

The Hindu Marriage Registration Act, 2012: Legal Recognition, Challenges, and the Path toward Gender Equality in Bangladesh

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Abstract

The Hindu Marriage Registration Act, 2012, marks a critical step in the legal recognition and protection of Hindu marriages in Bangladesh. Prior to its enactment, Hindu marriages were governed primarily by traditional customs and lacked formal legal documentation, leading to significant challenges, particularly in matters of inheritance, property rights, and gender equality. This article delves into the historical context of Hindu marriage practices, the legal implications of the new legislation, and its social impact, focusing on gender equality, women's rights, and family dynamics. By offering legal recognition to Hindu marriages, the Act provides a platform for resolving disputes, ensuring marital rights, and promoting social stability. However, challenges in the law's implementation, such as limited awareness, administrative hurdles, and cultural resistance, remain. This article also evaluates the role of the Act in advancing gender equality, especially in the context of marital disputes, and offers recommendations to address implementation issues, enhance legal accessibility, and improve the integration of the law into societal norms. In light of its mixed reception, the article proposes pathways for improving the effectiveness of the Act in safeguarding marital rights and promoting gender justice in the Hindu community.

Keywords: Hindu Marriage Registration Act, 2012, Bangladesh, legal recognition, gender equality, women's rights, marital disputes, inheritance, and property rights, family dynamics, legal protection, marriage registration.

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1. INTRODUCTION

Marriage is a social and legal institution that plays a pivotal role in shaping personal relationships, societal stability, and legal frameworks. However, for the Hindu community in Bangladesh, the absence of formal documentation for marriages has historically created significant challenges, particularly in disputes concerning inheritance, property rights, and gender equity. Traditionally, Hindu marriages in Bangladesh have been governed by religious ceremonies and customs, which, while central to cultural identity, have left individuals—especially women—without legal protections in cases of marital disputes or familial claims.

The enactment of the Hindu Marriage Registration Act, 2012 [¹], marked a significant step toward bridging these gaps. Before the Act, there was no statutory requirement for registering Hindu marriages in Bangladesh, leaving many spouses vulnerable in legal matters. For example, in *Amulya Chandra Modak v State*, the Supreme Court invalidated a marriage conducted solely through the exchange of garlands due to the absence of the requisite Hindu ceremonies [²]. However, under Section 2(c) of the 2012 Act, all approved forms of Hindu marriages, including those performed by custom, are legally recognized, effectively overriding earlier judicial precedents. This recognition extends to inter-caste marriages, which are traditionally prohibited but remain permissible in some regions by custom.

¹ Act No. 40 of 2012. After the law was passed in parliament in 2012, the government published the gazette notification in this regard on September 24, 2012. Under

this act, rules were formulated in January 2013, namely the Hindu Marriage Registration Rules, 2013.

² *Amulya Chandra Modak vs. The State* 35 DLR (1983)160

Despite its progress, the optional nature of the Act limits its impact, as many marriages remain undocumented, leaving individuals without adequate legal protection. Unlike Muslim marriages, where non-registration constitutes a punishable offense, Hindu marriages can remain unregistered without legal consequences [3]. This optionality further perpetuates challenges, particularly for women, in securing their rights to inheritance, maintenance, or custody in cases of abandonment or disputes [4].

Moreover, issues such as child marriage and polygamy persist within the Hindu community in Bangladesh. While child marriage is permissible under traditional Hindu law, the Child Marriage Restraint Act, 2017, prohibits and criminalizes marriages involving individuals below 21 years for males and 18 years for females [5]. Polygamy remains legal under Hindu law in Bangladesh, unlike India, where it was prohibited under the Hindu Marriage Act, 1955. Conversely, polyandry is strictly prohibited [6]. Additionally, Hindu marriages in Bangladesh remain indissoluble, reflecting the religious notion of marriage as a sacred and permanent union. While Indian laws allow for dissolution of Hindu marriages as a civil contract, Bangladeshi law provides no such recourse. Married Hindu women can, however, claim separate residence and maintenance under the Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946 [7].

Widows may remarry under the Hindu Widow's Remarriage Act, 1856, but their entitlement to their deceased husband's property ceases upon remarriage. This provision further reflects the need for a comprehensive legislative framework that addresses the evolving societal and legal dynamics of marriage, property rights, and gender equity.

The Hindu Marriage Registration Act, 2012, represents a significant development in providing legal recognition and protection for Hindu marriages in Bangladesh. However, the absence of a unified and codified Hindu marriage law continues to create legal and social challenges. For example, the Act does not address issues like the mandatory registration of marriages, polygamy, or the dissolution of marriage, leaving many gaps in legal protection. As the challenges highlighted above demonstrate, it is imperative to enact a single, comprehensive legislative framework that ensures equitable legal standing for Hindu marriages while balancing tradition with modernity. Such reforms would strengthen marital rights, promote gender equality, and foster societal stability in Bangladesh.

2. OBJECTIVE OF THE STUDY

The objective of this research is to analyze the Hindu Marriage Registration Act, 2012, and its impact on the socio-legal landscape of Bangladesh. This study aims to identify the challenges and opportunities brought by the Act in addressing long-standing issues faced by the Hindu community, particularly concerning women's rights and gender equality. By examining the historical context of Hindu marriage practices, the research investigates the necessity of formal marriage registration and its influence on inheritance rights, property disputes, and familial stability.

The study seeks to evaluate the legal benefits provided by the Act, including its recognition of traditional and customary marriage practices, while addressing persistent gaps, such as the optional nature of registration and the lack of a unified legal framework. Additionally, the research assesses the Act's reception within the Hindu community, highlighting both acceptance and resistance rooted in cultural traditions. Ultimately, this study aspires to propose recommendations for bridging these gaps, enhancing implementation, and fostering a balance between respecting religious practices and ensuring legal safeguards for all individuals, particularly women, within the Hindu community.

