

# Born to be Unequal? An Assessment of the Rights and Status of Hindu Women in Bangladesh

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**Abstract:** *This article examines the legal and social status of Hindu women in Bangladesh, with a focus on their rights to property, marriage, guardianship, maintenance and adoption. It also analyses the factors that contribute to their unequal status, such as religious dogmatism, patriarchal norms, social stigma etc. The study draws on a community survey conducted among 743 Hindu respondents, which reveals their perception of inequality and discrimination against Hindu women, as well as their opinions on the potential reforms of Hindu law in Bangladesh. The article argues that Hindu law in Bangladesh is outdated and unfair to women and that it needs to be reformed in line with the Indian reforms or replaced by a uniform family code that ensures equal rights for all citizens regardless of religion. The article also suggests some steps to be taken to ensure equality for Hindu women and improve their legal and social status in Bangladesh.*

**Keywords:** Equality, Non-discrimination, Hindu women, Hindu law reforms, and Uniform family code.

## 1. Introduction

Bangladesh is a diverse country with many religions, ethnic groups and cultures. Most of the people are Muslims, but there are also significant numbers of Hindus, Buddhists and Christians. The main ethnic group is Bengali, but there are many indigenous groups. Culturally Bangladesh belongs to a pluralist society with mutual respect and tolerance among communities. However, despite this diversity and richness, historically women in almost every community have faced

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inequality and discrimination, which has undermined our status as a civilized nation. This is not only unjust and unfair but also detrimental to the well-being and potential of women and society at large.

One of the main factors that affects gender equality in Bangladesh is the presence of personal laws that are based on religious traditions. These laws deal with issues like marriage, divorce, inheritance, adoption, maintenance and custody of children for different religious communities. It is often alleged that many provisions of these laws conflict with constitutional values of equality and justice and discriminate against women in various ways. The Constitution of Bangladesh ensures equal rights for everyone, no matter what their religion, sex or race is.<sup>1</sup> But in terms of marriage, inheritance, adoption, custody of children, etc., the position of women is far from ideal. For instance, Muslim women have fewer rights to divorce and inheritance than men;<sup>2</sup> Christian women have to wait longer than men to remarry after divorce;<sup>3</sup> Hindu women have no right to divorce or inherit property at all.<sup>4</sup>

These personal laws not only breach the human rights of women but also hamper the integration and cohesion within society, as they create different outcomes for different communities on the same kind of legal matters. Therefore, it is very important to make the whole legal framework in tune with the national constitution and international norms of human rights.<sup>5</sup> To achieve a gender-equal society and meet the 2030 SDG goals, Bangladesh needs to tackle the root causes of gender inequality and enhance the rights and opportunities of all its

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<sup>1</sup> The Constitution of Bangladesh includes several provisions that firmly support the principle of equality and non-discrimination. Notably, specific gender equality provisions can be found in Articles 27, 28(1), 28(2), 28(4), 29(1), and 29(3).

<sup>2</sup> Chowdhury Dilruba Shoma, "Inheritance Rights of Women and Shariah Law: The Case of Bangladesh - Devpolicy Blog from the Development Policy Centre" (*Devpolicy Blog from the Development Policy Centre*, November 3, 2019) <https://devpolicy.org/inheritance-rights-of-women-20191104/> (Accessed on April 25, 2023); Shahnewaj Patwari and Abu N. M. A. Ali (2020). Muslim Women's Right to Divorce and Gender Equality Issues in Bangladesh: A Proposal for Review of Current Laws. *Journal of International Women's Studies*, 21(6), 50-79; Anil Balhara and Anand Kumar, "Right to Gender Equality and Muslim Laws of Divorce (Talaq-Ul-Bidaat):-A Critical Study" (2017) 12 VIDHIGYA: The Journal of Legal Awareness 66 <<http://dx.doi.org/10.5958/0974-4533.2017.00007.0>>

<sup>3</sup> Adam Robinson, "Are Christians Allowed to Remarry after Divorce According to the Bible?" (*biblicalculture.com*, December 4, 2022) <https://biblicalculture.com/are-christians-allowed-to-remarry-after-divorce-according-to-the-bible/> (Accessed on April 27, 2023)

<sup>4</sup> Correspondent S, "Hindu Women: HC Issues Rule over Marriage, Inheritance Rights" (*The Daily Star*, May 15, 2023) <https://www.thedailystar.net/news/bangladesh/news/hindu-women-hc-issues-rule-over-marriage-inheritance-rights-3320376> (Accessed on July 20, 2023)

<sup>5</sup> Faustina Pereira, Shahnaz Huda and Sara Hossain, *Revisiting Personal Laws in Bangladesh* (BRILL 2019), p. 129

people.<sup>6</sup>

The existence of a large Hindu minority in Bangladesh makes it imperative to understand the legal and social environment in which Hindu women live and exercise their rights. It is widely recognized that Hindu women in Bangladesh face gender-based discrimination. This is most evident in marriage and property rights.<sup>7</sup> These are dealt with by the Hindu personal law, which has not been reformed since the partition of India in 1947. Hindu personal law considers marriage to be a sacred bond. Traditional Hindu law does not recognise the dissolution of marriage. Once tied, that cannot be dissolved subsequently by any law.<sup>8</sup> It also does not recognise women's equal rights with men in inheritance, adoption, child custody, and guardianship.<sup>9</sup> Their human rights, dignity, and autonomy are barely recognised or respected, although the Constitution of Bangladesh prohibits religious, sexual, and other forms of discrimination.<sup>10</sup> Bangladesh is a signatory to CEDAW, ICCPR, ICESCR and several other international conventions that call for the reforms of domestic laws to bring gender equality in every country. Therefore, the Hindu personal law of Bangladesh must be reformed to end inequality and injustice against Hindu women.<sup>11</sup> Reforms could include requiring Hindu marriages to be compulsorily registered, allowing divorce on mutual consent or reasonable grounds, and ensuring equal rights for Hindu women in inheritance, maintenance, adoption, and guardianship.<sup>12</sup>

<sup>6</sup> UN Women, Gender Equality Brief, Bangladesh Country Office, October 2022 (available in - [https://asiapacific.unwomen.org/sites/default/files/2022-10/bd-Gender-Equality-Brief\\_Bangladesh.pdf](https://asiapacific.unwomen.org/sites/default/files/2022-10/bd-Gender-Equality-Brief_Bangladesh.pdf))> (Accessed on April 29, 2023)

<sup>7</sup> Ferdousi Begum, "Analyzing Hindu Women's Right to Property in Bangladesh: Absolute Interest versus Limited Interest" [2018] Kathmandu School of Law Review 103 <<http://dx.doi.org/10.46985/jms.v6i1.952>>; Afp, "Bangladesh's Hindu Women Fight for Divorce Rights" (*DAWN.COM*, June 26, 2012) <https://www.dawn.com/news/729888/bangladesh-hindu-women-fight-for-divorce-rights> (Accessed on August 12, 2023)

<sup>8</sup> "Bangladesh: Bangladesh's Hindu Women Right for Divorce Rights" (*PeaceWomen*, February 3, 2015) <http://peacewomen.org/content/bangladesh-bangladesh-hindu-women-right-divorce-rights> (Accessed on April 29, 2023)

<sup>9</sup> Senior Correspondent, "Reform 'Discriminatory, Unjust' Hindu Laws" (*The Daily Star*, September 3, 2021) <https://www.thedailystar.net/news/bangladesh/news/reform-discriminatory-unjust-hindu-laws-2168001> (Accessed on May 10, 2023)

<sup>10</sup> See Articles 27, 28(1), 28(2), 28(4), 29(1), and 29(3) of the Constitution of the People's Republic of Bangladesh which address issues related to women's equality and promotions.

<sup>11</sup> Trainee, "Hindu Leaders at Loggerheads over Reforms" (*Dhaka Tribune*, September 16, 2021) <https://www.dhakatribune.com/bangladesh/258636/hindu-leaders-at-loggerheads-over-reforms> (Accessed on April 29, 2023)

<sup>12</sup> Senior Correspondent, "Reform 'Discriminatory, Unjust' Hindu Laws" (*The Daily Star*, September 3, 2021) <https://www.thedailystar.net/news/bangladesh/news/reform-discriminatory-unjust-hindu-laws-2168001> (Accessed on May 10, 2023)

This paper examines the legal and social status of Hindu women in Bangladesh. The focus is on systemic discrimination and marginalisation against them. It tries to unveil legal, religious, cultural, and gender-based discrimination. Structural factors that contribute to their unequal status have also been addressed. It aims to identify gaps in legal and policy frameworks and offer Hindu women-centred legal reform and policy recommendations.

This study is driven by nuanced research questions that draw from an extensive review of gender and religious discrimination literature and a dedicated focus on the real-life experiences of Hindu women. Specific inquiries are aimed at understanding the status of Hindu women's rights in Bangladesh, the obstacles hindering their access to these rights, and the necessary reforms in Hindu personal laws and government policies to promote gender equality among Hindu women in Bangladesh.

The study employed mixed research methods, combining literature reviews, interviews with diverse Hindu community members, and a blend of qualitative and quantitative data analysis to gain comprehensive insights into the challenges faced by Hindu women in Bangladesh and propose equality strategies.

The paper begins with a brief literature review, which contextualizes the research by exploring the legal landscape affecting Hindu women in Bangladesh, focusing on key areas like property rights, marriage laws, guardianship, adoption, and maintenance. The paper then delves into the main themes, presenting community survey results, discussing experiences of inequality and discrimination among Hindu women, and proposing reforms.

This paper addresses a gap in the discourse on gender and religious discrimination in Bangladesh, offering a comprehensive analysis of factors marginalizing Hindu women. It culminates in law and policy recommendations for future gender equality, particularly significant as these issues are underrepresented in academic and policy research. The findings of the study are vital for informing legal and policy reforms in Bangladesh, with the potential to benefit not only Hindus but also other marginalized groups in the country.

The limitations of data constrain the scope of the paper despite efforts to gather information from diverse sources. This data limit may impact the findings of the study. Additionally, the exclusive focus on Hindu women in Bangladesh restricts its applicability to broader contexts, such as different religious or ethnic groups or jurisdictions. Moreover, aside from legal, policy, and cultural factors, economic and political marginalization also influences the issue, but this study couldn't address these aspects due to various constraints.

## 2. Literature Review

### 2.1. Laws Affecting Hindu Women in Bangladesh

#### 2.1.1. Analysing the Property Rights of Hindu Women

Throughout Indian history, Hindu women have faced limitations when it comes to inheriting property. This notion traces back to ancient texts such as the *Manu Samhita*, which reflected the belief that women were incapable of independence and should rely on male family members for protection at various stages of life.<sup>13</sup> Even though women could possess some property called “*stridhan*,” their share of ancestral and marital property was much less than what men received.<sup>14</sup>

As time passed, different schools of Hindu law gradually expanded the idea of *stridhan*, giving women more property rights.<sup>15</sup> In Hindu society, even though there are tales of strong Goddesses like *Kali*, *Durga*, *Lakshmi*, and *Saraswati*, real-life women were frequently seen as having lower status than even the *Sudra*, the lowest social group in the Hindu community.<sup>16</sup>

In legal texts, there was no mention of property rights for unmarried women. After marriage, a woman could own a limited amount of *stridhan*, including things like jewellery, clothes, utensils, and animals. In rare cases, this could even involve land.<sup>17</sup> However, according to the *Manu Samhita*, a wife was never seen as the complete owner of some of her *stridhan*.<sup>18</sup> This text made it clear that both the wife and her belongings belonged to her husband.

Over time, the concept of *stridhan* evolved into two distinct categories of property rights for women: ‘*Sauadayika*’ and ‘*Non-Sauadayika*’. The *Sauadayika* included gifts from both sides of the family (parents and husband) and property acquired by the woman through self-exertion and mechanical arts during her maidenhood or widowhood, over which she had full rights of disposal. On the other hand, the *Non-Sauadayika* consisted of gifts from strangers and property

<sup>13</sup> In the ancient text *Manusmriti*, Manu writes: “Her father protects her in childhood, her husband protects her in youth and her sons protect her in old age; a woman is never fit for independence.”

