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Land Right and its Implementation in Bangladesh for Women

Naima Akhter Lina^{1*}

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ABSTRACT

Inheritance is a problem for women's economic and financial circumstances as well as for human rights. Bangladesh is a developing country and women have a significant role in it. Culturally it has a patriarchal society. Women's rights are promptly violated in the society in different physical and mental abuse. Though things are changing in a very slow motion still land right is very crucial in the society. Women have hardly any choice and voice in the inheritance of property. The land right exists for both men and women but the implementation for women is very low and unsatisfying. The law ought to be revised in such a way that ensures the women of Bangladesh the equality and lessen their dependency on men (father, brother, husband). It will enhance their self esteem and credibility to work equally with the male population to develop the nation as well as their families. It will give them confidence and importance as a human being rather than being a woman in mercy of their male relatives. This paper aims to show the present law of land right and the discrimination of its implementation. To do so there will be a survey on a target population of 40 to 50 women who have inherited the property from their fathers to show the present condition of inheritance. Questionnaire will be provided to the target population. It may take a long time to establish a woman friendly law for land right for women but it may take a step forward for the noble cause.

INTRODUCTION

The National Women Development Policy 2011, which allegedly will affect the status of women's inheritance, recently caused a great deal of controversy in Bangladesh. On closer examination, it tragically says nothing regarding the equitable sharing of inherited property. Despite being a signatory to the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), Bangladesh has misgivings about its provision in Article 13(a) that guarantees women's equality with regard to the right to inherit a family estate. Because inheritance in Bangladesh is determined by a person's religion, the inheritance process for women is largely unequal and discriminatory. Due to this, a consistent, secular family code is now required to address not only the inheritance problem but also problems with marriage, divorce, and guardianship. In light of this, the current study on "Women's Rights and Access to Land" has focused on examining the actual obstacles and policy gaps from a comprehensive perspective, which means women's rights, access, and control over land, that discriminate against Bangladeshi women in regards to their land rights. In order to provide suggestions for how to address and resolve the situation in a most practical and attainable manner, the study's specific goal is to identify the strengths and weaknesses of the relevant policies and ground level obstacles resulting from existing culture, customs, traditional, and institutional practices.

Aim

To discuss and ascertain the present law of inheritance in Bangladesh. It mainly aims to observe the women's right in inheritance. It will also focus on how gender inequality affects the inheritance of women in the country.

Objectives

The objectives of this study are

- To identify the barriers that women now face in obtaining equal rights to land;
- To study the Constitution's position and general legal provisions in this area;
- To assess current religious laws pertaining to this subject;
- To make recommendations on what should be done to better the situation of women in Bangladesh.

METHODOLOGY

The study article aims to analyze current discrimination against women's equal property rights and evaluate it critically. The primary source for this study is secondary, and pertinent data have been gathered for this research from a variety of sources. In this research, the "Keen Observation Method" has been used. In order to be acknowledged in related topics, the researcher uses this method to search through various articles, texts, booklets, handouts, seminar presentations, notes, newspapers, national & international research papers, web sites, and so forth to find related studies on Unjust Land Right of Women in Bangladesh. Additionally, a survey has been made available to the target group of women who have inherited money or property from their parents which will be analyzed by the researcher.

Gender Equality

International Women's Day serves as a reminder of the struggles and tenacity of women around the world, as well as how their contributions to a more sustainable future can be unleashed when they break down barriers to take on leadership roles in boardrooms, academic institutions,

¹ Senior English Teacher, South Point School and College, Bangladesh

* Corresponding author's e-mail: naimalina321@gmail.com

and tech start-ups. It also serves as a reminder of the difficulties gender inequality provides for the other half of the world's population.

However, the conversation about gender equality also involves pressing the accelerator rather than merely keeping the clutch in place. According to studies, increasing women's equality might boost the global GDP by \$12 trillion by 2025. A gender inclusive agenda that releases women's creative potential would be better for the world. An agenda that encourages female entrepreneurship and financial inclusion, defends women's rights, enhances women's access to agricultural inputs and land ownership, and raises the proportion of women in positions of authority in the executive, legislative branch, and work force.

Women's ownership over and access to land have repeatedly been said to have the capacity to increase gender equity while also alleviating material deprivation. The MDGs and SDGs recognize that women's empowerment and economic and social development both depend on gender equality as one of its fundamental tenets. The barriers that Bangladeshi women face when trying to exercise their ownership and rights to land fully and effectively include a variety of things, such as laws, policies, social and cultural norms, customs and beliefs, a lack of education and awareness, unfavorable institutions and implementation procedures, and others.

