

Examining The Challenges Faced by Women in Claiming Their Rightful Share of Inheritance

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ABSTRACT

This abstract examines the background, difficulties, and progress of women's inheritance rights around the world, with an emphasis on India. Patriarchal legal systems and social mores have long kept women at a disadvantage, including the inability to inherit equally. Discriminatory legislation, cultural biases, and socioeconomic variables all serve as roadblocks, keeping people mired in cycles of dependence and inequity. Efforts by women's rights organizations and changes to the law have helped overcome these obstacles. Reforms like the Hindu Succession (Amendment) Act of 2005 in India, which ensured that daughters had equal access to family wealth, demonstrate the power of laws to advance gender parity. Social biases and economic limitations, however, make implementation difficult. The goals of these initiatives include raising awareness, influencing policy, and enhancing existing support systems. In the end, women need all-encompassing plans to overcome economic, cultural, and legal obstacles to inheriting property fairly, with the goal of attaining social justice and broader gender equality.

Keywords: *Women, Rightful Share, Inheritance, Societies, Economic.*

I. Introduction

For a long time, there have been gender inequalities in inheritance, the legal procedure by which property is passed on from the dead to their descendants. Women have historically faced substantial obstacles in asserting their entitlement to inheritance due to patriarchal conventions and legal systems.¹ Cultural, religious, and legal traditions have contributed to the deprivation of women's economic resources, which in turn has contributed to the perpetuation of cycles of poverty and

¹ Bina Agarwal, *Gender and Land Rights Revisited*, 3 J. AGRARIAN CHANGE 184 (2003).

dependence.² A rising tide, though, has been rising in recent years to guarantee women's equitable inheritance rights. Legislative changes, public discourse on gender equality, and the work of women's rights organizations have all contributed to this change. In this introductory piece, we look at the background, the challenges, the victories, and the current struggles for women's fair inheritance rights around the world. Inheritance practices and laws have their origins in patriarchal systems that give preference to male heirs.³ Transferring wealth from one generation to another has traditionally been a male-dominated domain in many societies, with women either completely excluded or granted a small percentage. Many people believed that women would be able to support their husbands or that marriage would be a way for women to inherit riches from one family to another, which led to this exclusion. These practices became formalized in legislation that targeted women specifically, making it extremely difficult, if not impossible, for them to assert their legal claim to their inheritance.

Inheritance laws' historical backdrop reveals the pervasiveness of gender inequality and the persistent struggle women have endured to demand equality. There are many different aspects, including legal, cultural, and socioeconomic ones, that work against women's inheritance rights. There may be a prejudice against women in the legal system, and enforcement may be lacking, even in cases where rules supposedly ensure equal inheritance rights. Cultural obstacles are also important to consider. For example, in many communities, traditional practices still place a premium on male heirs, and women who question these practices may encounter rejection from their peers or even pressure from within their own families. Additionally, socioeconomic considerations are quite important. It is not uncommon for women, especially in underdeveloped nations, to be ill-equipped to deal with discrimination and legal systems. Because of the interconnected nature of these obstacles, a holistic strategy involving societal empowerment, legal reforms, and cultural shifts is necessary to ensure that women have equal access to inheritance rights.

The advancement of women's inheritance rights has been substantially advanced despite these obstacles. In this respect, changes to the law have played a crucial role. As the importance of gender equality as a basic human right has been more widely acknowledged, several countries have passed or revised their laws to guarantee equal inheritance rights. As an example, daughters now have the same inheritance rights as sons under India's Hindu Succession (Amendment) Act of 2005. Similarly, Rwanda made a huge step away from discriminatory customs by granting girls and boys equal rights in their 1999 inheritance law. Crucial as these legislative shifts are, they are frequently the product of long-term lobbying and action by civil society and women's rights organizations. The importance of lobbying in the struggle for women's inheritance rights is paramount. Legal improvements, increased knowledge, and support for women claiming their rightful inheritance have all been greatly aided by women's rights groups, both locally and globally. In the fight to end discrimination against women and to ensure that they have the resources they need to assert their rights, groups like Equality Now and FIDA have taken the lead. Furthermore, these communities have played an essential role in

² Klaus Deininger et al., Women's Inheritance Rights in India, 48 J. HUM. RESOURCES 114 (2013).

