

The Legal Status of Court Marriage in Bangladesh: Public Misconceptions, Legal Reality, and the Need for Reform

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Abstract- The phrase court marriage is widely used in Bangladesh, yet it has no clear, independent basis as a distinct form of marriage under Bangladeshi law. In common usage, the term usually refers to one of several different practices: the execution of an affidavit before a notary public or first-class magistrate, a declaration by consenting adults regarding their intention to marry, or in some cases a legally valid marriage solemnized and then followed by documentary steps for protection or proof. This gap between public understanding and legal reality has produced confusion, litigation, exploitation, and administrative uncertainty. This paper examines the legal status of so-called court marriage in Bangladesh, identifies the social and legal misconceptions surrounding it, and argues that the absence of a coherent legal framework has harmful consequences, especially for women, interfaith couples, and adults marrying against family wishes. The paper contends that, under current law, marriage in Bangladesh remains primarily governed by personal religious laws and statutory registration systems rather than by any general secular mechanism known as court marriage. It further argues that reform is needed to clarify the law, prevent fraud, and create a rights-based civil marriage option for consenting adults.

I. INTRODUCTION

In Bangladesh, court marriage has become a familiar expression in everyday speech, newspaper reporting, legal practice, and popular culture. Many people believe that two adults can simply go to court, sign papers, and become legally married. Others believe that an affidavit notarized in court premises is sufficient to create a valid marriage. This belief is especially common among couples seeking urgent marriage without family consent, among interfaith couples facing legal barriers, and among persons attempting to secure documentary proof of their relationship.

The problem is that this social practice does not neatly correspond to the formal law. Bangladesh does not generally recognize a freestanding institution called court marriage that automatically creates marital status merely by appearing before a court or swearing an affidavit. A valid marriage ordinarily depends on compliance with the relevant personal law governing the parties - Muslim, Hindu, Christian, or, in limited contexts, the Special Marriage framework.¹ Courts may later adjudicate disputes about a marriage, protect adult couples, or accept evidence of a relationship, but that is different from solemnizing a marriage as a court-created status.

This disconnect has serious consequences. Couples may wrongly assume they are legally married when they are not. Unscrupulous intermediaries may sell affidavits or notarial documents as if they confer full legal status. Women may later find themselves unable to prove dower, maintenance, legitimacy, inheritance, or marital rights. Families may exploit legal ambiguity to harass adult couples. State institutions may respond inconsistently because the phrase court marriage has no stable doctrinal meaning.

This paper explores these problems through doctrinal analysis and policy critique. It focuses on three core issues: the persistence of public misconceptions, the actual legal status of marriage documentation commonly labeled as court marriage, and the case for reform.

II. RESEARCH OBJECTIVES

This paper has five main objectives:

1. To explain what people in Bangladesh commonly mean by court marriage.

¹ The Special Marriage Act 1872, s 2; ss 11–14.

2. To examine whether court marriage exists as a valid legal category under Bangladeshi law.
3. To distinguish between affidavits, registration, solemnization, and judicial protection.
4. To assess the harms caused by legal ambiguity and public misunderstanding.
5. To propose reforms that would align marriage law with constitutional values, access to justice, and social reality.

III. METHODOLOGY

This is a doctrinal and analytical legal paper. It relies on the structure of Bangladeshi family law, statutory interpretation, principles of personal law, and broader policy reasoning. The analysis is qualitative rather than empirical. It synthesizes legal rules, public practice, and institutional behavior to assess the gap between law in books and law in action.

The paper uses a socio-legal lens as well. That is necessary because the court marriage phenomenon is not merely a technical legal issue; it is also a product of fear, family pressure, bureaucratic difficulty, religious segmentation, and lack of public legal education.

IV. CONCEPTUALIZING “COURT MARRIAGE” IN BANGLADESH

Popular Meaning

In everyday Bangladeshi usage, court marriage usually means one of the following:

- A couple signs an affidavit declaring themselves husband and wife.
- A notary public attests a declaration of marriage or intention to marry.
- •A lawyer arranges papers within or near court premises and tells the couple they are legally married.
- •A religious marriage is performed informally and then documented through an affidavit for evidentiary or protective purposes.

- A couple seeks legal protection from harassment after marrying by personal law and assumes that court involvement itself created the marriage.

The phrase therefore functions more as a social shorthand than as a precise legal concept.

