

Abolish discriminatory inheritance laws now



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Inheritance is fundamentally a sequential process of transferring the assets of a deceased person. Inheritance law was developed to govern this process of transferring the property of a preceding generation — along with its liabilities — to the next generation. Inheritance is recognised as a fundamental human right. However, inheritance laws vary across gender, religion, country, and era. These variations are among the key causes of discrimination in establishing women's human rights. Ownership of property is a foundational element in creating a balance of power within society. The only way to build an equitable balance of power in society and the state is through laws that guarantee equal property rights for all citizens. In the case of Bangladesh, we see that Article 27 of the Constitution states: "All citizens are equal before the law and are entitled to equal protection of the law." Under this constitutional provision, the state is obligated to ensure equal rights for all citizens. Yet, as citizens of Bangladesh, the equal rights of women as guaranteed by the Constitution have still not been realised in practice. Women's rights continue to be neglected when it comes to accessing their fundamental civil rights in matters of inheritance.

Women's property rights

The issue of inheritance is critically important to women's empowerment — particularly their economic empowerment. Inherited assets are among the primary sources of property ownership. If women are not equal partners under inheritance law, one of their key sources of wealth is directly undermined. This disrupts the balance of power between men and women, and creates barriers to women's economic empowerment. In Bangladesh, the inconsistencies between women's property rights

and inheritance law stand as a major obstacle to establishing women's civil rights as equal citizens, and continue to disturb the balance of power within society.

The family laws currently in force in Bangladesh are primarily religion-based, which is inconsistent with Article 27 of the Constitution. For the Muslim population of Bangladesh, the Muslim Personal Law governs family matters. Likewise, Hindu, Christian, and other religious communities follow their own respective religious laws. In this way, society as a whole is divided along religious lines, and women are deprived of their property rights. Under Muslim law, a daughter inherits only half the share of a son from her father's or mother's estate.

Reforming inheritance law — particularly on the basis of the Uniform Family Law proposals — to establish women's property rights is now an urgent demand of the time.

Under Hindu law, daughters are not entitled to any inheritance at all. Buddhists follow the same provisions as Hindu law. Under Christian law, however, sons and daughters inherit equal shares of property.

Reforming these laws is a demand of the times, in the interest of establishing equal fundamental civil rights for women. Family law can never be allowed to stand in contradiction to civil law — especially given that Article 26 of the Constitution stipulates that any existing law or newly enacted law that is inconsistent with fundamental rights shall, to the extent of such inconsistency, be considered void and unenforceable. It is therefore the constitutional responsibility of the state to harmonise existing family laws with the fundamental civil rights guaranteed by the Constitution.

Taking all of these constitutional provisions into consideration, Bangladesh Mahila Parishad began the process of drafting a proposal for a Uniform Family Law in 1989.

Eminent legal minds of the time assisted in preparing this proposal, including Dr. Kamal Hossain, Justice Kamaluddin Hossain, Justice Debesh Bhattacharya, and Barrister Salma Sobhan. Leaders and organisers of the women's movement, guided by the counsel of these legal experts, finalised the draft in its complete form in 1993 and presented it to the then Speaker, Mirza Golam Hafiz.

It is also worth noting that the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), adopted by the United Nations in 1979, similarly enshrines: (1) the principle of equality, (2) the principle of non-discrimination, and (3) the principle of state accountability for signatory nations. It calls upon states to enact and enforce laws aimed at achieving dignity, rights, and freedom in all spheres — family, political, economic, and social — and at realising genuine equality between women and men. The enactment of a Uniform Family Law would significantly accelerate the implementation of the CEDAW commitments.

Five laws proposed under the Uniform Family Law to protect women's human rights

1. A Uniform Inheritance Law — to ensure equality in property

inheritance for all citizens of Bangladesh, regardless of religion, ethnicity, or gender. 2. A Uniform Marriage and Divorce Law. 3. A Uniform Maintenance Law. 4. A Uniform Guardianship and Custody Law. 5. A Uniform Adoption Law.

The five proposals comprising the Uniform Family Law have been drafted with the aim of protecting women's personal rights, which are an inseparable part of their civil rights. It is only through the implementation of these provisions that women's social and economic rights can be meaningfully secured.