³ S. Mookerjee, Gender-Neutral Inheritance Laws, 33 WORLD BANK ECON. REV. 498 (2019).

combating patriarchal values and shifting public perceptions of women's right to inherit. Countless women have been assisted by their education, outreach, and legal support as they have navigated the difficulties of inheritance claims and asserted their rights despite resistance. But activism and legislative changes won't be enough to guarantee that women can exercise their inheritance rights to the fullest. Strong legal frameworks, an educated court, and easily accessible legal assistance services are necessary for the efficient execution of laws. Women still have enormous obstacles when trying to claim their inheritance in many nations where the gap between the law and practice is large. Some of the things that make it hard to enforce inheritance rules are corruption, inefficient bureaucracy, and people not knowing their rights. Governments, civil society, and the international community must work together to strengthen capacities, establish accountability measures, and allocate funding for legal aid in order to tackle these concerns.

It is crucial to tackle the socioeconomic, cultural, and legal obstacles that women encounter in this specific area. This involves doing things like making and sticking to rules that make inheritance fair, but it also involves fighting patriarchal conventions, getting the word out, and giving women more financial power. We can get closer to a society where women can thrive economically and socially if we keep fighting for inheritance equality between the sexes.

II. Historical View of Women's Inheritance Rights in India

Different regions of India and different religious groups in India have varied inheritance laws. The Hindu Succession Act,⁴ made in post-independence India, laid the groundwork for the regulation and codification of rules pertaining to interstate succession. This body of legislation drew from both Hindu legal tradition and Western jurisprudence. Mitakshara and Dayabhaga are the two major schools of Hindu law. When comparing these two schools, the main difference is how they categorize property. An important difference between the Dayabhaga and Mitakshara systems is that the latter does not recognize a coparcenary right to property and instead recognizes all assets as separate.⁵

The Hindu Succession Act (HSA) decrees that in the event of a Hindu's death while living outside of India (i.e., without a valid will), his immediate heirs—his spouse and any living children—are to receive an equal share of his separate property as well as his "notional" portion of the family's joint property. Having said that, there were no direct inheritance rights to joint family property for daughters of Hindus who died interstate. Conversely, a Hindu father's sons had a direct birthright to an independent portion of the joint family property in addition to an inherited right over his father's separate property and a "notional" share of the joint family property in the event of his father's interstate death. To rephrase, the term "Hindu Coparcenary" was used to describe anyone who was born into a joint family and hence had a claim to the family's property. Some have likened it to a male-only club where women were not allowed to join.

Property and inheritance laws in the Indian subcontinent are jointly governed by the central and state governments. Andhra Pradesh (1976), Maharashtra (1994), and Karnataka (1976) were the states that followed Kerala in amending the HSA (1994). Women who were not married at the time of the

⁴ Hindu Succession Act, No. 30 of 1956, INDIA CODE (1956).

⁵ Avtar Singh, *Principles of Hindu Law* (2018).

reform were allowed equal inheritance rights to ancestral property by these revisions. All of India's remaining states were subject to a comprehensive constitutional revision passed in 2005 by the federal government.⁶ As a result, the statute underwent numerous revisions, the most significant of which established that daughters would be awarded coparcenary rights to family property.⁷ We will refer to this section of law as the Amendment from now on; it is part of the Hindu Succession (Amendment) Act 2005 (HSAA).

The Amendment provides a fascinating opportunity to test the hypothesis that women can gain access to human and physical resources through changes to inheritance laws. There has been a lot of attention from researchers in this area in recent years. The preceding sections demonstrated, however, that women's empowerment in terms of household decision-making, labor market outcomes, and welfare indicators has been associated with very modest gains from the reform. Reasons given for this include the general public's prejudice toward women who own property and the lack of enforcement of the aforementioned laws. Very few women have reaped the benefits of this law and inherited a portion of the family fortune thus far.⁸ Even other gender-positive laws in India, including the Dowry Prohibition Act (1961), have failed to prevent the 'dowry trap' from affecting the intended recipients. Second, women in India still face discrimination in the form of traditional gender roles when it comes to owning property. Higher female child mortality and higher perceived expenses of parenting a girl kid have created offsetting effects in locations with high son preferences. It is, therefore, of the utmost importance to investigate, in the long run, if this reform will benefit women.

