

Women's Right to Property: An Enigmatic Cauldron of Growing Landlessness of Women across the Globe

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“Freedom and Property Rights are inseparable. You cannot have one without the other”

- George Washington³

Abstract

There is a rise in the participation of women in practically every economic area. The number of women who are leading houses and participating in the world's workforce formally is growing at an alarming rate. In spite of these tendencies, the percentage of land that is legally owned by women is a much lower percentage than that of males across the globe, and women are routinely denied the opportunity to ownership. There are a number of social, cultural, historical, political, and legal variables that contribute to the lack of property and inheritance rights that women have, and the precise patterns of ownership and disenfranchisement may vary greatly from place to place. If a woman does not have a formal title to land or property, for example, it is very difficult for her to acquire a loan or line of credit since she has no security to put up against the debt. This further results in women's lower status and higher rates of poverty compared to men. This raises many inquiries such as

- 1. To what extent do women own property globally?*
- 2. In what ways do societal and cultural norms prevent women from gaining access to, controlling, and owning land?*
- 3. What legal, social, and political obstacles prevent women from acquiring, using, and/or reselling land?*

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³George Washington was an American military officer, statesman, and Founding Father who served as the first president of the United States from 1789 to 1797. (source: https://en.wikipedia.org/wiki/George_Washington)

Therefore, the need of the hour is not just enacting strict laws and regulations but also making sure that these laws and regulations are put into force properly in order to increase women's access to owning land. This article traces the intellectual waves and political and social factors that formed the difficult disputes over the basic right to property in India, the US, the UK, Islamic countries like Pakistan, Saudi Arabia, Iran, and several African countries and further discusses the barriers faced by women across the globe to in order to have access to the right to property and finally recommend a way forward.

Keywords: *Women, Gender Inequality, Right to Property, Implementation, Awareness*

I. Introduction

The unequal treatment of women in relation to their entitlement to land is an issue that is experienced by people all around the globe. Several nations have enacted national laws that are supportive of women's land ownership rights. The ratification by the governments of various conventions concerning the rights of women was the impetus behind the creation of these programs. Despite these agreements, many nations continue to struggle with guaranteeing that women have equal landholding rights to those of males. This is mostly due to the deeply ingrained patriarchal gender power dynamics that are present in most civilizations. The mountain of data pointing to gender disparities in property ownership and access is enormous.

The government of India in December 2020 released data from National Family Health Survey (NFHS-5)⁴ according to which fewer women are now owning property either jointly or alone than in 2017 in several states across India. Moreover, half of the women in 21 states and UTs report a drop in home ownership. The decline in Tripura was the most dramatic. Among the women of Tripura, just 17.2% indicated they were property owners, down from 57.3% in the NFHS-4⁵ survey. Less than half as many women as males claimed ownership

⁴ http://rchiips.org/NFHS/NFHS-5_FCTS/NFHS-5%20State%20Factsheet%20Compendium_Phase-I.pdf (Last viewed 06/11/2022).

⁵ <http://rchiips.org/nfhs/NFHS-4Reports/India.pdf> (Last viewed 06/11/2022).

of land and/or property in states including Maharashtra, Goa, Nagaland, and Kerala.

This gender gap is just not restricted to India. This is evident across the world. Women have limited access to land and their land rights are less secure than those of men in every region of the world. Women make up less than 20% of landowners worldwide, but they make up around 43% of the overall workforce in this industry⁶.

Women also face widespread discrimination when it comes to inheritance rights, and when it comes to accessing land through markets and redistributive reforms, they have a lower chance of getting land than men do because of economic and financial access disparities, societal prejudice, and discrimination in market economies. Inheritance rights are another area in which women endure pervasive prejudice⁷.

Today, almost all the countries around the world have enacted laws and regulations which cater to women's right to property. But from the various reports and statistics, it is revealed that gender parity exists concerning the right to property.

II. Global Perspective on Women's Equal Property Rights

“Property is surely a right of mankind as real as liberty”

-John Adams⁸

It has been highlighted that there is a glaring disparity between men and women who hold and manage property⁹. The difficulty of women having access to land and many other productive resources has a significant and negative impact on

⁶ UN WOMEN, Facts & Figures, <http://www.unwomen.org/en/news/in-focus/commission-on-the-status-of-women-2012/factsand-figures>. (last viewed: 06/11/2022).

⁷ World Bank World Development Report, 2012: Gender Equality and Development. Washington, DC: The World Bank (2012).

⁸ John Adams was an American statesman, attorney, diplomat, writer, and Founding Father who served as the second president of the United States from 1797 to 1801. (source: https://en.wikipedia.org/wiki/John_Adams)

⁹ https://shodhganga.inflibnet.ac.in/bitstream/10603/398854/11/11_chapter3.pdf.

their ability to execute the myriad of human rights that are given to them by law¹⁰. Various human rights instruments guarantee women's equal rights related to access, use and control over land.

Article 2 of the Universal Declaration of Human Rights¹¹ lays the groundwork for the principle of non-discrimination regarding the exercise of rights that are guaranteed by the Declaration which prohibits discrimination of any kind which is based on a person's sexual orientation. In addition to a wide variety of other rights, the Declaration recognizes the rights of individuals to their property and the rights to food, shelter, and education.

Article 3 of the International Covenant on Civil and Political Rights¹² ensures that women and men be treated equally, while article 2 of the same document outlaws discrimination on the basis of sex, in addition to a number of other grounds.

Article 3 of the International Covenant on Economic, Social, and Cultural Rights¹³ requires states to "guarantee the equal right of men and women to enjoy all economic, social, and cultural rights" and forbids sex discrimination. The Covenant acknowledges food, shelter, education, health, culture, job, and association rights.

