

WORKING PAPER 9

**PROTECTING WOMEN'S FAMILY
RIGHTS IN A MINORITY
COMMUNITY:**

HINDU FAMILY LAW REFORM IN BANGLADESH

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ABOUT

Countering Backlash aims to create much needed new knowledge around the complex phenomena of patriarchal backlash and identifying opportunities for women's rights organisations and other gender justice defenders, to address the erosion of gender objectives within development and counter gender backlash. The programme's main countries of focus are Bangladesh, Brazil, India, Kenya, Lebanon, Türkiye and Uganda.

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ABBREVIATIONS

AL	Awami League
ASK	Ain o Shalish Kendro
BBS	Bangladesh Bureau of Statistics
BHBCOP	Bangladesh Hindu Bouddha Christian Oikyo Parishad (Bangladesh Hindu Buddhist Christian Unity Council)
BLAST	Bangladesh Legal Aid Services Trust
BMP	Bangladesh Mahila Parishad (largest women's rights organisation in Bangladesh)
CEDAW	Convention on the Elimination of All Forms of Discrimination Against Women
ED	Executive Director
HFLR	Hindu Family Law Reform
ISKCON	International Society for Krishna Consciousness
MJF	Manusher Jonno Foundation
MP	Member of Parliament
NGO	Non-governmental organisation
PIL	Public Interest Litigation
PM	Prime Minister
WRO	Women's rights organisation

1 INTRODUCTION

Family laws in Bangladesh are shaped by religious laws and traditions which have traditionally shown discrimination towards women irrespective of their religious identities. However, being a Muslim-majority country, the emphasis has been on reforming Muslim family laws to abolish discrimination and to ensure equality in conformity with international human rights standards. Although the Constitution of Bangladesh ensures protection of minority rights (Government of Bangladesh 1991), the Bangladeshi state policy of non-intervention with regard to reforming Hindu personal laws has effectively ensured continued discrimination to Hindu minority women (Huda 1998). This is in a context where the Hindu community has been subjected to state sponsored violence and land grabbing, both after the creation of India and Pakistan as independent countries in 1947, and since the independence of Bangladesh in 1971, which has resulted in a gradual decline of the Hindu population in Bangladesh (Guhathakurta 2012).

In recent times civil society actors have attempted a range of reform initiatives on Hindu family laws, particularly in relation to marriage registration and inheritance. They have achieved partial success but have faced resistance from the Bangladeshi state as well as from the Hindu community and conservative Hindu religious leaders. Our research explores how backlash manifests in law reforms relating to minority communities. We examine the nature of backlash from the state, the Hindu community, and Hindu religious leaders, as well as the strategies taken by pro-reform actors to counter this backlash, and the effectiveness of these strategies. A key question is how the context of being a religious minority shapes the response of the Hindu community to women's demands for reform of family laws towards greater equality and equity. This paper focuses on how anti-reform activists frame their dissent towards law reform by instrumentalising their own victimhood in order to oppose gender equality. In this they illustrate how the conflation between the Hindu community's women, their position in culture and religion, and the community's identity have resulted in Hindus perceiving as threats any changes proposed to the personal laws. Another key question is what strategies are employed by gender justice actors to counter backlash and how effective are these strategies given the larger identity politics and political context in Bangladesh?

We situate this struggle in the broader context of the political history of Bangladesh and provide some background to Hindu family laws. We then discuss the history of the reform



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movement, backlash, and counter-backlash, before moving on to an analysis of how the different actors frame the issues and their diverse expectations regarding the role of the state and the political nature of law reform. This paper contributes to a broadening of the understanding of backlash dynamics by applying this lens to issues of religious identity and family laws within the context of a threatened community. The paper explores the intersectional backlash dynamics which come into play between Hindu women who are a marginalised gender within a religious minority community, and Hindu men who are more powerful and privileged compared to Hindu women whilst at the same time being vulnerable as Hindus within a Muslim majority country.

The research is based on 16 primary interviews with both pro- and anti-reform key actors carried out from 2021 to 2023. A policy map was prepared of Hindu family law reforms to date to understand the nature and dynamics of legal changes. Continuous media tracking was conducted during the research period. Debates took place in print media, as well as on TV channels and in social media where we could access what was publicly shared. In addition, various documents collected from different actors related to the reform and anti-reform initiatives were analysed to understand the backlash dynamics. A draft was shared with the research participants and a validation workshop conducted in 2024. Finally, a reflection and strategic planning meeting was conducted with reform actors and allies in 2025. This research is part of a larger comparative study titled '**Countering Backlash: Reclaiming Gender Justice**', led by the Institute of Development Studies, University of Sussex and supported by the Swedish International Development Agency (Sida).

The following section discusses backlash as a conceptual framework to understand how it plays out in relation to minority

law reform. Section 3 briefly describes the current state of Hindu family laws in Bangladesh. Section 4 provides a description of Hindu Family Law Reform (HFLR) to date, and the key actors and their demands. Section 5 analyses how backlash plays out

against minority law reform in the context of Bangladesh. The paper ends with a discussion and concluding remarks.

2 CONCEPTUAL FRAMING: BACKLASH, INTERSECTIONALITY, IDENTITY POLITICS, AND RESISTANCE

For this paper, we have used concepts of backlash, intersectionality, and identity politics to analyse the minority law reform efforts in Bangladesh. Backlash can be defined as the intense counter-assault on women's rights (Faludi 1991). Flood, Dragiewicz, and Pease (2018) have defined backlash as resistance against progressive change. This progressive change might be material in nature such as giving women more rights to land ownership or property, which is then perceived as a threat by backlash actors.

The backlash actors resist such change by denying the problem. This resistance and denial can manifest through a refusal to accept responsibility for dealing with the change process. In addition, Mansbridge and Shames (2008) argue that backlash can be an act of persuasion as well as an act of coercive power, which is evident in this case study. Backlash actors adopt a range of strategies including discursive and indirect strategies, and direct or overt attacks to hinder progressive change (Nazneen 2024). Backlash constitutes a reactionary response which may also be disproportionate. Backlash actors do not seem content with reverting to the status quo — they often want to over-correct, to revert to a romanticised past, one where men and women had fixed traits and heterosexual roles.

In terms of direct attacks, physical violence and sexual assault are common forms of backlash against gender equality (Piscopo and Walsh 2020). However, backlash does not always involve direct opposition or hostility towards gender justice activities. It can take the form of trivialising gender issues through a demonstration of lack of interest, inaction, and non-participation (Flood *et al.* 2018). This strategy is generally used by state institutions, which use a range of excuses for not taking responsibility. Inaction is recognised as an implicit form of institutional resistance (Lombardo and Mergaert 2013). Backlash actors also use discursive strategies where they co-opt and manipulate gender equality discourse (Lewin 2021).



