Hindu Women’s Rights in Bangladesh: A Need to Introduce a Time Worthy Legal Order

NUSRAT HASINA

ABSTRACT
The legal system of Bangladesh has its roots in the laws of British India, and the adopted laws were prevalent during colonial rule in the sub-continent and are a common law jurisdiction. After the independence of 1971, the laws were inconsistent with the spirit of Bangladesh. But still, as a minor Hindu country, Bangladesh continued with the laws which go against the principles of the Constitution. The Traditional Hindu Law continues its journey following some norms and customs, which create a bar for women to have an equal life. Hindu personal laws were generated by some traditional laws which were against the principles of equality and non-discrimination. Initiatives were taken to reform the laws, but no fruitful result came. Bangladesh, as a secular country, ensures the equal participation of women and has also ratified and signed different International Conventions and Treaties to protect the right of women. But still, Hindu women are not getting the equal field to participate and ensure their rights. At the same time, our neighbour countries are taking proper initiatives to decrease inequality and discrimination against women.

Keywords: Women, Rights, Personal Law, Discrimination, Equality.

I. INTRODUCTION
Bangladesh is, and always has been, a pluralistic society with four major religious communities - Muslims, Hindus, Buddhists and Christians as well as a number of ethnic minority communities who follow these or other religious-cultural practices. In the Bangladesh Constitution of 1972, women have been specifically placed on an equal footing with men in all spheres of State and public life. The same Constitution also Guarantees freedom of religion to all citizens of the country and allows each religious community the freedom to live according to the separate personal laws that have governed their communities since much before the partition of the Indian Sub-continent. These laws govern the issues of marriage, divorce, dower, maintenance, guardianship, custody, adoption and inheritance. The separate personal laws which today still govern the family lives of the men, women and children of Bangladesh reflect...
the perception of gender inequality that remains prevalent in the current Bangladeshi society. The laws are inconsistent with the universal human rights as laid down in the international human rights treaties ratified by Bangladesh, including, most particularly, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the International Covenant on Civil and Political Rights (ICCPR) and the International Covenant on Economic, Social and Cultural Rights (ICESCR).

(A) Objectives of the study:

- To know all personal laws on women to remove discriminatory features, especially polygamy; grant equal access to divorce to men and women; remove barriers to securing maintenance; and ensure women’s equal right to marital property during marriage and upon divorce.

- Examine the disseminate information about the protections available in the law against domestic violence in different media, including through disabled-friendly methods, and monitor the implementation of the law.

- Review and reform family court proceedings to eliminate delays and ensure that judges grant interim maintenance in eligible cases in Bangladesh perceptive.

- Strengthen and weakness of social assistance programs, including access to shelters for poor women, divorced and separated women, and survivors of domestic violence of different local and foreign NGOs (BLAST, AIN O SALISH KENDRO, BNWLA etc)

- The proposed study is attempt to examine the developed and effectiveness of laws relating to Hindu women status and determining their position in Bangladesh and how to implement these rights.

- The study is an initiative to create social positive thinking and practices and to make effective the existing laws, and promote to create relating laws on women’s.

(B) Design of the Study

This is a qualitative study and research design would be examining and descriptive in nature. The purpose of the study is to get in-depth information about women’s the legal status, women rights, exists in hindu law in Bangladesh.

(C) Data collection methods

Data shall be collected using in depth qualitative interview on victim, social worker, community people. The interpretative technique will give an opportunity to discuss elaborately with suffering women’s to understand their hidden pain, frustration, hopes problems and their
recommendation.

