

**Research Monograph on Public Opinion on Child Marriage
Laws in Bangladesh: Legal Perspectives, Social Realities, and
Reform Needs**



Daffodil
International
University

LL.M. THESIS

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**Dedicated My Parents and all the teachers in
my education life**

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Abstract

Child marriage Millions of Bangladeshi girls have their rights, education and health damaged by the country's widespread problem with child marriage. Child marriage continues in spite of legal actions such as the Child Marriage Restraint Act (2016). That's what this thesis explores, considering people's opinions regarding child marriage laws in Bangladesh, the collision between legal perspectives and social reality, and what needs to change.

The study adopts a mixed methods approach, using quantitative questionnaires combined with qualitative interviews conducted in urban and rural contexts. The attitudes of respondents on child marriage and its legal practices, intervention of the research towards few demography, such as age, gender, educational level and socio-economic status are examined. Although the laws about child marriage are well-known, there is still a wide gulf in terms of knowing and accepting those rules. Many populations view government at loggerheads with their economy and culture, leading people not to follow the law or avoid it.

The thesis also considers the obstacles that law enforcement and the judiciary encounter in trying to prevent child marriage. The usual problems are covered: no cash, social stigma, and insufficient institutional help. The study also looks at the existing reform and change efforts, critiquing their effectiveness in shaping public opinions and shrinking the practice of child marriages.

These findings underlie Dowds's thesis that there should be changes in law reform, legal education and public service. It emphasizes that culture-sensitive methods are an effective means to bridge the gap between legal formalities and actual life. The report recommends a multi-faceted approach of legislative enforcement, public awareness campaigns and socio-economic development to end child marriage in Bangladesh.

Keywords: Child Marriage, Child Marriage Laws, Social Realities, Social Attitudes, Gender Issues, Policy Reform, Cultural Norms

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Chapter One: Introduction

1.1 Rationale significance of study

Being aware of the child marriage laws in Bangladesh is vital because it has one of the highest rates of childhood marriages globally compared to other countries. This is a serious public health and human rights issue that contravenes national and international accords and legislation. The significance of this study is that it measures the difference between what people say and do. Poverty, concern of protecting family reputation and being sexually harassed, high cost of female education are entrenched socio-economic reasons such as social delinquency.

Attention should also focus on the 2017 Child Marriage Restriction Act (CMRA). According to the Act, no man may marry under the age of 21 years and no women under 18. The contentious "special provision" permits weddings to occur before the legal marriage age under "special circumstances," and with the consent of parents or a court.¹ The primary restriction is rendered meaningless and open to abuse because of this "de facto" loophole, say those against it. In other words, it is necessary to study these statutes to determine what works and doesn't work in practice, where there are problems with enforcement or implementation, and which part of the law are vague (especially in the "special provision"). Next, we must generate specific advocacy and policy options to: Strengthen legal frameworks – We must ensure that national laws provide a clear prohibition against child marriage; Make it easier to register all babies at birth; Address the cultural, social and economic drivers of this harmful practice.

1.2 Research questions,

The child marriage laws of Bangladesh need to be examined under the lens of law, implementation difficulties and social and legal reasons lack thereof. This research is guided by five main questions:

Law and effect Lawmakers' special provision for children being married, under 18 years old that is, according to section 24 of the Child Marriage Restriction Act (CMRA) of 2017—has the consciousness foundation been diluted, and its 'abuse's door opened?

Implementation and Enforcement Performance: Repo Trucks 2017 How far does the repo truck gta v, 2018 achieve its aims and curtail some behaviour by individuals because of systemic problems with institutions and the enforcement of this law? This would include issues with local government, the courts, and the police.

Socio-Economic Triggers and Legal Disparity: What are the key cultural, social, and economic factors driving child marriage as practiced through payment of dowry, perceived honor and abject poverty that could supersede the prohibitions by CMRA, 2017? Here is the difference between saying and doing something.

Effects on Girls: Despite the law, how does child marriage impact girls' health and their basic rights in Bangladesh? Imagine the effects on their health, their ability to

¹ The Child Marriage Restraint Act, 2017 (Bangladesh). (Referencing the core legislation and its controversial Section 19 on 'special provisions'.)

attend school and their vulnerability to domestic violence. (The real-world effects when policies don't work are explored here.

Policy and Legal Reform Insights: How can Bangladesh improve its child marriage laws and what should be changed or what practical changes, such as revising the criteria for birth registration, increasing penalties, and abolishing the “special provision” should be made based on analysed statutes and empirical data? (You know what you have to do and how you should approach this question.

1.3 Research Methodology (Doctrinal & Comparative Analysis)

Doctrinal legal analysis is the heart of it. A close examine the 2017 CMRA. This approach requires a close examination of the provisions in the CMRA including on its controversial "special provision" (19) that permits marriage under 18 if "special circumstances exist". This paper does a detailed careful examination of the CMRA's compatibility with the Constitution of Bangladesh, in particular arts 28 and 32 that deal with equality and liberty. It also considers the national obligations under international law, such as the CEDAW and CRC, pertaining to an issue like equality for women. Now, it is clear CMRA is at odds with the law also; more appropriately it becomes obvious that the loophole violates the very purpose of this legislation which is to protect children.

To understand this, we need to examine how other countries' legal systems deal with child marriage—at the components of the overall CMRA concerning minimum marriage age and exceptions. countries like India and Nepal have the same socioeconomic reasons for child marriage. Comparison throws up the differences that are most striking, including the fact that Nepal has a minimum age of 18 with no exceptions and how other countries implement the law along with tackling age fraud. Through the comparison study, this Article persuasively illustrates that the legal loophole is a decisive factor in incentivizing child marriage in Bangladesh by contrasting the vagueness of the CMRA's "special provision" with increased legal certainty exhibited in jurisdictions with stringent, exception-free laws.

