/642481468194960409/pdf/105908-BRI-ADD-SERIES-PUBLIC-HNP-Brief-Bangladesh-Profile-CM.pdf>.
- <sup>327</sup> Centre for Reproductive Rights, *Submission to Committee on the Rights of the Child Re: Supplementary information on Bangladesh, scheduled for review by the Committee on the Rights of the Child during its Pre-sessional working group*, 4 (2014).
- <sup>328</sup> NDHS, *supra* note 2 at 20.
- <sup>329</sup> SUPREME COURT OF BANGLADESH, ANNUAL REPORT 2013, available at; SUPREME COURT OF BANGLADESH, ANNUAL REPORT 2014, available at [http://www.supremecourt.gov.bd/resources/contents/Annual\\_Report\\_2014.pdf](http://www.supremecourt.gov.bd/resources/contents/Annual_Report_2014.pdf).
- <sup>330</sup> ODHIKAR, *THE BATTLE CONTINUES*, *supra* note 124 at 23.
- <sup>331</sup> *Id.*
- <sup>332</sup> *Id.*
- <sup>333</sup> *Rep. of the Special Rapporteur on violence against women, its causes and consequences, Mission to Bangladesh*, *supra* note 151, at para. 72.
- <sup>334</sup> *Id.*
- <sup>335</sup> *Id.*
- <sup>336</sup> *Five Years After Domestic Violence Act*, *supra* note 144 at 40.
- <sup>337</sup> *Id.*; See also, *Domestic Violence Act 2010*, *supra* note 144 at secs. 2(4), 7, and 8.
- <sup>338</sup> *Five Years After Domestic Violence Act*, *supra* note 144 at 40.



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