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Hindu Women's Right to Inheritance in Bangladesh: An Analytical Study

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ABSTRACT

As a developing country, Hindu women in Bangladesh faces a great discrimination in case of their inheritance right. In Bangladesh the inheritance right of Hindu women are totally neglected though their rights of sexual equality in every sphere of life is guaranteed by constitution. As a member of different international organizations Bangladesh is also bound to ensure property right of Hindu women. After the independence of Bangladesh no reformation has yet been made due to the unwillingness of Hindu male member and different religious group to change the inheritance right of Hindu female in our country. A brief attempt is made here to understand the laws that regulate their rights which also results the customary practices or patriarchal system strongly in our society and it will also examine Bangladesh's national and international commitments towards the same. This paper also provides an overview about the present condition of Hindu law relating to women's inheritance right in Bangladesh which aim to reform the law relating to inheritance that will ensure their human rights as a family member in the society.

Keywords: Hindu women, Discrimination, Property right, Unwillingness, Reformation, Awareness.

I. INTRODUCTION

In Bangladesh women are the major part of the total population so for the progress of this country women's development is a precondition.² As regards the general population, Bangladesh is the third largest Hindu-populated country in the world, just after India and Nepal.³

Though law means statutory or enacting law but Hindu law in our country which has no codification is based on traditionally customary law is still applicable in Bangladesh form after 1947⁴. As a developing country it is a matter of regret that a large number of our total population

¹ Author is an Assistant Professor at Dept. of Law, Premier University, Bangladesh.

² Ferdousi Begum, *Analyzing Hindu Women's Right to Property in Bangladesh: Absolute Interest versus Limited Interest*, Kathmandu School of Law Review, Volume 6 Issue 1 April 2018, 3rd chap, 104

³ https://en.wikipedia.org/wiki/Religion_in_Bangladesh#cite_note-15. Accessed 12 November 2021

⁴ BNWLA, NY, *Hindu Family Law: An Action Study on Proposed Reform of Hindu Family Law*. This is A study conducted on selected districts of all six divisions (then) of Bangladesh by Bangladesh National Women Lawyers Association (BNWLA).

is being deprived against under the legal framework of the state mechanism only because they belong to a minority community.⁵ As Hindus are the minority group in Bangladesh, the issue of right of inheritance is neglected because no change has yet made to ensure their right. Different kinds of personal laws of different religious believes applied in Bangladesh are inconsistent to each other according their religious faith and equality of right.⁶ Most Women in our country are immediately faces more vulnerability in this discriminatory personal law system.⁷ For the reason of the persistent dissimilarity in treatment and patriarchal character of personal legal system, the women are inclined to exploitation and discrimination in regards of marriage, divorce, guardianship or inheritance.⁸ Bangladesh is not exonerate under its Constitution or its commitments under International Human Rights Law from upholding gender equality between all its citizens in different spheres of their lives.⁹ Though Bangladesh is one of the signatory country to the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), it has reservations on Article 13 (a) of the convention where permit equality to women regarding the right to family inheritance.¹⁰ In urban and rural area of Bangladesh, women have no financial freedom because their right of property is very limited as they do not have any access to property ownership.¹¹

II. A BRIEF REVIEW OF THE NOTION ‘RIGHT TO INHERITANCE’

Inheritance is that ancient right of the living person relating to properties that are obligatory upon that person from the descendant.¹² In our Hindu Law, male heirs have the right to make sacrifices to bathe the body of the departed and grant them rest.¹³ It obliges as the succession plan's controlling principle.¹⁴ On this right, the male heirs are given precedence.¹⁵ Female heirs are not given preference when making such a sacrifice.¹⁶ They take their positions as heir after the son, son, and grandson of the deceased.¹⁷ So, according to spiritual faiths, they are

⁵ Mahua Zahur, *HINDU WOMEN'S PROPERTY RIGHTS: BANGLADESH PERSPECTIVE*, BRAC University Journal, School of Law, BRAC University, Vol. X1, No. 1, 79, (2016).

