

Inheritance Right of the Transgender People in Bangladesh: A Comparative Legal Analysis in the Light of Different Religions & Countries

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Abstract

This paper critically analyzes the legal framework governing inheritance rights for transgender people (commonly known as 'Hijra' in Bengali), a community whose valuable contributions have been historically undervalued by society. Using a mixed research methodology, comprising qualitative and quantitative research techniques, this study explores the major barriers that prevent transgender people from fully exercising their inheritance rights, including social stigma, discriminatory laws, and practices, lack of legal recognition, and religious beliefs, across different countries and religions. Drawing on existing literature and primary data collected through surveys and interviews with relevant stakeholders and members of the transgender's community, the research emphasizes the need to recognize and address the structural and societal obstacles that hinder their complete and equal participation in society. The paper concludes that a comprehensive approach, involving legal, social, and educational interventions, is essential to promote the inheritance rights of the transgenders community and guarantee their equal protection under the law.

Key Words: Inheritance, Right, Transgender, Analysis, Religions and Countries.

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I. Introduction

The best creature in the universe is mankind. The marvelous creation of the great creator is the human race. He used diversity to create the lovely world we live in. God has engendered people of numerous gentries, groups and persuasions. Some people in our society cannot be distributed as manly or womanish. They are better kenneled in society as the Third gender, occasionally called Transgender, Hijra, Androgyny, Epicene, Neuter, Bisexual, Ambisexual, Eunuch and Transgender. The phrase transgender refers to someone born with reproductive organs and can't be prominent, whether or not male or female.¹ Transgenders or those who express intersex traits are frequently stigmatized and have a difficult time exercising their right to inherit property. It is calculable that up to 1.7 % of the population has an associated transgender attribute and some 0.5 % of individuals have clinically distinctive sexual or generative variations.² Their genetic diversity perplexes sex tenaciousness. Such persons customarily have a different nature of desire predicated on inner perception.³ It's frequently seen that those born manly or womanish in these communities act like women or men independently. Their external characteristics, in this case, are different from their physical characteristics. Such people are looked down upon in gregarious authenticity. All people should be aware of their inheritance rights, but transgenders may be particularly vulnerable because of the possibility that their gender identity would prevent them from receiving legal or social recognition.

1 Dr Manswab Mahsen Abdulrahman, 'Distribution of Estate in Islamic Law: A Case Study of Missing Person, Child in the Womb and Hermaphrodite' (2020) 8 JOURNAL OF ISLAMIC STUDIES AND CULTURE <<http://jiscnet.com/vol-8-no-1-june-2020-abstract-4-jisc>>

2 'Key Issues Facing People with Intersex Traits' (Center for American Progress) <<https://www.americanprogress.org/article/key-issues-facing-people-intersex-traits/>>

3 হান্নাহেনাৎ প্রথম আলো প্র বাংলাদেশ নিউজ পেপার (Prothomalo, 3 December 2021) <<https://www.prothomalo.com>>

Transgenders have historically been treated with suspicion and fear, and because of their gender ambiguity, they are frequently denied inheritance rights. Transgenders were ostracized and had trouble getting resources because in certain cultures they were even thought to be cursed or possessed by bad spirits. Transgenders continue to experience a lot of prejudice and discrimination in society despite changes in attitudes throughout time. Recent studies have emphasized the significance of resolving transgenders' inheritance rights and have pointed out social and legal obstacles that must be removed in order to advance more equality and inclusion.

In various nations, various legal systems and laws regulate the inheritance rights of transgenders. It can be difficult for transgenders who do not cleanly fit into either group since inheritance rules in certain nations, including the United States, are based on a person's biological sex. However, due to societal and cultural views regarding transgenders, these legal requirements may not be properly implemented in other nations, such as India, Pakistan, where there are particular legislative measures addressing the inheritance rights of transgenders. Religious practices and beliefs have a significant impact on how people feel about the inheritance rights of transgenders. Religious perspectives on gender identity and inheritance vary, which may have an impact on how transgenders are seen in society and the law. Islam, for instance, has rigorous laws governing inheritance that take into account a person's gender and family ties, which can be difficult for transgenders who do not cleanly fall into these categories. Transgenders may not be eligible to inherit property under Hinduism's ancient rules and rituals, which frequently regulate inheritance.

Transgenders continue to lack social and legal recognition despite some recent advancements, which might hinder their capacity to express their rights and get resources. They are disenfranchised in all situations of society, starting from the family. Because nature has not given them felicitous gender identity. Being used to a floating life, they do not have a sempiternal address. They earn a living by dancing and celebrating births and marriages but must also rely on other jobs to earn money. In sundry persuasions, the inheritance of their property in the state is not limpidly defined. Unable to bear these deprivations, such oppressed people often resort to malefaction. Personal law does not explicitly mention transgender people. The government needs to take this seriously. Opportune research can abstract this dark view of society, inhumanity, and deprivation and bring back a people's civil and human rights. Transgenders' inheritance rights are a significant topic that hasn't gotten enough focus in legal and social studies. This study intends to find significant obstacles to the exercise of transgenders inheritance rights by analyzing these rights in the context of various faiths and nations.

II. Methodology

The research study's methodology combines qualitative and quantitative methods. To write a convincing and appropriate study report, the researchers employed a variety of research methods. This study's primary research method involved gathering information data from academic books, journals, websites, newspapers, reports, articles, national laws, international laws, landmark court rulings, and other pertinent sources. This method enabled the researchers to compile facts and data from previous studies in order to address their research questions. A comparison of the existing laws, legislation, etc., and religions was carried out in order to protect the rights of gender minorities. The research study has been conducted in various slums including Rasulpur Colony along Kirtankhola River in Barishal city, because the area is more accessible and convenient to find out the respondents and taking interviews since the researcher has been living near the locality. As there is no database with correct information on the Hijras of Barishal city, secondary data and information have been gathered from the area using the snowball sampling approach. Via street or door-to-door interviews and an interactive questionnaire, the researchers collected data. Forty respondents in all, representing a range of ages, were used in this study. The researchers also conducted an online poll to gather information on people's views on transgenderism. This poll drew in sixty-two participants. In this study, the quantitative data gathered using the survey approach were analyzed using the LibreOffice Calc software, Python programming language (Pandas & Matplotlib libraries). After that, the researchers concentrated on writing a pertinent study report that would represent the inheritance right of Hijras. To provide an extensive study and useful recommendations that may be used to address difficult problems, the researcher is examining and assessing the data. The research was carried out from June 2022 to April 2023.

Research Purpose

Due to their separate gender identity, transgenders are forced to become incoherent from mainstream society. They're bedeviled and disentitled in the community. They aren't meditated as a consummation to their family moreover. In utmost cases, the family isolates them. Also, piecemeal from being disjunction from the family, they aren't given any share of family heirloom property. Hence, the purport of this research-

1. To compare the position of the People's Republic of Bangladesh with other civilized countries relating to the inheritance of property by Transgenders.

2. Conduct a critical legal analysis of inheritance rights for transgenders in different religions and countries.
3. Analyzing the various legal instruments of the national and international associated with the inheritance of the property of Transgenders.
4. To figure out how this languished section of society can rationally inherit the family property.
5. Examine the impact of social and cultural factors on inheritance rights for transgenders.
6. To seek out the legal loopholes in the execution of inheritance of Transgender's property and possible paths for its removal.

This study fills a critical vacuum in the body of knowledge about transgender inheritance rights, which makes it noteworthy. This research can aid in a better understanding of the difficulties that transgenders have when trying to obtain their inheritance rights by examining the legal, social, and cultural frameworks that control inheritance rights for transgenders in various religions and countries. The research will look at transgender inheritance rights across many countries and religions, and its scope is international.

Definition & Legal Status of Transgenders

Transgenders are people that exhibit both male and female biological features at birth, and they frequently encounter serious obstacles when trying to claim their inheritance rights. The term "transgender" comes from the Greek mythological God "Hermaphroditos," son of Hermes and Aphrodite, whose body, when incorporated with nymph Salmakis, assumed a better kind with each male and feminine attributes.⁴ Transgenders are individuals who are biologically or anatomically male or female but exhibit behaviors appropriate for the opposite gender.⁵ Transgenders have different names in different countries. They are better known as "Bakla" in the Philippines⁶, "Waria" in Indonesia⁷, "Mashoga" in Kenya⁸, "Sworn virgins" in Albania⁹, "Kathoey" in Thailand¹⁰, "Xanith" in Oman¹¹, "X-gender" in Japan¹², "Travesti" in Brazil¹³, "Muxe" in Southern Mexico¹⁴, "Ashtime" in Southern Ethiopia¹⁵ and "Hijra" in Bangladesh. Traditionally, the term "Hijra" has been rendered into English as "Eunuch" or "transgender." The transgender connotes a monstrous hybrid, characterized not solely by a merging of the two sexes but by the deformation of every needed to result in the union.¹⁶ Transgender is an associated umbrella term want to describe a variety of natural bodily variations. In some cases, bisexual person traits are visible at birth, whereas in others, they're not apparent till the time of life. Somebody bisexual person variations might not be physically apparent in the slightest degree.¹⁷ With a female gender identity, secondary sexual traits that are more masculine than feminine, a feminine gender role, and a predominantly homosexual identity, they are regarded as infertile people.¹⁸ Intersex individuals are recognized as a separate group of persons who are subjected to discrimination and human rights breaches by the