III. Impact of Gender Biasness on Inheritance Right

For the most part, women still face barriers to enjoying the many advantages that come with becoming a property owner due to the persistence of patriarchal norms around property ownership.⁹ In addition to providing a means of subsistence, land and other types of property (such as cattle and machinery) can serve as a source of income and, in many cases, a status symbol.¹⁰ In addition, having legal ownership of land is sometimes required in order to get loans and lines of credit for other endeavors, such as constructing a home or launching a business.

More and more, development experts are connecting the dots between women's lack of land and property rights and systemic issues affecting nations, including but not limited to: low literacy rates, homelessness, hunger, poverty, and health.¹¹ According to research conducted in different parts of the world, women often utilize the majority of their income to take care of family expenses,¹² while men tend to spend a larger portion of their income on personal purchases. In reality, witnesses from

⁶ Hindu Succession (Amendment) Act, No. 39 of 2005, INDIA CODE (2005).

⁷ Id.

⁸ Deininger et al., supra note 2.

⁹ Bina Agarwal, supra note 1.

¹⁰ M. Harari, Women's Inheritance Rights, 68 ECON. DEV. & CULTURAL CHANGE 189 (2019).

¹¹ FAO, Land Tenure Reports.

¹² Harari, supra note 10.

non-governmental organizations and international agencies stated at the 2002 World Food Summit that ending global hunger might be as simple as protecting women's access to land and property so they could better support their families.

Moreover, general socioeconomic advancement is obstructed by the persistent disenfranchisement of half of many populations. "Poverty is inversely correlated with household land ownership," says Eve Crowley of the Land Tenure Service at FAO. Infant mortality rates are greater and the landless are more susceptible to natural disasters like famines. Shocks inflicted on women and children are more severe when men mediate their rights to household resources, such as land. Women are less likely to fall into poverty and their children's health and future opportunities are enhanced when they have direct access to property.¹³

IV. Challenges Faced by Women in Claiming Their Right

The right to inherit is an essential component of women's empowerment since it guarantees that they can benefit from their families' financial resources. But getting their fair portion of inheritance is a huge struggle for women all around the globe. Cultural, legal, and socioeconomic considerations all play a role in creating these obstacles, which in turn slow down women's advancement toward equality. In order to come up with effective solutions to overcome these obstacles, it is crucial to understand what they are.

The patriarchal cultural traditions that give preference to male heirs over female ones is one of the main obstacles.¹⁴ The customs and laws of inheritance in many nations lean skewed toward men. These traditions reinforce gender inequality by stating that males, not daughters, should inherit wealth and property. Societal stigmatization and accusations of avarice or disrespect for family traditions are possible outcomes for women who seek to inherit wealth. Cultural biases like these do double-duty: they strip women of their property rights and further cement their inferior standing in the home and community.

There are also substantial challenges posed by legal structures. The inheritance laws of many nations are either not enforced at all or are discriminatory.¹⁵ For example, men may be granted higher portions of family property under certain legal systems that favor men. The application of laws can be skewed even when they are purportedly non-discriminatory based on gender. If women do not have the necessary knowledge, resources, or access to legal counsel, they may struggle to understand and comply with the law. Women may already be at a disadvantage, and they may not have the power or resources to ensure a fair hearing due to corruption in the legal system.

Another important obstacle is economic dependence.¹⁶ Women may be less likely to use their entitlement to inherit if they are financially reliant on male family members. For women who depend on their families for housing or financial support, the fear of exclusion or revenge can make them

¹³ Neha Menon et al., Women's Land Rights and Children's Human Capital, 54 *WORLD DEV.* 18 (2014).

¹⁴ A. Naz et al., Social and Cultural Challenges, 21 *MIDDLE-EAST SCI. RES.* 2080 (2014).

¹⁵ N. Muhammad, Gender-Based Discrimination, 27 *SARHAD J. AGRIC.* 143 (2011).

¹⁶ Siwan Anderson & Mukesh Eswaran, What Determines Female Autonomy?, 90 *J. DEV. ECON.* 179 (2009).

hesitant to question the current system. It is more difficult for women to attain financial independence and express their legal rights due to this economic fragility, which is typically worsened by salary discrepancies and limited employment options.