<sup>14</sup> Debarati Halder and Jaishankar Karuppanam (2008). Property Rights of Hindu Women: A Feminist Review of Succession Laws of Ancient, Medieval, and Modern India. *Journal of Law and Religion*, 24(2), 663-687. doi:10.1017/S0748081400001740

<sup>15</sup> *Ibid.*

<sup>16</sup> “Women in Hinduism” (*obo*) <https://www.oxfordbibliographies.com/display/document/obo-9780195399318/obo-9780195399318-0104.xml> (Accessed on June 12, 2023)

<sup>17</sup> Halder, (n 14).

<sup>18</sup> Krati Purwar, “Stridhana: History Of The Only Property Women Owned In Ancient India” (*HerZindagi English*, February 6, 2023) <https://www.herzindagi.com/society-culture/stridhana-history-ancient-india-property-rights-of-women-article-221527> (Accessed on May 23, 2023)

acquired by the woman as a married woman, over which she had no right of alienation without her husband's consent, and her husband also had the power to use it.<sup>19</sup> However, upon her death, all types of Stridhan would pass on to her own heirs. The leading Hindu schools of thought recognized Stridhan as a woman's "own property," but not all Stridhan was beyond the reach of male claimants.<sup>20</sup>

The Dayabhaga law introduced the law of inheritance linking it with offerings to deceased ancestors. The right to family property in Hindu joint families was transferred to the heir when the father passed away, not by birth.<sup>21</sup> The person making offerings was entitled to claim the property.<sup>22</sup> According to Dayabhaga law, only five out of the 53 recognized sapindas were females: widow, daughter, mother, paternal grandmother, and paternal great-grandmother. The Bengal School of thought only considered these females as heirs. Stepmothers and paternal step-grandmothers were not recognized as heirs. Female heirs were not part of categories like Sakulyas or Samanodakas.<sup>23</sup>

In the Dayabhaga system, if there were no male descendants, a widow had the right to inherit her deceased husband's share and ask for a partition of property.<sup>24</sup> Although relatively lenient, women still didn't have full ownership of inherited property. Selling property was restricted for specific legal needs, not other reasons.<sup>25</sup> When a woman without sons passed away, her female heirs didn't inherit the property; instead, it went to the reversioner, the closest male heir of the deceased male owner.

The confusion regarding women's limited rights over certain types of property was resolved by the Privy Council, which introduced the term "women's

<sup>19</sup> "Evaluation of Women's Right to Property under the Hindu Law" <https://www.legalserviceindia.com/legal/article-12182-evaluation-of-women-s-right-to-property-under-the-hindu-law.html> (Accessed on May 23, 2023)

<sup>20</sup> Sridhar, V. "The Indian situation." *Frontline* (2001), pp. 13-26; Mallik, Sumit. "Coparcenry Rights of Female Hindus." *Student Advoc.* 9 (1997), p. 154.

<sup>21</sup> "Mitakshara Law & Dayabhaga Law: Family Law" (*Blog by Lawtantra - Publish your passions with your way.*, October 20, 2022) <https://blog.lawtantra.org/2021/04/Mitakshara-Law--Dayabhaga-Law.html> (Accessed on May 24, 2023)

<sup>22</sup> Singh SP, "Property Right of Son in Dayabhaga" (*Legal Advice Online by Kanoonirai*, February 23, 2022) <https://www.kanoonirai.com/property-right-of-son-in-dayabhaga/#:~:text=The%20concept%20of%20joint%20family%20property%20does%20not,of%20lack%20of%20your%20interest%20in%20the%20property.> (Accessed on May 24, 2023)

<sup>23</sup> "Hindu Law - Banglapedia" [https://en.banglapedia.org/index.php/Hindu\\_Law](https://en.banglapedia.org/index.php/Hindu_Law) (Accessed on May 25, 2023)

<sup>24</sup> "Dāyabhāga" (*Wikipedia*, May 23, 2023) <https://en.wikipedia.org/wiki/D%C4%81yabh%C4%81ga> (Accessed on May 25, 2023)

<sup>25</sup> "Rights Of A Hindu Widow" <https://www.legalserviceindia.com/legal/article-4098-rights-of-a-hindu-widow.html> (Accessed on May 29, 2023)

estate.”<sup>26</sup> Under women’s estate, the female owner held the property as a limited owner. The key characteristics distinguishing women’s estate from Stridhan were that the woman could not ordinarily alienate the corpus, and on her death, the property would go to the next heir of the last full owner (i.e., the male owner from whom the woman had inherited).<sup>27</sup>

Other ancient sources, including Dharma Shastra, supported the notion that the wife of an absent or deceased Hindu could alienate family property for the benefit of minors who were unable to enter into contractual relationships on their own.<sup>28</sup> However, women were considered managers only in cases of distress and were never empowered to manage property for their own purposes.<sup>29</sup>

The ancient succession laws had significant implications, leading to socio-religious crimes rooted in the inequality of women’s property rights. Hindu women were not recognized as full owners of property, especially landed property. The inferiority of women, as propagated by ancient lawmakers, even extended to cases where a woman was the only child. In such situations, adopting a male child to manage the parental property was suggested, and leaving the property with the woman, no matter how educated she might be, was strongly discouraged.<sup>30</sup> This struggle for ownership over property resulted in several socio-religious crimes that were justified, if not legally, then in the name of religion, in situations where a woman could not procreate a male heir. Such crimes included bigamy, remarriage for the male heir, forced sexual intercourse with another man (niyoga) to have a male child, female infanticide, and abandonment of the wife.<sup>31</sup>

During the medieval period, the male dominance over the succession rights of Hindu women became even more pronounced, especially with the Muslim

<sup>26</sup> In *Janki v. Narayansami* (1916), the Privy Council ruled that while a woman’s status concerning her property is that of an owner, she doesn’t have complete freedom to do whatever she wishes with it. Her authority over the property’s disposal is restricted. The ruling also clarified that these limitations on a woman’s ownership exist to safeguard the interests of those who will inherit her property after her passing, such as her son, daughter, or even her husband.

<sup>27</sup> “Hindu Succession Act: Demystifying Stridhan and Women’s Estate By: Milind Rajratnam” (*latestlaws.com*) [https://www.latestlaws.com/articles/hindu-succession-act-demystifying-stridhan-and-women-s-estate-by-milind-rajratnam#\\_edn8](https://www.latestlaws.com/articles/hindu-succession-act-demystifying-stridhan-and-women-s-estate-by-milind-rajratnam#_edn8) (Accessed on May 29, 2023)

<sup>28</sup> Debarati Halder and Jaishankar Karuppanam, “Property rights of Hindu women: A feminist review of succession laws of ancient, medieval, and modern India.” *Journal of law and religion* 24.2 (2008), pp. 663-687.

<sup>29</sup> Halder (n 14).

<sup>30</sup> Parshay Gandhi, “How to Adopt a Child under Hindu Law?” (*iPleaders*, May 14, 2019) <https://blog.ipleaders.in/adopting-child-hindu-law/> (Accessed on May 25, 2023)

<sup>31</sup> Ayush Agarwal, “Plight and Struggles of Hindu Women in the Field of Property Rights: A Historical Study - iPleaders” (*iPleaders*, November 4, 2020) <https://blog.ipleaders.in/plight-struggles-hindu-women-field-property-rights-historical-study/> (Accessed on May 29, 2023)



invasion.<sup>32</sup> The Muslim rulers introduced a new set of rules from the Shariat for their followers but did not disturb the personal laws of the Hindu community concerning marriage or succession.<sup>33</sup> With the change in time and culture, the meaning of stridhan, particularly in the form of jewellery and movable gifts, shifted from “women’s property” to becoming a status symbol for matrimonial gifts in the form of dowries for newlywed couples.

The concept of women’s estate gained recognition in Hindu society during this time due to socio-cultural reasons. When a woman received landed property either through inheritance, especially from male family members like her husband or father-in-law, or through a share obtained by partition, she became the owner subject to two limitations. First, she could not ordinarily alienate the corpus, and second, upon her death, the property would devolve upon the next heir of the last full owner (reversioner). This ruling was established by the Privy Council in the case of *Bijoy Gopal Mukherji v. Krishna Mahishi Debi*.<sup>34</sup>

Under traditional Hindu law, there were three options in which a woman could alienate her estate by herself: for legal necessity (her own need and the needs of the dependents of the last owner), for the benefit of the estate, and for the discharge of indispensable duties (such as the marriage of daughters, funeral rites of her husband, his shraddha, and gifts to Brahmans for the salvation of his soul).<sup>35</sup> In other words, her position was reduced to that of a mere caretaker of the property for the sake of male family members.<sup>36</sup>

Hindu women’s legal right to inherit property has been restricted from the earliest times in Indian culture. But it became more common during the medieval period to protect ancestral property from being taken away by the government when full owners died intestate.<sup>37</sup> Young widows were used to transfer succession rights to the nearest male member of the husband’s family. After her husband’s death, a widow would be declared the limited owner of his property, and her jewellery would be taken by male family members. In some cases, young widows were encouraged or forced to undergo the ritual of *sahamarana/satidaha* (bride burning), while older women would be left to beg

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<sup>32</sup> Halder (n 14).

<sup>33</sup> “Muslim Personal Law” (*Wikipedia*, July 24, 2023) [https://en.wikipedia.org/wiki/Muslim\\_personal\\_law](https://en.wikipedia.org/wiki/Muslim_personal_law) (Accessed on June 21, 2023)

<sup>34</sup> (1907) 9 BOMLR 602

<sup>35</sup> Bina Agarwal, “Widows versus daughters or widows as daughters? Property, land, and economic security in rural India.” *Modern Asian Studies* 32.1 (1998), pp.1-48.

<sup>36</sup> DF Mulla, *Principles of Hindu Law* (2007), LexisNexis, Delhi, pp. 290-297

<sup>37</sup> Halder, (n 14).



in holy places.<sup>38</sup> The practice of dowry also increased during this period, making stridhan a part of the gift given to the bridegroom. Stridhan was demanded by prospective bridegrooms as part of the dowry, and this unethical practice continued for centuries. Dowry violence generally involves the husband or the relatives of the husband aiming to get more money or valuables from the bride's family. While the initial dowry given during marriage might already be substantial, the husband and his family's greed can increase after the wedding. This often results in physical, emotional, or sexual abuse directed at the bride.<sup>39</sup>

Even after the British invasion of India, Hindu customary laws and rules continued to be practised, and the colonial rulers recognized distinct Hindu family laws for different religious and cultural groups. While they introduced uniform laws for other aspects of social life, inheritance laws were still governed by the Mitakshara and Dayabhaga laws until the early twentieth century.<sup>40</sup>

Colonial rule about some improvements, as laws were enacted to secure succession rights for women following British models.<sup>41</sup> However, these laws could not fully protect Hindu women, as they were not as financially privileged as their British counterparts. As a result, Hindu women continued to face torment and exploitation, whether for claiming their share of family property and wealth as stridhan, for contributing to dowries as young brides, or for demanding their deceased husband's share in the family property and their own stridhan.