Marriage is a social phenomenon that not only unites two people in a sacred union but also unites the extended families as well. In Hindu Law, rights of a women is mostly depended on the man and as the traditional Hindu Law follows the British colonial rule, women rights are subjected all the time. This article presents a brief discussion on particular personal law relating to Hindu women in Bangladesh. A comparative analysis between the International law and the law applicable to Indian Hindu women with the laws of Bangladesh has been developed to understand the situation of a Hindu woman in Bangladesh. The paper also shows that Bangladesh’s Hindu women rights are still ruled under the laws of British colonial period. For this, Hindu women of Bangladesh would endure enormous hardships and are not able to enjoy their rights properly. At the same time, our neighbour countries get out themselves from the rule of British and texture their laws in pattern of modern time to ensure equality and justice for women. The Article focuses on the rules, laws and norms of the Traditional Law and analyses Hindu personal laws in India regarding marriage, divorce adoption, guardianship, remarriage of widow and inheritance property; and the responsibility of the state to both its Constitution as well as international human rights obligations. The Article address the question that, Why in Bangladesh, Hindu women are getting rights to enjoy properly. The Article addresses the reasons and recommends some solutions to ensure equality of Hindu women under the personal law in Bangladesh.

II. HINDU MARRIAGE LAWS IN INDIA: ADDRESSING DISCRIMINATION IN BANGLADESH’S LEGAL REGIME

According to Manu (the prominent Smriti writer) Hindu personal law is based on Dharma and this law is in divine nature. That means, the customs and norms came from the divine and those norms are unchangeable. And unfortunately, most of the customs and norms are against of women. In British period, several laws were enacted under personal law which was mostly in discriminative manner. The Colonial Government of India had the legislative authority to change the personal laws of the Indians and they used this power in several cases. This applied especially in the case of practices they could justify as being particularly abhorrent e.g widow remarriage, child marriage, sati and so forth (Chowdhury). After the partition of 1947, several laws were changed in India but in Bangladesh after the British colonial era no changes have been brought in Hindu personal law. As a result, the Hindu minor women of Bangladesh were regulated under the discriminative laws and faced troubles in protection of their rights. In fact, Hindu Women in Bangladesh suffer due to the presence of ancient shastric law and the absence
of “uniform family code”. Practically there is a long time demand for the introduction of a “uniform family code” which may be applicable to all communities of Bangladesh irrespective of religion.

Fig 1 reflects the rate of Hindu population in Bangladesh and as Bangladeshi Hindu women rights are rarely being protected by the nation they prefer to settle down in other countries with family. Hindu Women rights are more satisfyingly protected in other nations including Pakistan rather than Bangladesh which is also a reason of decreasing the rate of Hindu population from Bangladesh.

III. MARRIAGE

According to Hindu social customs, Hindu marriages are solemnised through religious rituals. In the Hindu religion, marriage is a religious duty, not a contract. Hindu marriage is a sacrament and it is the last of the ten sacraments for men and perhaps the only sacrament for females (Sharmin, 2007). In Bangladesh, Hindu marriage follows no legal proceedings rather social customs. In the case of AMULYA CHANDRA v. THE STATE identifies two grounds for a valid marriage. The grounds are, Invocation before the sacred fire and taking of the seven steps before the sacred fire by the bride and the bridegroom, i.e. Saptapadi. Besides, Hindu marriage rituals or formalities vary from caste to caste. As it is not a contract, the important elements of contract such as, age of majority and ability to enter into a contract are missing. Marriage of Hindu children was brought about by their parents and the minority of a child was not a bar to his or her marriage. So the sacrament process creates no bar to give marriage to a Hindu Child as age is not a matter of fact under Hindu law. But the Child Marriage Restraint Act, 1929 is clearly in against the marriage of a child. Woman’s consent to marriage is not required under Hindu law. As age is not a fact in Hindu marriage, the point of consent doesn’t count. Consent from parents and family is a fact and the father is always the preferred guardian of his children;
the mother can be the guardian, but her rights are inferior to those of the father. So consent of a woman for the sacrament is totally irrelevant.

But our neighbour country India after passing the “Hindu Marriage Act, 1955”, Hindu marriage is a civil contract with a condition of marriage that the bridegroom must have completed the age of 21 years and the bride 18 years. The same Act states that, at the time of marriage, the parties should be capable of giving a valid consent to the marriage. A person who is of a sound mind shall be considered to be a person capable to give a valid consent. Besides that, Hindu marriage is a civil contract in the sense that after the passing of the Act either the husband or the wife has the opportunity to get the marriage dissolved.

