

October 3, 2016

Committee on the Elimination of Discrimination against Women  
Human Rights Treaties Division, OHCHR  
Palais Wilson - 52, rue des Paquis  
CH-1201 Geneva, Switzerland

Re: Supplementary information on the Bangladesh, scheduled for review by the  
Committee on the Elimination of Discrimination against Women during its 65<sup>th</sup> session

The Center for Reproductive Rights (the Center), a global legal advocacy organization with offices in Nepal, Colombia, Kenya, Switzerland, and the United States, and Bangladesh Legal Aid and Services Trust (BLAST), a national legal services organization in Bangladesh, have prepared this letter to assist the Committee on the Elimination of Discrimination Against Women (the Committee) in its review of the Government of Bangladesh's (state party) compliance with the Convention on the Elimination of All Forms of Discrimination against Women (the Convention) during its 65<sup>th</sup> session on October 24-November 18, 2016.

This letter provides supplemental information and updates on the state party's efforts to promote women's and girls' reproductive rights in specific areas since the Committee's last review in 2011. The Center and BLAST would like to draw the Committee's attention to three interrelated areas of concern regarding women's and girls' reproductive rights in Bangladesh: (1) child marriage; (2) access to reproductive health services, including contraception, safe abortion services, and pre- and post-natal care; and (3) physical and sexual violence. We invite the Committee to refer to the Center's publication titled *Child Marriage in South Asia: Stop the Impunity* (<http://tinyurl.com/CMbriefingpaper>), as well as the Center's fact sheet, *Child Marriage and Personal Laws in South Asia: International Standards Requiring Governments to End Human Rights Violations Based on Religious Norms* (<http://tinyurl.com/CMfactsheet>), which both discuss relevant international and constitutional human rights standards to ensure accountability for violations resulting from discriminatory personal laws in South Asia.

## **I. Child Marriage (Arts. 2, 3, 15 and 16)**

During its last review in 2011, the Committee expressed concern about child marriage and urged the state party "to take all appropriate measures to end the practice."<sup>1</sup> Article 16(2) of the Convention expressly prohibits child marriage and the Committee in interpreting the Convention has recognized that the minimum age for marriage should be 18 years for both men and women.<sup>2</sup> The Joint General Comment/Recommendation issued by the Committee on the Rights of the Child and the CEDAW Committee on harmful practices affirms that states parties have a "due diligence" obligation to ban child marriage through legislation and supplement legal bans "with a comprehensive set of measures to facilitate its implementation, enforcement, follow-up, monitoring and evaluation of the results achieved."<sup>3</sup> The Committee specifically states that states parties must repeal "all

legislation which condones, allows, or leads to harmful practices...without further delay, including traditional, customary or religious laws,” and require birth and marriage registration and ensure effective enforcement.<sup>4</sup> Further, states parties must ensure that women and girls affected by harmful traditional practices have access to legal remedies and appropriate reparations, “including through addressing legal and practical barriers for initiating legal proceedings, such as the limited time period for initiating legal procedures, and that the perpetrators and those persons who aid or condone such practices are held accountable.”<sup>5</sup>

In its 2016 List of Issues (LOIs), the Committee followed up on the issue and requested additional information on child marriage, including the current status and content of the action plan being devised to end child marriage and measures to revise the Child Marriage Restraint Act (CMRA) of 1929.<sup>6</sup> Replying to the LOIs, the state party noted that the CMRA of 2016 is awaiting for approval of the Parliament and a draft of the National Plan of Action (NPA) on Ending Child Marriage 2016 has been prepared with the goal of “Ending All Child marriage in Bangladesh by 2041, with eradication of all marriages under 15 by 2021 and reduction of child marriage by one third in the 15-18 age groups.”<sup>7</sup> The state party admitted that “despite efforts and legislation to prevent child marriage, due to lack of legal and health awareness, tradition, ignorance, and poverty, many families arrange for early marriage of their daughters.”<sup>8</sup> This section provides supplemental information concerning gaps, weaknesses, and poor enforcement of legislation that allow child marriage to persist in Bangladesh in violation of CEDAW.

***High incidence of child marriage.*** Bangladesh continues to have the fourth highest incidence of child marriage worldwide.<sup>9</sup> In a 2013 UNICEF report, it was noted that 32% of women in the country are married by the age of 15 and 66% by age 18 years.<sup>10</sup> The state party’s 2014 Demographic and Health Survey (2014 DHS) found that the median age at first marriage for females is 17.2 years for those aged 20-24 and 16.4 years for those aged 25-29.<sup>11</sup> Although an increase of two years in the mean age at first marriage was reported in the past two decades—from 14 years in 1993 to 16 years in 2014, it still reflects the prevalence of child marriage.<sup>12</sup> Vulnerable subgroups of girls, including those with lower education levels or those living in rural or poor areas or with disabilities, are at the greatest risk of child marriage.<sup>13</sup>

The reasons for the prevalence of child marriage in Bangladesh are varied, but include its use to create or maintain family ties and relationships, adherence to discriminatory and patriarchal cultural attitudes on safeguarding virginity or family prestige or honor, poverty and the lack of economic opportunities for women, demand for increased dowry as the girl ages, insecurity, fear of sexual violence including stalking, harassment and rape, and non-enforcement and inconsistency in laws aimed at preventing or punishing child marriage and its various dimensions.<sup>14</sup>

***Existing constitutional and legal framework on child marriage.*** Child marriage violates fundamental rights guaranteed by the state party's Constitution (the Constitution) including the fundamental rights of equality before the law<sup>15</sup> and non-discrimination on the grounds of sex.<sup>16</sup> The Constitution also imposes obligations upon the state party to take steps to ensure the participation of women in all forms of national life,<sup>17</sup> equality of opportunity for all citizens,<sup>18</sup> and education for all children.<sup>19</sup> It requires special measures to be taken for the advancement of women and children (Article 28(4)).