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Murib (2020) underscores the importance of analysing backlash against minority communities from an intersectional perspective. For minority groups, backlash is a reactionary moment of violence as well as a reminder — in the form of exclusion from various rights and benefits of political standing — that their civic membership is always potentially revocable. An intersectional approach that seeks to unravel the ideological and rhetorical sources of backlash, violence, and marginalisation stands to provide a more robust account of whom backlash effects. This is of particular interest to us as we explore interactions between different groups in a minority community where Hindu women have less power and influence religiously, socially, and economically compared to their fellow men.

Backlash assumes specific forms when it targets the women within a minority community. In the broader South Asian context, women have been represented as bearers of both community and national cultural integrity because they are seen as central in the post-colonial nation building (Jayawardena 1986; Kandiyoti 1989). It is felt that by defending the honour of women, the cultural integrity and the honour of the community or nation is preserved. This discourse of 'defending' and 'protecting' women is associated with the notion that women are the natural keepers of the home, and the home is central to reproduction and continuation of culture. When women choose

to go against cultural norms to safeguard their interests, their allegiance to the community is questioned by the community leaders (Anthias and Yuval-Davis 1983). Later sections of the paper will show these dynamics in action in this case study.

Hasan (1994a) argues centrality of religious identity plays an important role in minority politics. In the case of India, analysis has shown how the state articulated the traditional community discourse, which kept women bound to the traditions of religious communities. In addition, the state reinforced community positions by either undertaking or not undertaking legislative changes in regard to family law reform (Hasan 1994a; Mukhopadhyay 1984). In India, where Muslims are a religious minority, the state only consulted theologians regarding Muslim family law reform and excluded the wider array of Muslim views (Hasan 1994b). In Bangladesh it has been assumed that minority populations, such as Hindus, are loyal to the Awami League (AL) as the party has traditionally portrayed itself as secular and the 'saviour' of minorities, and the majority government has been reluctant to antagonise Hindu community leaders as the community is perceived as a 'vote bank'. Therefore, in the case

of HFLR, the Bangladeshi state has given greater importance to the opinions of the conservative elements in the Hindu community.

Reform actors employ a range of strategies to counter these kinds of backlash, including discursive, practical, and legal ones (Lewin 2021). Discursive strategies may include documenting, framing, and creative resistance. Practical strategies include protest, service provision, and coalition-building/cross-movement activism. Legal strategies might include working to support the implementation of progressive gender laws or blocking their erosion. In the case we examine, this has included undertaking public interest litigation.



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3 A HINDU MINORITY AND FAMILY LAW IN A MUSLIM MAJORITY STATE

Bangladesh, which became an independent country in 1971 after a struggle for independence from Pakistan, was formed on the basis of the Bengali identity. Secularism was one of the four pillars of the first constitution drafted in post-independent Bangladesh (Government of Bangladesh 1972). During the period of political turmoil which took place after the assassination in 1975 of Father of the Nation, Sheikh Mujibur Rahman, secularism as a principle of statehood was replaced by 'the principles of absolute trust and faith in the Almighty Allah' and socialism was replaced with the phrase 'economic and social justice' (Government of Bangladesh 1991). The 1990s witnessed a further deterioration of communal harmony in the region due to the attack on the Babri Masjid (16th century mosque in Ayodhya, India) by Hindu fundamentalists. This created a wave of attacks against Hindus and their property in Bangladesh. In 2001, when the Bangladesh Nationalist Party was elected, post-poll violence targeted Hindus as they were considered a vote bank of the defeated AL (Guhathakurta 2012). However, even under the AL government sporadic communal violence had occurred with attacks on Hindu homes, temples, and during religious festivals in reaction to communal violence against Muslims in India.

The Hindu population in Bangladesh has been subjected to dispossession of their land since Pakistan rule (1947–71) and, despite various promises by successive governments, their land has not been returned. During the 1965 war between India and Pakistan an order called 'the Enemy Property (Custody and Registration) Order 1965' under Rule 182(1) of the Defence of Pakistan was issued through which India was declared an 'enemy' country and provision was made for taking over of all its interests. Later, the President of Pakistan promulgated the Enemy Property (Continuance of Emergency Provisions) Ordinance, 1969 (Ord. 1 of 1969) on 16 February 1969, to ensure the continuation of certain provisions of the Defence of Pakistan Rules. This Ordinance was in effect until the emergence of Bangladesh in December 1971. These legal provisions allowed the state to seize land owned by Hindus as 'enemy property'.

After independence, the Bangladesh (Vesting of Property and Assets) Order was promulgated in 1971, for vesting all

properties and assets formerly held by Pakistan, including enemy properties, in the Government of Bangladesh. To remedy past injustices, the AL promulgated the Vested Property Return Act 2001 for returning confiscated vested properties to their original Hindu owners, adding two lists of schedules (Schedule A and B) of returnable properties in this Act. A district-wide list of returnable properties was published in the official gazette in mid-2012 (Panday 2016).

Due to irregularities while making Schedule B, it was revised by a further amendment in 2013 in the face of protests by several activist groups. However, strict bureaucratic procedures made it difficult to return the properties to their original owners. Instead, the law was, and still is being, used by local and political elites to grab Hindu land (Preeth and Sharmin 2011). Most of the properties are still under the control of the government (Guhathakurta 2012). Available data suggests that almost 43 per cent of all Hindu households in Bangladesh have been affected by the law (Barkat *et al.* 2008). This has had serious consequences for the well-being and morale of the community, leading them to migrate. Barkat *et al.* (1996) note that 'On the devastating effects of the Vested Property Act on the material and psychological conditions of the Hindus, it was calculated that from 1964 each day on average 538 Hindus have vanished'.

Under these circumstances, the Hindu population of Bangladesh has been more concerned about its survival than with law reform. There is also a fear that their identity and independence could be threatened if religious family law was changed. During



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British colonial rule 'non-interference' with personal laws was the stated policy, 'employing pandits and maulvis to advise the courts' (Alam 2004: 29-30). However, as evidenced by historical research the British administrators codified Hindu, Muslim, and Buddhist customary practices, case law, and religious scholar interpretations and these were regarded as scriptural truths.

