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# **INTERNATIONAL FRAMEWORK REGARDING PROPERTY RIGHTS OF WOMEN AND SUSTAINABLE DEVELOPMENT GOALS**

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## **Abstract**

This paper tries to analyze the International perspective regarding women property rights. In International level, women's rights are considered as Human rights. The UDHR, The Convention on Elimination of All forms of discrimination Against women, ICCPR and SDG recognised women property rights. This Article also highlights Comparative study regarding property rights of women in regional practices with covering Customary Laws and Constitutional Laws e.g. Namibia and Nepal where Namibia mostly follows Mixed of Customary Laws and Statutory Laws. The Constitution of Nepal Statutory Laws recognised women share in property. The patriarchy traditions and overriding Statutory Laws deny women property rights in States.

Keyword: Women, Property, Equality, Discrimination.

## **Introduction**

In globally women deprived property right due to the Social norms. All women rights are Human rights.<sup>1</sup> Women are victims of cruelty and delinquency in the society, so the protection is necessary. Giving impartiality relating to property is a way of gender equality and the goal of Sustainable development.

The International Legal framework for the guard of women's property deals with various provisions, Conventions and Treaties. Property rights of women is recognised by "International Human Rights Law" as equality and dignity. In "Beijing Platform of Action" countries dedicated to make and reforms to give women equal rights with men to economic resource, including to acquire ownership and control over land. This Act was adopted in 1995 by 189

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<sup>1</sup> Hillary Rodham Clinton, United Nations Fourth World Conference on Women, (China, 5<sup>th</sup> September), available at <https://academyatthelakes.org> (last Visited on 6<sup>th</sup> September 2025).

Countries. In “Istanbul Declaration and Habitat Agenda” gives indirectly recognised women property rights by underlining women free from discrimination and control over economic resources.

## **International framework regarding property rights**

### **Universal Declaration of Human Rights**

It is the first International Document which deals with “Human Rights”. This Declaration is also known as the Magna Carta of Humanity. The Universal Declaration of Human rights was adopted in 1948 and has adopted two instruments in 1966 namely, International Covenant on Civil and Political Rights and International Covenant on Economic, Social and Cultural rights come into force in 1976. UDHR is only a declaration; it is not a binding treaty. State has to follow certain provisions as per UDHR. The preamble of UDHR deals with following provisions relating to property rights of women. First para which is give recognition of the “Inherent dignity and of equal and inalienable rights of all members of human family is the foundation of Freedom, Justice and Peace in the world”. Women are also member of the human family she has right to equality and dignity: In inalienable rights property rights of women is also include.

Article 2 states

“Everyone is entitled to all the rights and freedoms outlined in the Declaration without any form of distinction, including by race, color, sex, language, religion political opinion, national or social origin, property, birth or the status”. This Article talks about the prohibition of sex so, women also not deprived property rights on the basis of gender. Women can eligible for property rights.

Article 7 states

“Equality before the law and equal protection of the law without any discrimination”. This Article directs every state to make equal laws and gives equal protection to all. Thus, the laws relating to women property in a state should be equal without any discrimination.

Article 16 states

“Men and Women of full age, without any limitation due to race, nationality or religion, have the right to marry and to found family. They are entitled to equal rights as to marriage, during marriage and at its dissolution.” According to this Article both the spouse has equal right which

also include equality in case of property which may be ancestral or self-acquired property. During the time of dissolution of marriage also property should be divided among equally. After, the death of husband women can claim property of deceased husband.

Article 17 states

“Right to own property” which means everyone has the right to own property in alone or association with other. No person shall be deprived of this right. Women can also own property and have equal share alone or Joint share in a property.

Article 25 states

“Everyone has the right to a standard of living adequate for the health and well-being of himself and his family, including Food, Clothing and Housing and Medical Care and necessary Social Services and the Right to Security in the event of unemployment, sickness, disability with the sufficient standard of living”. In this Article Housing Right is included. Housing Right is included under the property therefore, women can claim the Housing right.