Pursuant to the Child Marriage Restraint Act 1929 (CMRA), marriage prior to the ages of 18 years for females and 21 years for males is recognized as a crime and punishable with fines and imprisonment for adults who marry a minor,<sup>20</sup> those involved in solemnizing a child marriage<sup>21</sup> and parents or guardians who permit a child marriage to be solemnized.<sup>22</sup> However, the penalties are weak, with imprisonment of up to one month only, or a fine in the amount of Tk1,000 (approximately USD 13).<sup>23</sup> Enforcement of the provisions of the CMRA is frustrated by the fact that proceedings for an alleged offence must be taken within one year from the date of marriage,<sup>24</sup> and that the courts may require the complainant to provide a security bond as well as by the fact that complaints can only be made by certain individuals.<sup>25</sup>

Further, the CMRA contains no provisions stating that marriages below the minimum ages set forth are invalid,<sup>26</sup> meaning that once performed, a child marriage is valid in accordance with personal laws and no judicial order under the CMRA can nullify the marriage.<sup>27</sup> Under Muslim personal laws, a girl may repudiate a marriage on limited grounds—specifically, if a girl who has not yet turned 19 was given in marriage by her father or guardian before reaching 18 years of age and the marriage has not been consummated.<sup>28</sup> Practically, this leaves very little option for married girls, particularly as they often have little control over when marriages are consummated and may also be pregnant or have very young children to support.

***Lack of enforcement of laws on child marriage.*** Anecdotal evidence suggests the provisions of the CMRA are rarely enforced<sup>29</sup> although recent reports indicate that there are some prosecutions taking place against kazis (marriage registrars) and even parents.<sup>30</sup> Despite the 2011 concluding observations, the state party has continued to fail to adequately implement the laws against child marriage. There is a lack of data on the number of prosecution of persons breaching the provisions of the CMRA, creating a significant barrier for assessing the impact of the legislation and efficacy of the state party's efforts in addressing the problems of child marriage.<sup>31</sup> Further, there is reportedly widespread complicity by local government officials in facilitating child marriages, including by accepting bribes to falsify birth certificates showing girls' ages as over 18.<sup>32</sup>

***Inconsistencies of laws on child marriage.*** In its LOIs, the Committee requested information on the “measures taken to revise [the] discriminatory provisions [on marriage] and...harmonize the legal system of the state party with international human rights standards....”<sup>33</sup> The Committee on the Rights of the Child has expressed similar concern on the lack of consistency in national legislation dealing with marriage and recommended that the state party take steps to define “childhood” uniformly.<sup>34</sup>

Noting several laws and policies promoting women's rights, the state party in its replies to the LOIs pointed out that “most of [its] civil laws...uphold equal rights for women and men” and that it “ensures following of one's religious faith and provisions in personal life.”<sup>35</sup> However, the state party's response fails to discuss violations of women's and girls' rights arising from child marriage due to inconsistent laws. Since 2011, various personal laws continue to provide minimum legal ages for marriage that are inconsistent with the CMRA. Marriage in Bangladesh is governed by separate personal laws applicable to Muslims, Hindus, Christians and other religious groups<sup>36</sup> resulting in discrepancies as to the legal age for marriage (refer to table below). Despite the CMRA, civil marriages are permitted for girls as young as 14 years of age under the Special Marriage Act, which

governs all marriages that do not fall under any religious or personal laws and those between parties belonging to different religions.<sup>37</sup>

Personal law by religion	Minimum legal age of marriage
Hindu <sup>38</sup>	Attainment of puberty by a girl (specific age not defined in the law)
Christian <sup>39</sup>	For parties who are minors (under 21 years and not a widow or widower), marriage may be performed with the consent of his or her father, guardian or mother
Muslim <sup>40</sup>	16 years or upon assumption of puberty with parental consent

While the CMRA prescribes penalties for those who engage in or facilitate child marriage, the personal laws do not provide for the nullification of marriages performed in contradiction of the CMRA. The personal laws also do not require the consent of the participants to a marriage under the age of majority.

**Attempt to lower the marriageable age.** Despite the state party’s pledge at the Girl Summit to end child marriage before age 15 by 2021 and age 18 by 2041, attempts to lower the marriageable age raise questions on the seriousness of the state party’s commitment to ending the practice. In 2014, the Women and Children Affairs Ministry proposed to consider lowering the legal marriageable age for girls at 16 years under “special circumstances” such as in cases when a girl elopes with a man and refuses to return or becomes pregnant before marriage and for boys at 18 years.<sup>41</sup> The proposed amendment to the CMRA also seeks to introduce tougher penalties for adults who engage in or facilitate child marriage and allow family courts to cancel child marriages “in cases of necessity” which are necessary steps to address impunity for child marriage in Bangladesh.<sup>42</sup>

**Birth registration.** Birth registration is critical to enforcing laws prohibiting child marriage.<sup>43</sup> U.N. treaties and treaty-monitoring bodies (TMBs) have recognized that states parties are obligated to register all births, particularly as a means to eliminate child marriage.<sup>44</sup> Without effective systems of registration, a family or guardian is able to marry off a child who is below the minimum legal age for marriage without difficulty.<sup>45</sup>

Traditionally, births in Bangladesh have largely gone unregistered. While the state party is to be commended for the enactment of the Births and Deaths Registration Act 2004 (BDRA) in 2006 - requiring the registration of birth for every child<sup>46</sup> and production of birth certificates as proof of age upon registration of marriage<sup>47</sup> - and the implementation of policies to digitize birth registration, birth registration continues to be the exception rather than the rule in Bangladesh.