The greatest socio-legal challenge faced by the colonial rulers in India concerning their Hindu subjects revolved around Hindu religious practices and social customs that led to the deprivation of women's lawful rights. When the British invaded India, the situation reached its lowest point. The demand for stridhan as part of dowries became deeply entrenched, resulting in practices like female infanticide, marrying young girls to dying men, and the cruel act of *satidaha* (bride burning). Although they managed to outlaw *satidaha* and female infanticide and improve the age of consent, scholars agree that overall women's legal rights and freedoms were restricted during this period.<sup>42</sup> Raja Ram Mohan Roy and Lord William Bentinck were notable social reformers who had a major

<sup>38</sup> (n 40); Arjun Sengupta, "Holi: Bringing Fleeting Colour to the Lives of Vrindavan's Widows" (*The Indian Express*, March 9, 2023) <https://indianexpress.com/article/explained/explained-culture/widows-vrindavan-holi-8484907/> (Accessed on May 25, 2023)

<sup>39</sup> "The Dowry System in India: Is the Trend Changing?" (Pulitzer Center) <https://pulitzercenter.org/projects/dowry-system-india-trend-changing> (Accessed on June 01, 2023)

<sup>40</sup> "Mitakshara and Dayabhaga School of Law" (*thelawmatics*, November 1, 2021) <https://thelawmatics.in/mitakshara-and-dayabhaga-school-of-law/> (Accessed on June 01, 2023)

<sup>41</sup> "Legal Rights of Women in History" (*Wikipedia*, August 13, 2023) [https://en.wikipedia.org/wiki/Legal\\_rights\\_of\\_women\\_in\\_history](https://en.wikipedia.org/wiki/Legal_rights_of_women_in_history) (Accessed on June 01, 2023)

<sup>42</sup> *Ibid.*

influence on transforming Indian society. The tradition of sati was ended by the *Sati Regulation, XVII of 1829*. Later, this practice was made illegal and subject to punishment under the Indian Penal Code of 1860.

In an attempt to create a uniform law of succession for Hindu women, the colonial rulers introduced the Hindu Women's Right to Property Act in 1937.<sup>43</sup> This Act emphasized the concept of women's estates and aimed to settle the controversial debate over the characteristics of stridhan. It recognized three types of widows: 1) an intestate man's widow, 2) a widow of a pre-deceased son, and 3) a widow of a pre-deceased grandson who is the son of a pre-deceased father. These widows were given a share in the undivided interest of a Mitakhshara coparcener.

The Hindu Women's Right to Property Act was seen as a step towards improving the treatment of Hindu women, especially young widows. Social reformers, both European and Indian, had been advocating for such reforms since the time of Raja Ram Mohan Roy. However, the ancient Shastric laws remained intact despite these reform efforts. While the 1937 Act established limited rights for Hindu women in their intestate husband's property, it had significant flaws. It could not guarantee rights to women successors when the deceased had disposed of his property by will, and it did not address the shares of women in agricultural lands. In 2020, the High Court Division of the Supreme Court of Bangladesh ruled in the case of *Jyotindranath Mandal v. Gouri Dasi* that Hindu women are entitled to an allotment in their husband's property.<sup>44</sup> The High Court Division rectified the misunderstanding in interpretation and ruled that the phrase 'any property' in section 3 of the 1937 Act encompasses both non-agricultural and agricultural lands.<sup>45</sup>

### 2.1.2. Analysing Hindu Marriage Laws in Bangladesh

Hindu marriage is viewed as a sacrament and not a contract and is considered a life-long commitment of one wife and one husband.<sup>46</sup> Requirements for a Hindu Marriage in Bangladesh are governed by traditional Hindu law, which prohibits marriages within certain degrees of relationship. To proceed with the marriage, the parties involved must not belong to the same gotra or pravara, and they should

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<sup>43</sup> (Act No. XVIII of 1937).

<sup>44</sup> Apurba Mogunder, "Hindu Women's Right to Inheritance" (The Daily Star, August 23, 2021) <https://www.thedailystar.net/law-our-rights/news/hindu-womens-right-inheritance-2159216> (Accessed on June 12, 2023)

<sup>45</sup> Ali Mashraf, "From the Court Corridor: September Edition" (*Dhaka Law Review*, May 26, 2021) <https://www.dhakalawreview.org/blog/2020/10/from-the-court-corridor-september-edition-5009> (Accessed on June 12, 2023)

<sup>46</sup> "Hindu Marriage: Practice & Rules in Bangladesh" (The Asian Age) <https://dailyasianage.com/news/32068/hindu--marriage-practice--rules-in-bangladesh> (Accessed on June 12, 2023)

not be sapindas of each other.<sup>47</sup> The marriage is considered complete only after all the required ceremonies are performed.

In recent times, inter-caste marriages have become more common due to a shift in the collective mindset of Hindus from all castes. Factors such as educational qualifications, professional diversity, and financial status play a role in making inter-caste marriages socially accepted. The Hindu Marriage Disabilities Removal Act of 1946 facilitated marriages between Hindus belonging to the same gotra or pravara.<sup>48</sup>

However, now marriages can take place beyond these previously restricted degrees. As a result, the restrictions on inter-caste marriages have become obsolete, and division and discrimination based on caste are less prevalent. If a marriage fulfils the conditions specified in the Act, it will be considered valid, even if the parties belong to different castes or sub-castes.

Hindu Marriage Ceremonies in Bangladesh are considered sacred and essential for completing a marriage. The specific rituals that establish the validity of marriage may vary within different communities, and it is a matter of social consideration. In the case of *Amulya Chandra Modak v. State*, two crucial requirements were identified for a valid marriage: the *Yajna Kushandika* or invocation before the sacred fire and the *Saptapadi* or taking seven steps around the holy fire.<sup>49</sup>

In this case, a dispute arose when Kalpana Rani believed she was married to the appellant Amulya Chandra Modak due to a garland exchange, but the court ruled the marriage invalid as the essential ceremonies were not performed. The court's decisions on the validity of a marriage can be subjective, leading to disputes, as seen in the case of *Ramesh Chandra Adhikari v Bulbuli*, where the existence of marriage was challenged despite complete ceremonies.<sup>50</sup>

### 2.1.2.1. Optional Registration of Hindu Marriages

Before 2012, there were no provisions for the registration of Hindu marriages in Bangladesh.<sup>51</sup> This lack of registration created significant difficulties for Hindu

<sup>47</sup> Akshay Koundal, "3 Main Conditions Required for a Valid Marriage under Old Hindu Law" (*World's Largest Collection of Essays! Published by Experts*, August 3, 2015) <https://www.shareyouressays.com/knowledge/3-main-conditions-required-for-a-valid-marriage-under-old-hindu-law/117864> (Accessed on June 12, 2023)

<sup>48</sup> See section 2 of the Hindu Marriage Disabilities Removal Act, 1946

<sup>49</sup> *Amulya Chandra Modak Vs. State* 1983, 35 DLR, 160

<sup>50</sup> *Ramesh Chandra Adhikari v Bulbuli*, 2016 66 DLR (2014) 104

<sup>51</sup> Haroon Habib, "Hindu Marriage Act in Bangladesh" (*The Hindu*, September 19, 2012) <https://www.thehindu.com/news/international/hindu-marriage-act-in-bangladesh/article3915752.ece> (Accessed on March 01, 2024)

women whose marriages were challenged. Various issues arose due to the absence of a legal rule for registering Hindu marriages, such as proving the marriage when the husband denies it, establishing the legitimacy of children, ensuring maintenance for the wife, and seeking remedies for criminal cases related to family violence.<sup>52</sup> However, in 2012, the Hindu Marriage Registration Act was enacted, allowing for optional registration of Hindu marriages.<sup>53</sup> While theoretically, this change could have paved the way for improving discriminatory practices, the situation has not improved much.<sup>54</sup>

The optional registration of Hindu marriages in Bangladesh leads to oppressive situations and legal complexities. Without compulsory registration, many Hindu marriages in Bangladesh go unregistered, which can lead to a lack of legal protection for women and children. It may also create challenges when official documents, such as visa applications, require proof of a valid marriage.<sup>55</sup> The optional registration system in Bangladesh has rendered it ineffective compared to the compulsory registration systems in other countries.<sup>56</sup>

### 2.1.2.2. Marriage and Divorce: The Complexity of Balancing Traditions and Modernity

According to Shastric law, the marital bond for Hindus is considered unbreakable, an eternal and indissoluble holy union that persists even after the husband's death.<sup>57</sup> While there are differing opinions on whether divorce is permissible under Shastric law, the prevailing view is that divorce is not allowed, as the eternal bond is considered irrevocable.<sup>58</sup> However, historical evidence suggests that various ancient customary forms of divorce did exist among Hindus. In certain exceptional circumstances, divorce was allowed in ancient Hindu law,

<sup>52</sup> "Hindu Marriage Registration in Bangladesh | The Lawyers & Jurists" (*The Lawyers & Jurists*, March 27, 2019) <https://www.lawyersjurists.com/article/hindu-marriage-registration-in-bangladesh/> (Accessed on June 14, 2023)

<sup>53</sup> Habib, (n 51)

<sup>54</sup> Imran Hossain, "Hindu Marriage Registration Act: A Protective Shield for Women" (*Dhaka Tribune*, January 31, 2020) <https://www.dhakatribune.com/bangladesh/200206/hindu-marriage-registration-act-a-protective> (Accessed on June 14, 2023)

<sup>55</sup> Habib, (n 51)

<sup>56</sup> "Civil Registration and Vital Statistics (CRVS)" <<https://www.who.int/data/data-collection-tools/civil-registration-and-vital-statistics-%28crvs%29>>; "Civil Marriages in the EU: National and Cross-Border Rules - Your Europe" (*Your Europe*) [https://europa.eu/youreurope/citizens/family/couple/marriage/index\\_en.htm](https://europa.eu/youreurope/citizens/family/couple/marriage/index_en.htm) (Accessed on June 15, 2023)

<sup>57</sup> Fariha Abedin, "Gender Equality by International Norms: An Analysis on Hindu Marriage and Divorce Laws in South Asia with Special Attention to Bangladesh" (2019) 46 (1) JMCL 59

<sup>58</sup> Werner Menski, 'Divorce', *Hindu Law: Beyond Tradition and Modernity* (Delhi, 2009; online edn, Oxford Academic, 18 Oct. 2012), pp. 427-483 <https://doi.org/10.1093/acprof:oso/9780195699210.003.0011>, accessed 11 Sept. 2023.

such as when the husband was untraceable, dead, converted to another religion, impotent, or became an outcast.<sup>59</sup> Divorce was more common among lower castes, but it also occurred among Brahmins, albeit with controversy.<sup>60</sup>

In Bangladesh, Hindu women have no right to seek a divorce under the prevailing Shastric law. They can, however, seek a court decree for separate residence and maintenance under the *Hindu Married Women's Right to Separate Residence and Maintenance Act* of 1946.<sup>61</sup> This can be done on specific grounds, such as the husband suffering from a loathsome disease, remarriage or keeping a concubine, abandonment, cruelty, or conversion to a different religion.<sup>62</sup> However, this right is not exhaustive, and a Hindu married woman loses the entitlement if she is unchaste or ceases to be a Hindu. Furthermore, failing to comply with a court decree for the restitution of conjugal rights also leads to losing this right.<sup>63</sup> Judicial separation may not provide an effective means of escaping an oppressed life, as polygamy is allowed in Hindu law, allowing the husband to remarry, but the wife cannot remarry and start anew.<sup>64</sup>

Hindu women in Bangladesh can seek remedies in certain cases, such as dowry issues, non-maintenance, suppression, and violence. They can file suits against their husbands for maintenance under the *Family Courts Act, 2023*.<sup>65</sup> Additionally, the *Dowry Prohibition Act of 2018*<sup>66</sup> and the *Nari-o-Shishu Nirjatan Daman Ain of 2000*<sup>67</sup> provide remedies for women and children in cases of dowry and oppression. However, these Acts do not allow Hindu women to divorce their husbands. Despite facing oppression, they are compelled to endure conjugal life or live separately, as divorce is not allowed in Hindu marriages.

This highlights the complexities involved in balancing religious traditions with contemporary social realities and the need for legal protections. It's crucial to continue discussions and efforts towards ensuring the rights and protections of all individuals involved in a marriage, regardless of their religious or cultural

<sup>59</sup> *Parashar Samhita* holds a specific sloka on this: "Naste mrte pravrajite klive ca patite patau Pancasu apatsu narinam patiranyo vidhiyate. In [case of] the disappearance or death or renunciation or impotence or lost caste status of her husband: in these five predicaments, a woman is allowed to take another husband." - Parasara Samhita, IV, 28.