⁶ Abul Bashar Mohammad Abu Noman and Saeed Ahsan Khalid, *Uniform Family Code: An Appraisal of Viability in Pluralistic Bangladeshi Society*, The Chittagong University Journal of Law Vol. XVI, (p.81-109) 96, 2011.

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.* at, 97

¹⁰ "Bangladesh, women and the distribution of inherited property". Available at, <https://www.yourcommonwealth.org/uncategorized/bangladesh-women-and-the-equal-distribution-of-inherited-property-2/> accessed 02 Jan 2023

¹¹ HK Mohajan, *Are Bangladeshi Women Enjoying Human Rights Properly?* Int J. Mainstream Social Science. (2012). 2(1) pages 43–56.

¹² D.F. Mulla, *Principles of Mahomedan Law*, 36, (19th ed., Bombay, India, 2007).

¹³ Abul Barkat and Et al., *Assessing Inheritance Laws and their Impact on Rural Women in Bangladesh*. Dhaka August 2014, iii.

¹⁴ *Ibid.*

¹⁵ *Ibid.* at iv

¹⁶ *Ibid.*

¹⁷ *Ibid.*

incompetent to accomplish these rituals and for this, unqualified to become heirs of the deceased. The rules of inheritance in Hindu law are unsatisfactory.¹⁸ As Hindu Women's inheritance in Bangladesh is determined by a person's religion, the inheritance practice for women is largely unbalanced and discriminatory.¹⁹ In this case not only does inheritance interrupt human rights, but it also has a negative influence on women's economic and financial conditions.²⁰

When a person dies, after the death of that person the property will devolve upon his legal heir by following the law or according to his desire. So when the heir(s) received property from the deceased person it is called inheritance. Inheritance in common parlance means money or property derived from one's parents or ancestors²¹. In legal terms it is the property received from an ancestor under the laws of inheritance or a property that a person receives by bequest or devise.²² Because inheritance in Bangladesh is determined by a person's religion, the inheritance procedure for women is largely uneven and discriminatory.²³ Due to this, a consistent, secular family code is now required to address not just the inheritance problem but also problems with marriage, divorce, and guardianship.²⁴

Not only does inheritance violate human rights, but it also has a negative impact on women's economic and financial circumstances.²⁵ But homes with a female head of family find it particularly tough given the current circumstances in Bangladesh. In Bangladesh, equal rights for women in all areas of life go beyond women's empowerment; they are a basic human right that the government has not yet committed to upholding.²⁶

III. ANALYZING HINDU WOMEN'S INHERITANCE RIGHT UNDER HINDU LAW IN BANGLADESH

Hindu personal law as it is currently codified is the result of thousands of years of tradition intertwined with social and religious conceptions of gender, family, and spiritual worth.²⁷

To fully comprehend Hindu law, one must go into the deeper realm of Hindu philosophy, which offered a comprehensive code of conduct in which law plays a crucial part in carrying out God's

¹⁸ *Ibid.*

¹⁹ *Supra* note 2, at 9.

²⁰ *Ibid.*

²¹ Concise Oxford Dictionary, 10th ed, Edited by Judy Pearsall, Oxford University Press.

²² Black's Law Dictionary, 7th ed., edited by Brayan A. Garner, West Group, 1999.

²³ *Supra* note 3, at 9.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Archana Sridhar, *The Conflict between Communal Religious Freedom and Women's Equality: A Proposal for Reform of the Hindu Succession Act of 1956*, Berkeley Journal of International Law, Vol. 20, Issue 3, at 02, 2002,.

mission.²⁸ According to Hindu dharma, God revealed himself to humanity through divine revelations.²⁹ Hinduism is built upon divine revelations that were made to the populace by saints, sages, and rishis throughout the Vedic period (3000 B.C. to 1000 B.C.).³⁰

Hindu law is mostly derived from Sruti, which is recorded in several scriptures.³¹ The Hindu Women's Right to Property Act, 1937 is based mostly on the Rgvedah (Veda) and Manu Smriti.³²

After the British time, no reform or new legislation has been implemented in the field of Hindu women's inheritance in Bangladesh, but India has made the essential adjustments in the field of succession by The Hindu Succession Act, 1956.³³