Personal laws are imaged as repositories of traditions [of masculinity and femininity]. Notions of womanhood and the family embedded in these traditions which are characterised as scripturally sanctioned, are appropriated as symbols of community identity. The consequence is that challenges to personal law are now interpreted as threatening a community's right to self-determination.
(Mukhopadhyay 1984: 116)

While Mukhopadhyay makes this point with regards to Muslims in India, the same holds for Hindus in Bangladesh.

As a result, up until 2012, the provisions of the Hindu Family Law in Bangladesh prohibited inter-caste marriage, permitted polygamy, prohibited dissolution of marriage, and did not require registration of marriage. The right of succession to property for Hindu women was limited, with Hindu widows temporarily inheriting homestead property (but not agricultural land) which they could use but not sell. However, following a High Court verdict on 2 September 2020 Hindu widows are now entitled to shares in their husband's properties. This right comes 83 years after the Hindu Family Law was enacted (Financial Express 2020).



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Whereas Muslim marriages are civil contracts with religious overtones, a Hindu marriage is seen as a religious sacrament (*samskara*) or religious duty that is considered a sacred, indissoluble union. On marriage a woman is 'transferred' from her father's clan/lineage to her husband's lineage (*gotrantarito*). The primary and sacramental object of marriage is to give birth to a male child who is seen as essential for continuing the family (Huda 1998: 116). The marital union is perceived to be everlasting — continuing even after the deaths of the parties, through cycles of rebirth. Although the lack of marriage registration has been seen as a hardship for women who have had to prove their marriage in the case of desertion/abandonment to establish the rights of their children to the father's property, and in general to claim any rights under marriage; it was only from 2009 that the issue was raised in a concerted way. In 2012, a Hindu Marriage Registration law was passed, with the provision that registration was discretionary, and that marriage would still be considered valid without it, with the rules being formulated in early 2013.

Formerly, under Hindu religious law, a wife could not remarry after the death of her husband. This rule was, however, changed as a consequence of a social movement resulting in the enactment of the Hindu Widow's Remarriage Act of 1856. However, due to the sacred sacramental nature of Hindu marriages, there is no divorce or dissolution of marriage among Bangladeshi Hindus. Since there is no divorce under Hindu law, there is no question of post-divorce maintenance. The only relief is provided by the Hindu Married Women's Right to Separate Residence and Maintenance Act of 1946, which allows for a separate residence and maintenance of the wife. Unlike a woman, a Hindu man, although unable legally to seek divorce, has the option of entering into polygamous marriage. In addition, considering the importance given to having a male child, Hindu law allows for the adoption of a son. A daughter cannot be legally adopted under the orthodox law followed in Bangladesh.

The HFLR movement aims to change the laws to remove discrimination, to ensure women's rights to property are upheld within the inheritance law and to make marriage registration mandatory for Hindu couples.

4 HFLR: DEMANDS RAISED AND KEY ACTORS

The demand for reform of Hindu family laws to allow greater equality between women and men has been raised from various quarters. Attempts to abolish widow burning (*sati*) and to allow widows to remarry began in the Bengali Renaissance period (18th to early 20th century) and were initiated by historical reformists such as Ram Mohan Roy and Ishwar Chandra Vidyasagar. While there have been various initiatives to bring about further reform in India after independence in 1947, the same reforms did not take place in either Pakistan nor later Bangladesh. In Bangladesh, apart from one legal practitioner, Justice Debesh Chandra Bhattacharya, who raised the issue of persisting discrimination in the laws in the late 1990s, equality issues were not brought up for a long time. Furthermore, when Justice Bhattacharya did present his proposal he was vilified and even molested (interview, Moderate Opposition A, 4 April 2023).

While the movement to change Hindu family laws happened in two phases in Bangladesh, the present paper focuses on the second phase which began in 2016. However, key events of the earlier phase which resulted in the enactment of the Marriage Registration Act (Voluntary) are briefly described before going into more detail on the more recent movement for general family law reform. The awareness that Hindu women were not benefitting from the same legal rights as Muslim women in terms of marriage, divorce, and inheritance became clear through the legal education programmes of organisations such as Ain-o-Shalish Kendra and BRAC. This was also apparent through the regular Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) reporting undertaken by the Bangladeshi Government, and by civil society through their alternative reports for CEDAW. As a signatory to CEDAW, the Bangladeshi Government is bound to review, revise, and remove all legal provisions that are contradictory to the convention and is regularly asked about progress in removing any discriminatory laws (interviews, Citizens' Initiative on Hindu Law Reform Coalition D, 26 February 2023 and Citizens' Initiative on Hindu Law Reform Coalition E and F, 28 February 2023).

In addition to these formal reminders of discrimination, several civil society organisations had come face-to-face with the lived realities of Hindu women who were having difficulties in proving the legitimacy of their marriages, their marital claims, who were unable to leave a bad or harmful relationship, and who had limited rights to property. As the traditional family support systems became weaker these women also started demanding alternatives to the traditional practices. This was further documented by research carried out by organisations such as Banchte Shekha which had worked with alternative dispute resolution and on issues of women's legal rights and violence against women.

In 2009, a coalition called the Hindu Bibaho Ain Pronoyone Nagorik Uddog (Citizens' Initiative for Formulation of the Hindu Marriage Law) was formed to advocate for Hindu marriage reform. The same alliance is now working to reform Hindu Family Law under the banner of the Citizens' Initiative on Hindu Law Reform Coalition. In addition, Bangladesh Hindu Bouddha Christian Mahila Oikya Parishad (Women's Unity Council), the women's wing of the Bangladesh Hindu Bouddha Christian Oikya Parishad (Unity Council), has also demanded reform of Hindu Family Law. Another pro-reform organisation is the Bangladesh Hindu Ain Shongskar Parishad (Bangladesh Hindu Law Reform Council), which grew out of online discussions in reaction to various debates for and against Hindu law reform. See Table 4.1 for a summary of pro-reform actors' interests and influence.



The awareness that Hindu women were not benefitting from the same legal rights as Muslim women in terms of marriage, divorce, and inheritance became clear through the legal education programmes of organisations such as Ain-o-Shalish Kendra and BRAC.

