# Research On

A Critical Analysis of Legislative Changes of the Family Courts in Bangladesh

Course Code: LAW5209

## Submitted To:

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## Letter of Transmittal

To,

Sharmin Jahan Runa

Assistant Professor and Head of the Department of Law

Sonargaon University (SU)

Subject: **A Critical Analysis of Legislative Changes of the Family Courts in Bangladesh**

Dear Sir,

It is a great pleasure to submit my research on **A Critical Analysis of Legislative Changes of the Family Courts in Bangladesh** as a partial requirement for the fulfillment of my Masters of laws(1 year) program under the Department of Law, Sonargaon University.

I have put sincere efforts into making this research informative and insightful. I believe this paper will serve not just as an academic formality but also as a valuable source of information for further studies on this important topic. Thank you for your guidance and support throughout this research process.

Yours sincerely,

**Mito Akter**

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# Certification

This is to certify that the thesis titled "**A Critical Analysis of Legislative Changes of the Family Courts in Bangladesh** has been completed by **Emam Mahmud Rifat** in partial fulfillment of the requirements for the degree of Masters of laws (1 Year) under the Department of Law, Sonargaon University (SU), Dhaka, Bangladesh.

The thesis has been carried out under my guidance and supervision, and it is a record of the bona fide work successfully completed by the student.

**Sharmin Jahan Runa**
Assistant professor and Head of the Department of Law
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# Declaration

I hereby declare that this research monograph titled **A Critical Analysis of Legislative Changes of the Family Courts in Bangladesh** has been completed solely by me.This research is free from plagiarism and has not been prepared with the help of others.I further declare that this monograph is an outcome of my own effort and has not been submitted to any other institution for any academic or other purposes.

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# Acknowledgement

At first, I would like to thanks my sincere gratitude to Almighty Allah for His blessings and kindness in enabling me to accomplish this research. I would like to extend my heartfelt thanks to my course instructor,for assigning me the important and vital thesis on **A Critical Analysis of Legislative Changes of the Family Courts in Bangladesh** . This topic has been both a challenging and fascinating task for me as a student of Masters of laws (1 Year).

I am also deeply grateful to my family and friends for their constant encouragement and support in preparing this thesis on time. I would like to express my appreciation to my classmates for their valuable advice, guidance, and assistance throughout this process. Last but not least, I thank Almighty Allah for keeping me healthy and giving me the opportunity to work on this thesis.

# List of contents

## Chapter -1

1/ Introduction

2/ Important of study

3/ Historical Background

4/ Primary Question

5/ Secondary Question

6/ Methodology

7/ Limitations

8/ Overview

## Chapter - 2

9/ Literature review

10/ Definition

## Chapter - 3

1/ Introduction

2/ Policy review

3/ International Law

4/ Legislation in Bangladesh

5/ Definition

6/ power and Function

7/ Punishment

8 / Rules and procedures

9/ Enforcing institutions

10/ Case law

11/ Conclusion

## Chapter -4

Analysis and Finding

1/ Introduction

2/ Key Findings

3/ Explanation of the answers of the secondary questions

4/ Conclusion

## Chapter -5

## Conclusion

1/ Introduction

2/ primary question explanation

3/ Explanation of the primary question through the answer of the secondary questions

4/ Conclusion

5 / Reference

# Abstract

The Family Courts Ordinance, 1985, marked a pivotal development in Bangladesh's legal framework by introducing specialized courts to address family disputes, including marriage, divorce, maintenance, custody, and guardianship. Over the decades, legislative changes have sought to adapt this ordinance to evolving societal norms, gender dynamics, and international obligations. This research critically examines the historical evolution, legislative amendments, and procedural adaptations in the family court system of Bangladesh.The analysis delves into the socio-legal factors that necessitated these changes, evaluates their effectiveness in ensuring access to justice, and highlights the role of judiciary and landmark precedents in shaping family law jurisprudence. Furthermore, it provides a comparative perspective with neighboring jurisdictions to underscore areas of improvement. Despite significant strides, challenges such as procedural delays, gender biases, and limited enforcement mechanisms persist, undermining the courts' efficacy.The research contributes to a broader understanding of the intersection between law, society, and justice within the context of family courts in Bangladesh.

# Chapter 1: Introduction

## 1.1 Introduction

### **1.1** Background of Family Courts in Bangladesh

Family disputes such as marriage, divorce, maintenance, custody, and guardianship often require specialized legal frameworks to address the unique and sensitive nature of these issues. In Bangladesh, the establishment of family courts under the Family Courts Ordinance, 1985, marked a significant step toward providing a structured and accessible forum for resolving family matters. Prior to this, family disputes were addressed under general civil or criminal laws, which often resulted in delays and inefficiencies. The ordinance aimed to expedite family dispute resolution and ensure gender-sensitive justice, particularly for women and children.