3. RESEARCH METHODOLOGY

This study adopts a qualitative research methodology, relying primarily on secondary data to evaluate the Hindu Marriage Registration Act, 2012, and its implications. A comprehensive review of existing legal texts, including statutory laws, case law, and constitutional provisions, forms the foundation of the analysis. Key judgments such as *Amulya Chandra Modak v State* serve as critical references to contextualize the evolving legal framework.

The methodology further incorporates a comparative analysis of similar legal frameworks in jurisdictions such as India, where the codification of Hindu marriage laws under the Hindu Marriage Act, 1955 [8], offers valuable insights into alternative legislative approaches. Scholarly articles, journals, and expert commentaries are consulted to gauge the broader social and legal impacts of the Act, particularly concerning women's rights, inheritance disputes, and gender equality.

The study employs the OSCOLA referencing style to ensure academic rigor and proper citation of legal sources [9]. By synthesizing doctrinal research with

³ Hindu Marriage Registration Act, 2012, s 3(1).

⁴ Child Marriage Restraint Act, 2017, s 7.

⁵ Hindu Marriage Act, 1955 (India), s 5(i).

⁶ Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946.

⁷ Hindu Widow's Remarriage Act, 1856, s 1.

⁸ Act No. 25 of 1955 (India)

⁹ Faculty of Law, University of Oxford, *OSCOLA: Oxford University Standard for the Citation of Legal Authorities* (4th edition, 2012)

contextual analysis, the methodology enables a nuanced understanding of the challenges and potential reforms needed for the effective implementation of the Hindu Marriage Registration Act, 2012.

4. Historical Context

Hindu marriage practices in Bangladesh have evolved over centuries, rooted deeply in cultural, social, and religious traditions. While these practices symbolize sacred union and community ties, the lack of legal codification historically left marriages undocumented, creating legal ambiguities and significant challenges, especially for women. A closer look at the historical development of Hindu marriage practices and the associated legal frameworks provides insight into the long-standing reliance on customs and the need for modern legal reform.

4.1 Religious and Cultural Foundations

In Hinduism, marriage (vivaha) is regarded as one of the most sacred sacraments (samskaras), signifying a lifelong spiritual and social bond. Key rituals such as saptapadi (seven steps around the sacred fire), kanyadaan (giving the bride away), and vows before deities are central to traditional Hindu weddings [10]. These ceremonies reflect the spiritual and communal aspects of marriage but do not inherently provide legal recognition. For centuries, Hindu marriages in the region now known as Bangladesh were conducted under these customs, with no requirement for state documentation or oversight.

Marriage was seen as an indissoluble union, and divorce was generally not accepted under traditional Hindu law. This view, rooted in ancient scriptures such as the Manusmriti, reinforced the idea of marriage as a sacred duty rather than a legal contract. While these practices upheld spiritual values, they left individuals—particularly women—without legal protection in cases of abandonment, disputes, or property claims [11].

4.2 Colonial Interventions and Early Legal Developments

The colonial period marked the first significant interaction between traditional Hindu practices and formal legal systems. The British administration, while generally hesitant to interfere with personal laws, introduced reforms addressing specific social issues. Notable among these was the Hindu Widow's Remarriage Act of 1856, which legalized the remarriage of widows [12]. However, this legislation also curtailed widows' inheritance rights upon remarriage, illustrating

the colonial approach of selectively reforming Hindu personal law while maintaining patriarchal structures.

Throughout the British colonial era, there was little attempt to codify Hindu marriage laws comprehensively. The British legal system largely deferred to customary practices, with community elders or local councils resolving disputes related to marriage, divorce, or inheritance. This reliance on customs allowed regional variations to persist but also perpetuated inconsistencies and gender inequities.

One of the most significant gaps in the colonial legal framework was the absence of marriage registration for Hindus. Unlike Muslim marriages, which were increasingly subject to state oversight through mechanisms such as the Muslim Personal Law (Shariat) Application Act, 1937, Hindu marriages remained entirely within the domain of religious ceremonies and community norms [13]. This lack of documentation created legal vulnerabilities, particularly for women in cases of desertion or disputes over property and inheritance.

4.3 Post-Partition and the Legal Void

Following the partition of India in 1947, Bangladesh (then East Pakistan) inherited a pluralistic legal system that retained colonial-era personal laws. While Muslim personal law underwent significant reform under the Muslim Family Laws Ordinance, 1961, Hindu personal laws in East Pakistan remained untouched. Hindu marriages continued to be governed by religious customs, with no statutory requirement for registration.

This legal void persisted after Bangladesh's independence in 1971. Despite the adoption of progressive legal frameworks in other areas, such as labor rights and gender equality, Hindu marriage practices remained outside the scope of state regulation. This omission left many Hindu individuals, particularly women, in precarious legal positions. For instance, in disputes over inheritance or marital abandonment, the absence of marriage registration made it difficult for women to assert their legal rights [14].

4.4 Judicial Interventions Highlighting Legal Ambiguities

The absence of a statutory framework for Hindu marriage registration led to several landmark cases that highlighted the legal ambiguities surrounding Hindu marriages. For example, in *Amulya Chandra Modak v State* (1983) [15], the Supreme Court of Bangladesh

<www.law.ox.ac.uk/oscola>accessed 12 November 2019.

¹⁰ R. C Majumdar, *The History and Culture of the Indian People: The Classical Age* (Bharatiya Vidya Bhavan 1954).

¹¹ Manusmriti 5.154.

¹² Hindu Widow's Remarriage Act 1856, s 1.

¹³ Muslim Personal Law (Shariat) Application Act 1937.

¹⁴ S. Alam, 'Legal Reforms in Hindu Personal Law: The Case of Bangladesh' (2023) 45 BD Law J 67.

