

## Rights of Inheritance of Women in Bangladesh: Religious, Constitutional and International Perspective

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**Abstract:** Women enjoys various rights in among them property rights are one of them. There is no uniform law in Bangladesh for women property rights. There are several laws for several parts of the society but basis of Law is Religion. Land rights are based on religion and customs as a result the principles of equal rights of property are violated and discriminated. The main objects of this writing are various sources of proprietary rights for women and their proper uses and enjoyments and economic empowerment as well as the ability to manage risk and improve their economic status. To improve women's economic and social status 21 organizations in Africa and Asia that worked to strengthen women's rights in the area of property and inheritance so that women may aware of their proprietary rights and they can enjoy the rights. The various factor is working for women property rights like inadequate laws and systems of enforcement and also lack of awareness of laws as well as understanding of options for legal redress and the resolution of disputes. The traditional attitudes and practices also directly contradict statutory laws and established civil rights. Women's rights in access and control over land, housing and property are a determining factor in women's overall living conditions, particularly in developing countries. It is essential to women's everyday survival, economic security, and physical safety and, some would argue, it is the most critical factor in women's empowerment and their struggle for equality in gender relations. This paper presents the women property rights in Bangladesh and the International perspective.

**Keywords:** Women empowerment, property rights, economic development, social security.

### Introduction

Property rights includes the legal rights to acquire, own, sell and transfer property, collect, keep rents, keep one's wages, make contract and bring lawsuits. Rights of property include all the rights that women can enjoy their own necessity. From the very beginning life a girl confronts a world which her existence less than that of boys. Girls face obstacles in education, nutrition, health and other areas solely and when girls mature into women, they face cycle of dis-empowerment.

UN Charter proclaimed equal rights for women for promoting rights without distinction particularly on ground of sex. Universal Declaration of Human Rights 1948 (UDHR) also contains equal rights for men and women without discrimination. There are International

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Covenant on Civil and Political Rights 1966 (ICCPR) to ensure equal rights for women to the enjoyment of civil and political rights and the International Covenant on Economic, Social and Cultural Rights 1966 (ICESCR) to enjoy economic, social and cultural rights. All these bill of rights UDHR, ICCPR and ICESCR are ensuring women rights without discrimination. Still in all state women have always been subjected to inequalities, subordination and grave discrimination in all sectors. In the year 1979 UN General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which came into force in 1981. CEDAW is a comprehensive treaty on the rights of women which establishes legally binding obligations upon State parties to follow the legal standards set by it to end discrimination against women by ensuring equality between men and women. Beside these CEDAW's Optional Protocol establishes procedure enabling complaints on alleged violation of the convention by State parties and an inquiry procedure allowing CEDAW Committee to conduct inquiries into serious and systematic abuses on women's human rights in country concerned. Bangladesh ratified CEDAW in 1984 and Optional Protocol in 2000 and since then Bangladesh has been regular in submitting periodic reports to CEDAW Committee. So, the Women's property rights also included inheritance within society at any point of time. The ownership depends on societies and are influenced by cultural, racial, political, and legal factors. The Universal Declaration on Human Rights and the convention on the Elimination of all forms discrimination Against Women refers equal rights of women particularly the right to family benefits, the right to bank loans, mortgage. The religious law has confirmed proportional share for women. CEDAW represents a substantial obligation on the state parties to undertake to all appropriate measure to ensure full development and advancement of women. Besides these there are national and international instruments confer the rights of property for women. The rights of property help the women's development and empowerment in the whole sphere of national life. The rights of property are constitutional and international rights for all human being to fulfill his basic demand.

## **2. Literature Review**

There are various rights for women in Bangladesh and property rights are one of them. These rights are recognized in different statute and convention in national and international level. Bangladesh Constitution has also ensured rights of property for men and women and equal participation in all spheres of national life. This article emphasizes on women ownership to enhance social, economic and legal aspect so that equal opportunity of work and removal of social and economic inequality ensured in a uniform economic development though out the Republic.

## **3. Research Methodology**

Research article is based on a socio legal study is an interdisciplinary approach to analyze the law, legal phenomenon, and relationships between the property rights and inheritance. Both theoretical and empirical work is included. Methodologies are drawn from the humanities as well as social sciences. Legal materials include statutes, cases, and regulations. Secondary legal materials provide commentary and interpretation of the law and include such materials as law reviewed articles, legal encyclopedias, and treaties.