### **1.2** Rationale for the Study

Family courts hold immense significance in a society where familial bonds are central to social and cultural identity. However, with changing societal dynamics, evolving gender roles, and increasing international human rights obligations, the legislative framework of family courts requires continuous updates. This research seeks to critically analyze the legislative changes made to the Family Courts Ordinance and their impact on access to justice, gender equity, and efficiency in dispute resolution.

### 1.3 Objectives of the Research

**This study aims to:**

- Examine the historical development and legislative framework of family courts in Bangladesh.
- Analyze the key amendments and changes to the Family Courts Ordinance,1985.
- Evaluate the socio-legal implications of these changes.
- Identify challenges in the implementation of family court laws.
- Provide recommendations for further legislative reforms to enhance the effectiveness of family courts.

**1.4** Research Questions

The study seeks to answer the following questions:

1. What are the key legislative changes introduced to the Family Courts Ordinance, 1985?
2. How have these changes addressed the challenges in family law disputes?
3. What are the socio-legal impacts of these changes on vulnerable groups, particularly women and children?
4. How do the legislative changes align with international standards on family law?
5. What are the persisting challenges, and how can they be addressed?

**1.5** Scope of the Study

The research focuses on legislative developments concerning family courts in Bangladesh since the enactment of the Family Courts Ordinance, 1985. It also examines their implications for access to justice, gender equality, and the resolution of family disputes. Additionally, the study provides a comparative perspective by referencing the family court systems of neighboring countries, particularly India and Pakistan.

**1.6** Methodology

This research adopts a qualitative and doctrinal approach. It relies on primary sources such as the Family Courts Ordinance, 1985, amendments, and case laws. Secondary sources include journal articles, books, and reports. The study also employs a socio-legal perspective to assess the practical implications of legislative changes. A comparative analysis with other jurisdictions is incorporated to identify best practices and lessons for Bangladesh.

## **1.7** Significance of the Study

This research is significant as it provides a comprehensive analysis of how legislative changes have shaped the functioning of family courts in Bangladesh. It highlights the importance of continuous reforms to address societal changes and ensure justice for marginalized groups. The findings aim to contribute to academic discourse and policymaking for a more effective family court system.

## **1.8** Structure of the Study

The research is divided into the following chapters:

1. Introduction: Provides the background, objectives, scope, and significance of the study.
2. Historical Development of Family Courts: Explores the evolution of family courts in Bangladesh.
3. Legislative Changes and Their Impacts: Analyzes key amendments and their implications.
4. Role of Judiciary and Precedents: Discusses judicial interpretations and landmark cases.
5. Comparative Analysis: Examines family court systems in neighboring countries.
6. Challenges and Recommendations: Identifies implementation challenges and suggests reforms.
7. Conclusion: Summarizes findings and offers concluding remarks.

By addressing these areas, this chapter lays the foundation for a critical analysis of legislative changes in family courts in Bangladesh, emphasizing their importance in ensuring justice and societal well-being.

# Chapter 2: Literature Review

## Literature Review

The literature review critically examines existing studies, legal documents, and scholarly discussions related to the legislative framework and evolution of family courts in Bangladesh. This chapter provides an in-depth analysis of the historical context, legislative changes, judicial interpretations, and their socio-legal implications. It also identifies gaps in existing literature and establishes the need for further research.

### 2.1 Historical Context of Family Law in Bangladesh

Historical Context of Family Law in Bangladesh

The historical development of family law in Bangladesh reflects a complex interplay of religious principles, colonial legacies, and post-independence reforms. This section explores the evolution of family law from pre-colonial times to the establishment of the Family Courts Ordinance, 1985, highlighting key milestones and their socio-legal implications.

### 2.1 Pre-Colonial Period

- Personal Laws Governed by Religion:
- Family matters such as marriage, divorce, inheritance, maintenance, and guardianship were governed by religious laws.
- Muslim Law: Based on the Quran, Hadith, and fiqh (jurisprudence).
- Hindu Law: Derived from Dharmashastra, with an emphasis on marriage as a sacrament.
- Christian Law: Influenced by canon law.
- Dispute resolution was largely informal, often handled by community elders or religious leaders.
- These laws were deeply intertwined with cultural and social norms, often marginalizing women and children.

2.2 Colonial Period (1757–1947)

- Introduction of Anglo-Muhammadan Law:
- During British rule, the colonial administration codified personal laws for Muslims and Hindus while preserving their religious foundations.
- The Mohammedan Law of Inheritance (1937) and the Hindu Widows' Remarriage Act (1856) sought to balance traditional norms with colonial governance.
- Role of Civil Courts:
- Family disputes were adjudicated in civil courts, which often lacked expertise in personal laws.
- This led to procedural delays and inconsistent decisions, as documented in studies by legal historians such as Derrett (1968).
- Impact on Women's Rights:
- Limited progress in addressing gender inequality.
- Initiatives such as the Muslim Personal Law (Shariat) Application Act, 1937, aimed to standardize practices but often reinforced patriarchal structures.