The Convention on the Elimination of All Forms of Discrimination against Women¹⁴ requires states to eradicate discrimination in laws, policies, and practices, including via temporary exceptional measures. Article 14.2 lays forth the precise provisions for the rights to participate, housing, housing access, credit and loans, and education. Importantly, it also provides promises of equitable treatment in agricultural reform, land reform, and land resettlement plans. This aspect of the agreement is very noteworthy.

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<https://www.ohchr.org/sites/default/files/Documents/Publications/RealizingWomensRi ghtstoLand.pdf>.

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https://www.ohchr.org/sites/default/files/UDHR/Documents/UDHR_Translations/eng.p df.

¹² <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/ccpr.pdf> .

¹³ <https://www.ohchr.org/sites/default/files/cesr.pdf> .

¹⁴ <https://www.ohchr.org/sites/default/files/Documents/ProfessionalInterest/cedaw.pdf>.

The UN Declaration on the Rights of Indigenous Peoples¹⁵ states that indigenous peoples have a right to the lands, territories, and resources they have historically owned, inhabited, utilized, or acquired and that states must legally recognize and safeguard them. The such acknowledgement must respect indigenous peoples' customs, traditions, and land tenure systems. The Declaration protects indigenous women from discrimination and emphasizes their rights and needs.

Article 1 of Protocol 1 of the European Convention on Human Rights¹⁶ refers to the Protection of Property according to which everyone, whether human or legal, has a right to be left alone to enjoy his or her property without interference. Except in cases when doing so is in the public interest and in accordance with the procedures established by law and the basic principles of international law, no one should be dispossessed of his belongings.

III. WOMEN'S RIGHT TO PROPERTY IN INDIA

A) Rights of Hindu Women

The legal right of Hindu women to inherit property has been constricted since the beginning of Indian culture. Hindu women's property rights have been restricted throughout history, and existing laws regulating these rights are much more liberal than those of ancient Hindu society. However, **Women got share as coparceners when where there were no male siblings**

i) Stridhan

An unmarried woman is never mentioned as having any property in the old scriptures. However, a woman could only own a certain amount of property when she got married. This property, known as stridhan, was given to her at the time of the wedding and could include movable items like jewellery, clothing, household items, or even cattle. In a few exceptional instances, immovable assets like landed property were also given as stridhan. However, a woman was never the sole owner of her stridhan because, as was previously mentioned, the Manuscript preached that a wife and her possessions belong to her husband. The term

¹⁵https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf.

¹⁶ https://www.echr.coe.int/documents/convention_eng.pdf (last viewed 04/11/2022).

"stridhan" was never adequately defined in these ancient texts; its characteristics were also never made explicit, and the succession rule was not made clear. However, this started to alter as various schools of Hindu law emerged.

ii) The Doctrine of Reversion

Due to socio-cultural factors, the idea of women's estate became widely accepted in Hindu society during the medieval period¹⁷.

In the case of *Bijoy Gopal Mukherjee v. Krishna Mahishi Deb*¹⁸, the Privy Council ruled that, due to sociocultural factors, the idea of women's estate began to take root in Hindu society at this time. When a woman acquired land, she became the owner subject to two restrictions when she did so either: 1) by inheritance, particularly from male family members like her husband or father-in-law, or 2) by share obtained through property division. She could not normally alienate the corpus, and after her death, the next heir of the last full owner, also known as a reversioner, became the new owner.

Ancient Hindu culture was governed by the belief that '*women were incapable of leading their own lives*', as expressed in the Sanskrit proverb *Na stri swatantra marhati-'Swatrantam Na Kachit Striyah*¹⁹. Dr. B.R. Ambedkar proposed the Hindu Code Bill in Parliament in 1947, which was a momentous step toward the fulfilment of gender equality. He also brought forth many other reforms and fought diligently for the development of women.

The bill primarily addressed property rights and succession, marriage, maintenance, adoption, guardianship and minority and divorce. The Bill was premised on the notion that the law must be stable while yet adapting to the changing requirements of society. Because of the vehement resistance, the bill as

¹⁷ In the Mitakshara jurisdiction, including Bombay and the Dayabhaga School, the legal commentators finally dictated that the share obtained in partition is not stridhan in its true sense. It was given the Colonial legal recognition as "women's estate" in *Devi Prasad v. Mahadeo*, 39 LA. 121 (1912).

¹⁸ 4 LA. 87(1907).

¹⁹ A.M. BHATTACHARJEE, *HINDU LAW AND THE CONSTITUTION* 120 (2d ed., E.L. House 1994).

a whole was ultimately defeated, but it was eventually approved in stages and in a fragmented fashion. In May 1955, the Hindu Marriage Act was passed, followed by the Hindu Succession Act in May 1956, the Hindu Adoption and Maintenance Act in December 1956 and the Dowry Prohibition Act in July 1961.

Under Hindu Succession Act 1956, a woman's restricted estate on whatever property she owns has been transformed into an absolute estate, and no woman may be denied property rights on the basis of tradition, use, or text²⁰. On the dead male Hindu's inheritance, property rights were handed to his female heirs²¹. In spite of such socially progressive provisions, some disparities remained under the 1956 Act which was eliminated by an amendment which was called Hindu Succession (Amendment) Act, 2005, (2005 Amendment Act) in which daughters were included in the coparcenary list. This means that if a Hindu pass away, his or her interest in the property of a joint Hindu family will devolve by testamentary or intestate succession, depending on the circumstances.