### **Convention on the Elimination of All Forms of Discrimination against Women**

The Convention on the Elimination of All Forms of Discrimination against Women is an important document which guarantee the application of the right of women on the basis of gender equality. It is considered as the “International Bill of Women Human Rights”. The General Assembly adopted this Convention on December 18, 1979. Convention on the Elimination All forms of Discrimination against Women restrict discrimination on the basis of sex and give recognition of equality irrespective of gender.

### **Sustainable Development Goals**

- SDG 1 relates to zero poverty. Property can help a person and secure the economics of a women. Allowing Equality in property a woman can end poverty and she can rescue herself in pain.
- SDR 2 discussions about Food Security and Nutrition. When women Permitting equal property rights then they can regulator on land and agriculture. Women can give the best decision in relating to agriculture crops. Through access equality in land they improved food Security and Nutrition of the family.

- SDR 5 dialogs about Gender Equality and empowering of women. The 5 Goal of SDG through Gender Equality also include property rights of women. Better share in property rights of women can fulfill the goal of SDG Gender equality. They also have right to acquire land and property and participate in economic development.

### **International Covenant on Civil and Political Rights**

The United Nation set two important documents for the protection of Human Right in 1966 namely, International Covenant on Civil and Political Rights. It comprises all Civil and Political rights of the individual. Under the Civil Rights “property” is included. So, under the civil rights has equal right to enjoy the property.

### **Comparative perspective relating to property rights of Customary Laws States and Constitutional Law States with example of Namibia and Nepal**

#### **Customary Laws (Namibia)**

The majority of Namibians live according to Traditional Indigenous Law, Known as the Customary Laws<sup>2</sup>. However, the 1990 Constitution of the Republic of Namibia replaced Customary Law as Supreme Law of the Land within the Country. The Constitution contains several Articles pertaining to women’s right.<sup>3</sup> Article 10 contains Namibia equal protection clause and Article 95 promotes policies aimed at enhancing women’s right. Article 95

- (a) requires the State to actively enact “Legislation to endure equality of opportunity for women and ensure the implementation of the principles of non-discrimination in remuneration of men and women”.

- Property systems in Civil Marriage

Two basic marital property arrangements apply to Civil marriages in Namibia.<sup>4</sup> the first type of arrangement is Known as “In Community of property”. In this system of marriage all possession and debts acquired by men and a woman become a Joint-Estate when they come into marriage. The Second is Known as “Out of Community” divided the debts of Husband and Wife. Everything acquired before a marriage remains that respective spouse’s separate property. The Husband and Wife separate their individual

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<sup>2</sup> Olivia C. Ruppel, *Women’s rights and Customary Law in Namibia: A Conflict between human and Cultural Right*, 16 (Basler Afrika Bibliographien, Switzerland, 2010).

<sup>3</sup> *Id.* at 3.

<sup>4</sup> The University of Wyoming Human Rights Clinic “Women’s property rights in Namibia: An investigate Report to determine the potential for litigation” (The Southern Africa Litigation Centre, 2005).

earning and ownership of property stays with the one who acquired it. However, unless the couple raft a prenuptial contract specially adopting the “In of Community property regime, Namibian marriages automatically operates under the “In Community of property model”<sup>5</sup> Which Marital property arrangement applies depended upon where, geographically, the Marriage occurred. Part of the Native Administration Proclamation 15 of 1928 which is still force today- dictates that all the Civil Marriages between native that occur north of the old police zone are automatically “Out of Community property”, unless there was a declaration establishing otherwise that was made prior to the marriage taking place.<sup>6</sup> After the Married person equality Act was passed in 1966 changed the situation, providing that a husband and wife married “ In Community” must agree before when they sell, give away or borrow against important joint assets such as the House, Household Furniture or Livestock. They must also agree before taking out a loan which is Secured by Joint property. These rules are weak when a marriage in community ends, any liabilities are settled out of the Joint estate. If the marriage ended in divorce, the remainder of the estate is normally divided equally between the spouses. If the marriage ended due to the death of one spouse, the surviving spouses keeps her own half- share and the deceased spouse half- share is distributed in terms of the Law of Succession or intestacy.<sup>7</sup>

