

Practices of Divorce in Bangladesh: A Legal and Socio Economic Study

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Abstract

The world is departing through immense globalization. The thoughts, trends, practices diffuse much faster than past. The family is not considered as an everlasting institution anymore. Although, marriage promises happiness and fulfillment, yet it performs as a site for female subordination as it binds women to household labor, and limits their lives in the roles of wife and mother. When the problems between husband and wife reach towards a devastating situation, the divorce happens. Then after the breaking up of marriage some urgent tasks tackle everyone in the family- husband, wife, children and kinfolk. They must adjust to the new unexpected situation and try to make the future life easy. But in most of the cases women have to face comparatively serious difficulty. The core topic of this study is to discuss the way to establish an equal and equitable divorce law for man and women of every community. This paper analyzes socio-psychological approach to explain how and why divorce rates are proliferating. It also discusses the causes and consequences of divorce which will help the policy planners to revise the divorce act and to design interventions for reducing the stigmatization and discrimination towards people seeking marital termination and it will be helpful to the children of divorced family.

Keywords: Divorce, Divorce process, Consequences, Psychological, Tafweez.

1. Introduction

Although divorce is not a desirable act in any society of the world however with the recent surge in divorce rates, Bangladesh is going to feel the necessity of policy interventions regarding single parent family or divorced male and female very shortly. In order to understand the marriage dynamics in lens of divorce this paper examines the concept of divorce, review the divorce pattern and the existing divorce law. Divorce is the only legal way for terminating a Marriage other than act of God. The Word “divorce” has been derived from the Latin word *divortium* which means diverse. In an ordinarily implication it was understood as divorce is nothing neither more nor less than any other name for dissolution of marriage.¹ The process of divorce is very simple in Bangladesh. A marriage is a contract between a male and female. Ordinarily, this contract is made for lifetime and it is dissolved by death of either husband or

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¹ *Zohara Khatoon V. Mohd. Ibrahim*, (1981) 2 SCC 509 at 523: AIR 1981.

wife. This is natural dissolution over which no party has any control. But a marriage can also be dissolved in the case of necessity.² “With Allah, the most detestable of all things permitted is divorce” Prophet Mohammed (PBUH)³

Marriage is the very foundation of civil society and no part of the laws and institutions of a country can be more vital importance to its subjects than those which regulate the manner and conditions of forming and, if necessary, of dissolving, the marriage contract.⁴ Divorce disintegrates the family unity and therefore it is a social evil in itself, but sometimes it becomes a necessary evil. Under the circumstances, it is better to wreck the future happiness of the parties by binding them to a companionship that has become odious.⁵ Islam has made the provision of *talaque* or divorce so that both of them can lead a better life.⁶

2. Research Methodology

In preparing this paper the method of documentary analysis has been mostly used. Moreover, historical and analytical have been used. Primary Data has been collected basically from the *Quran, Sunnah*, the Marriages and Divorces (Registration) Act; 1974, the Hindu Marriage Act, 1955; the Special Marriage Act, 1872; the Hindu married women’s right to separate residence and maintenance Act, 1946; The Divorce Act, 1869; the Muslim Family Laws Ordinance, 1961; and the Family Court Ordinance, 1985 of Bangladesh. Secondary data sources such as books, articles, newspapers, journals, case materials, Internet sources have been used so that the analysis is taken with a multidisciplinary approach.

3. Limitation of the Study

As the paper has amazed only the accessible documents, sample area is not wide. Only one method has been followed in this study which can be controversial in drawing generalization. Besides due to lack of data, it is quite challenging to establish relationship between divorces with other socio economic variables. It is an increasing phenomenon. Future Bangladesh will have to

² Muhammed Faiz-ud-din, *Islamic Law*, 1st ed., (Dhaka: Shams Publication, 1998), p.107.

³ *Ibid.*

⁴ Asaf A. A. Fyzee, *Outlines of Muhammadan Law*, 4th ed. (Oxford: Oxford University Press, 1993), p.147.

⁵ *Ibid.*

⁶ Syed Qutub, *Fizilalil Quran*, Tr. A;-Quran Academy London, Bangladesh Center, Vol. 4, P.95.

make policy and decisions regarding single parent or divorced male and female. For that time data availability is huge challenge besides in a setting of Muslim majority and traditional belief divorce itself a stigmatized issue so very few literature highlight on this changing dynamic of marriage pattern in Bangladesh.