The state party’s Bureau of Statistics reported in 2006 that only one in ten children under the age of five years was registered at birth.<sup>48</sup> According to the 2014 DHS, this number had only risen to 20% by 2014.<sup>49</sup> The reasons for the lack of registration are varied, but include lack of awareness, weak enforcement of laws and lack of a centralized registrar.<sup>50</sup> Birth registration is also strongly linked with socio-economic status. According to the 2014 DHS, children under five from the highest wealth quintile are significantly more

likely to have their births registered (28%) than children from the lowest wealth quintile (15.4%).<sup>51</sup>

**Marriage registration.** Article 16 of the Convention provides for the compulsory registration of marriages<sup>52</sup> and the Committee has interpreted this as to include “all marriages whether contracted civilly or according to custom or religious law” as a means to ensure equality in marriage, prevent child marriage, and protect children’s rights.<sup>53</sup> Without marriage certificates, it can be difficult for women and girls to claim their rights in court in marital disputes, including where a woman or girl is seeking remedies following a child marriage.

Bangladesh does not require the registration of marriages unless established as necessary under certain personal laws and the Special Marriage Act.<sup>54</sup> Christian and Muslim personal laws do require the registration of marriages, but due to a lack of enforcement in religious communities this is rarely adhered to.<sup>55</sup> The Hindu Marriage Registration Act 2012 provides that registration of a Hindu marriage is optional, and lack of registration will not invalidate the marriage.<sup>56</sup> The law provides that a marriage of a male below the age of 21 or a female below the age of 18 cannot be registered under the provisions of the Act.<sup>57</sup> While efforts to encourage registration are being made by NGOs and other organizations working in the sector such as the Manusher Jonno Foundation which is taking proactive action to address this issue with camps set up to encourage and assist Hindu couples to register their marriages under the new law<sup>58</sup>, there is still a gap on the side of the state party in enforcing this provision.

### **III. Access to Reproductive Health Services (Arts. 12, 14 And 16)**

In 2011, the Committee urged the state party to strengthen and expand efforts to increase access to safe and affordable contraceptive services throughout the country and ensure that women in rural areas do not face barriers in accessing family planning information and services.<sup>59</sup> The Committee noted that continued cultural and religious resistance to provide family planning and reproductive health education to adolescent unmarried girls is a consistent barrier to increasing access to safe and affordable contraceptive services.<sup>60</sup>

International conventions and consensus documents adopted by governments worldwide have recognized the failure to eliminate child marriage as violating a broad range of human rights, and that governments are accountable for the severe pain, anguish, and even death that girls suffer as a consequence of child marriage.<sup>61</sup> U.N. TMBs have specifically stated that early pregnancy violates a girl’s right to health by putting her at risk of maternal mortality and morbidity<sup>62</sup> and unsafe abortion.<sup>63</sup> Therefore states parties have an obligation to take steps to allow girls to prevent early pregnancy<sup>64</sup> and to prioritize the reduction of adolescent maternal mortality and morbidity<sup>65</sup> by prohibiting child marriage<sup>66</sup> and by developing programs that provide access to contraception, safe abortion services, and comprehensive obstetric care and counseling.<sup>67</sup>

In its LOIs, the Committee requested information on “measures taken to improve the overall status of the health of women and girls, in particular...on programmes developed to provide women and girls with access to adequate and affordable health-care services, including sexual and reproductive health care, in all regions.”<sup>68</sup> In response, the state party noted that “[p]opulation control and reproductive health service has substantially improved” with ongoing reproductive health related publicity.<sup>69</sup> The state party also

claimed that “maternal mortality rate has been decreasing gradually due to women-centric healthcare services”<sup>70</sup> and highlighted the development of a Gender Equity Strategy in 2014 which takes into account “the norms related to early marriage and femininity preventing women and girls from having control over their own bodies and having a say in sexual and reproductive decisions”<sup>71</sup> and aims to ensure that all hospitals are women-friendly to prevent harmful practices including child marriages, among others.<sup>72</sup> This section provides supplemental information that provides greater insight into the status of reproductive health care in Bangladesh, especially for women and girls who face specific risks as a result of child marriage.

***Early pregnancy and poor maternal health.*** Bangladesh has the highest rate of pregnancy before the age of 18, at 40%, in the South Asia region.<sup>73</sup> Most are within marriage since early marriage is common and there is social expectation to have a child soon after marriage.<sup>74</sup> One in four teenagers age 15-19 have given birth and another six percent are pregnant with their first child.<sup>75</sup> These trends are most common among mothers who live in rural areas.<sup>76</sup> The median age of Bangladeshi girls at the time of their first pregnancy is 17 for women aged 15 to 19 years.<sup>77</sup>

Married girls face unplanned, early, and repeated pregnancies as a result of the poor access to contraceptive information and services. While the use of contraceptives amongst married women in Bangladesh has increased from 8% in 1975 to 62% in 2014, the use of contraceptives remains a real problem for married girls aged 15-19 with less than half of them using modern contraception (46.7%)—a small increase from 42.4% in 2011.<sup>78</sup> Between 2011 and 2014, unmet need for family planning of married young women aged 15-19 has remained stagnant at 17%.<sup>79</sup>

According to UNICEF, the maternal mortality ratio for adolescents in Bangladesh is double the national rate.<sup>80</sup> Complications arising from early pregnancy and childbirth are the main causes of death among adolescent girls between the ages of 15 and 19 in developing countries.<sup>81</sup> Adolescents who experience early pregnancy are twice as likely to die in pregnancy or childbirth as women over the age of 20.<sup>82</sup> Adolescents under 15 “are five times more likely to die during pregnancy or childbirth.”<sup>83</sup> Early pregnancy also exposes young girls, who are physically not fully developed, to complications such as obstetric fistula, which leads to infection, incontinence, and significant pain.<sup>84</sup> The World Health Organization has explicitly recommended a standard marriage age of 18 and empowering adolescents to delay pregnancy until 20 due to the particularly harmful effects of early pregnancy.<sup>85</sup>

***Higher number of abortions and limited access to quality menstrual regulation services for young married women and girls.*** Child marriage is significantly associated not only with a higher risk of unplanned pregnancies and maternal deaths, but also a higher need for pregnancy termination.<sup>86</sup> Access to safe abortion services is particularly crucial for married adolescents, who are at significant risk of unplanned pregnancy because they often lack both capacity to refuse their husband's demand for sex and knowledge of contraceptive services.