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- 4 David T MacLaughlin, 'Sex Determination and Differentiation' [2004] *The New England Journal of Medicine* 12.
 - 5 Mufti Allie Haroun Sheik, *Sexual Issues in Modern Era & It's Solution in Islam* (Adam Publ 2005).
 - 6 'In the Philippines They Think about Gender Differently. We Could Too' *The Guardian* (3 March 2019) <<https://www.theguardian.com/world/2019/mar/03/in-the-philippines-they-think-about-gender-differently-we-could-too>> .
 - 7 'Tales Of The Waria: Inside Indonesia's Third-Gender Community' (HuffPost, 26 May 2012) <https://www.huffpost.com/entry/tales-of-the-waria-indonesia_b_1546629> .
 - 8 Megan J Sinnott, *Toms and Dees: Transgender Identity and Female Same-Sex Relationships in Thailand* (University of Hawaii Press 2004).
 - 9 'The Last of Albania's "Sworn Virgins"' *BBC News* (10 December 2022) <<https://www.bbc.com/news/world-europe-63904744>> .
 - 10 Jeremy Mancino, 'Meet The Kathoey - An Intro To Thailand's Unique Transgender Culture' (*Jetset Times*, 24 May 2019) <<https://jetsettimes.com/lgbtq/meet-the-kathoey/>> .
 - 11 Unni Wikan, *Behind the Veil in Arabia: Women in Oman* (University of Chicago Press 1991).
 - 12 'X-Gender' (Gender Wiki) <<https://gender.fandom.com/wiki/X-gender>> .
 - 13 Don Kulick, *Travesti: Sex, Gender, and Culture among Brazilian Transgendered Prostitutes* (University of Chicago Press 2009).
 - 14 Lynn Stephen, 'Sexualities and Genders in Zapotec Oaxaca' (2002) 29 *Latin American Perspectives* 41.
 - 15 'History, Power, Ideology: Central Issues in Marxism and Anthropology by Donald L. Donham Review by: David Turton.Pdf'.
 - 16 'Carla Freccero - 1986 - The Other and the Same The Image of the Hermaphrodite in Rabelais.Pdf'.
 - 17 'UNFE-Intersex.Pdf'.
 - 18 Sanjay Kalra, 'The Eunuchs of India: An Endocrine Eye Opener' (2012) 16 *Indian Journal of Endocrinology and Metabolism* 377.

Office of the High Commissioner for Human Rights (OHCHR) of the United Nations. According to the OHCHR, intersex people are “people born with physical sex characteristics that do not fit typical binary notions of male or female bodies” and that the term “intersex” is “a general term used for a variety of conditions in which a person is born with reproductive or sexual anatomy that doesn’t seem to fit the typical definitions of female or male.”¹⁹ The World Health Organization (WHO) identifies intersex as “a congenital anomaly of the reproductive and sexual system” and states that those who have intersex variations “may present with ambiguous genitalia, underdeveloped or absent internal reproductive structures, and/or other variations of the sex chromosomes.”²⁰ The Intersex Society of North America (ISNA) states that the word “intersex” is used in a broad sense to describe a number of circumstances in which a person is born with a reproductive or sexual anatomy that doesn’t appear to match the conventional classifications of female or male.²¹ According to Bangladesh’s social welfare ministry, a hijra is a “person who is born with ambiguous genitalia, has sex characteristics that do not fit typical binary notions of male or female bodies, or is regarded as neither male nor female but as a separate gender category with its own traits and cultural identity.” This definition is taken from the “Hijra People’s Quality of Life Improvement Program” initiated by the Ministry of Social Welfare in Bangladesh.²² A transgender could be one that has each male and feminine organs or none. Although they give the impression of being like men physically, they behave like women and dress like different traditional women. Therefore, it is often aforesaid that a Transgender could be a person born as a male but desires to measure as a feminine, and their gender isn’t like that of different healthy traditional folks. As the word “transgender” has erroneous and stigmatizing overtones, it is no longer often used in medical or scientific contexts. Instead, to describe the different illnesses that fall under this umbrella, medical practitioners and academics use more precise terminology such “intersex,” “disorders of sexual development (DSD),” or “differences of sex development.” It is crucial to understand that being intersex is neither a disorder or a medical condition. That is really a normal variation in human biology. The World Health Organization (WHO) estimates that one in every 2,000 live births have intersex variations.²³

The legal status of transgenders, also known as intersex individuals, varies around the world. In many countries, the legal system recognizes only two sexes, male and female, and does not recognize the existence of intersex individuals. Transgender people may consequently experience legal discrimination and denial of fundamental rights in contexts including inheritance, healthcare, education, and work. An estimated 2% of the global population is transgender.²⁴ Yet, several nations have started to acknowledge the reality of transgender people and have taken action to safeguard their rights. For instance, transgender people in certain nations are permitted to legally establish their gender identification outside of the binary male/female paradigm. Furthermore, several nations have passed legislation that are especially intended to safeguard the rights of transgender people, such as those that forbid non-consensual procedures to change their sex traits. Many countries, including Bangladesh, hold disparaging and dismissive views of the Hijra (Transgenders) community. Bangladesh, as an independent and sovereign country, has signed numerous international treaties to protect its citizen’s various rights, including the social and legal rights of the Hijra (Transgenders) community. In recent years, the Bangladeshi government has taken several progressive steps to improve the social and legal protection of the Hijra (Transgenders) community. The Bangladesh government made an official announcement on November 11, 2013, that they would recognize hijras as a third gender.²⁵ An important step was taken in recognizing and defending the rights of transgender and intersex people in Bangladesh when the government acknowledged hijras as a third gender on January 26, 2014.²⁶ This decision was made to address the issues faced by the hijra community, who have historically been marginalized and discriminated against in Bangladesh. To involve them in the country’s overall development, the Ministry of Social Welfare started the “Hijra People’s

19 ‘Intersex People’ (OHCHR) <<https://www.ohchr.org/en/sexual-orientation-and-gender-identity/intersex-people>>.

20 World Health Organization, *Sexual Health, Human Rights and the Law* (World Health Organization 2015) <<https://apps.who.int/iris/handle/10665/175556>>.

21 ‘What Is Intersex? | Intersex Society of North America’ <https://isna.org/faq/what_is_intersex/>.

22 ‘Transgender-People - সমাজকল্যাণ মন্ত্রণালয়,গণপ্রজাতন্ত্রী বাংলাদেশ সরকার’ <<https://msw.gov.bd/site/page/a3498c96-c94a-4fba-9518-13497bdfb46f/Transgender-People>>.

23 World Health Organization (n 20).

24 ‘Trans Population by Country / Transgender Population by Country 2022’ <<https://worldpopulationreview.com/country-rankings/trans-population-by-country>> .

25 Ayesha Siddequa Daize and Essaba Masnun, ‘Exploring the Socio-Economic and Cultural Status of Third Gender Community in Bangladesh’.

26 Kyle Knight, “I Want to Live with My Head Held High” [2016] Human Rights Watch <<https://www.hrw.org/report/2016/12/23/i-want-live-my-head-held-high/abuses-bangladeshs-legal-recognition-hijras>>.

Quality of Life Improvement Program” in 2012-13. This program is part of a more extensive social security program, which was formed to improve their quality of life. In continuation, they formulated a new policy called the “Living Quality Improvement Program of Hijra Community Policy 2013.” In 2013, a Department of Social Services survey showed that about 10,000 hijras live in Bangladesh.²⁷ However, in the statistics of the Bureau of Statistics, the number of Hijras in Bangladesh is estimated to be 12,649.²⁸ In 2018, the Voter List Act 2009 and the Voter List Rules 2012 were amended by parliament, and it added a third gender option to the voter list: male and female and “other”.²⁹ Most hijra people in Bangladesh are punished for homosexual offenses under Section 377 of the Penal Code, 1860. Nevertheless, they are not homosexual or same-sex; they are hijras. Thus, they cannot be criminalized under the said section for their sexual activity because they are not gay or lesbian; they are hijra.³⁰ Nepal is the first SAARC country to recognize Transgender as a third gender. The Supreme Court of Nepal in 2007 ruled in the case of Sunil Babu Pant and Others vs. Nepal Government and Others that they should be given legal recognition as an independent, third-gender category.³¹ The government was mandated by the court to uphold and acknowledge these people’s rights, including the right to be legally recognized as a third gender category. The Supreme Court of Pakistan issued a historic decision in 2009 recognizing the rights of transgenders and transgender individuals in the nation. The petitioners contended for the legal recognition of the third gender and the preservation of their fundamental rights in the matter of Dr. Muhammad Aslam Khaki and another vs. S.S.P. (Operation), Rawalpindi and Others. According to the court’s decision, the government must take the appropriate actions to defend the rights of transgenders, including granting them legal recognition as a third gender category and ensuring that they have equal access to resources for health care, work, and education. The recognition and defense of transgenders’ and transgender people’s rights in Pakistan was made possible by this ruling.³² In 2018, Pakistan implemented its “Transgender Persons (Protection of Rights) Act.”³³ The transgender community’s rights were recognized in a historic ruling by the Supreme Court of India in 2014, which also acknowledged them as belonging to a third gender that is neither male nor female. The National Legal Services Authority (NALSA) brought the lawsuit in an effort to give transgender persons access to different social welfare programs and benefits as well as legal recognition as a distinct gender. The court’s ruling was a big step in the right direction for defending the transgender community’s rights and interests in India.³⁴ In Western countries, there are several laws and policies to protect and improve the rights of transgender people as citizens.³⁵ Among them are Malta, Germany, Austria, Iceland, Portugal, the U.S.A., the UK, Canada, Australia, and New Zealand. However, Muslim-majority countries and countries in the Asia-Pacific region lag far behind in enacting legislation that addresses transgender people’s gender identity and rights.