4. Divorce Under Different Religion System

4.1. Divorce Under Muslim Law

Under the Muslim Law, a marriage is terminated either by death of the husband or wife, or by divorce.

4.1.1. Extra-Judicial Divorce

Extra judicial divorce is when it is depend upon the will of husband or wife or when it is by mutual agreement. Most of the times rights to give divorce are given to husband only, wife are at very subordinate position to divorce. Extra- judicial divorce is divided into several parts. All that is necessary for divorce is that the husband should pronounce divorce in his mouth. How he does it, when he does it, or in what he does it is not very essential and it can happen even in absence of wife. It need not be made in the presence of the witnesses. Husband has the right to dissolve the matter by *talaque, ila, and zihar*. Under Muslim law '*talaque*' means 'freedom'. The right of giving freedom by her husband from marriage to wife is called '*talaque*', According to Heyadaya⁷ it means relinquishment. The right of enforceable by the husband only.⁸ The term divorce includes all separation originating from the husband and repudiation for the *talaque* in the limited sense, namely of separation effected by use of appropriate word. The *talaque* becomes irrevocable at the end of the period of *iddat*.⁹ Basically *talaque* is of two types- *Talaqul sunnat* or Approved form and *Talaqul Bidyat* or unapproved form. *Talaqul sunnat* is again of two types- *Talaqul Ahsan* or most approved form and *Talaqul Hasan* or approved form.¹⁰ *Ila* is effected when the husband swears that he would not have intercourse with his wife for a period not less than four months. If he does not have intercourse for that period the marriage is dissolved

⁷ Md. Altaf Hossain. *Islamic Jurisprudence and Muslim Ain sohaika*. (Dhaka: City Law Book, 2003), pp.164-65.

⁸ Aqil Ahmed. *Text book of Mohamadan Law*. 21st ed. (Allahbad: Central Law Agency, 2004), p.164.

⁹ Shaukat Mahmood, *Principles and Digest of Muslim Law*, 6th ed. (Lahore: Legal Research Centre, 2002), pp.66-67.

¹⁰ Muhammed Faiz-ud-din, *Islamic Law*, 1st ed., (Dhaka: Shams Publication, 1998), p.110.

without legal proceedings. In *Bibi Rehana v. Iqtidar-uddin*¹¹ after the marriage ceremony was over, the parents of the boy pushed him into a room where his wife was waiting for him. It appears from the facts of the case that the husband was not interested in the marriage. In *zihar*, the usual phrase is used to the wife “you are to me like the back of my mother” *Zihar* by itself does not dissolve the marriage, but the wife becomes unlawful to the husband without expiation. The husband may revoke the declaration but he shall have to make a slave free or to keep fast for two consecutive months or to feed sixty needy persons.¹² A husband may, either himself, repudiate his wife or delegate this power of repudiating her to a third party, or even to his wife. Such a delegation of power is called *tafweez*.¹³ In *Md. Khan v. Shahmali*¹⁴, under a prenuptial agreement, a husband, who was a *Khana Damad*, undertook to pay certain amount of marriage expenses incurred by the father-in-law in the event of his leaving the house and conferred a power to pronounce divorce on his wife. In *Mohd. Khan v. Mst. Shahmali*¹⁵ there was pre nuptial agreement according to which the defendant agreed to live in the plaintiff’s parental house and if he would leave that house, he would pay certain specified sum to the plaintiff in default of which the condition would operate as divorce. It was held that the condition was not unconscionable and opposed to public policy; violation of such term would operate as divorce between the husband and wife. *Khula* or redemption literally means to lay down. In law it means laying down by a husband of his right and authority over his wife. In *Mst. Balaquis Ikram v. Najmal Ikram*.¹⁶ It was said that under the Muslim Law the wife is entitled to *Khula* as of right if she satisfies the conscience of the Court that it will otherwise mean forcing her into a hateful union.¹⁷ The wife is living in adultery. It will enable us in such circumstance to dissolve the marriage on the basis of her self-confessed adultery. *Siddiq vs Mr sharfan*.¹⁸ In *mubarat* the aversion is mutual and both the sides desire separation. Thus it involves an element of mutual consent. In this mode of divorce, the offer may be either from the side of wife or from the side of husband. In *Mst*

¹¹ (1943), ALL, 295.