In Bangladesh, abortion is expressly prohibited save only where it is undertaken in good faith to save a woman's life.<sup>87</sup> However, the state party allows for “menstrual regulation,” which is performed within twelve weeks<sup>88</sup> of a woman's last menstruation without confirmation of pregnancy and does constitute abortion in all cases.<sup>89</sup> Access to menstrual

regulation is limited and studies have shown that over a quarter of women asking for menstrual regulation are turned away.<sup>90</sup> Nationally, only 57% of facilities that could provide menstrual regulation services actually did so in 2010.<sup>91</sup> Women report being turned away for several reasons, including because they lack the consent of their husbands, are told that they are too young, or that they currently had no children.<sup>92</sup> Further, women's limited knowledge about menstrual regulation limits the reach of the program.<sup>93</sup> In 2014, only 45% of ever-married women and 46% of currently married women knew about menstrual regulation. Among those who have heard of menstrual regulation, only 12% of ever married women and 13% of currently married women have ever used it.<sup>94</sup> The quality of accessible menstrual regulation services is also poor, leading 12% of women and girls who undergo the procedure to require follow up care.<sup>95</sup>

Women and girls who are unable to access menstrual regulation often face even greater risks as they are left to resort to illegal and often unsafe procedures, which are widely performed.<sup>96</sup> The most recent data estimates that 647,000 induced abortions were performed in 2010 in Bangladesh with an estimated 572,000 women suffering complications and only 40% or 231,400 women actually receiving post-abortion care from a facility.<sup>97</sup> Women and girls married before 18 are particularly vulnerable as the prevalence of pregnancy termination was 4% higher among women married in childhood than their adult counterparts.<sup>98</sup>

***Increased risk to sexual violence against young married women and girls.*** A woman or girl married as a child is exposed to an increased risk of sexual exploitation and violence throughout their lives as they are often initiated into sex by force or coercion by their husbands and typically continue to experience nonconsensual sex throughout their marriage.<sup>99</sup> In 2011, the Committee expressed concern on the prevalence of violence against women and girls which included domestic violence and rape.<sup>100</sup> In its LOIs, the Committee requested information on the measures taken by the state party to ensure that all victims of violence against women have access to justice.<sup>101</sup> In relation to child marriage, the state party in its replies to the LOIs simply noted that two legal aid committees have been formed where "poor women litigants are getting legal support for preventing child marriage and dowry."<sup>102</sup> This response fails to address the systemic barriers to justice for women and girls who have suffered gender-based violence, including specifically within child marriage.

While specific forms of violence against women, including rape are prohibited by various provisions of the state party's penal code, it permits non-consensual sex within marriage provided that the female spouse is not under the age of 13.<sup>103</sup>

Violence against young women and girls within marriage is a particular problem in Bangladesh. An estimated three in every five women experience violence including physical or sexual violence.<sup>104</sup> Notwithstanding the prevalence of sexual violence, most women are unwilling to seek medical attention<sup>105</sup> and few cases lodged with police are in fact prosecuted. Between 2010 and 2012, 109,621 complaints regarding violence against women were filed with the police, but only 6,875 cases were categorized by the police as "genuine."<sup>106</sup> Police in such cases cited the "law [being] used to harass the accused..." as a reason for non-prosecution.<sup>107</sup> In 2011, there were 420 recorded cases of rape in Bangladesh, with only 286 reaching the prosecution stage.<sup>108</sup> Only 2.36% of women who suffered domestic violence reported taking legal action. Reasons for not taking legal

action were varied, but included social stigma, a view that legal action was not necessary, fear of husband and a belief that 'husband has a right to torture wife.'<sup>109</sup>

## **V. Suggested Questions and Recommendations**

In light of the above submission, the Center and BLAST hope that the Committee will consider addressing the following questions to the state party:

1. The state reply discussed proposed legislation amending the Child Marriage Restraint Act (CMRA). What is the current status of this bill? Does the bill maintain 18 as the minimum legal age of marriage for girls without legal exceptions? Are steps being taken to strengthen the legislation in line with CEDAW, including clarifying that it has primacy over personal status laws and amending the CMRA to allow girls to have child marriages recognized as legally void?
2. What steps have been taken by the state party to improve enforcement of the CMRA, including to collect and publish data on prosecutions under the CMRA, ensure the registration of births as mandated in the law, and introduce legislation mandating marriage registration? When specifically does the state party plan to adopt national plan of action to end child marriage?
3. Adolescent pregnancy and maternal mortality continue to be high. What measures have been taken by the state party specifically to prevent early pregnancy including ensuring girls have access to contraceptive information and services? What specifically is the state party doing to ensure adolescent girls have access to safe menstrual regulation or abortion procedures?
4. What measures have been taken by the state party to recognize marital rape as a crime? What is being done to improve access to justice for victims of violence, such as addressing stigma faced by survivors of gender-based violence and ensuring protection for women seeking remedies?

The Center and BLAST also respectfully request that this Committee consider incorporating the following recommendations in its Concluding Observations to the state party:

1. Ensure that amendments to the CMRA and the national plan of action include measures to increase prevention efforts, including by maintaining a minimum legal age of marriage of 18, without legal exceptions, that has primacy over personal laws, declaring child marriages as legally void, enforcing universal mandatory birth registration, and establishing and enforcing universal marriage registration. Provide both social and legal assistance to child and adult victims of child marriage. Train criminal justice and local government officials about their roles in preventing child marriage and responding to violations of the law.
2. Address high rates of adolescent maternal mortality, including by raising awareness of the risks of child marriage and early pregnancy and providing girls access to contraceptive information and services, safe menstrual regulation and abortion services, and maternal health care.



3. Criminalize marital rape and ensure that victims of violence have access to justice, including protection from retaliatory violence and access to adequate support mechanisms and services.

