

Gender Inequality in Inheritance Rights: A Study of Zomi-Chin Indigenous People in Chin State

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Key Findings:

- Zomi-Chin customs favor male heirs, excluding women from inheritance.
 - Though laws allow daughters to inherit, male-preferential customs dominate in practice.
 - Women's exclusion limits their empowerment and perpetuates gender inequality.
 - Some community members now support equal inheritance, especially for caregiving daughters.
 - Align inheritance laws with human rights principles and promote awareness for gender-inclusive practices.
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Executive Summary

Inheritance rights in Zomi-Chin society are influenced by patriarchal norms and values. Zomi-Chin women do not have the status of an heir and face various forms of discrimination, social exclusion, and systemic oppression in the customary inheritance system, as a result of their gender. This study aims to explore the unequal and unfair position of Zomi-Chin women in inheritance matters by making a qualitative study with five relevant informants. Findings demonstrate that, to achieve gender equality in Zomi-Chin inheritance matters and address the shortcomings in customary inheritance practices, it is essential to reform the existing customary inheritance law. Moreover, awareness raising and advocacy with parents, heirs, elders, leaders, and policy makers appear the best way to modify customs for an inclusive, fair, and equal inheritance practice within Zomi-Chin society.

Introduction

Women face various challenges and disadvantages in different areas of their lives as a result of gender discrimination. One of the most fundamental and critical forms of gender inequality is the denial of equal inheritance rights for women, especially in relation to land and property. Indigenous women, including

Zomi-Chin women, face multiple barriers and challenges in claiming their inheritance rights due to discriminatory laws, customs, and practices that favor men over women.

The Universal Declaration of Human Rights, 1948, underscores the fundamental rights of all human beings, emphasizing equality. Additionally, the Convention on the Elimination of All Forms of Discrimination against Women, 1979, protects women's rights and promotes gender equality.

Similarly, the UN Declaration on the Rights of Indigenous Peoples, 2007, recognizes the rights of indigenous communities to enjoy all human rights and fundamental freedom. In Myanmar, the Myanmar Laws Act, 1898, permits the courts to decide any questions relating to succession, inheritance, marriage, divorce, adoption, and matrimonial rights. These decisions should be made with justice, equality, and a good conscience considering religious usage and institutions.¹

In 1957, the government codified and restructured the local customary approaches of the Chin people through the "Chin Customary Inheritance Law" under the schedule of Section 15A of the Chin Special Division (Amendment)

¹ Section 13 of the Myanmar Laws Act, 1898

Act, 1957, commonly called the Chin Act. Inheritance matters concerning Chin people shall be decided under Chin Inheritance Customary Law and while outside the Chin State, would be adjudicated under the Succession Act of 1925.²

In practice, only sons, (either the eldest or youngest, based on their tribal custom) inherit all or most of their parent's estate under the Kam Hau Upadi,³ a customary law of the Zomi-Chin codified in 1925. This practice is rooted in the belief that sons are responsible for taking care of their parents in old age and performing ancestral rites, while daughters are expected to marry and join their husbands' families and depend on their male relatives for their livelihood and security.

Women are denied inheritance under local custom but under the Chin Inheritance Customary Law, women have the right to inherit only when in the absence of the deceased's ascending line (son, grandson, great-grandson),

and descending line (father, brother, and parental grandfather). As such, the two legal principles, the customary and formal, contradict each other. In this situation, Chin Inheritance Customary Law should prevail over the customary practice in the Zomi-Chin society.⁴ In practice, Zomi-Chin women are often challenged to access their inheritance under the two conflicting frameworks of customary law and enacted law.

Inheritance law relating to Indigenous people

Gender inequality in inheritance rights among Indigenous peoples is a complex and multifaceted issue that requires a holistic and participatory approach. At the UN Economic and Social Council / Permanent Forum on Indigenous Issues Meeting coverage⁵ announced that indigenous women have been active agents of change in promoting their rights as women and as indigenous people. Regarding gender equality, CEDAW instructs the government to ensure that women have equal rights with men and to eliminate discrimination against women in all spheres of marriage and family life.⁶ To protect and promote Indigenous

² Daw Sui Cuai and seven others v. U Aw Thein and four others (2006), S.C (Mandalay) (Civil Special Appeal No.12)

³ Kam Hau is Sukte Chief (1800s) who is the ruler of Tedim, and the 9 members of Council established a law for determination of the civil disputes and criminal cases in 1825. This law was codified by Pum Za Mang in the year 1925, and it is also known as Kam Hau Upadi and Chin's Rule. ကမ်းဟောက်လက်စွဲဥပဒေပုဒ်မေးဇမန်၁၉၂၅။ H.Pau Za Cin, MES, India Kiphelkhap ma Huna SukteUkpiTangthu (1730-1948), P-22.