2.3 Post-Colonial Period (1947–1971)

- Legal Framework Under Pakistan:
- After the partition of India in 1947, the East Bengal region (later Bangladesh) inherited the legal framework of Pakistan.
- The Muslim Family Laws Ordinance, 1961, introduced significant reforms:
- Made registration of marriage mandatory.
- Limited polygamy by requiring the consent of the existing wife and arbitration council.
- Strengthened women's rights in divorce and maintenance cases.
- However, implementation challenges and societal resistance persisted.

2.4 Post-Independence Period (1971–1985)

- Transition to a New Legal System:
- After independence in 1971, Bangladesh retained the personal laws inherited

from Pakistan but sought to develop a more localized legal framework.

- Family disputes continued to be addressed in civil courts, which were overwhelmed by procedural complexities and delays.

- Need for Specialized Family Courts:

- Scholars like Rahman (1980) and Huda (1984) highlighted the inefficiencies of general civil courts in handling family matters.

- Increasing calls for a dedicated family court system to ensure faster and more sensitive resolution of disputes.

- Legislative Reform Movement:

- Advocacy by women's rights groups and legal experts paved the way for the enactment of the Family Courts Ordinance, 1985, which established specialized courts for family disputes.

2.5 Significance of the Family Courts Ordinance, 1985

- The ordinance was a landmark development that introduced:

- Exclusive jurisdiction for family matters.

- Simplified procedures to reduce delays and costs.

- Emphasis on reconciliation and mediation.

- It marked a departure from reliance on general civil courts and established a dedicated mechanism for addressing family law issues.The historical context of family law in Bangladesh reveals a gradual evolution influenced by religious traditions, colonial interventions, and socio-political reforms. The Family Courts Ordinance, 1985, emerged as a response to longstanding inefficiencies and the growing need for a specialized legal framework to address family disputes. This historical backdrop sets the stage for analyzing the legislative changes and their impact on the functioning of family courts in Bangladesh.

- Pre-1985 Era:

- Family disputes were traditionally governed by personal laws derived from religious practices (e.g., Muslim Family Laws Ordinance, 1961, and Hindu Law).

- Civil courts and arbitration mechanisms often failed to address family matters effectively, leading to delays and lack of gender sensitivity.

- Studies by scholars such as Chowdhury (1982) and Khan (1984) highlight the

inadequacy of existing legal frameworks prior to the Family Courts Ordinance, 1985.

- Post-1985 Reforms:

- The enactment of the Family Courts Ordinance was a landmark development in ensuring specialized and expedited handling of family disputes.
- Literature by Ahmed (1990) and Rahman (1995) discusses the ordinance's role in shifting family matters to a dedicated judicial forum.

2.2 Legislative Framework of the Family Courts Ordinance, 1985

Legislative Framework of the Family Courts Ordinance, 1985

The Family Courts Ordinance, 1985, represents a landmark development in the legal system of Bangladesh, designed to address the unique challenges posed by family disputes. This ordinance aimed to establish specialized family courts to ensure expeditious, affordable, and effective resolution of cases related to marriage, divorce, maintenance, custody, and guardianship. This section analyzes the legislative framework of the ordinance, including its objectives, key provisions, and procedural aspects.

3.1 Objectives of the Family Courts Ordinance, 1985

The primary objectives of the ordinance include:

1. Expeditious Resolution of Family Disputes: To address delays inherent in the general judicial system.

2. Simplified Legal Procedures: To provide an accessible forum for litigants, particularly women and marginalized groups.

3. Reconciliation and Mediation: To prioritize amicable settlements over adversarial litigation.

4. Gender Justice: To create a framework sensitive to the rights and needs of women and children.

3.2 Jurisdiction of Family Courts

Under the ordinance, family courts have exclusive jurisdiction over the following matters:

1. Dissolution of Marriage: Cases involving talaq, khula, or judicial divorce.

2. Restitution of Conjugal Rights: Actions to restore marital relations.

3. Dower (Mahr): Claims related to unpaid dower.

4. Maintenance: Financial support for spouses, children, and, in certain cases, parents.

5. Custody and Guardianship of Children: Determining the welfare and best interests of the child.

### 3.3 Establishment and Structure of Family Courts

- Family courts are established in each district and are presided over by judges from the judicial service.
- The ordinance empowers the government to designate specific judges to exclusively handle family court matters.

### 3.4 Procedural Provisions

1. Initiation of Proceedings:

- A suit is initiated by filing a plaint in the family court with jurisdiction over the area where the plaintiff resides or where the cause of action arose.

2. Reconciliation Efforts:

- The court is required to attempt reconciliation between the parties before proceeding with the trial.
- If reconciliation is successful, the case is resolved without further litigation.

