

Scope of Bringing Reforms in Muslim Family Law in Bangladesh: An Analytical Study

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Abstract

Islamic law refers to the law based on Islamic principle. Muslim family law is an important part of Islamic law. The Muslim countries around the world generally follow this part of Islamic law. The Muslim family regulations that apply all around the globe, however, are not uniform. Modern Muslim nations are constantly reviewing and changing their family rules based on legal study. The way of bringing such reforms in Muslim family law is termed as Ijtihad. In Bangladesh, there are various areas where Muslim Family Law may be amended, which are simple to execute, to achieve equality and balance the rights and obligations of both parties. These adjustments must be implemented within the framework of Sharia in order to protect Islamic principles and will undoubtedly enhance the condition of both men and women in different aspects. This article discusses the possibility of modifying specific legal provisions of Bangladesh in terms of rules and regulations governing Muslim family issues within the framework of Sharia. The study also attempts to demonstrate that by adapting such adjustments, a reasonable and equitable upshot in the relationship between husband and wife in their conjugal life may be achieved.

Keywords: Islam, Family Law, Marriage, Dower, Divorce, Maintenance

1. Introduction

Law, whether divine or manmade, is always for the benefit of the human beings. As society is not any constant phenomenon, it inevitably changes every moment. As a consequence, it is important to change laws in line with the changing demands of society. Islam adheres to divine law. It has been established based on the religion of Islam that is the complete code of life. Islamic law is not fully rigid and static; however, the set policies of the law are the essential principles of Islamic law as written forth in the Holy Qur'an and the Sunnah of the Prophet (PBUH).¹ Muslim family law is an essential component of Islamic law. This section of Islamic law is usually followed by Muslim countries across the world. Muslim family law is an essential component of Islamic law. This section of Islamic law is usually followed by Muslim countries across the world. However, the Muslim family norms that apply globally are not uniform. Based on legal research, modern Muslim nations are continually examining and updating their family policies. In spite of the fact that the same religious infrastructure exists everywhere, this has led to a broad range of Muslim family laws in practice.² Because of this, Muslim family law has allowed for a number of justifiable solutions to a single problem, which has been an interesting development. This is because Islamic law is flexible and permits specific contextual interpretations under specific conditions.

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¹ Dr. Muhammad Ekramul Haque, *Muslim Family Law- Sharia and Modern World*, First Edition, 2015, London College of Legal Studies (South), 33.

² Haque, *Muslim Family Law*, 34.

As long as it does not contravene any Qur'anic verses or Prophetic Sunnah, this strategy is acceptable. In Bangladesh, there are scopes of bringing reforms in Muslim family law which are elaborated in this paper.

2. Methodology of the Study

This article is based mostly on the qualitative method of study. In completion of the study, both primary and secondary sources have been used. Data have been collected from national and international statutes, newspapers, journals, case laws, research reports, internet, library catalogues, and from the website of various national and international organizations.

3. Muslim Family Law & Its Applicability in Bangladesh

Islamic law is a divine law. Islam, which is the whole law of life, is the foundation upon which it has been formed. Islamic law is not wholly rigid and static; rather, the permanent principles of the law are the essential precepts of Islam as outlined in the Holy Qur'an and the Prophet's (PBUH) Sunnah. Thus, there are four sources of Islamic law, which are- the holy Qur'an, the Sunnah, Ijma and Qiyas. The first two ones which are the holy Qur'an and Sunnah are known as the primary sources and the last two are known as secondary sources of sharia law. The fourth source of law, Qiyas is made through Ijtihad. Only individuals with extensive knowledge of Quran and Sunnah are qualified to make any Ijtihad.

Taqlid and Ijtihad are the two ways to embrace the Sharia. Islamic law defines taqlid as the unthinking acceptance of another person's legal conclusions without being aware of the events leading up to them.³ The Ijtihad system, on the other hand, enables the introduction of fresh approaches to implementing Sharia. Making Sharia-based personal laws current is a crucial system. Ijtihad, which refers to the independent and unrestricted use of intellect to interpret Islamic law, must have place in the Islamic legal system due to the severe application of taqlid (the imitation doctrine). Those responsible with putting Sharia into practice in society, including philosophers, lawmakers, and rulers, are always welcome and granted license to do so.⁴ Simply defined, Sharia Law may be improved upon without altering its fundamental principles.