¹⁵ *Amulya Chandra Modak vs. The State* 35 DLR (1983)160

invalidated a marriage conducted solely through the exchange of garlands, ruling that it did not fulfill the requisite ceremonies for a valid Hindu marriage [16]. This case underscored the challenges faced by courts in adjudicating disputes involving Hindu marriages in the absence of clear legal guidelines.

Another area of concern was the exclusion of women from inheritance rights due to traditional patriarchal norms. Without formal documentation of marriage, women often found it impossible to prove their marital status, further marginalizing them in property disputes [17].

4.5 Comparative Developments in India

In contrast to Bangladesh, India undertook significant reforms in Hindu personal law shortly after independence. The Hindu Marriage Act, 1955 [18], introduced a comprehensive legal framework for the solemnization, registration, and dissolution of Hindu marriages [19]. This Act not only made marriage registration mandatory but also addressed issues such as bigamy, divorce, and property rights for women. By codifying these practices, India provided legal clarity and protection for Hindus, setting a benchmark for reforms in neighboring countries.

The progressive nature of India's legislation highlights the limitations of Bangladesh's legal framework, which has yet to introduce comparable measures. While the Hindu Marriage Registration Act, 2012, represents a step forward, its optional nature contrasts sharply with the mandatory registration required under Indian law, limiting its effectiveness in addressing gender inequities and legal ambiguities [20].

5. The Path to the Hindu Marriage Registration Act, 2012

The enactment of the Hindu Marriage Registration Act, 2012, represents a significant milestone in the socio-legal evolution of Hindu personal law in Bangladesh. This legislation, though optional in nature, provides a legal framework for documenting Hindu marriages, addressing long-standing challenges rooted in the absence of formal recognition. The journey toward this Act was shaped by historical practices, judicial interventions, legislative reforms, and advocacy by civil society. Understanding the socio-legal landscape that necessitated the Act requires an exploration of the structural gaps, community struggles, and reformist movements that culminated in its introduction.

5.1 Historical Reliance on Customary Practices

Hindu marriage practices in Bangladesh historically revolved around religious and cultural traditions rather than formal legal recognition. The ceremonies of saptapadi, kanyadaan, and the exchange of vows before sacred fire were central to these unions, symbolizing spiritual commitment [21]. However, these practices lacked any statutory framework for legal documentation, leaving marriages unregistered and unrecognized by the state. This reliance on customary practices, while preserving cultural identity, created vulnerabilities, particularly for women, in cases involving abandonment, property disputes, or inheritance [22].

Efforts to codify Hindu personal law in the colonial era were limited. The British administration introduced targeted reforms such as the Hindu Widow's Remarriage Act, 1856, to address specific social injustices but refrained from comprehensively addressing marriage registration for Hindus [23]. After Bangladesh's independence in 1971, Hindu personal law remained largely untouched, perpetuating the reliance on traditions that often marginalized women.

5.2 Judicial Interventions Highlighting the Need for Reform

In the absence of a statutory framework for Hindu marriage registration, courts frequently encountered legal ambiguities in adjudicating disputes. A landmark case, *Amulya Chandra Modak v State* (1983), illustrated these challenges. In this case, the Supreme Court invalidated a marriage performed solely by the exchange of garlands, ruling that the absence of requisite Hindu ceremonies rendered the marriage invalid [24]. While this decision underscored the importance of adhering to customary practices, it also highlighted the lack of legal clarity and the difficulties faced by courts in addressing disputes involving Hindu marriages.

The case further emphasized the need for legal documentation to resolve conflicts related to inheritance, maintenance, and marital status. Women, in particular, were disproportionately affected, as the absence of formal marriage registration often left them unable to assert their legal rights [25]. Judicial interventions such as these fueled discussions among legal scholars and policymakers about the necessity of statutory reform.

¹⁶ Ibid

¹⁷ Ibid

¹⁸ Act No. 25 of 1955 (India)

¹⁹ Hindu Marriage Act 1955 (India), ss 5-13.

²⁰ Ibid

²¹ R. C Majumdar, *The History and Culture of the Indian People: The Classical Age* (Bharatiya Vidya Bhavan 1954).

²² Manusmriti 5.154.

²³ Hindu Widow's Remarriage Act 1856, s 1.

²⁴ *Amulya Chandra Modak v State* (1983) Supreme Court of Bangladesh.

²⁵ S. Alam, 'Legal Reforms in Hindu Personal Law: The Case of Bangladesh' (2023) 45 BD Law J 67.

5.3 Civil Society Advocacy for Legal Reform

Civil society organizations and women's rights activists played a pivotal role in advocating for the legal recognition of Hindu marriages. They highlighted the systemic discrimination faced by Hindu women, who were often left vulnerable in cases of abandonment or disputes over inheritance and custody. Reports by legal scholars, such as Alam's study on Hindu personal law, shed light on the socio-legal gaps created by the absence of marriage registration, calling for urgent reform [26].

Advocates argued that legal documentation was essential for safeguarding marital rights, particularly for women. They emphasized that registration could provide a basis for resolving disputes, ensuring maintenance, and protecting inheritance claims. This advocacy gained traction among lawmakers, who recognized the need to harmonize traditional practices with contemporary legal frameworks.

5.4 Comparative Influence of Indian Reforms

The reformist approach taken by India following its independence in 1947 provided a valuable precedent for Bangladesh. The Hindu Marriage Act, 1955, codified the solemnization, registration, and dissolution of Hindu marriages in India, offering comprehensive legal protection [27]. It mandated the registration of marriages and addressed issues such as bigamy, divorce, and maintenance rights for women. By establishing a clear legal framework, the Indian Act demonstrated the potential for balancing tradition with modern legal requirements.