In recent times, the Women's Reform Commission has also recommended the implementation of a Uniform Family Law, even if on an optional basis. Reforming inheritance law — particularly on the basis of the Uniform Family Law proposals — to establish women's property rights is now an urgent demand of the time. Women constitute 80% of the workforce that built and sustains the garments industry, the cornerstone of Bangladesh's economic development. Women also make up 70 to 72 percent of the agricultural labour force, another major pillar of Bangladesh's economy — yet women hold no ownership over

agricultural land. Women's labour in rearing chickens, goats, and cattle to meet the country's protein and nutritional needs deserves full recognition. Women's innate leadership in addressing the climate crisis, and their knowledge in the use of safe fuels, are equally deserving of acknowledgment. In today's society, women are the agents of social development and progress. The prospect of societal advancement while keeping women outside the mainstream of development is simply unrealistic. It is therefore crucial to enact laws that ensure women receive their rightful share in all spheres — including inheritance and property.

At the same time, it is urgent to identify and eliminate the barriers that stand in the way of establishing women's inheritance and property rights. Beyond the inconsistencies in existing law, there are numerous other causes of women's unequal property rights, including: 1. The lack of adequate awareness among women and society at large about inheritance; 2. Social customs, cultural norms, and narrow interpretations of religious doctrine; 3. Ignorance of property law and the complexities of its implementation; 4. The pervasive influence of patriarchy

within society; and 5. The lack of access to education for women, child marriage, and the curse of polygamy. All of these factors collectively nurture a misogynistic cultural mindset within society. To change this anti-woman culture, what is needed is a broad social movement — one that brings together a conscious civil society — to establish women's property rights and achieve equality in inheritance law. The Uniform Family Law proposal can serve as a guiding framework for this very movement.

The movement for women's human rights is a global social and political struggle aimed at eliminating gender discrimination and ensuring equality in education, employment, voting rights, and legal standing. In Bangladesh, this movement took root through the path of the anti-British political struggle. Around the same period, Begum Rokeya Sakhawat Hossain in Bengal inspired women to break free from the veil of seclusion and dream of spreading their wings across a boundless horizon. In the aftermath of independence, a newly awakened women's society was born through the crucible of the Liberation War. In post-independence Bangladesh, alongside many hard-won achievements, women continue to face enormous obstacles — most visibly manifested through violence against women. A society built on patriarchal foundations maintains its discriminatory social structure in order to preserve an unequal balance of power. At the very centre of this power imbalance lie discriminatory inheritance laws and women's limited rights over property. In recent times, Tunisia, Egypt, and Algeria have paved the way for women's economic empowerment through landmark reforms to property rights laws. In our country as well, women's property rights must be guaranteed, safeguarded, and brought in line with the demands of the modern age. Towards this end, the women's movement and the broader citizens' movement must advance with a multifaceted programme — encompassing dialogue, research, and sustained advocacy. The movement for the establishment of women's human rights must be transformed into a full-fledged social movement.



VISUAL: ANWAR SOHEL

UNEQUAL HOMES

Family law and women's rights in Bangladesh



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Under the laws currently in force in Bangladesh, the process of forming a family begins with marriage — entered into with the consent of a man aged 21 and a woman aged 18. Yet marriage is not merely two people walking a shared path through life. It carries with it a long continuum of family culture, religious values, and social expectations. There are times, however, when two people find it impossible to continue that journey together — and it is precisely at such moments that the issues of divorce, child custody, and maintenance come to the fore.

Case Study 1

Runa married Akbar in 2006 out of love, eloping against their families' wishes. Both families subsequently accepted the marriage. However, not long after the wedding, Runa began

to suffer various forms of physical and psychological abuse at the hands of Akbar and his family members, on a range of pretexts.

When Runa was four months pregnant, Akbar and his family subjected her to further physical and mental abuse and drove her out of the home. As her parents were no longer alive, she took refuge at her maternal uncle's house, where she gave birth to a son. Even then, neither her husband nor anyone from his household enquired after her or the child, nor did they provide any maintenance whatsoever.

When Runa returned to her in-laws' home with her three-month-old son, Akbar and his family again refused to take her in and turned her away. In the meantime, Akbar had contracted a second marriage.

In 2010, Runa applied to Bangladesh Mahila Parishad — with her child — seeking both a peaceful resolution to her family crisis and shelter at Rokeya Sadan. Akbar was contacted on behalf of the organisation in an effort to reach an amicable settlement; however, he refused to take his wife and child back home or to provide any maintenance.