Types of Transgenders

Instead of the idea of flawless men and women, the term “transgender” has been introduced to describe the mixed sexual lives of men and women. The transgender can be distinguished from complete males and females by the exterior and interior structures of the human body. Sometimes it is possible to see both masculine and female characteristics and bodily parts in them. There are several varieties of transgenders, but the cause is faulty meiosis during the development of sperm or egg cells. In other words, improper meiosis results in the production of abnormal sperm or egg cells, and defective sperm or egg cells when combined result in abnormally fertilized eggs. Transgenders are created when eggs are improperly fertilized. In general, the sex

27 ‘Transgender-People - সমাজকল্যাণ মন্ত্রণালয়,গণপ্রজাতন্ত্রী বাংলাদেশ সরকার’ (n 22).

28 Star Digital Report, ‘Female Population of Bangladesh Now 8.33cr, Male 8.17cr’ (The Daily Star, 27 July 2022) <<https://www.thedailystar.net/news/bangladesh/news/female-population-bangladesh-now-833cr-male-817cr-3080631>> .

29 ‘Members of the Third Gender Can Vote as “Hijra”’ (Dhaka Tribune, 18 April 2019) <<https://archive.dhakatribune.com/opinion/special/2019/04/19/members-of-the-third-gender-can-vote-as-hijra>> .

30 Sharful Islam Khan and others, ‘Living on the Extreme Margin: Social Exclusion of the Transgender Population (*Hijra*) in Bangladesh’ (2009) 27 Journal of Health, Population and Nutrition 441.

31 Supreme Court of Nepal. (2007). Sunil Babu Pant and Others v. Nepal Government and Others, Writ No. 917 of the year 2063 BS (2006 AD) <<http://www.lawcommission.gov.np/en/documents/2015/11/sunil-babu-pant-and-others-vs-nepal-government-and-others-writ-no-917-of-the-year-2063-bs-2006-ad.pdf>>.

32 Dr. Muhammad Aslam Khaki and another v. S.S.P. (Operation), Rawalpindi, and Others, PLD 2009 SC 504 (Pakistan 2009) <<https://www.icj.org/wp-content/uploads/2012/07/Khaki-v.-Rawalpindi-Supreme-Court-of-Pakistan.pdf>>.

33 “‘Transgender Persons (Protection of Rights) Act 2018.’. Pdf’.

34 National Legal Services Authority vs. Union of India, (2014) 5 SCC 438 <<https://translaw.clpr.org.in/case-law/nalsa-third-gender-identity/>>.

35 Sunjida Islam, ‘A Theoretical Analysis of the Legal Status of Transgender: Bangladesh Perspective’ 3.

chromosome XY controls human sexuality. People who have XX chromosomes evolve into women, whereas those who have XY chromosomes evolve into men. In general, transgenders have both sexes on their sex chromosomes, which include XXY. In the course of development, individuals with multiple sex chromosomes, such as XXY, may potentially exhibit both male and female secondary sex traits.

In contrast to full-fledged men and women, transgenders are categorized in medical science.

1. True Transgender: An individual with both male and female gonads (testes and ovaries) and can produce both sperm and eggs.
2. Pseudotransgender: An individual with either male or female gonads but with the appearance of the opposite sex due to hormonal imbalances or defects.³⁶
3. Androgen insensitivity syndrome (AIS): A condition where an individual has male chromosomes (XY) but has external female genitalia due to a lack of response to androgen hormones.
4. Congenital adrenal hyperplasia (CAH): A condition where an individual has a deficiency of certain hormones that are necessary for normal sexual development, resulting in ambiguous genitalia or masculinization of the female genitalia.
5. Mixed gonadal dysgenesis: A condition where an individual has both male and female gonadal tissues, but the tissues are not fully developed or functional.
6. Ovotesticular disorder of sex development (OT-DSD): A condition where an individual has both ovarian and testicular tissues in the same gonad.³⁷
7. Mosaicism: An individual with two or more different types of cells in their body, some with male and some with female chromosomes, resulting in a mix of male and female traits.³⁸

It's important to remember that the term "transgender" is outdated and might stigmatize people with intersex features. The terms "intersex" and "DSD" (differences/disorders of sex development) generally preferred.

According to the Hanafi school of thought in Islamic Jurisprudence, transgenders are classified into two categories.

1. The first category is known as "mukhannath al-fa'li," which refers to intersex individuals who have male and female genitalia and demonstrate both masculine and feminine traits.
2. The second category is "mukhannath al-labbi," which refers to those individuals who have male genitalia but possess some feminine characteristics.

According to the Money Gelt Law Portal, there are two categories of "mukhannath" or transgender depending on sexual orientation and asexuality, according to two schools of Islamic law, the Hanafi and Hanbali schools of thought. Namely:

1. Ulul Arbat Minar Rizal: People with feminine sounds but no inclination toward women.
2. Fasiq: The second type of hijras is morally reprehensible while sharing physical characteristics with the first type.

In contrast, Hijras, may be roughly classified into four categories according to gender differences. Namely:

1. Males, however, are known as akua and have female voices and attire. These hijras have the option of marrying women.
2. Women who sport beards and mustaches are referred to as Zenana. This type of Hijra is allowed to marry men.
3. "Khunchaye Mushkila" is the term for transgender people or transgender people with disabilities. Medical science is used in the detection procedure.
4. Making artificial attempts to undermine one's sexual authority. They cannot form marriage relationships since they are sexually weak.³⁹

Inheritance Right of Transgenders under international instruments

Inheritance of transgenders is an important basic human rights issue that has been addressed by several international instruments, including the Universal Declaration of Human Rights (UDHR), the Yogyakarta Principles, the International Covenant on Civil and Political Rights (ICCPR), and so on. These instruments

36 'Rights of Hermaphrodites under Islamic Law of Inheritance: A Comparative Analysis in the Light of Different Religions by Mohammad Hadayet Ullah'.

37 Intersex Human Rights Australia. "Types of Intersex Variations." (2021) <<https://ihra.org.au/intersex-information/types-of-intersex-variations/>>.

38 'Medical Genetics: Mosaicism - Health Encyclopedia - University of Rochester Medical Center' <<https://www.urmc.rochester.edu/encyclopedia/content.aspx?contenttypeid=90&contentid=P02132>>.

39 Barrister Misbah Uddin, 'হিজড়াদের সম্পত্তি ও বৈবাহিক অধিকার' (Money Gelt - Law news, insights and free legal advice, 4 August 2021) <https://www.moneygelt.com/2021/04/blog-post_8.html>.

recognize the importance of protecting the inheritance rights of transgenders and promoting their equal participation in society.

1) The Universal Declaration of Human Rights (UDHR), 1948

The United Nations General Assembly proclaimed the Universal Declaration of Human Rights (UDHR) in Paris on 10 December 1948, which is a landmark document that outlines the fundamental principles of human rights. It proclaims that all human beings are born free and equal in dignity and rights (Article 1), without regard to any sexual orientation or gender identity (Article 2). UDHR also states that everyone has the right to recognition as a person before the law (Article 6), all are equal before the law, and are equally entitled to the protection of the law without discrimination (Article 7). It states in Article 16(3) that “the family is the natural and essential group unit of society and is entitled to protection by society and the State.” This includes the right to inherit property and assets within the family. UDHR recognizes the right to property in Article 17. This right is guaranteed to everyone, without discrimination based on gender, race, or any other status. Therefore, transgenders have the same rights as any other individual to inherit property.

2) Yogyakarta Principles, 2006

A meeting was held in Yogyakarta, Indonesia in November 2006, where various entities such as human rights organizations, judges, scholars, NGOs, and UN officials convened to discuss the implementation of the Yogyakarta Principles, a set of international principles on the application of international human rights law related to sexual orientation and gender identity, also affirms the rights of third-gender people to non-discrimination, equality before the law, and protection from violence and arbitrary detention. The Yogyakarta Principles plus 10 was adopted on November 10, 2017 to supplement the Yogyakarta Principles. Principle 31 deals with the right to legal recognition without reference to sex, gender, sexual orientation, gender identity, or gender expression.

3) The International Covenant on Civil and Political Rights (ICCPR), 1966

The International Covenant on Civil and Political Rights, adopted by the United Nations General Assembly in 1966, guarantees the right to equality before the law and the right to freedom from discrimination. This Covenant also recognizes the right to property, including the right to inherit property, in Article 17. Under Article 23(1) of the ICCPR, the significance of defending family rights and a person’s right to inherit is further emphasized. It states that “the family is the natural and basic group unit of society and is entitled to protection by society and the State. It is accepted that both men and women who are of legal age for marriage have the right to wed and start families.”

4) The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1981

It recognizes that women have the same legal rights as males to inherit property and other assets. Transgenders may not always identify as women, yet this clause may nonetheless apply to them if the law regards them as female.

5) The Convention on the Rights of Persons with Disabilities (CRPD), 2008

It recognizes that people with disabilities have the same legal capacity rights as everyone else, including the ability to inherit assets and property.

In addition to these instruments, there are several regional human rights treaties and conventions that protect the inheritance rights of transgenders. For example, Article 14 of the African Charter on Human and Peoples’ Rights affirms the right to property, and Article 21 of the American Convention on Human Rights does the same.

