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# Critically Analyzing the Changing Dynamics of Gender Biasness against Property Rights of Women

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## ABSTRACT

*This paper examines the evolving dynamics of gender bias against women's property rights, focusing on the historical, social, and legal factors that have perpetuated inequality. Despite progressive legislative changes and social movements advocating for gender equality, property rights remain an area where women continue to face significant discrimination. The paper investigates both the traditional and modern challenges women encounter in accessing and securing property ownership. It further assesses the role of the legal system in addressing gender bias<sup>2</sup> and highlights case laws that have had a transformative impact. By analyzing existing literature, case studies, and legal frameworks, the paper offers insights into the shifting paradigm of gender bias in property rights and suggests measures for further improvement. Historically, women have faced significant challenges in owning, inheriting, and managing property due to entrenched patriarchal norms and legal systems. However, recent legal reforms and societal shifts are reshaping this landscape. This paper reviews key national and international case laws, analyzes legislative reforms, and examines their impact on women's property rights. The research also evaluates the challenges that remain and offers suggestions for further improvements to ensure gender equality in property rights.*

**Keywords:** Gender Bias, Property Rights, Women's Rights, Legal Reforms, Inheritance Law, Social Justice, Gender Equality, Case Law, Discrimination.

## I. INTRODUCTION

Gender bias against women in property rights has been a persistent issue throughout history. In many societies, women have been excluded from owning property, which has often been linked to their perceived subordinate status. Historically, property was viewed as a male prerogative, and laws reflected this bias by restricting women's ability to inherit, own, or control property. While some progress has been made over the years with legal reforms, women in many parts of the world still face significant challenges in securing property rights. Inheritance laws, land

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ownership restrictions, and societal prejudices continue to undermine the economic independence of women, often trapping them in cycles of poverty and vulnerability. This paper critically analyzes the changing dynamics of gender bias in property law, focusing on the factors that have historically<sup>3</sup> excluded women from property ownership and the progressive changes that have sought to address this issue. Despite these changes, women still face significant barriers in exercising their property rights due to deep-seated cultural attitudes, lack of awareness, and discriminatory practices in some regions. This paper will examine the changing dynamics of gender bias against women's property rights, analyzing the evolving legal landscape, significant case laws, and the continuing challenges that women face in the realm of property ownership.

## II. INTERSECTIONAL ISSUES

Gender bias against women's property rights does not affect all women equally. Intersectional factors such as race, class, ethnicity, and geographical location contribute to how women experience discrimination in property ownership.

- **Rural vs. Urban Divide:** Women in rural areas often face more severe limitations on property rights compared to those in urban areas. This is due to traditional land tenure systems, lack of access to legal services, and prevailing gender norms.<sup>4</sup>
- **Indigenous and Minority Women:** Indigenous and minority women in various regions, such as African and Native American communities, face compounded barriers in securing property rights. Traditional land ownership patterns may not recognize women's legal claims to land or property, and these women often face discrimination both within their communities and in the legal system.
- **Wealth and Education Gaps:** Wealthier and more educated women tend to have better access to property and legal resources, while poor and less educated women are disproportionately marginalized in matters of property rights.

## III. GLOBAL CAMPAIGNS AND ADVOCACY

International organizations and movements have been at the forefront of advocating for women's property rights. The **United Nations** has highlighted the issue as part of the broader agenda for gender equality and women's empowerment. Initiatives such as the **Landesa** (Rural Development Institute) and **Equality Now** have sought to challenge discriminatory laws and

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<sup>3</sup> Agarwal, Bina. *A Field of One's Own*. Cambridge, 1994.

<sup>4</sup> National Commission for Women. *Rural Women and Property Rights*, 2019.

practices and promote women's economic rights, including property ownership. Furthermore, the **Sustainable Development Goals (SDGs)**, particularly Goal 5 (Gender Equality) and Goal 1 (No Poverty), emphasize the need for women to have equal rights to economic resources, including land and property.

