



POLICY PAPER

**REIMAGINING WOMEN'S PROPERTY
RIGHTS: THE CHALLENGES FOR
MINORITY RELIGIOUS COMMUNITIES**

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Her Own Rights

A. Introduction

Property rights, including the equitable distribution of matrimonial property for women, are the key to gender equality within family and society and an essential indicator for assessing an individual's social and economic autonomy. They are “*central to women’s economic advancement as well as their full incorporation in the polity.*” They are also a method used for operationalizing the empowerment of people and equality of rights.¹ Such rights ensure that women are given full autonomy and dignity in marriage, family, community, and the state. They also contribute to the economic development of communities and countries. Women’s access to assets (especially those they already control and have contributed towards acquiring and building), ensures improved access to livelihood opportunities and enables them to invest in their families with positive outcomes for themselves and their children².

The Constitution of the Islamic Republic of Pakistan 1973 provides “*the right to acquire, hold and dispose of the property in any part of Pakistan*” (Article 23) and protects this right by stating that “*no person shall be compulsorily deprived of his property save by law*” (Article 24). The request is unequivocal, with no differentiation based on sex, gender, religion, caste, etc.

However, the on-ground realities are very different for vulnerable groups, especially women belonging to Religious Minority Communities (RMCs). The concepts of citizenship and identity in Pakistan are primarily defined by religion due to their formation based on political rhetoric that has emerged thereafter. Historically, the focus on the importance of a ‘Muslim’ identity marginalization of a ‘non-Muslim’ identity and those belonging to RMCs. There has been a systematic and structural movement in Pakistan’s legal and political history that effectively worked not only to disempower the RMCs, but also established the supremacy of Muslims in terms of power, access, and decision-making.

This has been done through increased social intolerance practiced through political, cultural, and educational systems. This led to increased systematic and cultural radicalization, violence, inadequate resource allocation, and under-recognition of issues such as lack of marriage registration, registration of national identity cards, employment, etc.” This *further undermines the community’s economic growth and potential and negatively affects their livelihoods, political participation, and social capital. Significant numbers of the RMC live under the poverty line resulting in a socio-economic loop, putting further constraints on their access to quality education, health care, and employment, especially gainful employment*³, and the right to access and control the property.

It is thus essential to recognize that ‘property’ and its ownership have different significance to the RMCs due to the nuanced socio-economic realities. Only a thin layer of RMCs owns a significant amount of property (primarily immovable) in Pakistan. The limited data reveals that most Christian and Hindu populations reside in Sindh and Punjab. This population forms the labor force in informal sectors, agriculture, brick Kilns, domestic servitude, and bonded laborers. Approximately 80% of the minority community is poor, while Pakistan's poverty ratio stands at 39.3% between 2021-22. A couple of thousands of Sikhs living in Khyber Pakhtunkhwa own properties. However, these Sikhs have been under pressure as

¹ Remhan Sobhan, *Vulnerability Traps and Their Efforts on Human Development*, Official Paper, UNDP, 2014.

² Musawah, & LAS. (2022). (publication). *Making the Case for Matrimonial Property Rights in Muslim Family Laws* (Vol. 1). Karachi, Sindh: LAS.

³ Tahir, K., & Gilani, M. (2022). (rep.). *Knowledge, Attitudes, and Practices: Justice System's Response to Legal Issues of Religiously Marginalized Communities*. (pp. 2–27)

terrorist outfits started extracting *Jizya*⁴ from the Sikhs, which forced hundreds of families to migrate to safer places. Over 80 % of members of RMCs belong to the working classes. Moreover, the minority communities' property ownership has gradually declined considerably due to migration and land grabbing. Individual and vast amounts of communal properties of the minorities have been lost to land grabbing.⁵ For the Kalash community of Chitral, in northwest Pakistan, the government has recently banned the purchase of land to preserve the local Kalash culture. However, the property largely remains undocumented since its transfer takes place on traditional norms. There are few figures depicting women's share in these properties.