Bangladeshi lawmakers drew inspiration from India's approach while grappling with the unique socio-cultural dynamics of their own Hindu community. The voluntary nature of the Hindu Marriage Registration Act, 2012, reflects an attempt to respect cultural sensitivities while introducing a legal mechanism for marriage registration [28].

5.5 Enactment of the Hindu Marriage Registration Act, 2012

The Hindu Marriage Registration Act, 2012, was enacted to address the legal and social vulnerabilities arising from the absence of marriage documentation. The Act's key provisions include the voluntary registration of Hindu marriages and the recognition of customary practices as valid forms of marriage under Section 2(c) [29]. This ensures that traditional rituals remain central to marriage while providing an option for legal documentation.

While the Act marks a significant step forward, its optional nature has been a subject of criticism. Many Hindu marriages, particularly in rural areas, remain unregistered; perpetuating the vulnerabilities faced by women.⁹ Furthermore, limited awareness about the Act among the Hindu population has hindered its widespread adoption [30].

The Hindu Marriage Registration Act, 2012, addresses a critical gap in Hindu personal law but also reveals the limitations of incremental reform. The voluntary nature of registration has limited its impact, as many individuals continue to rely on traditional practices without seeking legal documentation. Moreover, administrative barriers, such as limited access to registration facilities in rural areas, have further impeded the implementation of the Act [31].

Despite these challenges, the Act offers an opportunity to promote gender equality and protect marital rights within the Hindu community. By providing legal proof of marriage, the Act enables women to assert their rights in disputes involving inheritance, custody, or maintenance. It also reflects a broader effort to harmonize cultural traditions with contemporary legal requirements, fostering social stability and justice.

6. Legal Implications of the Hindu Marriage Registration Act, 2012

The Hindu Marriage Registration Act, 2012, represents a crucial development in providing legal recognition to Hindu marriages in Bangladesh. Historically, Hindu marriages were governed by customs and lacked statutory documentation, creating vulnerabilities, especially for women, in inheritance, property disputes, and marital conflicts. This analysis explores the Act's legal implications, focusing on rights conferred, limitations, and its impact on gender equality and social stability.

6.1 Statutory Framework of the Act

The Hindu Marriage Registration Act provides an optional framework for registering Hindu marriages. Section 2(C) of the Act recognizes all Hindu marriages conducted through religious or customary practices as legally valid, provided they adhere to approved rituals. This provision integrates traditional ceremonies such as *saptapadi* and *kanyadaan* with a modern legal framework.

1. **Legal Documentation:** Registered marriages serve as conclusive evidence in inheritance and marital disputes, protecting spouses, especially women, from legal ambiguity.

²⁶ Ibid.

²⁷ Hindu Marriage Act 1955 (India), ss 5-13.

²⁸ Hindu Marriage Registration Act 2012 (Bangladesh), s 3(1).

²⁹ Hindu Marriage Registration Act 2012, s 2(c).

³⁰ S. Rahman, 'Challenges in Implementing the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

³¹ Hindu Marriage Registration Act 2012, s 4.

2. **Inheritance Rights:** Registration helps establish a spouse's legal status, easing inheritance claims that are often denied under patriarchal customs.
3. **Proof in Disputes:** Registration assists courts in resolving conflicts by providing verifiable proof of marital unions.

However, unlike Muslim marriages in Bangladesh, where non-registration constitutes a punishable offense, Hindu marriages can remain undocumented without consequences, limiting the Act's enforceability. The optional nature of registration continues to leave many marriages undocumented and women vulnerable to exploitation.

6.2 Gender Equality and Women's Rights

The Act contributes significantly to gender equality by empowering women through legal recognition of their marital status. Before its enactment, women frequently struggled to assert claims in cases of marital abandonment, inheritance disputes, or child custody due to the absence of legal documentation [32].

Legal Empowerment of Women:

1. **Inheritance Claims:** Registered marriages establish a woman's right to inheritance, safeguarding her interests against patriarchal practices that deny her share of property [33].
2. **Protection against Abandonment:** Registration provides evidence in cases of abandonment, enabling women to claim maintenance or support [34].
3. **Legal Proof of Marital Status:** In inheritance disputes, courts have emphasized the importance of formal registration in determining a spouse's status [35].

Despite these advancements, the Act does not address polygamy, which remains legal under Hindu law in Bangladesh, or the lack of divorce provisions, leaving women with limited options in cases of marital discord.

6.3 Judicial Precedents

The absence of formal registration has long posed challenges for courts. In *Amulya Chandra Modak v State* [36], the Supreme Court invalidated a marriage conducted through the exchange of garlands, citing non-adherence to customary ceremonies. Such cases underline the importance of documentation to establish the validity of marriages. The Act seeks to address these legal ambiguities by offering a statutory mechanism for registration.

6.4 Comparative Analysis: India's Reforms

India's Hindu Marriage Act, 1955, serves as a valuable comparator. It mandates the registration of Hindu marriages, prohibits polygamy, and recognizes divorce. In contrast, Bangladesh's law remains limited in scope:

1. **Mandatory Registration:** India's mandatory framework strengthens women's rights by ensuring legal protection for all marriages [37].
2. **Polygamy Prohibition:** Indian law explicitly prohibits polygamy, providing additional protections to women, unlike in Bangladesh [38].
3. **Dissolution of Marriage:** India allows for the dissolution of marriage under specific circumstances, recognizing marriage as a civil contract, whereas Bangladeshi law views it as indissoluble [39].

7. Social Impact Social Impact of the Hindu Marriage Registration Act, 2012

The Hindu Marriage Registration Act, 2012, is a significant legislative step toward addressing the socio-legal challenges faced by the Hindu community in Bangladesh. By introducing a framework for the formal registration of Hindu marriages, the Act aims to protect marital rights, enhance gender equality, and reduce vulnerabilities arising from undocumented marriages. While the law has opened avenues for social reform, its optional nature and implementation barriers continue to limit its transformative potential. This section explores the Act's social impact, focusing on legal empowerment, family dynamics, and challenges in its adoption.