V. LEGAL MEANING

In strict legal terms, the situation is very different. A marriage is not ordinarily created in Bangladesh by affidavit, notarial authentication, or mere appearance at court. Rather, legal validity depends on the relevant law governing solemnization and registration. Put simply, documentation is not the same as solemnization, and court premises are not the same as legal authority to marry.

The Existing Legal Framework of Marriage in Bangladesh

Marriage law in Bangladesh is plural and fragmented. There is no single, universal marriage code applicable to all citizens in the same way.

Muslim Marriages

For Muslims, marriage is generally treated as a civil contract under Islamic law, subject to statutory registration rules. Essential elements typically include proposal and acceptance, competent parties, free consent, witnesses, and absence of legal prohibitions. Registration is important for proof and administration, but the underlying marriage depends on the substantive requirements of Muslim law.²

A kabin nama or marriage registration certificate is documentary evidence of a Muslim marriage. A nikah registrar may register the marriage, but a mere affidavit without a valid nikah does not itself substitute for the legal requirements of marriage.

Hindu Marriages

For Hindus, marriage traditionally operates as a religious sacrament governed by personal law. Historically, registration has been weaker or less central than solemnization by customary rites, though

² The Muslim Marriages and Divorces (Registration) Act 1974, ss 3–5.

statutory developments have improved documentary recognition.³ Still, no generic court marriage process replaces the need to satisfy the relevant legal and customary requirements.

Christian Marriages

Christian marriages are governed by statutory procedures that regulate solemnization, authorized officiants, notice, and registration. Here too, marriage is valid through compliance with the applicable legal structure, not by affidavit alone.⁴

Special Marriage Mechanisms

A secular or inter-community route has existed in limited legislative form, but historically it has been constrained, underused, and socially inaccessible.⁵ In practice, many couples who cannot or do not wish to marry under their personal law still resort to so-called court marriage paperwork because they perceive no practical alternative.

Public Misconceptions About Court Marriage

Several misconceptions drive the persistent use of the term.

Misconception 1: Signing an Affidavit Creates a Marriage

This is the most widespread misunderstanding. An affidavit may record a statement. It may serve evidentiary purposes.⁶ It may show intention, age, consent, or cohabitation claims. But an affidavit does not, by itself, solemnize a marriage unless the substantive law independently recognizes a valid marriage already completed in the proper form.

A sworn declaration is evidence of what was said, not a magic legal act that transforms status.

Misconception 2: Notarization Equals Judicial Approval

Many people assume that a notarized document is equivalent to a court order. It is not. A notary authenticates signatures or attestations in a limited

formal sense.⁷ A notary does not adjudicate marital validity, waive statutory requirements, or create a new legal status where the law does not provide one.

Likewise, documents prepared by lawyers in court areas may create an appearance of official authority even when they do not amount to a legally valid marriage instrument.

Misconception 3: Adults Need Only Consent Before a Court

Consent is central to marriage, but consent alone is not always enough. The legal system generally requires that consent be expressed through the form prescribed by the applicable marriage law. Two competent adults may have the constitutional right to choose each other, but the route by which that choice becomes a legally recognized marriage still depends on law.⁸

Misconception 4: Court Marriage Is a Safe Shortcut for Interfaith or Family-Resisted Couples

For many couples, court marriage is seen as an emergency path around religion, family, or procedure. In reality, it may leave them more vulnerable. If the documentation they obtain is not legally sufficient, the relationship may later be challenged, and the weaker party - usually the woman - may bear most of the harm.

Misconception 5: If a Document Exists, All Marital Rights Follow Automatically

This is false. Maintenance, dower, legitimacy, inheritance, guardianship, succession, divorce rights, and registration consequences depend on valid marital status under law. A defective or non-marital affidavit may fail to secure any of these rights.

Legal Reality: Does Court Marriage Exist in Bangladesh?

The most accurate answer is not as a general, standalone category of marriage.

There is no broad legal doctrine under which any two adults can acquire valid marital status merely by attending court and signing an affidavit. If a marriage

³ The Hindu Marriage Registration Act 2012, s 3.

⁴ The Christian Marriage Act 1872, ss 4–8, 25–27.

⁵ The Special Marriage Act 1872, s 2; ss 11–14.

⁶ The Notaries Ordinance 1961, s 8(1)(a), (e).

⁷ The Notaries Ordinance 1961, s 8(1)(a), (e).

