

LAW OPINION

# Reframing the debate on polygamy laws

**Polygamy without the first wife's consent at its root has implications for her economic well-being and livelihood as well. A society where an overwhelming majority of married women are structurally made dependent on their husbands for everything, and divorced women still bear the stigma of being home wreckers, does not leave much scope for wives to go against their husbands' desires.**

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The recently published verdict of the High Court Division (HCD) on the legality of the polygamy provision in the Muslim Family Laws Ordinance, 1961 (MFLO) has revived the age-old debate concerning wife's consent to a subsequent marriage by the husband. The HCD has reaffirmed the existing law, citing section 6 of the MFLO as it is. However, the matter needs to be reframed, scrutinised more humanely, and in its context, women's marital rights requires re-evaluation.

Muslim personal matters like marriage are governed by the MFLO, amongst other laws, in Bangladesh. Under section 6 of the Ordinance, a married Muslim man is required to obtain the prior permission of the arbitration council (a 3-member ad-hoc body) should he want to remarry. A written application is filed with the necessary fees for the Council to sit and reach a decision. Sub-section 5 of the said provision specifies that if a man remarries without the permission of the Council under this provision, he will have to pay the due dower amount at once and also face a penalty. Thus, the provision merely makes the process of polygamy slightly more difficult.

Unfortunately, the law does not concern itself with the consent of the first wife in deciding whether the husband should be allowed to remarry. Section 6(2) read with Rule 14 of the Muslim Family Laws Rules, 1961 states that in the application to the arbitration council,



whether the permission of the existing wife/ wives has been obtained needs to be mentioned. However, nowhere in the MFLO or in its Rules does it make the wife's consent a precondition for the permission. Rather, the arbitration council just takes note of it as an ancillary matter in the procedure.

Moreover, the arbitration council is temporary in nature. Hence, it often lacks the judicial prudence and permanence to take such a material decision. Although the council has representation from both the husband's and the wife's side, it is mostly the elderly men or father-figures who participate in the arbitration. When represented by men, this can and does lead to oversight of the wife's interests and emotions. On the other hand, the local government

leadership is, statistically seen, to be male dominated. As such, it is not uncommon that the wife's consent against the second marriage, even if expressed, potentially gets disregarded.

It needs to be kept in mind that the causes of the apparent disparity between the spouses' positions on polygamy are both structural and societal. First, a technical-textual reading of section 6 of MFLO makes it clear that failure to comply with the provision of taking permission from the Arbitration Council only imposes a small penalty on the husband but does not invalidate any second marriage contracted in violation of the provision. Hence, as noted before, the system is merely a procedural hurdle to male polygamy, not a substantive bar on

the practice. In rural Bangladesh, it translates to the subjugation of a wife's opinion, eventually leading to the economically and emotionally dependent wives accepting their fates.

Second, polygamy without the first wife's consent at its root has implications for her economic well-being and livelihood as well. A society where an overwhelming majority of married women are structurally made dependent on their husbands for everything, and divorced women still bear the stigma of being home wreckers, does not leave much scope for wives to go against their husbands' desires. Third, the act of circumventing a woman's conjugal autonomy with a mere procedural step is an absolute disregard to her rights. In effect, the

provision deprives a wife of her conjugal freedom, for the sake of the husband's unilateral decisions.

Pertinently, the Hanafi school of jurisprudence, which is predominant in Bangladesh, is silent on the question whether a wife's consent is necessary in permitting the husband's subsequent marriage. Many Islamic scholars have discouraged polygamy on the grounds of conjugal injustice. In my opinion, in today's world, a wife's voluntary and informed consent should also be a deciding factor for allowing polygamy, a position that is assumed by many Muslim countries.