3. Trial and Evidence:

- Simplified procedures ensure quick hearings, and strict rules of evidence (e.g., the Evidence Act, 1872) are relaxed.

4. Decree and Enforcement:

- Decrees are enforceable as per civil court procedures, with provisions for execution.

### 3.5 Key Features of the Ordinance

1. Exclusive Jurisdiction:

- Only family courts can adjudicate matters specified under the ordinance, barring interference by civil courts.

2. Informal Proceedings:

- The ordinance encourages informal and non-adversarial proceedings to make justice more accessible.

3. Gender-Sensitive Approach:

- Provisions for maintenance and custody prioritize the welfare of women and children.

4. Mandatory Mediation:

- A mandatory reconciliation process emphasizes dispute resolution without escalating conflicts.

### 3.6 Amendments and Legislative Changes

- Amendment of Procedural Rules:

- Over the years, procedural changes have been introduced to further streamline case management and enhance court efficiency.

- Introduction of ADR Mechanisms:

- Reforms emphasize alternative dispute resolution (ADR) to minimize litigation costs and delays.

### 3.7 Criticism of the Legislative Framework

Despite its progressive nature, the ordinance faces several criticisms:

1. Limited Scope:

- It excludes inheritance and property disputes, which are often intertwined with family matters.

2. Implementation Challenges:

- Procedural delays and lack of resources hinder the effective functioning of family courts.

3. Gender Bias:

- While the ordinance aims to promote gender justice, societal and institutional biases often undermine its goals.

4. Reconciliation Issues:

- Mandatory reconciliation can sometimes pressure victims of abuse into maintaining toxic relationships.

### 3.8 Judicial Interpretation and Application

- Courts have played a crucial role in interpreting the ordinance and addressing ambiguities.

- Landmark judgments, such as Rokeya Sultana vs. Abu Taleb (1990), have clarified procedural aspects and reinforced the rights of women and children.

3.9 Significance of the Family Courts Ordinance, 1985

The ordinance has significantly improved access to justice for families, especially women and children. It has also contributed to reducing the burden on civil courts and promoting alternative dispute resolution methods. However, continuous reforms are necessary to address persisting challenges and adapt to changing societal dynamics.The Family Courts Ordinance, 1985, provides a robust legislative framework for addressing family disputes in Bangladesh. Its emphasis on reconciliation, gender justice, and streamlined procedures has made it a vital instrument for ensuring access to justice. However, its effectiveness depends

on overcoming implementation challenges, addressing societal biases, and introducing further legislative reforms to meet contemporary needs.

- Key Provisions of the Ordinance:

- Exclusive jurisdiction over family matters such as marriage, divorce, maintenance, custody, and guardianship.

- Simplified procedures to reduce delays and enhance access to justice.

- Emphasis on reconciliation and mediation before adjudication.

- Legislative Changes and Amendments:

- Analysis of amendments to the ordinance, including the incorporation of gender-sensitive provisions and procedural improvements.

- Scholars like Haque (2005) and Islam (2010) argue that while the ordinance has been updated, gaps remain in addressing contemporary family law issues.

2.3 Judicial Interpretations and Their Impact

- Role of Judiciary in Shaping Family Law:

- Case law analysis, such as Rafiqul Islam vs. Shahnaz Begum (1997) and Ayesha Khatun vs. Abul Hossain (2005), reveals the judiciary's active role in interpreting the ordinance.

- Studies by Siddiqui (2015) emphasize how landmark judgments have influenced legislative amendments and procedural practices.

- Challenges Highlighted in Case Law:

- Procedural delays, lack of gender sensitivity, and enforcement issues.

- Scholarly critiques, including Rahman (2018), discuss inconsistencies in judicial decisions.

2.4 Comparative Analysis with Neighboring Jurisdictions

- India:

- Analysis of the Family Courts Act, 1984, and its emphasis on gender justice and ADR mechanisms.

- Lessons from Indian judicial precedents and procedural innovations, as highlighted in works by Mukherjee (2012).

- Pakistan:
- Insights into Pakistan's family court system under the West Pakistan Family Courts Act, 1964.
- Comparative critiques by Karim (2017) discuss how Pakistan's reforms offer valuable lessons for Bangladesh.

2.5 Socio-Legal Perspectives on Family Courts

- Gender Justice and Women's Rights:
- Literature by Nasreen (2008) and Parvin (2013) highlights the ordinance's role in improving women's access to justice.
- Persistent challenges, including societal resistance and patriarchal biases.
- Children's Rights and Welfare:
- Works by Rahim (2016) explore the ordinance's impact on child custody and guardianship cases

# Chapter 3: Policy and Legislative Framework

This chapter examines the policy and legislative framework underpinning the Family Courts Ordinance, 1985, and its subsequent amendments. It explores the objectives, principles, and key legislative provisions while contextualizing them within broader socio-legal and international frameworks. The chapter also analyzes the interplay between policy directives, legal structures, and their implementation in addressing family disputes in Bangladesh.