¹² Al-Quran, 58: 3-4; 33:4

¹³ Supra note 8, pp.182-84.

¹⁴ AIR (1977), Cal, 90.

¹⁵ AIR(1972), J.&K., 8.

¹⁶ 2(1959), WP, 321.

¹⁷ Aqil Ahmed. *Mohamadan Law*, 21st ed. (Allahbad: Central Law Agency, 2004), pp.184-86.

¹⁸ 20 DLR 117. as cited by Obaidul Huq Chowdhury, *Hand Book of Muslim Family Laws*, 6th ed. (Dhaka: Al-Yakub Press), p.214.

Sayeeda Khanam vs Mohd. Samir, 4 DLR 134.¹⁹ When an offer *mubarat* is accepted, it becomes an irrevocable divorce (*talaq-ul-bain*) and *iddat* is necessary.

4.1.2. Judicial Divorce

When women has no chance for divorce through extra-judicial Muslim law, then she can ask for divorce through court under Muslim Family Laws Ordinance, 1961 The reformation of Muslim family law in 1961 has entitled women to divorce her husband. A woman married under Muslim law shall be entitled to obtain a decree for divorce for the dissolution of her marriage on any one or more of the following grounds:

Whereabouts of the husband have not been known for a period of four years. Husband has neglected or has failed to provide for her maintenance for a period of two years. Husband has been sentenced to imprisonment for a period of seven years or upwards. Husband was impotent at the time of the marriage and continues to be so. Husband has been insane for a period of two years or is suffering from virulent venereal disease. Husband treats her with cruelty i.e. habitually assaults her or makes her life miserable, leads an infamous life, or attempts to force her to lead an immoral life. There is no such criteria necessary for a man to divorce his wife.²⁰

Where a husband charges his wife of adultery and the charge is false, the wife is entitled to sue for and obtain divorce. She must file a regular suit for dissolution of her marriage as a mere application to the Court is not the proper procedure. In *Zafar Husain v. Ummat-ur-Rahman*²¹, the Allahabad High Court recognized the doctrine of *lian*. In this case, the wife of the plaintiff alleged that her husband had stated before several persons that she had illicit intercourse with her brother and imputed fornication to her. It was argued that the law of *lian* had no place in Anglo Mohammedan Law and must be considered obsolete. This argument was rejected. It was held that *Qazi* of the Muslim Law was replaced by the Court. It was held that a Muslim wife is entitled to bring a suit for divorce against her husband and obtain a decree on the ground that the latter falsely charged her with adultery.²² Mere charge levied by the husband will not

¹⁹ Supra note 18, p.214.

²⁰ Sawkia Afroz. The Rise of Divorce in Bangladesh: A Review in the Change of Marriage Dynamics. Social Sciences.Vol. 8, No. 5, 2019, pp. 261-269.

²¹ AIR (1999), All, 182.

²² Aqil Ahmed. *Mohamadan Law*, 21st ed. (Allahbad: Central Law Agency, 2004), pp.187-88.

automatically dissolve the marriage. The wife has to apply to the Court for the dissolution of her marriage. In *Jauri Beebee v. Sheikh Moonshee Beparee*²³, it was said that the charge of adultery of the wife made by the husband could not be the ground of divorce by the wife.

It has been argued that in India the doctrine of *lian* has become obsolete. But this is not true. In *Nurjahan Bibi v. Mohd. Kazim Ali*²⁴, it was said by Bhattacharya, J. that the doctrine of *lian* or *jaan* has not become obsolete. A Muslim wife can bring a suit for divorce against her husband on the ground that her husband has charged her with adultery falsely. According to Muslim Law the wife is entitled to a divorce if the husband makes false charge of adultery against the wife.²⁵

4.1.3. Valid and Reasonable Conditions of Divorce

The following conditions were held to be valid and reasonable, and where there was an agreement that the wife would have the power to divorce herself if they were not fulfilled, it was held to be binding on the parties:-²⁶

The husband should live a respectable life and should earn and his livelihood. He should maintain his wife and should live in a house approved by her. The husband should not beat or ill-treat his wife and if he oppresses her wrongfully she will be entitled to reside at her father's house and realize a maintenance charge from him. The husband should allow his wife to be taken to her father house 4 times a year or that if the wife be in need of going to and coming back from her father's residence he would send her there and bring her back at his own expense. The husband would not contract a second marriage without the consent of his wife unless she is either barren or perpetually ill. The husband should pay her dower on demand and that the husband would not take any remission of dower from the wife except in the presence of her relations.