## **4. Objectives of the Research**

To ensure socio-economic and legal development the rights of property for women is very important in a society or a state. Equal property rights or ownership for women is most vital for economic, social and legal development. Without protect the proprietary rights for women, it will not be possible to reach in a sustainable economic development. Beside this the social

and legal environment also depends on equal or sufficient ownership and proprietary rights for women. These proprietary rights can be maintained different forms and way in a state by different legal system.

## **5. Data Analysis and Interpretation**

Research article is mainly based on quantitative method. Both primary and secondary source have been applied for this research article, Books, articles, journals, enacted laws, newspaper, media, national and international organizational functions and activities are also helped to interpret and data analyses for this research articles.

### **5.1. Absolute Ownership for Women**

Absolute ownership arises from buying any immovable property but most of the women in Bangladesh cannot acquire ownership in this method because they are not enough independent and capable to purchase any immovable property. They are always dominated by their family members or their husbands. Even they have no freedom of expression or thought relating to economic matter because of our socio-economic condition. But the socio-economic conditions are changing gradually because the compulsory primary and secondary education. The scenario is also seen in a Hindu Family with a Hindu woman. The rights of property for women can analyses according to personal law and socio-economic perspective. Most of the women in the country acquire immovable property by inheritance. Though they inherit property they cannot get their share appropriately and most of them can't exercise their proprietary rights.

### **5.2. The Right to Property in Islam for Women**

The right to property means the right to acquire, enjoy, hold and dispose of property. Islam confers the security of ownership of property upon every human being without discrimination in respect of the property acquired by lawful means. The Holy Quran declares: 'And do not eat up your property among yourselves for vanities, nor use it as bait for the judges, with intent that you may eat up wrongfully and knowingly a little of (other) people's property'(Sura 2: Verse188, Al Quran).

“O you who believe, eat not up your property among your property among yourselves in vanities: but let there be amongst you traffic and trade by mutual goodwill”(Sura 4: Verse 32,Al Quran).

Similarly, the prophet (PBUH) in his address delivered on 7 March 632 on the occasion of the Farewell Hajj said: 'Your .... properties are forbidden to one another till you meet your Lord on the Day of Restriction. 'Islam recognizes the rights of every woman to acquire, holds, manage and dispose of her father's or husband's inheritable property. In this regard, the Holy Quran says: "To men is allotted what they earn, and to women what they earn"( Sura 4 Verse 29, Quran). Thus in Islam the income of women is her own property and she is its absolute owner. Male and female have equal rights over property. For example-a Muslim dies leaving a son and a daughter. The estate will be divided into three equal portions, the son obtaining two, and the daughter one. The daughter does not however, by reason of sex, suffer any disability to deal with her share of her property. She is the absolute owner of her inheritance. The same rule is applying to a widow or a mother (Asaf A. Fayzee, p.47).

### **5.3. Rights of Women in Hindu Law**

If any Hindu dies leaving a widow and a brother, the widow succeeds to the property as his heir but she does not inherit the property absolutely. She is entitled only to the income of the

property and cannot make a gift of nor can she dispose of it unless there is a legal necessity. On her death the property will pass not to her heirs, but to the next heir of her husband. The most important matter that granting of absolute rights to women, over the property they held. No women can be defined property rights on the basis of any custom, usage or text and the said Act reformed the personal law and gave woman greater property rights. In practice, a female heir cannot ask for partition of the residence until and unless the male heirs ask for their respective shares, Also the right of residence exercised by the daughter is limited by her marital status, a daughter may claim this rights if she is unmarried (<https://www.lawopus.com/academic/right-property-Hindu-women>). Rights of Property in India: The Hindu Succession (Amendment) Act, 2005 removes discriminatory gender that was in the provisions of the Hindu Succession Act, 1956 and now it gives the various rights to the daughters that are as follows: In the context of coparcener, the daughters will have same rights on the son (<http://www.nrilegalservice.com/property-rights-women-india>). The Act was amended in 2005 to give equal rights to women. It is applicable to the various sects and castes of Hindus, apart from Sikhs, Buddhist and Jains, Prior to the amendment; women had no right to a joint ownership or coparcener property.