In Bangladesh the Hindu people mainly follow the Dayabhaga or Bengal School.³⁴ The law related to Hindu women's property right which were established during British colonial period are tacit relating Hindu women's property right.³⁵ Hindu woman's inheritance right is not recognized in Bangladesh.³⁶ According to Diyabagha law, the inheritor's right is dependent on the heir's ability to bestow or provide the propositus with spiritual benefits.³⁷ A widow, sonless, or childless daughter is not eligible to inherit because she cannot afford the spiritual benefits that come from having a son.³⁸

The Hindu woman's right to property may be discussed under two headings: Hindu women's property rights can be divided into two categories:³⁹"property of which she is the sole owner;"⁴⁰and "other property."r and the real estate of which she is a limited owner. The former is referred to as her stridhana, whereas the latter is her estate.⁴¹

Stridhana refers to a woman's property, specifically those over which she has complete control.

28 See generally, Paras Diwan, *Modern Hindu Law*, 11-26(Allahabad Law Agency, Allahabad, 1993).

29 N.H. Jahabvalla *Principles of Hindu Law*, 1-3, (C. Jamnadas & Co., 1979).

30 There are divergent opinions as to the extent of vedic period, some authors tracing its origin as back as 6000 B.C.; See B.M. Gandhi, *Hindu Law 1*, (Eastern Book company, Lucknow, 1999)

31 Jinat Hossain, and Ishtiaq Jamil, *Equality in contention: exploring the debates of gender-equal inheritance rights in Bangladesh*, *Public Administration and Policy: An Asia-Pacific Journal*, Volume 25 Issue 3, 323-335. <https://doi.org/10.1108/PAP-08-2021-0049>

32 *Ibid*

33 *Ibid*

34 *Supra* note 2 of 4, 79.

35 *Ibid*

36 Mridul Kanti Rakshit, (1985). *The Principles of Hindu Law—personal law of Hindus in Bangladesh and Pakistan*; 391

37 *Ibid*

38 *Ibid*

39 R K, Agarwala, *Hindu Law*, 159 (Central Law Agency, Allahabad, 12th edition, 1998).

40 *Ibid*.

41 *Ibid*.

⁴² Therefore, these characteristics fundamentally differ from those of other kinds. ⁴³

The Dayabhaga School has designated the following females as heirs: widow, daughter, mother, father's mother, and father's mother.⁴⁴ The possibility of inheritance by a mother, a father's mother, or a father's father is quite remote because Dyabhaga School maintains a chronology of heirs who inherit property in strict preference, as they are ranked in positions 8, 14, and 20, respectively. ⁴⁵

Surprisingly, whether a daughter has or is able to have a son determines whether she has a right to her father's property. Therefore, it should come as no surprise that male offspring are valued so highly! ⁴⁶ The daughter comes in fifth place for her father's estate. ⁴⁷ Daughter can inherit in the absence of a son, son's son, son's son's son, widow(s), and son's son's son. ⁴⁸

The maiden daughter who might conceive a son in the future is given preference, followed by daughters who have already given birth to a son. ⁴⁹ Daughters who are barren, widowed, or who have daughters but no sons are not included.⁵⁰ Unchastity, according to Dyabhaga School, prevents any female heirs from succeeding.⁵¹

IV. LEGAL REGIME: STATUTORY PROTECTION

(A) Hindu women's right to inheritance under the International Instrument

Bangladesh has ratified a number of international human rights treaties, including the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social, and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).⁵² All of these documents acknowledge equality as a basic principle that all states parties must uphold.⁵³

Human rights legislation is founded on the ideas of equality for men and women and the

⁴² Supra note 3 of 4, 79

⁴³ *Ibid.*

⁴⁴ Sunderlal T. Desai, Mulla's Principles of Hindu Law, 146, (Bombay: N. M. Tripathi Private Limited, 1990).

⁴⁵ *Ibid.*

⁴⁶ Shahnaz Huda, "Double Trouble": Hindu Women In Bangladesh-A Comparative Study. The Dhaka University Studies, Part F Vol. 1x(1):111-133, June 1998, 123.