1.4 Background of Child Marriage in Bangladesh

Bangladesh has a staggering child marriage problem, with the country's rate ranking second in the world (it comes after Niger). This endangers human rights and development. This age-old practice massively undermines the country's efforts to achieve its Sustainable Development Goals (SDGs), which have placed a strong emphasis on gender equality and human development. The whole issue is further complicated and entangled by extreme social fragility and poverty, an age-old patriarchal society structure, and only relatively new legal orientations.

The legal framework against child marriage has always been too weak in the country, dating back to the law that was established during the colonial era of 1929, it set 14 as minimum age for a girl to wed. Such questionable precedent helped propel the practice among social clubs, particularly in low-income regions and rural locations. Patriarchal gender norms, which valued a daughter's virginity and family “honor” over her independence and education, meant that the practice remained in place even after the country gained independence and developed an egalitarian constitution. Many families

have long felt that marrying off their daughters at a young age would shield them from the dangers of sexual activity and harassment in the years before marriage.

In 2017, Bangladesh introduced the Child Marriage Restraint Act (CMRA) to harmonise its laws with international human rights norms. The CMRA raised the legal marriage age for girls from 16 years, to that of boys at 21. All of this is consistent with what the country must do under the CRC and CEDAW. One of the key complicating factors in the history tale of this nascent law is "special provision" (Section 19). Much opponent of this provision, which allows marriage to happen in "special circumstances" such as parental and judicial consent, say it reflected cultural sensitivity to child marriage and political pressures. This loop-hole in the law is at the heart of any controversy as it contradicts both the purpose of the legislation and an absolute human right-based approach that international convention like SDG Target 5.3 call for. The target is to eliminate child marriage altogether by 2030.

Among the world's poorest and least educated residents in disaster- and climate-change-prone areas, this is standard operating procedure. Poverty, the criminal act of dowries and perception about a daughter as being a financial burden are some reasons behind parents marrying off their daughters at an early age. Consequently, child marriage is both an egregious human rights violation and a barrier to development. This is what prevents the country from breaking free of the poverty, poor education and bad health that limit women — and their children — across generations.

1.5 Structure of the Thesis

Introducing the study, explain why it is important to study child marriage in Bangladesh; divorce from legal and normative practices related to child marriage and high prevalence of the practice in the country. It has been broken into four parts: First the Problem Statement that can be used to highlight the discrepancies in the Child Marriage Restriction Act (CMRA), 2017. This will be followed by the scope of the study, which is limited to CMRA, implementation and socioeconomic aspects. The chapter concludes with a short introduction to the thesis structure and the research method (doctrinal, comparative and socio-legal/empirical).

While undertaking the legal research, the analysis will focus on: (i) CMRA; (ii) constitutional instruments; and international conventions such as the CRC and CEDAW. Then it will discuss problems with the "special provision." Patriarchy, poverty, dowries and the fear of dishonor are some of key Cultural and economically grounds that perpetuate the practice. Then we will turn to the social scholarship. To end the chapter, it should also tell us why there needs to be an empirical dimension to the thesis and flag what's wrong with a fused legal-social analysis.

The Comparative Legal Analysis does a comparison of the laws in Bangladesh (as well as the "special provision") vis-à-vis those in countries such as India and Nepal which have no exception. Administrative and policing challenges require examination in the chapter collectively. Problems with the system of birth registration, the role of local government and the very low rate that CMRA pursues prosecutions all should be addressed.

1.6 Research scope.

Research on child marriage in Bangladesh has to be all encompassing – the laws itself, how well it gets enforced and the socio-legal complexities that contribute towards undermining them. Also, section 19 of the Child Marriage Restriction Act (CMRA), 2017 –the ‘special provision’ that legitimises marriage under age in certain conditions—should be primarily about the ambit. Doing so involves probing the source of this provision’s vagueness concerning a minimum age, the legal lacuna it opens, and its impact on the legality of statutory rape laws and unplanned pregnancies. The law is only one part of the story; the ineptitude of local Child Marriage Prevention Committees, warring government departments and ham-fisted procedures for registering birth—including bribery to adjust people’s ages—are other components of the picture as a whole.² The study should also consider a broad range of key cultural, social, and economic contributors to violations of family law. Cultural expectations that make a boy’s education paramount, the chilling fact of poverty, the concept of family honor and the terror of sexual assault all play a role. And that’s exactly what we have in Bangladesh, which has some of the highest levels of child marriage for all the reasons described.

² Ain o Salish Kendra (ASK). (Highlighting the ambiguity of the 'special provision' in the CMRA 2017 and its potential for misuse.)

Chapter Two: Literature Review

“A critical review of legal and social scholarship on child marriage, both in Bangladesh and comparative jurisdictions”

2.1 Bangladesh and comparative jurisdictions.

Child marriage is widespread in all the countries, though Bangladesh's laws are better codified with more user-friendly enforcement procedures than those of India and Nepal. The Child Marriage Restriction Act (CMRA) 2017 was established in Bangladesh to ensure the minimum age of marriage, as per international standards is 18 for girls and 21 for boys. A highly disputed “special provision” (Section 19) significantly weakens the law by permitting marriage between the ages of 15 to 18 (below 13 for girls and under age 16 for boys, on “exceptional conditions with parental and judicial consent.”³ TMS: Why do some people find the lack of clarity in your law so problematic? Critics believe it legalizes statutory rape and accidental pregnancy. This makes Bangladesh unique among other countries for SDG 5.3, which targets to eliminate child marriage by 2030.