Overall, these international instruments provide a strong legal framework for the protection of the inheritance rights of transgenders. Nonetheless, despite these legal safeguards, societal and cultural restrictions still make it difficult for transgenders to exercise their inheritance rights. Transgenders may not be recognized as a species in certain nations, and in others, inheritance rules or cultural norms may forbid them from inheriting. In order to remove these obstacles and guarantee that transgenders are able to exercise their inheritance rights on an equal footing with others, efforts to support legal reforms and educational initiatives to increase knowledge of and understanding of transgender rights might be helpful.

Inheritance Right of Transgenders under different religions

1) Muslim Law

The rules of Islam are the universal life system of human society. No one has been deprived of this way of life. Even people with physical disabilities are not excluded from this system. There are four sources for Islamic law: the Quran, the Hadith, Ijma (consensus of scholars), and Qiyas (analogical reasoning). Inheritance

laws for transgenders or intersex individuals are not explicitly mentioned in the Holy Quran. However, Islamic jurisprudence, or fiqh, provides some guidance on the distribution of inheritance for intersex individuals. In Surah Al-Imran it is written: "Allah is the One Who shapes the wombs of mothers according to His will. There is no god but Allah; Allah is omnipotent and omniscient."⁴⁰ It is clear from this verse that all physical characteristics are only products of Allah's will and that there is no way for humans to deny Allah's creation. Fiqh or Islamic jurisprudence states that people who have male and female anatomy but do not identify with either gender are called hijra or transgender or khuntha.⁴¹ There is only one orifice for urine. According to the Hanafi ideology, an intersex person should be considered as either male or female depending on their predominate sexual traits when it comes to inheritance. In other words, if the intersex person mostly exhibits masculine qualities, they will inherit as men, and if they primarily exhibit feminine traits, they will inherit as women.⁴² The Shafi'i, Maliki, and Hanbali ideologies all take an alternative tack. They contend that intersex people should be handled according to their outward appearance rather than their prevailing sexual traits. Almost all Islamic jurists agree that transgender will be given property according to whichever gender is more dominant. However, in case of transgender difficulties, the doctrine of different laws are present. According to Imam Abu Hanifa, the lesser share would be given to transgender difficulties. For example, if a deceased person leaves behind a son and a child with transgender difficulty, the child with transgender difficulty is treated as a daughter and receives 1/3 of the estate. Transgenders with difficulty will inherit half of the male and half of the female, according to Abu Yusuf and Al-Sha'bi. Again, most jurists agree that transgender difficulties will receive two shares—one as a male and one as a female. For example, if a deceased person has a son, a daughter, and a transgender difficulty child, then the transgender difficulty child will get 3/4 of the share—equal to 1/2 of the share of the son plus 1/4 of the share of the daughter.⁴³

2) Hindu Law

There are two schools of Hindu law, known as Mitaksara and Dayabhaga. The Dayabhaga school is famous in Bangladesh and India's West Bengal, Tripura, and Assam. Mitaksara school, on the other hand, is famous in non-Bengali communities in India, such as Mumbai, Madras, and Punjab. In Sanatan or ancient Hindu law, hijras are disqualified from inheriting property due to physical and mental defects. Later, in this subcontinent, the British attempted to repeal this policy by enacting the Hindu Inheritance (Removal of Disabilities) Act 1928, which had some limitations: they were denied freedom from born lunacy and barrenness (idiocy). As a result, the Hindu Succession Act of 1956 was implemented. With its enactment, Sanatan Hindu Law became null and void in India. Therefore, there is no longer any hindrance to legally acquiring property belonging to Hijras due to physical defects.

3) Christian Law

In the Christian world, men who have been made eunuchs by birth are not allowed to inherit ancestral assets, and this is contrary to their desire to serve Christ and make themselves transgenders for his sake. The Bible contains a list of men designated as eunuchs by others and those who were eunuchs by birth. Nevertheless, others lead a eunuch's life to advance the heavenly kingdom, and those capable of accepting this should do so.⁴⁴ As a result, according to Christian religious scriptures, Transgenders are entirely barred from inheriting property from ancestors. The Succession Act of 1925 Bangladesh governs succession in the Christian community of Bangladesh. Sections 36-48 of this Act state that women should be treated equally with men, except for the priority of partners in inheritance. As a result, everyone gets an equal share irrespective of gender, i.e. the property is shared equally among all members of society. Because gender is not a factor in this law, it has been easy for transgender children to receive a share of their parent's estate.

4) Buddhist Law

Buddhism does not have an inheritance law. The government creates and enforces Buddhist inheritance laws. Both the tribal or indigenous Buddhists from the hill tract areas and the Bengali Buddhists (mostly Baruas) from

40 'Surah 'Ali-Imran, Chapter 3' (23 January 2014) <<https://www.al-islam.org/enlightening-commentary-light-holy-quran-vol-3/surah-ali-imran-chapter-3>> .

41 Mohi Uddin, 'Inheritance of Hermaphrodite (Khuntha) under the Muslim Law: An Overview' (2017) 08 Beijing Law Review 226.

42 Amani Ali et al., 'Simplify Inheritance Rights in Islamic Law Hermaphrodite Right to Inheritance and Married (Khuntha)' (2016) 10(7) Australian Journal of Basic and Applied Sciences p:104-110.

43 Al haj Mahomed Ullah, *The Muslim Law of Inheritance* (S Sultan, Law publishers, Allahabad 1934) <<http://archive.org/details/dli.ministry.17581>> .

44 'Bible Gateway Passage: Matthew 19:12 - New International Version' (Bible Gateway) <<https://www.biblegateway.com/passage/?search=Matthew%2019%3A12&version=NIV>> .

the plains of Chittagong follow the Theravada School of Buddhism in Bangladesh.⁴⁵ In the famous case of Karatala Lakshmi Bihar vs. Hriday Ranjan Chowdhury, both the plaintiffs and the defendants agreed that they (Buddhists) accepted the idea that Hindu law may be governed by the Dayabhaga school of inheritance and desired that their case be governed by Hindu law. In 1956, Hindu law in India was amended, bringing Buddhists in India under its purview. But at that time, no such change was adopted in Bangladesh. However, it cannot be argued that Hindu law governs inheritance for Bangladesh's Buddhists. Bengali Buddhists are subject to the Bengal School of Hindu Law, according to a Calcutta High Court ruling (Mondoari vs. Kshitendra S. A. No. 2256 of 1921) that is included in Shastri's Hindu Law (1940 edition).⁴⁶ Hindu Succession Act, 1956 also governs Buddhists, Jain, and Sikhs.⁴⁷

Inheritance Right of Transgenders under different countries policies

1) Bangladeshi Law

Bangladesh is a predominantly Muslim country. The Muslim Family Laws Ordinance, 1961, generally governs the distribution of property in Bangladesh. This law does not specifically address the inheritance rights of Hijras. In Bangladesh, the inheritance law recognizes only two genders, male and female, and does not recognize the rights of transgenders to inherit property. Furthermore, there is no clear law regarding inheritance among Hijras in Bangladesh.

Regarding the right to inheritance for transgenders, there are no specific provisions in the Bangladesh Constitution. Under the Bangladesh Constitution, every citizen has the right to equality before the law and equal protection of the law (Article 27). Transgenders are recognized as citizens of Bangladesh and are entitled to all the rights and privileges as citizens. The Constitution prohibits discrimination on the grounds of sex, religion, and other factors (Article 28). Article 42 of the Constitution guarantees the right to property, which includes the right to inherit property. However, in practice, Transgenders often face discrimination when it comes to inheriting property due to societal stigmatization and lack of legal protection. Additionally, the Constitution recognizes the right to protection of law (Article 31) and the right to life and personal liberty (Article 32).

The Constitution provides for the right to freedom of expression (Article 39), the right to form associations or unions (Article 38), and the right to participate in peaceful assemblies (Article 37). These rights can be utilized by Transgenders to demand their right to inheritance. Furthermore, Article 15 of the Constitution ensures the provisions of basic necessities, which includes the right to inherit property. According to Article 19(2) of the Bangladesh Constitution, the government must take effective steps to end social and economic inequality between people and to ensure a fair distribution of wealth among the citizens and Article 29(2) prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth in public employment or access to any public institution.

The Bangladesh government has taken steps to recognize the rights of the hijra community. In 2014, the Bangladesh government officially recognized the hijra community as a third gender, which is a positive step toward improving the inheritance rights of transgenders. The opportunity to obtain healthcare, jobs, and education has increased because to this acknowledgment. In a cabinet meeting in 2020, Prime Minister Sheikh Hasina discussed the inheritance of property by Hijras and directed the concerned ministries to ensure that the Hijra community gets an equal share of the property of their parents and can stay with their families. Furthermore, Law Minister Anisul Huq stated that laws will be drafted to protect transgender's family property rights in accordance with Islamic Sharia law and the constitution.⁴⁸ The concept has not yet been put into action, and Hijra people still experience prejudice and marginalization in society. No statistics are available about the exact number of transgender people in Bangladesh. Many hijras identify themselves as girls, so the exact number of hijras is difficult to determine. But there are about 1.5 million Hijras (in 2021) in this country.⁴⁹ Transgenders have the same rights and advantages as other citizens under the constitution of Bangladesh,

45 Faustina Pereira, Shahnaz Huda and Sara Hossain (eds), *Revisiting Personal Laws in Bangladesh: Proposals for Reform* (Brill Nijhoff 2018)

<<https://libproxy.berkeley.edu/login?qurl=http%3A%2F%2Fdx.doi.org%2F10.1163%2F9789004357273>> .