⁴⁷ *Ibid.*

⁴⁸ *Ibid.*

⁴⁹ *Ibid.*

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

⁵² Yasmin Farjana, "Right to Inheritance of women under Hindu and Muslim Personal laws: A comparative study in the context of Bangladesh", 102 available at <https://amity.edu/UserFiles/aibs/a1e0Dr.%20Yasmin%20Farjana.pdf>, p.5. Accessed 5 July 2023, at 5 pm.

⁵³ *Ibid.*

elimination of discrimination.⁵⁴ In order to ensure equality in the enjoyment of the rights protected by the Covenants, both the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social, and Cultural Rights forbid discrimination based on sex.⁵⁵ Equal protection under the law is also outlined in Article 26 of the International Covenant on Civil and Political Rights.⁵⁶

Bangladesh is dedicated to establishing equality on the basis of gender, caste, and other factors as a signatory to a number of international agreements.⁵⁷

On November 6, 1984, it ratified the 1979-adopted Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).⁵⁸ The CEDAW Committee expresses concern about this matter and consistently exhorts the government to take the necessary steps to change the legislation that are based on religion.⁵⁹ Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and lays forth a plan for national action to abolish it.⁶⁰ The United Nations Convention on the Elimination of All Forms of Discrimination Against Women (UNCEDAW) was ratified by Bangladesh in 1984 with four key articles being subject to reservations and In September 2000, Bangladesh became the first nation to ratify the Optional Protocol to CEDAW, which ensures the implementation of the tools to eradicate discrimination.⁶¹ Maintaining such a restriction, however, undermines the state's credibility as it contradicts its own vow to end such discrimination.⁶²

The International Bill of Human Rights also has several articles that guarantee and emphasize the equality of rights for men and women.⁶³ Everyone has the right to exercise their human rights, according to Article 2 of the 1948 Universal Declaration of Human Rights, regardless of their race, color, sex, language, religion, or other characteristics.⁶⁴ No one's rights may be

⁵⁴ WOMEN'S RIGHTS ARE HUMAN RIGHTS, United Nations Human Rights Office of the High Commissioner, New York and Geneva 2014

⁵⁵ *Ibid.*

⁵⁶ *Ibid.*

⁵⁷ Shahnaz Huda, 'Combating Gender Injustice: Hindu Law in Bangladesh', South Asian Institute of Advanced Legal and Human Rights Studies (SAILS), Dhaka, 2011, 10.

⁵⁸ *Ibid.*

⁵⁹ SHARMIN AKTAR and ABU SYEAD MUHAMMED ABDULLAH, A COMPARATIVE STUDY ON HINDU LAW BETWEEN BANGLADESH AND INDIA. Asian Affairs, Vol. 29, No. 4 : 61-95, October-December, 2007, 72.

⁶⁰ <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>, Last visited June 04, 2021

⁶¹ *Ibid.*

⁶² *Ibid.*

⁶³ Dr. Noor Mohammad, 'need to implement the legal foundations to protect the women community in Bangladesh: a case study on sylhet sadar for way forward', paper presented at conference titled 'human capital and good governance: transition towards knowledge based development and well being' held at Utara Universiti Malaysia, kedah kuala lumpur, malaysia on 11th -13th december 2009.. Available at http://www.napsipag.org/pdf/no_or_mohammad.pdf last visited on 30.11.22 at 5.22 pm, 11.

⁶⁴ *Ibid.*

restricted just because of these characteristics.⁶⁵ Any infringement of the rights should be viewed as a breach of this Declaration.⁶⁶ According to Article 3 of the 1966 International treaty on Civil and Political Rights, States Parties are required to guarantee that men and women have an equal right to exercise all civil and political rights stated in the treaty.⁶⁷

Everyone is entitled to exercise their civic and political rights, according to the preamble of this covenant.⁶⁸ It is supported by Article 3 of the International Covenant on Economic, Social and Cultural Rights 1966. Article 3 of the 1966 International Covenant on Economic, Social, and Cultural Rights provides support for it.⁶⁹

(B) Constitutional rights of Hindu women in Bangladesh

In a democratic society, it is the actions the state has done to guarantee that a given class or portion of society is protected and treated fairly, not the written words of the Constitution or the law⁷⁰