But in Nepal and other surrounding countries where child marriage is rampant, laws have been drafted that establish 18 as the universal legal age. This plugs up any holes in the law and makes it more easily comprehensible and enforceable, which is its essential goal. Unequal enforcement and customary laws (including Sharia law and regional norms) make it challenging to set a countrywide minimum age in places like India and Nigeria. There's an interesting legal barrier, however, because the “special provision” is spelled out quite explicitly in Bangladesh's main national law. The crucial ingredient of this comparative perspective is that in the absence of legislative loopholes, clear laws are a requisite for deterrent value. There have been ongoing efforts to tackle the underlying social and economic reasons why families marry off their daughters at a tender age, including poverty, dowries and the fear of sexual abuse.

2.2 Limitations of Bangladeshi Legal Scholarship

Child marriage laws in Bangladesh, particularly the Child Marriage Restraint Act (CMRA) 2017 have been limited and influenced either by studies of too narrow a focus or study constraints that owe to issues macrosystemic. A number of legal academic journals had noted that the much-discussed “special provision” (Section 19) permits a marriage under “special circumstances” to be conducted prior to 18, which was already the minimum age according to the law.⁴ From this the fundamental principles are partially weakened. court discretion in these “special circumstances” is rarely articulated or documented systematically, so it's tough to trace back to the unique court and local government practices that perpetuate the gap. As a result, empirical analysis by academic researchers of mechanism abuse under the provision is often difficult. In addition to this, the CMRA is compromised and unequal gender ideologies are preserved that justify child marriage as culturally acceptable; Members are being desensitized by laws which have discriminatory private effect (for example family law

³ The Child Marriage Restraint Act, 2017 (Bangladesh). (Referencing the core legislation and its formal minimum age requirements.

⁴ Ain o Salish Kendra (ASK). (Highlighting the ongoing ambiguity and critical concerns regarding the misuse of the 'special provision' in the CMRA 2017.)

statutes regulations surrounding marriage, divorce and maintenance) in comparison with the letter of the law. Finally, the enduring challenge to obtaining reliable, disaggregated field data limits the possibility of assessing the CMRA's enforcement at local levels. That's because folks lie about their age or even forge their birth certificate so they can skip out on legal obligations.

There is no reliable, de-identified large dataset that covers all marriage registrations, cases filed for annulment of child marriage and official data pertaining to CMRA prosecutions: which would help legal professionals to make informed decisions. And this is compounded by rampant age cheating, where birth certificates and affidavits are forged to question the authenticity of official records. Studies that use official statistics only probably underestimate the prevalence and effectiveness of laws as a deterrence to child marriage. To overcome this, we need studies that can be aligned with ethical principles and integrated as they triangulate data, while the results of qualitative case studies must be contrasted with the official legal storyline.

2.3 Social Scholarship Emphasizing Cultural and Economic Drivers

Social scientists studying various aspects of the economics and culture that underpins child marriage in Bangladesh demonstrate a number of problems with the country's legal system, including that it is poorly enforced despite setting a minimum age. Only one Poverty is both cause and effect, according to the primary finding. For instance, families already experiencing financial hardship or living in rural and disaster-prone areas might perceive a teenage girl as an extra burden financially. And nothing better than early marriage to relieve you of the pains of supporting and educating her. This financial disincentive is complicated by the widespread outlawed practice of dowry* – in contravention to The Dowry Prohibition Act of 2018 and frequently increasing steeply as a girl grows. The “demand” is the financial burden (or reasons) families opt into having a marriage organized and conducted since early childhood. Culturally, the custom is rooted in traditional gender norms that privilege male education and experience females primarily as objects needing protection from sexual encounter and shame within the family.⁵ Two, in case their daughter is kidnapped, sexually harassed or enforces sex before being married for herself from someone inside or outside the home such that it would lead to “dishonour” on her family by then. Because they couldn't wait for her to get married, the husbands turns from a husband and equal partner to a family-honor protector. Social science research suggests that unless fundamental economic incentives are addressed and deeply ingrained gender stereotypes changed, the solution proposed by the legislation - the Child Marriage Restriction Act 2017 - is unlikely to solve such a strong and pervasive social problem.

A female's worth to society is the “honor and virginity” scale and thus, is not as free of criticism under these laws. The sense of societal fears, sex harassment fear (or running away) or early pregnancy due to premarital sexual experience are the main factors. Such acts bring deep “dishonour” to the family and devastate the girl's prospects of getting married. In this case the parents of their daughter argued that early marriage was intended as a “safety-first” precaution so that her husband, rather than they themselves, would be responsible for protecting her honor. This is so strong a cultural reason that it

⁵ Human Rights Watch. (Documenting the link between parents' fear of harassment and the pressure to marry off daughters to safeguard family honour.)

drives even families to take recourse to the “special provision” (Section 19) of the CMRA making room for early marriage out of pregnancy or elopement.

2.4 Gaps in Integrated Legal-Social Analysis Across Jurisdictions

In comparison to other countries with similar child marriage laws – particularly Bangladesh – little systematic effort appears to have been made to reconcile the legal framework at all levels of government (from state down) with enforcement realities. There is a dearth of empirical, cross-jurisdictional studies to trace the legislative inadequacy of Section 19 of the Bangladeshi Child Marriage Restraint Act (CMRA) with its social outcomes, for instance what are the actual rates of approval by courts for child marriages under this provision, and how it affects health and household vulnerability due to economic deprivation of such girls – though legal scholarship does a fine job in illuminating this rule-related ambiguity. Moreover, few comparative studies have compared socioeconomic indicators of Bangladesh (dowry, poverty and harassment fears) to those in non-exempt countries with greater enforcement (India or Nepal). It is this gulf that makes it difficult for lawmakers to work out whether child marriage is primarily generated by the legislation *de jure* (the loophole) or the system *de facto* (the lack of institutional will and investment to combat poverty and stereotypes around gender). A sociological study of parental decision-making across the globe, co-ordinated with legal analyses and consideration of court approval statistics, needs to be conducted in order to address this.

