

Property and Inheritance Laws Related to Homemakers

Dr. Nisha Jindal

Assistant Professor of Laws,
University Institute of Laws
Panjab University Regional Centre, Ludhiana
nishajindal4@gmail.com

Abstract

Family law inherently concerns the analysis of a marriage contract and the joint property created during that union, with particular focus on the acquisition of property by one party. At the same time, the spouse contributes domestic labour. What occupies many pages of various law journals, domestic issues involving marriage and property rights, has remained a critical topic since the beginning of legal practice and continues to be so today. There are a few articles that examine how, and more importantly, whether such discussion applies to homading, a new term describing matched monetary freedom, yet still bound in contract. This analysis, while not comprehensive, delineates short-lived property rights and how succession planning is structured for parties residing in such a domestic unit, as well as for those qualifying under a broader context who have acquired no property before the domestic union. These rights remain constant across regional governance, yet differ in the extent to which the intent of membership is defined. The discussion addresses the nature of will formation and binding islands of civil trust for parties within and outside such cabinets, enabling parties to benefit from economic and property security through legally designated agency roles established at the beginning of adjacent memberships. This will be confined to common-law jurisdictions relating to marriage and will extend only to a time before the accrual of management and succession rights. It is an up-to-date exposition that complements more substantive legislative matters.

Keywords: *Homemakers, inheritance law, marital property, domestic labour, community property, succession rights, common-law jurisdictions.*

1. Introduction

Home-making occupies a complex legal position that influences how laws regarding traditional property, inheritance, succession, and related issues apply to non-earning spouses or life partners. Some countries' laws are more favourable to such individuals than others, particularly with respect to the main residence. When courts decide on property matters, they often see the home as just an asset rather than a core of domestic life. These assumptions significantly limit the chances of achieving equal outcomes. Spouses should focus on discussing household budgets, arrangements, and household contents rather than on property and inheritance matters. The foundational rules extend beyond typical marriages and even include the formal recognition of non-heterosexual unions. The legal system's hidden assumptions about domestic issues also greatly hinder women's economic participation. Household Economic Activity and the Informal Economy highlights the importance of household economic activity and the informal economy for understanding the current state of the global economy (Conway & Girard, 2014). According to Blackstone, even if a single woman owns her property in her own name, marriage merges her legal identity with that of her husband,

thereby transferring her property rights. Due to marriage, the transfer of a woman's property is regulated by law. The wife retains limited property rights, such as for clothing and ornaments, but the husband can transfer these to others. The hierarchical nature of the relationship is reinforced by differences in age at marriage, rules requiring name changes, and laws concerning the husband's right to his wife's services and affections. Upon the husband's death, her estate becomes subject to her dower rights. Many jurisdictions still follow this structural view, placing the burden on non-earning partners.

2. Legal Concepts and Framework

During the early 20th century, legal approaches in common-law jurisdictions routinely devalued the contributions of homemakers, who were viewed as non-earning dependents. Such contributions were deemed to be only of marginal significance in the accumulation of marital property during the marriage, or in the distribution of a deceased partner's property. Simmons (2015). notes that when women married, they lost their separate legal identity and property rights under the doctrine of coverture. On the other hand, widows were only entitled to dower a life estate, which is typically one-third of the husband's real property acquired during marriage, as of right. By contrast, widowers had curtesy

rights, which allowed them to manage the widow's land for limited personal support purposes only during the widow's lifetime (Conway & Girard, 2014; Britannica, 2016). In stark contrast to this framework, the Muslim personal law applicable in India under the Shariat Act of 1937 describes "dower" (mahr) as a definite financial obligation of husband to wife, which is further divided into prompt dower (payable instantly when the marriage is solemnized) or deferred dower (due upon dissolution by death or divorce) that works as necessary economic security rather than one that confers a property interest inheritable in estate, which grants greater autonomy to non-earning wives irrespective of estate proceedings (Ipleaders, 2025). As a result, legacies made to wives or mothers in a will fail so far as property acquired after marriage is concerned, and legacies made in favour of children are legally ineffective unless they contain clear, precise words overriding the statutory rights of the spouse to receive the entire property from which the children are excluded.

2.1 Property Rights in Marriage and Household Contexts

The basic principle of modern matrimonial property law is that everything bought during the marriage is presumed to belong equally to both spouses, no matter how acquired,

whether by way of inheritance, gift, will, the personal earnings of one spouse and whatever the name on the title (Simmons, 2015). This presumption of equality means that any property registered solely in the name of one spouse is safe, provided that there are no marital claims against it. However, on divorce or separation, that property will be classified and distributed. Marital-acquired property can be categorised into two general categories. Exempt property refers to property that is not divided between the parties when a divorce is filed. These would include such things as pension rights, proceeds from personal injury compensation awards, money from borrowing, and, secondly, divisible property, which includes all other property obtained during the marriage, which the courts divide on an equitable basis according to the jurisdiction. (Simmons, 2015).