Subsequently, in 2011, assistance was provided to file a case in the Family Court for the maintenance of Runa and her son, as well as for the recovery of her dower (denmahr). The case remains ongoing to this day.

Case Study 2

In 2015, Promila and Subodh were

married in accordance with Hindu rites and customs, in a family-arranged ceremony. Five years into the marriage, Promila discovered that Subodh had secretly contracted another marriage three years after their wedding, and that he had been regularly leaving home under the pretext of office tours in order to live with that woman. By this time, Promila had given birth to a son. Subodh provides no financial maintenance for Promila or their child. Promila works at a bank, and it is entirely from her own earnings that all household expenses are met.

On various occasions, Subodh — claiming he needed funds to start a business — pressured Promila into taking out bank loans in her name, and he has not repaid the money. Subodh's parents support their son and are attempting to forcibly take their grandson away from Promila. Subodh, too, is threatening Promila over the phone in an effort to take the child away. Promila wishes to free herself from this relationship and seeks custody of her child.

These are not merely two isolated shadow cases — across every region of the country, within families of many different communities, classes, and professions, countless individuals are being subjected to physical and psychological violence. What follows is a brief attempt to outline the legal framework governing marriage, divorce, maintenance, and child guardianship under the laws

currently in force in Bangladesh.

In Bangladesh, Muslim marriage and divorce are governed by the Muslim Marriages and Divorces (Registration) Act, 1974, and the Muslim Family Laws Ordinance, 1961. Under these laws, both husband and wife have the right to dissolve the marriage. While the husband holds the direct and unilateral power of divorce, the wife may exercise the right to divorce in one of the following ways: through the delegated power of divorce (talaq-e-tafwiz), if such delegation has been recorded in Column 18 of the kabin-nama (marriage contract) — whether or not it has been so recorded — or through the court; alternatively, the marriage may be dissolved by mutual consent.

A Hindu marriage is solemnised in accordance with religious rites and observances, through the performance of the yajna (sacred fire ceremony) and the saptapadi (the seven steps). Under classical Hindu scriptural law, there is no provision for divorce. Bangladesh currently has the Hindu Marriage Act, 2012, under which registration of Hindu marriages is mandatory. This Act, too, contains no provision for divorce. However, the Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946 grants Hindu married women the right to claim separate residence and maintenance in certain specified circumstances. Women may remarry upon the death of their husband. Although no formal

provision for divorce exists, there is an established practice in Bangladesh whereby a Hindu woman may obtain a judicial declaration of separate residence through an application to the court, on the basis of which she may contract a subsequent marriage.

Under the Guardianship Act, 1890, and the Family Courts Act, 2023, guardianship in Bangladesh refers to the care, custody, and supervision of the person and property of a minor — that is, a child under the age of 18. While the father is recognised as the natural guardian, the court may appoint the mother or any other person as guardian in the best interests of the child (welfare of the minor). In such cases, the court gives paramount consideration to the child's overall wellbeing.

Maintenance (bharanposan) refers to the fulfilment of all basic necessities required for a person's sustenance — encompassing food, clothing, shelter, medical care, education, and other related expenses.

Following marriage, the provision of maintenance is an obligation incumbent upon the husband and a right vested in the wife. It bears no relation to the husband's financial prosperity, and his economic circumstances have no bearing whatsoever on the wife's entitlement. Should a divorce occur for any reason, the wife shall remain entitled to maintenance even after the dissolution of the marriage. This is, however, a limited right and

subsists only for a restricted period of time. In law, the responsibility for a child's maintenance rests with the father — even where the child is living with the mother during the pendency of divorce proceedings, the financial responsibility for the child's upkeep remains with the father. In the case of Muslims, it is the father's obligation to provide maintenance for a son until he attains majority, and for a daughter until she is married. A Hindu, regardless of whether or not he possesses any property, is legally bound to maintain his minor son, his unmarried daughter, and his aged parents.

A review of the family laws currently in force reveals that the existing provisions governing marriage, divorce, child guardianship, and maintenance are actively generating inequality and asymmetrical power relations between women and men within the family. Beyond this, the fragmentation of family law along lines of community and religion is producing not only disparity between women and men, but also inequity and dispossession among women themselves. As citizens of Bangladesh, what we demand — in order to build families, a society, and a state grounded in true equality between women and men — is the guarantee of equal rights and the freedom to live in safety and dignity.