The position of the women was further uplifted by various pronouncements of the Supreme Court and one such judgement is *Vineeta Sharma v. Rakesh Sharma*²² where the Supreme Court held that No matter whether the father was alive or not on September 9, 2005, when the 2005 Amendment Act went into effect, the daughters would have equal birth rights in Hindu Undivided Family estates.

iii) Rights of Muslim Women

Muslim people in India are often classified as either Sunni or Shia. Both the Sunnis and the Shias have their own subgroups, with the Hanafis being the largest in the Sunni community and the Ithna Asharis the largest in the Shia community. Sunni law acknowledges only male relations, which include the son's daughter, son's son, father's mother, and father's father. Shia law has no such distinction, and heirs who are connected to the dead via a female are likewise eligible for inheritance.

²⁰ Section 14 of the Hindu Succession Act 1956.

²¹ Section 8 of the Hindu Succession Act 1956.

²² (2020) 9 SCC 1.

Following the famous *Shah Bano*²³ case, the husband is required to support the wife in a fair and reasonable way even after separation, and this term continues even after *Iddat*.

In case of the death of the husband, the widow gets 1/4th share (in case are no children) and 1/8th share in case there are children. If the deceased husband had more than one wife, the 1/4th or the 1/8th share will be divided equally among them. In case of a deceased son, the mother is entitled to inherit 1/6th of the property, if there is a grandson and in cases there are no grandchildren, she will get 1/3rd²⁴.

iv) Right Of Christian, Parsi And Jew Women

The Indian Succession Act, 1925²⁵, applies to people of the Christian, Parsi, and Jewish faiths. A Christian woman has a right to a certain portion of the inheritance. The proportion of that share that each of those other relatives receives is based on the dead person's family tree. If the dead leaves behind children, the deceased's widow is entitled to one-third of the inheritance, and the remaining assets are distributed to the children. And if the heirs are relatives who are not the children, she will get a half of the inheritance, and the remaining portion will be distributed among the other relatives of the person who passed away. In the event that there are no children or other relatives, she is entitled to the whole of the estate.

*Mary Roy v. State of Kerala*²⁶ and others is the most significant case protecting Christian women's property rights. The Act under challenge was the Travancore Christian Succession Act as the provisions restricted the right of the women to own property belonging to Indian Christian women in the southern region of the community. The Supreme Court in this case held that the Act was discriminatory towards women and therefore was declared to be invalid.

²³ Pathak, Z. and Rajan, R.S. *Shahbano*. Signs: Journal of Women in Culture and Society (1989).

²⁴ Somya Luthra, *The Right to Property: Tracing The Women's Right to Property Across USA, UK & India* Vol. IV Issue III, INDIAN JOURNAL OF LAW AND LEGAL RESEARCH.

²⁵ <https://legislative.gov.in/sites/default/files/A1925-39.pdf> (last viewed 06/11/2022).

²⁶ 1986 AIR 1011, 1986 SCR (1) 371.

A Parsi widow has the right to receive an equal portion of her dead husband's inheritance with her children, in addition to the deceased spouse's parents, who are entitled to receive half of the child's share. And in the event that the parents are not there, the property is divided between the Parsi lady and her children in such a way that the widow and all of the children get equal interests in the estate of the departed.

IV. Rights of Women in Other Countries – An Introspection

A) United States of America

When it came to a woman's ability to participate in the family's economic life during colonial times, most states in the United States followed the English common law doctrine of coverture. This doctrine basically restricted the identity of women after marriage in a range of activities and her identity was completely merged with that of her husband. This means that whatever property women held before marriage was completely vested into their husbands after marriage. After being married, a woman virtually gave up her rights to her own property, which included things like cattle, furniture, securities, and cash. It was the husband's prerogative to get rid of it whenever he wanted, and he might even dispose of it in his will²⁷. Women's property rights inside marriage were further limited by community property law, which gave husbands exclusive authority over what was ostensibly shared property and wealth²⁸.

There was a shift in the legislation starting in 1839 that gave women the right to own property (both real and personal), form contracts and sue for damages, inherit separately from their husbands, receive wages for their employees, and draft their own wills. In the United States, the new regulations were enacted through a collection of laws passed by individual states, most of which were enacted between 1830 and 1920. In 1839, Mississippi became the first state to

²⁷ Shamma, C., Salmon, M., & Dahlin, M. *Inheritance in America: From colonial times to the present*. New Brunswick: Rutgers University Press (1987).

²⁸ CHARMATZ, J. P., & DAGGERT, H. S. *COMPARATIVE STUDIES IN COMMUNITY PROPERTY LAW*. Westport, CT: Greenwood Press (1977).

pass legislation allowing a married woman to possess property in their own name (albeit not to exercise legal authority over it)²⁹.

One of the major pieces of legislation passed in the US that liberalised women to a certain extent were the Married Women's Property Act, 1848 which gave married women the freedom to possess and manage their own property independently of their husbands. Subsequent modifications to the Act granted married women even more authority over their property and allowed a woman to keep any real estate she brought into a marriage, as well as any rentals or profits she earned on the property. Before this law, the husband might have sold the property or used it or the revenue from it to settle his obligations. The new legislation meant he could no longer do so, and her premarital rights would remain in effect³⁰.

Right to Property: The Founders of the United States recognized early on that the concept of private property underpinned not just economic success but also individual liberty. Property rights, including the freedom to own, use, and transfer property, were therefore safeguarded by common law, state law, and the Constitution. The right to own private property has been recognised by the Constitution of the US which prohibits discrimination with respect to right to property where both men and women have equal rights to own property. Due Process Clauses of the Fifth and Fourteenth Amendments, especially the Takings Clause of the Fifth Amendment, specifically safeguard property rights under the Constitution³¹.