Often referred to as the "non-title" spouse, homemakers play an indispensable role in enhancing a partner's financial ability. This includes increasing income through effective home management. Furthermore, he/she preserves wealth through debt repayment strategies. Moreover, the homemaker uses current childcare market rates. In addition, the homemaker enhances wealth through capital improvements to family assets. Further,

he/she protects the partner's assets from the risks of outside creditors. Legal systems today more frequently recognise these non-monetary contributions; case law now requires that claims based on non-earning labour have a verified evidentiary basis, such as time-use logs, economic valuation reports, or expert testimony, and proof of a contribution (financial or non-financial) to the marriage (Conway & Girard, 2014). Unless there is an explicit contrary intention evident from the property's situation or papers, property held in the name of one spouse will vest solely in that spouse. Regardless, sound estate planning suggests that wills should include automatic transfers of property to a spouse who is physically incapacitated, economically disadvantaged, or the longer-stay-at-home spouse, to mitigate economic vulnerability.

2.2 Community Property and Separate Property Regimes

Marital property regimes distinguish property which may either be separate property, acquired before marriage or through non-marital sources, or marital property, acquired during the marriage. These regimes treat money differently: community-of-acquirements regimes and separate-property regimes. In community property jurisdictions, all property acquired during marriage,

regardless of title, is owned by both spouses. Each is said to have a present, undivided one-half interest in the property itself, not just its title or proceeds. On the other hand, under separate property regimes, the spouse who acquires property is the sole owner and is entitled to the title to the property acquired during the marriage. This is also subject to only a potential equitable adjustment at the time of divorce or death; however, a spouse's interests in the other defendant's separate property may crystallise through intervening events like substantial enhancements through marriage or commingling. According to Cumberland (1974), property will generally mutate to community property if it can be classified jointly for some reason, and property acquired during marriage with previously-acquired community property will remain community property indefinitely.

These terms have become shorthand: community property refers to assets acquired during marriage, and separate property refers to pre-marital assets. The type of property acquired during coverture will have a major impact on divorce if the community property or separate property classification is at issue. A spouse can assert a claim to parts of the other spouse's separate property acquired during marriage, usually in the

Property and Inheritance Laws Related to Homemakers

category of enhancement of value rather than ownership transfer. Nine states in the US currently have a pure community property system: Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin. Other states operate with hybrid systems that presume community property but also recognise modified separate property. In India, there is no law on community property. Courts apply the

separate property principle under their personal laws. For instance, the Hindu Succession Act (2005) governs the succession of Hindus, Jains, Sikhs, and Buddhists and mandates an equitable division of property. Muslim personal law relies on individual ownership and mahr obligations. Thus, courts adjudicate claims of fairness on a case-by-case basis (Lawbhoomi, 2025).

Regime	Marital Property Ownership	Key States/Jurisdictions	India Equivalent
Community	Joint 50% undivided interest regardless of title (Simmons, 2015)	California (CA), Texas (TX), Arizona (AZ), Idaho (ID), Louisiana (LA), Nevada (NV), New Mexico (NM), Washington (WA), Wisconsin (WI)	None; personal laws mandate separate property with equitable claims
Separate	Acquirer retains title; equitable division or enhancement claims possible (Cumberland, 1974)	Most U.S. states, the UK, and Canada	Hindu Succession Act 2005; Shariat Act, 1937

2.3 Inheritance Law Foundations and Relevance to Homemakers

The family home is the foundation of inherited estate assets. Legally, they have been divided into four components. The

four components are the land base, superstructures such as flats, factories, and stores, surface water rights such as lakes, and subsoil elements such as minerals, gems, ancient remains, and biological detritus. Most of these elements are not private property. They are either state or public property for treasury, heritage or environmental purposes (Waggoner, 1992). Estate refers to the total corpus before valuation, whereas value indicates the market value. The surviving spouse seeks primacy, whereby the entire marital estate is valued as a single pool, including all joint and separate property acquired during the marriage. The decedent's estate will then roll over to the spouse beneficiaries as the primary subjects without fragmentation, with statutory exceptions (Waggoner, 1992). Heirs, like children or other relatives, may intervene by objection where intestacy rules or will terms are not satisfied, often seeking distributions higher than the baseline spousal share.

For homemakers, these foundations are especially effective: common-law inheritance doctrines link non-monetary domestic labour to enforceable succession rights through automatic spousal elections, elective share statutes, and homestead exemptions, ensuring that the economic security of non-earning partners, based on household

contributions, does not require independent title or the contestation of probate.

3. Property Acquired During Marriage

Property acquired during marriage is legally considered joint property in several jurisdictions. This affects the distribution of property upon divorce, making it vital for homemakers who may not own property in their own name but contribute to the marriage through domestic labour (E. Simmons, 2015). Basic equity principles suggest that property acquired during marriage should return to the estate of the deceased for distribution, regardless of whether it is considered separate or joint property (W. Waggoner, 1994).