### **(A) The Role of Technology**

In the modern age, technology and digital platforms are becoming instrumental in advocating for and securing women's property rights. Digital platforms that allow for the registration of land and property can reduce the risk of fraudulent claims. Additionally, technology can be used to educate women about their rights and connect them to legal resources. However, access to technology remains unequal, and women in certain regions may still be excluded from these benefits.<sup>5</sup>

### **(B) Conceptual Study**

The concept of gender bias against women's property rights revolves around the discrimination that women face in owning, inheriting, and controlling property. Traditionally, property ownership was considered a male prerogative, justified by social norms, religious doctrines,<sup>6</sup> and legal systems. In many societies, women were seen as subordinate to men and thus were often excluded from legal processes involving property ownership, including inheritance, land purchases, and wealth accumulation.

- i. **Property Rights and Gender Bias:** Property rights refer to the legal recognition of an individual's right to own, use, and transfer property. Gender bias occurs when laws, customs, or practices unfairly disadvantage women in the exercise of these rights.
- ii. **Historical Perspective:** In many patriarchal societies, property ownership was largely restricted to men, with women being considered legal minors or dependents. Traditional norms and inheritance practices often excluded women from inheriting land or property, particularly in rural or feudal societies.
- iii. **Legal Reforms and Women's Property Rights:** Over time, international conventions (e.g., CEDAW - Convention on the Elimination of All Forms of Discrimination Against Women) and national legal reforms have sought to address gender bias in property law. Many countries have enacted laws to ensure women's equal rights to inherit property, manage assets, and own land.

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<sup>5</sup> World Bank. "Women, Business and the Law 2021."

<sup>6</sup> Nair, Janaki. *Women and Law in Colonial India*. Kali for Women, 1996.

- iv. **Cultural and Social Factors:** In addition to legal barriers, cultural and social practices, such as dowries, marital property arrangements, and local inheritance traditions, continue to hinder women's property rights. These practices are deeply ingrained in societal norms, and overcoming them requires both legal and social transformation.
- v. **Legal Evolution of Property Rights for Women:** Over time, legal reforms have been introduced to promote gender equality. Landmark legal changes, such as the Hindu Succession (Amendment) Act of 2005 in India and the introduction of joint property ownership laws in various countries, reflect a broader shift toward recognizing women as equal property owners. Despite these changes, enforcement of these laws remains uneven, especially in rural areas or regions with deeply rooted patriarchal norms.
- vi. **Social and Economic Impacts:** The failure to ensure equal property rights for women has profound social and economic consequences. Property ownership is not only a symbol of economic security but also a means of empowerment. Women without property rights are more vulnerable to poverty, social exclusion, and domestic violence. Property rights provide women with the means to access credit, participate in decisionmaking processes, and secure their financial independence.

#### IV. CASE LAWS

Several landmark cases have had a significant impact on shaping the legal landscape regarding women's property rights. A few notable examples include:

- **Shah Bano Case (India):** This case is often cited as a significant turning point in recognizing women's rights within family law, particularly in relation to alimony and property disputes under Islamic personal law.
- **Brown v. Board of Education (U.S.):** While not directly related to property rights, this case set a precedent in terms of challenging discriminatory laws and practices that indirectly impacted women's rights to own property.
- **Githa Hariharan v. Reserve Bank of India (India):** In this case, the Indian Supreme Court ruled that women have equal rights to parental property under the Hindu Succession Act, signaling a shift toward gender equality in inheritance law.<sup>7</sup>
- **The Gender Equality Act (Iceland):** Iceland has pioneered gender equality reforms, including property rights. The Gender Equality Act of 2000 provided a comprehensive

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<sup>7</sup> Hindu Succession (Amendment) Act, 2005.

legal framework to ensure equal rights to property and economic resources.