In accordance with the People's Republic of Bangladesh's Constitution, official government documents, and obligations under international law, the State is required to make an effort to provide justice for all people.⁷¹ According to the Bangladeshi Constitution,

‘It shall be a fundamental aim of the State to realize through the democratic process a socialist society, free from exploitation a society in which the rule of law, fundamental human rights and freedom, equality and justice, political, economic and social, will be secured for all citizens’.⁷²

The Bangladeshi Constitution further specifies that, ‘This Constitution is, as the solemn expression of the will of the people, the supreme law of the Republic and if any other law is inconsistent with this Constitution that other law shall, to the extent of the inconsistency be void’.⁷³

Furthermore, the principles of equality before the law and equal protection of the Law are also incorporated as fundamental rights.⁷⁴ According to the constitution that ‘All citizens are equal before law and are entitled to equal protection of law’.⁷⁵ The Constitution of Bangladesh states

⁶⁵ *Ibid.*

⁶⁶ *Ibid.*

⁶⁷ *Ibid.*

⁶⁸ *Ibid.*

⁶⁹ *Ibid.*

⁷⁰ Naheda Mehboob Ellah, Family Laws And Judicial Protection” available at:<http://www.supremecourt.gov.pk/ijc/Articles/21/1.pdf>, last visited on 22.12.2012 at:9.53am.

⁷¹ *Supra* note 2 of 56, 13.

⁷² The Constitution of the People’s Republic of Bangladesh, 1972, Bangladesh, preamble, para 3

⁷³ *Ibid.*

⁷⁴ *Ibid.* at art 27.

⁷⁵ *Ibid.*

that 'The State shall adopt effective measures to secure the equitable distribution of wealth among citizens' one of the essential tenets of state policy.⁷⁶

Although Bangladesh's Constitution prohibits discrimination on the basis of sex, the country's inheritance laws nonetheless discriminate against women.⁷⁷ The Constitution of Bangladesh embodies the principle of gender equality, prohibits discrimination on the basis of sex and promotes equality of opportunity for women to participate in politics and in public life. It also provides for special provisions for women as a particularly disadvantaged group.

Articles 28 and 29 of the Constitution of Bangladesh declare the principles of non-discrimination on the basis of sex, caste, race etc. Article 28 enunciates that the state shall not discriminate against any citizen on the grounds only of religion, race, caste, sex or place of birth⁷⁸ and that women shall have equal rights with men in all spheres of the state and of public life⁷⁹.

Article 28(4) empowers the state to make special provisions in favor of women or children, or for the advancement of any backward section of the society. The preamble pledges that the State shall aim to promote a society in which the rule of law, fundamental human rights and political, economic and social freedom, equality and justice, will be secured for all citizens.⁸⁰

a. National Laws relating to the Hindu Women's Right of Inheritance

1. The Hindu Law of Inheritance (Amendment) Act, 1929.

2. The Hindu Women's Right to Property Act, 1937.⁸¹

Section 3 of the Hindu Women's Right to Property Act, 1937 specified that,

(1) When a Hindu governed by the Dayabhaga School of Hindu Law dies intestate leaving any property, and when a Hindu governed by any other school of Hindu Law or by customary law dies intestate leaving separate property, his widow, or if there is more than one widow all his widows together, shall, subject to the provisions of sub-section (3), be entitled in respect of property in respect of which he dies intestate to the same share as a son: provided that the widow

⁷⁶ *Ibid.* at art 19(2).

⁷⁷ Bina Agarwal makes a strong argument against such discrimination in case of India. See, "Gender and Land Rights in Agricultural Land in India," *Economic and Political Weekly*, Vol. 30, No. 12. Similarly, Amartya Sen writes, "The ownership of land and capital in the developing countries has tended to be very heavily biased in favor of the male members of the family." See, Amartya Sen, *Development as Freedom* (New York: Anchor books, 1999), 201.

⁷⁸ Article 28(1) of the Constitution of Bangladesh.

⁷⁹ *Ibid.* at Article 28(2).

⁸⁰ *Supra* note 3 of 56, 13.