7.1 Empowerment of Women and Gender Equality

Historically, Hindu women in Bangladesh faced systemic challenges in securing marital rights due to the absence of formal legal documentation for marriages. Before the enactment of the Act, women often struggled to claim inheritance, maintenance, or legal recourse in cases of abandonment. The registration of marriages under the 2012 Act provides a much-needed legal tool for women to assert their marital status, especially in disputes over property or custody.

For instance, legal scholars have noted that without documentation, women could rarely prove their marriage in court, leaving them vulnerable to abandonment or exploitation [40]. By providing verifiable evidence of marriage, the Act strengthens women's ability to claim maintenance and inheritance rights. However, the voluntary nature of registration limits its

³² Alam S, 'Legal Reforms in Hindu Personal Law: The Case of Bangladesh' (2023) 45 BD Law J 67.

³³ Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

³⁴ Hindu Marriage Registration Act 2012, s 2(c).

³⁵ *Amulya Chandra Modak v State* [1983]

³⁶ Ibid

³⁷ Hindu Marriage Act 1955 (India), s 8

³⁸ Hindu Marriage Act 1955, s 5.

³⁹ Hindu Marriage Act 1955, s 13.

⁴⁰ Alam S, 'Legal Reforms in Hindu Personal Law: The Case of Bangladesh' (2023) 45 BD Law J 67.

reach, particularly in rural areas where awareness of the law remains low [41].

7.2 Family Dynamics and Social Stability

The formalization of marriages under the Act has also brought changes to family structures. Registered marriages provide legal certainty, reducing disputes related to inheritance and custody. For example, formal documentation helps establish the legitimacy of children's inheritance claims, which is particularly significant in patriarchal communities where undocumented marriages often leave women and children at a disadvantage [42].

In addition, the Act contributes to family stability by emphasizing accountability in marital relationships. While marriage is traditionally viewed as a sacred bond in Hindu culture, legal registration introduces an element of transparency and responsibility that can deter fraudulent practices, such as bigamy or desertion. However, the resistance to registration in certain segments of the Hindu community, particularly in rural areas, underscores the need for sensitization efforts to harmonize cultural traditions with legal requirements [43].

7.3 Reducing Vulnerabilities

Unregistered marriages have historically exposed Hindu women to significant vulnerabilities, especially in cases of desertion or disputes over property. Legal scholars have observed that abandoned wives often lack the means to prove their marital status in court, leaving them without access to maintenance or property rights [44].

Furthermore, the Act indirectly supports efforts to combat child marriage. Although child marriage is explicitly prohibited under the Child Marriage Restraint Act, 2017, the registration process requires marriage registrars to verify the age of the individuals involved, adding an additional layer of protection. However, the lack of enforcement and awareness in rural areas continues to undermine these efforts [45].

7.4 Community Reception and Cultural Resistance

The reception of the Hindu Marriage Registration Act, 2012, has been mixed. Urban populations, particularly those exposed to civil society campaigns, have increasingly embraced registration as a means of legal protection. On the other hand, many rural communities view marriage registration as an unnecessary bureaucratic interference in a religious

practice traditionally governed by customs and rituals [46].

For example, community leaders have expressed concerns that the Act disrupts the sanctity of marriage by introducing legal formalities. Addressing these perceptions requires sustained efforts to demonstrate that registration complements rather than replaces traditional practices. Partnerships with religious leaders and community influencers can play a pivotal role in this regard [47].

7.5 Lessons from India's Reforms

India's Hindu Marriage Act, 1955, offers valuable insights for strengthening the social impact of Bangladesh's Hindu Marriage Registration Act. In India, mandatory registration has been instrumental in reducing legal ambiguities and empowering women [48]. The Act prohibits bigamy and provides for divorce, enabling women to seek redress in cases of marital discord. By contrast, the optional nature of registration in Bangladesh limits the scope of protection, leaving many women without access to justice.

For instance, the landmark Indian case of *Sarla Mudgal v Union of India* highlighted the importance of mandatory registration in preventing bigamy and protecting women's rights [10]. Incorporating similar provisions into Bangladesh's legal framework could enhance the effectiveness of the Hindu Marriage Registration Act.

8. Challenges in Implementation of the Hindu Marriage Registration Act, 2012

The Hindu Marriage Registration Act, 2012, is a landmark law that provides legal recognition to Hindu marriages in Bangladesh. However, its implementation has faced numerous obstacles that have limited its effectiveness in addressing the socio-legal challenges faced by the Hindu community. The challenges can be broadly categorized into legal, administrative, cultural, and awareness-related issues.

8.1 Voluntary Nature of Registration

One of the most significant challenges of the Act is its optional nature. Unlike Muslim marriages in Bangladesh, where registration is mandatory and non-registration is punishable, Hindu marriages can remain undocumented without legal consequences. This voluntary framework undermines the potential benefits of the Act, as many individuals continue to rely solely on

⁴¹ Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

⁴² *Hindu Marriage Registration Act, 2012* (Bangladesh).

⁴³ Bangladesh Hindu Mahasabha, Annual Report (2021).

⁴⁴ Alam S, 'Legal Reforms in Hindu Personal Law: The Case of Bangladesh' (2023) 45 BD Law J 67.

⁴⁵ Child Marriage Restraint Act, 2017 (Bangladesh).

⁴⁶ Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

⁴⁷ Bangladesh Hindu Mahasabha, Annual Report (2021).

⁴⁸ Hindu Marriage Act, 1955 (India).

traditional or customary practices without opting for legal registration [⁴⁹].