46 'Karatala Lakshmi Bihar Vs. Hriday Ranjan Chowdhury 40 DLR 137 (AD)' (chtlaws, 12 October 2011) <<https://chtlaws.wordpress.com/2011/10/12/karatala-lakshmi-bihar-vs-hriday-ranjan-chowdhury/>> .

47 Sneha Mahawar, 'Status of the Inheritance Rights of Transgenders under the Indian Law' (iPleaders, 16 October 2021) <<https://blog.ipleaders.in/status-inheritance-rights-transgenders-under-indian-law/>>.

48 'Transgender People to Gain Inheritance Rights in Bangladesh; Legislation Soon, Says Country's Law Minister' <<https://www.timesnownews.com/international/article/transgender-people-to-gain-inheritance-rights-in-bangladesh-legislation-soon-says-countrys-law-minister/682236>> .

49 Newsbangla24, 'সম্পত্তির উত্তরাধিকারের বিষয়টি নিষ্পত্তি হোক' (Newsbangla24, 12 March 2021) <<https://www.newsbangla24.com/column/169429/Let-the-issue-of-inheritance-of-property-be-settled>> .

including the ability to inherit. But, in reality, discrimination against transgenders is common due to cultural stigma and a lack of legal protection.

2) Indian Law

Transgender people have a long history in India. The total population of transgender people, according to data by the National Human Rights Commission, was 4.8 lakh in 2011, but only 30,000 of them were registered to vote. There are around 50 to 60 lakh transgender persons in India, but most of them conceal their identities to avoid discrimination, according to an investigation on the Human Rights of Transgenders in India.⁵⁰

In India, the situation is somewhat better for transgenders. In 2014, the Supreme Court of India recognized the rights of hijras as a third gender and directed the government to extend all benefits and rights to the transgender community, including the right to inheritance. Following the ruling, numerous State governments adopted transgender laws to protect a broad range of civil rights. The Transgender Persons (Protection of Rights) Act was finally passed in 2019. It recognizes the rights of transgender individuals, including inheritance rights. It also attempts to uphold transgender people's rights and promote welfare policies. It is important to give these changes credit and comprehend transgender rights, including any mention of inheritance and related rights, even though the majority of these developments did not concentrate on property rights. Although the act does not specifically focus on property rights, it addresses various other rights of transgender people and aims to combat the discrimination they face. Chapter V of the act provides privileges for transgender people in several establishments, including the right to residency. Section 12(1) ensures that transgender individuals should not be isolated from their family and close relatives because of their gender identity. They have the right to enjoy the home and all of its amenities under Section 12(2), guaranteeing them the same right to sustenance as other family members regardless of gender. This is a significant step towards upholding the rights of transgender individuals in India, including inheritance rights.⁵¹ However, Act makes no mention of property rights, leaving gaps in the framework that persist.

3) Pakistani Law

In Pakistan, transgender individuals have been recognized as a third gender since a 2009 Supreme Court ruling. Inheritance laws are based on Islamic law, which recognizes the rights of transgenders to inherit property. However, in practice, societal and cultural attitudes toward transgenders may lead to discrimination and exclusion from inheritance rights.

While the 2017 census only counted 10,418 transgender people in Pakistan, the Khawaja Sara, also known as hijra and khusra, assert that the nation has more than 500,000 of them. The Transgender Persons (Protection of Rights) Act, approved by the Pakistani Parliament in May 2018, ensures that transgender people are accorded acknowledgment of their unalienable and fundamental rights and requires that inheritance laws be changed to provide them equitable treatment. Because there were no official processes under personal law for transgender inheritance, there was discussion concerning those rights prior to the Act. Transgender persons are now granted an unique inheritance share under the Act.⁵² In Pakistan, the Transgender Persons (Protection of Rights) Act 2018 is noteworthy for its efforts to resolve the challenges that arise when transgender individuals are subjected to gendered Islamic rules of inheritance. Unaffected by their gender identity or religion, transgender persons are given a special inheritance share under the Act. It is crucial that a transsexual who identifies as male receives more money under the law than a transgender who identifies as female. The Act also covers non-Muslim transgender people in Pakistan; therefore, it is not just applicable to Muslims who identify as transgender. This is highlighted by the work of legal expert Vanja Hamzić, who has documented the experiences of Christian transgender individuals in Lahore.⁵³ The Act also protects transgender people's fundamental rights, which are already guaranteed by Pakistan's Constitution.

4) UK Law

The UK has a long history of being at the forefront of human rights, including transgender rights. In 1970, the British House of Lords established the legal status of transgender people in the *Corbett vs. Corbett*

50 'About 96% of Transgenders Are Denied Jobs, 60% Have Never Attended Schools: Study' (*Moneycontrol*) <<https://www.moneycontrol.com/news/india/about-96-of-transgenders-are-denied-jobs-60-have-never-attended-schools-study-2836281.html>>.

51 'Transgender Persons (Protection of Rights) Act, 2019.' <<http://indiacode.nic.in/handle/123456789/13091>>.

52 Afrasiab Ahmed Rana, 'Transgenders and Their Protection Under Pakistani Law' (*Courting The Law*, 27 July 2020) <<http://courtingthelaw.com/2020/07/27/commentary/transgenders-and-their-protection-under-pakistani-law/>>.

53 Jeffrey A Redding, 'Islamic Challenges to Pakistan's Transgender Rights Law' (2022) 10 *Melbourne Asia Review* <<https://melbourneasiareview.edu.au/islamic-challenges-to-pakistans-transgender-rights-law/>>.

case. Then in 2002, the European Court of Human Rights made a landmark ruling in the case of Christine Goodwin vs. the United Kingdom. The ruling mandated the UK to pass the Gender Recognition Act in 2004, which recognized acquired gender as legal and prohibited legal challenges to the recognition of a transsexual's gender change based on biological factors.⁵⁴ This act also includes provisions highlighting the legal consequences of new gender status, such as marriage and succession rights. In the United Kingdom, inheritance laws are generally based on biological sex and do not explicitly recognize the rights of transgenders. However, inheritance disputes involving transgenders have occasionally arisen, and courts have attempted to address these cases on a case-by-case basis.

5) USA Law

Inheritance laws in the United States are typically based on biological identity and do not expressly acknowledge the rights of transgenders. The courts have sought to deal with transgender inheritance problems on a case-by-case basis, however these instances have occasionally involved inheritance conflicts. There is no federal law explicitly protecting the rights of transgender individuals, including their inheritance rights. However, many states have anti-discrimination laws that include gender identity and expression, which could affect the rights of transgender individuals in inheritance cases.

Transgender individuals in the US face a range of challenges, including discrimination, violence, and homelessness. According to the National Center for Transgender Equality's 2015 US Transgender Survey, 30% of transgender people experienced homelessness at some point in their lives, and 10% reported experiencing violence from a family member. The number of transgender adults in the United States is difficult to estimate accurately due to the lack of data and the complexity of measuring gender identity. However, some studies have attempted to provide estimates. For example, a 2011 study by the Williams Institute estimated that there were just under 700,000 transgender adults in the United States, while a more recent study published in the American Journal of Public Health estimated the number to be around 1 million.⁵⁵ Starting in 2021, the United States Federal Government will be accepting a third gender category on passports.⁵⁶ However, the recognition of transgender rights and laws surrounding family matters such as inheritance vary from state to state as they fall under state policy. California, for instance, has not considered gender a factor in determining the legality of marriages in family court cases since 2013. This allows transgender individuals to marry anyone they choose and inherit property from their spouses after their deaths, as all lawful marriages are recognized regardless of the gender of the spouses.⁵⁷

In the event of a man passing away without a will, his surviving wife is considered his primary heir under the Rules of Intestate Succession. In case of a divorce, the same property is divided equally among children and widows. Since the law does not use the terms "son or daughter," a trans person can inherit their parent's property simply as their child. The law takes into account the intention of the parents to ensure their heir's right to property. Therefore, if the parents of a transgender individual create a will, their heir may still inherit the estate even after transitioning.⁵⁸

54 *Christine Goodwin v the United Kingdom* [2002] ECtHR [GC] 28957/95.

55 Flores, A. R., Herman, J. L., Gates, G. J., & Brown, T. N. T. (2016) 'How Many Adults Identify as Transgender in the United States?', The Williams Institute. <<https://williamsinstitute.law.ucla.edu/wp-content/uploads/How-Many-Adults-Identify-as-Transgender-in-the-United-States.pdf>>.

56 Laurel Wamsley, 'The U.S. Will Add A 3rd Gender Option On Passports' NPR (30 June 2021) <<https://www.npr.org/2021/06/30/1011866915/u-s-will-add-an-option-other-than-male-or-female-on-passports>>.

57 American Constitutionalism, Marriage, and the Family: Obergefell v. Hodges and U.S. v. Windsor in Context <<https://rowman.com/ISBN/9781498528191/American-Constitutionalism-Marriage-and-the-Family-Obergefell-v.-Hodges-and-U.S.-v.-Windsor-in-Context>>.

58 'Intestate Succession Laws by State' (Findlaw) <<https://www.findlaw.com/estate/planning-an-estate/intestate-succession-laws-by-state.html>>.