⁸¹ The Hindu Women's Rights to Property Act, 1937, retrieved July 18, 2023 from, <http://bdlaws.minlaw.gov.bd/act-171/section-1197.html>

of a predeceased son shall inherit in like manner as a son if there is no son surviving of such predeceased son, and shall inherit in like manner as a son's son if there is surviving a son or son's son of such predeceased son: Provided further that the same provision shall apply mutatis mutandis to the widow of a predeceased son of a predeceased son.⁸²

(2) When a Hindu governed by any school of Hindu Law other than the Dayabhaga School or by customary law dies having at the time of his death an interest in a Hindu joint family property, his widow shall, subject to the provisions of sub-section (3), have in the property the same interest as he himself had.⁸³

(3) Any interest devolving on a Hindu widow under the provisions of this section shall be the limited interest known as a Hindu Woman's estate, provided however that she shall have the same right of claiming partition as a male owner.⁸⁴

(4) The provisions of this section shall not apply to an estate which by a customary or other rule of succession or by the terms of the grant applicable thereto descends to a single heir or to any property to which the Succession Act, 1925 applies.⁸⁵

V. CONCERNS ON EXISTING HINDU LAW FOR HINDU WOMEN'S INHERITANCE RIGHT IN BANGLADESH

Although this is an irregularity in the strict sense of the word inheritance, in Bangladesh the limited right of life estate or widow's estate granted to a woman is occasionally referred to as inheritance.⁸⁶ However, a Hindu widow is not entitled to alienate the immovable property inherited by her. A Hindu widow, however, is not permitted to alienate the real estate she inherited.⁸⁷

This implies that male heirs have the right to make sacrifices to cleanse the body of the deceased and grant them rest.⁸⁸ It serves as the succession plan's guiding principle.⁸⁹ On this right, the heirs are given priority.⁹⁰ Female heirs are not given preference when making such a sacrifice.

⁸² *Ibid.*

⁸³ *Ibid.*

⁸⁴ *Ibid.*

⁸⁵ *Ibid.*

⁸⁶ Legislative initiatives and reforms in the family laws–BLAST available at: WWW.blast.org.bd/publications/legislative-initiatives-family-law.pdf last visited on 24.11.22 at 9.45am.

⁸⁷ *Ibid.*

⁸⁸ Abul Barkat, Et al., *Assessing Inheritance Laws and their Impact on Rural Women in Bangladesh*. Dhaka August 2014.iii.

⁸⁹ *Ibid.*

⁹⁰ *Ibid.*

⁹¹ They actually take their places after the son, son, and grandson of the deceased.⁹²

It is obvious that Hindu law is unequal.⁹³ The biggest objection to Hindu law is the exclusion of daughters when there are sons present.⁹⁴

In general, a law is a statutory law, but Hindu law in Bangladesh is more or less a customary law in the sense that traditional customary Hindu law is still applicable in Bangladesh because no attempt has been made to codify this law to give it more specificity after 1947, it took on a statutory form.⁹⁵

Additionally, Hindus in our nation typically have access to legal protection under British Law.⁹⁶ One of the causes of this is the underrepresentation of Hindu Dayabhaga law in our nation, and the majority of Hindus are not familiar with the Dayabhaga law taught in Hindu schools, which has fewer practical applications.⁹⁷

Even though Bangladesh has a Hindu Inheritance Act of 1929, it only applies to *Mitakshara* practitioners, where most people in Bangladesh follow the *Dayabhaga* school of Law. Even though Bangladesh has a Hindu Inheritance Act from 1929, most people in Bangladesh adhere to the Dayabhaga School of law, so it only applies to Mitakshara practitioners.⁹⁸ So, it is regrettable for the policymakers of Bangladesh that they have not yet been able to ensure law which is applicable for the larger Hindu population. Therefore, it is regrettable that Bangladesh's policymakers have not yet been able to ensure that the law is applicable to the country's larger Hindu population.⁹⁹

As a result, it is obvious that Hindu law is unfair; specifically, the exclusion of daughters when sons are present.¹⁰⁰ The limited interest of female heirs in property is another issue of great concern, in addition to the daughter's complete exclusion in the son's presence.¹⁰¹ The constitution, which is the supreme law of Bangladesh, and this law are in conflict. Equality before the law and equal protection under the law are guaranteed by Art. 27 of the Bangladeshi

⁹¹ *Ibid.*

⁹² *Ibid.*

⁹³ *Ibid.*

⁹⁴ *Ibid.*

⁹⁵ See Dr. Tahir Mahmood, *Introduction to Hindu Law: Personal Law of Hindus, Buddhists, Jains and Sikhs*, 3(3rd edition, Universal Law Publishing Co., Delhi, 2014).