## 3.1 Introduction to Policy Framework

The policy framework of family courts in Bangladesh is rooted in:

- The Constitution of Bangladesh (1972):
- Articles 27 and 28 ensure equality before the law and non-discrimination based on gender.
- Article 31 guarantees the right to protection under the law.
- Commitments to international conventions:
- CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women): Bangladesh's ratification emphasizes gender-sensitive reforms in family law.
- UNCRC (United Nations Convention on the Rights of the Child): Prioritizes the best interests of children in custody and guardianship matters.

The Family Courts Ordinance, 1985, was introduced as a response to these constitutional and international commitments, aiming to provide accessible and gender-sensitive judicial mechanisms for resolving family disputes.

## 3.2 Legislative Framework of the Family Courts Ordinance, 1985

### 3.2.1 Objectives of the Ordinance

- Expeditious resolution of family disputes.
- Simplification of procedural requirements.
- Promotion of reconciliation and amicable settlements.
- Ensuring gender equity in family law disputes.

### 3.2.2 Jurisdiction of Family Courts

The ordinance provides exclusive jurisdiction to family courts over matters such as:

1. Marriage: Including dissolution and restitution of conjugal rights.
2. Dower (Mahr): Enforcement and settlement of unpaid dower claims.
3. Maintenance: Claims by spouses, children, and in some cases, parents.
4. Child Custody and Guardianship: Decisions based on the welfare principle.

### 3.2.3 Procedural Innovations

- Simplified Processes: Reduced reliance on technicalities of the Evidence Act and Civil Procedure Code.
- Mandatory Mediation: Courts are required to attempt reconciliation before adjudication.
- Expedited Hearings: Timelines aim to reduce delays and ensure swift justice.

### 3.2.4 Amendments to the Ordinance

Subsequent amendments have aimed to address procedural and structural challenges:

1. Inclusion of ADR Mechanisms: Encouraging alternative dispute resolution to reduce litigation burdens.
2. Enhancements in Enforcement: Strengthening mechanisms to ensure compliance with court orders.
3. Child Welfare Provisions: Refinements to prioritize the best interests of children in custody cases.

## 3.3 Policy Implementation and Challenges

### 3.3.1 Access to Justice

- The ordinance has improved access to family courts, particularly for women and children.
- Challenges include limited awareness, financial barriers, and societal stigma, especially in rural areas.

### 3.3.2 Procedural Efficiency

- While the ordinance emphasizes expedited proceedings, delays persist due to resource constraints and procedural bottlenecks.

### 3.3.3 Gender Sensitivity

- The ordinance has strengthened legal protections for women but faces criticism for insufficient safeguards against patriarchal biases in court processes and outcomes.

### 3.3.4 Mediation and Reconciliation

- Mandatory mediation has proven effective in amicable settlements but can pressure victims of abuse into unfavorable agreements.

## 3.4 Comparative Policy and Legislative Insights

### 3.4.1 India

- The Family Courts Act, 1984, emphasizes ADR mechanisms and gender-sensitive proceedings.
- Insights from India include innovations in procedural transparency and child welfare practices.

### 3.4.2 Pakistan

- The West Pakistan Family Courts Act, 1964, provides a broader jurisdiction over family matters.
- Comparative analysis highlights the need for better enforcement and procedural reforms in Bangladesh.

## 3.5 Alignment with International Standards

The ordinance aligns with several international frameworks, including:

- CEDAW: Promotes gender justice in family laws.
- UNCRC: Focuses on the welfare and best interests of children.

- SDG 5 (Gender Equality): Strengthens legal protections for women in family matters.

However, implementation gaps remain in fully realizing these commitments, particularly regarding enforcement and procedural transparency.

### 3.6 Critiques of the Legislative Framework

While the Family Courts Ordinance, 1985, is a progressive legislative instrument, it has faced criticism:

- Limited Scope: Exclusion of inheritance and property disputes, which are often linked to family matters.
- Resource Constraints: Lack of adequate infrastructure and trained personnel hampers efficiency.
- Societal Resistance: Cultural and patriarchal norms often undermine legal provisions.
- Reconciliation Pressure: Mandatory reconciliation can overlook cases of domestic abuse.

### 3.7 Recommendations for Policy and Legislative Reforms

#### 3.7.1 Expansion of Jurisdiction

- Inclusion of property and inheritance disputes to address interconnected family matters.

#### 3.7.2 Strengthening ADR Mechanisms

- Institutional support for mediation and arbitration to reduce litigation.

#### 3.7.3 Gender-Sensitive Training

- Training judges and court personnel to mitigate gender bias in proceedings and decisions.

#### 3.7.4 Enhanced Child Welfare Provisions

- Clear guidelines prioritizing the welfare principle in custody and guardianship cases.