- Property system in Customary Marriage  
Systems of property ownership in Customary Marriage are determined solely by Customary Law and women neither own nor inherit property is most Customary marriages.<sup>8</sup> Rather, any property interest’s women may possess occur through various ownership, generally through husbands, fathers, uncles, brothers and sons.<sup>9</sup> in many cases, the husband’s control over property and finances applies to property acquired before marriage a well.<sup>10</sup>

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<sup>5</sup> *Ibid.*

<sup>6</sup> *Ibid.*

<sup>7</sup> Diane Hubbard, “*Marital property in Civil and Customary marriages*” 36 (Gender Research & Advocacy Project Legal Assistance Centre, Windhoek, Namibia, 2005).

<sup>8</sup> *Supra* note 4 at 22.

<sup>9</sup> *Ibid.*

<sup>10</sup> *Ibid.*

## Constitutional Laws (Nepal)

The Constitution of Nepal has guaranteed the right to equality as a Fundamental Right, which strengthened the concept of Equal Protection under Law. It also contains, the Right against Discrimination in the application of general law on any ground,<sup>11</sup> aimed at ensuring gender.

### Legal provision for acquisition of property

#### Partition by birth

The Muluki Ain (Civil Code) 1854, the first Codified Law of Nepal recognised to Limited extent, a daughter's right to parental property. It provided that an unmarried daughter below the age of 35 are entitled only to the wedding expenses and daughters who remain unmarried above the age of 35 are entitled to the equal share on parental property. If the daughter is married after property, she would be allowed to bring such property to her husband's house. However, this was no valid if the daughter got married without her parent's consent.<sup>12</sup> The 11<sup>th</sup> Constitutional Amendment Act of the Muluki Ain of 2002, recognised a daughter's equal right to parental property and regarded her equal Coparceners by birth.<sup>13</sup> In Nepal a married daughter excluded from property but after 12<sup>th</sup> Amendment Act Muluki Ain of 2006 recognised where daughter no need to return inherited property to her father.

#### Partition by Marriage

Partition by marriage provides right to women due her status as wife given the condition that she will not be allowed to separate from her husband without his consent and as long as he is alive.<sup>14</sup> Women's right to ancestral property does not qualify the absolute nature in self, rather than its conditional. If wife is not provided Food, Clothing, Education and Medical treatment as per the social and financial status of the family and as per for need, then she is entitled to get a share in the husband's property.<sup>15</sup> In the case of single women (widow), if she wants her share in property and live separately, precondition for partition is not required her desire is enough.

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<sup>11</sup> The Constitution of Nepal, art.25.

<sup>12</sup> The Muluki Ain, Chapter on Partition, 117 (1854).

<sup>13</sup> *Id.* at 10.

<sup>14</sup> *Ibidz*

<sup>15</sup> *Id.* at 12.

## Conclusion

Women property rights are not only Justified as gender equality but as a way of the Sustainable development. The first International Convention relating to women is Beijing platform of action which is adopted in 1995. This Convention discuss about women empowerment and gender equality of women how to transform way and enlightened women. The goal of Beijing Platform Action is till now working slowly and not achieving fully. The Istanbul Declaration, UDHR, ICCPR and SDG are tremendous Convention relating to women which state has to follow all these Convention provisions. Equality and Economic empower make women influential. In the Namibia follows Customary Laws as well as The Constitution of the republic of Namibia which is Supreme Law of State uphold women rights. Their distribution on the property is basis of the geographical location. The Constitution of Nepal recognised equality as fundamental rights. The Muluki Ain granted a limited ownership of daughter which shows patriarchy attitudes in Nepal which is deeply influenced in mind set of people. After the 11<sup>th</sup> Amendment and 12<sup>th</sup> Amendment of Muluki Ain finally shows gender equality by fully recognizing women property rights. Even till globalization in all over the world it seems women face discrimination on the property rights because of lack of practical application.