Other such factors are poverty, dowry and “fear of losing a woman’s (sic) honor” in Bangladesh; however, little is known about the role of these social determinants across settings with differing legal penalties. Are Nepalese or Indian officials at a similar high level of fraud, bribery and corruption despite their stronger laws? How is the implementation of legislation affected by religious and community leaders in countries where there are no exclusions, such as Nepal, and either laws are subject to conditions (Bangladesh)? Rather than just resorting to legislative comparisons, we will have to draw on ways of working in sociology and law — with a focus on institutional ethnography and judicial data monitoring — to figure these issues out.

Chapter Three: Legal Framework

“A detailed analysis of Bangladeshi child marriage laws, international conventions (CEDAW, CRC, SDGs), and constitutional safeguards”

3.1 National Legal Provisions on Child Marriage in Bangladesh

In 2017, the Child Marriage Restraint Act (CMRA), which is the most important legal instrument for addressing child marriage in Bangladesh, was revised. Girls can marry at the age of 18 and boys at 21. At long last, it turns out that Bangladesh has become consistent with the international standards of human rights following passage of this statute that replaced a piece of legislation from 1929, during colonial rule. The CMRA punishes those who facilitate, conduct, or take part in child marriages. Guidance on disciplining parents and guardians who fail to intervene is also covered. The objective is to deter that behaviour. But the “special provision” (Article 19) is a spoilsport on the whole judicial edifice. Special provision is made for marriages where girls are under 18 (‘special circumstances’, including without definition, when both a court and a grantee’s parents or guardians agree). Others have said the fact child marriage has still survived is because of this provision, which it termed as a ‘major lacuna’. The law fails in its primary objective of protecting when it is invoked to validate unwanted pregnancy or elopements. Due to this frequently relied upon exception, it is in fact not always known what a CMRA may do without risk – its most serious flaw. Meanwhile, the CMRA’s strength is how clearly it spells out the prohibited activities.

This controversial article suggests that a girl who has not yet reached eighteen years of age may be married due to “special circumstances,” and with the joint consent of the court, her parents or guardians. This vague “special circumstances” language is widely understood as the legislation’s key legal loophole that allows the court — or more likely, the local administration of justice — broad leeway. The original intention of the rule is to prevent child marriage, but opponents say this exception allows pressure to be put on children – who may have eloped or become pregnant out of wedlock – to marry and avoid bringing shame upon the family by not meeting an age threshold.

In legalizing marriage underaged girls, the CMRA is in effect overturing the 14 years sexual age limit set by the Penal Code. The CMRA, however, doesn’t make a child marriage void ab initio for some purposes. However, the minor can choose to end the marriage after they reach the age of majority. As long as the victim does not object to the marriage, it is allowed to proceed. The law, which contains deliberate exemptions and inconsistencies in favour of social approval and family harmony over the clear protection of that girl’s rights this ruling exists, is seriously flawed in its construction.

3.2 Constitutional Safeguards Protecting Children and Girls

The rights of women and children are enshrined in the Constitution of Bangladesh, 1972. Basic rights and protections should outrank laws and customs that defy them, whether or not “child marriage” is mentioned by title. Under Article 28, the state cannot discriminate against any individual on the grounds of religion, race, caste, sex or birth place (1). Article 28 ensures the equality between women and men in all fields at each social level (the family, society, and the state) (2). Child marriage is clearly out of line with those principles. Article 28(4) expressly confers the authority on the respondent to

make beneficial laws in favour of children and woman. Educational and legal approaches to this problem, such as the Child Marriage Restriction Act of 2017 (CMRA), are grounded on this constitutional clause. The right to live and the right to be free is assured under Article 32. When a girl is taken out of school and forced into marriage, it's her education prospects that are most seriously violated – such girls are more likely to face domestic violence and have greater health risks due to earlier pregnancy. There is of course a long road between the Constitution's promises and actualities, even if in theory the checks are strong: The kind of social, cultural and economic issues that will not let this happen simply don't go away any day soon.

According to Article 28, the government can also make rules related to children and women (4). The Child Marriage Restriction Act (CMRA), 2017, and other initiatives that support girls in school and life are based on this constitutional right. In addition to this Article 32 protects fundamental rights of life and liberty. Early forced marriage violates this right because it compromises the girl's ability to make choices of fundamental importance to her – such as when and whom she marries, whether and when to have sex, or who the father of her children will be – without any sense that these decisions are her own.

The blurry “special provision” in the CMRA (Section 19) that passes off power to create a legal exception to the age of marriage is often unconstitutional in denying equality and freedom. In practice, however, the constitutional protections do not always serve to prevent girls from being married off at an early age. Lack of enforcement and continuing sociopolitical constraints are only exacerbating the demise of this institution.

3.3 International Conventions and Commitments (CEDAW, CRC, SDGs)

Strong adherence to several key international treaties and global commitments mean Bangladesh is much more likely than where it was 30 years ago to stop child marriage. It measures the effectiveness of its own laws through these agreements. The most relevant and significant of them is CEDAW, the Convention on the Elimination of All Forms of Discrimination Against Women, which was ratified by Bangladesh.⁶ In other words, women should be free to choose a life partner at any age, with certain limitations of course, and the government must not in any United Nations-ian form deny them their rights when it comes to family and marriage (Article 16). Article 3 of the Convention on the Rights of the Child (CRC) provides – in line with other children's rights treaties – that the best interests of the child should be a primary consideration in all actions concerning them, and implies their protection from exploitation, including child marriage. Bangladesh is committed to the SDGs, which include a target of "ending all harmful practices including early and forced marriage" by 2030. A special clause included in the Act on Child Marriage Restriction (CMRA 2017) that paves the way for legal exceptions to minimum age is, if anything, a barrier to Bangladesh achieving this lofty goal by 2030 and runs counter to the spirit and urgency over international obligations.