If you have any questions or would like further information, please do not hesitate to contact Jihan Jacob of the Center for Reproductive Rights at [jjacob@reprorights.org](mailto:jjacob@reprorights.org).

Respectfully submitted:

Center for Reproductive Rights  
Bangladesh Legal Aid and Services Trust

- 
- <sup>1</sup> CEDAW Committee, *Concluding Observations: Bangladesh*, paras. 27, 39-40, U.N. Doc. CEDAW/C/BGD/CO/7 (2011).
- <sup>2</sup> Committee on the Elimination of Discrimination against Women, *General Recommendation No. 21: Equality in Marriage and Family Relations*, (13<sup>th</sup> Sess. 1994), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 36, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008) [hereinafter CEDAW Committee, *Gen. Recommendation No. 21*].
- <sup>3</sup> CEDAW Committee and CRC Committee, *Joint general recommendation/general comment No. 31 of the Committee on the Elimination of Discrimination against Women and No. 18 of the Committee on the Rights of the Child on harmful practices*, paras. 20-24, 40-41, U.N. Doc. CEDAW/C/GC/31-CRC/C/GC/18 (2014).
- <sup>4</sup> *Id.*, para. 55(g-h).
- <sup>5</sup> *Id.*, para. 55(o).
- <sup>6</sup> CEDAW Committee, *List of issues in relation to the eighth periodic report of Bangladesh*, para. 7, U.N. Doc. CEDAW/C/BGD/Q/8 (2016) [hereinafter CEDAW Committee, *List of Issues: Bangladesh* (2016)].
- <sup>7</sup> CEDAW Committee, *List of issues in relation to the eighth periodic report of Bangladesh: Addendum, Replies of Bangladesh to the list of issues*, para. 19, U.N. Doc. CEDAW/C/BGD/Q/8/Add. 1 (2016) [hereinafter CEDAW Committee, *List of Issues: Bangladesh Reply* (2016)].
- <sup>8</sup> *Id.*, para. 18.
- <sup>9</sup> UNICEF, STATE OF THE WORLD'S CHILDREN 2013: CHILDREN WITH DISABILITIES 132 (May 2013), available at [http://www.unicef.org/sowc2013/files/SWCR2013\\_ENG\\_Lo\\_res\\_24\\_Apr\\_2013.pdf](http://www.unicef.org/sowc2013/files/SWCR2013_ENG_Lo_res_24_Apr_2013.pdf).
- <sup>10</sup> *Id.*
- <sup>11</sup> NATIONAL INSTITUTE OF POPULATION RESEARCH AND TRAINING ET. AL, BANGLADESH: DEMOGRAPHIC AND HEALTH SURVEY 2014, at 41 (March 2016) [hereinafter 2014 BDHS].
- <sup>12</sup> *Id.*
- <sup>13</sup> PLAN INTERNATIONAL BANGLADESH, CHILD MARRIAGE IN BANGLADESH: FINDINGS FROM A NATIONAL SURVEY 2013, at 13-14 (2013) [hereinafter PLAN INTERNATIONAL BANGLADESH, NATIONAL SURVEY (2013)].
- <sup>14</sup> AVON GLOBAL CENTER FOR WOMEN AND JUSTICE, CHILD MARRIAGE IN BANGLADESH: CAUSES, CONSEQUENCES AND LEGAL FRAMEWORKS (2013), at 7-12 [hereinafter AVON, CAUSES, CONSEQUENCES AND LEGAL FRAMEWORKS]; INTERNATIONAL DEVELOPMENT LAW ORGANIZATION (IDLO), BANGLADESH COUNTRY REPORT: STRENGTHENING THE LEGAL PROTECTION FRAMEWORK FOR GIRLS IN INDIA, BANGLADESH, KENYA AND LIBERIA, at 73 (2010) [hereinafter IDLO, BANGLADESH COUNTRY REPORT (2010)].
- <sup>15</sup> CONSTITUTION OF THE PEOPLE'S REPUBLIC OF BANGLADESH Nov. 14, 1972, art. 27 and 31 (Bangl.).
- <sup>16</sup> *Id.*, art. 28.
- <sup>17</sup> *Id.*, art. 10.
- <sup>18</sup> *Id.*, art. 19.
- <sup>19</sup> To such stage as may be determined by law.; *Id.*, art. 17.
- <sup>20</sup> Child Marriage Restraint Act No. 19 of 1929, sec.4 (1929) (Bangl.).
- <sup>21</sup> *Id.*, sec. 5.
- <sup>22</sup> *Id.*, sec. 6.
- <sup>23</sup> *Id.*, secs. 4-6; Exchange rate of 0.013 BDT/USD applicable at 15 August 2016.
- <sup>24</sup> *Id.*, sec. 9.
- <sup>25</sup> *Id.*, sec. 11.
- <sup>26</sup> *Id.* The CMRA contains no provisions nullifying a marriage solemnised in contravention of the Act.
- <sup>27</sup> *Id.*
- <sup>28</sup> Dissolution of Muslim Marriages Act, No. 8 of 1939, art. 2(vii) (Bangl.). Amended by Ordinance Number XXV of 1986.
- <sup>29</sup> AVON, CAUSES, CONSEQUENCES AND LEGAL FRAMEWORKS, *supra* note 14, at 27; Memorandum from the Avon Global Center for Women and Justice, to Hon. Justice M. Imman Ali, Supreme Court of Bangladesh, *Child Marriage in Bangladesh: Impact of Discriminatory Personal Laws*, at 3 (Aug 28, 2013), available at <http://www.ohchr.org/Documents/Issues/Women/WRGS/ForcedMarriage/NGO/WomenAndJusticeFellow5.pdf> [hereinafter Avon, *Impact of Discriminatory Personal Laws*]; IDLO, BANGLADESH COUNTRY REPORT (2010), *supra* note 14, at 70-71.
- <sup>30</sup> Three girls rescued from potential child marriages, parents sentenced under the CMRA. *বালাবিবাহ থেকে রক্ষা পেল তারা* [They Were Saved From Child Marriage], THE DAILY PROTHOM ALO (August 26, 2016), available at <http://www.prothom-alo.com/bangladesh/article/958480/বালাবিবাহ-থেকে-রক্ষা-পেল-তারা>; *বরের বাবা কারাগারে, কনের*

---

বাবার জরিমানা [Groom's Father Jailed, Bride's Father Fined], THE DAILY PROTHOM ALO (September 2, 2016), accessed online on 22 September 2016, available at <http://www.prothom-alo.com/bangladesh/article/965905/বরের-বাবা-করাগারে-কনের-বাবার-জরিমানা>.