For Pakistani women, the right, ownership, access, and control of any property remains an even more elusive ideal due to weak implementation of laws, lack of laws, and the prevalence of patriarchal cultures and practices dictating their access, use, and protection of property. For non-Muslim women belonging to a religious minority⁶ in Pakistan, the situation is exacerbated due to their minority identity and associated challenges, i.e., intersectional discrimination. The addition of poverty, which is expected, becomes a case of triple discrimination.

Non-Muslim women report harmful discriminatory experiences primarily in public realms where they interact more with Muslims, i.e., workplaces and education institutions. Discrimination assumes different shapes, ranging from exclusionary practices and stereotypes to outright violence and threats of violence.

The dressing has been one of the main issues highlighted whereby non-Muslim women who do not observe purdah, their character, and honor are under question. Christian women wearing jeans are considered more lewd; Hindu women in Saris and Ahmedi women in different burkhas become targets of harassment, bullying, and verbal violence in public and the workplace. Persecution of Ahmadi women is more rigorous than of other women of other communities. Ahmadi women suffer discrimination in educational institutions and when using public transport. Participants from the Ahmadi community reported numerous experiences of outright violence against their community. Most Ahmadi women reported that they usually hide their identity out of the fear that they may be denied jobs or bullied in educational institutions. Most Christians and Scheduled Caste Hindus reported being discriminated against for their darker skin color.

Those comparatively fair in color were told to convert to Islam as they did not look like non-Muslims. Non-Muslim women are consistently invited and requested to convert to Islam by Muslim men and women. Teachers and co-workers usually complain about attempts to convert RMC members to Islam. Caste-based stratification is prevalent among Hindus. An Upper Caste Hindu woman may be banished from her community if she marries a Scheduled Caste Hindu. Employment opportunities are also limited due to fewer educational opportunities and practice. For example, the state has notoriously only hired non-Muslims for sanitation work, but it mainly means the minorities from so-called 'untouchable' backgrounds; Christian women are expected to work as domestic workers, etc.

⁴ <https://www.dawn.com/news/963964/sikhs-hindus-dread-taliban-tax-in-northwest-pakistan>

⁵ Order sheet, Supreme Court Bench on follow-up hearing of the Jilani judgment on 8 February 2021, in SC SM, 1, 2014, CMA, 4821.

⁶ While the term 'minority' is not defined in the Constitution or law in Pakistan, the Constitution differentiates between Muslims and Non-Muslims, and while includes protections for non-Muslims and other religious minorities, it evidences an institutional preference for the citizens belonging to the majority religion and state policies embedded in the Constitution. This discrimination is a critical factor behind the socio-economic marginalization of religious minorities on the one hand; and inequality and lack of respect for religious diversity and equal citizenship on the other.

Early-age marriages are commonly reported in Hindu and Sikh communities, which impacts their access to education and demonstrates their lack of independence regarding their education, career, and life choices.

Like Muslim women, minority women face several social and cultural constraints that limit their mobility and independence. Clergy, relatives, and family members curtail movement and impose dress code, though it varies from one community. For example, Christians are reported to have comparatively relaxed dressing restrictions, but such limits are severe among Hindus, Sikhs, and Ahmadis. For instance, Christian clergy and men did not allow for amending their family laws that required the accusation of adultery to dissolve a marriage. This has caused many Christian women to convert to Islam to dissolve their marriage. Hindu personal law, which has been promulgated, is also not functional. Most Christian and Hindu participants agreed that it was common not to give women a share in inheritance in their communities.

Working women reported that they suffered stress that any action could be construed as blasphemy, and because of this, they remain extra cautious at the workplace. When they try to tell families or report it, they have often been told to remain silent and not impact the status quo or out of fear that they might become victims of the blasphemy laws.