⁴ *Ma Kywe Vs. Ma Mi Lay 6 Rangoon 682*

⁵ UN Economic and Social Council / Permanent Forum on Indigenous Issues, UN press (Sixteenth Session, 5th& 6th Meetings, HR/5354, 27 April 2017)

⁶ Article 16 of the Convention on the Elimination of All Forms of Discrimination against Women, 1979

people's rights, UNDRIP, 2007, proclaims that: "Indigenous peoples have the right to the full enjoyment, as a collective or as individuals, of all human rights and fundamental freedoms as recognized in the Charter of the UN, the UDHR and international human rights law."⁷

At the domestic level in Myanmar, all citizens are guaranteed to enjoy equal rights before the law and shall equally be provided legal protection under the Constitution of the Republic of the Union of Myanmar, 2008.⁸ Every child has the right to own property and is entitled to succession in accordance with law under the Child Rights Law, 2019.⁹ Discrimination against any child for any reason is strictly prohibited. These laws are not however implemented or enforced effectively, and sometimes contradict each other. They also slightly differ from international human rights standards.

Although Myanmar has ratified CEDAW and the Convention on the Rights of the Child (CRC), the national laws of Myanmar are not aligned with these instruments. As a result in Myanmar indigenous people's rights are not fully protected, and women

continue to face gender discrimination, especially in inheritance.

Zomi-Chin inheritance rights in practice

The Inheritance system according to Chin Customary Law

In Chin State, according to Section 15A of the Chin Special Division (Amendment) Act 1957, when civil suits are adjudicated, local customs and traditions must be supported as well as the values of justice and fairness. However, civil suits relating to inheritance shall be adjudicated in accordance with the current local custom as modified by the schedule of the Chin Inheritance Customary Law, 1957.

The Chin Inheritance Customary Law seems to give equal rights to all children without discrimination, but there remains discrimination and unequal rights of inheritance among children in the Chin community.¹⁰ Under this law, unequal inheritance rights for women are enshrined in the fact that the inheritance of daughters, sisters, and the mother of the deceased is considered only in the absence of any male heir of the third generation from the descendant and ascendant line.¹¹

⁷ Article 1 of the United Nations Declaration on the Rights of Indigenous Peoples, 2007

⁸ Section 347 of the Constitution of the Republic of the Union of Myanmar, 2008

⁹ Section 19 of the Child Rights Law, 2019

¹⁰ Section 3(2) of the Chin Inheritance Customary Law, 1957

¹¹ Section 3(1) of the Chin Inheritance Customary Law, 1957

Although equal inheritance rights for women are asserted, they cannot access this right in practice. Moreover, there is also an unfair allocation of the common property of the deceased between men and women.¹²

After studying Chin inheritance rights, a women's group working with the Chin., Ninu discovered that among the Chin:

“Some people think that whoever takes care of their parents in old age should inherit, regardless of it being a son or daughter. Some fathers, who only have daughters, would like to divide their property between the daughters and the male heirs, and some intend to give all to their daughters. However, if they have them, sons are still favored.”¹³

These show that the Chin Inheritance Customary Law cannot protect and confer the rights of inheritance on Chin women in practice. Some parents manage the inheritance of their property wisely and fairly without discriminating by gender. But some parts of Chin society that advocate a range of traditional customs and practices still face challenges and criticism on inheritance matters.

¹² Section 4(a) of the Chin Inheritance Customary Law, 1957

¹³ Women in Action Group (Ninu), (2017). Women as the Others Chin Customary Laws & Practices from a Feminist Perspective. p. 123

The Inheritance system according to Zomi-Chin Customary Law

The Zomi-Chin inheritance system is a traditional custom that is based on the principle of male primogeniture, which means that the eldest son inherits the largest share of the parent's estate, especially immovable property such as land and houses. When deciding family matters, the elders and community leaders are guided by both custom and the codified Kam Hau Upadi. In particular, the Zomi-Chin Indigenous people's inheritance practices are governed by the Zomi-Chin Customary Law and section 20 of the Kam Hau Upadi, 1925, which are based on patriarchal norms and values that favor male heirs over female heirs.