Table 4.1 Pro-Reform Actors, Interests, and Influence

Actors	Type of Organisation	Membership	Interests/Framing	Power and Influence
Citizens' Initiative on Hindu Law Reform Coalition	NGO/coalition	NGOs and WROs (women's rights organisations) working on rights in the family	To remove discrimination faced by Hindu women within the family based on principles of equality and citizens' rights	Membership includes organisations and individuals with credibility, experience, expertise. Close ties with the media, access to NGO resources
Mahila Hindu Bouddha Christian Oikya Parishad (Women's Unity Council)	Women's wing of the Bangladesh Hindu B Bouddha Christian Oikya Parishad	Hindu women all over Bangladesh	To promote women's rights in Hinduism through building social consensus for reform	Close to Bangladesh Hindu Bouddha Christian Oikya Parishad, the most influential Hindu community organisation
Bangladesh Hindu Law Reform Council	Social organisation mainly active on social media	Journalists, teachers, etc	To reform/modernise Hindu practices while challenging Hinduism from within: Hindu law reform by Hindus	Strong social media presence
Government of Bangladesh	State policy makers	PM and Minister of Law, Justice and Parliamentary Affairs played a positive role	Encouragement for the reform of the Hindu family law	Ability to reform the law

Source: Authors' own

The Citizen's Initiative for Formulation of the Hindu Marriage Law had previously prepared proposals for reforming family law but had only managed to achieve voluntary registration of marriages in 2012 due to a concerted backlash. In 2016, in response to a proposal by the Prime Minister (PM) to provide equal rights in inheritance to Hindu women, the Bangladesh Hindu Law Reform Council regrouped and began consultations and meetings to draft a new law. This effort faced significant backlash as well. Reformers were subjected to personal attacks (questioning the Hindu identity of the reformers and their personal benefits associated with the reformation), stigmatisation, and vilification, mostly in online spaces and print media. Several legal cases

have been filed by the opposition against the reformers over the last several years for allegedly hurting the religious sentiments of the minority Hindu community. There have been instances of threats and actual physical violence, including the physical disruption of meetings and the manhandling of speakers.

Opposition has come from several fronts. The Hindu Bouddha Christian Oikya Parishad continued their earlier resistance to family law reform, and new groups were also formed. In 2019, a platform of 20 Hindu community groups under the banner of the Hindu Paribarik Ain Poribartan Protirodh Committee, protested rights activists' demands to reform the existing family law and ensure equal property rights for women. The

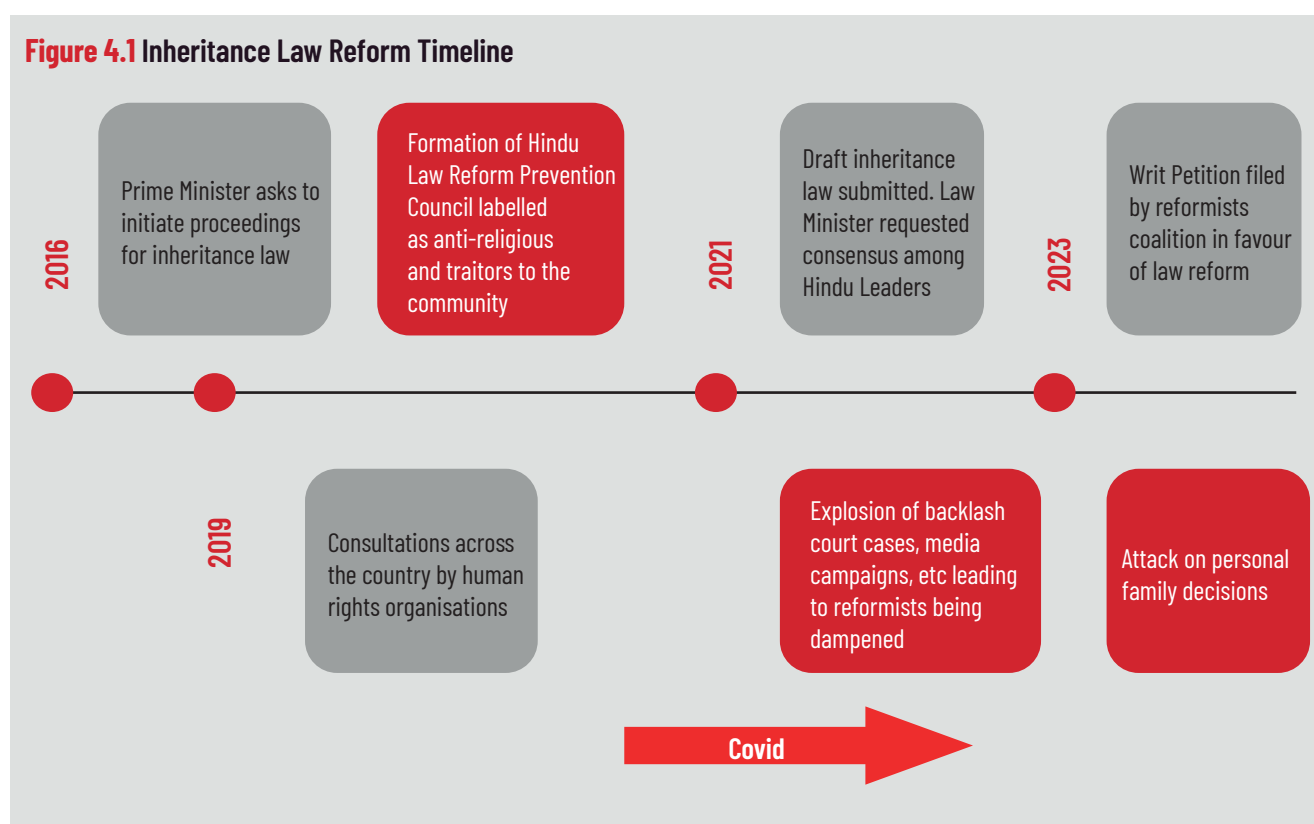
Table 4.2 Anti-Reform Actors, Interests, and Influence

Actors	Type of Organisation	Membership	Interests/Framing	Power and Influence
Bangladesh Hindu Bouddhist Christian Unity Council (Bangladesh Hindu Bouddha Christian Oikya Parishad)	National organisation seeking to defend interests of minority religious communities	Broad based membership from Hindu, Buddhist and Christian communities	Protection of minority rights, identity, property, and women	Strength in numbers and influence
Bangladesh National Hindu Grand Council (Mohajote)	'Non-political', social, religious alliance of 23 Hindu religious organisations	Both male and female. Presence in 57 districts of Bangladesh	To protect Hindu culture, religious freedom, Hinduism, and tradition	Vocal and visible, with national and grassroots presence
Hindu Paribarik Ain Poribartan Protirodh Committee (Anti-HFLR Committee)	Loose issue-based coalition	Platform of 40 Hindu social organisations including puja committees and the Ram Krishna Mission	To counter attempts to reform Hindu family law	Vocal and visible
Bangladesh National Hindu Social Reformation Society			Traditional Hindu practice is based on the decisions of sages and protection of religious and cultural identity	Vocal and visible advocates
Bangladesh Puja Celebration Council (Puja Udjapon Parishad)	Non-political, social-welfare, cultural, and religious Hindu organisation		Celebration of religious festivals, establish religious values and maintain tradition and identity	Moral strength as social and religious community leaders
Government of Bangladesh	State policy makers	PM and Minister of Law Justice and Parliamentary Affairs	Blocking reform process by demanding consensus on reform. Seeking to please Hindu community leaders to ensure community vote	Ability to block reform