<sup>31</sup> THOMSON REUTERS FOUNDATION, PROTECTING THE GIRL CHILD LEGAL ANNEX: USING THE LAW TO END CHILD, EARLY AND FORCED MARRIAGE AND RELATED HUMAN RIGHTS VIOLATIONS, at 16 (2014) [hereinafter THOMSON REUTERS FOUNDATION, PROTECTING THE GIRL CHILD].

<sup>32</sup> AVON GLOBAL CENTER FOR WOMEN AND JUSTICE, CHILD MARRIAGE IN BANGLADESH: BIRTH AND MARRIAGE REGISTRATION (2013), at 10 [hereinafter AVON, BIRTH AND MARRIAGE REGISTRATION].

<sup>33</sup> CEDAW Committee, *List of Issues: Bangladesh* (2016), *supra* note 6, para. 2.

<sup>34</sup> CRC Committee, *Concluding Observations: Bangladesh*, paras. 30-31, U.N. Doc. CRC/C/BGD/CO/4 (2009); CRC Committee, *Concluding Observations: Bangladesh*, para. 13, U.N. Doc. CRC/C/15/Add.221 (2003).

<sup>35</sup> CEDAW Committee, *List of Issues: Bangladesh Reply* (2016), *supra* note 7, para. 10.

<sup>36</sup> Muslim Marriage and Divorces (Registration) Act 1974; Muslim Family Laws Ordinance 1961; The Dissolution of Muslim Marriage Act 1939; Hindu Marriage Act 2012; Christian Marriage Act 1872; The Special Marriage Act, No. 3 of 1872 (Bangl.).

<sup>37</sup> The Special Marriage Act, No. 3 of 1872, arts. 2(2-3) (1872) (Bangl.). 14 for girls and 18 for boys, although consent from one's father or guardian is required before 21.

<sup>38</sup> Sharmin Aktar & Abu Syead Muhammed Abdullah, *A Comparative Study on Hindu Law Between Bangladesh and India*, 4 ASIAN AFFAIRS 61, 67, (2007). Hindu Marriage Act 1955 as amended by the Hindu Marriage Registration Act 2012, which provides that the registrar will not register marriage of a woman below 18 years of age and a man under 21 years.

<sup>39</sup> The Christian Marriage Act, No. 15 of 1872, art. 3 (1872) (Bangl.).

<sup>40</sup> The Muslim Family Laws Ordinance, No. 8 of 1961, sec. 2.

<sup>41</sup> *Legal marriage age for girls proposed at 16 years under 'special circumstances'*, BDNEWS24.COM (Oct. 19, 2015), available at <http://bdnews24.com/bangladesh/2015/10/19/legal-marriage-age-for-girls-proposed-at-16-years-under-special-circumstances>; Raffat Binte Rashid, *Legal marriageable age still under review*, UNICEF, (Dec. 17, 2015), available at [http://www.unicef.org/bangladesh/media\\_9756.htm](http://www.unicef.org/bangladesh/media_9756.htm).

<sup>42</sup> Mohosinul Karim, *Cabinet okays Child Marriage Restraint Act 2014*, DHAKA TRIBUNE (September 16 2014), available at <http://www.dhakatribune.com/law-rights/2014/sep/16/cabinet-okays-child-marriage-restraint-act-2014>.

<sup>43</sup> CENTER FOR REPRODUCTIVE RIGHTS, CHILD MARRIAGE IN SOUTH ASIA: INTERNATIONAL AND CONSTITUTIONAL LEGAL STANDARDS AND JURISPRUDENCE FOR PROMOTING ACCOUNTABILITY AND CHANGE, at 15-16 (2013), available at [http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/ChildMarriage\\_BriefingPaper\\_Web.singlepage.pdf](http://www.reproductiverights.org/sites/crr.civicactions.net/files/documents/ChildMarriage_BriefingPaper_Web.singlepage.pdf) [hereinafter CENTER FOR REPRODUCTIVE RIGHTS, CHILD MARRIAGE IN SOUTH ASIA].

<sup>44</sup> Convention on the Rights of the Child, *adopted* Nov. 20, 1989, art. 7, G.A. Res. 44/25, annex, U.N. GAOR, 44th Sess., Supp. No. 49, U.N. Doc. A/44/49 (1989) (*entered into force* Sept. 2, 1990); CRC Committee, *Concluding Observations: Afghanistan*, para. 34, U.N. Doc. CRC/C/AFG/CO/1 (2011); Human Rights Committee, *General Comment No. 17: Article 24 (Rights of the child)*, (35th Sess., 1989), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, at 200, para. 7, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. I) (2008). *See also*, Convention on Consent to Marriage, *adopted* Nov. 7, 1962, preamble, G.A. Res. 1763 A (XVII), U.N. GOAR, 17<sup>th</sup> Sess. (*entered into force* Dec. 9, 1964).

<sup>45</sup> THOMSON REUTERS FOUNDATION, PROTECTING THE GIRL CHILD, *supra* note 31, at 14.

<sup>46</sup> *Births and Deaths Registration Act 2004*, secs. 5, 6, 7 and 8 (2004) (Bangl.).

<sup>47</sup> *Id.*, sec. 18.

<sup>48</sup> IDLO, BANGLADESH COUNTRY REPORT (2010), *supra* note 14, at 3.