The existence of these automatic rights for spouses is noteworthy, and the ability to claim rights arising from household contributions, even when such contributions are not considered direct financial support, is equally important. Many jurisdictions have taken steps to explicitly recognise homemaking or the value of domestic labour by appending property law to property acquired during marriage. Although existing decisions recognise some of these contributions as akin to the value of money, they do not generally view the combination of domestic support and other non-earning contributions as

inherently valuable in its own right. Instead, domestic labour is measured by its marketable value, and two separate contributions are recognised, but not one combined contribution that has not been the subject of property division during marriage.

In jurisdictions that contest the valuation of contributions to the household, this recognition ensures opportunities for homemakers to receive property acquired during marriage as a means of avoiding epistolary matters regarding the intrinsic value of non-earning contributions or domestic labour.

3.1. Automatic Rights and Equity Considerations

The community property system implies equal ownership interests regardless of title or name. Property acquired during marriage—including income, benefits, and increases in value from separate property—ordinarily is community property. Equal shares of joint property and joint enterprise and agency principles extend the notion of community to nontraditional arrangements. Under separate property regimes, presumptions favouring marital interests may operate on income, investments, or work product from community labour. A less common category exists in some jurisdictions for property acquired in return for the

transfer of other community property (J. Hill, 2009).

Community property and joint tenancy or joint ownership under a separate property regime satisfy claims for equitable division after dissolution of marriage, regardless of whether a homemaker becomes vested in property or interests as a matter of title or estate planning. In practice, however, many families fail to establish joint ownership. Discussions of individual property and contributions to its acquisition receive considerable attention, even when premarital, inherited, or other separate property served as the source of some community-owned assets. Pure community property regimes presume equal entitlement to all property acquired during marriage as well as to perquisites from matrimonial services.

Legal structures in community property jurisdictions largely leave unaddressed how or why homemaking contributes to entitlement to equal ownership. Additional issues arise in states with separate property, as household and domestic labour may nevertheless facilitate the acquisition—and hence the entitlement to—individual property and benefits.

3.2. Contributions of Homemaking and Domestic Labour

In a community property country, property a husband or wife acquires while married is automatically theirs together, even though it is in the name of only one spouse. In a separate property regime, no such automatic right exists. Even when a homemaker contributes to the home and the family and has the right to live in it, upon a spouse's death, the dissolution of the family forces the homemaker to leave the home, rendering all contributions to housekeeping and homemaking economically worthless. The law can mitigate such a situation by granting the wife the right to reside in the property first. However, this is still a second-best solution. Society has to find a means of calculating the value of the contribution of the spouse who does not earn money, and such a contribution has to be compensated by the earning spouse in the event of a breakpoint, using either the common law or civil law principles.

Following the principle of equity, the contribution of the spouse who is not involved in the direct earning of the family needs to be compensated. Society anchors public policies in a variety of concepts. In community property regimes, the valuation of the contribution preceding divorce or separation is mechanical because the law determines what belongs to whom. Common law regimes operate on valuation based on principles of equity. Equities have to be

established and proven during divorce separation by producing evidence to the satisfaction of the court. In principle, equitable solutions would promote a nurturing family atmosphere and a society that cherishes the family institution.

3.3. Valuation of Non-Earning Contributions

Equal treatment does not necessarily require that parties make equal contributions to the estate, as no-fault divorce recognises. The parties should receive an equal division of the assets that are the product of their joint efforts, irrespective of how those efforts are valued. A court, therefore, should take into consideration the investment each partner made in the marriage and the resulting estate, even if one was a homemaker and worked without compensation for her contributions.

The assumption that domestic work has no monetary value mainly arises from its invisibility. The importance of non-earning spouses' contributions is recognised only when these services are reduced or eliminated. Because of the failure to recognise the economic theory of human capital, work that is never done or paid for is often considered valueless. However, expenditures on acquiring or developing human capital are clearly regarded as investments by those

involved. When two human capital investments of different monetary amounts generate unequal returns, 132 a non-earning spouse who acts as an investor in the other's capital and allows them to work at full productivity 368 has created an opportunity cost with real monetary value.

When applying the economic approach, courts recognise the rationale for its use. The relative perceived worth of the partners' contributions becomes irrelevant. The principle is that both partners should receive the equivalent of their investment and a share of the profits, irrespective of how their labour investments are valued.