Not only do women confront economic obstacles, but they also frequently encounter strong societal restrictions that make it difficult for them to inherit. In some families, there is societal pressure on women to give up their inheritance in order to keep the peace. They could face threats of social exclusion or emotional blackmail. As a last resort, women may be subjected to physical or psychological abuse if they assert their right to inherit. One strong obstacle is the fear of alienating or hurting family members.¹⁷

Despite the importance of education and understanding in enabling women to assert their inheritance rights, many women still face disadvantages in these areas. Women frequently don't know what their rights are or how to fight for them because of a lack of education, especially when it comes to money and the law.¹⁸ This is an especially serious issue in rural areas due to the scarcity of educational resources. It is critical to educate and advocate for women so that they are more aware of their inheritance rights so that they can overcome these obstacles.

Additionally, there is a substantial influence played by the intersectionality of prejudice. Additional difficulties arise for women who belong to historically oppressed groups, such as those from poorer socioeconomic backgrounds or ethnic minorities. To make matters worse, these women frequently face numerous forms of prejudice, which further complicates their efforts to obtain their inheritance. As an example, a minority woman may face multiple forms of discrimination, including sexism and ethnic prejudice, both at home and in the larger legal system.

The matter of women's inheritance is further complicated by religious regulations. Inheritance and other private affairs are regulated by religion law in numerous nations. While the specifics of these regulations can differ greatly, there are a number of examples where women are granted less portions than men.¹⁹ Take Islamic law as an example; there are schools of thought that hold that a daughter may receive half of her brother's inheritance. Although these religious rules have strong cultural roots, they frequently conflict with contemporary ideas of gender equality. Maintaining religious observance while simultaneously advocating for gender equality is an intricate and delicate balancing act.

Measures to Tackle These Challenges

Reforms to policies and laws are necessary to deal with these issues, but they are frequently sluggish and controversial. There may be vocal resistance from conservative groups who see efforts to reform discriminatory laws as an attack on their religious or cultural beliefs. Disparity between theory and practice might persist even after reforms are passed. For a change in legislation to be effective, there must also be a change in public opinion and strong enforcement measures.

¹⁷ Naz et al., supra note 13.

¹⁸ Rehman, Denial of Women's Rights (2010).

¹⁹ CEDAW, Dec. 18, 1979, 1249 U.N.T.S. 13.



Helping women assert their right to inherit is an important function of advocacy and support groups. Legal aid, advocacy, and education organizations can assist women in navigating the complicated social and legal environments. Nevertheless, because to their limited resources, these organizations may have challenges in reaching all women in need, particularly in locations that are not well-served or far. If we want women to feel empowered and be able to claim their inheritance, we must strengthen these support networks.

When it comes to inheriting property, women encounter a lot of obstacles. The issue is made more complicated by the fact that it involves cultural norms, legal restrictions, economic dependency, societal pressures, a lack of education, and intersectional prejudice. Legislative changes, educational programs, economic empowerment, and strong support networks are all necessary to overcome these obstacles. A more fair distribution of inheritance and, by implication, greater gender equality, can only be achieved by thoroughly addressing these obstacles.

V. Conclusion

Ultimately, there are several obstacles that women encounter while trying to inherit their fair portion of wealth. These include long-standing societal expectations, discriminatory laws, economic dependence, and societal pressures.²⁰ Complexities brought about by religious regulations, intersectional prejudice, and a general lack of knowledge and understanding increase these problems.²¹ To overcome these challenges, we need a comprehensive strategy that enhances women's economic autonomy, educates the public about their rights, and changes the law to make inheritance rules more equitable. For women to have the support and resources they need to overcome these obstacles, strong advocacy groups and support networks are essential. To guarantee that all women can confidently assert their inheritance rights, there is still a long way to go, notwithstanding some positive developments. It is essential to address these concerns in order to achieve more social and economic equality, and it is also a question of justice for individual women. Gender parity and the guarantee of equitable access to family wealth and resources for all members of society can be advanced when women are given the tools they need to assert their rightful inheritance.

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²⁰ Agarwal, supra note 1.

²¹ Naz et al., supra note 13

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