⁹⁶ Apurba Mogumder, *Law & Our Rights, Hindu women's right to inheritance*. <https://www.thedailystar.net/author/apurba-mogumder> accessed 2 June 2024

⁹⁷ *Ibid.*

⁹⁸ *Ibid.*

⁹⁹ *Ibid.*

¹⁰⁰ Uzma Shukrana, *Justification of Reform of Hindu Inheritance law: Bangladesh Perspective*, available at <http://webcache.googleusercontent.com>, accessed 20 March 2023.

¹⁰¹ *Ibid.*

Constitution.¹⁰²

Hindu law which prevails in Bangladesh, in 2012, the then chairman of Ain Commission Professor Dr. Shah Alam had recommended the equal rights of Hindu daughter with son. Though some Hindu people supported it but most of the Hindu male along with maximum Hindu leader opposed it strongly. Women have demonstrated a moderate competitive drive and have been discouraged from exercising their inheritance rights by the threat of male relatives since they are less aware of and educated about their rights.¹⁰³

a) Negative attitude for reformation

In our country male member of Hindu family especially Hindu political and religious leader do not totally want any change regarding women inheritance right because they are very rigid about this matter.

b) Ignorance about property right

In rural and urban area Hindu women in our country are unaware about their inheritance right. As they are ignorant about their right so they have no voice to demand it.

c) Patriarchal system

As customary practice patriarchal system prevails in our country so male member always dominate female member. Economically they remain less empowered sectors.

VI. A WAY FORWARD

It is appropriate to mention that women are recognized as absolute owners of the property they inherit from their husbands under Section 14 of the Hindu Succession Act of 1956 in India. However, no real change to safeguard Hindu women's equal rights in domestic concerns, such as inheritance, has been introduced in Bangladesh.¹⁰⁴

If any particular reform tends to have any negative social consequences, Bangladesh's unique socioeconomic circumstances may legitimately require the Hindu law reformers to be more cautious and implement certain social security measures, but reforms as a whole cannot be halted because they relate to the realization of more fundamental individual rights necessary for individual self-development, which is what the Supreme Being demands.¹⁰⁵

¹⁰² *Ibid.*

¹⁰³ S Krishnaleela, *Personal Law in India*, Shanlax International Journal of Arts, Science and Humanities, vol. 7, no. 4, 2020, 121.

¹⁰⁴ Protecting Hindu women's right to inherit property, <https://www.thedailystar.net/city/news/protecting-hindu-womens-right-inherit-property-1965985>, last visited on 2.12.2023

¹⁰⁵ Dr. M. Shah Alam. *Review of Hindu Personal Law in Bangladesh: Search for Reforms*. Bangladesh Journal of Law 2004 (1&2) June and December, 15-52.

If opposition to potential reforms is discovered among Hindus in Bangladesh, sociopolitical considerations are more likely to account for it than any belief that the customary rules, whose roots may be located in the divine vedic past, cannot be changed.¹⁰⁶ Hindu law would be historically wronged if its changes were not supported in order to promote the Supreme Being's journey toward self-realization, which was the original divine purpose of Hindu law.¹⁰⁷ The only way to do this is to grant equal rights to everyone, regardless of their gender, caste, creed, community, or religion, among other factors.¹⁰⁸

1. Awareness among Hindu women: Most Hindu women are unaware of their right to inheritance. They are accustomed to this custom not to get any inheritance right. But they should be aware of their right. By expanding awareness of societal issues in society, we ought to encourage understanding of the rights to inheritance of minority women. The Government and non-government organizations should play an active role in raising awareness among Hindu people. In this regard, daily newspapers, different channels on television, and radio personnel can arrange programs related to Hindu women's inheritance rights in Bangladesh to aware Hindu women about their rights.