According to the study made by Pum Khen Thang (2019), made in the northern part of Chin state, including Tedim township, the social structure of the Zomi tribe, boys have first priority as holders of inheritance rights.¹⁴ According to these laws and customs, Zomi-Chin women have no right to inherit property from their parents or husbands, when there are male relatives in the lineage up to the third generation. The inheritance rights of

¹⁴ Thang, P.K., (2019), A Study on Socio-Economic Development in Tedim Township, Chin State (2009-2018), p.50.

Zomi-Chin women are still far from both expectations and their legal rights. This is the result of a lack of legal protection and recognition, and a lack of awareness of gender equality in inheritance under human rights standards. As a result, Zomi-Chin women still face many challenges in securing their rights and interests.

Inheritance rights of Zomi-Chin women under customary law

The interviews with various respondents from the Zomi-Chin community shed light on the complexities surrounding inheritance rights. Male leaders from both the Teizang¹⁵ and Siyan¹⁶ tribes expressed different viewpoints. The Teizang tribe leader highlighted granting daughters the right to inherit their parent's property would conflict with the kinship system, as women traditionally do not manage their parents' property as men do. In contrast, the Siyan tribe leader emphasized the challenges faced by Zomi-Chin women, and family arrangements, based on principles of justice and equity, were proposed as a solution to address inheritance issues for all children, regardless of gender. Meanwhile, a male respondent who was

a former NGO social worker¹⁷ stressed the importance of heirs being knowledgeable, wise, and considerate of their brothers' welfare and the importance of informed decision-making by parents regarding inheritance arrangements. A female respondent, who was an activist with the Civil Disobedience Movement against the 2021 military coup,¹⁸ advocated for equal inheritance rights for those who care for their parents, including daughters. If there are only daughters, they should share their parents' estate equally after their parents' passing. Finally, the founder of the Zomi Women's Organization¹⁹ argued that custom ignored women and relegated them to a lower status than men and that excluding daughters from inheritance highlights gender inequality and women's disempowerment. As a result, it was time to demand equal rights with men and change the oppressive custom, to promote and respect the rights of women, and to achieve justice and equity in Zomi-Chin society.

These data reflect the gendered norms and roles embedded in Zomi-Chin society and the socio-economic

¹⁵ Respondent No.3, a male leader from Teizang tribe, 26 January 2024

¹⁶ Respondent No.1, a male leader from Siyan tribe, 6 January 2024.

¹⁷ Respondent No.5, a male leader from Saizang tribe, 4 February 2024

¹⁸ Respondent No.4, a female leader from Tedim tribe, 2 February 2024

¹⁹ Respondent No.2, a female leader from Dim tribe, 13 January 2024

implications of the exclusion of women from inheritance. The study also explores how awareness campaigns can be effectively implemented, and how legal frameworks and policy changes can be used to advance gender-neutral inheritance laws to promote women's empowerment and gender equity. Moreover, these diverse viewpoints underscore the need for a comprehensive understanding of Zomi-Chin inheritance practices, considering cultural norms, gender dynamics, and social justice.

Conclusions

This study explores the gender inequality of Zomi-Chin indigenous people's inheritance rights in Chin State. Under Zomi-Chin customary law, women are deprived of their inheritance rights due to the patriarchal system. Inheritance rights are linked to the obligation to perform family duties, such as caring for elderly parents, paying parents' debts, performing funeral rituals, and taking a role as a leader in the family. These duties can only be performed by male heirs.

Chin Inheritance Customary Law gives the right to inherit to all Chin children, regardless of their local customs. However, the right to inheritance of daughters is very limited in practice, because it applies only in the absence of

the nearest male heirs up to the third generation of descendant and ascendant line. These two sections are contradictory because the right is conferred but cannot be exercised in practice. This law indirectly recognizes and favors the patriarchal inheritance system that treats Zomi-Chin women unfairly and unequally. The statutory law cannot fill the gap of the customary law and so Zomi-Chin women still face challenges and discrimination in the inheritance and partition of property. Zomi-Chin women should inherit their parents' property like males, especially when daughters take care of their parents and there are no male siblings.

Recommendations

- Zomi-Chin leaders, human rights activists, and scholars to educate Zomi-Chin elders, parents, and heirs, to understand the advantages of an inclusive approach to inheritance matters for all children, without discrimination based on gender, and to promote women's empowerment in social and economic sectors.
- Policymakers to reform the Chin Inheritance Customary Law in line with human rights standards and based on the principles of justice and equity

to achieve gender equality of inheritance practice in Zomi-Chin society.

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