<sup>60</sup> Menski (n 58).

<sup>61</sup> Act No. XIX of 1946.

<sup>62</sup> Ibid. Section 2.

<sup>63</sup> Ibid. Proviso to section 2.

<sup>64</sup> Mansura Akter, "Divorce, separation and right to re-marriage of Hindus: An overview of the laws and practices of Bangladesh", *Bangladesh Journal of Dalit and Minority* (2016), pp. 122-127

<sup>65</sup> Act No. XXVI of 2023

<sup>66</sup> Act No. XXXVIV of 2018

<sup>67</sup> Act No. VIII of 2000

background. This includes considering provisions for divorce and separation that can provide legal recourse in situations of marital discord.

While India and Nepal have experienced positive transformations in Hindu marriage law, Bangladesh lags behind in adopting such changes, despite sharing a similar Hindu culture.<sup>68</sup> *The Hindu Marriage Act of 1955* made polygamy illegal in India.<sup>69</sup> According to Section 5 of the Act, neither party can have a living spouse at the time of marriage. Section 11 declares any polygamous marriage null and void. This means that a Hindu man in India cannot have more than one wife. Similarly, Nepal, which has a majority Hindu population, has made significant changes by liberalizing ancient Hindu law principles. *The Marriage Registration Act of 1971* prohibits polygamy, stating that a person can marry only if they have no other living spouse.<sup>70</sup>

Bangladesh, similar to India and Nepal, has not made any changes to the Shastric law, thus Hindu women are not receiving the protection they are entitled to under Article 28(2) of the Constitution.<sup>71</sup>

### 2.1.3. The Question of Guardianship in a Hindu Family

Hindu law in Bangladesh recognizes four categories of guardians for minors. The first category is the natural guardian, who is the father of the minor children. He has the authority to manage both their person and property. The mother is the second in line, but she can be superseded by another person appointed by the father's will. The Bangladesh High Court ruled in 2010 that the husband is the natural guardian of a married Hindu girl. The second category is the testamentary guardian, who is a person chosen by the father's will to be the guardian of his minor children. This person has the exclusive right to act as the guardian, even over the mother. The mother has to relinquish her guardianship right to the person nominated by the father. The third category is the de facto guardian, who is a person who has no legal right but has acted in the best interest of the minor. This person can deal with both the person and property of the minor, like a natural guardian. The fourth category is the court-appointed guardian, who is a person selected by the Family Court under the Guardians and Wards Act of 1890. This person is appointed when there is no suitable guardian for the minor. The court

<sup>68</sup> Divij Joshi, "Family Law Reforms in India: Historical and Judicial Perspectives" [2013] SSRN Electronic Journal <<http://dx.doi.org/10.2139/ssrn.2200165>>

<sup>69</sup> The Hindu Marriage Act, 1955 (ACT No. 25 of 1955)

<sup>70</sup> See, Marriage Registration Act, 2028(1971) (lawcommission.gov.np), <https://www.lawcommission.gov.np/en/wp-content/uploads/2018/10/marriage-registration-act-2028-1971.pdf> (Accessed on June 16, 2023)

<sup>71</sup> Kanak Kanti Karmakar, "Women's Rights at Hindu Personal Law: A Comparative Study Between Bangladesh and India" (2023) 8 Asian Journal of Current Research 27 <http://dx.doi.org/10.56557/ajocr/2023/v8i38353> (Accessed on June 16, 2023)

has to consider the best interest of the child as the most important factor. The above discussion shows that the Hindu father has absolute power to act as the guardian of his minor children, and he can even deprive the mother of her right after his death by his will.<sup>72</sup>

#### 2.1.4. The Question of Her Right to Maintenance

Hindu law does not recognize the concept of divorce, so there is no possibility of getting any maintenance after ending a marriage. The only legal option for a Hindu wife who wants to live separately from her husband is to claim maintenance under the Hindu Married Women's Right to Separate Residence and Maintenance Act of 1946. This act gives her the right to have her own residence and receive financial support from her husband. However, this right is not available to every Hindu wife, as it depends on certain conditions and circumstances. The Hindu husband, on the other hand, has a personal and legal duty to provide maintenance for specific members of his family, regardless of his income or property. This duty covers his wife, minor children and elderly parents.<sup>73</sup>

The right of a Hindu wife to be maintained by her husband is based on the existence of the marriage itself. But this right is not unconditional, as the Hindu wife has to live with her husband and perform her marital duties. She loses her right to maintenance if she leaves him without any valid reason. This means that a Hindu wife cannot escape a marriage that is unhappy or even abusive, as there is no option of divorce. The Hindu husband, however, can desert his wife or wives and marry another woman, as Hindu law allows polygamy but not polyandry. A Hindu husband does not have to treat his multiple wives equally or fairly, unlike a Muslim husband who has to do justice among them. To provide some relief for the deserted or neglected wives, the law of 1946 was enacted to enable them to seek separate residence and maintenance from their husbands.<sup>74</sup>

According to the *Hindu Married Women's Right to Separate Residence and Maintenance Act of 1946*, a Hindu wife can claim the right to live separately from her husband and receive maintenance from him only under certain conditions. These conditions include her fidelity, her adherence to Hinduism, and her obedience to a court order that requires her to resume marital relations with her husband. This law is still applicable in Bangladesh and Pakistan, where it affects the lives and rights of millions of Hindu women. However, in India, this law has been replaced by the *Hindu Adoption and Maintenance Act of 1956*, which gives more rights and protection to Hindu women in matters of marriage, divorce,

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<sup>72</sup> Begum, (n 8) 89-90

<sup>73</sup> Ibid. p 90

<sup>74</sup> Ibid. p 90



adoption, and inheritance.<sup>75</sup>

In Bangladesh, the Family Court is empowered to deal with any matter related to the maintenance of the spouses, regardless of their religious affiliation.<sup>76</sup> This means that a Hindu wife can claim her right to maintenance from her husband under this law, even though Hindu personal laws may not provide such a right.<sup>77</sup>

According to Hindu Law, the relationship between a daughter and her father's family is severed when she gets married and joins her husband's family. Her right to maintenance is derived from her husband and his estate, and she has no claim on her father's property. In case of her husband's death, she can seek maintenance from his estate, if any. However, if the husband leaves no estate, then the daughter-in-law has no legal right to demand maintenance from her father-in-law, even if he has sufficient property of his own. The father-in-law may have a moral obligation to support her, but this is not enforceable by law.<sup>78</sup>

### **2.1.5. Hindu Women's Right of Adoption**

Hindu law permits the adoption of a son as a way of ensuring the continuation of the family lineage. However, a daughter is not eligible for legal adoption under the orthodox law that prevails in Bangladesh. The most common form of adoption is the *dattaka*, which involves the formal transfer of a son from his biological family to an adoptive family who accepts him as their own. He then acquires all the rights and obligations of a natural child in that family. The Supreme Court of Bangladesh affirmed the principle that Hindu law does not differentiate between a natural son and an adopted son in matters of inheritance.<sup>79</sup> However, the Hindu law of adoption practised in Bangladesh exhibits clear discrimination against women at every stage of the process. The father has the primary right to give and take a child in adoption. A Hindu male can adopt regardless of his marital status or age, as long as he has attained the age of discretion. He does not need to obtain his wife's consent, if he is married, or even consider her pregnancy, if he knows about it. He can only adopt if he does not have a son, grandson or any other male descendant - either by birth or by adoption. On the contrary, a single Hindu woman in Bangladesh has no legal right to adopt at all. A married woman can only adopt with her husband's permission and on his behalf. According to the Bengal School of Hindu law, a widow can only adopt if her husband had authorized her to do so before his death. The law of adoption also restricts the adoption of a child from a different caste i.e. inter-caste adoption is prohibited. The law of adoption also bars

<sup>75</sup> Ibid. p 91

<sup>76</sup> Jibon Sharma (Sree) vs. Sree Subasini Sharma and another, 15 MLR (2010) (AD) 167.

<sup>77</sup> Pereira, (n 5) p 91

<sup>78</sup> Satish Ch. Pal v. Mst. Majidan Begum, 10 DLR (1958) 271. Also see, Ibid.

<sup>79</sup> M/S Anath Bandhu Guha vs. Sudhangsu Sekhar Dey, 31 DLR (AD (1979) 312.

the adoption of a boy who suffers from any physical or mental disability.<sup>80</sup>

## 2.2 Other Factors Contributing to Her Unequal Status

The patriarchal system in Bangladesh is one of the main reasons Hindu women are treated unequally. The patriarchal system promotes gender inequality. Hindu women, who are often degraded and abused, are especially affected by this.<sup>81</sup>

Second, religious and cultural norms make Hindu women in Bangladesh unequal. Hindu women must follow gender norms that restrict their mobility, education, and body control.<sup>82</sup> Early marriage and the dowry system reinforce women's subordination.<sup>83</sup>

Thirdly, Bangladeshi Hindu women are marginalised by economic factors.<sup>84</sup> Hindu women in Bangladesh are disproportionately affected by poverty and a lack of economic opportunities.<sup>85</sup> Women have few options to leave abusive relationships and pursue education or employment.

Fourthly, the lack of legal protection and justice for women in Bangladesh worsens Hindu women's discrimination.<sup>86</sup> Minority women face additional barriers to justice in a biased legal system.<sup>87</sup> This leads to impunity for women's violence perpetrators and a culture of silence and acceptance.

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<sup>80</sup> Begum (n 7, p. 89)

<sup>81</sup> Md. Sohrab Hossen, *Patriarchy Practice and Women's Subordination in the Society of Bangladesh: An Analytical Review* (2020). *Electronic Research Journal of Social Sciences and Humanities* 2 (III), 51-60, 2020; "Trying to Exist in a Patriarchal Society: Women in Bangladesh" (January 18, 2022) <https://www.democratic-erosion.com/2022/01/18/trying-to-exist-in-a-patriarchal-society-women-in-bangladesh/> (Accessed on June 16, 2023)

<sup>82</sup> ILO, "Breaking Gender Stereotypes in Bangladesh" (December 5, 2013) [https://www.ilo.org/asia/info/public/WCMS\\_228070/lang--en/index.htm](https://www.ilo.org/asia/info/public/WCMS_228070/lang--en/index.htm) (Accessed on June 16, 2023)

<sup>83</sup> Kazi Nazrul Fattah and Suborna Camellia (2022). Poverty, dowry and the 'good match': Revisiting community perceptions and practices of child marriage in a rural setting in Bangladesh. *Journal of Biosocial Science*, 54(1), 39-53. doi:10.1017/S0021932020000668

<sup>84</sup> "The Role of Economic Empowerment of Women on the Economy of Bangladesh" (*Bangladesh | World Vision International*) <https://www.wvi.org/publications/research/bangladesh/role-economic-empowerment-women-economy-bangladesh> (Accessed on June 17, 2023).

<sup>85</sup> Ibid.

<sup>86</sup> Tahseen Lubaba, "Protection Of Women In Bangladesh - A Legal Overview | BDLD" (*Bangladesh Law Digest (BDLD)*, October 25, 2020) <https://bdlawdigest.org/protection-of-women-in-bangladesh.html> ; (n 3. <https://www.hrw.org/news/2020/10/29/bangladesh-pivotal-moment-stop-violence-against-women> (Accessed on June 16, 2023)

<sup>87</sup> "How law can protect women in Bangladesh | The Lawyers & Jurists" (The Lawyers & Jurists, August 28, 2023) <https://www.lawyersnjurists.com/article/how-law-can-protect-women-in-bangladesh/> (Accessed on June 17, 2023)

Finally, political instability and conflict in Bangladesh have marginalised Hindu women.<sup>88</sup> They have suffered displacement, forced conversions, and sexual violence due to communal violence.<sup>89</sup> Their access to education, healthcare, and employment is also limited by political insecurity and fear of persecution.<sup>90</sup>

### 3. Community Survey: Findings and Analysis

#### 3.1. Demographic Profile of the Participants

##### 3.1.1. Sample Size and Gender Representation

The study aimed to collect opinions from Hindu community members regarding gender inequality in Hindu personal laws and the necessity for reforms. The survey included 750 participants, with 268 (36.07%) males and 475 (63.93%) females.