Source: Authors' own

Bangladesh National Hindu Grand Alliance (Mohajote) is another active opposition actor. The state has been reluctant to take a pro-active role, citing the need to avoid hurting religious sentiment. Anisul Huq, the then Law Minister, and Sheikh Hasina, the then PM of Bangladesh, were receptive to the initiative but chose to wait for a consensus within the Hindu community. When the data collection for this research took place reform efforts had been going on for a while and some of the individuals in the anti-reform organisations were becoming more moderate in their opposition and were more open to reforms, which is captured in the next section of the paper. Table 4.2 (above) provides a summary of the anti-reform actors, their interests and influence.

When matters seemed to reach a stalemate, the women's coalition decided to file a public interest litigation (PIL) in 2023, demanding to know why the state would not grant Hindu women equal rights in marriage based on the principles of equality enshrined in the constitution and on international human rights conventions like CEDAW. On 14 May 2023, the High Court asked the government to respond to the PIL. The response has not yet been submitted. The timeline of the movement is illustrated in the diagram below.



Source: Authors' own

Actors on both sides have engaged in civic and policy spaces with actions in one space influencing what is happening in the other space. The contestations over HFLR are taking place not only at the policy level through the submission of the draft Hindu Inheritance Act 2020 to the Ministry of Law by the reform coalition and through the filing of the PIL, but also on social media, in mainstream media, and at the community level. Both parties emphasise community-level engagement, forming grassroots-level committees for their organisations.

The debates about whether the laws should be changed towards greater gender equality also take place in families of both pro-reform and anti-reform activists. The issues of marriage, separation, divorce, and division of family property are after all family matters. It is at the family level that changes can start even without law reform, as has been seen in the case of inheritance with parents gifting or willing their property to their children in ways not usually part of Hindu tradition, e.g. giving equal shares of property to sons and daughters. Pro-reform activists receive backlash from family members as well as the

outside community while some receive support from spouses and/or their family of birth and/or the family they marry into.

It is of note that key government actors – the PM and the Law Minister – are present in the tables as both pro-reform and anti-reform actors as they encouraged the initiation of reform efforts but refused to proceed unless a consensus was reached by the community, thereby refusing to take a clear stand on the issue.



It is at the family level that changes can start even without law reform, as has been seen in the case of inheritance with parents gifting or willing their property to their children in ways not usually part of Hindu tradition...

5 BACKLASH DYNAMICS IN A MINORITY COMMUNITY SETTING

We will now analyse the findings of the research by relating them to the concepts presented in Section 2, in terms of types of backlash and how these relate to the context of a minority community which feels that it is under threat and needs to preserve its traditions and culture, and protect its women as bearers of tradition. There is also an economic dimension to the backlash faced as women's equal inheritance rights would materially impact men's property and income, and are perceived as threatening the safeguarding of Hindu ancestral land. These will now be discussed in relation to the interview data.

5.1 DEMANDING CONSENSUS AS A DELAYING TACTIC TO JUSTIFY INACTION

The Government of Bangladesh has said that it is in favour of the reform of Hindu Family Law, but this position has not been consistent. The former PM spoke out publicly in favour of protecting Hindu women's rights. Her presence and support were seen by the reformists as an opportunity to push through their demands and proposals. This was explicitly mentioned by several of the interviewees:

At a Janmastami programme, PM herself said to Hindu Leaders, "If you all want, I can easily ensure the inheritance law is passed. But from your side there needs to be an initiative." At the government legal aid programme she also said that women should have equal rights in all laws. So overall we had this kind of basis for our ask as well.

(Interview, Citizen's Initiative on Hindu Law Reform Coalition G, 23 February 2023)

In addition, the Law Commission,¹ had also prepared a proposal for the reform of the Hindu Family Law even though this did not receive much attention. Male leaders of the Hindu community have also spoken of the positive role of the PM and her genuine interest in greater rights for Hindu women:

As the Prime Minister is on our side, we should proceed step by step. The Prime Minister also has to realise that we can't

come all together to her. (...) There is no need for consensus. If the Prime Minister and we (the progressive group) realise that existing laws are harmful, then we must go for changing them. But we have to be strategic regarding this change.

(Interview, Moderate Opposition B, 27 March 2023)

Regarding us, Sheikh Hasina says that your matters are completely yours. Yes, I want to give. But you have to seek your own issues. There is another thing here. I want to say, it is not possible to be unanimous, but we have to collect the majority opinion.

(Interview, Moderate Opposition A, 4 April 2023)

However, the anti-reform actors have always said that the PM wanted a consensual proposal from the community, although some doubted whether a consensus was feasible or even necessary. As mentioned by the pro-reform Hindu Law Reform Council:

The Law Minister is telling us things like "what will I say, you all come together and then let us know." This has never happened before in Bangladesh where collective agreement was required to make a law.

(Interview, Pro-Reform Ally 1, 2 March 2023)

Swapan Bhattacharya, Minister of State, (...) himself is saying that those who are demanding that the community come to an agreement on the law are wrong. Because there has never been a law where everyone involved needs to come to a consensus.

(Interview, Pro-Reform Ally 1, 2 March 2023)

AL, the majority party from 2009 to 2024, has traditionally considered itself to be a defender of minority rights and of secularism (in the sense of protecting people's rights to practice their own religion), and has taken for granted that the Hindu minority would always vote for them. It did not



The former PM spoke out publicly in favour of protecting Hindu women's rights.

¹ An independent body set up through an act passed in the national parliament that reviews laws and recommends reforms when necessary.

want to antagonise those it perceived as leaders of the Hindu community - even though the reformists challenged these leaders' legitimacy. Therefore, the policy makers were urging the pro-reform and the opposition to agree amongst themselves and bring a mutually acceptable solution to the government. This was used as an excuse (Lombardo and Mergaert 2013) not to make the reforms.