6) Chinese Law

The rights to self-determination and recognition before the law are fundamental human rights that belong to everyone without distinction. However, transgender people are still denied these rights in many parts of the world, including in China itself. In China, transgender individuals face significant challenges in obtaining legal recognition and protection. Inheritance laws are also based on biological sex, and transgenders are not explicitly recognized in China. Chinese law does not offer any legally binding protections for transgender people. In 2020, the country's highest court ruled that transgender people are not protected under anti-discrimination laws, and inheritance rights for transgender individuals remain unclear.⁵⁹

The Chinese government has not enacted any anti-discrimination laws for transgender people, nor does it prohibit hate crimes based on sexual orientation or gender identity. Transgenders are currently considered a sexual minority in China due to the high level of discrimination they face compared to other minorities, especially in families, schools, and the workplace. Families do not want to accept transgenders; as such, it becomes difficult for transgenders to get inheritance property. It can therefore be said that there is no clear provision in Chinese law regarding the inheritance of transgender people.⁶⁰ However, in recent years, there has been increasing awareness of the rights of transgender people, including transgenders, and some local governments have taken steps to provide legal protection to the transgender community.

Data Analysis of the Findings

Through a field survey and an online survey, the researchers examined the social, legal and cultural difficulties that hijra persons face. Various facets of the transgenders inheritance have come to light as a result of the field survey. Data was collected from 40 transgenders of different ages regarding their property inheritance. How people think about transgenders is basically shown through online survey. 62 people participated in this survey. We will first examine the results of the online survey. The results from the field survey will next be analyzed. We will be able to provide informed recommendations with the aid of the data analysis.

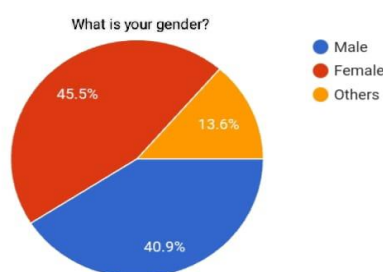


Figure 1: Gender

The data presented in **Figure 1** indisputably reveals that the majority of participants in the online survey were women. Specifically, 45.5% of respondents identified as female, while 40.9% identified as male. Interestingly, the remaining 13.6% of respondents identified as other genders.

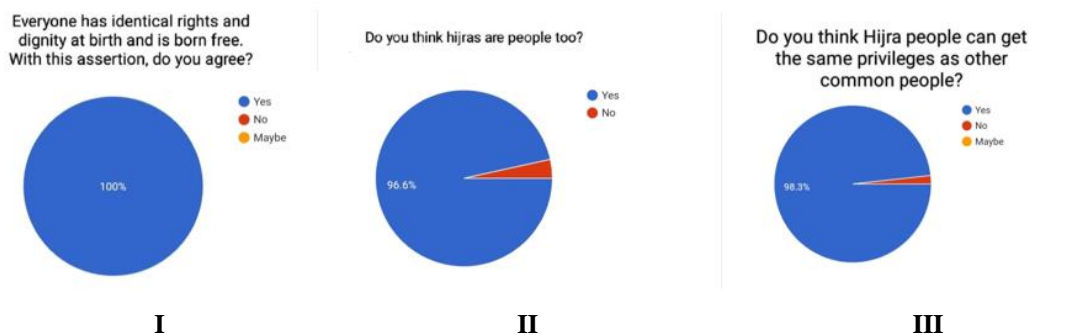


Figure 2: Opinions about equal rights of Transgenders as human beings

59 'China's Transgender Community Welcomes Court Ruling on Employment Discrimination - Caixin Global' <<https://www.caixinglobal.com/2020-07-06/chinas-transgender-community-welcomes-court-ruling-on-employment-discrimination-101576201.html>>.

60 Loyal | thisisloyal.com, 'Public Opinion of Transgender Rights in China' (Williams Institute) <<https://williamsinstitute.law.ucla.edu/publications/opinion-trans-rights-china/>>.

Figure 2 primarily deals with the equitable treatment of transgenders and ordinary individuals. The online survey conducted on the matter indicates that all participants support the notion of equal rights and liberties for every person from birth (I). A staggering 96.6% of those who took the survey acknowledge that transgenders are no different from other human beings (II). Furthermore, an overwhelming majority of 98.3% of the participants believed that transgenders should enjoy the same rights as everyone else (III).

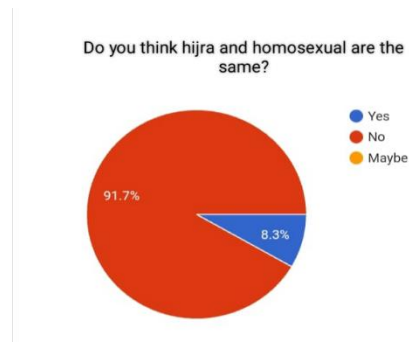


Figure 3: Hijra and Homosexual

Illustrated in **Figure 3** is the clear differentiation between homosexuality and hijra identity, as supported by an overwhelming 91.7% of respondents. However, a noteworthy 8.3% of respondents hold the belief that homosexuality and transgender identity are interchangeable. Consequently, it is imperative to acknowledge that a Hijra cannot be prosecuted under Section 377 of the Penal Code, 1860.

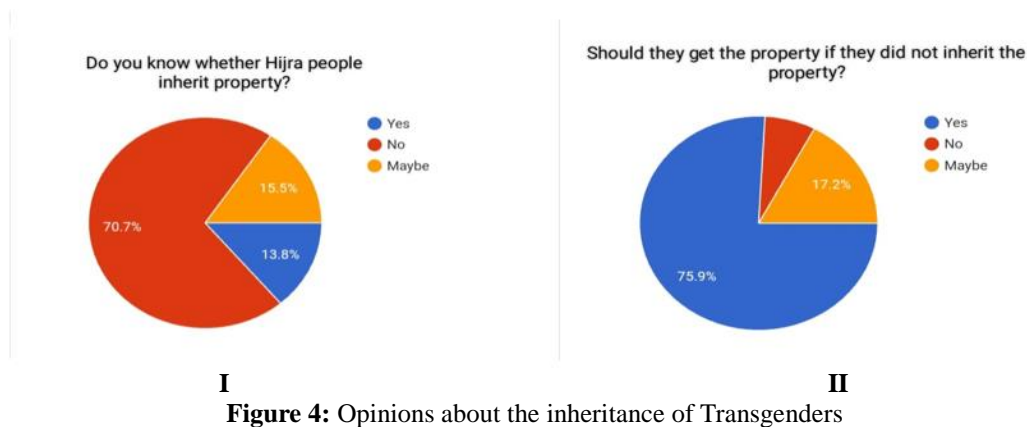


Figure 4: Opinions about the inheritance of Transgenders

Regarding the inquiry on whether individuals who identify as transgender have the right to inherit property, **Figure 4** showcases that the majority of the participants hold the view that they are not entitled to it, with 70.7%. Meanwhile, 15.5% of the respondents think that they might have this right, and 13.8% believe that they do have the right to inherit (I). When questioned whether they should receive inheritance even if they are not the intended heirs, 74.9% of the participants responded positively, while 17.2% said that they may or may not have this right. However, 6.9% of the respondents were of the opinion that they should not be entitled to receive any inheritance (II).

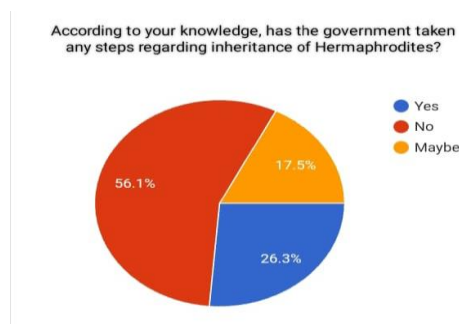


Figure 5: Government actions on inheritance of Transgenders

After examining **Figure 5**, it appears that 56.7% of the populace in general opine that the government has failed to undertake the necessary measures to tackle the inheritance matters of transgender individuals, whereas 56.3% of them feel that some steps have been taken. Approximately 17.5% of the participants hold the view that the government might have made suitable provisions concerning the inheritance of transgender people.

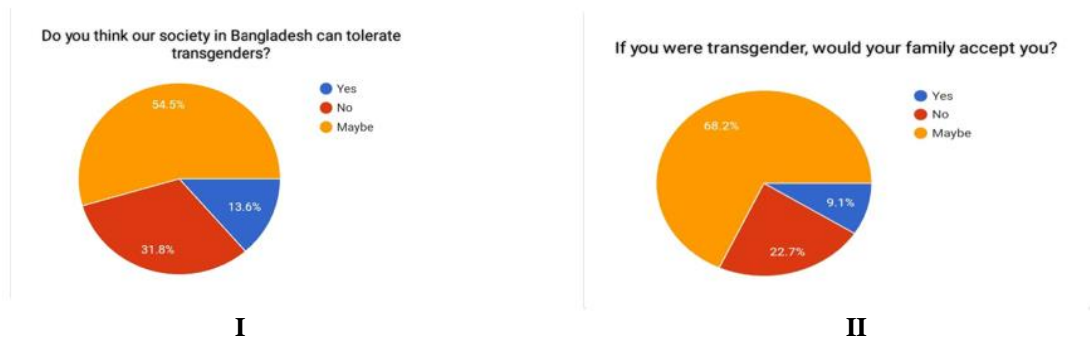


Figure 6: Tolerance and acceptance in Bangladesh

By examining **Figure 6**, we can gain insights into the current social and familial status of transgender people in Bangladesh. Approximately 54.5% of respondents believe that Bangladeshi culture tolerates transgender individuals to some degree (I), while 31.8% of individuals do not think that society can accept them and only 13.6% believe that it can. For those who identify as hijra, the question of whether their family would accept them was raised (II). In response, 22.7% of respondents stated that their family would not accept them, and only 9.1% stated that they would be accepted despite having undergone hijra. However, the majority (68.2%) of respondents believed that their relatives would welcome them if they moved away. Despite this, the situation remains unclear and ambiguous.