Belonging to economically marginalized sections of society adds another layer of jeopardy. Law enforcement agencies often choose not to get unless bribed by the complainants; the few RMC members in parliament belong to upper-class groups and are considered adequate representatives of the status of RMCs. The disadvantaged situation of women in several minorities is because of the long-standing social, economic, political, and cultural marginalization. And unfortunately, violations of their human rights are usually met with a lack of accountability.⁷

This marginalization and inter-sectional discrimination of minority women directly impact their access, control, and acquisition of property. While data on this remains scarce, Punjab's evidence indicates the on-ground realities regarding minority women and property. A 2017 survey in Punjab revealed that the transfer of inheritance to women was not popular in Punjab. Ownership of assets was assessed through marriage, dowry, or inheritance: a) House, b) Agricultural land, c) Land, d) Livestock, e) Shop/office, and f) Business. Minority women, while more economically active but also equal contributors to the family, do have more contribution in decision making and are financially autonomous, but generally, the statistics evidence their continued disempowerment, particularly with regards to lower literacy rates and the lower ratio of transfer from education to employment for minority women due to fewer opportunities. This reduces their options to purchase or acquire property in their own right.

The above discussion finds minority women facing intersectional jeopardy. It can be argued from the discussion above that religious minority women are more vulnerable to being subjected to human rights violations, particularly with property rights. While empowering women through the improvement of their socio-economic rights must remain a priority, it is essential to recognize the importance of law in providing a necessary base for protecting their rights. The non-codification of laws or outdated laws about the property has a specific impact on the further disenfranchisement of minority women.

This Briefing Paper provides an overview of the legal and cultural rights and practices that dictate non-Muslim women's rights and access to property in Pakistan. The scope of the paper extends to the women belonging to Christian, Hindu (Scheduled castes included),⁸ Parsi, and Sikh faith groups, which are among

⁷Gill, M. J., Aqeel, A., & Dogra, B. (2022, January). Stories of Resilience and Resolve: An Intersectional Study on the Plight of Non-Muslim Women and Girls in Pakistan.

⁸ Scheduled castes are treated as a separate category from Hindus in Article 260 (3) of the constitution and national population census; however, there is no specific legislation for Scheduled for any other matter. Regarding family

the communities defined as non-Muslims or (religious) minorities in the Constitution of Pakistan 1973⁹. The analysis here also includes the Kalash community based on the belief that the rights of this distinct indigenous faith community need to be recognized and protected in the law. It is intended that this paper.

The paper also aims to facilitate an informed conversation among the concerned communities to increase awareness about women's right to property and enhance women's active participation in raising demand for their rights. This advocacy initiative for greater recognition and protection of rights is hoped to contribute to legislative and administrative measures, ultimately resulting in the empowerment of women and gender justice across Pakistan.

laws, including inheritance, they are governed by codified laws for Hindus and customs which may vary slightly in each caste.

⁹ Article 260 (3), b, Constitution of Pakistan.

B. Defining Property

Property is any tangible or intangible thing that can be “owned” by or vested in a person. It can be 'tangible' when it exists temporally/physically, or it can be 'intangible' when it does not exist temporally/physically, like an intellectual property right.

In Pakistan, a distinction is drawn between 'moveable' and 'immovable' property under the law:

Registration Act 1908

Section 2 (6);

- 'Immoveable property' includes land, buildings, benefits to arise out of land and things attached to the earth, or permanently fastened to anything connected to the planet, hereditary allowances, rights to ways, lights, ferries, and fisheries.
- Standing timber, growing crops or grass;
- Fruit upon and juice in trees whether in existence or to grow in future; and
- Machinery embedded in or attached to the earth when dealt with apart from the land.

Section 2(9): - 'Moveable property' means property of every description except immovable property.

Under the Protection of Communal Properties Ordinance¹⁰ 2002, the term property also includes “*places of worship, monasteries, seminaries, vicarages, Dharamshala, gaushalas, burial places, community centers, social welfare, educational, health and recreational institutions meant for communal use of minority communities and includes buildings, vacant places, lands, residential places or offices annexed to the said properties.*”

Property under Pakistan Law

There are two ways property is dealt with in Pakistan:

Property that falls within the scope of personal law and is specific for different religious groups, e.g., inheritance, property in wills, etc.

i. Personal law

that is, a law specific for different religious groups, e.g., inheritance, property in wills, etc. This may be codified or uncodified. While the former has specific laws and processes, for example, for Muslims, the latter is dealt with through customary or cultural norms, for instance, in Sikhs, Kalash, and Baha'i communities.

ii. Generic property laws

which do not distinguish based on religion, sex, etc. For instance, the Transfer of Property Act 1882.