The demanding of a consensus has been a tactic by the government to delay taking action and has been used by those opposing the reform to stall the process by using the justification of a lack of consensus. This is an illustration of inaction as a form of backlash discussed in Flood *et al.* 2018. The pro-reform actors have argued that the state should take action to uphold basic principles such as equal rights and ending discrimination and that a complete consensus is not needed for this. They refer to the Muslim Family Law Ordinance which was passed by a military dictator in 1961 and provided very necessary reforms to protect women's rights in the family.

5.2 COMMUNITY MISTRUST OF GOVERNMENT INTERVENTIONS

The Hindu community leaders' backlash to the HFLR must be analysed through an intersectional lens that takes into account the community's subjugated position (Murib 2020). Due to the history of Bangladeshi governments using legal methods to subjugate minority communities, there is a mistrust of any law reform that specifically targets one group (Hindu Buddhist Unity Council interviews). The history of communal violence, land dispossession, and discrimination against minorities makes the Hindu community fearful of the consequences of law reform. While Bangladesh came into existence as a secular state, later political compromises resulted in this provision being removed from the constitution. Although the AL government had promised to enact a Minority Protection Act to address security and increase access to justice for Hindus, there has been no progress on this. There is also a demand by the Hindu Buddhist Unity Council to establish a Ministry for Minority Affairs. If minority rights could be guaranteed by the state then, HFLR opposition actors argue, the question of family law reform could be discussed.

HFLR moderate opposition have stated at the outset that they are not against the idea of law reform, but have elaborated various reasons why a law reform of this kind would be unwise. Unless the rights of the minority community are protected such a reform would be unacceptable to the community. A respondent spoke of his sense of betrayal that the Bengali identity and secularism that he had fought for during the Liberation War was not respected:

I want to state with great regret that even after 52 years of independence, religious and ethnic minorities still don't have a communal identity, they are still fighting for their equal rights in this country. They are fighting to re-establish Bangabandhu's Bangladesh.

(Interview, Moderate Opposition B, 27 March 2023)

It has been emphasised by the moderate opposition that unless the conditions for greater trust in government initiatives can be ensured, the minority community will remain suspicious of attempts to interfere in their culture and traditions as they have been repeatedly disappointed and government promises made to them have not been fulfilled.

5.3 PROTECTION OF WOMEN VS WOMEN'S RIGHTS IN THE FAMILY

As women are seen as the bearers of cultural identity (Jayawardena 1986; Kandiyoti 1989), providing Hindu women with protection from violence outside the community is considered by HFLR opposition actors to be more of a priority than protecting their rights within the community. Hindu women are portrayed by the opposition as being vulnerable to rape, abduction, and forcible conversion. The opposition cited numerous examples of such cases happening where neither law enforcement authorities nor the judiciary provide any redress as they are biased towards the majority community. An observation commonly made by HFLR opposition respondents was:

We have to think about our daughters' safety issues. It is sometimes difficult to educate them up to university. They are kidnapped before going to university or college. This type of event is happening frequently.

(Interview, Strong Opposition C and D, 7 March 2023)

The framing of Hindu women as vulnerable to 'Love Jihad' reinforces narratives of victimisation of the Hindu community and underscores fears of demographic change and loss of cultural heritage. 'Love Jihad' is portrayed as a scenario where Muslim men could target Hindu women and marry them to gain their ancestral land. The "myth" of the predatory Muslim male is used to oppose attempts at law reform.



The history of communal violence, land dispossession, and discrimination against minorities makes the Hindu community fearful of the consequences of law reform.

Another moderate opposition actor stated that in his opinion, the most pressing issue to Hindu women is their safety, often from Muslim men. Thus, unless their security can be ensured, providing unmarried women with inheritance might actually increase violence against them as Muslim men try to appropriate their inheritance. Another example this interviewee provided was that a practicing Muslim man (son-in-law) and a practising Hindu woman (daughter) would have a hard time co-existing. The scene he described was of the man carrying out *Qurbani* (sacrificial killing of an animal, usually a cow in Bangladesh, which is sacred to Hindus and thus protected from harm) near a Tulsi tree (sacred tree in Hinduism). This would be considered blasphemy, and the Hindu family would have to eventually leave their home.

Proponents of the reform, while not negating the violence and lack of justice faced by Hindu women in a Muslim majority country, emphasise the injustices and abuses Hindu women have faced due to marriages not being registered, divorce not being legally acknowledged, and inheritance rights not being equal to men. One of the strategies to delegitimise these claims is through frontal attacks by HFLR opponents, to vilify and stigmatise proponents of women's equal rights in the family.

The women calling for reform are described as women without strong family foundations, as some of them have married several times and do not wear the socially expected markers of a married Hindu woman: sindoor (vermillion along the hair parting), shankha (bracelet made of conch shell), and the addition of their husband's last name to their own (signifying his caste). They are labelled as 'aggressive or radical feminists or extreme humanists' (Interview, Moderate Opposition B, 27 March 2023). Additionally, being women of NGO-based occupational backgrounds, they are accused of being puppets of Christian donor-funded missions. The Hindu men supporting reform are said to have only daughters and thus are worried about their own property. They are also accused of being paid by the government to create divisions and thus further weaken the Hindu community.

5.4 THE STATE AND MEN'S ECONOMIC INTERESTS BLOCKING WOMEN'S PROPERTY RIGHTS

A discursive strategy used by HFLR opponents concerns the issue of dispossession or stealing of ancestral land by Muslims which can also be labelled as mythmaking (Faludi *et al.* 2020). Opponents, both moderate and extreme, articulate a fear that by allowing women to inherit property it opens up the possibility for Muslim men to marry them and take over the land. This would result in a loss of Hindu ancestral land. This is a long-existing

fear, rooted in the historical dispossession that occurred during and after the Liberation War.

While this is the explicit reason given, underlying this there is also the material interest of male family members losing assets and property to their female relatives if women were to have equal rights to inheritance. Repercussions of claiming or advocating for inheritance rights also occur at the family and personal levels, with individual members who claim rights from their brothers, husbands, and parents, facing either cooperation or resistance. A respondent's account illustrates these challenges:

Both my parents were very progressive. My father built the house in such a way that the three of us siblings get equal shares. My father died suddenly. He didn't do any paperwork before dying. So I did not get any share legally... Both my brothers, despite being progressive themselves, said, "What's the need to write it down? Ultimately, it is your and our children who will get it." They are not stopping me from going and staying there, but they are not giving me anything in writing. I might live and eat there, but I don't have the ownership. (Interview, Citizens' Initiative on Hindu Law Reform Coalition E, 28 February 2023)

While this dimension to the backlash was recognised by the women advocating for law reform, it was not openly acknowledged by others that a reason for resistance was the feared loss of economic wealth by male members of the family.