The status of women in Bangladesh

Over the past few centuries, women's status in Bangladesh has seen a number of significant changes. Since Bangladesh gained its independence in 1971, women there have made considerable strides, benefiting from measures implemented by Bangladesh over the past four decades that have improved job possibilities, enhanced educational opportunities, and political empowerment for women. Nevertheless, due to cultural norms that enforce rigid gender roles as well as inadequate execution of laws that were designed to protect women, women in Bangladesh still struggle to attain equality with males. Bangladesh has a hybrid legal system that combines some Islamic rules that mostly deal with personal rights with the common law it inherited from its colonial past. In our nation, there are many forms of discrimination against women, and social and economic inequality is commonplace. The primary problem preventing the growth of women is due to their unfair and limited access to resources, particularly land. In addition to this, our society's patriarchal attitudes and behaviors have led to blatant discrimination against women. The government of Bangladesh recently updated its yearly development plan and ten-year plans, which both place a strong emphasis on the advancement of women through increased literacy, improved health and nutrition, the creation of jobs, access to credit for women, and other efforts. However, no reference has been made to women having more access to land. The rights, control, and access to assets are the economic factors that have the most impact on how women are treated in the gender pay gap. The most important type of property in rural

South Asia, especially in Bangladesh, is arable land, which continues to be a crucial factor in determining well-being, social standing, and empowerment. The reasons for Bangladeshi women's unequal access to land as well as their place in this regard will be investigated in this study. Then it will examine many facets of the relevant provisions of our current legal code. After that, this essay will attempt to close the gaps. Following that, this study will look at religious restrictions on Bangladeshi women's property rights. This article will discuss indigenous women's rights to land in addition to mainstream women's rights. The study's conclusion will offer some practical advice on how to change the situation and uphold the equality that the People's Republic of Bangladesh Constitution guarantees.

Land and property rights in Bangladesh

Women have weak inheritance rights because it is difficult for many of them to access land due to patriarchal societal norms and discriminatory laws. Most women inherit in accordance with how Sharia Law is applied locally.

Reasons behind the unjust land right of women in Bangladesh

Since they have more negotiating power, women who own property could negotiate for a more equitable distribution of rights within the family. There is a close connection between access to land and rural poverty. However, in the event of a husband's death, divorce, or desertion, women without independent means are extremely vulnerable to poverty and starvation. Women's inter-family disparities in relation to economic and social activities are growing, nevertheless. Besides breaking societal standards and engaging in illegal activity, other stockholders, the government Functionaries frequently make those issues worse and prevent the implementation of legislation that support women. In our culture, it is still generally accepted that women hold inferior positions in families and society. This is due to the fact that they do not own, control, or otherwise have access to real estate. Furthermore, there is strong evidence that when economic resources are in the hands of male household members, the benefits to the female members are frequently not shared equally. Independent ownership of such resources, particularly land, can therefore play a critical role in advancing the wellbeing and empowerment of women.

Women typically leave their father's home after marriage and move in with their spouses. Most of the time, brothers keep their married sisters from learning this information, and as a result, women are excluded from their fathers' land and other properties. Because it is more challenging for the sisters to sue the brother, they are subject to administrative and professional abuse. Sisters' portion of land is sometimes sold by brothers without telling them, leaving women in the dark about their inherited land property. The majority of the time, women are unaware of their parents' and husbands' property. They don't retain details and information on the

property. Additionally, the majority of them are ignorant of all land-related regulations, their right to inherit, and no documents to claim. Women are also disadvantaged in various technical ways, such as in surveys and records. The ability to claim parental property is also negatively impacted by cultural barriers. 9 Women typically don't claim inheritances. Conflict and strained relationships with brothers will result from a claim on the parents' real estate. Our culture discourages women from claiming their fathers' assets and frequently views this as sin. 10 According to cultural expectations, a "good sister" will lose her inheritance from the father. Additionally, it deters women from asserting their rights. If they assert that the siblings' relationship to the property will suffer. To deter women from pursuing their claims, male relatives with a stake in the outcome file a lawsuit, fake documents, make threats, and occasionally even employ physical violence. Sometimes they compelled people to give them the property without any payment. Sisters take their poor brothers' financial situation into account as well. They will leave their families more exposed if they steal that property. To improve the lives of our mother, sister, wife, and daughter, the entire system, culture, tradition, morals, values, and laws should be modified.