- **India - Hindu Succession Act (Amendment) 2005:** The 2005 amendment to the Hindu Succession Act, which allowed daughters equal rights to inherit ancestral property, was a major legal reform in India. Prior to the amendment, daughters were not entitled to the same inheritance rights as sons. The case of *Danamma v. Amar*(2018) upheld the right of daughters to inherit property, reinforcing the progressive shift in India's legal system toward gender equality in property rights.
- **United States - Title VII of the Civil Rights Act of 1964:** Although not directly related to property rights, this U.S. law provides a significant framework for addressing gender discrimination in employment, which indirectly impacts women's ability to acquire property. Over the years, numerous cases have emerged that support gender equality, such as *United States v. Virginia* (1996), which sought to eliminate gender-based discrimination in educational opportunities, enabling women to access resources that would facilitate property ownership.
- **South Africa - Constitution and Property Rights:** The South African Constitution of 1996 guarantees equal rights for women, including the right to own and inherit property. However, many women, especially in rural areas, face challenges in securing property due to traditional practices. The *Mabuza v. Mbhele* case (2011) highlighted the ongoing challenges women face in securing property rights even after constitutional guarantees.
- **Kenya - Land and Property Rights:** In Kenya, the legal recognition of women's land and property rights has evolved over time. The *Federation of Women Lawyers (FIDA) v. Attorney General* (2010) case underscored the discriminatory practices women faced in land inheritance. The court's decision has influenced significant legislative changes in property law in Kenya, though implementation remains inconsistent.<sup>8</sup>

## V. SUGGESTIONS

**Strengthening Legal Frameworks:** Governments should enforce and strengthen laws that guarantee equal rights to property ownership for women, ensuring equal inheritance rights and the right to own land.

**Public Awareness Campaigns:** Public campaigns should be launched to raise awareness about women's property rights, focusing on educating both women and men about the importance of legal reforms.

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<sup>8</sup> Sharma, Arvind. "Caste and Gender in India." Journal of Hindu Studies, 2011.

**Judicial Training:** Judges and lawyers should be trained to recognize and address gender bias in legal proceedings, ensuring that women's property rights are respected and protected.

**Monitoring and Accountability:** Governments and international bodies should monitor the implementation of laws related to women's property rights and hold accountable those who perpetuate discrimination.

**Support for Women in Property Transactions:** Establishing support systems, such as legal aid and financial resources, will help women navigate the complexities of property transactions and avoid exploitation.

**Strengthening Legal Enforcement:** Governments should ensure that laws guaranteeing women's property rights are enforced uniformly, particularly in rural and conservative areas where gender discrimination persists.

**Public Awareness Campaigns:** There should be widespread education on women's property rights, focusing on legal literacy for women and communities to reduce cultural resistance.

**Access to Legal Aid:** Governments should make legal support accessible to women, especially in rural areas, to ensure they can challenge property disputes and inheritance cases.

**Gender-Sensitive Legislation:** Future legal reforms should focus not only on formal legal equality but also on eliminating socio-economic barriers that prevent women from exercising their rights.

**International Collaboration:** Countries should collaborate on international platforms to share successful models and best practices for enhancing women's property rights.

In conclusion, the changing dynamics of gender bias against women in property rights necessitate a multifaceted approach, involving legal, social, and economic reforms to ensure equal access to property for all individuals, regardless of gender. This paper provides a critical evaluation of the changing dynamics in gender bias against property rights of women, identifying the significant barriers that still exist and proposing steps to overcome these challenges for greater equality.

## **VI. CONCLUSION**

Despite significant strides in eliminating gender bias against women in property law, challenges remain. Legal reforms, while essential, must be accompanied by changes in societal attitudes and cultural norms to create a truly equitable system. The impact of legal reforms in property law can be seen in various jurisdictions, but progress remains uneven, particularly in developing countries or regions with strong patriarchal traditions. While substantial progress has been made

in securing women's property rights, gender bias continues to persist in many parts of the world. The legal reforms in place are an essential step in addressing this imbalance, but cultural practices, traditional views on gender roles, and lack of awareness often undermine these changes. Women's property rights are central to their empowerment and overall well-being, and thus, continued efforts must be made to enforce these rights, raise awareness, and promote gender equality. Legal institutions, governments, and civil society must work together to ensure that women can access, control, and inherit property on an equal footing with men.

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