5.5 WOMEN AS BEARERS OF RELIGIOUS AND CULTURAL IDENTITY

The HFLR opposition, mainly made up of religious organisations headed by influential men, refers to Hindu tradition and culture as the main reason not to reform the family laws, which reinforces the centrality of religious identity in minority politics (Hasan 1994a). The image of the Hindu woman who is vulnerable and lacking rights within marriage was said by these respondents to be a myth created by those who do not understand Hindu scriptures and practices. They argue that



My father built the house in such a way that the three of us siblings get equal shares. My father died suddenly, He didn't do any paperwork before dying. So I did not get any share legally...

Hindu personal law is based on the *Vedas* (scriptures) and traditions, and that those calling for law reform are ignoring the existing provisions for Hindu women in the *Manusanghita* (one of the many legal texts and constitutions among the many *Dharmaśāstras* [religious laws] of Hinduism that codifies different social rules and norms).

One of the strongest opponents of the reform supported his reasoning by quoting from the *Manusanghita*. The rites of the religion require that the new bride leaves her father's lineage and enters her husband's lineage, thus being *gotrontarito* (change of women's lineage) and therefore having full rights to the finances and assets of the latter. The scripture absolves women from financial responsibility for others; rather, she is entitled to receive care from her husband's family as well as the entire village that has witnessed the union. The financial responsibilities, and thus also the decision-making power, reside with the head of the family which is usually the oldest member. Within religious rules, the head may be either male or female (interview, Strong Opposition C, 6 April 2023).

Another point of opposition is the proposed provision of divorce which is seen as detrimental to the family, and to both women and men. Respondents spoke of how provision for divorce has harmed Muslim women, the law allows them to be left alone and helpless. They feel that one of the negative results of Hindu personal law reform in India is that it has led to an increase in divorces. The same respondent explained that men would naturally want to have new wives, but it is the legal obstacle that keeps Hindu men focused on their family (interview, Strong Opposition A, 3 March 2023).

The pro-reform Bangladesh Hindu Law Reform Council has argued that Hindu scriptures are not divinely revealed:

There is no one Hindu law. We don't have a universal Hindu law that is unchangeable, unlike the Quran which is considered to be the word of Allah and is thus ever-constant. Nambuddi Law in Kerala, Konkon Law in Gujarat, Mitakkhor in all of India, Daebhaga in Bengal, Moyuk in Mumbai, so this diversity of law exists depending on the area.

(Interview, Pro-reform Ally 1, 2 March 2023)

The Council argues that the present codification is based on traditions, texts, and interpretations carried out by the British colonial government. However, they feel that reform must be done by the Hindu community for the Hindu community. Muslims, Muslim organisations (an organisation is perceived as Muslim if headed by a Muslim person), or NGOs taking the lead for the reform would create distrust and delay reform.

The other pro-reform actors, Mahila Oikya Parishad and the NGO coalition, did not openly confront religion in the interviews, but did not feel it was a barrier. The General Secretary of the Mahila

Oikya Parishad prides herself for having studied Sanskrit in university and referred to religion to claim equality between men and women:

They talk about religion. Our religion, it is clearly mentioned in the Vedas that women and men are equal. We have analysed this and women lawyers and scholars they have found this.

(Interview, General Secretary of the Mahila Oikya Parishad, 5 March 2023)

To reinforce their position as protecting Hindu culture and tradition, frontal attacks were made by HFLR opposition actors to delegitimise the reform movement. The Bangladesh National Hindu Grand Alliance has repeatedly said that the reform movement primarily consists of Manusher Jonno Foundation (MJF) and other NGO interests rather than "real" Hindu women. In many cases, women are used as the face of the opposition to show that "real" Hindu women do not have a problem with the current laws and scriptures. In return, the reform actors have challenged the legitimacy of the opposition actors. While the Hindu community male leaders consider themselves as spokespeople for the community and the PM has also given them this role, some of the pro-reform actors have questioned this:

They say, bring your Hindu leaders. Who has made them leaders? I don't recognise them (as leaders). I think if 500 Hindu women are listed in Dhaka city my name will be one of them. If these 500 women don't know (recognise) these leaders, then how can they claim to be leaders? Those leaders work for men. They will never do anything positive for women's equal rights to property, in my opinion.

(Interview, Citizens' Initiative on Hindu Law Reform Coalition C, 18 February 2023)



[The Bangladesh Hindu Law Reform Council]...feel that reform must be done by the Hindu community for the Hindu community.

6 DISCUSSION

In the Hindu community, both those for and those against reform of the family law have used their position as a minority and the discrimination they face as a justification for their position. Those in favour feel that the lack of reform is part of the larger tendency to neglect the needs of the minority community which is why the government has deliberately not acted on this. However, both moderate and stronger opposition actors believe that reforming the Hindu Family Law in isolation would be harmful for the minority community as it would lead to an increase in the vulnerability of Hindu women. The lack of a Minority Protection Law, and the inadequacy of the current legal system to protect minority communities are major causes for their hesitation.

Those against the reform also believe that the proposal to reform the law is an attack on the community itself, and an attack on some of the core beliefs of Hinduism which emphasises the centrality of religious identity in minority politics (Hasan 1994a). With Hindu marriage framed as a sacrament and a soul-bond that repeats across multiple lifetimes as the soul is reincarnated, a marriage law that includes divorce is seen as reductive. Marriage is also framed as the transition of a woman from her father's home to her actual home, which is with her in-laws. The inheritance law is thought to directly contradict this by making her the legal recipient of some part of her father's money. Those against the law reform also believe that it will harm their community harmony and weaken their position as a minority.

Both India and Bangladesh have been struggling with the principle of secularism and its implications for family law. Both countries have interpreted secularism to mean the respect of different religious traditions and have chosen not to interfere in different community traditions and practices. However, if secularism were to be interpreted as a separation of religion from the state, both public and private life would be subject to uniform family laws, irrespective of religion.

India has failed in its attempts to introduce a uniform family code. Bangladesh, too, has not made much progress. Some of the organisations currently pursuing reform of the Hindu family law have previously advocated for a uniform family code. However, engagement with religious groups has been minimal. In general, women from the Hindu community have not been incorporated into the movement in a way that would promote ownership, and previous attempts have been influenced by Muslim family law. Although the government has not advanced

on this for fear of Islamic resistance, the more moderate Hindu opposition feels that a uniform family code would be more acceptable as it would not discriminate against any one community. While a uniform code was proposed by the Women's Affairs Reform Commission in 2025 after the July 2024 uprising that removed the AL government and restored democracy, the proposal has faced strong opposition from religious forces.