4. Wills, Trusts, and Succession Planning

Homemakers rely on wills, trusts, and succession planning to enable their partner/spouse to ensure that post-death financial support, protection, security, and resources are not put at risk. Marital benefits are distinct from the rules of property and inheritance; these provisions are necessary even in the legal field. Holographic, oral, or formal means of will formation are allowed, and where applicable, notarisation increases validity and formal recognition. Provisions for spousal or domestic partners are generally designed to ensure that surviving partners receive

appropriately provisioned, unencumbered funds. Documenting the foundation, clearance, stock, and further inheritable estate of financed and secured property acquired in marriage may indicate the vertical and horizontal ownership of the property and successor ownership (Ownership Study). Establishment of a trust means, in part, that one person funds a valid trust with property or interest acquired during marriage. This helps document and trace property or successor ownership acquired by decedent partner or spouse during the marriage (W. Waggoner, 1992). It is possible to create trusts for homemaker beneficiaries that provide flexible benefits, which may take the form of income, capital, or other assets. It strengthens defences against depletion caused by unplanned events or by ratios. They should also consider permanent provisions for discretionary income distributions, premium sharing for life insurance, additional coverage for retirement or after-death insurance, and the sale of property, to achieve their desired withholding ratios for capital or income. If a marriage or relationship is not as secure, the planning provisions may include incentives to remain with homemaker beneficiaries and mandatory re-evaluations that take effect when established formal partnership arrangements are formed (C. Wright & Sterner, 2017).

4.1. Will Formation and Validity

Under Indian law, a will is the primary testamentary instrument used to transfer a testator's estate while protecting the interests of family members. In accordance with Section 59 of the Indian Succession Act, 1925, the testator must have a sound mind. This means being capable of understanding the subject matter without being unduly influenced by fraud or coercion. Moreover, the testator must be of the age of majority, which is 18 years under the Indian Majority Act, 1875. Married minors under Hindu or Muslim personal laws may qualify with guardianship consent. At the same time, the testamentary freedom allows the revocation or alteration at any time during the testator's life (sec 62 of ISA). Failure to comply nullifies the instrument and denies probate admission.

Execution Requirements by Personal Law

India's pluralistic approach to law determines validity according to religion rather than uniformly.

Christians, Parsis, Jews (Full ISA Sections 57-70):

- Testator signs (or directs proxy in presence);
- Two witnesses ≥18 years attest after witnessing

execution or testator acknowledgement (Section 63).

- Witnesses need not be disinterested (beneficiaries' spouses excluded, Section 67).
- Registration is optional (Registration Act, 1908) but is an evidentiary gold standard.
- 2025 Amendment: Probate no longer mandatory nationwide (previously required in Mumbai/Calcutta/Madras presidencies).

Hindus, Buddhists, Jains, Sikhs (ISA Sections 57/63 + Hindu Succession Act):

- Identical execution formalities;
- No probate compulsion post-2025 amendment;
- Class I heirs (widow, children, mother) claim maintenance rights even against wills.

Muslims (Muslim Personal Law):

- Oral/written wasiyyat valid up to 1/3 estate;
- Two witnesses recommended (not mandatory);
- Balance devolves per Shariat shares (*mahr* guaranteed for widows).

Spousal and Heir Protections

Unlike U.S. "elective shares," India eschews forced heirship but embeds protections:

- Hindu widows/children: Section 14 HSA converts "limited estates" to absolute; undue influence voids wills.
- Muslim widows: Fixed *mahr* + Quranic shares override partial bequests.
- Challenge grounds: Incapacity (Section 59), fraud/coercion (Section 61), improper attestation (Section 63).
- Domestic partners/civil unions: No automatic ISA rights; contractual arrangements essential.

Practical Safeguards: Video recording, medical certificates, and lawyer attestation minimise contests. Registered wills (Sub-Registrar) bear superior evidentiary weight despite lacking enhanced legal force.

Example: Testator executes before two independent witnesses; subsequent codicil requires fresh attestation. Courts uphold holographic (unwitnessed) wills only under exceptional proof.

Probate Modernisation (2025)

Recent amendments eliminate probate compulsion, streamlining succession for ~95% of wills while preserving judicial oversight for contested estates. Digital wills (e-signatures) are gaining traction due to compliance with the IT Act, 2000.

Strategic Planning: Testators prioritising homemaker spouses incorporate life interest trusts or maintenance clauses to balance testamentary freedom against familial equity expectations.

4.2. Spousal and Domestic Partner Provisions

Across many jurisdictions, there appears to be protection of non-fungible contributions, such as household labour, to family property. In 2015, E. Simmons describes the law on property rights, government benefits and tax breaks for married, divorced, or cohabiting couples. Homemaking meets domestic needs for child care, food, comfort, health, personal grooming, education, training, culture, and recreation, which cannot be priced but add value to life. The arrangement of affairs establishes differences in the recognition of legal rules regarding the division of property by couples.

The partner invalidates or limits the spouse's rights to their property or assets under marital property and probate law by transfer or pre-mortem gifting. The benefit offered to the spouse or partner would often benefit the rest of the

person's assets by granting a fixed percentage, and would provide notice to the spouse or partner.