Gender	Number	Percentage
Male	268	36.07%
Female	475	63.93%
Total	743	100%

This sample size and gender distribution can be analysed differently. One perspective notes the small sample size relative to the total Hindu population of

<sup>88</sup> “Conflict Analysis of Bangladesh - GSDRC” (*GSDRC - Governance, social development, conflict and humanitarian knowledge services*, June 8, 2020) <https://gsdrc.org/publications/conflict-analysis-of-bangladesh/> (Accessed on June 17, 2023)

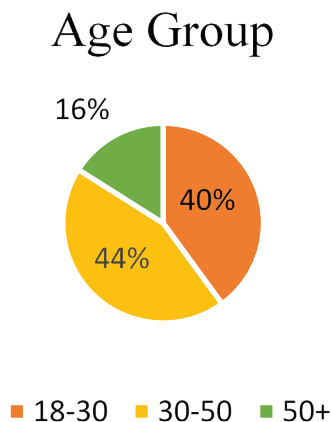
<sup>89</sup> “Communal Violence Rocks Bangladesh: Here’s What Has Happened so Far” (*The Indian Express*, October 18, 2021) <https://indianexpress.com/article/world/bangladesh-communal-violence-durga-puja-hindus-7577980/> (Accessed on June 20, 2023); “Communal Cauldron Bubbles Over in Bangladesh” (*The Diplomat*, October 19, 2021) <https://thediplomat.com/2021/10/communal-cauldron-bubbles-over-in-bangladesh/> (Accessed on June 20, 2023); Guha S, “Handling Communal Violence: The Bangladesh Way” (<https://www.outlookindia.com/>, October 20, 2021) <https://www.outlookindia.com/website/story/world-news-handling-communal-violence-the-bangladesh-way/398153> (Accessed on June 20, 2023)

<sup>90</sup> Sosale LALOL-S Keiko Inoue, Shobhana and others, “How to Provide Opportunities for All? From Girls’ Education to Women’s Labor Force Participation in Bangladesh” (*World Bank Blogs*, September 10, 2023) <https://blogs.worldbank.org/education/how-provide-opportunities-all-girls-education-womens-labor-force-participation-bangladesh> (Accessed on September 14, 2023); Kanchan Kumar Sen, Shahnaz Nilima, Fatema-Tuz Zahura *et al*, Do education and living standard matter in breaking barriers to healthcare access among women in Bangladesh?. *BMC Public Health* **23**, 1431 (2023). <https://doi.org/10.1186/s12889-023-16346-8>; Shobhana Sosale, TM Asaduzzaman, Deepika Ramachandran, “Girls’ Education in Bangladesh: A Promising Journey” (*World Bank Blogs*, September 10, 2023) <https://blogs.worldbank.org/endpovertyinsouthasia/girls-education-bangladesh-promising-journey> (Accessed on September 14, 2023)

Bangladesh (approximately 14 million),<sup>91</sup> potentially limiting generalisability; a larger sample would enhance survey reliability. Another perspective highlights that the sample size suffices for the qualitative exploration of diverse views, aided by purposive sampling. A third perspective acknowledges the gender bias towards female participants, reflecting their heightened interest in the issue but potentially limiting understanding of male perspectives essential for gender equality and social justice.

### 3.1.2. Age Group Distribution

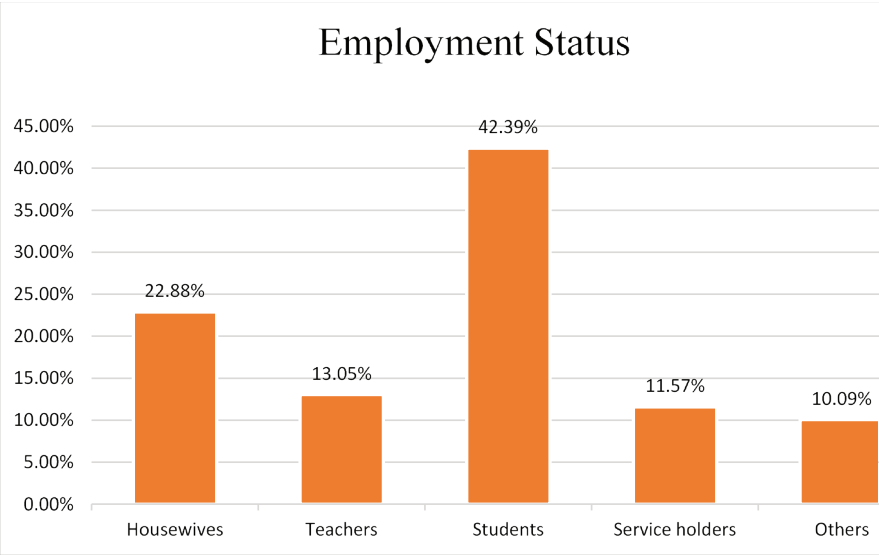
The survey encompassed 743 Hindu citizens from various socio-economic backgrounds, categorizing them into three groups: 18-30, 30-50, and 50+. The majority (84%) belonged to the 18-50 age bracket, the most active and likely affected by equality and legal reforms. The 18-30 group (40%) represents the youngest, most educated, and influenced by globalization, potentially shaping their perspectives on identity and change. The 30-50 age group (44%) consists of those with experience and a stake in equality issues, while the 50+ group (16%) may hold more traditional views, impacting their acceptance of reforms.



### 3.1.3. Employment Status of the Participants

Among 743 respondents, 170 (22.88%) were housewives, 97 (13.05%) were teachers, 315 (42.39%) were students, 86 (11.57%) were service holders, and 75 (10.09%) self-employed or in other roles.

<sup>91</sup> “2022 Bangladeshi Census” (Wikipedia, July 16, 2023) [https://en.wikipedia.org/wiki/2022\\_Bangladeshi\\_census](https://en.wikipedia.org/wiki/2022_Bangladeshi_census) (Accessed on August 14, 2023)

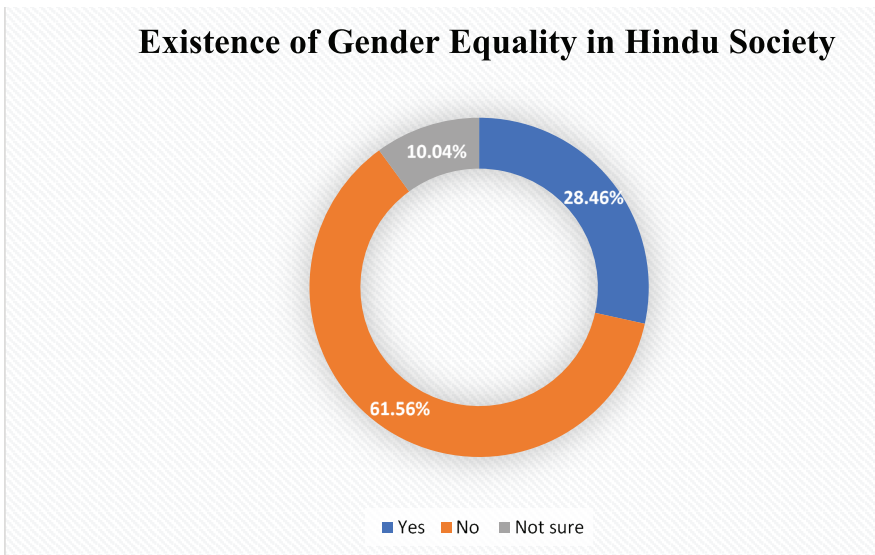


**3.2. Perception of Inequality and Discrimination Against Hindu Women**

**3.2.1. The Perception of Gender Equality in the Hindu Community**

The first question of the community survey aimed to assess the perception of the Hindu community members regarding the status of women’s rights in their religious and social context. The question was a simple yes-no-not-sure format, which allowed for a quick and easy response from the participants.

The survey results indicate a significant perception of gender inequality within the Hindu community among the respondents. With a majority of 61.56% voting ‘No’, it suggests that there is a prevalent belief that women do not have equal rights as men. The 28.40% ‘Yes’ votes show that a portion of the community does feel that gender equality exists, which could reflect varying personal experiences or interpretations of what constitutes ‘equal rights’. The 10.4% ‘Not sure’ responses might indicate a lack of awareness or understanding of the issue, or possibly an uncertainty about how to assess the situation of gender rights within the community.



The responses underscore the complexity of gender issues within the Hindu community and the need for continued efforts towards achieving gender parity.

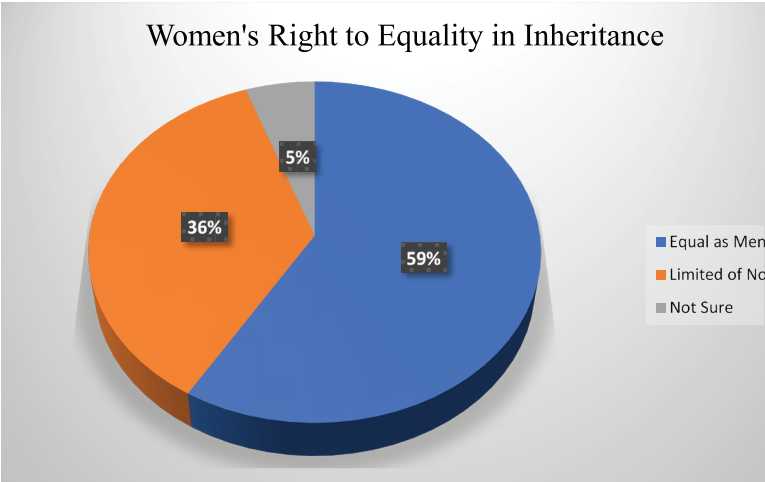
### 3.2.2. The Question of Women's Equality in Inheritance

The second question aimed to assess the opinions of the respondents on the issue of women's inheritance rights in the Hindu community. The question offered options for the respondents to choose from, ranging from full equality to the limited or complete denial of inheritance rights for women, as well as an option for those who are not sure.

The responses from the participants show that a majority of them (59%) support equal inheritance rights for Hindu women, which indicates a high level of awareness and progressive attitude among the respondents. This could be a sign of potential support for legal reforms that would grant equal inheritance rights to Hindu women in Bangladesh.

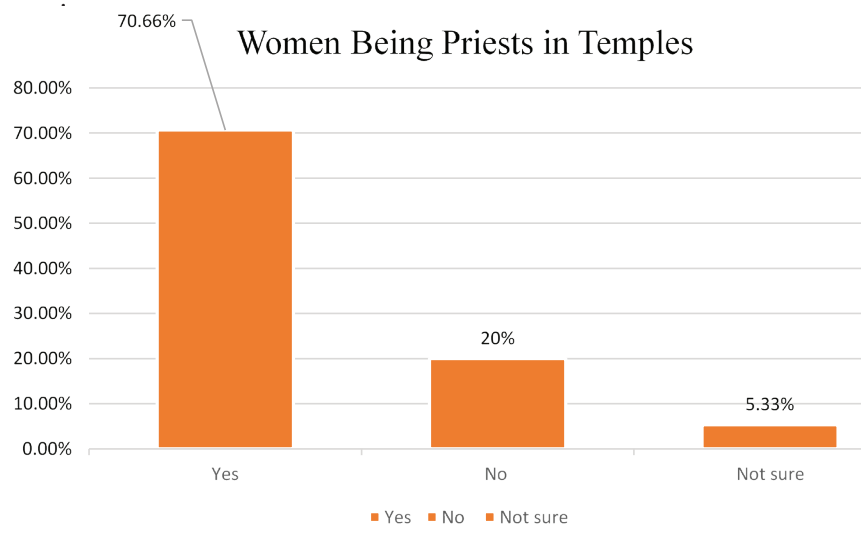
It's noteworthy that the responses indicate that there is a significant proportion of participants (36%) who do not support equal inheritance rights for women. 5% of the participants are unsure about their opinion.