⁸ Constitution of the People's Republic of Bangladesh 1972, arts 27, 28 and 31.

is valid, it is generally because it complied with the substantive and procedural requirements of the applicable personal or statutory law. If court-related paperwork exists, it may at most provide evidence, support protection claims, or record a declaration.

This distinction is crucial:

Process What it does What it does not do

Affidavit Records a statement under Does not itself solemnize oath marriage

Notarization Authenticates execution of a Does not confer marital document status

Registration Officially records a marriage Usually does not cure a void recognized by law marriage

Court order May protect rights or decide Does not necessarily create a disputes marriage

Religious solemnization May create valid marriage Does not replace statutory under personal law if legal proof where registration is requirements are met required

The phrase court marriage therefore survives largely because of social usage, legal brokerage, and institutional confusion rather than because of a well-defined statutory foundation.

Why the Misconception Persists

Social Pressure and Urgency

Couples often turn to court marriage under emotional pressure. They may fear violence, forced marriage, or family retaliation. They want speed, secrecy, and a document that appears official. In such circumstances, a court-adjacent affidavit looks like a practical solution.

Legal Pluralism and Complexity

Bangladesh's marriage law is divided by religion and separate legal routes. Many citizens do not know which law applies to them or how to proceed legally. Complexity breeds informal shortcuts.

Weak Public Legal Education

Few people receive reliable civic education about the difference between solemnization, registration, notarization, and judicial declaration. Rumor, local practice, and intermediary advice fill the gap.

Opportunistic Intermediation

Some document writers, brokers, or even legal practitioners may present affidavits as complete marriage solutions. Whether through misunderstanding or exploitation, this practice reinforces public confusion.

Lack of Accessible Civil Marriage

Where the legal system does not provide a simple, dignified, religion-neutral marriage process for all consenting adults, people invent substitutes. Court marriage is one such substitute in practice.

VI. LEGAL AND SOCIAL RISKS CREATED BY THE CURRENT SITUATION

Risk to Women's Rights

Women face the gravest consequences when a supposed court marriage later proves invalid or disputed. They may be denied:

- Dower claims
- Maintenance
- Inheritance rights
- Recognition of marital status
- Protection against abandonment
- Clear evidentiary support in custody or legitimacy disputes

A man may more easily deny the relationship; the woman may then shoulder the burden of proving a legally valid marriage.

Risk of Fraud and Coercion

The ambiguity surrounding court marriage creates fertile ground for fraud. Couples may pay for worthless papers. Vulnerable persons may be persuaded that legal formalities have been completed when they have not. Some may even be tricked into signing documents they do not understand.

Risk of Criminalization and Harassment

Adult couples who believe they are lawfully married may still face police interference, abduction accusations, wrongful confinement by families, or community pressure. If their documents lack legal validity, protective remedies become harder to obtain.

Risk to Children and Family Stability

Disputed marital status can create downstream uncertainty for children concerning legitimacy, maintenance, guardianship, and inheritance. Even when courts eventually protect children, the uncertainty itself is harmful.

Administrative Inconsistency

Officials, police, and local administrators may treat court marriage documents inconsistently. Some accept them informally; others reject them outright. The result is arbitrariness rather than rule of law.⁹

Constitutional and Human Rights Dimensions

The issue also raises broader constitutional concerns.

Autonomy and Choice

Adult persons should be free to choose their spouse without unlawful coercion. A legal system that fails to provide a clear route for exercising that choice undermines personal liberty in practice, even if not always in theory.

Equality

Fragmented marriage law may produce unequal burdens depending on religion, gender, and family acceptance.¹⁰ Those who fit conventional expectations can marry more easily; those who do not face legal traps.

Access to Justice

A system that depends on technical knowledge not realistically available to ordinary citizens denies meaningful access to justice.¹¹ Law must be intelligible, not merely formally existent.

Protection from Exploitation

The state has an obligation to protect citizens from predictable legal fraud, especially where official-looking processes are widely misunderstood.

The Case for Reform

Reform is needed not because every personal law tradition must be erased, but because the present confusion is unjust, inefficient, and dangerous.

1. Clarify the Non-Status of Affidavit-Based “Court Marriage”

1. The law should expressly state that an affidavit, notarial act, or court-premises declaration does not by itself create marriage unless all legal conditions under the applicable law have otherwise been met. This clarification should appear in statutes, court rules, registration offices, and public notices.