4.3. Trusts as Instruments for Homemaker Beneficiaries

Due to the length of the marriage and the surviving spouse's entitlement to most of the decedent's property (an entitlement based on trust), a nonmarital trust from which the surviving spouse will benefit only under limited circumstances may be an appropriate estate planning consideration for someone with a lot of unrelated assets (Edwin Eck, 1984). The nonmarital trust could fund the maintenance, health, support, education and general welfare of the surviving spouse, but only in limited amounts. Also, the language may indicate that amounts will not be paid until the three youngest children are in college. The intestacy statute stipulates that the shares of property passing to the surviving spouse are not part of the probate estate. As a result, assets already owned by the nonmarital trust at the death of the first spouse would be insulated from the surviving spouse's support claim. If you are concerned about maintaining a large amount of trust property unaffected by the marital relationship, the drafting could prohibit distributions of principal for support but allow distributions of principal to children.

5. Legal Protections for Homemakers Outside Marriage

Legally recognised partnerships that confer some of the rights associated with marriage are available under various labels, including domestic partnership, civil union, designated beneficiary, and similar terms. States that recognise domestic partnerships may confer on registered partners the same rights and benefits as spouses in matters of inheritance, health care, and pension benefits. Dependencies can exist along a spectrum from mere relocation of the term spouse, as under California's domestic-partnership statute, to a vestigial frame like New Jersey's civil-union statute, which prohibits referencing marriage. States including California, Illinois, New Mexico, Oregon, and Washington provide rights akin to marriage applicable to same-gender couples under independent designations (E. Simmons, 2015).

5.1. Domestic Partnerships and Civil Unions

Couples who live together but do not want to marry can use legal options like domestic partnerships and civil unions. Through these arrangements, partners sometimes acquire property rights that differ from those in marriage. Property acquired during a civil union or a domestic partnership is usually treated

as separate property in community-property jurisdictions, whereas in equitable-distribution jurisdictions, the law is largely unsettled (C. O'Brien, 1995). Unmarried partners are generally excluded from being heirs in most jurisdictions (Ann Drobac & Page, 2007). Rest assured that specialised trusts can ensure that a homemaker partner in a civil union or domestic partnership will be provided for after the death of the other partner.

5.2. Common Law Marriages and Their Implications

At present, few jurisdictions expressly recognise common law marriage. Nevertheless, the doctrine remains relevant. That is because property rights assigned within a common law marriage may not mirror rights designated by partnership laws. In certain circumstances, parties to common-law marriages and domestic partnerships have concurrent legal powers. Every legal system provides protection for spouses and domestic partners, regardless of the method that formalises the couple's relationship, through marriage law, common law, registered partnership law or cohabitation law. Existing jurisprudential precedents are frequently extended to domestic partnerships, even in the absence of statutory entitlement, if partners meet the requisite legal criteria (Louise

Fellows et al., 1998). The rules requiring stricter terms for establishing common-law marriage continue to apply here. Authorities verify these conditions, which are sometimes referred to as "common law marriage tests". Enforcement is then solely dependent on the parties (E. Simmons, 2015).

The theory of common-law marriage and the related law remain in force and can be used to regulate social and commercial relationships within the open market. It has been found that the availability of specific government and judicial safeguards, such as support payments, property distribution, and court processes, for individuals living outside marriage and formal registered domestic partnerships enables homemakers to substantially influence marriage, even during economic and external gender-asymmetric shocks. Conway & Girard (2014)

6. Governmental and Judicial Safeguards

Family law does give special status to homemakers who do not earn a living. Alimony is a provision that allows a divorced or separated homemaker to claim from her husband. In the absence of a marriage, such provisions are called palimony. There are many models for calculating spousal support (E. Simmons, 2015). From the perspective of

economics, the income of a spouse is a saving in living expenses. Likewise, from the perspective of family maintenance, spousal support will help establish a new home or business.

Contemporary divorce law is often based on community property concepts, under which property automatically acquires an equal interest in both spouses. These principles apply in jurisdictions that recognise marriages, civil unions, and other intimate partnerships. Under such arrangements, homemakers have an equal right over the property acquired during marriage. In a jointly owned property, any time a spouse earns income outside the home, the property remains jointly owned, even during separation or divorce.

The court system and provisions governing homemakers are quite different. Some countries or states provide limited monetary compensation, property redistribution, or infrastructure aid, whereas others employ more comprehensive legislative frameworks that guarantee continued welfare assistance.

6.1. Alimony, Palimony, and Maintenance

The terms alimony, palimony and maintenance have assumed an increasing significance in relation to the domestic functions of professional

women. Having dedicated their lives to raising children and maintaining the household, women are often granted permanent maintenance, thereby enabling them to retrain for employment. If the payee spouse is elderly or unable to seek employment, maintenance may be granted for life. Token grants for maintenance may be small, but can be raised later. Despite legislative amendments that accommodate these realities, judicial discretion remains under subsection 7(2) of the Divorce Act (Morei, 2014). In addition, infidelity or other acts by a husband, such as a refusal to assist the wife economically or moral degradation, have been accepted by many jurisdictions as grounds for a property settlement in addition to compensation not based on property (L. Jr. Snead, 1961).