Equality ensured by the legal instruments

The People's Republic of Bangladesh's Constitution is a solemn declaration of the people's will on this continent. We sacrificed a tremendous deal of blood for this magnificent charter during the great freedom battle in 1971 to obtain this shining portion of the Bill of Rights. This is a constitution that the people have chosen, passed, and given to themselves. 11 Thus, the spirit of the constitution authorizes equal rights for all citizens, regardless of their race, religion, caste, sex, or place of birth. These rights are guaranteed as fundamental rights and are protected by the constitution, including equal rights for women and men in all areas of the state and of public life. In addition to this, the following statements are made in Chapter II of the Constitution, which lists the main tenets of State policy and guarantees the equality of women:

- a. Article 11 safeguarded basic freedoms and rights for all people, as well as respect for human dignity.
- b. Article 13 mandates that people own or control the means of production and distribution, which also guarantees women's private property ownership.
- c. According to Article 14, it is the State's fundamental duty to free the laboring masses, peasants, workers, and underprivileged groups of the population from all types of exploitation. Women still do not enjoy equal rights to males in our nation. They are therefore considered to be a group of people that need special assistance from the government in order to integrate them into society.
- d. According to Article 15, the State recognizes a fundamental obligation to raise the standard of living of the populace, notably through providing social security to people like widows.

e. Women are guaranteed equal opportunity and are encouraged to participate in all aspects of national life under Article 19. In order to achieve a consistent level of economic development across the Republic, this article also places a duty on State mechanisms to adopt effective measures to eliminate social and economic inequality between men and women and to guarantee the equitable distribution of wealth among citizens and of opportunities.

f. Article 27 states that all citizens are entitled to equal protection under the law and are equal before the law.

g. According to Article 28 of the Constitution, the State is prohibited from discriminating against any citizen on the basis of their place of birth, race, caste, religion, or sex. In every area of state employment, women and men shall have equal rights. Nothing, however, is to stop the State from creating special provisions for women, children, or the advancement of any underprivileged group of citizens, according to the additional clause. As a result, laws permitting affirmative action for women are clearly permitted by the Constitution.

h. Article 29 guarantees all citizens quality work opportunities in the public sector.

i. Article 42 ensures that each person has the right to purchase, possess, transfer, and otherwise dispose of property.

More than any other economic source, land possession is the finest tool for eradicating poverty. A crucial symbol of social power and respect is land. Due to socio-cultural structures in the patriarchal mentality of society, women are denied land rights at the societal and familial levels. As a result, legislation and policies are not gender-sensitive and do not ensure that women have access to land. In order to achieve gender equality and human justice, it is vital to understand the role that equitable land rights for women play in their socioeconomic empowerment. This power imbalance between men and women in a community is reduced as a result. In addition to the Constitution, common law also safeguards the equality of men and women with regard to ownership of immovable property. However, there are still some inheritance laws that encourage discrimination against women's land rights. Furthermore, this scenario is not any less the result of our social structures and norms. The following legal systemic flaws are found by this study: Land ownership is legal for women in Bangladesh, just like it is for everyone else. Furthermore, Bangladeshi property rules make sure that the legitimate heirs are the ones who hold the inherited land. There is a limit to who can legally own land, though. By virtue of Ordinance Number 15, the maximum limit for each household was set at 375 Bighas in 1961. However, by Ordinance number 18 in 1972, the cap was reduced to 100 Bighas, and by the Land Reform Ordinance in 1984, the cap was further reduced to 60 Bighas. The situation is not the same in actuality as it is in principle, and very few women own land. Unless her name appears on the deed or other land records, a woman has no legal ownership rights to land that a family

buys. However, it is still true that once inherited lands are registered in a woman's name, her husband, brother, or son may pressure, threaten, or trick her into giving up control of those holdings. Due to traditional expectations regarding gender roles and women's limited access to independent financial resources, property is typically held by male family members in our country. Additionally, we are not encouraged to buy land jointly by husband and wife by our social beliefs. Individual women also experience pressure from their male relatives who want to take away their properties.

Registration of land

The land registration process in our nation is not simple for uneducated women. Additionally, the administration does not support women. The system is difficult, costly, and time-consuming. Additionally, there is currently no digital infrastructure in place for the preservation and search of records. To register their newly purchased land, people frequently use the help of middlemen. As a result, the system must be modified to better accommodate women. Additionally, there are no gender-friendly procedures for mutation, partition, surveys, or paying land development tax. The majority of officials are men, and they frequently fail to recognize the issues that women face. The government should therefore take the initiative to remove these obstacles from the administration of land. Religious restrictions on women's property rights: Bangladeshi inheritance laws continue to discriminate against women despite constitutional guarantees of equality. The degree of discrimination varies from religion to religion since personal laws that are founded on religion govern inheritance for people of this nation. However, women's chances of owning land are still greatly increased by inheritance. The best opportunity for women to possess property is through inheritance because most agricultural land is privately owned and their economic circumstances prevent them from doing so. Most Muslim and Hindu women experience discrimination and receive smaller land inheritance shares than men. Sharia law does not treat male and female landowners equally. A female is only entitled to half of what a male obtains from paternal property, according to Sharia law. 21 However, in reality, largely because of the patriarchal family system, the female rarely receives what she is legally entitled to. According to Hindu law, Hindu women are not permitted to inherit any land, which frequently places them in a very marginal and vulnerable position within the family and society. (Sourav, M. R. I., 2015).