¹⁰ Became an Act through 17th Constitutional amendment in 2003.

Communal properties are governed by customary laws, including registration laws for charities.¹¹ However, special laws have been enacted for their protection at the federal and provincial levels.¹²

There is no generic or parent law governing women's right to property in Pakistan; hence these rights are defined in procedural rules in Pakistan, for instance, regulations relating to the transfer of properties and contracts¹³. These laws make no distinction based on gender and religious identity for holding, managing, or disposing of property. Consequently, this right is primarily defined in the family or personal laws of respective communities, except the Succession Act 1925, which applies to two communities, i.e., Parsi and Christian.

¹¹ For instance, The Trust Act 1882, The Societies Act 1860.

¹²For instance, The Sindh Protection of Communal Properties Act, 2013, Sindh Act. XL 2013, Evacuee Trust Properties (Management and Disposal) Act, 1975 (XIII of 1975).

¹³ The Transfer of Property Act 1882, and The Contract Act 1872.

C. Property Rights under Personal Laws

I. Hindu Women's Rights

Traditional Strict Interpretation

In principle and per the strict interpretation of the Hindu religious code, female share to inheritance is not allowed in the Manusmriti¹⁴ (religious edicts). Hindu men are ordained to respect and honor women. This divine ordination is reflected in the verses of Manusmriti. He says:

"Women must be honored and adorned by their fathers, brothers, husbands, and brother-in-law who desire their welfare. Where women are honored, the Gods are pleased: but where they are not honored, no sacred rite yields rewards" (Manusmriti chapter III verse 55-56).

It is abundantly clear that according to the Hindu faith, women are to be held in respect and honor, but sacred texts are silent regarding women's rights. Moreover, Hinduism does not regard men and women equally. The dominant duty of a Hindu woman is to submit to a male.

Manu says:

"By a girl, by a young woman, or even by an aged one, nothing must be done independently, even in her own house. In childhood, a female must be subject to her father, in youth to her husband, and when her lord is dead to her sons, a woman must never be independent. (Manusmriti Chapter v verse 147-148)."

And further,

"Sons (male issue) take the father's property. To the nearest sapinda (degree of cousinship¹⁵) the inheritance next belongs." Chapter IX, 187.

Thus, the social understanding of the edict of the holy books and customs developed over the millennia kept the Hindu women from an entitlement to share in inheritance.

¹⁴ Manusmriti was the first expositor of law and his institutes are, by common tradition, entitled to a place of precedence among all the smritis. Even though the actual identity of Manusmriti was not known, the extant form of Manusmriti was compiled in about 200 B.C. (Mulla 1986)

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Codified Hindu Law

The primary laws promulgated relating to Hindus applicable in Pakistan include the following:

1. The Sati Regulation, 1829.
2. The Hindu Widow's Remarriage Act, 1856.
3. The Hindu Law of Inheritance (Amendment) Act, 1919.
4. The Child Marriage Restraint Act, 1929 (*applies to all children irrespective of religion*)
5. The Hindu Women's Right to Property Act, 1937.
6. The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946
7. Hindu Succession Act 1956
8. Hindu Marriage Act in 2017
9. Sindh Hindu Act 2018

Share of Widows:

The Hindu Woman's Right to Property Act, 1937, and subsequent amendment in 1938 recognized the right of a widow to inherit. However, it established a share for a widow equal to a son(s) using an interpretation of the Hindu religious code. It is not, however, widely practiced.

It stated, "*When a Hindu governed by the Dayabhaga School of Hindu Law¹⁶ 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.*"¹⁷

Right to Separate Residence and Maintenance:

Under this law, a Hindu woman could apply for separate residence and maintenance on seven grounds, i.e. (1) husband has caught a loathsome disease not contracted from her; (2) if he is guilty of such cruelty towards her as renders it unsafe or undesirable for her to live with him; (3) if he is guilty of desertion/abandoning her without her consent or against her wish; (4) if he marries; (5) again, if he ceases to be a Hindu by conversion to another religion; (6) if he keeps a concubine in the house or habitually resides with a concubine; (7) for any other justifiable cause.¹⁸ A Hindu married woman shall not be entitled to separate residence and maintenance from her husband if she is unchaste or ceases to be a Hindu by conversion to another religion or fails without sufficient cause to comply with a decree of a competent Court for the restitution of conjugal rights.