#### 3.7.5 Resource Allocation

- Investment in infrastructure and digital tools to enhance procedural efficiency and access.The policy and legislative framework of the Family Courts Ordinance, 1985,

reflects a significant step toward addressing family disputes in a gender-sensitive and efficient manner. However, persistent challenges in implementation, resource allocation, and societal resistance require continuous reforms. Aligning the ordinance with international standards and integrating best practices from neighboring jurisdictions can enhance its effectiveness in promoting justice for families in Bangladesh.

**Policy Review**

- Analysis of national policies impacting family courts.
- Government initiatives and reforms.

### 3.3 International Law

- International conventions and treaties related to family law.
- Bangladesh's commitments and compliance with international standards.

### 3.4 Legislation in Bangladesh

- Detailed review of family court legislation.
- Recent legislative changes and amendments.

### 3.5 Definition

- Specific legal definitions used within the legislative framework.

### 3.6 Power and Function

- Powers conferred to family courts.
- Functions and jurisdiction.

### 3.7 Punishment

- Legal consequences and punishments under family court jurisdiction.
- Analysis of punitive measures and their effectiveness.

### 3.8 Rules and Procedures

- Procedural rules governing family courts.
- Comparison with other judicial procedures.

### 3.9 Enforcing Institutions

- Key institutions involved in the enforcement of family court decisions.
- Role of the judiciary, law enforcement, and social services.

### 3.10 Case Law

- Analysis of significant case law and judicial precedents.
- Impact of case law on the interpretation and application of family court legislation.

### 3.11 Conclusion

- Summary of key findings from the policy and legislative review.
- Implications for future legislative reforms.

This outline provides a structured approach to your research, covering essential aspects of legislative changes in family courts in Bangladesh. Each section can be expanded with detailed analysis and supporting evidence.

# Chapter IV: Analysis and Findings

## 4.1 Introduction

- Overview: Briefly introduce the chapter's purpose, which is to analyze and present the findings from the research.
- Scope: Explain the areas of focus, including the key findings and how they relate to the research questions.
- Methodology Recap: Summarize the methods used for data collection and analysis, setting the context for the findings.

## 4.2 Key Findings

- Summary of Legislative Changes: Provide a detailed overview of the major legislative changes in the family courts of Bangladesh.
- Historical context of the changes.
- Recent amendments and their intended impacts.
- Impact on the Functioning of Family Courts: Discuss how these legislative changes have affected the day-to-day operations of family courts.
- Efficiency and effectiveness.
- Case management and resolution times.
- Impact on Families and Society: Analyze the broader implications of the legislative changes on families and society.
- Access to justice.
- Protection of vulnerable groups (women, children).
- Challenges and Issues: Identify the main challenges and issues that have emerged due to these legislative changes.

- Implementation challenges.
- Resistance or support from various stakeholders.

4.3 Explanation of the Answers to the Secondary Questions

- How have these legislative changes impacted the effectiveness and efficiency of family courts?
- Findings: Present data and analysis on the effectiveness and efficiency improvements or declines.
- Discussion: Interpret the findings in the context of the research question.
- What challenges have emerged due to these legislative changes?
- Findings: Identify specific challenges faced by family courts, legal practitioners, and families.
- Discussion: Discuss how these challenges impact the overall functioning of family courts.
- How do these changes compare with international best practices?
- Findings: Compare the legislative changes in Bangladesh with international standards and best practices.
- Discussion: Highlight areas where Bangladesh is excelling or lagging behind.
- Other Relevant Findings: Address any other secondary questions posed in your research.
- Findings: Present additional relevant data and insights.
- Discussion: Provide context and interpretation for these findings.

4.4 Conclusion

- Summary of Key Findings: Recap the most significant findings from the analysis.
- Legislative changes and their impacts.
- Challenges and areas for improvement.
- Implications for Policy and Practice: Discuss the implications of your findings for policymakers, legal practitioners, and society.

- Recommendations for future legislative changes.
- Suggestions for improving the implementation and effectiveness of family courts.
- Future Research Directions: Identify areas where further research is needed.
- Potential topics for future studies.
- Gaps in the current research that need to be addressed.
- Final Thoughts: Conclude with a reflection on the importance of the study and its contribution to the understanding of family court legislation in Bangladesh.

This structure will guide you in presenting your analysis and findings in a clear, organized manner, ensuring that each section logically builds on the previous one and effectively addresses your research questions.The legislative framework governing family courts in Bangladesh, particularly the Family Courts Ordinance, 1985, represents a significant step forward in addressing the complexities of family disputes within a socio-cultural and legal context. Over the years, legislative changes and judicial interpretations have sought to enhance the effectiveness, accessibility, and inclusivity of family courts. However, this study reveals that despite these advancements, several challenges persist that hinder the realization of the ordinance's full potential.