This could indicate a lack of knowledge, awareness, or sensitivity among some respondents about the issue of women's inheritance rights, as well as resistance or reluctance to change the existing legal and social status quo.



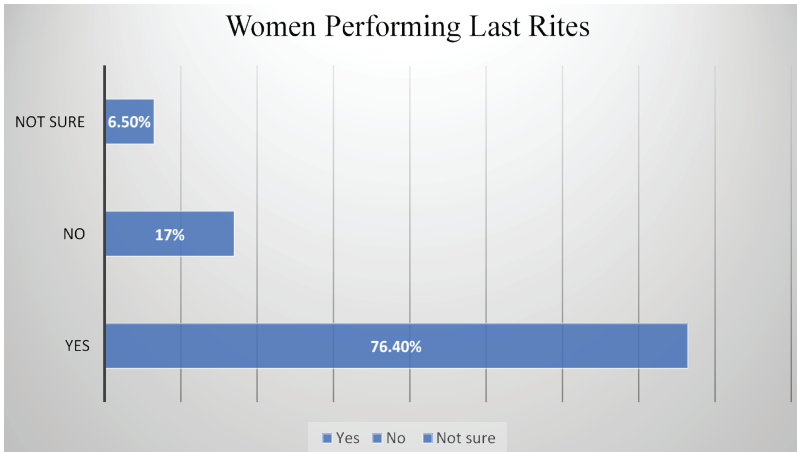
3.2.3. The Question of Equality in Religious and Social Leaderships

The third and fourth questions were formulated to investigate the religious and social viewpoints of individuals belonging to the Hindu community in Bangladesh. The participants were asked whether they think women should be allowed to become priests in Hindu temples. The question had three options: yes, no, and not sure. Most of the participants (70.66%) chose yes, indicating strong support for women’s participation in religious leadership roles. The second most popular option was no, with 20% of the participants expressing their opposition to women becoming priests. The least popular option was not sure, with only 5.33% of the participants undecided or ambivalent about the issue





The fourth question asks whether women should be allowed to perform last rites for their parents/husbands. The question challenges the patriarchal norms and traditions that restrict women's roles and responsibilities in the family and society.



The responses from the participants show that a majority of them (76.4%) support the idea of women performing last rites for their parents/husbands, indicating a progressive and egalitarian attitude towards women's rights and dignity. However, a significant minority of them (17%) oppose this idea, suggesting that they adhere to conservative and orthodox views that consider women to be impure, inferior, or dependent on men. A small percentage of them (6.5%) are not sure about their opinion, implying that they are confused, indifferent, or afraid to express their views.

### 3.2.4. Personal Experiences of Discrimination

Questions 12 and 13 of the survey were formulated with the specific purpose of gathering personal experiences from the participants. In these questions, participants were asked to provide brief accounts of any direct instances of discrimination they may have encountered in their personal lives.

The questions were broad and open-ended, allowing the participants to share their personal experiences and opinions without imposing any predefined categories or criteria.

In response to question 13, participants detail instances of gender and religion-based discrimination in Bangladesh. Some hesitated to share personal experiences. The responses reveal varied perspectives and experiences, highlighting:

- Discrimination in education, employment, and public services, particularly against Hindu minorities, who face exclusion, harassment, violence, and prejudice from the Muslim majority and authorities.

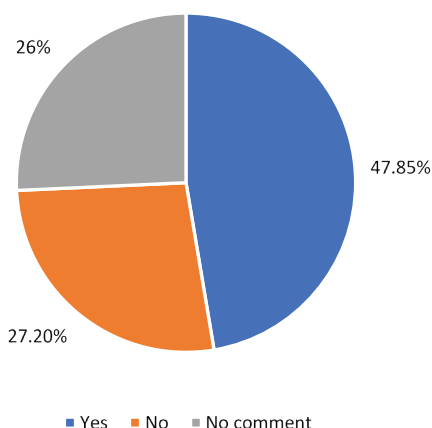
- Gender-based discrimination in family, marriage, and social life, especially affecting women and girls, who encounter restrictions, inequalities, pressures, and violence from male relatives and spouses.
- Discrimination in personal identity, beliefs, and choices, notably for those diverging from societal norms and expectations.

The responses also highlight consequences and coping strategies:

- Psychological distress, such as feeling ignored, insulted, isolated, insecure, or hesitant to share personal experiences.
- Material deprivation, resulting in missed opportunities, resources, or benefits due to discrimination.
- Social alienation, including labelling, stereotyping, or marginalization due to discrimination.

The responses from the participants show that almost half of them (47.85%) have faced discrimination based on their gender or religion, which is a significant and alarming proportion.

### Personal Experiences of Discrimination

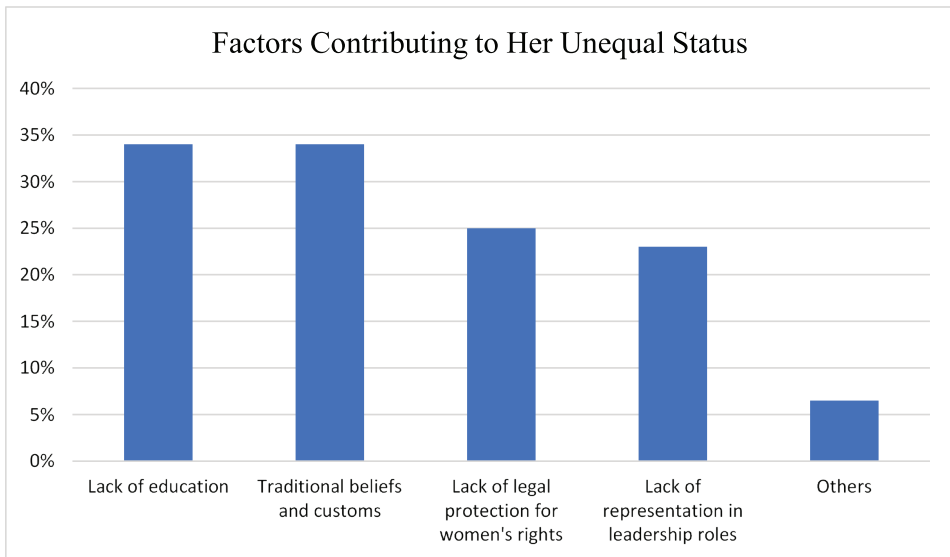


A high percentage of respondents preferred not to answer the question (26%). This indicates that some respondents were reluctant or afraid to disclose their experiences of discrimination, due to fear of reprisal, stigma, or lack of trust in the surveyors. A low percentage of respondents said they did not face any discrimination (27.2%).

### 3.3. Factors Contributing to the Unequal Status of Hindu Women

The fifth question of the community survey aimed to identify the factors that contribute to gender inequality in the Hindu community in Bangladesh. The

question allowed the respondents to select multiple options from a list of six factors or to specify their own factor/s. The responses show that the most selected factors are lack of education and traditional beliefs and customs, with 34% of the respondents choosing them. The third most selected factor is the lack of legal protection for women's rights, with 25.5% of the respondents choosing it. The fourth and fifth most selected factors are economic dependence on men and lack of representation in leadership roles, both with 23% of the respondents choosing them. The least selected factor is the other, with only 6.5% of the respondents choosing it.



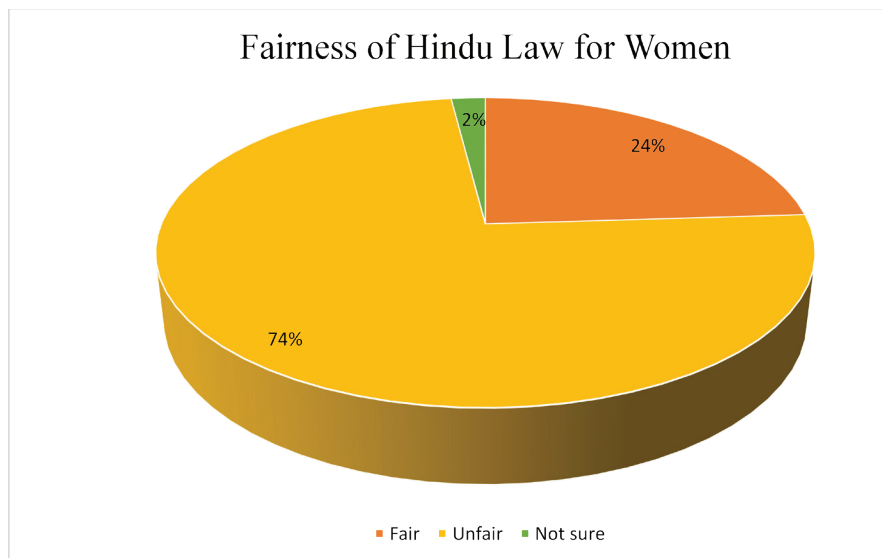
The fifth question provides valuable information on the perceptions and opinions of the Hindu community in Bangladesh regarding the underlying causes of gender inequality. Furthermore, it serves as a significant source of information and data on gender inequality within the Hindu community in Bangladesh.

### **3.4. Unequal Treatment of Hindu Law and its Potential Reforms in Bangladesh**

Questions numbered 6, 7, 8, 9, 10, and 11 have the collective objective of comprehending the perceptions of Hindu society regarding the treatment of women under the present Hindu law, the reforms introduced in India, the feasibility of adopting similar reforms in Bangladesh, the areas where reforms could be introduced, the role of Government initiatives in reform, and the likelihood of implementing a uniform family code that would encompass all religions. These inquiries seek to gain a comprehensive understanding of the Hindu social perspective on these crucial matters and explore the potential avenues for legal and social progress.

### 3.4.1. Is Hindu Law Fair for Women in Bangladesh?

The sixth question of the survey asks the respondents whether they think the current Hindu law in Bangladesh is fair to Hindu women. The question offers three options: yes, no, and not sure. The responses show that a majority of the respondents (74%) think that the current Hindu law is unfair to Hindu women, while a minority (24%) think that it is fair, and a very small percentage (2%) are not sure.

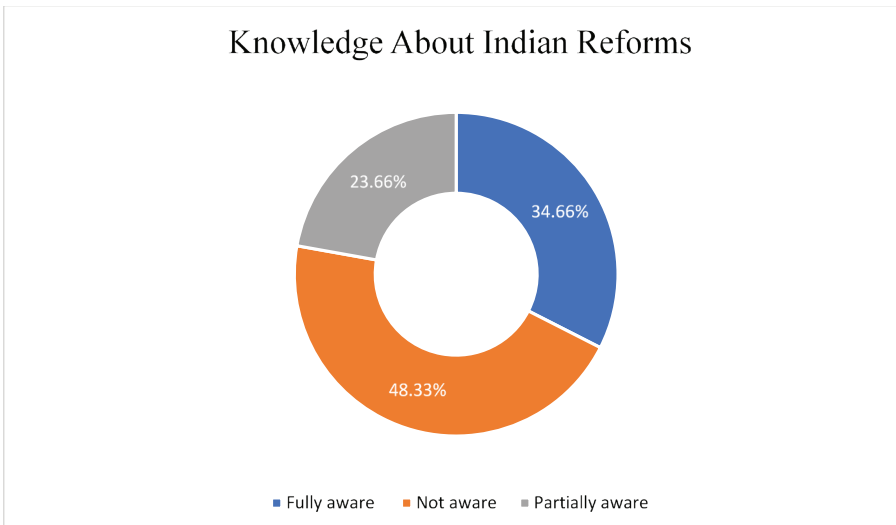


A critical analysis of the responses suggests that there is widespread dissatisfaction and discontent with the existing legal framework that governs the personal and family matters of the Hindu community in Bangladesh. On the other hand, a small minority of the respondents (24%) have a positive view of the current Hindu law and think that it is fair to Hindu women. This implies that there is a segment of the respondents who are either satisfied with or indifferent to the status quo, or who may have some religious or cultural reasons to support the current Hindu law. Finally, a very small percentage of the respondents (2%) are not sure about their opinion on the fairness of the current Hindu law to Hindu women. This indicates that there is a lack of awareness or knowledge about the current Hindu law among some of the respondents, or that they may have some ambivalence or hesitation to express their views on a sensitive issue.