2. Hindu women should be united: Hindu people including Hindu women should strongly come forward to raise their voices. They should be united to pressure to enact new laws or amend the existing law relating to the law of inheritance.

3. Positive attitude of male members: Several times government of Bangladesh tried to amend the Hindu Women's Right to Property Act, of 1937 but due to strong opposition from male members of the society it could not happen. So, the negative attitude of Hindu male members must be changed and they should respect the right of inheritance of Hindu women. For this purpose, various seminars, advertisements, and short films can be made.

4. Preserving the inheritance right of another female member: According to the Hindu Women's Property Act 1937 only five female heirs can inherit property. However other female members are hindered from inheritance rights. So, their inheritance rights must be included in the act by amending or enacting a new law. Hence, there should be an effective act that safeguards their right of inheritance.

5. Hindu Women should give absolute interest in the property: Hindu women in our country get only limited interest in their property, hence they cannot transfer or sell their property

¹⁰⁶ *Ibid.*

¹⁰⁷ *Ibid.*

¹⁰⁸ *Ibid.*

according to their wishes. "For women to have equal rights, more proactive decisions are necessary. For instance, we look forward to seeing women, including daughters, being recognized as absolute owners of the property they inherit," Prof Shahnaz hoped.¹⁰⁹ In this case, we should provide absolute interest in property to Hindu women by following the amendment in India the Hindu Succession Act, 1956 where women get absolute interest in their property.

6. The statute should recognize the right of the daughter as a sharer: In Bangladesh Hindu daughters are completely excluded as sharer to get their inheritance right in the presence of a brother which is very much inhuman. Hence the right of a daughter should be recognized.

7. The rights of the widow must be recognized like male members: In our Dayabhaga school the widow gets the share only for their lifetime, they cannot transfer or sell it according to their wishes. Though there passed a rule in our High Court in favor of widow that they can share in all properties of their husbands including agricultural land. They should give rights to their husband's property like male members. It will not be out of place to note that Section 14 of the Hindu Succession Act 1956 of India recognizes women as absolute owners of the property they inherit from their husbands.¹¹⁰

VII. CONCLUDING REMARKS

“There is no chance for the welfare of the world unless the condition of the woman is improved. It is not possible for a bird to fly on only one wing.” - Swami Vivekananda.¹¹¹ In jurisprudential debate, the position of women's property rights within the Hindu religio-legal system has long been viewed as a contentious topic from both a religious and a secular perspective.¹¹² Hindu law hasn't, however, led to any significant changes in Bangladesh, despite articles 27, 28, and 29 of the Constitution also establishing the ban of discrimination against Bangladeshi people based on their race, gender, caste, or religion.¹¹³ If we look at Bangladeshi women's property rights, they seem weak and insufficient.¹¹⁴ Hindu women's situation is considerably worse because they have extremely limited property rights under Bangladeshi personal law.¹¹⁵ We can see from our discussion that women's rights in Hindu law are constrained. To circumvent these

¹⁰⁹ Available at <https://www.thedailystar.net/city/news/protecting-hindu-womens-right-inherit-property-1965985>, Accessed 11 March 2024.

¹¹⁰ Supra note 2 of 103.

¹¹¹ <https://gyti.techpedia.in/project-detail/low-cost-highly-scalable-facile-fabrication-of-paper-based-wearable/16080>

¹¹² Md. Al- Ifran Hossain Mollah, *Hindu Women's Right to Property at the Crossroads: the Tension between Human Rights and Cultural Relativism*, Journal of Society and Change Volume VIII, No. IV

¹¹³ On Hindu women's right to property, available at <https://www.thedailystar.net/law-our-rights/news/hindu-womens-right-property-1750030>, accessed 2 December 2023

¹¹⁴ Supra note 4 of 4.

¹¹⁵ *Ibid.* at 79.

limits, we need alter our Hindu legislation to preserve women's property rights, and we may do so by adopting or following India's Hindu Succession Act, 1956 and The Hindu Succession (Amendment Act), 2005.

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