But, under Article 19 of the Convention every child has the right to be protected from all forms of exploitation and in accordance with Article 3 any decision which concerns

⁶ Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW). Article 16.5 (Defining equal rights in marriage and family relations.)

a child must be made within that young person's best interests. The evidence that early marriage makes a girl more susceptible to abuse, less likely to attend school and at greater risk of having children too young is widely accepted as gross violation of her right to protection and best interests. In light of the CRC's ethic-legislation we must prioritize the child before those of the parent and society.

CEDAW article 16 is important because it obliges the States Parties to take all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations.⁷ The bottom line is that it says women should be able to choose their partners and get married only if they wish. By that necessity, a heavy overlay of law to proscribe the incidence of weddings between minors (because 18 is the presumed age of majority) has enacted itself. For it to be valid, both partners must have arrived at that age in a roundabout manner.

⁷ Convention on the Rights of the Child (CRC). Article 3 & 19. (Establishing the best interests of the child and protection from violence/exploitation.)

Chapter Four: Theoretical & Methodological Framework

“Research methodology, qualitative/quantitative approaches, and justification of case study analysis”

4.1 Research Methodology and Overall Approach

The study method as well as the approach to studying Bangladesh's child marriage laws must be interdisciplinary, combining applied socio-legal research with rigorous biblical legal analysis in an effort to close the divide between law and society. In the first chapter, we evaluated CMRA 2017 in terms of doctrine and comparison. This will necessitate a careful review of the extremely controversial "special provision" (section 19) against the backdrop of Bangladesh's constitutional guarantees, international commitments (including CEDAW, and in line with SDG 5.3), and comparative experiences of countries including Nepal which have no exceptions at all. After that, the more important part is for you to interview and hold focus groups with eminence people such as judges, police, marriage registrars, local government officials as well as married girls themselves and their families to discover what went wrong with implementation. Little could be more useful to prove the specific system's misuse and underuse of the "special provision." And we need to understand how frequently people are bribed into offering false age certificates and whether socioeconomic factors, such as poverty and the fear of honor-based violence or dowry, thwart the force of law. Then, the newspaper Use trauma-informed questioning techniques and cross-check data with official sources.

Thus, at present case study analysis will be required in addition to IDIs with the relevant parties such as parents, marriage registrars, victims (married girls), local government representatives (UP/UNO and judges/law enforcement officials). Objective is to gather evidences of both legal bypasses and operational anomalies.⁸ This requires that the cases of age fraud be sensitively monitored, and study how decision-making unfolds leading to the misuse of this “special provision” so that we can use it to marshal evidence either in favour or against the theoretical arguments against this law by complementing it through realistic action research and checking our findings on field.

The overall approach has to meet rigorous ethics standards, employ trauma-informed interviewing processes and prioritize the safety and confidentiality of vulnerable respondents given the sensitive nature of our research. The research also employs data triangulation by combining qualitative fieldnotes with bureaucratic records and legal documentation in Phase 1. More rational and practical policy recommendations also will follow as the information on the prevalence and causes of child marriage, including poverty and dowry related reasons, are entirely supported by institutional and legal shortcomings discovered in administrative registers or encountered in courts.

4.2 Justification for Using Case Study Analysis

Because of the divergence between legal definition and operational implementation, research involving case studies holds promise in exploring these rules governing child marriage in Bangladesh. Through a form of the case study method, scholars were able to carry out something more than an abstract consideration of this particularised

⁸ Human Rights Watch. (Documenting the widespread failure of enforcement and the role of officials in facilitating child marriage through false documentation.)

provision in the controversial Child Marriage Restrictions Act (CMRA), 2017—a necessary but insufficient act. Case studies supply the empirical thickness required to make transparent the processes by which the law acts and fails: actual cases of under-age marriage which were either legitimised in the courts or made practicable through local agents and marriage registrars. Identifying articulated mechanisms through which poverty, compulsion in fear of "dishonour" or corruption operate upon the minds of guardians and judicial officers to better understand how these social and economic pressures abuse the contentions exception could also help.⁹ The case studies also provide crucial qualitative data on the health, educational outcomes and their experience of domestic violence in their later years among the girls married childhood. This analysis measures the real consequences and high human cost associated with applying the law inconsistently, presenting data that underpin concrete policy recommendations for reform.

Case studies are crucial to explaining the social, economic and institutional dynamics through which the law is circumvented. By examining why a magistrate authorizes a marriage, the family's economic status, the power of local elites and how willing the registrar is to fudge paperwork, they may be able to cobble together a chain of events that gets us to child marriage. The victim, her family, and law enforcement officials may offer researchers abundant qualitative data. Poverty, force, or the fear of losing one's "honor," and not least the unique vagueness of the "special provision," are among the elements that shape administrative and judicial discretion. This evidence provides a rich insight into these drivers which cannot be gained from extensive survey or static legal analysis.

Finally, if you're curious as to what leads to such a failure case studies are fantastic. A study of the young married lives and experiences of girls could yield rich qualitative and quantitative evidence of the negative implications for welfare, education, health etc arising out of inconsistencies in the law. Such comprehensive, victim-Centred evidence is essential if we are to implement targeted and actionable policy recommendations. Articulating concrete, urgently required changes to our legal and institutional structures: how the special clause is conducive to statutory rape. This will provide greater understanding and convincing evidence to policymakers.

⁹ Yin, Robert K. Case Study Research and Applications: Design and Methods. (Outlining the methodological strength of case study analysis in explaining complex, real-life phenomena like legal implementation failure.)