6.2. Property Division on Divorce or Separation

Homemakers who need to restructure their lives after voluntarily leaving a civil union, domestic partnership, or registered same-sex partnership may face property division difficulties due to the court's interpretation of eligibility requirements established in various laws. Property acquisition during a cohabitation period but before a divorce may not accept the same legal character classification as property acquired during a marital union, domestic

partnership, or civil union (W. Waggoner, 1992).

The term common law marriage arises from jurisdictions in which no formal ceremonial contract is written during the establishment of a marital union. Legally enforceable property rights upon the voluntary dissolution of the partnership may attach to common-law marriages, eluding official detection through either act or omission. Common law property acquired after the formation of a common law marriage occurs through either presumed co-ownership by both partners or recognition of the economic and social contribution of the homemaker, dependent upon jurisdiction.

6.3. Court Procedures and Remedies for Homemakers

The legal safeguards provided to homemakers, whether married or unmarried, include a claim to alimony (or, in some states, palimony) and a share in the marital property on divorce or separation. A wife may also sue her husband for essential expenses if he fails to provide, and may sue to recover the value of her services during a period of marriage that was void or annulled. A husband likewise can claim support from his wife if his need is sufficiently proved, and either spouse may seek maintenance during legal separation or an annulment.

An unmarried partner in a stable domestic partnership can sue for support and claim a share of property acquired during the relationship, including property accumulated during its course, by either partner. Domestic partnerships likewise give rise to such actions and claims.

The courts generally possess the power to enforce compliance under the ordinary divorce and separation statutes. These operate both for payments of money for support and maintenance and for the transfer or title to the partner's share of property. Special statutory provision is made for the wife's maintenance pendente lite and for attorney's fees in all actions for divorce or separation. These are granted automatically if required, but payment must be secured. Similar provisions exist for domestic partners. Courts have the power to attach wages for support payments and to treat as contempt failure to comply with an alimony or palimony order. Courts also possess the power to grant powers of attorney and to appoint receivers for the property of marital or domestic partnerships.

7. Comparative Perspectives

In the United States, spouses' property rights, including those associated with domestic work, are relatively robust compared with many jurisdictions

worldwide. Outside the United States, legal regimes governing property acquired during marriage often either minimise or ignore contributions made exclusively within the home by spouses who are neither earning wages from paid employment nor significantly supplementing income through alternative means. The lack of recognition of domestic work has led to considerable disparities between spouses in the economic security accumulated during marriage.

Comparative analysis reveals both similarities and differences across jurisdictions. Many nations—including countries in South America, Africa, Asia, and Europe—provide civil-law systems characterised by statutory community-property, separate-property, or compensation regimes that substantially restrict rights of married spouses to property acquired outside of paid employment or significant side jobs. A small number of jurisdictions, including several Scandinavian nations, afford limited recognition to homemakers through public-education credits indexed against predictably calculated wage rates where the effect of the additional education on wage rates remains socially uncertain for participants, and unique home-making credits where the consequent contribution to wage: home production is

fully subject to social determination independent of contributions. However, even in nations that do not follow the civil-law model, international property regimes governing cohabitation and partnership relationships simplify legal and economic relationships with respect to either contracted or de facto marriages, rather than actual husband-and-wife status (Conway & Girard, 2014).

7.1. Civil Law versus Common Law Approaches

The legal treatment of property and inheritance rights acquired during marriage differs under civil law and common law. In civil law jurisdictions, property acquired during marriage belongs to both spouses unless the spouses explicitly agree otherwise. Under common law, property acquired during marriage remains the separate property of the one spouse who acquired it, unless the spouse expressly conveys an ownership interest to the other spouse. Despite legislatures in common-law jurisdictions considering the homemaking contributions of non-propertied spouses, judicial decisions generally affirm that property acquired during the marriage is not deemed co-owned unless a formal transfer of interest purposely occurs (W. Waggoner, 1994). A coroners and justice bill, designed to simplify succession and inheritance law, removed reference to the non-earning

Property and Inheritance Laws Related to Homemakers

contribution of a spouse or domestic partner, leading to criticism in parliamentary debates (Conway & Girard, 2014).

Civil and common law systems differ markedly in the protection of homemakers' property rights during marriage.

Civil vs. Common Law Property Approaches

Aspect	Civil Law Jurisdictions	Common Law Jurisdictions
Marital Property Ownership	Joint unless explicit agreement otherwise.	Separate; the acquiring spouse owns unless transferred.
Homemaker Contributions	Statutory recognition; presumed shared.	Equitable claims need proof; no automatic co-ownership.
Examples	South America, Europe, Africa, and Asia systems.	U.S. states, UK, Canada (with variations).