²³ 3 (1865), WR, 93.

²⁴ AIR(1977), Cal, 90.

²⁵ Supra note 22, p.188.

²⁶ Shaukat Mahmood, *Principles and Digest of Muslim Law*, 6th ed. (Lahore: Legal Research Centre, 2002), pp.68-69.

4.2. Divorce under Hindu Law

Before the commencement of the Hindu Marriage Act, 1955 the system of divorce was unknown for Hindus. A Hindu marriage was an indissoluble tie between the husband and the wife.²⁷ He cannot be said to have changed his religion.²⁸

Whenever the question of divorce or dissolution of a Hindu marriage arises, it becomes a very thorny question. *Dayabhaga* law is followed by most of the Hindu communities in Bangladesh. According to this law, Hindus are not allowed to divorce their spouse as they consider marriage as a sacred relationship, a divine covenant and sacrament.²⁹ In Bangladesh, technically there is still no law that grants a Hindu person a right to affect a divorce against their partner. But, a Hindu married woman may seek entitlement to separate residence and maintenance pursuant to the grounds laid down in the 1946 Act. On the other hand, in India, according to Hindu Marriage Act, 1955, both the husband as well as the wife has the right to file case and seek termination of the marriage.³⁰ The words “incurably of unsound mind” depict the state of mind of a person who is incapable of managing himself/herself and hence discarded to situations where he/she will not be called upon to manage himself/herself or his/her affairs but will live an artificial life until his/her death.³¹ Even if custom allows re-marriage, a Hindu widow by such marriage forfeits her right to her deceased husband's property.³² The jurisdiction of the Criminal court to entertain suits under Section 488 of the CrPC. was ousted in the case of *Pochon Rissi Das v Khuku Rani Das*.³³

Notwithstanding any custom or law to the contrary a Hindu married woman shall be entitled to separate residence and maintenance from her husband on one or more of the following grounds, namely,- If he is suffering from any loathsome disease not contracted from her. If he is guilty of such cruelty towards her as renders it unsafe or undesirable for her to live with him. If he is guilty of desertion, that is to say, of abandoning her without her consent or against her wish. If he marries again. If he ceases to be a Hindu by conversion to another religion. If he keeps a

²⁷ B.M. Gandhi – Hindu Law, 3rd edn. (Eastern Book Company, Lucknow, 2008), p.297,

²⁸ *B.S. Mohankumar V. B.K. Nirmala* (2005) 1 HLR 117

²⁹ <https://www.thedailystar.net/law-our-rights/hindu-womens-divorce-rights-3558>, Last visited 25 April, 2020.

³⁰ <https://www.banglanews24.com/open-forum/article/34317/Overview-of-Divorce-Law-in-Bangladesh>, Last visited 25 April, 2020

³¹ *Radhamony Amma V. Gopinathan Pillai*, 1990 (1) CCC Kerala 425.

³² *Sowdamini Ray Malakar v. Narendra Ch. Barmau* (1952) 4 DLR 492.

³³ 1998 to DLR 47.

concubine in the house or habitually resides with a concubine. For any other justifiable cause: Provided that a Hindu married woman shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by change to another religion or fails without sufficient cause to comply with a decree of a competent Court for the restitution of conjugal rights.³⁴

4.3. Divorce under Christian Law

Among Christians also marriage is a holy order. The Divorce Act 1869 secures divorce for persons practicing the Christian religion. According to this Act, Husband may present a petition to the District Court or to the High Court Division, that his marriage may be terminated on the ground that his wife has been found guilty of adultery. If one of the parties to the marriage is a Christian it is sufficient to give jurisdiction to decide the petition under this Act.³⁵ A divorce *mensa et toro* only suspends matrimonial relation but it does not dissolve it.³⁶ A Christian marriage can be dissolved only by decree of the Court passed under this Act.³⁷ Where the wife had given birth to a child in the absence of husband due to illicit relationship with co-respondent and where evidence stands unrebutted the petitioner was granted decree of dissolution of marriage.³⁸ The mere fact that a woman is seen going with a male other than her husband is hardly sufficient to prove the case of adultery.³⁹ In one case of mental disorder lunatic or idiot it was held that the Court was not concerned with respondent's mental state at the time of petition or trial but was only concerned with the mental state of the respondent at the time of marriage.⁴⁰ Wife may present a petition to the District court or to the High Court Division, praying that her marriage may be terminated on the ground that, her husband has interchanged his believe of Christianity for the sake of some other religion, and gone through a form of marriage with another woman or has been guilty of adultery, or of rape, cruelty, or desertion with couple without reasonable excuse, for two or some more years. In case the Court is satisfied on the evidence, a decree for dissolution of marriage made by High Court Division and the divorce