Much of the Hindu community feels discriminated against and under attack, so any change proposed to the family law is perceived as a direct attack to their community, identity, and existence. The honour of their women and of the community as a whole is seen as intertwined with the traditions enshrined in those laws and they are seen as protecting the women and the community from external threats to honour, life, and property. Interestingly, the women activists proposing the reform and their allies do not feel that they have to defend the community identity by sacrificing their interests. In fact, they feel that their standing as citizens will be enhanced if they have the rights promised to them in the constitution. They are able to articulate their gender interests against their community interests.

Women have been active on both sides of the debate. While the reform actors have reached out to different categories of women and have mobilised many in their favour, the anti-reform actors and organisations also have many women actively participating in resisting the changes and in defending the present provisions for women under Hindu Family Law. This has strengthened the anti-reform movement who have been able to claim that they speak for Hindu women.

An interesting issue in the movement-counter movement has been the role of the state. While the previous PM, at various times, made statements encouraging reform such as equal rights in inheritance, the government then backtracked to say that the proposals must be based on a consensus from within



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the Hindu community. Anisul Huq, former Law Minister and Sheikh Hasina, former Prime Minister of Bangladesh both were receptive of the reform initiative but ultimately chose to wait for a consensus among the Hindu community. They had both expressed willingness to cooperate once a joint proposal was made. Various actors have questioned the necessity of this, both among the reformists and the moderate opposition.

Reformists believe that consensus is a tactic to avoid reforming the law and deliberate inaction is a form of backlash: populist

decision-making by the state. Moderate opposition actors also acknowledge that previous family law reforms were done on the basis of state executive decisions, such as in the case of the Muslim Family Law reform. However, the opposition has insisted that no law should be passed without the consent of community leaders.

As the AL regime has always considered the Hindu minority community as a 'vote bank', it has not wanted to agitate conservative Hindus as their votes have been necessary to win electoral seats. However, the last two elections (2018 and 2024) under the AL were criticised due to widespread corruption and vote rigging by Sheikh Hasina's government to win the elections (Riaz 2019). As the AL no longer needed the minority vote for those elections, the excuse of wanting a collective agreement clearly demonstrated a lack of interest in reforming Hindu inheritance laws and indicated that the state had in fact been one of the backlash actors.

7 CONCLUSION

In conclusion, it is clear how the situation of being a religious minority has shaped the response of the Hindu community to women's demands for reform of the family laws towards greater equality and equity. Anti-reformists argue that women are protected under the current Hindu family law and that the fundamentals of Hindu culture and identity would be jeopardised by questioning the sacredness of marriage ties, the transfer of the bride to the groom's family, and the eternal bond of the marriage.

Another strong set of arguments concerns the threats to Hindu women and to Hindu ancestral property from the Muslim majority, and particularly Muslim men. While some of the reform opponents might be willing to consider laws as having to evolve with the needs of the society, the situation of threat and discrimination they feel the community is under does not allow for this openness. This highlights the responsibility of the government in that it has not been able to protect the rights of minorities and to ensure a secular state where all identities are safeguarded.

Victimhood is instrumentalised by Hindu leaders to resist reform efforts and to further the discrimination that women in the minority community face, being doubly marginalised as Hindus and minorities. The country is therefore faced with the irony of a community using a colonial law that was crafted for the needs of the empire, to defend its religious identity and culture at the expense of half of its members, the women. Male resistance to changing gender power relations by giving women the right to divorce, inheritance, and adoption is also apparent, although it is covertly hidden under cover of the threat to community identity and protection for Hindu women.

The gender justice actors in favour of reform have employed various strategies to counter the backlash faced. They have been able to mobilise strategically and effectively through a human rights framing of demands, the building of alliances, and strategic partnership, and have been able to win over some of the opponents to become more supportive at the individual level. However, these key figures who have been won over have not been able to take a public stand in favour of reform, which is a cause of disappointment to the reform actors.



...it is encouraging to see the emergence of women's leadership and a strong voice speaking out for their interests as women, as Hindus, and as citizens of the country.

The PM and the government have previously given encouragement to reform efforts whilst at the same time keeping the opposition happy by assuring that no measures would be taken without consensus. While the opposition is satisfied that the government will not move forward on reform proposals, reformists know full well that the government could progress reform on the basis of the national constitution and/or human rights treaties that Bangladesh is signatory to. However, this could come at a political cost of upsetting Hindu voters which the government is not willing to take. There is already disappointment and distrust in the government in that it has not kept its previous promises to the Hindu community on returning land, enacting a Minority Protection Act, or ensuring general safety and security.

What is encouraging for the reform actors is that the demands for reform are not just being voiced by WROs, NGOs, and rights activists, they have been taken up by community organisations such as the Mahila Hindu Bouddha Christian Oikya Parishad and the Bangladesh Hindu Law Reform Council. It is clearly a demand from the community being made for the community. In addition, the broader civil society support from secular rights groups demonstrates that the issue is not only a matter for Hindu women to deal with, but is a women's rights and justice issue for all citizens of Bangladesh. Finally, it is encouraging to see the emergence of women's leadership and a strong voice speaking out for their interests as women, as Hindus, and as citizens of the country.

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GLOSSARY

Bangladesh Hindu Bouddha Christian Oikyo Parishad	Bangladesh Hindu Buddhist Christian Unity Council
Dayabhaga School of Law	A Hindu school of law common in Bangladesh
Dharma and the Srutis	Basis for Hindu religion and laws, i.e. that which is heard
Dharmashastras	Hindu religious Law
Gotrantarita	Changing of women's lineage at marriage to husband's lineage
Hindu Ain Pronoyone Nagorik Uddog	Citizens' Initiative on Hindu Law Reform Coalition
Hindu Bibaho Ain Pronoyone Nagorik Uddyog	Citizens' Initiative to Formulate Hindu Marriage Law
Hindu Mohajot	Hindu Grand Alliance
Hindu Paribarik Ain Poribartan Protirodh Committee	Anti-Hindu Family Law Reform Committee
Janmastami	Lord Krishna's birthday (Hindu deity)
Jibonsatta	Life estate
Maulvi	A person who is learned in Islam practices and laws
Mitakshara	A Hindu school of law
Pandits	Learned men in the Hindu tradition
Puja	Hindu religious ceremony
Shankha	Bracelet made of conch shell
Sindoor	Vermillion colour worn along the hair parting
Sruti	Vedas, Hindu religious texts
Stridhana	Women's property

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