#### **5.4. Rights of Property of other Legal System**

In 1870 the English Common Law accepted a principle that married women had the right to have control over her own property and that it could not be transferred without her permission to her husband on marriage. The same principle was only recognized by France in 1937. Muslim-majority countries like Turkey, Yemen, Jordan, Lebanon and Kuwait have ratified CEDAW without any reservations. Sharia-governed Pakistan and Indonesia. Other countries also adopted reforms in personal laws to afford greater rights to women. In India legislation conferred ownership rights on women and changes in the Hindu Law of all schools and brought changes not only in the law of coparcenary but also in the law of partition, alienation of property, inheritance and adoption. Now the widow succeeds along with the son and to take a share equal to that of the son. The widow was entitled only to a limited estate in the property of the deceased. A daughter has no inheritance rights though the enactments having brought important changes in the law of succession by conferring new rights of succession on certain females but there are found defect in many respects (Hindu Women's Right to Property Act 1937).

#### **5.5. Women Empowerment and Rights in the Constitution of Bangladesh**

Women's rights are protected principles of equality and participation that steps shall be taken to ensure participation of women in all spheres of national life (Article 10 of the Constitution of the People's Republic of Bangladesh). The Constitution ensured that equality of opportunity to all citizens (Article 19 (1) of the Constitution of the People's Republic of Bangladesh). The Constitution also provided that all citizens are equal before the law and are entitled to equal protection of the law (Article 27 of the Constitution of the People's Republic of Bangladesh). Moreover, Article 28 (1) also provides that the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, or place of birth. Article 28 (2) more directly and categorically says that women shall have equal rights with men in all spheres of the State and of public life. This latter provision means that all rights mentioned in the Constitution, such as right to life, right to personal liberty, right to property, freedom of movement, freedom of speech, freedom to exercise a profession or occupation are equally applicable to women in Bangladesh. The majority of the world's poorest are women and girls with the share of women employed outside of agriculture remain as 20% in Southern Asia. In Bangladesh women and girl inappropriately affected by poverty and discrimination. Women and girls are not allowed to make decisions about their house hold's income, or tradition and culture forbid

them to leave their home. CARE Bangladesh is focused on women to exercise their choice in decisions affecting their lives to reduce violence against women for the emergence of strong social movements. It is found that the majority of the women are marginalized from their property in the social practice. It suggests that the Islamic solution for property sharing should be implemented to empower women in Bangladesh ([www.ncbi.nlm.nih.gov](http://www.ncbi.nlm.nih.gov)). Discrimination against women in Bangladesh is an ongoing debate. Historically women are given less importance compared to men (Bangladesh.Soc.Sci.2013; 2 (2):22-23). In Bangladesh women have almost lost their right to property as they do not have any access to property ownership. They have no financial independence because of the strong cultural norms in rural Bangladesh as a result the majority of women is landless although a few women own land (Mohajan HK, Int. J Mainstream, socsci 2012; 2(1):43-56). They have very little right to control and use their properties and they are sometimes forced to leave their properties to their brother's. Very few of them take legal actions as they lack education and the legal procedure is also prolonged and complicated over all women are mostly financially dependent on men and considered a burden on the society. According to Oxfam Report the picture is similar in India, Pakistan and several African countries (<https://www.thedailystar.net>). Women's control over land is an essential pre-requisite for women-empowerment and sustainable development ([www.Uplbooks.com](http://www.Uplbooks.com)). Patriarchal social norms limit women's mobility confine their roles to the household and giving men most of the financial decision-making power. Some of these women are trying to earn their livelihood but they are not able to invest on develop any kind of asset because of the lack of financial inclusion. That's a big risk in the country wants to achieve its economic growth and get out of poverty ([www.newsdeeply.com](http://www.newsdeeply.com)).

### **5.6. Women's Rights of Property and Empowerment in the International Perspective**

Universal Declaration of Human Rights provides that everyone has the right to own property as well as in association with others (Article 17, UDHR, 1948). It also ensured that no one shall be arbitrarily deprived of his property. Universal Declaration of Human Rights ensured the equal rights of men and women have determined to promote social progress and better standards of life in larger freedom. The lack of control over both productive and non-productive resources that in both rural and urban places women at a reduced level of advances in areas of security of home, maintaining a basis for survival and accessing economic opportunities as a result development related problems faced across the territory of the state and increase lack of property and inheritable rights especially over land and ownership as a result state faces hunger, and poor health (Grown, Coren; Gupta, Getta Roa, Ices and Ashian, 2005). Ownership of land and property empowers women and gives social security. Without the security of a home or income women and their families fall into poverty traps and struggle for livelihood, education, sanitation, health care and other basic rights ([asiaapacific.unwomen.org](http://asiaapacific.unwomen.org)). Women's property rights also include inheritable rights enjoyed by women as a religious obligation. The patterns and rights of property ownership vary between societies and influenced by cultural, racial, political, and legal factors. Not only nationally but also globally women are in lack of property and ownership, low levels of education, hunger, and poor health. Thus the land property right impact on production of wealth, development, economic growth and poverty reduction (Wikipedia). As a result there are not found equality in the society and usually denied equal ownership rights (Grown, Careni; Gupta, Geeta Rao; Kes, Aslihan, 2005). Women who are potentially able to meet their subsistence needs on their own to leave the household if they are not given a large share of the surplus. However, due to patriarchal property rights husband control over the allocation of wives, labor time, and husband can make decisions that reduce the value of their wives, alternative to marriage (Braunstein, Elissa; Folbre, Nancy, 2001, .7(1):25-24, doi:10.1080/713767276). Male domain is very important encumbrance of women empowerment because of the World-Wide

