



Does education enable underprivileged women to achieve real equality in property rights? A case study of inheritance rights of women in Turkey



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ARTICLE INFO

Keywords:

Law
Women's rights
Inheritance
Turkey
Property rights

ABSTRACT

Laws promoting gender equality often fail to improve women's experiences. This failure is particularly acute for the experiences of socio-economically marginalized women. Understanding why legislated equality as prescribed in laws often does not lead to the equality of outcomes is an ongoing puzzle in the studies of gender and politics. Utilizing an intersectional approach, this paper argues that education can serve as a constitutive element for marginalized women to enable legislated equality as prescribed in laws to lead to real equality, the equality of outcomes. This article empirically investigates the influence of education by utilizing a unique dataset compiled by an internationally recognized NGO, Kamer, on a representative data of the marginalized women in the eastern city of Diyarbakir in Turkey. The study indicates that a higher level of education is significantly and positively associated with the likelihood of claiming to obtain equal inheritance. Therefore, mere legislation of gender-progressive laws is not sufficient to improve the experiences of women, and achieving gender equality may require improving the educational status of women. The current study also outlines the gains from intersectional research in studying marginalized women's experiences and advocates for the employment of an intersectional approach in more empirical studies.

“It (inheritance) divides, shares, and spreads property and power; then sometimes people get frightened at the speed of its progress; despairing of stopping its motion, men seek at least to put obstacles and difficulties in its way; there is an attempt to balance its action by measures of opposite tendency. But all in vain! It grinds up or smashes everything that stands in its way; with the continual rise and fall of its hammer strokes, everything is reduced to a fine, impalpable dust, and that dust is the foundation for democracy.”

Alexis De Tocqueville (2003).

1. Introduction

Recent decades have witnessed the legislation of gender progressive property laws across the world (Agarwal, 1994; Deere & De Leal, 2014). However, these laws failed to significantly alter the resources allocated to women and to even protect their newly ascribed rights. The recent estimates indicate that only 1 to 2% of titled land worldwide belongs to women (Cherif, 2015). Land reforms in developing countries such as India, Columbia, Bolivia, Ghana, Kenya, Nigeria and Mexico, which were specifically aimed at improving women's property rights, failed to fulfill the goals of empowerment (Agarwal, 1994; Deere & León, 2003; Deere & De Leal, 2014; LeBeau et al., 2004; Reproductive Rights, 1997).

Inheritance constitutes one of the major venues through which women own wealth (Deere & León, 2003). Inheritance laws constitute a dimension of women's property rights that derive from family laws. Htun and Weldon (2015) define family law as “legal norms governing the formation and internal relations of ... social units (p:454) (Htun & Weldon, 2015)”. Progressive family laws can improve the realities of women's experiences if they are accompanied by mechanisms that can enforce these laws (Htun & Weldon, 2010). These mechanisms can derive from both state structures and women's socio-economic determinants that make it easier for them to benefit from gender-egalitarian laws. In many cases the egalitarian legislations on family laws failed to produce the expected egalitarian outcomes, indicative of the insufficiency of the mechanisms. In Turkey, despite the fact that courts have mandated equal inheritance rights between men and women since 1926, only 20% of women own some form of property and 92% of property is owned by men, as women have rescinded their inheritance rights to their male relatives (O'Neil & Toktas, 2017; Toktas, O'Neil, et al., 2013). Overall, the gender-progressive reforms led to a bifurcation between the legislated equality as the equality of rights prescribed in laws, and real equality as the equality of outcomes (Deere & De Leal, 2014).

The bifurcation between legislated equality and the equality of outcomes can be even more acute among marginalized women, who

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<https://doi.org/10.1016/j.wsif.2018.05.013>

Received 3 February 2018; Received in revised form 22 May 2018; Accepted 25 May 2018
Available online 14 June 2018

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often face additional barriers in protecting their rights. Can education of marginalized women function as a mechanism that can enable them to benefit from the legislated equality? This article attempts to answer this question through employing an intersectional approach on the constitutive factors of women's socio-economic conditions. For this purpose, this article utilizes an original and representative dataset of the socio-economic and inheritance status data regarding 1314 marginalized women in the eastern city of Diyarbakır in Turkey. To my knowledge this is the first study to employ an intersectional approach to understand the role of education in enabling women to benefit from the legislated equality among the marginalized women. In addition, to my knowledge this is also the first study that provides evidence on the linkage between education and women's ability to benefit from the legislated equality on a representative dataset. The results show that more educated women are more likely to report equal inheritance provision, a clause specified in the Civic Court in Turkey.

This study is structured as follows: in the next section I present the theoretical explanations for the relationship between women's education and their inheritance rights. In the third section I propose the theoretical framework on intersectionality as it relates to underprivileged women's relationship with gender-progressive laws. In the fourth section I present the inheritance distribution scheme in the Turkish context. In the fifth section I present my research design. The sixth section provides a statistical analysis.