³⁴ The Hindu Married Women's Right to Separate Residence And Maintenance Act, 1946, s.2.

³⁵ *Pramila Khosla v. Rajesh Kumar Khosla*, AIR 1979 Delhi 79

³⁶ *Arun Kumar v. Manjula*, AIR 1981 Cal. 252.

³⁷ *George Sebastian v. Molly Joseph*, AIR 1995 Ker. 16

³⁸ *Ronald Lawrence Pereira v. Flory Pereira*, II (1994) DMC (Bom.) 618.

³⁹ *R. Amirda Amalraj v. Thamima*, I (1995) DMC (Mad.) 191.

⁴⁰ *Lissy v. Jaison*, II (2000) DMC (Ker.) 59.

becomes operational. However, the decree doesn't become absolute within the period of six months.⁴¹

5. Causes and Consequences of Divorce in Bangladesh

5.1. Causes of Divorce

Every instance of divorce brings a unique combination of such causes. Researchers have looked at factors affecting both wider societal divorce rates and individual divorce decisions. Determinants of divorce in context of Bangladesh are discussed as follows

- i. **Women's Independence:** Women's economic independence stands as one of the most crucial factors for increase in divorce. Women's participation rate in the labor force in Bangladesh has increased by eight times in the last four decades—from four percent in 1974 to 35.6 percent in 2016. Beside, girl's school enrollment has increased 30% since 2001 and literacy rate for females has risen from 43.74% to 69.90% between 2006 and 2016.⁴² It is true that much of Bangladeshi women's increased freedom in their personal lives today has to do with their ever increased decision making power and less dependence on the spouse means there's less of a need to remain tied to an abusive marriage
- ii. **Impotency & Infertility:** The sexual relationship is important for a happy marital life, because it is not only individual's biological need; it is closely related with the emotional bonding between husband and wife.⁴³ A 2011 study has identified impotency, that is, husband having problem in establishing sexual relationship was identified as one of the significant cause for divorce.
- iii. **Physical unfitness:** Many women and men in Bangladesh have given divorce on the ground of physical unfitness. When either husband or wife is not capable of giving birth a baby because of issues like sperm failure or infertility, it may be considered as

⁴¹ The Divorce Act, 1869, s,16.

⁴² <https://www.thedailystar.net/news/opinion/perspective/understanding-the-rise-divorce-bangladesh-1628311>, Last visited 25 January, 2020.

⁴³ Ahmed, U.A. (1986). Marriage and its transition in Bangladesh, International journal of sociology of the family, 16 (1), 49-59.

physical unfitness. A recent study also identified that impotency and infertility as a reason for increasing rate of divorce.⁴⁴

- iv. **Domestic Abuse & Dowry:** Domestic abuse and violence often lead to the deterioration of marital harmony. It is not uncommon that women are still decrease in physical abuse over decades, but, sometimes, verbal and mental abuse is such that it is worse than the physical abuse.⁴⁵ One of a major source of violence against women is dowry. Women, mostly in rural areas are forced and tortured to bring dowry. There has been 108 case of physical torture and 126 cases of tortured to death for dowry in 2016 in Bangladesh. 105 cases filed in 2018.⁴⁶
- v. **Women's Empowerment:** The independence of women has been associated with increase in freedom of voice and to protest. Women, as before, do not just bear the physical, mental torture. They do what needs to be done. Previously, they had to tolerate, and even they have given life because of abuse. The occurrence of “tortured to death” has been declining over time and also the case of physical torture. According to BBS, violence against women, dowry and related abuse is a crucial determinant for female to give divorce in Bangladesh.
- vi. **Extra-Marital Affair:** Extra marital relation has become another major ground for divorce in Bangladesh. Previously, if their husband brought another wife without the permission of the previous, women were supposed to maintain silence. This is not the case in recent. Women, now raise their voice if such things happen and more likely to divorce their husband than a few decades ago. BBS showed that, it has become one of the significant causes for women to divorce. Besides, increasing case of female

⁴⁴ <https://www.thedailystar.net/news/opinion/perspective/understanding-the-rise-divorce-bangladesh-1628311>, Last visited 25 January, 2020.