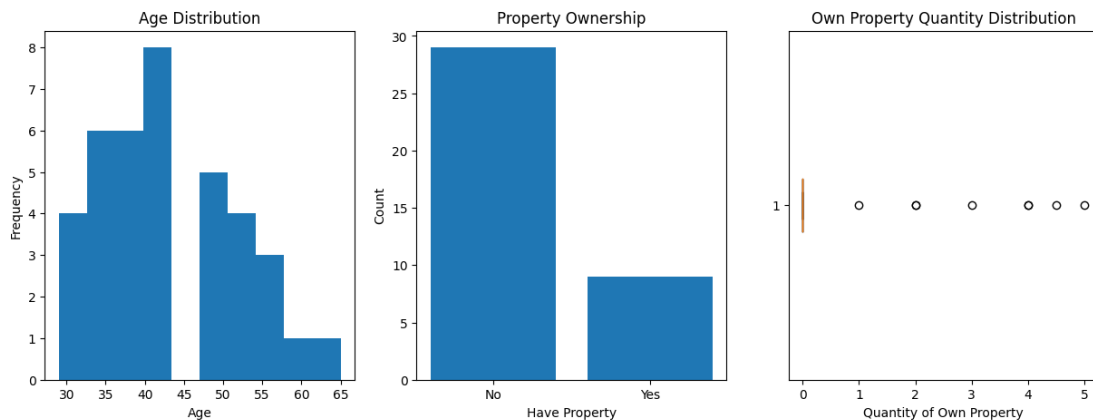


Figure 7: Property of Hijra

Figure 7 depicts an analysis of the personal assets held by individuals with both male and female reproductive organs. The data shows that the age group between 32 and 43 has the highest amount of self-owned assets among the transgender population. Nevertheless, it is noteworthy that a significant proportion of individuals with this unique characteristic do not possess any real property.

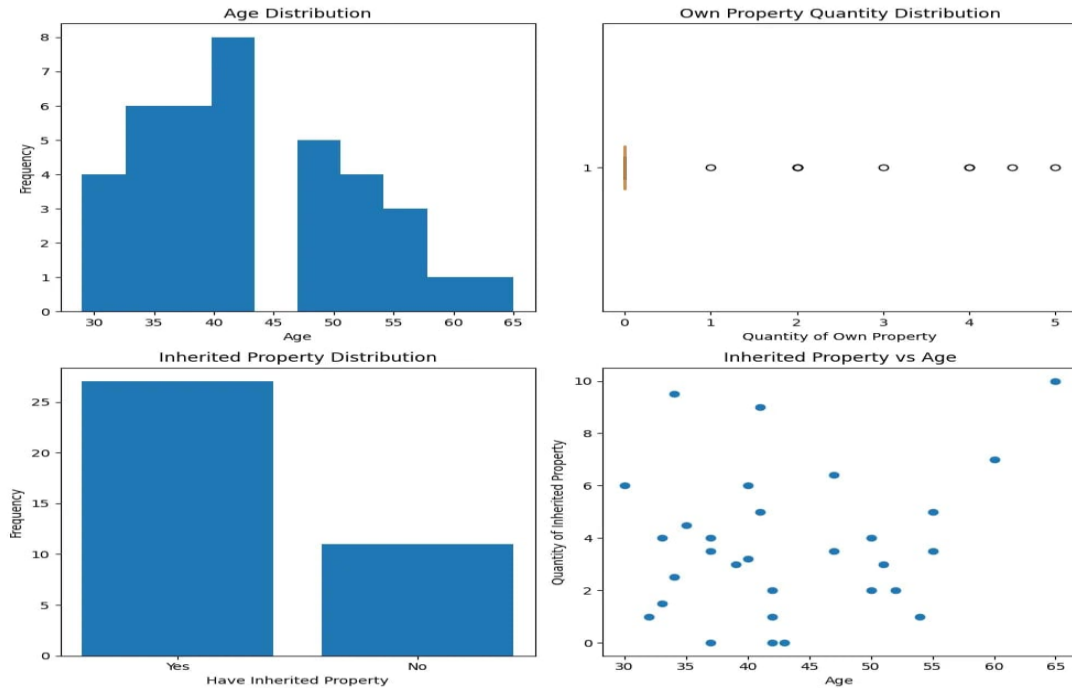


Figure 8: Amount of inherited property of those who have no property of their own

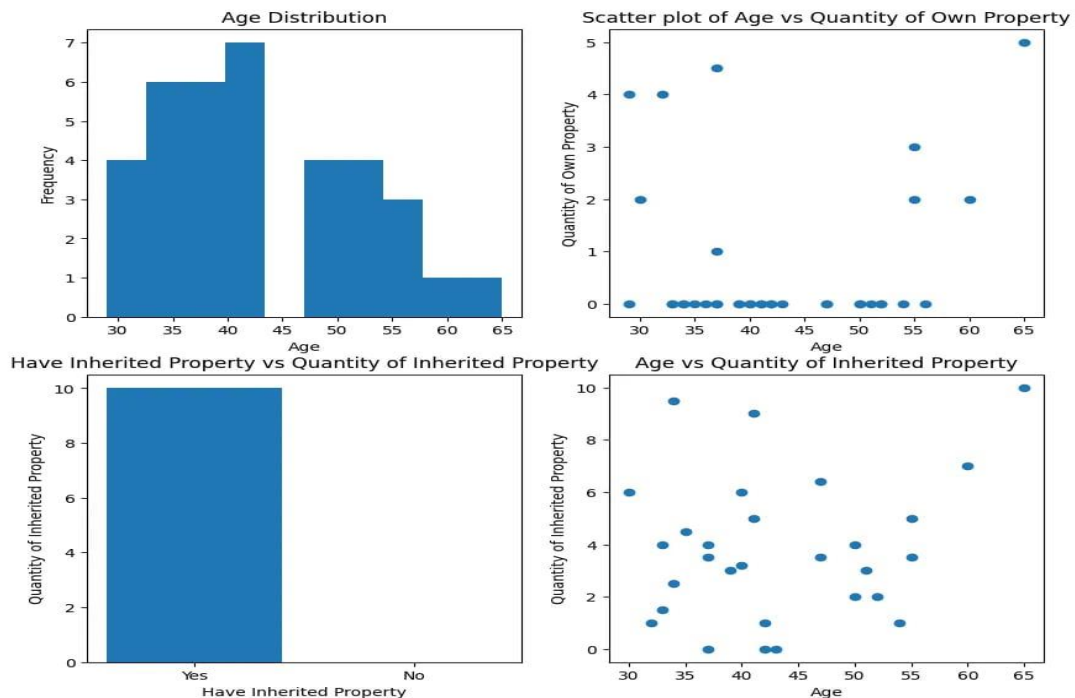


Figure 9: Amount of inherited property of those who have their own property

Figure 8 displays the quantity of bequeathed assets granted to those without personal property, whereas **Figure 9** represents the number of inherited assets bestowed upon those who possess their own property. An examination of the two figures discloses that most transgenders were entitled to inherit property, albeit the total sum was considerably limited. While some instances reveal a more prominent allocation of family property. In **Figure 8**, a significant number of individuals who do not own property have access to family property, though instances, where no family property exists, are also evident. Conversely, **Figure 9** illustrates that all property owners possess family property.

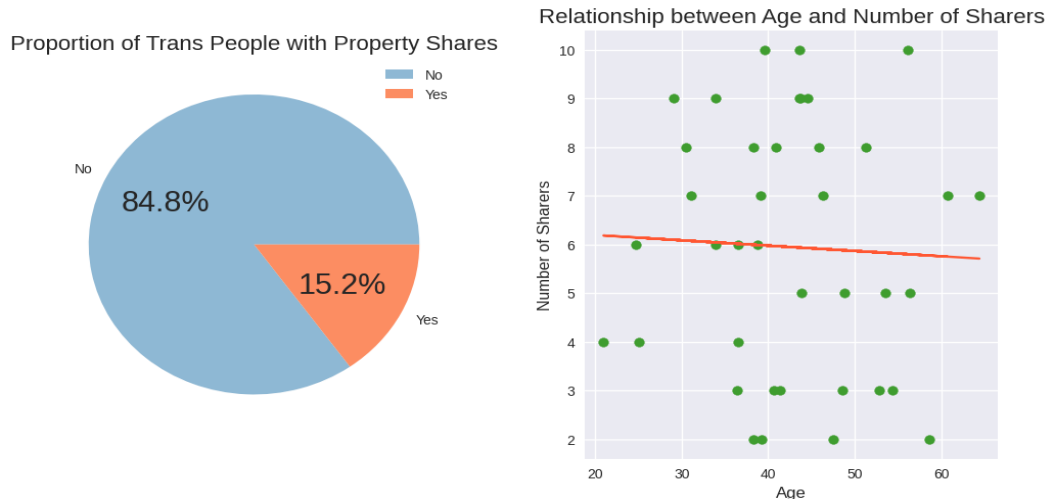


Figure 10: Proportion and relationship of Transgender people between property shares, age and number of sharers

Upon examining **Figure 10**, it becomes evident that the vast majority of Transgenders, specifically 84.8%, are not entitled to a portion of the inheritance once it is distributed. In some exceptional cases, they were able to receive a small percentage of 15.2%. However, this proportion is negligible. We endeavored to determine if there was a correlation between the age of transgenders and their overall number of partners. The findings reveal that respondents aged 35 to 45 years old were more likely to be sharers. Consequently, those who were younger tended to have more sharers. Overall, it is apparent that after the inheritance property is distributed, the Transgenders are generally excluded from inheriting it.