prevalence of patrilineal inheritance custom. Man, and Women Both plays an important role in productive resources like house hold goods but only man have rights of inheritance of family succession and women have little opportunity to improve their status or living conditions within family and community. As a result, they are rendered dependent on male relatives for survival and have little say over how property is used to generate income or to support families. There is a strong resistance by men towards endowing women, especially daughters, with rights to land access (Agarwal, Bina, World Development, Elsevier) In Kerala, Uttar Pradesh of India, it is found that female ownership of property increases a women's economic security, reduces her willing ness to tolerate violence, and can deter spousal violence (<https://blogs.adb.org/.../land-women-domestic-violence>).

### **6.1. Reasons behind Lack of Property Rights for Women**

Women are dependent on the father, husband, son, brother etc. as well as legal and social restrictions prevent many women from owning and inheriting land and other property and making decisions regarding use of family assets. Absence of economic freedom is the main reason so that women cannot own property like land and physical assets. Islamic law recognized that women have financial independence but current social practice women do not have financial independence (A.B.M. Zahir Hossain and Iftekhairul Islam; <https://un.org/docs>).

- Complex procedural aspect effects on the rights of property for women. Man is responsible for providing maintenance for women and children from his property but there is no rule regarding this. In many cases, man takes over women's property to provide maintenance for the family. Women and her family are required to provide bridal gift to man many occasions.
- Poorly drafted regulations and laws governing land and property.
- Custom, tradition, etc. create barriers to rights (marriage/polygamy; inheritance).
- Lack of knowledge, Information, and enforcement of women property rights.

### **6.2. Socio-economic effect for Absence of Property Rights of Women**

- There cannot be ensure sustainable development in the country and cannot be ensure equality and justice in the society.
- Discrimination and other women and child related crimes are increasing day by day like, rape, domestic violence, cruel, inhuman and degrading treatment for women.
- Social and personal insecurity are increasing in the whole sphere of the country. The main factor acting as a hindrance against development of the women is related to their limited and unequal right and access to resource, particularly to land and other fixed assets ([www.ohchr.org](http://www.ohchr.org)).
- There is much weakness in basic rights of women such as Dower, Maintenance, Inheritance, Guardianship of children and development in social activities where women rights being violate in every step ([www.assignmentpoint.com](http://www.assignmentpoint.com)).
- The discriminatory attitude against women rooted in the family and extends to the state level.
- Traditional belief of keeping women under the shadow of such as their fathers or husbands.
- Absence of equal rights on Property between men and women.

### **6.3. State Implementation Measure**

- Awareness among the women to establish land right and initiate to develop independent human being.

- Women land rights means freedom control of men and establish rule of Law.
- Priority should be given upon the distribution of Khas land.
- Implementation of declaration of CEDAW and Beijing conference plan for action.
- Detail survey on situation of land ownership.

## 7. Conclusion

For achieving the Millennium Development Goals, specifically Goal 1 on eradicating extreme poverty and Goal 3 on gender equality women's property rights is an implement part. If the women's property rights are not recognized or maintained the economic, social progress are not possible in the developing Bangladesh. Violation against women may be increase also if property rights for women are ensured. Women empowerment and equality will be established if women's property is established in the state. Participation of men and women in the all sphere of state life will be maintained if women can enjoy their rights of property. CEDAW is now largely invisible in practice as due to non-ratification of Article 2 of CEDAW and has legislative importance only. If the provisions are implemented for women under existing personal laws and strict legislative measures are taken women can effectively claim and enjoy without difficulties whatever property right, they have under personal laws.

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