IV. REGISTRATION OF HINDU MARRIAGE

As our country follow the old statutes, marriage is considered as sacrament, not contract so no registration is required for registration of Hindu marriages in Bangladesh.(Huda). In May 2012, the cabinet approved a bill for registration of Hindu marriages which was optional and not practised with compulsory consideration. The Hindu Marriage Registration Act 2012 and its rules in 2013 states, registration of Hindu marriage is not mandatory and in Bangladesh, marriage is considered to be performed by some rituals rather than registration. Since registration is not a requirement, the court's technical approach, in particular the failure to recognise customary forms of marriage, may cause considerable difficulty to women who seek to validate their rights.(Hossain)

In India the Hindu Marriage Act, 1955 states about the registration of a marriage though it doesn’t question on the validity of marriage, it becomes a common and regular practise. Because, registration of a marriage arise different technical aspects for a women to ensure their rights and also it opens up different doors for women to ensure their rights. Bangladeshi Hindu women are being deprived of human and constitutional rights, and many women are not getting the right to properties and even recognition of marriage due to absence of a complete marriage registration law

V. DISSOLUTION OF HINDU MARRIAGE

A Muslim man and women can claim Divorce and get out himself or herself from any kinds of bindings. No system of divorce is available in Hindu law. At the same time, the practise of polygamy by a man is available in Hindu law but not for women. According to Dayabhaga law divorce is not possible except on a very limited ground of chastity of wife. But, what would happen if the husband is of immoral character?
Figure: 2- Divorce rate in Bangladesh

In the figure 2, the divorce rate of Bangladeshi Muslim women is quite shocking as it reveals that, women are seeking divorces more than man. Women are raising voices and stand to get out her from an unwanted relationship. This is the picture of Bangladeshi Muslim Women whereas living in a same nation, Hindu women are not empowered to claim divorce if she wants. Section 10 of the Divorce Act 1869 empowers the wife to present petition to the district court or to the High Court division for the dissolution of her marriage on some reasonable grounds.

Family Court Ordinance, 1985 aims at resolving legal disputes related to dissolution of marriage, restitution of conjugal relation, dower, maintenance, and guardianship and custody of children. A Hindu woman can seek help from the ordinance only when the marriage is solemnised by Special Marriage Act 1872 and registered. It is very unfortunate that there is no specific Hindu marriage law or no marriage registration system for Hindu people in Bangladesh. The couple may notarise their marriage in front of two witnesses (one of the witnesses may be the priest who solemnised the marriage but it is not mandatory) like in Muslim marriage. After that the marriage will be registered. Problems arise when the parties from different religions would like to marry each other without changing their religion. Special Marriage Act 1872 is the preliminary solution of the problem but in case of determining inheritance of their successors it is really an impossible task as no domestic law can resolve the problem.

As per a 1946 law, Hindu women can file cases with courts to only regain the rights to conjugal life. Besides, the Hindu women can file cases under Family Court Ordinance 1985, Dowry Act 1980 and Women and Children Repression Act 2003. But these laws are too inadequate to protect the Hindu women’s rights. But the situation is very different in neighbouring India. There are laws in that country to protect the rights of Hindu women such as Widow Marriage Act 1856, Racial Inability Remission Act 1850, Child Marriage Prevention Act 1929 (Amended 1938), Earned Property Affairs Act 1930, Inheritance Act 1925 and Hindu Women’s Rights to Lands Act 1937.
VI. ADOPTION

The Shastric uncoded law of Bangladesh recognized adoption, but only a male can be adopted from same caste and his adoptive parents and his mother must NOT be within the prohibited degrees to his adoptive father. Also, a widow or wife or a maiden, alone cannot adopt child without the consent of the husband. So the Shastric law authorizes the right to a man to adopt unilaterally. The status of a woman under the Hindu law is that, a female cannot be adopted and a woman by herself without the consent of husband can’t adopt if her husband is in situation to give consent. That husband can adopt without the consent of wife and wife cannot do the same is a clear discrimination which fragile the stability of a women. At the same time, only male child can be adopted in religious purpose is also a clear discrimination which is against the modality of human rights.