2. Explanations for women's education and inheritance rights

In developing countries women tend to receive much less inheritance than men (Cox, 2003). A substantive portion of this variation can be explained by the competing framework between formal and informal institutions governing women's inheritance rights. Formal institutions employ official rules and channels, whereas informal institutions employ socially shared rules that are created, communicated, and enforced outside of officially sanctioned channels (Helmke & Levitsky, 2004). In cases where the officially sanctioned channels do not reflect the existing norms, the society can devise informal institutions that can be shaped by the existing norms. As such, if gender-progressive laws are implemented through elite intervention in patriarchal societies, patriarchal norms may continue to permeate through the rise of informal institutions.

Another explanatory factor for the gender gap in inheritance practices in the developing world is the ability of patriarchal cultural and family norms to permeate through the formal institutions to shape the parameters of family laws. In cases where the formal inheritance laws reflect the existing patriarchal norms, the family laws either allocate less amount of inheritance for women or do not allocate any inheritance at all.

The causes for the permeation of gender-discriminatory norms in both formal and informal institutions of inheritance distribution can be traced to their practicality as well as their relation to tradition and existing power configurations. Studies of Agarwal (1994) in South Asia and Lastarria-Cornhiel (1997) in Africa indicate that patrilineality, virilocality, exogamy and the logic of peasant production¹ contribute to gender inequality in inheritance distribution. Deere and León (2003) find that the cultural practice of viewing women as housewives regardless of their contribution to agriculture as well as gender biases in community and state programs contribute to the gender asset gap of land in Latin America. The cultural practice of relying on community chiefs, who tend to almost exclusively favor male heirs contributes to gender-discriminatory inheritance practices in African communities (Cooper, 2012; LeBeau et al., 2004). The practices of colonization that

¹ The logic of peasant production refers to the act where only one son is favored in inheritance partition while bearing the responsibility of providing old age security to the parents.

increase the power of chiefs at the expense of the populace can further solidify the importance of community chiefs in inheritance distribution, contributing to the gender asset gap (Chiweza, 2005).

The influence of religious traditions on family and community norms can also lead women to receive less inheritance, as codified rules of religious practices may dictate that women receive less inheritance than men (Deere & Doss, 2006). This can either limit the presence of more gender egalitarian inheritance clauses or lead to societal pressure on women to comply with religious doctrines. For instance, Muslim women in Ghana wishing to obtain equal inheritance as stipulated in the formal law risk being excommunicated from the society as they can be accused of apostasy (Fenrich & Fenrich, 2001). In other instances, women may choose to follow religious dictates through their personal convictions (Toktas & O'Neil, 2015).

The fervor of nationalism, which accompanies traditionalist practices, can also lead to gender gaps in inheritance. Studying the property rights of women in Kosovo, Joireman (2015) finds that the resurgence of nationalism in Kosovo following the civil conflict between 1998 and 1999 led to the rise of practices associated with ethnic identity among Albanians, such as the practices of customary inheritance law that do not grant any inheritance to female heirs. Despite the presence of a codified inheritance law and the willingness of women to practice their legal inheritance rights, a substantive portion of women were not able to obtain any inheritance.

Overall, these factors indicate that women need to navigate strong patriarchal norms in order to expand and defend their inheritance rights. Thus, the family and community norms are very important in determining whether and how much women can inherit (Deere & Doss, 2006). They can set the parameters for not only the formal institutions of inheritance, but also make the informal institutions salient in cases where the formal institutions do not reflect the existing norms. Given that it is challenging to change the existing norms in the short run, the relevant question becomes how women can expand and defend their inheritance rights in patriarchal societies. One area through which women can make advances on their inheritance rights in patriarchal societies is education.

The aggregate level of women's education can improve women's inheritance rights by making the formal family laws more gender egalitarian. In a cross-national analysis, Cherif (2015) finds that increased levels of secondary education is positively and significantly associated with more egalitarian land and nationality rights. The author argues that states are more likely to pass egalitarian laws if women are better educated. Cherif (2010) indicates that in developing countries greater female enrollment in secondary education is associated with more gender-egalitarian inheritance laws, and this relationship is stronger among Muslim-majority countries. Similarly, in their cross-country analysis of family law, Htun and Weldon (2011) indicate that women's increasing education levels push countries towards reforming their family laws. This may be due to the fact that educated women are more likely to have group awareness and political engagement, and politicians may be more likely to cultivate relationships with more educated women (Cherif, 2015; Sapiro, 1981; Sapiro, 1983).

Education can also enable women to benefit from the formal family law to obtain their shares of inheritance. While in some cases this entails that women can receive equal inheritance as men, in other cases this entails that women can prevent land grabs and secure a certain portion of property as ascribed in the formal family law, albeit lower than the portion ascribed for men.

Deere and León (2003) indicate that rising legal literacy of women contributes to greater knowledge of national laws favoring equality of inheritance shares among genders in Latin America. According to Deere and De Leal (2014), women's rising literacy as well as their greater knowledge of family laws are among the main factors that influence whether women can break through the existing social norms to benefit from the egalitarian inheritance laws in Latin America. Cooper (2012)'s study indicates that women's awareness of their rights and laws in

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