The Muslim Personal Law (Shariat) Application Act, 1937 makes explicit the areas in which sharia law may be applied in Bangladesh. Only ten subjects will be governed by Islamic sharia law, according to section 2 of the Act.⁵ Additionally, it has limited the application of the legislation to parties who are Muslims. According to Section 2 of the Muslim Personal Law (Shariat) Application Act, 1937, "Notwithstanding any custom or usage to the contrary, in all questions (save questions relating to agricultural land) regarding intestate succession, special property of females, including personal property inherited or obtained under contract or gift or any other provision of Personal Law, marriage, dissolution of marriage, including talaq, ila, zihar, lian, khula and mubaraat,

³The Editors of Encyclopedia Britannica, "Taqlid", *Encyclopaedia Britannica* inc. <https://www.britannica.com/topic/taqlid>, accessed on 16 November 2022.

⁴ A.W.M Abdul Huq, "Section 4 of the Muslim Family Laws Ordinance, 1961: A Critic" (2010) 1(1) NUJL https://www.researchgate.net/publication/269491262_Section_4_of_the_Muslim_Family_Laws_Ordinance_1961_A_Critic accessed on 16 November 2022.

⁵ Haque, Muslim Family Law, 45.

maintenance, dower, guardianship, gifts, trusts and trust properties, and waqfs (other than charities and charitable institutions and charitable and religious endowments) the rule of decision in cases where the parties are Muslims shall be the Muslim Personal Law (Shariat)".⁶

Thus, the Muslim Personal Law, or shariat, will be the ruling law in the aforementioned ten areas for Muslims.

4. Scope of Reformation in the Statutory Laws regarding Marriage

Muslim marriage can be defined in different aspects. In Islam, a marriage is viewed as a holy bond between the partners as well as a contract. According to Anas bin Malik, a friend of the prophet, the prophet is credited with making the following well-known statement: "Any man whom Allah provides with a virtuous wife has been helped to half his Deen (religion), so he should fear Allah regarding the other half."⁷

In which cases reforms may be brought regarding marriage in Bangladesh are discussed below-

4.1. Witness of Muslim Marriage: A Question of Equality

According to Hanafi law, a Muslim marriage must be performed in front of witnesses. The presence of a witness does not invalidate a marriage under Shia law, but it is required for a legitimate marriage in the Hanafi school of thought. There must be at least one male and two female witnesses,⁸ according to Hanafi marriage law, so that if one female witness forgets the specifics of the marriage, the other female witness may remind her. It is, of course, essential to have witnesses to any marriage in order for the rejection of marriage to be impossible. The witness may attest to various legal criteria of the marriage, such as the parties' permission, their age, the amount of dower, and so on.

The witnesses serve as the marriage's watchdog. There would be unrestrained practices of rejection of marriage by either side if there were no provision for witnesses to finish a Muslim marriage. Although a Muslim marriage must be performed in front of two witnesses, there is a significant disparity in witness standing, with two female witnesses being regarded equivalent to one male witness. This viewpoint is also used in estate management, where a male receives twice as much as a female.

The number and qualifications of witnesses in Muslim marriages are not the same worldwide. In general, the witnesses must be Muslims. Fiji's Muslim marriage legislation recognizes two women as competent witnesses to a Muslim marriage.⁹ According to Tunisian Muslim marriage law, the witnesses might be either male or female. A Muslim marriage must be witnessed by two men or one man and two women in Sudan and Yemen. The legislation in Sudan requires witnesses to be of "good reputation and trustworthiness." Thus, it can be said that we also need a reformed personal

⁶ The Muslim Personal Law (Shariat) Application Act, 1937, Section 2.

⁷ Shahih Al Jamee

⁸ A.A. Asaf Fyzee, *Outlines of the Muhammadan law*, oxford university press 1974, edition 2006-07, chapter II, Marriage: 88-121

⁹ Haque, Muslim Family Law.

law in which women will be accorded the same position as males when it comes to forming a witness.