Though the above Shastric uncoded Hindu law relating to adoption still remains in force in Bangladesh, India introduces several changes to the law regarding adoption. Under the “Hindu Adoption and Maintenance Act, 1956” reduces the discrimination practices between man and woman. This Act states a woman rights as much as equal to a man. The Act declares that a married Hindu male can’t adopt without the consent of his wife and the consent from wife is mandatory. A Hindu woman, unmarried, widow or divorcee can adopt but a married woman can’t adopt even with her husband’s permission. The Act finds the discriminative sections and reduces the male’s exclusive right of adoption and at the same time, the Act declares that a male or female child can be adopted without thinking the lineage of property. Identity of caste of adoptive parents and children, which was under the Shastric Hindu law, has also been abolished by the Act.

In the Anant Bandhu Guha vs Shudhangsu Shekar Dey (1979) case stated that, an adopted son can be considered as a real son only if the child is male and not from the lower caste. Also a male can adopt the male child for religious purposes from the same caste. In Sawan Ram v. Kalawanti case, court states that, women can adopt when husband is dead and no one left to inherit property of the deceased husband. This provision is clearly contradictory to the Constitution of Bangladesh which is still in existence of practice under Hindu Law. The women of Bangladesh are clearly being a subject of discrimination in the matter of adopting a child.

VII. MAINTENANCE

Under the “Hindu Women’s Right to Separate Residence and Maintenance Act, 1946” as applied in Bangladesh a married Hindu woman may seek separation and the husband is under responsibility to maintain her if she can prove that her husband is suffering from some
loathsome disease not contracted from her or is guilty of cruelty which renders it unsafe or undesirable for her to live with him or deserts or abandons her or marries again or converts to another religion or keeps a concubine or for any other justifiable cause. In order to provide relief in justifiable cases where she is not able to reside with her husband, in 1946, provisions were made for a Hindu wife to leave her marital home and claim maintenance. The Family Court has exclusive jurisdiction to decide a suit for maintenance irrespective of faith. A Hindu wife is not debarred from bringing a law suit for her maintenance against her husband under the Family Courts Ordinance 1985. In *Nirmal Kanti Das Vs Sreemati Biva Rani* case court states that, a Hindu wife can institute a suit in the Family Court for maintenance against the husband. But the definition of maintenance under the Act is itself defective also.

On the other hand, in India under the Hindu Marriage Act of 1955, which is applicable to India empowers both parties to the marriage can make an application for maintenance *pendente lite* as well as for permanent maintenance and alimony. The Hindu Marriage Act of 1955 and the Hindu Adoption and Maintenance Act of 1956 defined maintenance by including, “food, clothing, residence, education and medical attendance and treatment...” The Act in the Section 3(b)(i) clarifies that "wife includes a woman who has been divorced by, or has obtained a divorce from her husband and has not remarried". Thus, under the Act a destitute divorced wife may be entitled to maintenance until remarriage. (Huda)

Since no divorce exists, there is no question of post-divorce maintenance under Hindu law in Bangladesh. Indian women can get the maintenance even after divorce under the Act of 1955 but in Bangladesh a wife have to continue a bad marriage for whole life at the same time husband can remarry without any hesitation. In *Satish Ch.Pal vs. Mst. Majidan Begum* Case, court states that, in Bangladesh women status is to be dependent on her father and after marriage to her husband and after the husband to her son. In Bangladesh, Hindu women are subjected to be a passive character which deprives them to get any right from her husband. At the same time, the definition of maintenance is not complete under the Act of 1946 which empowers husband to get rid of from his duty.

**VIII. CUSTODY AND GUARDIANSHIP**

In Hindu law mother is not legal guardian. Guardians of the minors are: (i) father, (ii) persons appointed by will by father, (iii) person appointed by court and Guardians and Wards Act, 1890. Thus mother can be deprived of guardianship by father by appointing guardian by will. It is a gender biased law and contradictory to the law of equality. Controversially, mother is the natural guardian of her illegitimate child. Thus puts extra burden on mother and also creates
discrimination between man and woman. In Paras Ram v. State (1960) case it clearly states that, a woman cannot be a legal guardian of a minor. A Male entity only can be a lawful guardian or by de facto guardian