Further, the right to own property has been recognised by American Convention on Human Rights which ensures that everyone has the right to use and enjoyment

²⁹ CORYELL, JANET L. (ed.). *NEGOTIATING BOUNDARIES OF SOUTHERN WOMANHOOD: DEALING WITH THE POWERS THAT BE*, p. 92, (University of Missouri Press).

³⁰ Kathryn Cullen Dupont, *Encyclopedia of Women's History in America*, Da Capo Press 2000

³¹ https://www.cato.org/sites/cato.org/files/serials/files/cato-handbook-policymakers/2017/2/cato-handbook-for-policymakers-8th-edition-16_0.pdf

of the property³². The Convention assures that no one shall be deprived of the property except otherwise provided by the law³³.

B) United Kingdom

In English common law, the wife is considered a feme covert, a position that emphasizes her subjection to her husband and places her under the "protection and control of her husband, her baron, or lord."³⁴ When a man marries a woman, she effectively gives up her right to her own property and to bring or defend legal action in her own name; in other words, she and her husband merge into a single legal entity. Unless otherwise stated, the wife's personal property gained during the marriage belonged to the husband³⁵. Because of the husband's control over the family's resources, the wife was expected to cater to his every whim and want. Because they lacked the social and financial resources to leave their drunken or violent husbands, many women supported prohibition for this same reason³⁶. Women who never married or who were widowed retained ownership of their land and all of their personal possessions, including their inheritance. Adult women who are not married are legally referred to as femme soles. After a lady was married, the only way she could reclaim her assets was via death. Queens of England and Margaret Beaufort were the only married ladies allowed to be femmes sole.

In the United Kingdom, a social reformer called Caroline Elizabeth Sarah Norton, who left her husband in 1836 and who was denied access to her three sons held a major revolutionary campaign for women's right and status which lead to the passage of the Matrimonial Causes Act 1857, Custody of Infants Act 1839, and the Married Women's Property Act 1870.

³² Alfredsson, Gudmundur; Eide, Asbjorn *The Universal Declaration of Human Rights: a common standard of achievement*. Martinus Nijhoff Publishers (1999).

³³ "American Convention on Human Rights". Organization of American States. pp. Article 21.

³⁴ Blackstone, William ("Of husband and wife". *Commentaries on the Laws of England (1765–1769)*. Lonang Institute 1769).

³⁵ BRIDGET HILL, *WOMEN, WORK AND SEXUAL POLITICS IN EIGHTEENTH-CENTURY ENGLAND* (London: Blackwell, 1989), 1988.

³⁶ Zaher, C., *When a woman's marital status determined her legal status: a research guide on the common law doctrine of coverture*. Law Libr. J2002.

Married Women's Property Act, 1870 was passed in the parliament of the United Kingdom, which replaced the archaic English common law doctrine and gave married women got more rights on their property. The Act guaranteed both the plaintiff's and defendant's access to the court system. If a woman were to incur any kind of financial loss, she would be responsible for it on her own, not her husband's. Once they tied the knot, married women were held responsible for their own debts and had to follow the same bankruptcy rules as any other business owner. In addition, stock might be held in the names of both husband and wife³⁷. The Women's Property Act of 1888 was enacted to fix some of the problems with the earlier act. As a result of this legislation, married women were given the legal right to purchase, sell, and own property. Another Act was passed in 1922 that provided for the equal inheritance of a couple's property upon the death of either spouse, as well as that of their intestate children. In 1926, women had the same legal rights as males to own and sell the property. The parents, whether male or female, are jointly responsible for child maintenance and the payment of rent³⁸.

V. Women's Right to Property in Islamic Countries

It is generally accepted that the prevalence of religion or patriarchal systems is to blame for the unequal position of women in nations where Muslims make up the majority of the population³⁹.

The majority of Islamic interpretations place an emphasis on the traditional division of labour between the sexes and recommend distinct modes of care for men and women. For instance, it only grants women limited rights to start the divorce process and establishes limitations on the ability of women to inherit, have custody of their children, and in certain areas, have freedom of movement. It is often believed that women are unable to hold political office due to the

³⁷ Trevor May, *An Economic and Social History of Britain* (New York: Longman, 1987), p 90.

³⁸<https://www.parliament.uk/about/living-heritage/transformingsociety/private-lives/relationships/overview/propertychildren/> (last visited 07/11/2022)

³⁹ Mounira Charrad, *States and Women's Rights: The Making of Postcolonial Tunisia, Algeria, and Morocco* (Berkeley: University of California Press, 2001); Daniela Donno and Bruce Russett, "Islam, Authoritarianism, and Female Empowerment: What are the Linkages?," *World Politics*, 56 (July 2004), 582–607;

practices and teachings of their own faith traditions⁴⁰. By recognizing a state religion, establishing religious institutions, or teaching religion in schools, the status of religious symbols, elites, and authority is elevated, to the point where they become central components of the power, identity, and legitimacy of the state⁴¹.

Pre-Islamic women's standing was low. In social, economic, political, mental, and spiritual aspects, they weren't equal to men. When Islam emerged, it posed a challenge to preconceived notions women by enacting policies that guarantee their safety and human decency and protection of rights. The Quran ensured that men and women were on spiritual equal ground⁴².

Widows and orphans are among those who get special protection in Islam. For example, the Qur'an states unequivocally that women have the legal right to purchase, acquire, manage, administer, enjoy, and dispose of both physical and intangible property. The saying is something like, "Men get what they get, and women get what they deserve."⁴³

A) Pakistan

The legal system of Pakistan is a hybrid of Islamic law and the legal system of the former British colony. In Pakistan, women have the right to inherit property from both their parents and their spouses, in accordance with Sharia law as well as the law of the country. Every Pakistani citizen is guaranteed the freedom to buy, own, and sell property within the country under the Constitution⁴⁴. Further, it affirms the inviolability of property rights and citizen equality and demands the nullification of any custom with the power of law that violates these

⁴⁰ Jane Bayes and Nayereh Tohidi, *Globalization, Gender, and Religion: The Politics of Women's Rights in Catholic and Muslim Contexts* (New York: Palgrave Macmillan, 2001).