Land law for women

In Bangladesh, there are many forms of discrimination against women, and social and economic inequality is pervasive. The primary reason impeding the growth of women is related to their restricted and uneven access to resources, particularly land and other immovable property. In Bangladeshi society, patriarchal norms, inheritance laws, and social customs all tend to reinforce

discriminatory behavior. Depending on the individual's faith, personnel law governs matters relating to the law of inheritance. Sharia Law, which is applied to more than 90% of the population, so governs Muslim women. In accordance with Islamic law. (Jinnah, S. 2013).

As a daughter

- a. If a deceased father's daughter has just one daughter and no boy, she will only receive half of the property.
- b. If a deceased father had more than two daughters, they will split a third of the property if he has no sons.
- c. If the deceased had both a son and a daughter. Then, each son will receive half of the estate, resulting in one daughter receiving half of her father's estate. Two thirds of the land will be split among multiple daughters. If there is a son, the daughter will not receive the other half of the estate; instead, family members will receive a portion of it. In this instance, no one is permitted to donate more than one third of property and if there are other inheritance, they cannot make will of the whole property to daughter.

As a wife

- a. If the deceased individual has no children, grandchildren, or descendant heirs, the wife is entitled to one-fourth of the estate. The woman will receive one-eighth of the property for any children.
- b. The deceased person's wives (one or more) will share one-eighth of the property if they have children or grandchildren.

As a mother

- a. The mother will receive one-sixth of the property if the deceased person has children, grandchildren, or other descendants.
- b. If the deceased person had neither children nor brothers or sisters, the mother is entitled to one-third of the estate.

As a daughter of a late father

- a. Daughters do not have any property rights if their deceased dads had a son, grandson, great grandson, daughter, and wife.
- b. Unmarried daughters' rights will come first if the aforementioned are absent.
- c. Daughters who are barren, without a son, or widowed are not entitled to property. Wife or widow of a deceased person: Following the 1937 Act's passage, the widow can also take use of opportunities for lifelong enjoyment. The widow is only permitted access to the property for her lifetime, according to that. nonetheless, can sell or donate.

As a mother of a late son

Mother has no claim to the estate if the deceased had a son, grandson, wife, and father.

As a sister of a late person

A sister cannot be the owner of her father's property.

The Hindu Disposition of Property Act of 1956 gave sons and daughters equal rights to their deceased father's property, it could be noted. Nepal, the only nation that identifies as Hindu, also approved laws addressing this problem. However, no ratifications have been made in Bangladesh, therefore the situation for Hindu women has not changed. A section of the society has voiced opposition to the ratification of Hindu Laws, which the Bangladesh Law Commission had recently proposed.

According to the Christian Law

Christians make up a small yet crucial portion of Bangladesh. The following are the property rights of Christian women.

As the daughter of a deceased father, I am entitled to the same rights to the father's property as his son is.

If the deceased person left behind children, the widow will receive one third of the estate. If the deceased person had no offspring, the widow would be the legal owner of the entire estate.

As the mother of the deceased: If the deceased individual leaves behind a son, daughter, and father, the mother will not receive any property. In the absence of the aforementioned, the mother, brothers, and sisters of the deceased person would equally share the property. If a deceased person has no brothers or sisters, their mother will inherit the entire estate.

As the sister of a deceased person, if the deceased person's father had a father or a son, the sister would not be eligible to receive property. Sisters will have an equal opportunity to share property with their mother and brothers if the aforementioned are absent. It is assessed if there is a slight modification to state land rights legislation that shouldn't be considered rebellious. Situation with regard to inheritance laws of Bangladeshi women is widespread throughout the country. This is only a symbol of women rights.

According to the Hindu law

Numerous Hindus in Bangladesh likewise prevent women from inheriting property. Hindu law stipulates that not all a man's daughters are equally qualified to inherit. Daughters who are not married or who are married and have sons are not eligible to inherit; this also applies to childless widowed daughters and daughters without sons. Even if she inherits, a Hindu woman only has life interest rights to her property (i.e., on her death, the property reverts back to the next heir of the person she had inherited the property from). Widows who inherit assets from their husbands do so with certain restrictions (i.e., life interest). In Bangladesh, Hindu law also applies to the Buddhist population.