### 3.4.2. Indian Reforms and Their Potentials in Bangladesh

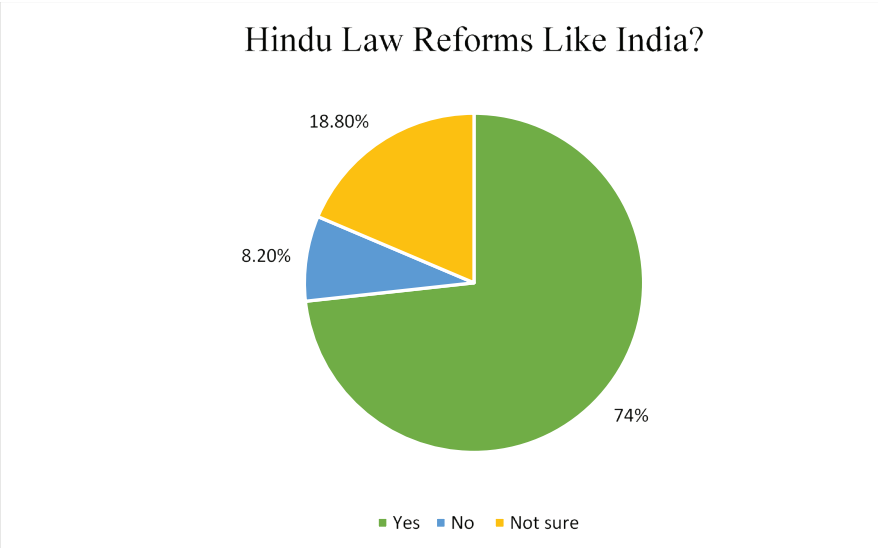
A critical analysis of the 7th question and the responses from the participants reveals some interesting insights. The question asked the respondents whether they were aware of the Hindu law reforms that have taken place in India, and

gave them three options: yes, no, or partially aware. The responses showed that a majority of the respondents (48.33%) were not aware of the Hindu law reforms in India, while only 34.66% were fully aware and 23.66% were partially aware. This indicates a lack of awareness and knowledge among the Hindu women in Bangladesh about the legal developments in their neighbouring country, which could have implications for their own rights and status.



Question no. 8 asks if the Hindu law in Bangladesh should be reformed for women's equal rights, like India. The question has three options: yes, no, and not sure.

Most respondents (74%) chose yes, showing strong support for reforms granting Hindu women equal rights in inheritance, marriage, divorce, adoption, and maintenance. Few respondents (8.2%) chose no, showing resistance to reforms granting Hindu women equal rights. The rest of the respondents (18.8%) chose not sure, indicating an ambivalence or uncertainty about legal reforms that would grant Hindu women equal rights.



Question 9 asked the participants to select the Hindu law reforms that they would support in Bangladesh from a list of five options. The question aimed to assess the level of awareness and support for the legal rights of Hindu women among the respondents, as well as to identify any other issues that they considered important for reform.

The responses showed that the majority of the participants (65%) supported allowing Hindu women to inherit ancestral property, which is currently denied to them under the Dayabhaga law that prevails in Bangladesh.

The second most supported reform was allowing women to be the ‘Karta’ of the family, which means the head or manager of the joint family. This option was chosen by 64% of the respondents, suggesting that many of them recognized the potential of Hindu women to take leadership roles and responsibilities in their families and communities.

Most Supported Reforms		Percentage
1 <sup>st</sup>	Allowing Hindu women to inherit ancestral property	65%
2 <sup>nd</sup>	Allowing women to be the ‘Karta’ of the family	64%
3 <sup>rd</sup>	Abolishing the caste system	56%
4 <sup>th</sup>	Allowing divorce in need	42.5%
5 <sup>th</sup>	Allowing inter-caste marriages, banning child marriage and dowry etc.	21%

The third most supported reform was abolishing the caste system, which was selected by 56% of the respondents. Abolishing the caste system would promote social justice and harmony among the Hindu community and beyond.

The fourth most supported reform was allowing women to divorce their husbands, which was chosen by 42.5% of the respondents. This option reflects the need for Hindu women to have more autonomy and agency over their marital relationships, especially in cases of domestic violence, abuse, or desertion.

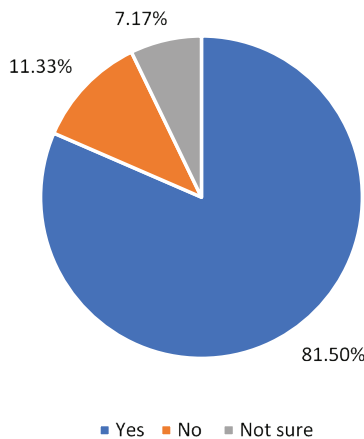
The fifth option was chosen by 21% of the respondents, who mentioned various issues such as allowing inter-caste marriages, banning child marriage and dowry, ensuring equal rights for widows and separated women, and providing legal recognition and protection under Hindu personal laws.

### 3.4.3. Should We Proceed for Reforms of Hindu Law?

The 10th question asks whether the government should take the initiative to reform Hindu law in Bangladesh. The question offers three options: yes, no and not sure.

The majority of the respondents (81.5%) chose yes, indicating a strong support for legal reform among the Hindu community in Bangladesh.

#### Government to Proceed for Reforms of Hindu Law?



The minority of the respondents (11.33%) chose 'no', indicating resistance to change and a preference for maintaining the status quo. The low percentage of 'no' votes indicates that such views are losing ground and becoming marginalized.

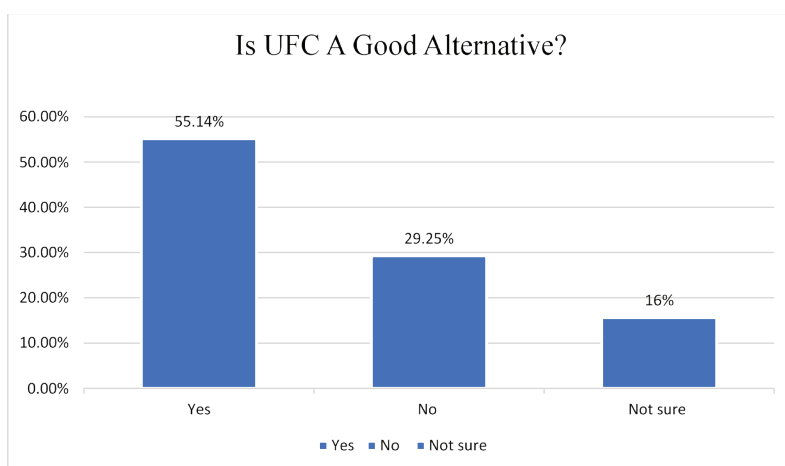


in the face of growing social awareness and pressure for change.

The remaining respondents (7.17%) chose ‘not sure’, indicating a lack of clarity or confidence in their opinion.

### 3.4.4. Is Uniform Family Code a Good Alternative?

The 11th question of the survey asked the participants whether they supported the introduction of a uniform family code, which would apply to all religions. A uniform family code would aim to provide equal rights and protection to all citizens, regardless of their faith.



The survey results show that a majority of the respondents (55.14%) favoured the adoption of a uniform family code, while a significant minority (29.25%) opposed it. The remaining 16% were unsure or indifferent. These findings suggest that there is a strong demand for legal reform among the Hindu community in Bangladesh, especially among women who face multiple forms of discrimination under the existing laws. However, they also indicate that there are some challenges and resistance to the idea of a uniform family code, which may stem from religious conservatism, patriarchal norms, or fear of losing cultural identity.

### 3.5. Steps to be Taken to Ensure Equality for Hindu Women

Question 14 inquired about the necessary measures to be undertaken for the establishment of gender equality within the Hindu society of Bangladesh. This question was presented in an open-ended format, allowing participants to express their opinions and recommendations freely. Similarly, question 15 also pertained to the same subject matter. Question 15 exhibits a more open-ended nature,

providing participants with the opportunity to express their recommendations on issues beyond gender equality. Subsequently, this section consolidates the entirety of the received recommendations from both questions 14 and 15.

Upon addressing question 14, a multitude of recommendations and perspectives surfaced from the participants concerning gender equality within the Hindu community in Bangladesh. The ensuing discourse has highlighted several salient key points (both legal and non-legal), which are presented as follows:

- Encourage self-dependence for Hindu women and improve their financial condition.
- Promote a positive change in societal mindset through engagement with religious leaders.
- Enact a uniform family code to advance equality and ensure women's inheritance rights.
- Eradicate male domination within families and treat female family members as equals to men.
- Encourage female leaders to serve as role models and step forward in leadership roles.
- Advocate against discrimination and fight for women's rights.
- Raise awareness about Hindu law and tradition, and promote gender equality through traditional practices.
- Protest violence against Hindu women and ensure their legal protection.
- Improve education opportunities for women and raise awareness of laws and rights..
- Allow women into religious and social leadership.
- Promote women's equality in job sectors
- Eliminate harmful customs. Traditions, beliefs and practices that perpetuate inequality.
- Make the registration of Hindu marriages compulsory.
- Address challenges faced by the Hindu community in land retention and religious ceremonies.
- Reform Hindu personal laws to align with the Vedas and involve community leaders in the process of reforms.
- Dispel the notion of gender inequality in Hinduism and emphasize the respectful treatment of women in families and society.
- Encourage Hindu families to increase their religious understanding and morality.
- Eliminate social prejudices against women and girls and ensure representation of women in leadership roles.
- Work towards the eradication of gender inequality within families and society.

Within the framework of question 15, participants were granted complete freedom to articulate their viewpoints and offer recommendations on any matter. Herein, we present a selection of opinions voiced by the participants concerning measures aimed at safeguarding the rights to equality for Hindu women and advocating for Hindu law reforms in the context of Bangladesh:

- Everyone should have equal opportunities to peacefully practice their cultural and spiritual activities.
- Hindus in Bangladesh should have the right to divorce.
- Society should be more welcoming to Hindu women and provide them with opportunities to establish themselves.
- Equal rights and status should be granted to parents' families after marriage.
- The government should take the initiative to reform Hindu law.
- Women should be aware of their rights and empowered to exercise them.
- There should be a stronger focus on women's empowerment.
- The caste system should be abolished.
- Hindu law should be reformed following the Indian examples.
- Reserved seats in the Parliament to ensure proper representation.

There are contrasting opinions too:

- It may not be the right time to reform Hindu law.
- Hindu scriptures already provide necessary rights to women.
- Any reform in Hindu law should be carried out while respecting tradition and custom.
- Hindu women should be treated fairly under the present system, and there may be no need to reform the existing laws.
- The opinions of females should not be overlooked in the local arbitration process, and they deserve equal treatment in all social processes.
- Hindu law should be updated based on the examples set by India.

## **4. Conclusion**

### **4.1. Summary and Implications of the Study**

The study reveals the considerable difficulties Hindu women in Bangladesh encounter, emphasising their severe legal and social implications. Discriminatory personal laws deprive them of property, matrimonial, maintenance and custody rights, perpetuating gender inequality and restricting their access to justice.

Furthermore, entrenched social stigmas and cultural norms, such as dowries

and early marriages, curtail their freedom, education, and employment prospects, resulting in economic dependence and exclusion. This cycle of deprivation and discrimination has far-reaching repercussions for both the Hindu community and Bangladesh as a whole.