⁴⁵ *Ibid.*

⁴⁶ Rahman, S. M. (2018). Dowry, the Oppression of Women and Femicide in Bangladesh, *Journal of Comparative Social Work*, 13 (1), 103-123.

getting involved in extra-marital affair also causing the incidence of divorce from male.⁴⁷

- vii. **Alcohol, Drug:** Over use of alcohol, drug or gambling are usually all forms of addiction, which can ruin relationships. The problem becomes worst when combined with physical or verbal abuse. Addicts generally do not have control over themselves and they come into clash and torture the wife even in trivial matters. Unless the addiction gets recovered, it becomes difficult to continue the marital life as marital discord, leading to abuse and torture tend to increase. A study 2011 study showed that, alcohol and drug use is becoming a significant reason for divorce and the prevalence of this, is increasing every year.
- viii. **Influence of Social Media:** Besides, excessive integration in social media like Facebook, Whatsapp, Viber, Instagram etc cause a distance and communication gap between couple.⁴⁸ The higher the integration, the higher the probability of lack of understanding among couple, lack of quality time between couple. This results in husbands or wives being suspicious of their partners, which eventually destroy the bonding. Besides, coming in contact with new people through social media increases the probability of husband or wife getting involved in extra-marital affair. The recent findings of BBS supports this as a significant factor as for divorce.⁴⁹
- ix. **Husband's Economic incapacity:** Economic solvency contributes to strengthening the reciprocal relationship between husbands and wives. When a couple has enough to spend on their daily and associated luxury needs, the marital relationships are likely to maintain a harmony. Financial crisis, in contrast, creates discontents because of unfulfilling the gratifications in conjugal life which also accelerates the process of separation and divorce between husbands and wives

⁴⁷ <https://www.thedailystar.net/news/opinion/perspective/understanding-the-rise-divorce-bangladesh-1628311>, Last visited 25 January, 2020.

⁴⁸ *Ibid.*

⁴⁹ Supra note 42.

- x. **Age at Marriage:** The incidents of divorce were highest in the 25-29 age groups.⁵⁰ Child marriage was explored as one of the major causes of their divorce. Besides, now a day, there have been increases in adult boys and girls getting married without the consent of family when they are in a relationship for many years. In most cases, they do so as soon as they reach the legal age of marriage. This kind of inexperienced personal decision might also contribute in rise in divorce in Bangladesh.

4.2. Consequences of Divorce

Divorce has some universal consequences. But, in countries like Bangladesh, consequences are devastating. Especially for women, who suffers more from divorce: men or women? The answer to this question is sorrowful. Whoever among a couple want a divorce, the consequences are always devastating for women only! The Bangladesh Planning Commission acknowledges that women are more vulnerable to becoming poor when they lose the male earning member of the family because of divorce. However, most devastating Consequences of divorce for both male and female are the followings:

5.2.1. Social and Psychological consequences

a) **Stigma:** Due to divorce, women are very prone to live under the disguise of social stigma than men in the society.⁵¹ A recent study showed that, in Bangladesh, people allege women for divorce and consider them as ‘bad woman’. They have to tolerate teasing of neighbors. People make a change in attitude and their looks when treating divorced women. In our society, it is seen as a question of womanhood that a woman didn’t become able to continue her marital life. To avoid the situations they usually have to remain inside the home. In sum, divorced women become public ridicule and face social exclusion.⁵²

⁵⁰ <https://www.thedailystar.net/frontpage/marriages-get-shaky-1443259>, Last visited 16 April, 2020.