IX. REMARRIAGE OF HINDU WIDOW

Under the Traditional Hindu Law, polygamy of a Hindu male is very common. But for a Hindu woman, the practise of polygamy is void. Even before, 1829 a widow used to be burnt alive with her dead husband. The practice of sati was abolished by the British in 1829. (Mani, Lata) The practise was abolished but the thoughts of society remain same and women were corned by the society after the death of her husband. Even their presence in marriage or in happy cultural activity was counted as a curse. People learn to change their thought process and accept widow as part of the society. By the Hindu Widow's Remarriage Act of 1856, which owes its origin to Pundit Ishwar Chandra Bidyasagar, remarriage of widow's was legally sanctioned. (Carroll) But the traditional Hindu Law prohibited remarriage of Hindu widow and stated that, “a woman, on the death of her husband, might either immolate herself on his funeral pile, or lead a life of perpetual widowhood”(Banerjee) but there is no bar for a man to remarriage which clearly indicates the discrimination towards woman. Even if, a widow do re-marriage, she loses her right from her deceased husband because the line of the property goes to another family.(Sowdamini)

X. RIGHT OF INHERITANCE

In case of inheritance from father, according to Dayabhaga law, sons exclude others except in case of non agricultural property. In case of non agricultural property a wife gets a share equal to that of a son. Only five classes of women inherit according to Dayabhaga School of Hindu law. They are according to preference: wife, daughter, mother, father’s mother, father’s father’s mother. But these women inherit only in life interest that is they are owners with limited rights and on their death the property would pass to the nearest male heir of the deceased male owner and not to the heirs of the female heirs. The woman or women inheriting in life interest can sell the property only for limited legal necessity. Loss of chastity is also a ground which can exclude a wife or daughter from inheritance.

Though the Hindu Widow Remarriage Act, 1856 legalized the remarriage of widows, in Nurunnabi Mondol v Joynal Abedin Khondkar (1983), it has been held that, ‘Every Hindu widow, on remarriage, loses her rights in the deceased husband’s property’. The case states that, on the date of the succession, if she gets married, she is not entitled to succeed because of getting second marriage. In the case of Soudamini Ray Malakar v. Narendra Chandra Barman and
Another(1952), the Court held that—Both under the Hindu Widow’s Remarriage Act and the principle of Hindu law a widow by her remarriage forfeits her right to her deceased husband’s property, even if remarriage is allowed by the custom of her caste.

The estate inherited by a widow from her dead husband is called widow’s estate. Her position is similar to that of a limited heir. Although by law Hindu widows have the right to enjoy their dead husband’s property, but in most cases they are deprived of that. As soon as their husbands died, they are turned into slaves of the family or are driven away from the husband’s houses. The general rule of inheritance is that once a property is vested upon anyone, it will not be divested. (Ferdousi) But in case of Hindu women, getting limited ownership in the property is contradictory to this general rule as the property will revert back to the heir of the owner. The exception here states that, only the Stridhana property a woman can fully enjoy in her lifetime without any interruption.

The 1947 laws are still exist in Bangladesh whereas India framed and amended laws protecting women’s rights on the property of father and husband and this was seen as a threat to the system of joint Hindu family and thus vehemently opposed. The main enactment as regards succession in India is the “Hindu Succession Act, 1956” and this Act abolished the limited estate of the female Hindu. She is now a full owner and not a limited owner of the property acquired by her. By the 1956 Indian Act the property of a male Hindu devolves in equal shares between his son, daughter, widow and mother. Both man and women are equally treated without any discrimination. Also the Act empowers women to get property from the deceased husband’s property even after remarriage. The Act excludes all grounds such as unchastely of certain female heirs, change of religion and loss of caste as grounds from inheritance, which has been discarded by the present scheme of the Act