2. Strengthen Penalties for Misrepresentation

Persons who falsely market affidavit services as legally sufficient marriage solemnization should face regulatory and legal consequences. This is particularly important where deception causes financial exploitation or harms women’s legal rights.

3. Expand Public Legal Awareness

Government agencies, bar associations, marriage registrars, and civil society organizations should provide simple public guidance in Bangla and English explaining:

- what legally constitutes a marriage,
- what registration means,
- what an affidavit can and cannot do,
- and where adults can obtain lawful marriage services and protection.

4. Create a Simple Civil Marriage System for All Adults

The deepest structural reform would be a universal, optional civil marriage regime open to consenting

⁹ The Births, Deaths and Marriages Registration Act 1886, ss 6–9.

¹⁰ Constitution of the People’s Republic of Bangladesh 1972, arts 27, 28 and 31.

¹¹ Constitution of the People’s Republic of Bangladesh 1972, arts 27, 28 and 31.

adults regardless of religion. Such a framework should:

- recognize adult autonomy,
- provide clear notice and registration rules,
- include safeguards against coercion and child marriage,
- allow interfaith marriage without forced religious conversion,
- and offer equal documentary recognition.

This would reduce dependence on informal court marriage practices and align marriage law with constitutional principles and modern social realities.

5. Integrate Protection Mechanisms for At-Risk Couples

Couples marrying against family threats often need immediate protection, safe reporting channels, and quick administrative recognition. Reform should combine marriage formalization with protective legal assistance, especially for women at risk of violence.

6.

7. Digitize and Standardize Registration

A transparent, searchable, fraud-resistant registration system would reduce forged documents, lost records, and uncertainty about marital status.¹² Standardization also helps police and administrative bodies distinguish valid marriages from informal declarations.

VII. COUNTERARGUMENTS AND RESPONSES

Counterargument 1: Personal Law Traditions Should Not Be Disturbed

This concern deserves respect. Marriage law is deeply tied to religion, family, and social identity. However, recognizing an optional civil marriage route does not abolish personal law. It merely provides an additional lawful choice for adults who need it.

Counterargument 2: Affidavits Are Useful in Emergency Situations

That is partly true. Affidavits can help record consent, age, intention, residence, or fear of harassment. They may be useful as supporting evidence. But usefulness as evidence is not the same as validity as marriage. Reform should preserve evidentiary tools while ending false claims about their legal effect.

Counterargument 3: Existing Laws Are Enough if Properly Understood

In theory, clearer understanding would help. In practice, decades of confusion suggest that the framework itself is not adequately accessible. If ordinary citizens repeatedly misunderstand a legal process in the same way, the problem is not only ignorance; it is also poor legal design.

VIII. RECOMMENDATIONS

The following reforms would substantially improve the situation in Bangladesh:

Recommendation Purpose Expected impact

Express statutory End false belief that Reduces fraud and litigation clarification on affidavits affidavit alone creates marriage

Regulation of brokers and Prevent deceptive marriage Protects vulnerable couples document writers paperwork

Public awareness campaigns Improve legal literacy Increases lawful compliance

Universal optional civil Provide a clear secular route Helps interfaith and marriage law independent couples Better registration systems Improve proof and Reduces disputes verification

Fast protection procedures Guard against harassment Strengthens real access to for adult couples and violence rights

¹² The Births, Deaths and Marriages Registration Act 1886, ss 6–9.

IX. CONCLUSION

The idea of court marriage in Bangladesh is powerful socially but weak legally. It persists because people need a fast, official-looking, socially usable mechanism to validate intimate choice in the face of legal complexity and family pressure. Yet what many people call court marriage is often no marriage at all in the eyes of the law. At best, it may be documentary support for a marriage validly contracted elsewhere under the proper legal framework. At worst, it is a misleading paper shield that collapses when rights are contested.

The current situation harms legal certainty, enables exploitation, and disproportionately endangers women and vulnerable couples. The answer is not merely to repeat that court marriage is invalid; it is to reform the system that made people rely on it in the first place. Bangladesh needs clearer law, better public legal education, stronger regulation against misrepresentation, and an accessible civil marriage option that respects adult autonomy while preserving safeguards against coercion and child marriage.

A legal system should not force citizens to choose between social safety and legal validity. Reform is necessary so that marriage in Bangladesh is not governed by rumor, paperwork theater, and avoidable uncertainty, but by clarity, dignity, and equal access to lawful recognition.

Footnotes

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