On an application, the Court was "to determine the amount to be paid by the husband to the wife, therefore, and in so doing shall have regard to the social standing of the parties and the extent of the husband's means"¹⁹ as expeditiously as possible.

¹⁶ Practiced in Assam and Bengal the Dayabhaga school of thought is liberal and allows share of property as opposed to Mitakshara School which is the dominant custom not allowing female inheritance.

¹⁷ Section 3, The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946.

¹⁸ Section 2, The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946.

¹⁹ Ibid. Section 3.

Termination of Marriage and Financial Security of Wife & Children:

The Hindu Marriage Act 2017 (applicable across Pakistan except for Sindh) and the Sindh Hindu Act 2018 allow for judicial separation and termination of Hindu marriages for the first time, extending the right of re-marriage of the parties. Both laws allow the Court to ensure that the wife does not suffer financial hardship due to the termination. It also confirms that termination cannot happen until maintenance of the children has been provided for.

Gaps and Challenges Under This Law:

Because women are generally less financially stable than men, taking away their right to property (which provided financial security) and burdening them with the maintenance of children is bound to make them more vulnerable and disenfranchised.

- Rights not included in the law:
- Share in the property upon termination of the marriage
- Right to inheritance
- Post-marriage maintenance

Hence, the law does not aptly cover the right to property of a divorcee, including a woman's share upon the termination of marriage and the right to inheritance.

Unlike other jurisdictions such as India and Bangladesh, which now allow for equal shares of inheritance in India and more contemporary interpretations of Hindu personal law, Pakistan has not yet ensured equality for Hindu women under personal law or its performance.

II. Christian and Parsi Inheritance law

Christian Inheritance Rights:

The Succession Act 1925 provides an equal share of inheritance for male and female Christian heirs. Section 35 of the Act indicates gender equality regarding widow and widower inheritance rights. It states, "A husband surviving his wife has the same rights in respect of her property, if she dies intestate, as a widow has in respect of her husband's property if he dies intestate."

Some confusion was created by the absence of the word "equally" in this proviso and because people used different interpretations of scripture and customary practice. In 1992, the Supreme Court of Pakistan *Inayat Bibi Vs Issac Nazir Ullah* case²⁰ held that Christian female heirs had the right to a share equal to a male heir, setting aside the argument of scriptural interpretation and customary practices. This judgment upholds Article 23 of the Constitution of Pakistan.

The law recognizes a person's individual rights over the spouse's property. Hence, gender parity is maintained.

²⁰ PLD 1992 SC 385

Parsi Inheritance Law:

The Parsi law, however, retains certain gender inequalities in marriage for the Parsi community.

Regarding inheritance among Parsis, the Act provides that “one-third of property of a male deceased shall belong to his widow, and the remaining two-thirds shall go to his lineal descendants.”²¹

Section 51 of the Act shows that male lineage is a preference in the law.

(1) (a) Where he dies leaving a widow and children, among the widow and children, so that the share of each son and the widow shall be double the share of each daughter, or

(b) Where he dies leaving children but no widow, among the children, so that each son’s share shall double the share of each daughter.

(2) Where a male Parsi dies leaving one or both parents in addition to children or a widow and children, the property of which he dies intestate shall be divided so that the father shall receive a share equal to half the share of a son and the mother shall receive a share equal to half the share of a daughter.”

Hence, the male heir would get a share double of the female; however, even in the case of a female intestate, her male consanguinity or pedigree will be counted as a basis when deciding the share of the property.

(a) A widow without children in Parsi law loses control of her husband’s property. In the case of Christian rule, the widow would lose half to the descendants of a male member of her husband’s lineage.²²

(b) Where (Christian) intestate’s father is living, he shall succeed to the property if no descendent or widow is alive.