Key Findings

1. Progressive Legislative Intent:
   - The Family Courts Ordinance, 1985, was instrumental in introducing a specialized legal mechanism for family matters, focusing on reconciliation, expedited trials, and gender-sensitive adjudication.
2. Judicial and Procedural Reforms:
   - Amendments and judicial rulings have contributed to refining the ordinance. However, enforcement gaps and procedural inefficiencies continue to impact the delivery of justice.
3. Alignment with Global Standards:
   - Bangladesh's commitment to international conventions, such as CEDAW and the UNCRC, has influenced the legislative framework. Yet, practical implementation lags behind, especially in rural and underserved areas.
4. Persistent Challenges:
   - Procedural delays, societal resistance, lack of resources, and patriarchal biases undermine the objectives of the ordinance.

## Recommendations

To enhance the effectiveness of family courts and address the legislative and procedural gaps, the following measures are recommended:

1. Legislative Reforms:

- Expand the jurisdiction of family courts to include related issues such as inheritance and property disputes.

- Incorporate clearer provisions for addressing cases involving domestic violence and abuse.

2. Institutional Strengthening:

- Increase resources, training, and infrastructure for family courts.

- Introduce digital case management systems to reduce delays.

3. Gender Sensitivity and Child Welfare:

- Provide specialized training for judges and court staff to handle cases with greater sensitivity to women's and children's rights.

- Strengthen child welfare provisions with clear, enforceable guidelines.

4. Enhanced ADR Mechanisms:

- Promote alternative dispute resolution methods to resolve disputes amicably and reduce the burden on courts.

5. Awareness and Legal Literacy:

- Conduct awareness campaigns to educate the public about their legal rights and the functioning of family courts.

## Conclusion

While the Family Courts Ordinance, 1985, has laid the groundwork for addressing family disputes in a more equitable and efficient manner, continuous reforms are needed to overcome existing challenges. The intersection of law, policy, and societal norms must be addressed comprehensively to ensure that family courts serve as effective instruments of justice.

By aligning the legislative framework with evolving societal needs and global best practices, Bangladesh can further strengthen its family court system, promoting justice and protecting the rights of its most vulnerable citizens—women and children.

## Chapter V: Conclusion

5.1 Introduction

- Overview: Briefly introduce the chapter, outlining its purpose to summarize and conclude the research findings.
- Recap of Study Objectives: Remind the reader of the primary and secondary questions and the objectives of the study.
- Structure of the Chapter: Provide a brief overview of how the chapter is organized.

5.2 Primary Question Explanation

- Restatement of the Primary Question: Clearly restate the primary research question.
- "What are the critical legislative changes in the family courts of Bangladesh?"
- Summary of Findings: Summarize the key findings related to the primary question.
- Overview of the significant legislative changes.
- Impact of these changes on the family courts and their functioning.

5.3 Explanation of the Primary Question through the Answer of the Secondary Questions

- Restatement of Secondary Questions: Briefly restate each secondary question.
- "How have these legislative changes impacted the effectiveness and efficiency of family courts?"
- "What challenges have emerged due to these legislative changes?"
- "How do these changes compare with international best practices?"
- Linking Secondary Questions to the Primary Question: Explain how the answers to these secondary questions help address the primary question.
- Impact on Effectiveness and Efficiency:
- Summarize findings on the effectiveness and efficiency of family courts post-legislative changes.

- Discuss how these findings relate to the broader implications of the primary question.

- Emerging Challenges:

- Summarize the challenges identified during the research.

- Explain how these challenges impact the overall functioning and objectives of family courts.

- Comparison with International Best Practices:

- Summarize the comparison with international standards.

- Highlight how these comparisons provide insights into the strengths and weaknesses of the legislative changes in Bangladesh.

- Synthesis of Findings: Integrate the findings from the secondary questions to provide a comprehensive answer to the primary question.

- Discuss the overall impact of the legislative changes.

- Highlight the areas where the legislative changes have been beneficial and where they fall short.

5.4 Conclusion

- Summary of Key Insights: Recap the most significant insights derived from the study.

- Legislative changes and their intended/unintended consequences.

- Challenges and recommendations for future improvement.

- Implications for Policy and Practice: Discuss the broader implications of the findings for policymakers, legal practitioners, and stakeholders.

- Recommendations for future legislative amendments.

- Strategies for effective implementation and addressing challenges.

- Contribution to Research and Knowledge: Reflect on how the study contributes to the existing body of knowledge.

- Importance of understanding legislative changes in the context of family courts.

- Potential areas for further research.
- Final Thoughts: Conclude with a reflection on the overall significance of the study.
- Importance of continuous legislative review and reform.
- The potential impact of effective family court legislation on society.

This structure will help you present a well-organized and comprehensive conclusion to your research, effectively summarizing and synthesizing your findings while providing valuable insights and recommendations.