This optionality is particularly problematic for women, who remain vulnerable in cases of abandonment, disputes, or inheritance claims. Without legal documentation, women often face difficulties proving their marital status in court, which limits their access to maintenance and property rights. The absence of a mandatory requirement weakens the enforceability of the law and perpetuates the socio-legal vulnerabilities of Hindu women [⁵⁰].

8.2 Lack of Awareness and Sensitization

A major impediment to the Act's success is the widespread lack of awareness about its provisions among the Hindu population, particularly in rural areas. Many Hindus are unaware of the benefits of registering their marriages or are hesitant to engage with formal legal systems. This lack of awareness stems from inadequate government outreach and the absence of sustained campaigns to educate communities about the importance of marriage registration [⁵¹].

Civil society organizations have highlighted the need for targeted sensitization efforts to bridge this knowledge gap. For example, rural women, who are disproportionately affected by the lack of registration, require accessible information on how registration can secure their rights. Without such initiatives, the Act remains underutilized, and the population continues to rely on traditional systems that often disadvantage marginalized groups [⁵²].

8.3 Administrative Barriers

The implementation of the Act is hindered by significant administrative challenges. In many rural and remote areas, access to marriage registrars is limited, making it difficult for couples to register their marriages. A shortage of trained registrars, coupled with bureaucratic inefficiencies, further exacerbates the problem.

Additionally, the process of registration is often perceived as cumbersome and time-consuming, discouraging many from pursuing it. The lack of digitalization in the registration system also poses barriers to accessibility, especially for rural populations. Improved infrastructure and streamlined processes are

essential to overcome these administrative hurdles and encourage greater adoption of marriage registration [⁵³].

8.4 Cultural Resistance

Cultural resistance remains a key challenge to the effective implementation of the Hindu Marriage Registration Act. For many Hindus in Bangladesh, marriage is viewed as a sacred religious institution rather than a legal contract. As a result, there is skepticism about the need for state involvement in documenting a practice that has traditionally been governed by religious customs [⁵⁴].

Community leaders and elders often perceive marriage registration as an unnecessary interference in religious and cultural practices. This resistance is particularly pronounced in conservative rural areas, where traditional norms and patriarchal attitudes dominate. Efforts to address this resistance must emphasize that registration does not undermine religious traditions but complements them by providing legal safeguards [⁵⁵].

8.5 Gender Inequities in the Legal Framework

While the Act is a step forward in providing legal recognition to Hindu marriages, it does not address several gender inequities that persist within Hindu personal laws. For instance, the Act does not include provisions to prohibit polygamy, which remains legal under Hindu law in Bangladesh. Similarly, the absence of provisions for divorce leaves women with limited recourse in cases of marital discord [⁵⁶].

In contrast, India's Hindu Marriage Act, 1955, explicitly prohibits polygamy and provides for the dissolution of marriage under specific circumstances, recognizing marriage as a civil contract. These progressive provisions have enhanced gender equality and protected women's rights in India, serving as a valuable comparator for Bangladesh [⁵⁷].

8.6 Indirect Challenges from Child Marriage

The prevalence of child marriage in Bangladesh further complicates the implementation of the Hindu Marriage Registration Act. While the Child Marriage Restraint Act, 2017, criminalizes underage marriages, its enforcement remains weak, particularly in rural areas. Many underage Hindu marriages are conducted without any registration, leaving young brides vulnerable to exploitation [⁵⁸].

⁴⁹ Hindu Marriage Registration Act, 2012 (Bangladesh).

⁵⁰ Alam S, 'Legal Reforms in Hindu Personal Law: The Case of Bangladesh' (2023) 45 BD Law J 67.

⁵¹ Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

⁵² Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

⁵³ Bangladesh Hindu Mahasabha, Annual Report (2021).

⁵⁴ Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

⁵⁵ Alam S, 'Legal Reforms in Hindu Personal Law: The Case of Bangladesh' (2023) 45 BD Law J 67.

⁵⁶ Hindu Marriage Act, 1955 (India).

⁵⁷ *Sarla Mudgal v Union of India* [1995] AIR SC 1531.

⁵⁸ Child Marriage Restraint Act, 2017 (Bangladesh).

Marriage registration could serve as a deterrent to child marriage, as registrars are required to verify the age of individuals before registering the union. However, the lack of enforcement mechanisms and awareness about this requirement undermines its potential impact. Strengthening the synergy between the two laws could enhance the protection of vulnerable groups, particularly young girls [59].

9. FINDINGS OF THE STUDY

The Hindu Marriage Registration Act, 2012, marks a pivotal step toward the legal recognition of Hindu marriages in Bangladesh. By addressing the long-standing absence of formal documentation for Hindu marriages, the Act holds the potential to transform socio-legal dynamics within the community. However, its implementation and social impact have revealed critical areas for improvement. Below are the key findings of this study, organized around the Act's achievements, limitations, and broader implications for gender equality and legal reform.

9.1 Legal Clarity and Recognition of Customary Practices

The Act provides a statutory framework for the registration of Hindu marriages, recognizing all forms of marriage conducted through religious or customary practices under Section 2(c). This integration of tradition with a modern legal framework ensures that the spiritual and cultural aspects of Hindu marriages are preserved while offering legal recognition [60].

Registered marriages serve as conclusive evidence in marital disputes, inheritance claims, and custody battles, protecting individuals from legal ambiguities. In the absence of registration, women have historically struggled to prove their marital status, leaving them vulnerable in matters of property disputes and abandonment [61]. This legal clarity represents a significant advancement, but its voluntary nature undermines its effectiveness in ensuring comprehensive protection for all Hindu marriages [62].

9.2 Impact on Women's Rights and Gender Equality

The study finds that the registration of Hindu marriages significantly enhances women's legal standing, particularly in disputes involving inheritance, maintenance, and custody. Women in registered

marriages are better positioned to assert their rights in cases of abandonment or exploitation [63].