4.2. Age of Marriage: A Debate

In Bangladesh, there is a legislative rule that any marriage between a girl under the age of 18 and a male under the age of 21 is deemed child marriage.¹⁰ Contrarily, Sharia places importance on reaching puberty when it comes to having the legal competence to enter into marriage. As a result, Bangladeshi law continues to consider someone to be a "child" even while Islamic law still considers them to be capable of entering into marriage. While the age of majority is 18 for both males and females under a distinct statutory legislation, Bangladesh's legal marriage age for males and females might be considered discriminatory.¹¹ Therefore, there is room to modify the marriage age under legislative provisions, and such modification would fall under the ambit of Sharia Law. Furthermore, Islam forbids forced marriage. In order to ensure that the man or woman is old enough to offer their permission in the marriage and to prevent forced marriage, the age of puberty or majority is required. Islam forbids marriages if a woman's (or a man's) permission is not given. The Prophet Mohammad (SAS) responded to a girl who complained that her father had pushed her into a marriage against her choice by saying that she could either accept the union or proclaim it null and void.¹² In another version, the girl stated, "Actually, I accepted this marriage, but I wanted to let women know that parents have no right (to force a husband on them)."¹³ Because of this, it is widely accepted in Islam that a forced marriage is not a marriage at all if neither a woman nor even a man approves of it or declares it to be invalid.

According to Bangladeshi law, a marriage must have the free agreement of both parties. If a woman does not voluntarily consent to get married, she cannot be pushed into it. To have the legal impact of a lawful marriage, a free consent must be given in front of at least two witnesses and then duly signed. As was previously noted, a person may only provide his or her free consent after reaching the legal marriageable age. If a guardian marries a child before that age, the marriage must be approved by both parents and properly recorded in order for it to be legally recognized as a marriage. Otherwise, the marriage will not be recognized by the law. However, there are many instances in rural regions when women are compelled to wed in accordance with the wishes of their guardians and laws are powerless to stop such unions.

Another example where some inconsistencies might be noted is the puberty option. Sharia law allows both boys and girls to repudiate the marriage given by guardian at the time of puberty, unlike Bangladeshi law, which gives girls the option to repudiate a marriage when they turn eighteen and up to nineteen years old provided the marriage has not been consummated in that time. As a result, some strange situations may arise between Sharia and statutory provisions, which must be handled.

¹⁰ The Child Marriage Restraint Act, 1929, Section 2.

¹¹ The Majority Act, 1875, Section 3.

¹² Ibn Abbas in Ibn Hanbal No. 2469.

¹³ Ibn Maja, No. 1873.

4.3. Registration of Marriage: A Shield

One of the legal requirements, without which the parties, particularly the bride, are more susceptible, is the registration of the marriage. Having evidence of the marriage increases the capacity to access the rights that a woman in a Muslim marriage naturally enjoys, as well as any rights that the bride may have bargained with the groom in the marriage contract.¹⁴ Abdullah J in case of *Dr A.L.M Abdulla v. Rokeya Khatoon*, 21 DLR (1969) 213 held that “If a marriage is validly performed, not having it registered may not have an impact on that.”¹⁵ However, the lack of a marriage registration raises questions about the marriage's actual solemnization.” In most circumstances, the husband benefits from non-registration of marriage when the woman seeks dower or maintenance or when the husband fails to collect illicit dowry from the wife's family. In *Anwar Hossain v. Momtaz Begum*¹⁶ the court held that non-registration of marriage puts the party claiming marriage at some disadvantage and at the same time strictly requires her to prove the fact of marriage. There are no explicit instructions about the registering of marriages in the Holy Quran. It is possible that the Quran views the witnesses as being adequate evidence of a marriage. Given the many denials of marriage by either side (most frequently the husband) due to the shift in our societal milieu, the need for more protection and verification of marriage has emerged.