⁴¹ Mala N. Htun and S. Laurel Weldon, "State Power, Religion, and Women's Rights: A Comparative Analysis of Family Law," *Indiana Journal of Global Legal Studies*, 18 (Winter 2011), 145–65; Rodney Stark and Laurence R. Iannaccone, "A Supply-Side Reinterpretation of the 'Secularization' of Europe," *Journal for the Scientific Study of Religion*, 33 (September 1994), 230–52.

⁴² Azhar Aslam and Shaista Kazmiecuf, *MUSLIM WOMEN AND PROPERTY RIGHTS*, Islam and the free-market economy.

⁴³ ' (Qur an , 4:32).

⁴⁴ Article 23 of the Constitution of Pakistan

principles. While the Constitution does not specifically address the inheritance rights of women, it does offer safeguards and principles to ensure that all people are treated fairly and equally⁴⁵. The Family Laws Ordinance of 1961 and the Muslim Personal Law Act of Pakistan both codify Islamic Shariah as the legal basis for inheritance in Pakistan.

Women make up half of the country's population, yet owing to the social system, they are often denied their inheritance rights by means of forgery and falsification, and under a variety of false pretences⁴⁶. This suggests that most women in Pakistan experience social and economic barriers to owning or managing property, which is consistent with the low level of social and economic indices for women.

B) Saudi Arabia

A look at Saudi Arabia's property laws illustrates how patriarchal values may undermine religiously based protections and amplify gender disparities. Saudi Arabia's constitution affirms that the country's governing principles are grounded on Islamic Shariah principles of justice, consultation, and equality. Constitutionally, the three pillars of the kingdom's economic and social existence—property, capital, and labor—are all protected⁴⁷. Private property rights are safeguarded by the state. Taking someone else's property without compensating them fairly is against the law unless doing so is in the public interest⁴⁸. The law protects individuals' rights to their property, but it does not provide any express protection for women's equality.

Until 2013, many women did not have access to their own identification documents, making it difficult for them to purchase and sell property or engage in other economic transactions. Even though women in Saudi Arabia are not explicitly prohibited from buying or managing property, they need male witnesses to verify their identities if they don't have legal documentation. As a

⁴⁵ Mumtaz, K. and M. Noshirwani (2006) 'Women's Access and Rights to Land & Property in Pakistan', International Development Research Centre.

⁴⁶ <https://tribune.com.pk/story/2333532/womens-property-rights>

⁴⁷ Article 7 of the Constitution of Saudi Arabia.

⁴⁸ Article 18 of the Constitution of Saudi Arabia.

result, fewer women used their legal rights⁴⁹. Women are subjected to significant discrimination in many spheres of their existence, including as the workplace, the educational system, and the legal system, and they are often perceived as being of lower quality than males.

C) Iran

For Iranian women, the years between 1979 and 2005 were filled with struggle. Human, political, economic, social, and cultural rights are guaranteed for all people of the nation in accordance with Islamic standards, as stated in the constitution⁵⁰. The government has an obligation to empower women and provide financial stability for single mothers and the divorced and widowed in accordance with Islamic principles⁵¹. In Iran, female property owners have no legal barriers. Social and cultural standards hinder women from independently obtaining loans or consulting with government institutions, which is why the number of female land and property owners is relatively low, according to various sources⁵².

VI. Women's Right to Property in African Countries

In Africa, one of the problems that has persisted throughout history is the marginal character of women's land rights. However, the imposition of colonial control resulted in the establishment of Western land tenure systems. At the time of their countries' independence, the newly formed governments of several countries, such as Tanzania, Mozambique, and Benin, declared that the state owned all of the land.

Several African countries have enacted or are developing land policies. To ensure that women do not suffer as a result of reforms that seek to formalize land rights,

⁴⁹ Asmaa Al-Mohamed, "Saudi Women's Rights: Stuck at a Red Light," in Al-Sayed Zaied, Ahmed Zein, Abdallah El-Tahawy, Asmaa Al-Mohamed, and Mohammed Abu Rumman, eds., *Emerging Social and Religious Trends* (United States: World Security Institute, 2008), 5–52

⁵⁰ Article 20 of the Constitution of Iran.

⁵¹ Article 21 of the Constitution of Iran.

⁵² FAO (1995) 'Women, Agriculture and Rural Development', FAO Factsheet: Iran. <http://www.fao.org/docrep/V9103e/v9103e06.htm>

it is essential that they take into consideration the economic, social, and political dimensions of property rights.

To offer a human rights framework for Africa that accounts for the continent's unique conditions, the Organization of African Unity (OAU), the forerunner to today's African Union (AU), adopted The African Charter on Human and Peoples' Rights in June 1981. This Charter specifically recognises the right of women to own property⁵³.

When it comes to property rights, South Africa's constitution lays out the ground rules explicitly. The legal document emphasizes the importance of protecting the rights of all people, regardless of their colour, ethnicity, socioeconomic status, or gender. In particular, of the Constitution of the Republic of South Africa, 1996⁵⁴ guarantees the right to property, which includes land rights. The Constitution makes it clear that no one's property may be taken away from them unless it's in violation of a law that applies to everyone.