Moreover, registration helps address patriarchal practices that deny women their rightful share of property. For example, inheritance disputes often hinge on the legitimacy of a spouse's marital status, which can now be established through formal documentation. However, the Act does not address critical gender inequalities in Hindu personal laws, such as the legality of polygamy or the lack of provisions for divorce, leaving women with limited recourse in cases of marital discord [64]. These gaps highlight the need for broader reforms to achieve gender justice within the Hindu community.

9.3 Social Impact: Acceptance and Resistance

The Act has received a mixed reception within the Hindu community. In urban areas, growing awareness of the Act's legal benefits has contributed to its acceptance. Women's rights groups and civil society organizations have played a crucial role in advocating for the Act, emphasizing its potential to empower women and protect their legal rights [65].

However, resistance persists, particularly in rural areas where traditional norms dominate. Many view marriage registration as an unnecessary interference with religious customs, perceiving it as a challenge to the sanctity of marriage as a spiritual bond [66]. This resistance underscores the importance of engaging religious leaders and community influencers to harmonize cultural practices with legal requirements.

9.4 Administrative and Practical Barriers

The study identifies significant administrative hurdles in the implementation of the Act. Limited access to marriage registrars, particularly in rural and remote areas, remains a key challenge. Inadequate infrastructure, coupled with bureaucratic inefficiencies, discourages many couples from pursuing registration.

Additionally, the process is often perceived as cumbersome and inaccessible, further limiting its adoption. Digitalizing the registration process and increasing the number of registrars could address these barriers and improve accessibility, especially for rural populations [67].

⁵⁹ Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

⁶⁰ Hindu Marriage Registration Act, 2012 (Bangladesh), s 2(c).

⁶¹ Alam S, 'Legal Reforms in Hindu Personal Law: The Case of Bangladesh' (2023) 45 BD Law J 67.

⁶² Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

⁶³ Hindu Marriage Registration Act, 2012 (Bangladesh).

⁶⁴ Hindu Marriage Act, 1955 (India), s 5.

⁶⁵ Bangladesh Hindu Mahasabha, Annual Report (2021).

⁶⁶ Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

⁶⁷ Ibid

9.5 Optional Nature of Registration

The voluntary nature of the Hindu Marriage Registration Act is perhaps its most significant limitation. Unlike Muslim marriages, which are subject to mandatory registration under Bangladeshi law, Hindu marriages can remain unregistered without legal consequences [⁶⁸]. This optionality perpetuates vulnerabilities for women, who may find themselves unable to prove their marital status in legal disputes.

Mandatory registration, as seen in India's Hindu Marriage Act, 1955, could strengthen the Act's effectiveness by ensuring that all Hindu marriages are documented, reducing ambiguities in marital disputes and enhancing legal protections [⁶⁹].

9.6 Comparative Insights from India

India's Hindu Marriage Act, 1955, offers valuable lessons for enhancing the legal framework in Bangladesh. The Indian law mandates marriage registration, prohibits polygamy, and allows for the dissolution of marriage, recognizing it as a civil contract [⁷⁰]. These provisions have significantly improved gender equality within the Indian Hindu community. By adopting similar reforms, Bangladesh could address the existing legal and social gaps, further empowering women and fostering societal stability.

9.7 Indirect Impact on Child Marriage Prevention

The Act indirectly contributes to combating child marriage by requiring registrars to verify the age of individuals before registering a marriage. While the Child Marriage Restraint Act, 2017, criminalizes child marriage, its enforcement remains weak in rural areas where underage marriages often go unregistered. Marriage registration could act as an additional deterrent to child marriage, but stronger enforcement mechanisms and awareness campaigns are needed to realize this potential [⁷¹].

9.8 Need for Integrated Reforms

The findings of this study highlight the need for a unified and codified legal framework for Hindu marriages in Bangladesh. The Hindu Marriage Registration Act, while a significant step forward, addresses only part of the broader socio-legal challenges faced by the Hindu community. Comprehensive reforms, including provisions for mandatory registration, prohibition of polygamy, and recognition of divorce, are necessary to achieve gender equality and legal clarity.

The Hindu Marriage Registration Act, 2012, represents a critical development in the socio-legal evolution of Hindu personal law in Bangladesh. While it provides a foundation for legal recognition and protection of Hindu marriages, its impact is constrained by its optional nature, administrative barriers, and

resistance to registration. Addressing these challenges through legal reforms, awareness campaigns, and infrastructure development is essential to maximize the Act's potential. By doing so, the Act can play a transformative role in promoting gender justice, protecting marital rights, and fostering societal stability.

10. Recommendations for Addressing Implementation Challenges

To overcome these challenges, a multi-faceted approach is necessary:

1. **Mandatory Registration:** Amending the Act to make marriage registration mandatory would ensure comprehensive legal protection and eliminate ambiguities in marital disputes.
2. **Awareness Campaigns:** Government agencies and civil society organizations should collaborate on sustained outreach programs to educate the Hindu community about the benefits of marriage registration.
3. **Infrastructure Development:** Increasing the number of registrars, particularly in rural and remote areas, and streamlining the registration process would improve accessibility and efficiency.
4. **Integration with Religious Practices:** Encouraging community leaders and religious authorities to integrate legal registration into traditional ceremonies could reduce cultural resistance and foster acceptance.
5. **Strengthening Legal Protections:** Introducing reforms to address gender inequities in Hindu personal laws, such as banning polygamy and allowing for divorce would enhance the effectiveness of the legal framework.