In Bangladesh the first provision regarding the registration of marriage was the section 5 of the Muslim Family Laws Ordinance, 1961 (herein after referred to as MFLO, 1961). But after the birth of Bangladesh a new Act named the Muslim Marriages and Divorces (Registration) Act, 1974 was introduced under which Muslim marriages registration have been made obligatory. The new section 15 omitted the previous section 5 of the MFLO, 1961.¹⁷ Now we will look at the situation in other Muslim nations throughout the world. Algeria, Egypt, Gambia (Muslim weddings), Indonesia, Iran, Malaysia, Morocco, Philippines, Senegal, Sudan, Tunisia, and Turkey are among the nations requiring formal marriage contracts and marriage registration.¹⁸

5. Scope of Reformation in the Statutory Laws regarding Dower

It is said, “And give to the women (whom you marry) their Mahr (obligatory bridal money given by the husband to his wife at the time of marriage) with a good heart, but if they remit any portion of it to you of their own free will, take it and enjoy it without fear of danger (as Allah has made it permissible).”¹⁹

Marriage in Islam has various requirements that must be met in order for the marriage to be completed. One of them is the payment of mahr. It is an amount of money or other precious

¹⁴ Moslay Uddin & MD. Ayatullah, “Muslim Law: judicial and legislative changes around the world” https://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2539541_code2339045.pdf?abstractid=2539541&mirid=1, accessed on 17 November 2022.

¹⁵ Alamgir Muhammad Serajuddin, *Muslim family law, secular courts and Muslim women of south Asia. A study in judicial Activism*, Oxford University Press 2011. Chapter 5 “Muslim family law, Judicial interpretation and Muslim women’s legal rights in Bangladesh, 190.

¹⁶ 18 CLC (HCD), 1999.

¹⁷ Haque, Muslim Family Law, 102

¹⁸ Haque, Muslim Family Law, 103

¹⁹ The Holy Quran, 4:4

commodities that the husband must give or provide to the woman at the time of marriage. There was a similar tradition of giving mahr to the wife's father in pre-Islamic Arabia, believing that the husband was acquiring his daughter. The notion changed dramatically after the entrance of Islam. Islam attempted to transform mahr into a genuine settlement in favor of the wife, a provision for a rainy day, and, socially, it constituted a check on the husband's arbitrary exercise of his nearly unrestricted right of divorce.²⁰ Although it is payable before consumption in theory, the law enables it to be divided into two parts: prompt dower and deferred dower. Whatever form the dower takes, it must be paid to the wife. However, the reality is rather different. In extremely few circumstances, immediate dower is paid, and in most cases, postponed dower is deferred for life. However, in order to protect his social standing, the bridegroom claims a very large sum of dower at the time of marriage, believing that he would not be required to pay it at all.²¹ Mahr is now limited to a declaration rather than payment. The situation has now become public knowledge. On the contrary, the spouse seeks dowry, which is a severe offense, and the dowry curse is deeply ingrained, particularly in the countryside. Despite the fact that Bangladesh has strong regulations, such as the Dowry Prohibition Act, 2018 and sections in the Nari O Shisu Nirjaton Domon Ain, 2000 dealing with punitive punishment for dowry demand.²² Dowry has been reduced to a large extent by these laws, but every year, it is heard that women in rural areas being subjected to inhuman physical, mental, or any other form of torture by their husbands and family members, and sometimes the level of torture is so severe that she falls into the jaws of death or is forced to commit suicide to relieve such inhuman mental pressure. As a result, the current situation is the opposite of what it should be. It is one of the family court authorities to deal with dowry claims, but due to insecure social system women fear to go to court for their dowry claims.

Any required provision for dower, in my opinion, would not violate or contradict any basic Islamic values. The Muslim Family Laws Ordinance of 1961 includes a provision for the payment of dower. If no information concerning the manner of payment of dower are included in the nikah nama, or marriage contract, the total sum of dower is ordered to be payable on demand.²³

6. Scope of Reformation in the Statutory Laws regarding Maintenance

“Men are the defenders and maintainers of women since God has given one more (strength) than the other and because they sustain them from their own resources.”²⁴

The term "nafaqa" refers to maintenance, which includes food, raiment, and housing, however in common vernacular, it only includes the first. The husband's major job is to maintain the wife, and the Quran declares that the complete weight rests on the husband even if she (wife) has a lot of

²⁰ A.A. Asaf Fyzee, “*Outlines of the Muhammadan law*” oxford university press 1974, edition 2006-07, chapter III, 133

²¹ Ishtiaque Rahman, “Plausible Reformation of laws regarding Marriage and Divorce in Bangladesh Based on Sharia”, https://www.researchgate.net/publication/343530418_Plausible_Reformation_of_laws_regarding_Marriage_and_Divorce_in_Bangladesh_Based_on_Sharia, accessed 17 November 2022

²² Ishtiaque, “Plausible Reformation”.