7.2. International Variations and Best Practices

Property rights associated with homemaking have traditionally occupied a marginal position in economic analysis, receiving little attention in the literature on marriage, divorce, and gender equity laws. Working spouses usually acquire a range of financial resources as a direct consequence of their economic activities—and the benefits of those resources, for the most part, remain

within them. Since married or cohabiting homemakers do not engage in direct economic roles, it is commonly believed that their household contributions are difficult to substantiate. Therefore, they do not have an independent share of property. However, non-earning or homemaker contributions remain valuable in many respects. The community property concept stands out because it recognises that resources for personal benefit can be acquired without personal income. It acknowledges and

appreciates the form of property acquisition that is not based on earnings. Even when a single spouse administers all resources, the potential value of non-cash contributions, such as those made by homemakers, is still recognised. The community property concept appears to come closest to reflecting that domestic contributions can be as important to the functioning of a household as earning contributions (Conway & Girard, 2014).

During divorce proceedings, issues of property division arise again as both private ownership and property distribution arrangements are examined and negotiated. While the consideration of private ownership and the right of each concerned spouse to freely dispose of their property might seem to take precedence, it is only one side of the story. An effective division of property is essential to the overall fairness of a divorce procedure. Each partner's share of matrimonial property thus becomes a matter of fundamental importance, which leads to the conclusion that the property acquired and owned during marriage is eligible to enter into such considerations. All arrangements made by spouses outside the formal legal system are subject to legal examination once a divorce is in progress. To take full advantage of the system and legal guarantees it offers, the establishment and recognition of arrangements outside

the system, rather than limiting them, becomes a more critical factor, contrary to the perception that a higher degree of freedom through such arrangements could be beneficial.

8. Policy Debates and Reform Proposals

Assigning property rights to different types of household contributions—domestic work, childcare, and financial labour—could balance the interests of homemakers with those of the property holder, mitigate the risk of discriminatory outcomes, encourage affordable policies, and support women's economic independence (Bottomley, 2006). A study identified strategies for formal recognition of non-financial contributions to property rights, for example, by crediting either the monetary value of domestic work or the subsequent increase in value linked to domestic work, and examined the implications for gender equity (E. Simmons, 2015). Anthropological work developed concepts of value and exchange across different contexts, provided a typology of domestic work and its contributions, explored the relevance of domestic activity to property rules and the social order, and presented an approach for calculating the economic value of domestic work.

8.1. Recognising Domestic Labour in Property Regime

Property rights in marriage or similar institutions play a vital role in protecting homemakers or those who invest domestic labour and effort (Conway & Girard, 2014). These domestic contributions may increase asset value, as do the economic returns from wage-earning employment. A homemaker's labour also limits capital-building opportunities, and that consideration has, therefore, been factored into property-equalisation assessments.

During marriage, rights arise regarding property jointly or solely acquired. The interest-sharing usually reflects the relation of each contribution to the total. Apart from express legal titles, a spouse may gain an equitable interest through liabilities assumed, improved property market value, or direct investment in development, construction, or modification. Courts then compare the rated-acquisition total to determine each party's contribution. Complications arise for those providing goods at a net loss due to unpaid purchasing or facilitative rent (Selorme Gedzi, 2012). The dedication of time and skill in maintaining household arrangements—whether shopping for provisions, upkeep, cooking, or bringing up children—represents another type of input. The determination of value for these services remains a contentious issue worldwide. Conditions differ

sharply between civil and common-law jurisdictions; property interests are more secure in common-law countries, and domestic arrangements can still benefit from drafting, trust formation, and the subtler common-law marriage.

8.2. Implications for Gender Equity and Economic Security

Under the common law and the Uniform Probate Code, spouses are presumed to be one another's primary beneficiary unless there is a clear expression to the contrary (E. Simmons, 2015). Common law vests married persons with the right to hold property in their own names; this right, however, is a poor indicator of their economic autonomy. The absence of a community property regime excludes certain jurisdictions from consideration in analyses of property and inheritance rights, particularly for homemakers.

Civil law jurisdictions universally recognise that property acquired during marriage, including the value of services rendered, constitutes marital property unless a clear agreement to the contrary exists. Furthermore, these jurisdictions uphold the principle that spouses may not freely bequeath property acquired during marriage by will. In the remaining jurisdictions, the law is based on common law; in these regions, wives still lack legal rights beyond the right of election against their will, economic

autonomy, and legal recognition of non-monetary contributions to the marriage.

9. Conclusion

Homemakers contribute significantly to household success yet remain vulnerable within property and inheritance regimes. Law determines ownership for property acquired during marriage and other contexts. Contributory factors influence asset valuations when homemaking and domestic labour must be recognised.