The Hindu Marriage Registration Act, 2012, has the potential to transform the socio-legal landscape for the Hindu community in Bangladesh. However, its implementation is hindered by voluntary registration, lack of awareness, administrative inefficiencies, cultural resistance, and gaps in legal protections. Addressing these challenges requires a concerted effort to enhance accessibility, awareness, and the legal framework. By doing so, the Act can fulfill its promise of promoting gender equality, protecting marital rights, and fostering social stability.

11. CONCLUSION

The Hindu Marriage Registration Act, 2012, represents a critical step toward addressing the socio-legal challenges faced by the Hindu community in Bangladesh. Historically, Hindu marriages were governed solely by religious customs, leaving them without legal recognition or documentation. This gap exposed individuals, particularly women, to vulnerabilities in inheritance claims, property disputes, and marital abandonment. By offering a framework for

⁶⁸ Hindu Marriage Registration Act, 2012 (Bangladesh).

⁶⁹ Hindu Marriage Act, 1955 (India), s 8.

⁷⁰ Sarla Mudgal v Union of India [1995] AIR SC 1531.

⁷¹ Child Marriage Restraint Act, 2017 (Bangladesh).

marriage registration, the Act provides an essential tool to formalize marriages while preserving traditional practices through Section 2(c), which recognizes religious and customary ceremonies as valid under the law [72].

While the Act is a progressive reform, its optional nature has significantly limited its effectiveness. Unlike Muslim marriages in Bangladesh, where registration is mandatory, Hindu marriages can remain unregistered without legal repercussions, leaving many spouses without adequate legal protections [73]. This voluntary framework particularly disadvantages women in rural areas, who often struggle to prove their marital status in court, making it difficult to assert rights to maintenance, custody, or inheritance [74]. Mandatory registration, as seen in India's Hindu Marriage Act, 1955, could strengthen the framework, ensuring that all Hindu marriages are documented and reducing ambiguities in marital disputes [75].

The study also highlights substantial administrative challenges that hinder the implementation of the Act. Limited access to marriage registrars in rural areas exacerbates inequities between urban and rural populations [76]. Additionally, the lack of a streamlined registration process and digital infrastructure makes the system inaccessible for many couples [77]. Addressing these administrative barriers is critical to improving the law's reach and ensuring that its benefits extend to all segments of society.

Cultural resistance remains another significant obstacle. In many rural areas, Hindu marriage is seen as a sacred religious sacrament, and registration is perceived as an unnecessary interference with tradition [7]. Community leaders and religious elders often oppose the Act, fearing it undermines traditional marriage practices [78]. Overcoming these perceptions requires collaborative efforts between the government, civil society, and religious leaders to promote registration as a complementary measure that reinforces, rather than replaces, cultural values.

The Act's impact on gender equality is particularly notable. By formalizing marriages, it strengthens women's ability to assert their legal rights, particularly in cases of abandonment, property disputes, and inheritance claims [79]. Courts have repeatedly

emphasized the importance of marriage registration as a prerequisite for resolving inheritance disputes, where women have traditionally been excluded [80]. However, the Act does not address systemic gender inequities within Hindu personal laws, such as the legality of polygamy and the lack of provisions for divorce. Polygamy remains permissible under Hindu law in Bangladesh, while Indian law explicitly prohibits it. Similarly, the absence of divorce mechanisms leaves women with limited recourse in cases of marital discord, perpetuating their legal and social vulnerabilities [81].

Insights from India's legal framework underscore the potential for Bangladesh to strengthen its own laws. India's Hindu Marriage Act, 1955, mandates marriage registration, prohibits polygamy, and recognizes divorce, providing a more comprehensive legal framework for Hindu marriages [82]. These measures have significantly enhanced gender justice in India and serve as a model for reform in Bangladesh.

Additionally, the Act holds potential for addressing broader social challenges, such as child marriage. Although the Child Marriage Restraint Act, 2017, criminalizes child marriage, enforcement remains weak, particularly in rural areas where underage marriages often go unregistered. The Hindu Marriage Registration Act can complement these efforts by requiring registrars to verify the age of individuals before registering marriages, serving as an additional safeguard against child marriage. However, stronger enforcement mechanisms and awareness campaigns are necessary to ensure this provision is effectively utilized.

In conclusion, the Hindu Marriage Registration Act, 2012, is a landmark reform that provides a foundation for legal recognition of Hindu marriages in Bangladesh. However, its voluntary nature, coupled with administrative and cultural barriers, limits its transformative potential. Addressing these challenges through mandatory registration, improved infrastructure, and broader legal reforms is essential to ensuring the Act fulfills its objectives. Reforms to prohibit polygamy, introduce divorce mechanisms, and align Hindu personal laws with contemporary standards are also critical to advancing gender justice and fostering societal stability. By drawing lessons from India's progressive legal framework and promoting marriage registration as a tool for empowerment, Bangladesh can create a more

⁷² Hindu Marriage Registration Act, 2012 (Bangladesh), s 2(c).

⁷³ Alam S, 'Legal Reforms in Hindu Personal Law: The Case of Bangladesh' (2023) 45 BD Law J 67.

⁷⁴ Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

⁷⁵ Hindu Marriage Act, 1955 (India).

⁷⁶ Alam S, 'Legal Reforms in Hindu Personal Law: The Case of Bangladesh' (2023) 45 BD Law J 67.

⁷⁷ Bangladesh Hindu Mahasabha, Annual Report (2021).

⁷⁸ Rahman F, 'Marriage Registration and Women's Rights: An Analysis of the Hindu Marriage Registration Act' (2022) 38 Asian Legal Rev 122.

⁷⁹ Ibid

⁸⁰ Hindu Marriage Registration Act, 2012 (Bangladesh).

⁸¹ Sarla Mudgal v Union of India [1995] AIR SC 1531.

⁸² Hindu Marriage Act, 1955, ss 8, 13.

equitable legal system that balances tradition with modernity, ultimately protecting marital rights and promoting gender equality within the Hindu community.

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