²³ Moslay Uddin, “Muslim Law: judicial and legislative changes.”

²⁴ The Holy Quran, 4:34

property of her own.²⁵ The question of maintenance is normally raised only after a marriage ends in divorce. Is the wife still entitled to spousal support after the divorce? And, if she is entitled, how long does she have? The holy Quran states that- “And divorced women will also be entitled to maintenance in a decent manner; this is a responsibility for everyone who is aware of God.”²⁶

Therefore, there is no question of getting maintenance of wife even after divorce. Islam allows maintenance after divorce, but the question is that it will be given for how many days. We'll examine it right away in light of the holy Quran's passage and rulings by the courts. Except in the instance of talaq al bida, the marriage ties did not instantly dissolve after the declaration of talaq. As a result, during the iddah period, the wife is entitled to get maintenance since she still has the legal status of wife. But the question arises that once the divorce is finalized whether she will be entitled to get any maintenance. On this topic, there is a significant discrepancy. The definition of the term "mataa" is a popular starting point for several specialists on this topic.²⁷

In Bangladesh, the Appellate Division in case of *Zamila Khatun vs Rustom Ali* ruled (in accordance with classical Hanafi law) that a wife is not entitled to arrears of maintenance. Maintenance will only be allowed her from the date the suit is brought before the Family Court until three months from the decree of dissolution of marriage. The former wife or the child may not claim past maintenance unless the parties have a previously established agreement. But the question again raised in the famous case *Shamsunnahar Begum vs Hefjur Rahman*. In this case, the High Court Division first ruled that the wife is entitled to post-divorce maintenance following the iddah for an indefinite period of time until she loses her divorce status by remarrying someone else. However, when the matter was brought to the Appellate Division, the Court overruled the prior judgement and concluded that the term "maata" in the Quran was meant to be a parting gift or a consoling provision. It was never intended to be interpreted as maintenance or support in the legal and official sense for supplying the divorcee's requirements of life.²⁸

Consequently, it is now settled law in Bangladesh that a Muslim divorced wife cannot exercise her right to post-divorce support. Egypt's personal law is founded on Hanafi law. As a result, in circumstances of post-divorce support, they have accepted elements of the Maliki and Shafi Schools' ideas. Compensation for divorce is recognised by Jordanian courts as a monetary right of the divorced woman that is not forfeited in the case of the husband's death. The Malaysian family court has also made a difference in this matter.²⁹

7. Scope of Reformation in the Statutory Laws regarding Divorce

In Bangladesh, statutory law allows for all types of talaq, including talaq-al-bida. The Muslim Family Laws Ordinance of 1961 makes no distinction between types of talaq. However, when it

²⁵ Haque, “Muslim Family Law”.

²⁶ The Holy Qur'an, 2:241

²⁷ Abdullah Al Mamun, “Islamic Law of Personal Status: Analysis of the Reforms of Islamic Family Law in Various Muslim Countries”, <https://www.ijlhss.com/wp-content/uploads/2017/06/IJLHSS-05-17-03.pdf>, accessed 19 November 2022.

²⁸ Moslay Uddin, “Muslim Law: judicial and legislative changes.”

²⁹ Haque, “Muslim Family Law”.

comes to divorce, Sharia clearly states that the approved form of talaq is favored. The MFLO, 1961 has caused a few issues by approving all types of talaq. It has made pronouncing talaq much simpler and without doubt. The Talaq Laws of the Ordinance of 1961 should be changed to prohibit talaq that is outside the bounds of Sunnah and to prohibit talaq-al-bida. Egypt, for example, does not recognize the legality of talaq-al-bida since it considers talaq al bida delivered in any irrevocable manner to be modifiable.³⁰