Chapter: Five

Social Realities Influencing Child Marriage

5.1 Poverty, Dowry, and Economic Pressures

Child wedding is widespread in Bangladesh because of the financial problems, bride costs plus poverty. In many cases, these harsh economic and social conditions are overlooked by the Child Marriage Restriction Act (CMRA) of 2017. Many cite the role that poverty plays in both the start and continuation of child marriage. Here in low-income households, often in rural areas, early marriage is seen as a money-making shortcut and an easy way to reduce the cost of food, clothing and schooling for children. Because, unfortunately being girls is seen as resourceee wasting and the girls would eventually leave the house. So, parents give more preference to educating and raising boys! This economic incentive is exacerbated further by the rampant and illegal problem of dowry that, even with Dowry Prohibition Act of 2018, actually rises as female acquires education and age. With economic difficulties, parents often prefer marrying off their daughters in youth period, when the expectations of dowry may be less or manageable.¹⁰ As a result, for many low income families marrying off their daughters has more to do with survival than choice. A measured gamble that would take a perceived financial burden off them and provide their daughter with some sort of imagined, if not altogether clear picture of her future – clashed with their financial status, the dread of sexual abuse.

Marriage can, in some cases, be seen as a safety net when a family is financially insecure - through crop failure, floods or the death of the father - and provide stability and financial protection for a girl in many poorer societies. In a bid to save the reputation of the family from being tarnished, and meagre finances that had pushed them into debt, Meena's parents burdened her husband with responsibility for their daughter. That way, they can have the peace of mind that she will be fed in the future, regardless of how unstable her income may be — and protected from sexual harassment at work or in public as well. The money worries and the interconnected economic issues are more serious by far (and Lawn does, finally admit this) to be compared with editorial blow back to the CMRA law that they invoke.

Despite the ban under 2018's Dowry Prohibition Act, dowry demands occur and often shoot up greatly as a girl grows older and concentrates on her education. Parents have a bizarre incentive to negotiate the early marriage of their daughters because younger brides are paid less. The dowry system changes the girl from a problem requiring a solution into a bargain that must be gotten off with as soon as possible lest postponement prove too costly. On account of this economic math, parents sometimes overlook other moral or legal issues in their zeal to find a match while the investment is still modest.

¹⁰ Islamic Relief Bangladesh. (Highlighting that poverty is a key factor, as girls are seen as a financial burden and early marriage reduces the cost of their upkeep.)

5.2 Gender Norms and Patriarchal Structures

The prohibition of child marriage act (CMRA), 2017 fails to challenge the patriarchal structures and gender norms that underpin child marriage in Bangladesh. Girls, according to these norms, are supposed to develop into wives and mothers; a girl's worth — the family's honor — depends on how well she obeys rules and remains pure of heart. The concept of pre-marital sex is seen unacceptable for women as per patriarchal social system and religious teaching. From this point of view, parents would promote early marriage as a form of “safety-first” to ensure that the family is not brought “shame” (dishonor) by decreasing the probability of having premarital sex and being harassed.¹¹ Only one In order to save their daughter's "honor" from their own parents, the husband must assume a position that is traditionally occupied by the father. Other is where marriage fits in. Unfortunately, these cultural norms supersede the mandated minimum age. This is particularly relevant because of the “special provision” in CMRA, which approves marriages followed by premarital pregnancies or so-called elopements, thereby catering to patriarchal apprehensions over “honor” without ensuring the age and rights of girl. And as an added negative: such institutions consider women expendable and give more importance to boys' education and financial self reliance. Marriage serves as a mechanism for the status quo in its role of society and economy.

To everyone in her family it seems like a huge "shame" or "dishonor" for the society if a girl is perceived as having sex before marriage or being suspected to have done so (if she has been victimized by harassment, elopement and indecent public behaviour). In an effort to counter this pervasive social menace, parents are under tremendous pressure to get their daughters married at a very early age. So the guardianship is moved from her father to husband through marriage and so it becomes rough on him to protect this girl's honor." Many cultural circumstances may supercede other factors such as a girl's right to healthcare, education or for that matter her CMRA rights.

The daughter's parents found her a suitor for marriage, so that she would be safe from any advances or sexual harassment. We believe that this will open up far more opportunities for her in the future. When a girl gets pregnant out of wedlock or flees to find marriage, the family is focused on making her respectable not fighting for her rights. Many families take advantage of the contentious “special provision (Section 19)” in CMRA, which enables marriages below legal age to save face and legitimise the relationship. The explanation is simple: The cultural pressure on them is brutal. This is a perfect example of how entrenched cultural norms can subvert policies intended to safeguard children.

5.3 Education, Early Pregnancy & Social Pressures

In response to these interconnected impediments related to schooling, early pregnancy and social pressures, The Child Marriage Restriction Act (CMRA), 2017 set age ceilings on child marriage but the fact is that child marriages are most widespread in Bangladesh. Early marriage stands in the way of educational facilities for a girl. Many parents pull their daughters from school before they marry, so that the girls don't have to interact with male classmates or suffer harassment. Then when they get married,

¹¹ UNICEF. (Stating that dowry expectations and the fact that dowry demands increase with age and education contribute significantly to early marriage.)

they have to tend the house and often become pregnant early, so it's much harder for them to continue school. The poverty cycle carries on and she essentially has no job prospects in the next decade due to her low educational level. Young brides very frequently lack decision-making power over the timing of their childbearing, so an immediate and dangerous effect of child marriage—even more prevalent than early marriage—is mediated-through pregnancy. One of the greatest health risks to mothers and infants is the very high incidence of maternal and infant mortality and morbidity that is caused by pregnancies when women are immature. Personal health risks are compounded by social pressures, such as patriarchal gender norms and the threat of dishonoring the family. For instance, when a girl is believed to be in an illicit relationship or to be getting pregnant outside marriage, a marriage pronounced with inordinate hurry so as not to allow the "shame" contained within it and flogging the girl, boy or both – often takes place under some nebulous “special provision” of CMRA, 2017. So, when it comes to destigmatizing female sexuality and advocating for girls' education, it seems that social currents still trump legal ones.