The unequal status of Hindu women contravenes their fundamental human rights, violating international standards of equality and non-discrimination. It also impedes the development efforts of the country, as women's economic participation is vital for sustainable growth.

To tackle these issues, the research recommends essential measures, including legal reforms, gender equality education, and engagement with local communities and religious leaders to alter discriminatory cultural norms. It is imperative for the government of Bangladesh to act by implementing legal and policy reforms and fostering an environment that supports gender equality and women's rights.

This research has wider ramifications for gender equity and human rights in Bangladesh. It exposes pervasive prejudice based on patriarchal views and cultural mores, affecting women from all backgrounds. Tackling these issues necessitates a holistic approach, encompassing legal changes, awareness and education, and community involvement to foster a more inclusive and respectful society that respects the rights and dignity of all people. Investing in the social and economic empowerment of women is vital for diminishing susceptibility to discrimination and violence and enhancing their active involvement in decision-making processes.

## **4.2. Final Thoughts and Recommendations**

It is imperative to acknowledge the detrimental legal, cultural and social barriers that impede the rights and status of Hindu women in Bangladesh. The findings of the study bring to the fore the multifaceted challenges faced by Hindu women in Bangladesh concerning legal and social issues, which restrict their basic human rights and constitutional equality.

To address these challenges, it is vital to undertake a comprehensive approach that integrates legal and social reforms. The following are some suggestions for urgent legal reforms in Bangladesh to guarantee equal rights for Hindu women:

### **4.2.1. Uniformity in the Age of Marriage**

The Child Marriage Restraint Act of 1929 requires revision to standardise the minimum age of marriage. Both girls and boys should marry at 18 or older. This proposal complies with international human rights treaties and the advice of organisations like UNICEF, which stress the unfairness of lower marriage ages for girls.

#### **4.2.2. Child Marriage to be Invalidated**

The current law on child marriage in Bangladesh is inconsistent and ineffective. The Child Marriage Restraint Act of 2017 prohibits and penalizes child marriage, but it does not invalidate the marriage itself. This means that the legal rights and obligations of the married children are still recognize by the law. This is a contradiction that undermines the purpose of the law and the protection of children's rights. Therefore, the law should be revised to declare all child marriages null and void, without any exception or discretion.

#### **4.2.3. Bigamy to be Void and Punishable**

No citizen of Bangladesh should be allowed to enter into a second marriage while the first marriage is subsisting, regardless of any change in their religious affiliation or domicile. Any such second marriage shall be null and void ab initio and shall entail legal consequences for the parties involved. This provision should apply to all citizens of Bangladesh irrespective of their religious or ethnic identity.

#### **4.2.4. Judicial Divorce on Specific Grounds**

The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946 grants Hindu women the legal right to live separately from their husbands and receive maintenance under certain conditions. The Act lists six reasons for a Hindu wife to claim separate residence and maintenance from the husband, such as:

- Her husband has a contagious disease that he did not get from her;
- Her husband is so cruel to her that living with him is dangerous or unbearable;
- Her husband has deserted her without her consent or against her will;
- Her husband has another living wife;
- Her husband keeps a concubine in the same house as his wife or regularly lives with a concubine elsewhere;
- Her husband has left Hinduism and embraced another religion.

However, this law was passed in 1946, when Bangladesh was part of India. After the partition of India in 1947 and the independence of Bangladesh in 1971, the Hindu personal laws were not updated or reformed to suit the changing social and economic realities in Bangladesh. Therefore, the Government of Bangladesh must amend Section 2 of the Act and make the reasons for claiming separate residence and maintenance the grounds for judicial divorce and maintenance for a Hindu wife. This will enable the Hindu women to end their unhappy and abusive marriages and secure their rights and dignity. It will also make the Hindu personal laws compatible with the Constitution of Bangladesh, which ensures equality

before law and equal protection of law to all citizens regardless of religion, sex or caste.

#### **4.2.5. Irretrievable Breakdown of Marriage as a Ground of Divorce**

The court may grant a judicial divorce if the marriage is irretrievably broken, meaning it is beyond repair and more harmful to continue. A valid and reasonable cause is required for this ground. An irretrievable breakdown can be shown by the spouses' separation, differences, or mutual consent.

#### **4.2.6. The Restitution of Conjugal Rights is no Matrimonial Remedy**

The restitution of conjugal rights provision aimed to safeguard marriage but became oppressive. Many husbands exploit it to resist the maintenance of their wives or cruelty relief claims, denying their rights. Furthermore, restitution of conjugal rights infringes human dignity, as no one should endure forced cohabitation. Therefore, Section 2(7) of the Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946 and others (if any) should be repealed as a matrimonial remedy.

#### **4.2.7. Uniformity and Compulsory Registration of Marriages**

All communities need a common law for compulsory marriage registration. This ensures the same legal procedure for all faiths. However, the law must not deny anyone their rights based on marital status. Thus, unregistered marriages should not affect women's or children's rights. The government should also inform people of the registration benefits and offer a quick and easy process.

#### **4.2.8. Equal Recognition of Children in Marriage**

There should be the law to declare that the validity, voidability or nullity of the marriage of the parents of a child does not affect the recognition, rights and status of the child. Moreover, the law should forbid the use of the term "illegitimate" to refer to any child in any legal document or official record.

#### **4.2.9. The Right of Maintenance to be Extended**

The classical Hindu law, which treats men and women unequally in property and other matters, requires reform to give both genders equal rights and status. Until then, Hindu women should receive sufficient maintenance from their legal guardian or family head. This implies that the daughter-in-law can claim maintenance from her father-in-law if her husband is deceased, disqualified or incapable, or that the stepmother, if she has no sons, can seek maintenance from the stepson. Likewise, any female relative living in the family should have the right to be maintained by the male guardians or Karta of the family. Under the

current Hindu law in Bangladesh, the father-in-law, stepson, or any male relative except certain ones, have no legal obligation to provide maintenance for the daughter-in-law, stepmother, or female dependants.

Moreover, the criteria for determining the maintenance amount should be specified by a comprehensive set of guidelines. At present, the only factor considered is the “standard of living” of the parties. However, this is inadequate and unjust, as it overlooks other relevant factors that may influence the financial situation and needs of the parties. These factors include the marriage duration, the age and health of the parties, the future earning potential of the parties, the individual needs and disabilities of the parties, and any other considerations that may be relevant to the case. These factors should be weighed and balanced to reach a fair and reasonable maintenance amount that reflects the circumstances of each case.

#### **4.2.10. Adoption Rights to be Extended**

According to the current Hindu law of Bangladesh, Hindu women are not entitled to adopt children as their own. They can only adopt a son only with the consent of their husbands and for their husbands. Moreover, no female child can be either adopted or given in adoption. This law discriminates against Hindu women and girls and violates their human rights. Therefore, it is urgent to reform the existing Hindu law of Bangladesh and ensure equal rights for both genders in matters of adoption.

#### **4.2.11. Respect to Her Dignity and Human Rights**

In legal proceedings concerning maintenance, divorce, or other matrimonial matters, women’s respect and dignity require that the terms used to refer to them are not offensive or demeaning. Thus, judges, lawyers and other parties involved should refrain from using terms such as “concubines,” “mistresses,” “keeps,” or any similar terms that suggest a lack of legal validity or moral integrity in their relationships. They should use neutral and accurate terms that reflect the factual and legal situation of each case.

#### **4.2.12. Matrimonial Property Rights for Women**

Bangladeshi law fails to protect women’s matrimonial property rights. Many women either ignore their rights or cannot claim them. The law also disregards the economic worth of the household work of wives as a factor for property ownership. It uses an obsolete standard of financial input, which harms women who do unpaid domestic work. Hence, the Government must recognise women’s family contribution and legislate to secure their rights.



#### **4.2.13. Equality in Custody and Guardianship of the Children**

To enhance the legal framework for child custody and guardianship, several proposals are made. It is proposed that both parents have equal rights to custody and guardianship of minors, with a default preference for maternal custody until the child is 12. Moreover, guardianship of adopted children should apply to both adoptive parents, irrespective of the gender identity of the child, requiring a change to the current Hindu law on adoption. Additionally, amendments across all laws should acknowledge the mother as a natural guardian with the father, giving her precedence in custody decisions. A thorough revision of the Guardian and Wards Act, 1890, is suggested, possibly resulting in a new Children's Act that defines parental responsibilities, children's rights, and abolishes the notion of an "illegitimate" child. Custody matters should prioritise the child's best interests, custody should be a separate issue under matrimonial laws, and both adopted sons and daughters should have equal guardianship rights.

#### **4.2.14. Equality in Inheritance and Property Rights**

In Bangladesh Hindu daughters are excluded from inheriting ancestral property due to cultural and legal norms favouring sons. This causes gender discrimination in the family and the law. Equality in inheritance rights is a necessary solution.

Another issue is the nature of women's property rights upon succession. Sometimes, a woman may inherit; however, except widows, other female heirs have little chance of inheriting land from any male. Hindu law allows a widow to inherit her husband equal to one son, but her rights over the inherited property are different from the sons. Widows are limited owners, which means they can use the inherited property for their lifetime but cannot transfer it, unlike their sons. This is because widows do not have full interest in the property, as the true owner is their deceased husband. Therefore, when the widow dies, the property reverts to her deceased husband and then to his heirs rather than her heirs.

To fix this inequality, women should always have equal inheritance and property rights as men, with full ownership.

#### **4.2.15. Daughters to be Considered Sapinda with Son and be Joint Heirs**

Under Dayabhaga law, the son is the primary sapinda and inherits his parents' property. This law ignores the daughter's equal biological relation and distance to her parents. The son and daughter have the same kinship and affinity with their parents and should inherit equally. The daughter must be a sapinda like the son and inherit jointly with him.

#### **4.2.16. Eliminating the Court Fees for Maintenance Suits**

The study strongly urges the immediate revision of the Court Fees Act, 1870, with the objective of eliminating the court fees for maintenance suits. Women and children throughout the nation are faced with exorbitant court fees. Due to their evident inability to afford such fees, they are forced to undergo lengthy proceedings to prove their eligibility for filing cases as paupers.

#### **4.2.17. Abolish Male Preference from Legal Literature**

Some legal texts use gendered language favouring sons over daughters, particularly in inheritance. This biases male relatives with a common male ancestor (agnates) over those with a common female ancestor (cognates). To advance gender equality and fairness, the relevant laws should be amended to grant equal rights and recognition to agnates and cognates. Likewise, there should be no difference between those related by full, half, or uterine blood.

These suggestions are based on the principles of human dignity, non-discrimination and justice, as well as the international human rights standards that Bangladesh has ratified.

In addition, the government should increase its efforts to educate the public about gender equality and women's rights. Education and awareness-raising campaigns should be targeted at women, men, and children, especially in rural areas, to promote an understanding of gender equality and to counteract patriarchal attitudes and practices.

Furthermore, the government should undertake initiatives that improve the access of Hindu women to justice. For instance, the government should establish legal aid clinics and provide training for legal professionals to ensure that women have access to legal services and are adequately represented in the legal system. Additionally, measures should be taken to ensure that women have access to the necessary resources, such as finance and transportation, to pursue legal action.

It is equally essential to engage with local communities and stakeholders in efforts to promote gender equality and women's rights. The involvement of religious leaders, community organizations, and civil society groups is critical in addressing cultural norms and attitudes that perpetuate discrimination and gender inequality. Moreover, community-level initiatives, such as community-based legal literacy programs, can be employed to enhance women's access to justice and to promote gender equality in rural areas.

Finally, it is essential to undertake data-driven research to track progress and to evaluate the impact of initiatives aimed at enhancing the rights and status of Hindu women in Bangladesh. It is imperative to measure the effectiveness of legal and social reforms and to identify and address the remaining gaps in the legal framework that hinder the realization of women's rights.