XI. ANALYSIS OF WOMEN SITUATION UNDER INTERNATIONAL AND NATIONAL LAWS
Bangladesh is obligatory towards several International Conventions in protection of women. Bangladesh has ratified the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) the Convention on the Rights of Persons with Disabilities (CRPD); and the Convention on Consent to Marriage, Minimum Age of Marriage, and Registration of Marriages. International Human Rights ensures the rights of a woman before and after the marriage. Article 16 of CEDAW obliges the States to take every measure as required to demolish the discrimination against women in “all matters relating to marriage and family relations,” and to ensure “the same rights and responsibilities during marriage and at its dissolution.” Article 23 of the ICCPR also ensures equality between the spouses each and every time. Following the International Conventions, the Constitution of Bangladesh also guarantees the equality between man and woman in Articles 27 and 28(2). So there is no bar from the Constitution rather the actual bar comes from the personal law. The Figure 3, shows the performance of Bangladesh in different aspects and the protection status of women. It shows the practises that are being performed by State which actually hampering the safety and security of a women needs to be changed.

The CEDAW Committee explained the meaning of “enabling environment” where there can be “equality in results” which means that states must also take into account biological, social, and cultural differences between men and women, and can provide differential treatment under some circumstances. So the international law empowers the State to take any initiative to ensure equality between man and woman. Article 28(2) of the Constitution of Bangladesh in its explanation states the same ideology. But Traditional Hindu law is considered as a divine law which is unchangeable and on this ground it is not easy to take any initiative to destroy the discriminations. India, Nepal and Pakistan, it can be identified that these countries have developed their laws illuminating the principles of human rights jurisprudence and Constitutional provisions. Pakistan and Bangladesh, both can be considered as a Hindu minority community based country, but Pakistan had done huge changes in the Hindu personal Law to ensure the quality of women. Bangladesh took initiatives but regretfully, attempts were not accepted by heads of Hindu Community.

The UN Human Rights Committee has ensured that “traditional, historical, religious or cultural attitudes are not used to justify violations of women’s right to equality before the law” and to equal enjoyment of all rights guaranteed under the ICCPR.(General comment 28). Article 27
and Article 28 of the Constitution of Bangladesh clearly ensured the rights of women. But in Hindu Personal law, there is rarely any equality. Hindu Traditional Law which is applicable in Bangladesh empowers a man to polygamy without the consent of wife, full power of guardianship, only to adopt male child etc. And most importantly, women are not getting her inheritance right solely. India and Nepal already reached in a situation where they fully ensured women’s right. Bangladesh already took initiative to reform the inheritance law in protection of women which is still in progress.

The Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages 1962 is a convention and Bangladesh acceded to the treaty in 1998. Article 3 of the Convention stated for the compulsory registration of marriage to a competent authority. Recently in 2012, the Hindu Marriage Registration Act was enacted and stated that the registration of Hindu marriage is compulsory. Section 3 of the Act provides for the registration of a Hindu marriage with a fact that the registration is not compulsory. That means the non-registered marriage cannot be asked for any other legal right by the court for women. As Bangladesh acceded to the treaty, there were some legal and moral obligation lies towards the State. Registration of a marriage empowers a woman to get her other rights and for this reason it needs to be compulsory. After a long struggle, the Govt of Bangladesh was able to insert the option as non-compulsory. But it is high time to regulate this option as a basic requirement of Hindu marriage.

Bangladesh has reserved two Articles 1 and 2 of The Convention on Consent to Marriage, Minimum Age for Marriage, and Registration of Marriages 1962 which contains with the free consent of parties and the minimum age of marriage.(Huda, 2011) Child Marriage is not a fact under Hindu personal law. UNICEF is working with global partners to End Child Marriage and to support the children Bangladesh enacted the Child Marriage Restraint Act, 1929 and Child Marriage Restraint Act, 2017. India and Nepal are strictly taking actions in against child marriage. At the same time, this practise is not changed yet in Bangladesh. Consent of parties is equally essential for a woman who is reserved by the State; this is a clear violation of law in Bangladesh.

Hindu women in Bangladesh can go to the court to ask for remedies in certain cases such as dowry, non-maintenance, suppression and violence. Under section 3 of the Family Court Ordinance 1985, a Hindu wife can institute a suit against her husband for maintenance. The Dowry Prohibition Act 1980 and the Nari-o-Shishu Nirjatan Daman Ain of 2000 provides remedies for women and children in case of dowry and oppression. These Acts could not guarantee apposite fairness to them because even if they can ask for punishments and
compensation for certain offences, they cannot divorce their husband.