<sup>49</sup> 2014 BDHS, *supra* note 11, at 20.

<sup>50</sup> AVON, BIRTH AND MARRIAGE REGISTRATION, *supra* note 32, at 9.

<sup>51</sup> 2014 BDHS, *supra* note 11, at 20.

<sup>52</sup> Convention on the Elimination of All Forms of Discrimination against Women, *adopted* Dec. 18, 1979, art. 16, para. 2, G.A. Res. 34/180, U.N. GAOR, 34<sup>th</sup> Sess., Supp. No. 46, at 193, U.N. Doc. A/34/46, U.N.T.S. 13 (*entered into force* Sept. 3, 1981).

<sup>53</sup> CEDAW Committee, *Gen. Recommendation No. 21*, *supra* note 2, para. 39.

<sup>54</sup> The Special Marriage Act, No. 3 of the 1872, art. 4.

<sup>55</sup> Avon, *Impact of Discriminatory Personal*, *supra* note 29, at 10.

- 
- <sup>56</sup> Hindu Marriage Registration Act 2012, sec. 3 (2012) (Bangl.).
- <sup>57</sup> *Id.*, sec. 5.
- <sup>58</sup> *Mandatory registration for Hindu marriage must*, THE DAILY STAR (March 5, 2016), available at <http://www.thedailystar.net/city/mandatory-hindu-marriage-reg-must-ensure-rights-786565>.
- <sup>59</sup> CEDAW Committee, *Concluding Observations: Bangladesh*, para. 32(c) U.N. Doc. CEDAW/C/BGD/CO/7 (2011).
- <sup>60</sup> CEDAW Committee, *In the Consideration of Reports Submitted by States Parties under Article 18*, at 32-35, U.N. Doc. CEDAW/C/BGD/3-4 (1997).
- <sup>61</sup> CRC Committee et al., *First UN International Day of the Girl Child, Thursday October 11 2012: Forced child marriage, slavery like reality in every single region of the world*, (Oct. 11, 2012), available at <http://www.un.org/en/events/girlchild/2012/hrexpersts.shtml>.
- <sup>62</sup> CEDAW Committee, *Concluding Observations: Djibouti*, para. 30, U.N. Doc. CEDAW/C/DJI/CO/1-3 (2011).
- <sup>63</sup> Human Rights Council, *Report of the UN High Commissioner for Human Rights on the right of the child to the enjoyment of the highest attainable standard of health*, para. 51, U.N. Doc. A/HRC/22/31 (2012).
- <sup>64</sup> CEDAW Committee, *Concluding Observations: Guinea Bissau*, paras. 37-38, U.N. Doc. CEDAW/C/GNB/CO/6 (2009); *Kenya*, paras. 37-38, U.N. Doc. CEDAW/C/KEN/CO/7 (2011); *Tunisia*, paras. 50-51, U.N. Doc. CEDAW/C/TUN/CO/6 (2010); *Zambia*, paras. 33-34, U.N. Doc. CEDAW/C/ZMB/CO/5-6 (2011).
- <sup>65</sup> Committee on the Rights of the Child, *General Comment No. 15: On the right of the child to the enjoyment of the highest attainable standard of health* (Art. 24), (62nd Sess., 2013), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 33, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).
- <sup>66</sup> Commission of the Status of Women, *Eliminating maternal mortality and morbidity through the empowerment of women*, at 19, para. 14 (2012). The session affirmed the obligation of governments to address the root causes of maternal mortality and morbidity, including harmful practices.
- <sup>67</sup> Committee on the Rights of the Child, *General Comment No. 4: Adolescent health and development in the context of the Convention on the Rights of the Child* (33rd Sess., 2003), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 31, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008); Committee on the Elimination of Discrimination against Women, *General Recommendation No. 24: Article 12 of the Convention (women and health)*, (20th Sess. 1999), in *Compilation of General Comments and General Recommendations Adopted by Human Rights Treaty Bodies*, para. 28, U.N. Doc. HRI/GEN/1/Rev.9 (Vol. II) (2008).
- <sup>68</sup> CEDAW Committee, *List of Issues: Bangladesh* (2016), *supra* note 6, para. 15.
- <sup>69</sup> CEDAW Committee, *List of Issues: Bangladesh Reply* (2016), *supra* note 7, para. 59.
- <sup>70</sup> *Id.*, para. 60.
- <sup>71</sup> *Id.*, para. 61.
- <sup>72</sup> *Id.*, para. 62.
- <sup>73</sup> Acharya Dev Raj et al., *Factors associated with teenage pregnancy in South Asia: a systematic review*, 4(1) HEALTH SCIENCE JOURNAL (2010), 1, 4.
- <sup>74</sup> Amir M. Sayem and Abu Taher M.S. Nury, *Factors associated with teenage marital pregnancy among Bangladeshi women*, 8 REPRODUCTIVE HEALTH (2011), 1, 4; CENTER FOR REPRODUCTIVE RIGHTS, CHILD MARRIAGE IN SOUTH ASIA, *supra* note 43, pp. 16-17.
- <sup>75</sup> 2014 BDHS, *supra* note 11, at 62.
- <sup>76</sup> *Id.*
- <sup>77</sup> Calculated by Population Council Bangladesh from the MICS 2012-2013 data, which can be accessed at: [http://www.unicef.org/bangladesh/MICS\\_Key\\_Findings\\_Report\\_revised\\_05-08-2015.pdf](http://www.unicef.org/bangladesh/MICS_Key_Findings_Report_revised_05-08-2015.pdf).
- <sup>78</sup> 2014 BDHS, *supra* note 11, at 74; NATIONAL INSTITUTE OF POPULATION RESEARCH AND TRAINING ET. AL, BANGLADESH: DEMOGRAPHIC AND HEALTH SURVEY 2011, at 84 (2013) [hereinafter 2011 BDHS].
- <sup>79</sup> 2011 DHS, *supra* note 78, pp. 100; 2014 BDHS, *supra* note 11, at 92.
- <sup>80</sup> UNICEF, *Adolescent Empowerment Project in Bangladesh 1(2009) available at* [http://www.unicef.org/bangladesh/Adolescent\\_Empowerment\\_\(KA\).pdf](http://www.unicef.org/bangladesh/Adolescent_Empowerment_(KA).pdf) [hereinafter UNICEF, Adolescent Empowerment Project in Bangladesh].
- <sup>81</sup> UNITED NATIONS POPULATION FUND (UNFPA), MARRYING TOO YOUNG: END CHILD MARRIAGE, at 11 (2012) [hereinafter UNFPA, MARRYING TOO YOUNG (2012)].
- <sup>82</sup> WORLD HEALTH ORGANIZATION (WHO), WHO GUIDELINES ON PREVENTING EARLY PREGNANCY AND POOR REPRODUCTIVE OUTCOMES AMONG ADOLESCENTS IN DEVELOPING COUNTRIES, at 2 (2011) [hereinafter WHO, PREVENTING EARLY PREGNANCY (2011)].