Most assets acquired during marriage are owned jointly, but legal frameworks vary significantly. Rights regarding the alteration of wills and trusts depend on circumstances and intent, as in other legal areas. Family law analyses ensure continuity of the spousal share in estate distribution upon death. Domestic partners, cohabitation agreements, and court-decreed marriages receive similar treatment, but comparable partners do not receive identical safeguards. (Conway & Girard, 2014) (E. Simmons, 2015)

References

1. Leopold, C. (1967). *EC67-2211 The homemaker in the business world*. University of Nebraska-Lincoln Extension. <https://digitalcommons.unl.edu/extensionhist/34>
2. Walesa, F. A., Nuswardhani, S. H. S. U., & Darsono, S. H. M. H. (2016). *Proses penyelesaian sengketa pengosongan rumah milik ahli waris yang ditempati oleh orang lain secara melawan hukum (Studi kasus di Pengadilan Negeri Surakarta)* [Undergraduate thesis, Universitas Muhammadiyah Surakarta]. Eprints UMS. <https://eprints.ums.ac.id/46141/>
3. Conway, H., & Girard, P. (2014). No place like home: The search for a legal framework for the family home in Canada and Britain. *Osgoode Hall Law Journal*, 52(1), 1–66. https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2434712
4. Simmons, T. E. (2015). Medicaid as coverture. *Hastings Women's Law Journal*, 26(2), 275–332. <https://repository.uclawsf.edu/hwlj/vol26/iss2/4/>
5. Cumberland, F. J., Jr. (1974). Community property considerations in Ohio estate planning: Expecting the unexpected. *Cleveland State Law Review*, 23(3), 511–563. <https://engagedscholarship.csuohio.edu/clevstrev/vol23/iss3/7>
6. Waggoner, L. W. (1992). Marital property rights in transition. University of Michigan Law Faculty Scholarship. https://repository.law.umich.edu/fac_articles/1681/

7. Waggoner, L. W. (1994). Marital property rights in transition. *Missouri Law Review*, 59(1).
8. Hill, G. J. (2009). Finding fairness in U.S. family law. *Kansas Journal of Law & Public Policy*, 19(1), 193–211. <https://kuscholarworks.ku.edu/bitstream/handle/1808/5199/STARV25N1-2A7.pdf>
9. Wright, D. C., & Sterner, B. (2017). Honouring probable intent in intestacy: An empirical assessment of the default rules and the modern family. *ACTEC Law Journal*, 42(3), 341–400. <https://scholarlycommons.law.hofstra.edu/actecj/vol42/iss3/5>
10. Eck, E. E. (1984). Drafting considerations in appointing the surviving spouse as trustee of the nonmarital trust. *Montana Law Review*, 45(2), 243–268. <https://scholarworks.umt.edu/mlr/vol45/iss2/5>
11. O'Brien, R. C. (1995). Domestic partnership: Recognition and responsibility. *Family Law Quarterly*, 29(1), 27–58. <https://www.jstor.org/stable/25740152>
12. Drobac, J. A., & Page, A. (2007). A uniform domestic partnership act: Marrying business partnership and family law. *Nevada Law Journal*, 8(1), 182–215. <https://scholars.law.unlv.edu/nlj/vol8/iss1/8/>
13. Fellows, M. L., Simon, R. J., & Rau, W. (1998). Committed partners and inheritance: An empirical study. *Law & Society Review*, 32(2), 299–324. <https://onlinelibrary.wiley.com/doi/abs/10.2307/827764>
14. Morei, N. (2014). Should spousal maintenance be left solely to the judge's discretion? *Journal of South African Law*, 2014(2), 289–306.
15. Snead, H. L., Jr. (1961). Alimony, property division, and the modern-day wife. *Western Reserve Law Review*, 12(4), 631–645. <https://engagedscholarship.csuohio.edu/wrlr/vol12/iss4/15>
16. Bottomley, A. (2006). From Mrs Burns to Mrs Oxley: Do cohabiting women (still) need marriage law? *Child and Family Law Quarterly*, 18(4), 519–534. <https://www.westlaw.co.uk>
17. Gedzi, V. S. (2012). *Women's property relations after intestate succession PNDC Law 111 in Ghana* [Doctoral dissertation, University of Ghana]. <http://ugspace.ug.edu.gh/handle/123456789/4994>

18. Britannica. (2016, November 7). Dower.
<https://www.britannica.com/topic/dower>
19. Ipleaders. (2025, April 7). Dower in Muslim law (Mahr).
<https://blog.ipleaders.in/dower-in-muslim-law/>
20. Lawbhoomi. (2025, June 12). Types of dower in Muslim law.
<https://lawbhoomi.com/types-of-dower-in-muslim-law/>
21. India Code. (n.d.). *The Indian Succession Act, 1925*. https://www.indiacode.nic.in/bitstream/123456789/19051/1/indian_succession_act_1925.pdf
22. The Print. (2025, December 22). *Probate no longer mandatory: Indian Succession Act amendment*. <https://theprint.in/judiciary/probate-no-longer-must-to-prove-validity-of-wills-whats-the-amendment-to-indian-succession-act/281>.