Kenya has achieved progress toward gender equality by adopting a Constitution in line with international norms and by passing legislation to implement the principles of the Constitution. The constitution of Kenya explicitly identifies the right to property and directs the state not to discriminate with respect to acquiring and owning property⁵⁵.

In addition, the constitution of Nigeria⁵⁶ states unequivocally that every citizen of the country has the right to purchase and possess property or another kind of permanent property anywhere in the country.

The Constitution of Tanzania⁵⁷ also protects the private property rights of all citizens and makes it illegal to take someone else's property without just recompense. In addition, Constitution⁵⁸ makes it clearly illegal to discriminate on the basis of gender.

⁵³ Article 3 of the African Charter on Human and Peoples' Rights.

⁵⁴ Section 25 of the South Africa constitution 1996

⁵⁵ Article 40 of the Constitution of Kenya, 2010.

⁵⁶ Section 43 of the Constitution of Nigeria 1999.

⁵⁷ Article 24 of the Constitution of Tanzania.

⁵⁸ Article 13 of the Constitution of Tanzania,

VII. To What Extent do Women Really own Property Globally?

The past few decades have shown conclusively that women's ownership of immovable property, especially agricultural land, significantly affects their economic and social position, physical security, and freedom from abuse. the well-being and contentment of a whole household. Goal 5 of the Sustainable Development Goals on gender equality includes equal land rights for women⁵⁹. Most nations lack country-wide assessments of gender disparity in land ownership.

Globally women own less land and have less secure rights over land than men⁶⁰. Women make up on average less than 20 per cent of the world's landholders, but make up an estimated 43 per cent of the agricultural labour force⁶¹.

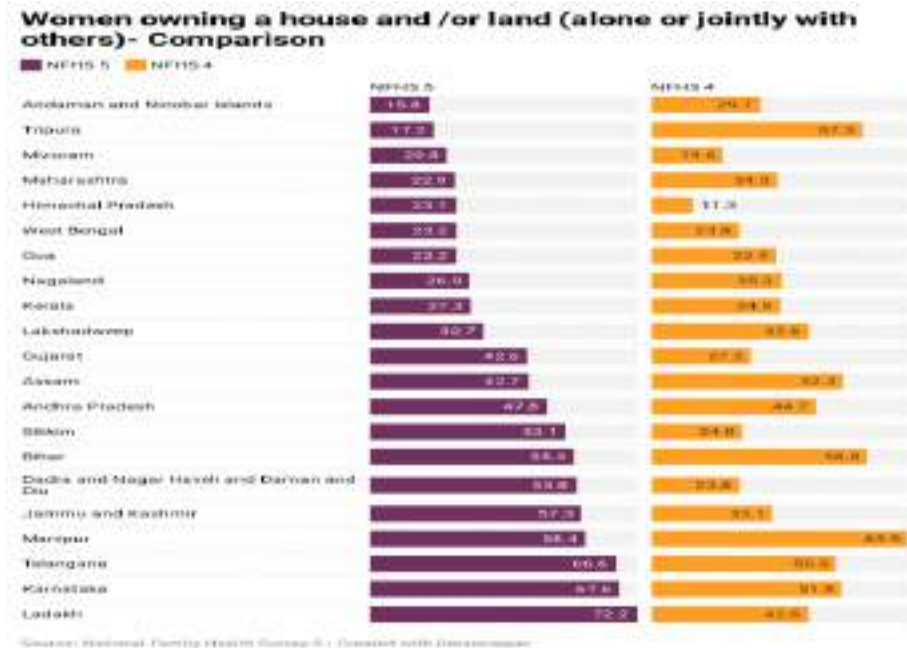
In December 2020, the Government of India published statistics from the National Family Health Survey (NFHS-5), showing that fewer women in numerous states are now holding property either jointly or alone than in 2017.

⁵⁹<https://www.un.org/sustainabledevelopment/gender-equality/#:~:text=Goal%205%3A%20Achieve%20gender%20equality%20and%20empower%20all%20women%20and%20girls&text=Gender%20equality%20is%20not%20only,achieve%20gender%20equality%20by%202030> (last viewed: 08/11/2022).

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<https://www.ohchr.org/sites/default/files/Documents/Issues/Women/WG/Womenslandright.pdf>

⁶¹ UN WOMEN, Facts & Figures, <http://www.unwomen.org/en/news/in-focus/commission-on-the-status-of-women-2012/factsand-figures>. (last viewed: 08/11/2022)



According to a report released by the Food and Agriculture Organization of the United Nations, in 2010, Women own fewer than 15% of land worldwide. Women landholders are 5% in the Middle East and North Africa and 18% in Latin America and the Caribbean. Women are less likely than males to own plots legally or have their names on land ownership documents⁶².

VIII. Obstacles that Prevent Women from Being Landowners

From the above study of women’s property rights in different countries, one may conclude that almost all the countries in the world give recognition to women’s right to own property and various legislations have been enacted to ensure that women are given equal rights as that of men when it comes to property rights. But the various statistics and reports presented in the previous section reveal that women in various parts of the world are still struggling to have access to and own property. There are various factors which contribute to the same:

⁶² The gender gap in land rights, the Food and Agriculture Organization of the United Nations, in 2010, <https://www.fao.org/3/I8796EN/i8796en.pdf> (last viewed: 08/)

A. Women's land rights laws exist, but grassroots awareness is low:

From the above study of women's property rights in different countries, one may conclude that almost all the countries in the world give recognition to women's right to own property and various legislations have been enacted to ensure that women are given equal rights as that of men when it comes to property rights. The women at the grassroots level may not have a good understanding of the laws that are in place at the national level. There is a widespread lack of clarity in the expression of policies, rules, and processes in languages in which they are relevant and in the public's awareness of such expressions. For instance, in Kenya's Muranga and Narok areas, most women are not aware of the new constitution, land laws, and national land policy's land provisions protecting their rights⁶³.