Women's exercise to their rights

Although women have the legal right to inherit and/or hold a portion of their husbands' and fathers' lands, they rarely utilize this privilege. In rural places, it is widely believed that men are primarily responsible for farming the land. The only people with the authority to decide how to use and exploit the land are men. Women's names

are rarely found on leases, contracts, certifications, or land titles. Man is frequently regarded as the family's leader in rural areas, either tacitly or explicitly, and as such, he has the power to make choices regarding land and property. Even while women occasionally have the legal papers and deeds proving their ownership of land, this does not always imply any real rights. It cannot be believed that women landowners will never have the same economic and social standing as male landowners since they do not control their land holdings.

The ability of a woman to own property, her control over household finances, and her access to credit, productive resources, and extension services all have a direct impact on the health, nutrition, and financial security of her family. In Bangladesh, women have limited access to property rights and financial decision-making authority. Many women are unable to borrow money, own or inherit property, water rights, or cattle, or make decisions on how to use family assets due to legal or social restrictions. Their capacity to manage security is directly and negatively impacted by this.

In light of the aforementioned backdrop, movement, reconstruction, policy orientation, and legal development should be taken into account.

Survey interpretation

I received 34 responses to my online survey, which I conducted. Muslims make up the majority of the people I surveyed. Their recorded ages range from 21 to 54. Chittagong, Dhaka, Jessore, Mymensingh, Raj Shahi, Bhola, Comilla, Laxmipur, and Noakhali are where they were born. Their fathers held a variety of jobs, including those of journalist, banker, engineer, businessman, and service member. In accordance with the poll, 52.9% of respondents received their inheritance, 35.3% did not, as required by law, 26.5% expressed dissatisfaction with their inheritance, and 14.7% claimed they were coerced into giving it up. Although there is respect for the legislation, 38.2% of people believe that it is not women-friendly, and 58.8% believe that it should be some reformation of law regarding inheritance of women.

Limitation of the study

Each research has its limitations. As a single researcher, I am not able to reach the full population of this study, as it would require more time. It would be good if I could interview the population who are not device friendly. Therefore, the main limitation of this paper is that it covers limited population.

Privacy of the participants

The privacy of the participants is preserved and highly respected by the researcher.

RECOMMENDATION

- a. An overhaul of the inheritance laws (Ensure equality and balance among men and women)
- b. Women should be given more of a priority when

it comes to the distribution of Khas land and the advancement of Khas land.

c. Eliminates the historical rightlessness of women and gives the community of ethnic minorities and Adivasis a legal foundation.

d. Ethnic society recognizes women's land rights. The political and cultural rights of this people should be upheld by the state.

e. Put the Beijing conference action plan and the CEDAW declaration into action.

f. A thorough analysis of the land ownership situation.

g. Dissemination of information on relevant land laws and acts

h. Create various political organizations, such as cooperatives, organizations, and mobilization.

i. Computerization, generality of land law, and reform of land administration

j. The creation of international land law.

It is critical that women have the rights to property control and that the state respects their decisions on their relationships with their families, society, and the state.

CONCLUSION

Inheritance is a problem for women's economic and financial circumstances as well as for human rights. But homes with a female head of family find it particularly tough given the current circumstances in Bangladesh. The constitution only provides equal rights for women and men in all areas of the state and of public life, despite the fact that it forbids discrimination against any citizen on the basis of religion, race, caste, sex, or place of birth. Land offers safety during dangerous situations when poor ladies need money. The process of empowering women is facilitated by the legal rights of women to resources that increase their standing in the household and society. The relationship between equality and empowerment is crucial to bolstering the status of women, though. Giving women the right to own land may be a powerful tool to improve their economic status and increase their capacity to confront gender inequality in society and politics, both inside and outside the house. Land rights are proven to empower women outside the home by enhancing how well-treated they are by the villagers and by facilitating their participation in and access to rural decision-making

processes. Achieving effective ownership and rights over real estate favorably impacts the realization of other crucial rights such as access to education, work, income, and other forms of empowerment. In order to guarantee women's legitimate land rights in Bangladesh, legal and social measures in the shape of social movements must be implemented. To create women's rights and effective control over property, there is a pressing need for legislative and organizational reforms, which require a neutral political will to improve the situation. The government must also create new land policies and laws to guarantee women's equality. In order to improve women's ability to bargain with the community, the government, and their own families, there is also a need for increasing awareness and bridging knowledge gaps in the areas of land rights, gender, and legal concerns.

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