According to Islamic law, the husband has total power in marital relations, to the extent that he can unilaterally and extrajudicially sever the wedded connection by saying the verbal divorce formula (talaq). In terms of divorce authority, only males have the unilateral right to divorce in Islamic law, for which no acceptable grounds are required. This is an arbitrary authority held solely by men. The wife has no such right, and if her husband utilizes it, she has no recourse. However, jurists have established several notions that may be acknowledged as grounds for divorce if the divorce gets to court. A wife might seek divorce on the basis of the husband's protracted absence without explanation, long imprisonment, reluctance to give support for his wife, impotence, and other factors.³¹ In circumstances of chronic sickness, insanity, deceitful misrepresentation during the marital contract, desertion, and so on, any partner may seek divorce, but only through legal processes. A wife can only divorce her husband without cause if the power of divorce is included in the marriage contract; this sort of divorce is known as 'Delegated Divorce,' and it happens when the right of divorce is delegated to the wife by her husband during marriage. Marriage can also be dissolved by mutual consent, which is known as Khula in the technical terminology of Islamic law.

Nonetheless, it is clear from the preceding discussion that a Muslim female does not have the same right to divorce that a man does. The Muslim Family Laws Ordinance, 1961 has provisions for arbitration in divorce cases. The Arbitration Council, on the other hand, cannot postpone the husband's talaq, even if it is exceedingly arbitrary and irrational, and may only defer the divorce in the hope that some type of reconciliation takes occur between the parties. A divorce by the husband, for example, will not take effect until the husband has given notice of the divorce to the chairman of the local administrative unit - Union Parishad and ninety days have passed after the notification was provided, and the husband can reverse the divorce at any time during this period. On receipt of the notice, the Chairman would form an Arbitration Council to seek a reconciliation, which, if successful, would render the divorce useless. It is an offence not to notify the Chairman about the husband's exercise of divorce rights. The said clause applies *mutatis mutandis* in the case of a divorce exercised by the wife. The divorce does not become effective until notification is made to the Chairman and 90 days have passed.³² The husband might assign his divorce power to his wife absolutely or conditionally. That is known as talaq-i-tawfeez, which indicates that when a condition is mentioned and the requirement is met, the wife has the right to divorce her husband. The above-mentioned procedure must be followed in order for the divorce to be finalized.

³⁰ Article 5 of the Law No. 05 of 1929.

³¹ The Dissolution of Muslim Marriages Act, 1939

³² The Muslim Family Laws Ordinance, 1961, Section 7.

Furthermore, with the passage of the Ordinance, the triple pronouncement of divorce was banned. Divorced parties can now remarry without the formality of a third-party marriage. Although this is a significant legal breakthrough, its provisions cannot be implemented in many circumstances when individuals reside outside of the reach of judicial remedies.

It is said that "any man who wishes to divorce his wife shall, as soon as may be after the pronouncement of talaq in any form whatsoever, give the Chairman notice in writing of his having done so, and shall supply a copy thereof to the wife."³³ It is clear that the rule recognizes any type of talaq declared by the spouse under any circumstances. To some extent, it jeopardizes the basic purpose of Sharia law. Despite the fact that Hanafi law allows for a divorce to be granted even if it is declared under any conditions, several modern progressive Muslim nations have adopted different legislation to limit the techniques of granting talaq to spouses.³⁴ For example, Egyptian law has declared any talaq made while intoxicated to be void. Although there are particular steps that the husband must take in order to finish a talaq in Bangladesh, there are no laws governing the conditions that must be fulfilled to make a talaq declared by a husband legal.³⁵ Because there is no provision for such criterion, any talaq declared by a spouse becomes legal regardless of the circumstances. As a result, reformation should be considered to solve this issue.

Another modification that should be added to Bangladesh's legislative provisions is the registration of talaq. The Muslim Marriages and Divorces (Registration) Act, 1974 provides that a Nikah Registrar may register a divorce executed under Muslim Law within his jurisdiction if an application for such registration is presented to him. It also says that the Nikah Registrar shall not register a divorce known as Talaq-i-tafweez unless the husband produces a document registered under the Muslim Marriages and Divorces (Registration) Act, 1974, by which the husband delegated the power of divorce to the wife, or an attested copy of an entry in the register of marriages indicating such delegation. The person or individuals who has or have executed the divorce must make the application for divorce registration verbally. Thus it can be said that although the Muslim Marriages and Divorces (Registration) Act, 1974 requires talaq to be registered in Bangladesh, the implications of non-registration on the legality of the talaq is not considered here. As a result, such a clause may be amended within the framework of Sharia.