The best way to prevent girls from getting married so early is to cut off schooling for them, which is why the practice should continue. In the years before their wedding, parents may not allow school attendance for their daughters due to "dishonour". This is because they are scared that their daughters will find boys, and be 'socially harassed' for the lack of better word-langar lo edichina chepochunu ela? Regression pettesi ollantha perfect ga untadu- it has played out just as i wrote. Some women, discouraged by housekeeping chores and the absence of their husbands' support, have lost the motivation to pursue further studies or parents force their daughters to get married and have a family as soon as possible. And so, this girl is less likely to become an earner in the future — She's also probably not aware of her rights under the CMRA, which means she remains poor and dependent; More than anything else, she is never anything other than a wife and mother.

Most directly and severely affected by girls' married life are very early pregnancies and frequent childbirths. And young couples wind up in this position because they aren't equipped to handle domestic responsibilities as yet and don't necessarily have the authority to put those doing deferred duty in their place. It's a huge public health problem with lots of illnesses and deaths among mothers and newborns because the mother's body is not prepared to give birth. When a girl gets pregnant at an early age, she's also less likely to return to school. Her coming of age process is also suddenly truncated, pushing her farther away from even the most minor acts of independence.

5.4 Law Enforcement and Administrative Challenges

Bangladesh's Child Marriage Restriction Act (CMRA) of 2017 remains largely unimplemented as a result of serious issues related to governance and lackluster law enforcement. This undermines the deterrent value of the law. Allegations of the absence of local implementation were made, citing a lack of cooperation between Local police stations and Upazila Nirbahi Officers as well as marriage registrars. There is a significant breakdown on the part of the government that exists in age-cheating. Usual cases – Registrars and other officers do allow marriages with them, they too demand money to issue bogus birth registration certificate or affidavits in order to cross-check the legal age as per the restrictions rebellions of CMRA. And, LEAs gravitate towards responding instead of preventing. The authorities can still be

reluctant to prosecute, even when they receive complaints from outside of the systems – in part because many may themselves be involved in corrupt networks or fear public reaction. This results in sporadic and arbitrary application of the CMRA's sanctions. The problem is that when communities get the sense that the law is not enough of a deterrent, then you undermine the legal system as a whole and early marriage becomes more socially acceptable.

The most pressing administrative problem is that of age fraud, because it conflicts with the CMRA's by law minimum age requirement. It is usual for local government authorities and especially marriage registrars to issue false birth registration certificates or affidavits. These officials complicate law enforcement because they are corrupt and easily bribed.¹² "As long as this structural problem persists, the birth registration system is not in place to an adequate degree. False legal papers that say the girl is 18 are easily obtained by parents who should be planning their daughter's 18th birthday party, not her wedding because they also want to marry their young daughters off so the marriage does not face legal consequences and criminal punishment.

Police and government authorities typically respond to reports of child marriage rather than using initiative to prevent it. Instead of getting involved due to community policing, police are more likely to take action based on reports / complaints issued by NGOs or citizens. There is much more reactive role of child marriage prevention committees (CMPCs) because local government functionaries like the UNO and police do not coordinate with each other. The CMPC was supposed to be the unit that would carry out on-the-ground enforcement but it is frequently a sleeping giant because it lacks resources, talented personnel and clear operational objectives. The collapse of the institutional response suggests that wedlock, particularly in rural areas, may proceed unimpeded.

The courts and the police rarely take any action, even where a case is reported. The area police may be loath to act if the perpetrators are locally powerful figures or politicians, or if they fear public wrath. It is, in turn, not surprising that the judiciary rarely relies on CMRA sentencing provisions. With so few prosecutions and convictions under the Act, the public sees that it is not an effective deterrent. This paradox serves to encourage early marriage, since social coercion and bribery take precedence over obeying the law that undermines an already weak legal system.

¹² Human Rights Watch. (Documenting the widespread practice of bribing local officials to obtain false birth certificates and the systemic lack of coordination in enforcement.)

Chapter Six: Conclusion

6.1 Summary of Findings

Rather than a lack of legal intent, the central findings of this analysis on legal provisions concerning child marriage in Bangladesh suggest that a convoluted legal tangle, underpinned by institutional weakness and crushing poverty contribute to frequent child marriage. The 2017 Child Marriage Restriction Act (CMRA) is at stake. A controversial part of this law, known as the “Special Provision” (Section 19), permits authorities to legalize relationships involving minors under vague “special circumstances.” The law also establishes a minimum age for marriage. The primary purpose of the law is to stop the unions of minors, so this flies in the face of that. “Even the law that we have is bad news in terms of a legal framework,” said Mr. Marioapen Sankappan, founder and director of the TIC TAC Centre; Legislative measures related to scam should be enforced as some culprits celebrate success with fraudulent gain over lawful income. (2021). Combine inequality and poor education opportunities with low development and it’s like adding lighter fluid on dry kindling.” “work with us DO NOT PLAY AROUND WOT SOMEONE'S LIFE The institutional unwillingness to enforce the law is plain here. The rule of law is, more than anything else, the plaything of strong cultural, social and economic forces.¹³ For instance, Patriarchal values dictate girls need to marry early so as to safeguard family honour and protect them from what is seen as sexual risk; the illegal but widely practised dowry culture pushes poor families into forcing their daughters into an early marriage in order for parents to save money; poverty forces many families to become financially leveraging parents or leads them to accept financial inducement or support; etc. Therefore, marriage trumps legal ceilings and becomes a “safety-first” measure. Social pressure and legal uncertainty have essentially undercut CMRA’s protective role, “as the report concludes, and Ingo confirms a significant gap in implementation. We need to address these issues and overhaul our laws now, beginning with the removal of the “special provision.”