This also holds good in India, where even though the 2005 Amendment was a progressive step, but the question remains to what extent women come to own property in line with the change, namely as coparceners. While the number of female landowner families in India rose somewhat between 2010 and 2014, the trend was not constant throughout the country. In fact, the number of female landowner households in Maharashtra, Madhya Pradesh, and Gujarat actually fell slightly during this time period. It's striking how little progress has been made in closing the gender gap throughout time⁶⁴.

B. Personal religious law governs the property law and inheritance

The property laws in India depend mainly on the religion to which a person belongs to. Who owns the property is determined by personal religious law, which is a topic of state law and is not controlled by the constitution under a standard law that provides basic rights of equality to all residents. Because of this, women often have less favourable

⁶³ Emmanuel Sulle, Sue Mbaya, Barbara Codispoti, Josephine Atananga, Bernard Moseti, and Leah Mugehera, *Women's land rights in Africa: Does implementation match policy?*, 2019

⁶⁴ Agarwal, B., Anthwal, R. and Malvika, M. (2020). Which women own land in India? Between divergent data sets, measures and laws. GDI Working Paper 2020-043. Manchester: The University of Manchester

inheritance rights than males. Even though the parliament amended the Hindu Succession Act, 2005, studies have shown that there is still significant gender bias when it comes to inheritance in India⁶⁵.

C. Lack of implementation

The Constitution of Pakistan and Shariah both protect women's rights to own property and inherit wealth, but in practice, women in Pakistan have been denied these protections owing to poor enforcement of the law. To guarantee the state's protection of women's inheritance rights, Pakistan approved the Enforcement of the Women's Property Rights Act 2021. However, the state's inability to enforce such laws has been shown by the persistent gender inequality in property ownership⁶⁶.

D. Patriarchal Norms

One of the biggest attributes of gender inequality with respect to property rights in most of societies is the patriarchal norms. By "patriarchy," refers to a social order based on patrilocal and patrilineal institutions, and the notion of "neopatriarchal states" talks about the institutionalization of male dominance in legal systems. Rural women are generally constrained to conventional gender roles of agricultural production and family raising and accept discriminatory norms and attitudes due to education and societal constraints. Women's land rights depend on their home, family, and community roles. Local leaders in rural and isolated places frequently enforce gender discrimination in access to land, in addition to statutory and customary legislation. The rise of patriarchal standards and orthodox interpretations of Islam have impeded women's rights change in Muslim nations, according to gender researchers⁶⁷.

⁶⁵ Deininger, Klaus, Aparajita Goyal, and Hari Nagarajan, "Women's Inheritance Rights and Intergenerational Transmission of Resources in India." *Journal of Human Resources (JHR)* (2013)

⁶⁶ Right to inheritance and property 'far cry' for women in Pakistan, <https://www.wionews.com/south-asia/right-to-inheritance-and-property-far-cry-for-women-in-pakistan-486100> (last viewed: 08/11/2022)

⁶⁷ Mounira Charrad, "Gender in the Middle East: Islam, State, Agency," *Annual Review of Sociology*, 37 (August 2011).

E. Ignorance, illiteracy and fear:

Additionally, the majority of women may not aware of the several legal avenues they might pursue in order to get access to a portion of the marital estate or inheritance from parents or a spouse. Many widows feel helpless when it comes to settling their husbands' fortunes in court. This is mostly due to the high percentage of female illiteracy and the fact that most laws are written in highly technical language that is difficult for women to understand. In cases when women prevail in court and the decision is in their favor, it is noted that it is almost hard to enforce such a decision in a society that is hostile to women. There is a lot of antagonism against women who try to defy customs, including bodily, sexual, and psychological abuse.

VII. Ways to Boost Female Land Ownership**A. Advocacy for Women's Rights**

Advocacy for women's rights raises awareness of pressing concerns, gives them a platform in international fora, and helps to have them codified internationally⁶⁸. Advocacy-based challenges to governmental discrimination have a long history of success. Feminist theories in the mid-19th century expanded married women's property rights to independent women's property rights. Today, activists use proactive litigation to raise consciousness about gender inequalities and promote women's property rights. Advocacy for women's rights is evident in the ruling of the High Court in Ephrahim v. Pastory (1990) of Tanzania where it was declared that Haya customary law, which barred women but not males from selling clan land, violated the Bill of Rights⁶⁹.

B. Female Education and Workforce Participation

Literacy, rights knowledge, and the availability of resources outside of possible claimants are all crucial for women to successfully assert their land rights. Investing in women's education prepares them for the

⁶⁸ Margaret E. Keck and Kathryn Sikkink, *Activists Beyond Borders: Advocacy Networks in International Politics* (Ithaca: Cornell University Press, 1998).

⁶⁹ Bishin, Benjamin G Cherif, Feryal M, *Women, Property Rights, and Islam, Comparative Politics*, 2017

workforce, where they may use their newly acquired skills and meet potential allies outside of their immediate families⁷⁰. Women with higher levels of education, for instance, are more likely to notice and be unhappy with inequality, and they are also more likely to attribute their disadvantage to gender⁷¹.

For instance, a study of women's property rights in the United States between 1850 and 1920 indicated that female education increases the scope of women's legal ownership of their own property. Elite and professional women in the Americas were often the first to push for change by choosing to forego the protections afforded by traditional marital property arrangements⁷².