⁵¹ *Ibid.*

⁵² Rahman, M. M., Giedraitis, V. R., & Akhtar, T. M., (2013). The social sanction of divorce: Who ultimately pay the social costs of its adverse effects?, *Sociology and Anthropology*, 1 (1),26-33.

b) Family Dissatisfaction: With the passage of time, relationship with family members and parents start to deteriorate.⁵³ Divorced women might be regarded as a burden to a family after some time. Besides, it is not uncommon in our society that family gets socially damaged because of the divorced women. Family has to face difficulty in order to give marriage to other members when there is a divorced member in that family.

c) Psychological Impact and Lack in Ability: Psychological impacts are dire for both male and female, but female shares the higher burden because of Bangladeshi society. Divorce, whether formal or informal, may contain the probability of stressful events in personal life. Divorced people tend to experience increased depressive feelings over time and pass the days with great psychological stress. They become more susceptible to mentally illness. It becomes very difficult for them to concentrate on their daily doings and confront a reduced ability in themselves which in turn affect their mental health.⁵⁴

5.2.2. Economic consequences

a) Economic Harm and Decline in Standard of Living: Divorced or separated women struggle to cope financially. According to in Bangladesh “Divorce” has been identified as a key cause of poverty among female-headed households are divorced. 95% of all female-headed divorced households fell below the poverty line. Besides, in most cases women do not get the full payment that was promised in married certificate. A study in Dhaka showed that, 40% divorcees were completely paid while 35% not paid at all and 25% not concerned of it.⁵⁵ However, as more women are employed with better wages, this income decline is less painful than before, even though it is still prevailing as women are more likely to face poverty and they are the one,

⁵³ Supra note 52.

⁵⁴ *Ibid.*

⁵⁵ Rahman, S. M. (2018). Dowry, the Oppression of Women and Femicide in Bangladesh, *Journal of Comparative Social Work*, 13 (1), 103-123.

primarily responsible for childbearing, their standard of living drastically falls. They come face to face with challenges to ensure minimum needs in order to live for both mother and child.⁵⁶

b) Housing Problem: Housing is often the first casualty for divorced or separated women. Since after marriage, wife moves to her husband's house, after divorce, they have to leave the house. After divorce, women generally have to reside in their parent's home or with their siblings. In absence of mother, they have to lead a miserable life in father's house. A study in Sylhet showed that, 20% of the respondents were living under impossible situations.⁵⁷

5.2.3. Health Consequences

a) Food insecurity: The difficulty in securing maintenance often results in poverty, which contributes to food insecurity, poor health and is a barrier to accessing health care. Food security is in jeopardy for many divorced and separated women in Bangladesh. Overall, 38 percent of female headed households were classified by the WFP as "food insecure" compared to 23 percent of couples.

b) Health care seeking behavior: Besides, A 2000 study showed that, in 79% of cases, divorced women cannot be able to seek the required health care. Many women reported about shortage of money to purchase health care.

6. Impact on Children

If couple has children at the time of their divorce, it could have serious consequences for a child. Divorce generally puts children at greater risk for many kinds of problems.

6.1. Loneliness

Persistent feelings of loneliness are common in children of divorce. In later life, the adult children of divorce, rate their current relationships with both mother and father less positively than do children from intact marriages. They rate their current relationships with both mother

⁵⁶ Ahmed, U.A. (1986). Marriage and its transition in Bangladesh, International journal of sociology of the family, 16 (1), 49-59.

⁵⁷ <https://www.thedailystar.net/frontpage/marriages-get-shaky-1443259>, Last visited on 12 February, 2020.

and father less positively than do children from intact marriages. During the time of divorce a child's emotional security also becomes more fragile issue. Fears that both parents will abandon the child are common.

6.2. Psychological Consequences

Depending on the age of the child, in various ways a child might express his/her damaged Psychological state:

6.2.1. Large amounts of anger

Directed both toward others and themselves, frequent breaking of rules, sleep problems, defying parents or teachers, frequent guilt, increasing isolation or withdrawal from friends and family, drug and/or alcohol abuse, early sexual activity, thoughts of suicide or violence.