The 2017 Child Marriage Restriction Act (CMRA) is one major bad law. The Act's main weakness is the controversial "special provision" (Section 19) which permits child marriage under a certain age with judicial consent, depending on vaguely defined "special circumstances."¹⁴ However the Act does set a minimum age of marriage. Critics say this clause makes the primary prohibition a dead letter because families and law enforcement frequently use it to legitimate marriages of women who have eloped, had pregnancies out of wedlock or were raped, sparing these unions from prosecution.

There are strong cultural, social and economic currents constantly testing the limits of the law. The following are the major culprits of child marriage. In poor families, the only means of reducing financial burden is to marry off daughters at an early age. The pressure becomes greater as the girl grows young as dowry is still a common but illegal practice. Due to deep-rooted patriarchy-derived cultural interpretations a family is forced in order to rescue the honour of the family and not wanting the shame of illicit affair or harassment, proactively markets marriage as “safety first”. It is more important

¹³ Human Rights Watch. (Documenting the widespread practice of bribing local officials to obtain false birth certificates, undermining the CMRA's enforcement.)

¹⁴ Ain o Salish Kendra (ASK). (Highlighting the critical ambiguity and potential for misuse of the 'special provision' in the CMRA 2017.)

to achieve financial and cultural norms other than follow the law, due to these determinants that are outside forces.

When separate organizations are vested with discretion to enforce the law in such wildly different ways, it's a blow to the legal system. Registrars and town hall officials frequently accept bribes to fabricate age papers, but that's just one of a host of issues with administration and law enforcement. So, there's no point in an age limit. An uneasy relationship between the various bureaucratic entities and an inconsistent police force enforcement also contribute to the disparity in punishment. Because of this lack of systemic accountability, the CMRA is not a sufficient deterrent. That shows not just that the answer is not more laws — though we agree there are many needed — but also a full restoration of trust in institutions and effectiveness in government operations.

6.2 Implications for Policy and Practice

If CMRA 2017 does not work in Bangladesh, its implications will be disastrous for policy and practice. A focused multi-sector plan is essential to eliminate child marriage by 2041.

Legislative and Legal Reform

Most urgent, Section 19 of the already infamous CMRA, 2017's controversial "special provision," has to be revoked or dramatically modified NOW. Not just that One This provision — which permits marriage below the minimum age in "special circumstances" — should be repealed, or else amended to state a non-negotiable minimum age floor (such as 16 years old) and to impose stringent, explicit, non-negotiable requirements for court approval so it is not used broadly as an excuse for unwanted pregnancies or premarital relationships. Plus it's a massive legal contradiction to just say child marriage is illegal without rescinding the contract; the law should be changed so kids can void child marriages when they come of age.

Improving Accountability and Enforcement

Table 1) Local institutions' competence and responsibility should actually be the focus of attention from a policy standpoint. To ensure that local Child Marriage Prevention Committees aren't just lip service, we need to breathe new life and resources into them while also identifying measurable targets and means of following up. In the same way, age cheating is to be condemned outright.¹⁵ This indicates that from now on, only digital birth registry records can serve as proof of age and anybody — registrar or government servant — who tampers with them will be in big trouble. Despite that, the punishment for performing or arranging a child marriage would have to be consistently enforced if it is to act as much of a deterrent at all.

¹⁵ BRAC / UNICEF. (Highlighting the urgency of research on the full digitization of civil registration systems to curb age fraud.)

Examining Socioeconomic Factors

And because poverty and dowries are among the main culprits, policy should marry stopping child marriage with programs that help people become more financially stable. Studies indicate that there is a negative relationship between women's education and the incidence of child marriage, thus investment in high-quality secondary education for girls is critically important. Also, social safety net schemes and cash-for-education transfer programmes need to be tied to incentives for enabling girls to remain in school beyond the age of one. Girls in their teens can change their families attitudes to them from a financial burden to an asset if they can receive vocational training and secure employment. They may face less family financial pressure to get married young.

Changing Social Conventions

Lastly, shifting negative gender norms and patriarchal attitudes is the driver for the effectiveness of a policy into the long term. This highlights the necessity of public health campaigns and community-based interventions driven by government that target men and religious leaders. The aim is to debunk myths about female purity as a way of keeping family honour, and to raise awareness that child marriage amounts to a violation of human rights. With adequate resources and concrete targets of change, such as the whole-of-government National Action Plan to End Child Marriage 2018–2030, its effective implementation should extend into all domains if this change is to endure.

6.3 Directions for Future Research

To fully comprehend the implications of reform and remedies – both institutional, legal as well as social – in Bangladesh, future research on the country's child marriage laws must go beyond mere detection.¹⁶ First, it is necessary to examine how the courts have construed the CMRA's "special provision" (Section 19). Court records and court butt coverings may also shed light on how frequently the loophole is being used, the "special circumstances" magistrates are citing in order to use it, and whether a given minimum age floor has even been enforced. Second, any research has to also consider how technology has transformed the work that police do — specifically examining just how well the country's decades-long campaign to automate marriage and birth registration have succeeded in preventing the pandemic age fraud and deceit undermining the system.¹⁶ Third, cost-effectiveness studies of different interventions beyond prevalence rates are needed. These studies should identify which interventions, whether conditionally transferring social safety net cash payments to girls who attend school, providing integrated life skills education, or strengthening the membership and capacity of local Authorities' Child Marriage Prevention Committees, have the greatest impact in reducing the prevalence of child marriage at scale and improving well-being outcomes for girls. Finally, there is need for future research to study the interactions between the CMRA and other discriminatory personal laws in Muslim personal law relating to age at puberty and majority, with a view to forging a harmonized body of law that will cause "the entire justice system" conform strictly "to constitutional and foreign laws demanding equal rights for all children until they attain 18 years".

¹⁶ World Bank / UNICEF. (Stressing the need for robust evidence to guide programming and policy, including comparative analysis of different intervention strategies.)

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