8. Observation

As per the above discussion, it can be summarized that although there are laws regarding Muslim personal issues in Bangladesh, but the loopholes of such laws make a discriminatory scenario among men and women which also go beyond the spirit of Sharia Law. The suggestions to diminish such discriminations by reforming the existing laws are mentioned below:

³³ The Muslim Family Laws Ordinance, 1961, Section 7.

³⁴ Haque, "Muslim Family Law".

³⁵ Anisur Rahman, "Development of Muslim Family Law in Bangladesh: Empowerment or Streamlining of Women", https://www.academia.edu/3356450/Development_of_Muslim_Family_Law_in_Bangladesh_Empowerment_or_Streamlining_of_Women, accessed 17 November 2021

Regarding witnesses of marriage, there exists discrimination where it states that a male witness is equivalent to two women. Such provision has been reformed in many Muslim countries not going beyond of Sharia Law as discussed above. Thus, we also need a reformed personal law in which women will be accorded the same position as males when it comes to forming a witness.

The provision regarding age of men and women for marriage should be reformed as it conflicts with the principle of Sharia Law. Sharia Law states that men and women must be enough aged to give permission for marriage and thus the question arises whether every man and women become capable for giving permission for marriage at the age fixed in Bangladesh.

In Bangladesh though registration of marriage is mandatory according to the Marriages and Divorces (Registration) Act, 1974 but most of the people do not follow it strictly as no-registration does not invalidate the marriage. So, the provision regarding the registration of the marriage should be reformed as it has been done in many Muslim countries which has been discussed above.

Marriage in Islam has various requirements that must be fulfilled in order to consummate the marriage. One of them is payment of mahr. But mahr is now limited to declaration rather than payment. Generally the parties should specify whether it is prompt or deferred dower, but they do not. Although the law of Bangladesh specifically states that if no dower is fixed then it is considered as prompt dowry. Due to lack of awareness, women are deprived of getting dower on time.

The husband's major job is to maintain the wife, and the Quran declares that the complete weight rests on the husband even if she (wife) has a lot of property of her own. The question of maintenance is normally raised only after a marriage ends in divorce. In Bangladesh, a Muslim divorced wife cannot exercise her right to post-divorce support. Egyptian personal law is based on Hanafi law. Consequently, in post-divorce support situations, they adopted elements of the Maliki and Shafi'i schools of thought. Compensation for divorce is recognized by Jordanian courts as a financial right of a divorced woman that is not forfeited in the event of her husband's death. Thus, the provisions regarding post-divorce maintenance in Bangladesh should be reformed as has been done in many Muslim countries around the world.

In Bangladesh, statutory law allows all forms of divorce, including talaq-al-bida. But the Sharia clearly states that the Sunnah form of divorce is only favourable. Therefore, like other Muslim countries in the world, the provisions of divorce should be reformed in Bangladesh.

9. Concluding Remarks

There is a widespread notion in society that Sharia law places women in a disadvantageous position when it comes to the aforementioned personal matters. The notion is a misconception since Sharia law allows women to be equal to males in terms of concerns. Because most individuals are uninformed of the foundations of Sharia law, they attempt to exploit it by providing their own interpretation. However, in many cases, the statutory law leaves women in a vulnerable position as it does not define many of its rules, and as a result, individuals use the vagueness and ambiguity

of the law as a weapon to carry out arbitrary activities. In Bangladesh's legislative requirements, there are several loopholes surrounding various elements of marriage and divorce. However, as previously said, there are several opportunities to introduce new features to enhance the current state of women. Along with Sharia law, modern progressive laws from various Muslim countries can be used as guiding principles to close loopholes in Bangladesh's statutory provisions regarding marriage, divorce, and other issues, and such adoption of laws within the scope of Sharia would not be too difficult to implement and would secure the lives of women in many cases and improve their conjugal lives on a daily basis.