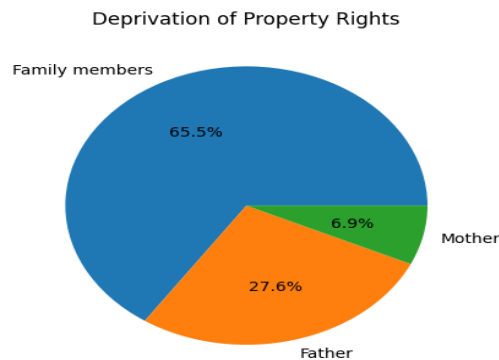


Figure 11: Deprivation of Property Rights

Upon examining **Figure 11**, a chart illustrating the dispossession of Transgenders reveals that the majority of this marginalized group has been denied their rightful inheritance. A staggering 65.5% of Transgenders have been cast out by their own families, with 27.6% being deprived by their fathers and 6.9% by their mothers. Despite these injustices, many Transgenders have refrained from seeking legal recourse, and those who have pursued legal action have encountered limited success.

Has the government taken any legal steps?

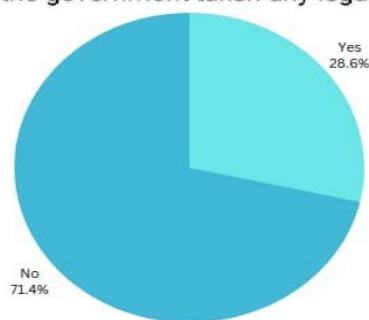


Figure 12: Government legal steps

When **Figure 12** was examined, it was discovered that in 71.4% of cases, the government failed to take legal measures, whereas, in 28.6% of cases, legal action was taken by the government. These insights were obtained from the Transgender community.

Major barriers to right to inheritance of Transgender community

Transgenders suffer various substantial challenges to inheritance rights, including legal, social, and cultural barriers. These barriers may make it difficult for transgenders to inherit assets or get advantages from an estate, which may restrict their capacity to support themselves and their children. The foregoing are some of the major barriers to transgenders having inheritance rights:

1) Legal barriers to inheritance rights for transgenders

In many countries, the legal framework around inheritance rights does not account for transgender identities or recognize them as a distinct category. As a result, transgenders may not have access to the same inheritance rights as others, or may face legal obstacles in asserting their rights. Some of the specific legal barriers to inheritance rights for transgenders include:

- a. Lack of legal recognition: Due to the absence of legal recognition of their gender identification in many countries, transgenders sometimes encounter major obstacles when trying to obtain their inheritance rights. In such circumstances, people can be completely denied inheritance rights or made to go through intrusive and demeaning gender verification processes.
- b. Unclear legal provisions: The absence of unambiguous laws concerning the inheritance rights of transgender individuals is a prevalent issue in many countries. This extends beyond the country's laws to religious laws, where clear provisions are also lacking. Such ambiguity creates barriers to the inheritance rights of Transgenders.
- c. Discriminatory inheritance practices: Some inheritance laws may discriminate against transgenders based on their presumed biological sex, sexual orientation, or gender identity. For instance, due to stigma or prejudice, a transgender may be disinherited or barred from inheritance.
- d. Religious beliefs and customs: In some religions and cultures, there are beliefs or customs that may prevent Transgenders from inheriting property or other assets. For example, in Hinduism and some countries, inheritance laws follow strict rules based on biological sex and do not recognize the rights of Transgenders.
- e. Insufficient government intervention: Despite the recognition of transgender rights by governments worldwide, it can be argued that Transgenders have yet to experience positive outcomes. Their marginalization by family and society remains a daily occurrence, with some Transgenders even resorting to legal recourse without receiving a satisfactory response. The government should expedite the implementation of the Transgender's Inheritance Act and take decisive action.

2) Social and cultural barriers to inheritance rights for transgenders

In addition to legal barriers, transgenders may face social and cultural barriers that limit their inheritance rights. These barriers can include:

- a. Stigmatization and discrimination: Transgenders may face discrimination and social stigma, which may lead to their exclusion from inheritance and property rights. Their access to legal options to defend their rights may also be impacted by discrimination. This may result in various types of social and economic marginalization, such as being left out of the inheritance. Despite the government granting legal acknowledgment to Transgenders, their full acceptance by society remains a significant impediment to upholding their fundamental

human rights. The lack of genuine recognition and embrace from the community poses a crucial challenge to their overall well-being and social inclusion.

b. Lack of advocacy and awareness of transgenders: Many individuals might not be aware of transgender identities or the unique requirements and inheritance rights of transgenders, even family members and legal professionals. This may prevent them from exercising their inheritance rights and lead to their exclusion from inheritance.

c. Family rejection: Due to their gender identification, transgenders can face family rejection or disinheritance, which can make it challenging for them to inherit property or other assets.

d. Complex family structures: When family structures are complex, such as when there are many marriages, step-siblings, and half-siblings, inheritance rights can become extremely challenging for transgenders. This may result in disagreements and difficulties establishing inherited rights.

e. Cultural norms and traditions: In some societies, the way inheritance is carried out might be linked to certain gender stereotypes, disregarding the gender identity of individuals who are hermaphroditic. This can curtail their capacity to inherit or lead to their complete exclusion from inheritance.

Recommendations

The state has a duty to provide equal rights for every citizen. As the transgenders are acknowledged as a citizen of a state, the state should guarantee them the same rights. The research findings suggest that the inheritance of transgenders varies significantly between countries and religions. Based on the research, it is recommended that:

1. Increase Awareness: There is a need to raise awareness about the rights of Transgenders in different religious and cultural contexts. The matter of inheritance in the Transgender community deserves attention and can be brought to the forefront through the use of social media advocacy. Governments and organizations should hold campaigns and workshops to educate people on the rights of Transgenders and the importance of equality in inheritance. It will really play a big role in changing the mindset of bigots. Also, this initiative will play a great role in making the family and society accept the transgenders wholeheartedly.

2. Legal Reforms: Governments should review their inheritance laws and make necessary amendments to ensure that Transgenders are not discriminated against in terms of inheritance rights. This may require the introduction of new laws or the amendment of existing ones. Legal framework should be revised to ensure that transgenders have equal rights to inherit property. In the event that it is deemed necessary, in collaboration with other governmental bodies such as the Ministry of Social Welfare and the Ministry of Law, measures must be taken to address any inadequacies in current legislation and policies that may arise in the face of challenges and issues. It is imperative that proactive steps are taken to mitigate any potential consequences.

3. Religious Reforms: Religious leaders should take an active role in promoting the rights of Transgenders in inheritance matters. They should encourage their followers to adopt a more inclusive approach and eliminate discriminatory practices.

4. Data Collection: Governments should collect data on the number of Transgenders in their countries and their inheritance rights. This data can be used to develop policies and programs that support Transgenders and ensure their equal rights to inheritance.

5. International Cooperation: Countries should cooperate with each other to share best practices and strategies for promoting the inheritance rights of Transgenders. International organizations such as the United Nations can play a critical role in promoting equality and eliminating discrimination against Transgenders in inheritance matters.

6. Education and Sensitization: Education and sensitization campaigns should be launched to sensitize people about the complexities of gender identity and the need to respect and protect the rights of Transgenders. Additionally, in order to promote understanding across educational establishments, it is imperative to educate children from a young age that individuals identifying as transgender are equally human to us. It's essential to acknowledge that they are eligible for the same rights as others, including inheritance.

7. Capacity Building: Capacity building programs should be established to train lawyers, judges, and other legal professionals on the inheritance rights of Transgenders. This will help ensure that Transgenders have access to legal representation and are able to defend their inheritance rights effectively.

8. Supportive Social Policies: Governments should formulate supportive social policies that recognize and protect the rights of transgenders. This can include programs aimed at improving the health, education, and economic status of transgenders.

9. Inclusive Policies: Governments should adopt inclusive policies that recognize the unique needs and challenges faced by Transgenders in inheritance matters. This may include providing financial and legal support, as well as creating opportunities for social and economic empowerment.

10. Community Engagement: Community engagement programs should be established to involve Transgenders and their families in discussions around inheritance rights. This will help build trust and promote a more inclusive and supportive environment for Transgenders.

Overall, the inheritance rights of Transgenders require urgent attention and action from governments, religious leaders, and civil society organizations to ensure their protection and promotion.

III. Conclusion

The research on the inheritance rights of transgenders has identified several critical legal, social, and cultural barriers that prevent them from enjoying their rightful inheritance. The study has demonstrated that those who identify as transgenders have faced discrimination, stigmatization, and marginalization in numerous societies and cultures, ultimately resulting in the rejection of their fundamental rights, including inheritance rights. The research has also revealed that various religions and legal systems have different perspectives on inheritance rights for transgenders. While some religious doctrines and legal systems recognize the rights of transgenders to inherit property and assets, others discriminate against them based on their biological characteristics.

These findings indicate a necessity for significant changes to address the challenges that the transgender community faces regarding inheritance rights. Reforms such as amending inheritance laws to explicitly include transgenders and ensuring their equal treatment under the law, are required. It is also necessary to promote social and cultural awareness of the issues faced by the transgender community and advocate for inclusion and acceptance.

In summary, this research paper emphasizes the urgent need for comprehensive legal, social, and cultural reforms to allow the transgender community to exercise their inheritance rights and lead a life of dignity and equality. The hope is that this research will serve as a starting point for policymakers, legal professionals, and activists to begin implementing reforms that will positively impact the lives of transgenders globally.