However, Section 20 of the Succession Act provides that *Interests and powers are neither acquired nor lost by marriage*. “(1) No person shall, by marriage, acquire any interest in the property of the person whom he or she marries or become incapable of doing any act in respect of his or her property which he or she could have done if unmarried.” This means that the title of the property will not change merely because of marriage though it might happen after the death of a spouse.

“A husband surviving his wife has the same rights in respect of her property, if she dies intestate, as a widow has in respect of her husband's property if he dies intestate.”²³

Hence, the property shall be inherited equally between the spouses. However, there is no provision for the wife to have a share in the spouse’s property while they are married and alive. This poses a few critical questions about Parsi women’s marital property rights and the lack of legal cover.

The Act also allows some exemptions. The provincial authorities can exempt those tribes and Sects who consider the laws inapplicable.²⁴ This proviso does not serve the purpose of equalization of rights, nor does it strengthen enforcement. Instead, it places the application of law in the hands of communal leaders, usually

²¹ Section 33 Succession Act 1925.

²² Section 33 A, Succession Act 1925.

²³ Ibid Section 35.

²⁴ Section 3 (1), Succession Act 1925.

male. Therefore, the rights of women of that particular Sect could be compromised, resulting in violation of CEDAW provisions about women's property rights which provides women equal rights of inheritance and ownership of property as their spouse.

III. Kalash Women

The Kalash, a community often referred to as *Kafirs*²⁵, are entirely governed by their communal customs and not by family or inheritance laws. The Kalash living in Nuristan province of Afghanistan was the only indigenous community they could associate with as co-religionists, though that group has primarily converted to Islam. Since time immemorial, the property is generally held by the tribe and male head of the family though there isn't a strict code or application of the sole right of the ownership. The property is undocumented in the valley, which houses around 3,800 Kalashis²⁶. To preserve this ancient culture, the government has banned the purchase of property by people outside the community.²⁷

According to the custom, the family head cannot decline if a woman desires to exercise control over a piece of property. Until 2020 few women controlling some parts of the property also got affidavits signed by male family members to avoid confusion or conflict. In a few disputes that approached the court, the courts were asked to settle the matters mutually or with help from the local community.²⁸

A historical account by Schomberg describes the gender disparity descriptively. He narrates:

"It is a singular custom of these people that the men do all the milking of cows and goats. The women are not allowed anything to do with the milk or the milking. Making butter, cheese, and all preparation of milk products is a male right. The women do all the heavy work in the fields and carry loads. The men are dairymaids and nothing else. When a marriage occurs, the suitor gives ten, fifteen, or twenty milk cows, with their calves, as the bride price, according to his means." (The influence of giving bride money came with Kalash belonging to Afghanistan, called Red Kafirs, and ended as they left, according to the source).

"If, later on, the girl leaves her husband or objects to him, her parents must return double the bride price."²⁹

It is evident that property ownership and administration are linked with manhood in the Kalash religion/customs, like many others. However, some forms of property transfer and interests are attached to the life-changing marriage event, again similar to other religions.

IV. Sikh Rights to Marriage

The Punjab Sikh Anand Karaj Marriage Act 2018 deals with the registration of marriage, rights in marriage, and dissolution of Sikh marriages in Punjab. However, it does not deal with issues relating to maintenance, and division of property upon divorce or inheritance, leaving these issues uncodified.

The law remains unimplemented due to the lack of appropriate action by the Government of Punjab.

²⁵ Literal meaning, non-believers: the term has been used historically because of a polytheist and distinct belief from religions practiced in the surrounding particularly after the monotheist religions became dominant. Their settlement was called Kafirstan. (<https://www.britannica.com/topic/The-Kafirs-of-the-Hindu-Kush>).

²⁶ Interview with Mr. Imran Kabir on 12 January 2021.

²⁷ Ibid.

²⁸ Ibid.

²⁹ Schomberg R.C.F., *Kafir and glacier: Travels in Chitral*, Martin Hopkins Limited, 1938, p.90.