C. Need for Uniform Civil Code

The characteristic of a contemporary, progressive country is its uniform Civil Code. The shift away from religion and caste politics is seen in this. The issue of women's property rights in India is very divisive and varies greatly from one religious tradition to the next and from one area to the next within India. India is home to a dizzying variety of amazing faiths, languages, and civilizations, yet its property law creates divisions among them. Women in every religious group are nonetheless subject to the frequently discriminatory and arbitrary personal regulations of their faith, highlighting the pressing need for a Uniform Civil Code.

D. Tax Exemptions Benefits

It is necessary to provide tax exemption advantages for the purpose of promoting land registration in the name of women in order to increase the amount of property that is owned by women. In India, a number of state governments in the northern portion of the country provide a partial stamp duty exemption to female property purchasers or to joint

⁷⁰ Saskia Sassen, *Globalization and its Discontents: Essays on the New Mobility of People and Money* (New York: The New Press, 1998).

⁷¹ Patricia Gurin, "Women's Gender Consciousness," *Political Opinion Quarterly*, 49 (1985)

⁷² Rick Geddes and Dean Lueck, "The Gains from Self-Ownership and the Expansion of Women's Rights," *The American Economic Review*, 92 (September 2002)

registrants where at least one of the registrants is a woman⁷³. To be specific, according to the official website of the Delhi Government⁷⁴, the rate of stamp duty for males is 6% while the rate for females is 4%⁷⁵.

Certain benefits have to be given to women who are taking loan to buy property. For example, when it comes to house loans, the State Bank of India (SBI) provides a discount of 5 basis points, or 0.05 percent for women

E. Programs for Education and Raising Awareness

One of the greatest obstacles to expanding women's property and inheritance rights is ensuring that regulations and laws are applied consistently. Thus, there has to be an effort to educate and create awareness not only among the general public but also among policymakers and the judicial system.

In 2016, the government of India drafted National Policy for Empowerment of Women⁷⁶, which was last drafted in 2001. One of the main objectives of this policy is to effectively implement the laws relating to women's right to property and eradicate the exploitation that arises out of land ownership. In order to effectively implement the same, the government has to come up with programmes that create awareness regarding these policies especially educating the women in rural areas.

⁷³ Why you should buy property on your wife's name, <https://economictimes.indiatimes.com/advice/buying-guide/why-you-should-buy-property-on-your-wifes-name/articleshow/47501657.cms?from=mdr> (last viewed: 08/11/2022)

⁷⁴ http://revenue.delhi.gov.in/wps/wcm/connect/DoIT_Revenue/revenue/home/e-sub+registrar/important+information+regarding+registration+of+property (last viewed: 08/11/2022)

⁷⁵ 4 personal finance benefits that women get, <https://economictimes.indiatimes.com/wealth/tax/4-personal-finance-benefits-that-women-get/stamp-duty-concession-on-registered-property/slideshow/77738108.cms> (last viewed: 08/11/2022)

⁷⁶ https://wcd.nic.in/sites/default/files/draft%20national%20policy%20for%20women%202016_0.pdf (last viewed: 08/11/2022)

F. Women's Leadership and Political Participation

Women's participation in the process of developing a land policy is fundamental to increasing women's access to land. According to recent UN Women data, as of September 19, 2022, 30 women were serving as heads of state or government in 28 different nations⁷⁷. If trends continue, it will take another 130 years before women attain parity with men in government. There was only 21 per cent of female ministers in governments, with just 14 nations having 50 per cent or more female cabinet members. Achieving gender parity in cabinet posts will take until 207 with a yearly gain of 0.52 percentage points⁷⁸.

Therefore, there is a need for an increase in women's participation in politics across the globe in order to implement effective land laws and reforms. To quote Fernanda Nissen⁷⁹, "If women are to have any say in the lives they lead, they must enter politics".

VIII. Conclusion

Women are displaying their work in almost all sectors in today's world and therefore there is a great need for the protection of their fundamental rights. Right to property is a basic inherent right in some countries where this right is recognised transcending gender, while in some countries like India it is recognised as a constitutional right. Women are becoming more independent involving in multi-tasking and discharging multifarious functions than ever before and the world is witnessing a pragmatic shift in the form of social transformation from conventional social norms of viewing women as just a shadow of men or as the chattels or property of male member of the society. Certain norm has become

⁷⁷ UN Women calculation based on information provided by Permanent Missions to the United Nations. Only elected Heads of State have been taken into account., https://www.unwomen.org/en/what-we-do/leadership-and-political-participation/facts-and-figures#_edn1 (last viewed: 08/11/2022)

⁷⁸<https://www.unwomen.org/sites/default/files/Headquarters/Attachments/Sections/Library/Publications/2021/Women-in-politics-2021-en.pdf> (last viewed: 08/11/2022)

⁷⁹ Petra Gregorine Fernanda Nissen was a Norwegian journalist, literary critic, theatre critic, politician and feminist pioneer

infructuous, frivolous over a period of time. For instance, accosting in public places by women was considered to be immoral around a century ago⁸⁰. However, it is permitted norm of the present society.

Therefore, the Government in today's world have to ensure that laws are not just in text but also reflected in the society. One of the main responsibilities of the Government of civilised nations is that it should be in order to know whether any law has been effectively recognised and implemented, and has to collect data from time to time and check if the benefits of laws are defrayed and are to the reach of the beneficiaries. After analysing the above statistics and reports, one may conclude that more work is needed in the future, both in terms of data collection and policy implementation with respect to women's right to property globally. In order to achieve this goal, the law has to be moulded by recognising right to property as a fundamental or constitutional right sans gender discrimination.

⁸⁰Please refer to the Lord Devlin's Criticism on Morality, R.W.M Dais on Jurisprudence, LexisNexis, Fifth Edition, 2013