For example, the Indonesian law mandates the consent of the first wife in the husband's polygamy, whereas Turkey and Morocco have adopted a different approach by allowing the wife to file for divorce on the grounds of the husband's polygamy. Saudi Arabia, much like Bangladesh, does not mandate a wife's prior consent for husband's remarriage. Rather, it allows the wife to insert a 'no-polygamy clause' in the marriage contract. All these procedures effectively ensure marital equity.

In conclusion, it is time we elevated the status of wives' consent in polygamy matters from a mere footnote to a make-or-break element and thus break away from interpretations that disparately impact women.

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LAW REVIEW

## Reviewing the latest amendments on smoking and tobacco products

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The interim government has recently enacted the *Smoking and Tobacco Products Usage (Control) (Amendment) Ordinance, 2025* (the 'Ordinance') marking a significant step in strengthening Bangladesh's tobacco control regime. The fresh ordinance redefines 'tobacco' and broadens the meaning of 'tobacco products' to include e-cigarettes, Electronic Nicotine Delivery System (ENDS), Heated Tobacco Product (HTP) and similar devices that have rapidly gained popularity, particularly among the younger users.

The most consequential change lies in redefining what constitutes a 'public place.' Previously, in the *Smoking and Tobacco Products Usage (Control) Act, 2005* (the Act), the definition remained vague and insufficient, leaving loopholes for interpretation and enforcement. However, the new ordinance explicitly includes 'indoor workplace' removing the ambiguity surrounding offices and enclosed work environments. Notably, no clear meaning attached to the term 'private offices' earlier, although it was included in the previous definition. The 2025 ordinance clarifies the term, thereby enabling its broader and more substantive interpretation aligned with public health objectives.

The ordinance imposes ban on tobacco advertising and promotion in all media platforms, including print, electronic, internet, social media, Point of Sales (POS) display, Corporate Social Responsibility (CSR) activities and event sponsorships. Further, the amended section 6 (kha) of the Act now prohibits the sale of tobacco products within 100 meters of educational institutions, hospitals, clinics, playgrounds, and children's amusement parks. This provision, which did not exist in the previous Act, addresses the potential risk of exposure of tobacco products in immediate surroundings and mandates preventive measures.

Furthermore, section 6 (gha) imposes a ban on the production, marketing, and use of bidis made from Kumbi and Tendu leaves and consequently repeals the *Bidi Manufacture (Prohibition) Ordinance, 1975* through section 18. In addition, the amended section 10(l) mandates strict colour pictorial health warnings covering 75% of tobacco packaging, along with compulsory warning messages, bringing Bangladesh closer to global best practices in tobacco control.

Penalties under the ordinance have been significantly enhanced too. The amended section 4(2) increases the fine for violations

from Tk 300 to Tk 2,000, with double penalties for repeated offences, while section 6(ga) of the amended Act introduces a fine of Tk 5,000 for vaping related violations. The ordinance also prohibits the use of trademarks of tobacco manufacturing companies in the name of Corporate Social Responsibility products, further limiting the brand visibility and appeal.

The ordinance will affect everyday life and living of many, with roadside *tong* (floating tea stalls) selling tobacco products are likely to face increased scrutiny. For companies, the law introduces stronger sanctions, including licence cancellation and seizure of goods. However, fine and penalties cannot be the ultimate solution. Rather, a holistic approach to tobacco regulation that integrates enforcement, public awareness, economic transition strategies, and institutional accountability is essential. Equally important is the cultivation of civic responsibility to ensure compliance and social acceptance of the law.

Again, there also lies a strong economic contribution arising out of the tobacco industry. In Fiscal Year (FY) 2022-23, Bangladesh's cigarette industry contributed BDT 346.4 billion (about 11.6% of total tax revenue), generated around Tk 40,000 crore in FY 2023-24 with 16% growth, and supports approximately 1.6 million jobs across the economy—additionally creating employment opportunities. Any regulatory framework must therefore be carefully curved considering public health priorities with economic and employment considerations.