The UN Human Rights Committee has stated that “polygamy violates the dignity of women” as it empowers a Hindu man to get married with uncountable women. It violates women’s right to equality. Polygamy empowers a man to misrepresent his marital status and marries again. In this situation, the consent of the previous wife or wives is irrelevant which is against the Conventions like Article 16(b) of CEDAW,); Article. 23(3) of ICCPR and Article 10(1) of ICESCR. At the same time, the Constitution of Bangladesh also ensures equal participation of women in every sector and polygamy violates women’s right.

The obligations of states to ensure the same rights of men and women during marriage “and at its dissolution” include an obligation to ensure that laws do not set higher barriers to divorce for women than for men. The Hindu personal law doesn’t permit divorce but permits for mutual separation where wife live separately from husband but still lives under the obligation of marriage. It is the reason of suffering for many women as they have to carry the burden of relationship in the whole life. International Conventions and The Constitution of Bangladesh ensure equality but there is no equality in the matter of divorce between a Hindu and Muslim woman of Bangladesh. Though Bangladesh is still practising the ancient Hindu law which does not permit divorce, but in India changes were brought after the passing of the “Hindu Marriage Act, 1955” to give both parties in the marriage the right to go to the court for dissolution of marriage.

Under the Traditional law, woman cannot enjoy the absolute power of the property. Internationally and nationally, Bangladesh has imposed legislations to eliminate all kinds of discriminations against women. But under the traditional Hindu law, women cannot enjoy property in her lifetime absolutely rather they can enjoy property under the power of a male encounter which clearly degrade the status of women. In India however, after independence, the State, through direct and positive intervention, brought about ‘fundamental and radical changes in the law of succession in breaking violently with the past. In 1956, the Hindu Succession Act was enacted. Granting equal property rights to women was seen as a threat to the system of joint Hindu family, an intrinsic part of the Hindu social system and thus vehemently opposed. Considering the present condition of the property rights of Hindu women, it can be easily said that Bangladesh is violating its international and national obligations.

XII. RECOMMENDATIONS

Bangladesh has developed herself in different sectors, and now the Constitution of Bangladesh also speaks about equality without any discrimination. So it is high time we focused on
ensure equality for Hindu women in Bangladesh; this paper recommends some proposals which will establish the principle of equality in the true sense.

- At first, it is very important to make them aware of women about their rights. In many cases, women and especially Hindu women, are not aware of their rights. So, the State should take different initiatives to make people aware of women about their rights.

- Though it is really hard to implement Uniform Family Code in Bangladesh, it is one of the important codes which needs to be implemented as soon as possible. The UFC must contain rights in every legislation to protect women’s rights. Marriage, Registration of marriage, and divorce rights should be introduced to secure women’s rights and their dignity.

- As the State believes in the principle of equality, the UFC should contain a uniform and comprehensive system of inheritance where women can enjoy the absolute power of the property and don’t need any dependency on other people to enjoy their property right.

- The right of adoption by a Hindu woman should be introduced for the understanding of equality. A Hindu woman cannot adopt a child without the consent of her husband. As we are talking about equality, the practice should be formed in vice-versa.

- The tradition and belief to adopt an only male child should be abolished because this indicates gender-based violence against a female child.

- Registration of Hindu marriage should be introduced as a mandatory procedure of marriage to ensure further legal rights of a Hindu woman.

- The UFC should contain the right to seek divorce by both parties on the grounds of cruelty, adultery, desertion, insanity or incurable disease and so forth.

- The right of divorce for both parties should be introduced if anyone wants to get her or himself from a stressed, unhealthy and torturous marriage.

- The application for maintenance after the dissolution of marriage should be applicable to both of parties.

- The right to re-marriage of a widow with her right to get property from her deceased husband should be introduced.

- The practice of polygamy by a male should be abolished to protect the stability of society as it is really unhealthy to practise from a moral and legal perspective.

- Women are not aware of their rights. So initiatives of different levels need to be taken
to make people aware of women about their rights and responsibilities, and it will help them to raise their voices for their rights.