D. Conclusions and Recommendations

Despite the rights in the Constitution and international obligations, people belonging to religious minority groups lag behind the average women and men in indicators of development. Fulfilling property rights is vital to the social and economic well-being of minority women. The official data from Punjab regarding female ownership is a testimony of disparities in assets ownership which also represents a violation of fundamental rights and freedoms. The indicators showing a lack of implementation of existing laws and rights in inheritance and possession of assets in the most populated and resourceful province should be instructive that a lot more needs to be done to bridge the opportunity gap for women in the country.

Even where laws exist, such as for Hindus, women's rights to property are not entirely regarded due to cultural and social practices. Women's exercise of the right to property depends entirely on the will of the respective family head. It can be assumed that they do not enjoy any mandatory rights.

The Christian and Parsi women, governed by the Succession Act 1925, have legal recourse available to them if they want to secure a share in inheritance, though generally, this right is not regarded. However, this law is also outdated.

Several factors contribute to this situation, including lack of awareness, rigid parochial thinking, and lack of the rule of law. However, a different fear contributes to minority women's plight. The minority men are deeply concerned about the fate of their properties in the wake of forced conversions.³⁰ Due to the persistent trend of forced conversion of minority women, particularly minor girls,³¹ even educated men are perplexed about demanding legislation in this regard.

The net result is that minority women remain disempowered as individuals and collectively. The second most significant hurdle is the customary practices such as the dowry and Nanki among nearly all minority communities, which make it obligatory for men to commit to some material and monetary obligations to the female members of the family at the time of marriage and afterward. The legal responsibility of the share of female inheritance is therefore largely ignored.

Parallel to this, there is acceptance and awareness among minorities about the need to make laws and inculcate equal property rights for girls and women.³²

In light of the above discussion, the following legislative, procedural, and educational measures are recommended;

- a. Since the existing law for Christian and Parsi minorities (Succession Act 1925) is nearly a century old, it is recommended that these laws be thoroughly revised, mainly to make them consistent with evolving standards of gender equality and empowerment of women.
- b. Under the 18th constitutional amendment, provincial and federal governments are mandated to legislate upon family laws for their jurisdictions. Therefore, local and federal governments are recommended to work together to bring separate and comprehensive legislation to protect the right to property for minorities such as Baha'i, Kalash, and Buddhists. They currently do not have any legislation.

³⁰ Interviews with Jamshed Rehmat Ullah, Imran Kabir and Kalyan Singh.

³¹ *Silence of the Lamp*, Centre for Social Justice, January, 2021.

³² Interviews with Asiya Nasir, Dr. Bangash, Justice (r) Kohli, M Parkash, Kalpana Devi and Imran Kabir.

- c. It should be made mandatory in the regulations governing communal properties that women should be given an equal role in administering these properties.
- d. The concerns regarding forced conversions are genuine. However, a way forward has to be found in the form of a parallel protection mechanism against the forced conversion of minority women. Moreover, steps should be taken to prevent involuntary, unethical, and manipulated conversions by the concerned community in collaboration with government and non-governmental stakeholders.
- e. Inheritance and property ownership disputes should be tried in family courts. All claims to inheritance rights, particularly for widows, should be facilitated to avoid procedural delays.
- f. Provision for the right to matrimonial property at the time of divorce should be added to the law.
- g. Awareness campaigns should be started by civil society organizations to educate minority women about their legal rights and existing land and property laws.
- h. Concessional property registration fees for women should be enforced.
- i. Federal and provincial governments should assess all measures for women's empowerment to see whether and how much these measures cater to minority women. For instance, the women using helpline **1099** regarding property issues.
- j. Initiatives such as the expansion of powers of the Ombudsperson on Sexual Harassment to include women's property matters should be analyzed for success, with recommendations based on these learnings.

About the author

In collaboration with the Legal Aid Society, this paper has been authored by Peter Jacob; a Human Rights professional, researcher, freelance journalist, and trainer. He has worked with several National and International Human Rights organizations since 1988 in different capacities including Amnesty International Pakistan, Hotline Asia, Forum Asia, and the Human Rights Commission of Pakistan. He is also a Member of the National Curriculum Council, established by the Ministry of Federal Education and Professional Training. Jacob has a special interest and focuses on the rights of Minorities, Women, and Labour.

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