6.2.2. Many children of divorce believe that they caused

The divorce or that they did something wrong that made one or both parents not want to be with them. These feelings can cause a child to feel sad, depressed, and angry. These negative emotions can contribute to other problems, such as poor health, difficulty in school, poor academic performance and problems with friends.⁵⁸

6.2.3. In addition

Some scholars believe that children of divorce are less likely to learn crucial social skills in the home, such as cooperation, negotiation, and compromise that are necessary for success in life. Children exposed to high levels of conflict between their parents, both before and after a divorce, may learn to model the poor communication of their parents. This can increase the likelihood of conflict in their own personal relationships as children and even as adults.⁵⁹

6.3. Food and Health Insecurity

Several divorced or separated women told Human Rights Watch that, they struggled to feed themselves and their children after divorce or separation. Children of divorced parents are also at

⁵⁸ Beam, R. C., Dinescu, D., Emery, R., & Turkheimer, E. (2017). A twin study on perceived stress, depressive symptoms, and marriage. *Journal of health and social behavior*, 58 (1), 37-53

⁵⁹ *Ibid*

risk of ill health. A study, for instance, found that infant mortality was more than double for infants with divorced mothers than married mothers in the location studied. Another study found that 65 percent of sick children in “male headed households” had access to health care compared with only 44 percent of sick children in female-headed households.⁶⁰

6.4. Children’s Education and Child Labor

Studies show that school drop-outs are a major problem for children in female-headed households. The 2009 Millennium Development Goals progress report for Bangladesh stated that about 88% of female-headed households as a result of divorce reported that their children had dropped out of school. Several divorced or separated women told Human Rights Watch that they sent their daughters to work as domestic workers when they were forced out of their marital homes, usually by cutting short their boy’s and girls’ education. In cases of girls, most of the girls leave education and start to work at garment factory or in paid household works.⁶¹

7. Recommendations

There is no universal marriage act; instead, here exists discriminatory religious law, where in extreme case, no permission for divorce. Besides, the society doesn’t regard divorce normally. Divorcees are often prone to be stigmatized. So, there should be

- i. Work toward comprehensive reform of Bangladesh’s laws on divorce with special focus for women.
- ii. Raise nationwide awareness about the existing attitude and stigma on divorce.
- iii. In order to divorce, after the official application, a period of three months is provided for further consideration. As divorce in our society includes a lot of social, psychological and economic consequences, any intervention needed like counseling should be provided to think thoroughly whether the divorce is actually necessary. If the decision of divorce stems from trivial matters, it should be addressed and solved.
- iv. Ensure access to divorce is on an equal basis for men and women.
- v. Sensitize the idea of Re-Marriage after divorce.

⁶⁰ Rahman, M. M., Giedraitis, V. R., & Akhtar, T. M., (2013). The social sanction of divorce: Who ultimately pay the social costs of its adverse effects?, *Sociology and Anthropology*, 1 (1), 26-33.

⁶¹ <https://www.thedailystar.net/news/opinion/perspective/understanding-the-rise-divorce-bangladesh-1628311>, Accessed on 16 February, 2020.

- vi. Effective and special attention is necessary to the children of divorced family to make them be able to be resilient and strong and to help them to return to their normal life.
- vii. Ensure the compensation payment to women after divorce without time lag and necessary steps should be taken to guarantee the social security of women.

There should be some private, governmental and individual initiatives to mitigate the stigmatized attitude toward divorced. No one expect a divorce to happen. But when it comes to situation where it is required, then environmental and the legal facilities should be in place to minimize the consequence at the least level as possible. So for ensuring better public interest some major changes are recommended without shacking of feelings and faith of people.

8. Conclusion

In recent decades, the earth has experienced downfall in marriage rates, increase in divorce rates, and change in the defining attributes of marriage dynamics. The western countries have gone to that phase where divorce is ordinary matter. But in a restricted society like Bangladesh, divorce is still treated as a disqualified. Going through a divorce is a tough and mentally draining event to experience. But it is actually better than staying in a bad marriage. Staying in a bad marriage in our country might provide security but, getting a divorce give one's a hope: a hope to be who you want to be, the hope of another start the hope of shaping the life in one's desired way. Unfortunately divorce is not as easy as it should be in Bangladesh. With modernization, globalization, urbanization and constant change in the family structure divorce is rising in Bangladesh, no doubt about that. But the risk it is arising due to its long term effect on putting on the broken family child. In the West as it a part of the culture now there are policy intervention to deal with this issue, but this is not the scenario of Bangladesh, so the government should take the alarming situation seriously and save our future from getting into oblivion. Bangladesh is different in many demographic and health related ways. However as the country uplifting her towards development and modernization it is high time to ponder over the change in marriage dynamics.