



IMPLEMENTATION CHALLENGES OF THE CHILD MARRIAGE RESTRAINT ACT 2017

An analysis of its sections 10 & 19

The elimination of child marriage is one of the important goals of SDG and the Government of Bangladesh has committed to eliminate child marriage and early forced marriage by 2030 in line with target 5.3 of SDG. Bangladesh is a focus country of the UNICEF, UNFPA global program to accelerate action to end child marriage. Bangladesh is also a member of the South Asian initiative to end violence against children (SAIEVAC), which adopted a regional action plan to end child marriage from 2015 to 2018. At the UK Girls' Summit in 2014, the government signed a charter committing to end marriage for children under age 15 by 2021 and for all girls under age 18 by 2041.¹

The Government of Bangladesh has placed a strong focus on the problem at the highest political levels and developed a National Plan of Action (NPA) in 2018 aiming to eliminate child marriage through existing institutional initiatives, programs and combined effort of all state and non-state actors.²

Bangladesh is obliged to protect the rights of children and to ensure their welfare and best interest under the Convention on the Rights of the Child (CRC). Child marriage violates the principle of equality and non-discrimination recognised under the Constitution of the People's Republic of Bangladesh and also disregards the spirit of CRC.

In response to the immense need to modify the law relating to child marriage in Bangladesh, the government has enacted the Child Marriage Restraint Act 2017, bringing some changes in the field specially for the purpose of creating more deterrence against child marriage. Terming child marriage as offence, the Act provides various types of punishment for different perpetrators. The study is undertaken to identify implementation challenges of CMRA particularly of its section 10 and 19. Section 10 of the CMRA provides exemption to the accused persons on condition of initiatives to stop child marriage. Section 19, being a newly added provision, allows child marriages in special cases and if they are approved by court based on the recommendations of an Assessment Committee as prescribed under the CMRA. Though the incorporation of this provision has been criticized broadly from within Bangladesh and internationally, its adoption has been justified based on present socio-economic realities in Bangladesh that could not be overlooked otherwise. The findings of this study aim to depict the actual implementation status of this provision.

1. Girl Summit held in UK in 2014
2. National Plan of Action launched to end child marriage in Bangladesh, Published on 02 August, 2018 from <https://www.dhakatribune.com/bangladesh/2018/08/02/national-plan-of-action-launched-to-end-child-marriage-in-bangladesh>

Key findings and main implementation challenges

- *Lack of awareness:* The implementing stakeholders of the CMRA including Upazila Nirbahi Officer (UNO) and members of child marriage prevention committees at the National, District, Upazila and Union Level are not aware of their duties under the Act.
- *Lack of education and social insecurity:* Especially parents being unlettered or illiterate do not understand in most cases the consequences of child marriage. Many parents do not feel secure to send their daughters to the educational institutions, as incidents of sexual harassment are prevalent.
- *Economic burden of the parents:* In order to avoid perceived economic burden, parents often go for child marriages for their daughters. With the prevalence of child labor in society, underage boys and girls are engaged with different sorts of labor activities that help them to supplement the income of the family.
- *Irregularities by lawyers:* The practice to involve notary public lawyers is another common strategy to justify child marriage. Though there is no provision of such practice under any existing law of Bangladesh, notary public lawyers issue affidavit to conduct underage marriages.
- *Malpractices of Nikah registrar (Qazis):* Nikah registrars also facilitate child marriages maintaining two registers out of which one contains the information on the child marriage, which is only included in the official marriage register once the parties of the marriage attain the age of majority. Qazis often charge the bride's parents two to three times more than the actual amount in cases of child marriages.

In addition to the above reasons, cultural norms, embedded tradition and religious misnomers are also being used to justify child marriages. Child marriages are also prevalent in Hindu communities, because they do not require marriages to be registered.

Policy implications

In order to implement the CMRA, the responsible stakeholders should undertake a holistic approach.

Actions to be taken by the Government of Bangladesh

- The government should launch comprehensive training program for the responsible stakeholders of the CMRA, especially at Upazila and Union levels. The stakeholders should include UNO, Social Welfare Officer, Women's Affairs Officer, members of local government including Chairpersons and members. The Child Marriage Restraint Rules 2018, among others should be included in the training curriculum.
- Upazila administration including UNO should launch widespread awareness campaign at local level to familiarize the benefits of complying with the CMRA and the Rules.
- The law enforcing agencies should be empowered to hold the members of local government accountable if they facilitate child marriages.
- The government should direct the Bar Association at District level to cancel the registration of notary advocates who are engaged with the commission of child marriage.

- The government should revisit the rules to make it clear and understandable for the common people. The special provision requires to be approved by a court, but the rules do not prescribe the name of the specific court. Family courts are considered as an effective forum to deal with the child marriage issues.
- Social safety net programs at the local level need to be offered considering the socio-economic conditions of a locality.
- The provision to cancel the registration of Nikah registrars should be strictly enforced based on proper evidence. Upazila administration should monitor the activities of Nikah registrars regularly.
- Educational institutions should organize regular seminars, workshops, drama and other activities, e.g. sports, to engage children and adolescents with a positive approach. The curriculum of the schools should include basic information on existing laws, especially those affecting the life of the younger generation. The curriculum should also reflect the positive role of women and girls in society.
- The government should engage Imams of mosques and other religious and spiritual leaders to disseminate contextual and progressive knowledge of religious texts.
- Implementation of law requires resources and budget. The government should allocate adequate financial resources so that the infrastructure of institutions including Women's Affairs Office, Nikah Registrars Office and Social Welfare Office can be made stronger and more responsive.



Photo : Noor Ahmed Gelal

Actions to be taken by NGOs

- The activities of NGOs should not be project oriented. They should follow a permanent approach to understand societal realities and to contribute to its non-violent transformation.
- Local NGOs should collaborate in training and awareness campaigns that are mentioned above. They can also contribute to empower rural women by providing financial support.

Actions to be taken by other civil society members

- The members of civil society should play pivotal role by creating public pressure on

the government to revise their strategies to tackle the prevention of child marriage.

- The members of civil society should engage in awareness campaigns undertaken by government and non-governmental agencies in order to make the relevant stakeholders more aware and responsible.

Finally, implementation of CMRA is not possible by taking only legal measures rather there are lots of extra-legal, socio-economic and cultural issues identified above that deserve to be addressed with significant emphasis.



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