A noticeable shift from conventional cigarettes to vapes or e-cigarettes is increasingly evident among younger generations, driven by the misconception that these products are less harmful. In reality, tobacco contains radioactive elements, most notably Polonium 210 (Po-210) and Lead-210 (Pb-210), which pose serious and potentially fatal health risks not only to smokers but also to non-smokers exposed to second-hand smoke.

Despite these robust legal provisions, the core challenge remains is implementation. Bangladesh does not suffer from a shortage of tobacco control laws; rather, weak enforcement and coupled with lack of accountability often render such legislation to symbolic gestures. Without consistent monitoring and institutional responsibility, even the strongest laws risk becoming mere showpieces.

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FOR YOUR INFORMATION

## Reforming land registration in Bangladesh

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The promulgation of the Registration (Amendment) Ordinance 2026 marks a significant step towards modernising the land and property registration system of Bangladesh. The Ordinance modifies the core of the century-old Registration Act, 1908 by incorporating electronic registration (e-registration), and updating various provisions of the procedure to make deed registrations more efficient, accountable and transparent. In this write-up, I will discuss the most important changes brought.

First, the ordinance allows deeds to be presented, received and registered electronically through the insertion of a new Part XIA and section 77A to the Registration Act. This change can help to cut down bureaucratic time wastage, limit discretionary abuse, and minimise physical interaction, which has been viewed as root of corruption in land offices. Online registration also offers the prospects of enhancing record keeping, simplifying document retrieval and their long-term incorporation with land records, mutation systems, and taxation databases. If implemented effectively, e-registration has the potential to prevent disputes that may result from lost or manipulated documents.

The ordinance further amends the current deadlines so that the registration process becomes more practical. The amended section 17A has raised the time frame of registering some of the documents to 60 days from 30 days. Similarly, under section 26, the maximum permissible delay has been increased

from four months to six months. These modifications are especially beneficial for land transactions in rural settings and in transactions that involve multiple parties. Although stricter deadlines provide certainty, excessive rigidity in deadlines usually leads to procedural injustice. In my view, the updated time limits provide a balance between the administrative discipline and practical flexibility.

Another significant amendment came with regard to the registration of *hiba* (gift under Muslim personal law) and the declaration of gift under Hindu, Christian, as well as Buddhist personal laws. Through amendments to section 52A, the ordinance formally brings declarations of gift and donation alongside sale deeds within the registration framework. Moreover, the incorporation of the word *donor* in addition to the word *seller* is both accommodating and legally consistent. This reform strengthens documentary evidence of title, and may help prevent disputes over informal or unregistered transfers, which often clog the civil courts in Bangladesh.

Next, with the amendment of section 68, a new sub-section has been incorporated that indicates that where a registering officer registers a document without fees, taxes and service charges or duties, this will be considered as a misconduct. Moreover, the amount of money unpaid will be retrieved directly through the concerned officer. In my view, this modification will potentially strike at the root of collusion and negligence that have been longstanding within the land administration. By imposing a personal

financial liability, the law establishes a clear message that compliance with the procedures is not optional.

The ordinance also sets specific deadlines to be used in disposing appeals and applications with the aim of minimising administrative delays. Under the amended section 72, an appeal shall be disposed of in 45 days from the date of filing it. Similarly, under section 73, the applications to registrars where sub-registrars refuse to register on the ground of denial or execution has to be decided within 30 days. Such timelines will prove essential in improving public confidence in the registration system. Delayed decisions often lead to uncertainty, increased litigation, and exploitation of weak parties.

All in all, the legal framework presented by the ordinance is progressive, but only its effective implementation will make it useful. This will require, among others, proper infrastructure, training of registration officers and public awareness. The problem of digital reforms is that they may unintentionally marginalise certain sections of the citizens in case technological access and literacy are not tackled properly. In addition, data protection and cybersecurity should be provided alongside digital land records due to the sensitivity of property information. With proper implementation, nurturing, and supervision, the new changes have the potential to benefit the citizens, investors, and the justice system at large.

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