- 
- <sup>83</sup> *Id.*
- <sup>84</sup> UNFPA, MARRYING TOO YOUNG (2012), *supra* note 81, at 11. “Obstetric fistula is a hole in the birth canal caused by obstructed labour. It is estimated that more than 2 million young women live with untreated obstetric fistula in Asia and sub-Saharan Africa.” WHO, *Fact File: 10 Facts on Obstetric Fistula* (2014), available at [http://www.who.int/features/factfiles/obstetric\\_fistula/facts/en/index1.html](http://www.who.int/features/factfiles/obstetric_fistula/facts/en/index1.html).
- <sup>85</sup> WHO, PREVENTING EARLY PREGNANCY (2011), *supra* note 82, at 3-4.
- <sup>86</sup> S.M. Mostafa Kamal, *Decline in Child Marriage and Changes in Its Effect on Reproductive Outcomes in Bangladesh*, 30(3) JOURNAL OF HEALTH, POPULATION, NUTRITION 317, 318 (2012) [hereinafter Kamal].
- <sup>87</sup> Penal Code No. 45 of 1860, secs. 312-316 (1860) (Bangl.).
- <sup>88</sup> Bangladesh Family Planning Department, Ministry of Health, National Guidelines on Menstrual Regulation (2013).
- <sup>89</sup> Susheela Singh et al., *The Incidence of Menstrual Regulation Procedures and Abortion in Bangladesh* 38(3) INTERNATIONAL PERSPECTIVES ON SEXUAL AND REPRODUCTIVE HEALTH, 122, 122 (2012) [hereinafter Susheela Singh et al., *Menstrual Regulation Procedures*].
- <sup>90</sup> *Id.*, at 127.
- <sup>91</sup> GUTTMACHER INSTITUTE, MENSTRUAL REGULATION AND INDUCED ABORTIONS IN BANGLADESH (2012) [hereinafter GUTTMACHER INSTITUTE, MENSTRUAL REGULATION].
- <sup>92</sup> *Id.*
- <sup>93</sup> *Id.*
- <sup>94</sup> 2014 BDHS, *supra* note 11, at 80.
- <sup>95</sup> GUTTMACHER INSTITUTE, MENSTRUAL REGULATION, *supra* note 91.
- <sup>96</sup> Mizanur Rahman ET. AL, *Pregnancy Termination in Matlab, Bangladesh: Maternal Mortality Risks Associated with Menstrual Regulation and Abortion*, 40(3) INTERNATIONAL PERSPECTIVES ON SEXUAL AND REPRODUCTIVE HEALTH 108, 116 (2014); Susheela Singh et al., *Menstrual Regulation Procedures*, *supra* note 89, at 122.
- <sup>97</sup> Susheela Singh et al., *Menstrual Regulation Procedures*, *supra* note 89, at 122.
- <sup>98</sup> Kamal, *supra* note 86.
- <sup>99</sup> Special Rapporteur on contemporary forms of slavery, a thematic report on servile marriage, *Rep. of the Special Rapporteur on contemporary forms of slavery, including its causes and consequences*, para. 73, U.N. Doc. A/HRC/21/41 (July 10, 2012) (by Gulnara Shahinian); Anita Raj and Ulrike Boehmer, *Girl Child Marriage and Its Association With National Rates of HIV, Maternal Health, and Infant Mortality Across 97 Countries*, 19(4) VIOLENCE AGAINST WOMEN 536, 537 (2013) [hereinafter Raj and Boehmer, *Girl Child Marriage*].
- <sup>100</sup> CEDAW Committee, *Concluding Observations: Bangladesh*, para. 19, U.N. Doc. CEDAW/C/BGD/CO/7 (2011).
- <sup>101</sup> CEDAW Committee, *List of Issues: Bangladesh* (2016), *supra* note 6, para. 8.
- <sup>102</sup> CEDAW Committee, *List of Issues: Bangladesh Reply* (2016), *supra* note 7, para. 28.
- <sup>103</sup> Penal Code No. 45 of 1860, sec. 375 (1860) (Bangl.).
- <sup>104</sup> 2014 BDHS, *supra* note 11, p. 194.
- <sup>105</sup> BANGLADESH BUREAU OF STATISTICS (BBS), REPORT ON VIOLENCE AGAINST WOMEN (VAW) SURVEY 2011 37 (2013) [hereinafter BBS, REPORT ON VIOLENCE AGAINST WOMEN].
- <sup>106</sup> Naimul Haq, *Violence Against Women Persist in Bangladesh* (Oct. 17, 2012) available at <http://www.ipsnews.net/2012/10/violence-against-women-persists-in-bangladesh/>.
- <sup>107</sup> *Id.*
- <sup>108</sup> *Id.*
- <sup>109</sup> BBS, REPORT ON VIOLENCE AGAINST WOMEN, *supra* note 105, 38-39.