- Exclusion of some irrelevant grounds against women regarding inheritance-related issues.

**XIII. CONCLUDING REMARKS**

After 1947, India made drastic changes in personal law and improvised women’s right to uphold the dignity of the Constitution of India. After British India, the path of development of Hindu law in Bangladesh was blocked, and women are affecting more by the blockage. It was easy for them to take the initiative for change because the majority of Hindu people live in India. Things are not as easy as in Bangladesh too. Initiatives were taken to reform the Hindu Family Law, but due to the religious and legal complexities in the subcontinent, many have been opposed to the attempt to formalise Hindu law. As a result, leaders are not willing to take any strong steps against the block because the political perspective is related to it.

Women are facing huge trouble in enjoying their rights, and at the same time, they are deprived of enjoying their rights. Bangladesh is a country which is obliged to protect women’s right both in national and international law. If we read Articles 10, 19, 27, 28 and 29, we see that there is no such bar in our constitution; rather, it encourages the Govt. to remove social and economic disparities among the citizens. At the same time, Bangladesh ratified different International Conventions which recognise the protection of women. But the laws for Hindu women protecting their rights are not enough. Because the laws portray gender-based discrimination in the matter of adoption, maintenance, property, guardianship, custody and other issues. The sole Act for Hindus in Bangladesh and other Acts in the protection of women are not in uniform code. And it is one of the main reasons for violating the rights of a woman in different sectors. To protect Hindu Women’s rights, it is high time to reform the law and make a uniform code where Hindu women can ensure their rights. And also, a Uniform Family Code is time demanding to abolish the discriminatory status of Traditional Hindu law. This paper recommends some points, some of which need to be abolished immediately and some of which need initiatives to take immediately to ensure the protection of Hindu women.

As a developing country, Bangladesh is stepping towards equality, and to ensure a non-discriminatory society for Hindu women, Bangladesh, Govt. and NGOs have to work together to build awareness among the Hindus about the limitations of their personal laws. They have to make them understand that for their own interest, reforms in Hindu laws are time demanding and protection of the rights of a woman is a subject that can never be overlooked.
XIV. REFERENCES

(A) JOURNALS:


- SHARMIN AKTAR & ABU SYEAD MUHAMMED ABDULLAH, A COMPARATIVE STUDY ON HINDU LAW BETWEEN BANGLADESH AND INDIA, Asian Affairs, Vol. 29, No. 4, October-December, 2007, p. 61-95


- Huda, Shahnaz (1999). Registration of Marriage and Divorce in Bangladesh, A Study on Law and Practice; Bangladesh Legal Aid and Services Trust, (BLAST), Dhaka.


- Mani, Lata (1987). "Contentious Traditions : The DEBATE on SATI in Colonial India" in Culture and Critique, 1987 Fall, pp. 119-156. 30. Supra note 1

• Banerjee Gooroodass (1879). The Hindu Law o f M arriage and Stridhan; Tagore Law Lectures; Thacker, Spink, and Co., Calcutta at p.46-47.


• Shahnaz Huda, Combating Gender Injustice Hindu Law in Bangladesh, The South Asian Institute of Advanced legal and Human Rights Studies (SAILS), 2011, p.12.


• Ferdousi Begum (2018), Analyzing Hindu Women’s Right to Property in Bangladesh: Absolute Interest versus Limited Interest, Kathmunda School of law, Vol:6, Issue:1

(B) CONVENTIONS & ACTS:

• Citizens’ Initiatives on CEDAW-Bangladesh, Combined Sixth and Seventh Alternative Report to the UN


• Convention on the Rights of Persons with Disabilities (CRPD), adopted December 13, 2006,
• Convention on Consent to Marriage, Minimum Age of Marriage, and Registration of Marriages.

• UN Human Rights Committee, General Comment No. 28, para. 5.

• “Hindu Marriage Act, 1955”,

• The constitution of the People's Republic of Bangladesh, 1972


(C) CASES:


• Sowdhamini Ray Malakar v. Narendra Ch. Barmau (1952) 4 DLR 492.

• (1983) 35 DLR. 160.

• 35 DLR, 1983

• AIR 1960 ALL 479

****