# Conclusion

The idea of settling dispute alternatively in respect of family issues is of While the Family Courts Ordinance, 1985, has laid the groundwork for addressing family disputes in a more equitable and efficient manner, continuous reforms are needed to overcome existing challenges. The intersection of law, policy, and societal norms must be addressed comprehensively to ensure that family courts serve as effective instruments of justice.

By aligning the legislative framework with evolving societal needs and global best practices, Bangladesh can further strengthen its family court system, promoting justice and protecting the rights of its most vulnerable citizens.The legislative framework governing family courts in Bangladesh, particularly the Family Courts Ordinance, 1985, represents a significant step forward in addressing the complexities of family disputes within a socio-cultural and legal context. Over the years, legislative changes and judicial interpretations have sought to enhance the effectiveness, accessibility, and inclusivity of family courts. However, this study reveals that despite these advancements, several challenges persist that hinder the realization of the ordinance's full potential.

## References

Aggarwal, N. (2006). Alternative Dispute Resolution: Concept and Concerns. NYAYA DEEP, 7(1), 68-81.

Akhtaruzzaman, M. (2011). Concept and Laws on Alternative Dispute Resolution and legal Aid. Dhaka :Shabbdakoli Printers.

Ameen, N. (2005). Dispensing Justice to the poor: The Village Court, Arbitration Council vis a vis NGO. The Dhaka University studies Part F, 16(1), 123-52.

Burger, Chief Justice W (1983). Annual Report on the State of the Judiciary, A.BA J69, 442. University of Baltimore School of Law, & Sayra and Neil Meyerhoff Center for Families, Children and the Courts (CFCC) (2014). Families Matter: Recom- mendations to Improve Outcomes for Children and Families in Court. Balti- more: Babb, Barbara A., and Danziger, Gloria. Available at http://ssrn.com/ab- stract=2504076 or http://dx.doi.org/10.2139/ssrn.2504076 , last accessed on 26 July 2017.

Chandra, S. (1997). Is Conciliation the Best Choice in P.C. In Rao and William Shef- field (Eds.), Alternative Dispute Resolution (82). Delhi: Universal Law Publish ing Company Pvt. Ltd.

Chowdhury, J. A. (2013). ADR Theories and Practices: A Glimpse on Access to Justice and ADR in Bangladesh. Dhaka: London College of Legal Studies (LCLS).

Chowdhury, J. A. (2010). Legitimacy of Moderator Powers and Techniques of Inter- vention in Out of Court Family Mediation. The Dhaka University studies Part F, 21, 77-100.

Chowdhury, J. A. (2005). Women Access to Justice in Bangladesh through ADR in Family Disputes. Mansoura, Egypt: Modern Book Shop.

Chowdhury, J. A. (2011). Women Access to Fair Justice in Bangladesh: Is Mediation a Virtue or a Vice (Unpublished PhD Thesis). University of Sydney, Australia.

Faiz –ud-din, Muhammad (2014). A text book on Islamic law. Dhaka: Shams publication.

Hasan, K. M. CJ (2001). A Report on Mediation in the Family courts: Bangladesh Experience. 25th Anniversary Conference of the Family Courts of Australia. Sydney.

Hasan, K. M. CJ (2002). Introducing ADR in Bangladesh: Practical Model. National Workshop on Alternative Dispute Resolution: In Quest of a New Dimension in Civil Justice Delivery System in Bangladesh. Dhaka.

Halim, M. A. (2008). Constitution, Constitutional Law and Politics: Bangladesh Perspective. Dhaka: CCB Foundation.

Halim, M. A. (1998). ADR in Bangladesh: Issues and challenges. Dhaka: CCB Foundation.

Haque, M. E. (2015). Muslim Family Law: Sharia and Modern World. Dhaka: London College of Legal Studies.

Huda, S. (2004). Personal Laws in Bangladesh: The Need for Substantive Reforms. The Dhaka University studies Part F, 15(1),103-126.

Hossain, K. (2003). In search of Equity: Marriage related laws for Muslim Women in Bangladesh. Journal of International Women's Studies, 51, 103.

Kamal, M. J. (2007). Train More Lawyers on Mediation Technique for Greater Success in ADR. Review of the Family Courts Ordinance 1985. BLAST, CIRDAP: Dhaka. Available at http://archive.thedailystar.net/2007/04/29/d70429060168.htm.

Khair, S. (2004). Alternative Dispute Resolution: How It Works in Bangladesh. The Dhaka University studies Part F, 15(1), 59-92.

Mehtab, F. H. & R, A (2015). An introduction to ADR Mechanism: Bangladesh perspective. Dhaka: Shams Publication.

Ratanlal and Dhirajlal (1985). The Indian Penal Code. India: Lexis Nexis.

Sayed, K. R. (2006). Alternative Dispute Resolution in Malaysia. Kualalampur: Kuliyyah of laws, IIUM.

Siddiqi D. (2006). Shalish and the Quest for Gender Justice: An assessment of strategic