The Exploration of Inheritance Rights under the Myanmar Customary Law

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Abstract
The Myanmar Customary Law is composed of Dhammathats, Judicial decisions of High Court, Supreme Court, Chief Court, Supreme Court of the Union, Customs which are firmly applied by Myanmar Buddhists, and Laws made by legislation Group. The Judicial system of Myanmar recognizes the Myanmar Customary Law to apply for the jurisdiction of family matters in which areas of marriage, divorce, inheritance, succession, adoption, and matrimonial rights according to the Burma Laws Act, 1898. The Myanmar Customary Law only concerns with Myanmar Buddhist people and it does not govern Myanmar people who are not professing in Buddhism. Myanmar Customary Law is an unwritten law and it is not statutory law. Women and Men are equal roles as join partners or join owners in the family and every child has the right to inheritance from their parents by the intestate succession system under the Myanmar Customary Law. This article intends to explore the inheritance rights among children in the family under the Myanmar Customary Law. The objective of this study is to explore the equal inheritance rights for children (between men and women) and to describe the notions of equal inheritance rights under the Myanmar Customary Law.

Keywords: Myanmar Customary Law, Inheritance, Succession, and Inheritance rights.

1. Introduction
Every citizen of a country must obey the laws of Country and every citizen has the right to obtain under the law of Country. Every person has the right to follow freely their customs, traditions, and culture they cherish, and to profess the religion of their choice without prejudice to the relations between one national race and another or among national races and to other faiths under the Constitutional Law of the Republic of the Union of Myanmar. According to the Universal Declarations of Human Rights, every person has the right to entitlement to all the rights and freedoms set forth without discrimination of any kind, such as language, religion, political or other opinions, national or social origin, race, color, sex, property, birth, or another status. Otherwise, women and men have equal rights as well as the right to own property without discrimination on any grounds. Thus, everybody has the right to obtain the estates from parents under the descendant regulations of their separate countries to the Human Rights norms of UDHR.

The inheritance refers to the assets that are money, property, titles, debts, rights, and obligations after the death of somebody. Otherwise, the inheritance or succession typically occurs after the death of the household head. However, there are different essence between the type of Inheritance and the type of Succession; the inheritance means someone who derives to inherit the properties from the deceased person and the succession is that someone who is the next successor of the predecessor or the person who dies. The inheritance right is a legal right in self-acquired for personal entitlement. Inheritance patterns may also be different among various communities. In Myanmar, every child has the right to inherit and the right to possess and hold the properties under the statutory law of Myanmar. Thus, every person has a right to get the assets from their parents according to their Inheritance laws and succession laws except the limitation or the obstructions of their state’s statutory requirements. This Article concludes the inheritance rights of children under the Myanmar customary law.
At present, Myanmar is a multi-society who resides in 135 distinct ethnic groups and other families who are immigrant peoples. Myanmar has eight major ethnic groups; Kachin, Kayah, Kayin, Chin, Mon, Bamar, Rakhine, and Shan as national races. Bamar ethnic group is the majority in Myanmar and there are at least 108 different ethnolinguistic groups in Myanmar. According to the Country's profile, about 87.9% of Myanmar people profess the Buddhist religion. One of the significances of Myanmar, every national race or indigenous group owns their respective Customary Laws, and they employ their separate family laws or personal Laws in which family matters such as Marriage, Divorce, Inheritance, Succession, Adoption and Matrimonial Rights according to the Burma Laws Act, 1898.

Thus, there is a need to consider the three parts when the study of inheritance systems of Myanmar; the inheritance rights under the religious laws, the inheritance rights under the customary laws, and the inheritance rights under the statutory laws of Myanmar. These studies only attempt to suggest the inheritance rights among children under Myanmar Customary Law even Myanmar people own many inheritance patterns. So, this article will deal with the following questions;

1. Will have equal inheritance rights among sons and daughters of Myanmar family under the Myanmar Customary Law?
2. Can women accept equal rights as men in family affairs under the Myanmar Customary Law?
3. How the standard will be in which comparing the inheritance rights under the Myanmar Customary Law with the notions of Human Rights under the Universal Declaration of Human Rights?

Different authors with different views have been published many articles concerned with inheritance rights under the Myanmar Customary Law. In this paper, I will mention the women’s inheritance rights by the perspective of equal rights of the Universal Declaration of Human Rights. The objective of this study is to investigate the equal inheritance rights among children. The primary research method for this paper is literature reviews and content analysis. The paper obtains secondary data from academic books, publications, reports, and websites. For this study, a content analysis method will be used to comprehend and identify the principles of Myanmar customary law based on my interpreting and understanding. Finally, this article intends to investigate the essence of human rights in the inheritance and succession of Myanmar Customary Law.

2. The sources of Myanmar Customary Law

Myanmar Customary Law gradually arises out from the affairs of the family mainly, and religious usage and institution. Myanmar Customary law evolved as a personal law based on the traditions which are practiced long-standing along with the history of Myanmar. While Myanmar was being a province under the British Emperor, the British administrators identified the law is “the Burmese Buddhist Law” of the Burmese who professed the Buddhist faith. The Customary Law of Burmese was also identified as a personal law because it is only concerned with family matters or civil cases relating to marriage, divorce, inheritance, succession, adoption, and matrimonial rights. The Burma Laws Act, 1898, is still living law now, vests into force and validity in customary law in its section 13.

Since the ancient times of Myanmar Kings, Myanmar had a compact legal framework and judicial administration. The legal framework of Myanmar was comprised of three elements; Yazathat, Dhammathat, and Python. Yazathats is the King's Royal Edicts and Ordinance such as King's commands and Criminal laws for the prevalence of law and order, security, and peace in regions. Dhammathats are collections of Corpus Jurist of Myanmar customary traditions, conventions, and ratio decideni of eminent judges. Dhammathats are composed of Legal Rules and Principles for Civil affairs and Civil Law in such areas of marriage, divorce, partition, succession, inheritance, adoption, and matrimonial rights. However, those legal Rules and Principles are still being applied by the present courts of the Republic of the Union of Myanmar by the egalitarian rights relating to equality under the law. Pyatton is the judicial decision passed by Courts, Benches, and the King's Hluttaw like the present-day law reports (Ruling) of the Supreme Court. The sources of law in Myanmar are composed of constitutions, legislation, customary law, and English common law. Myanmar legal system is an English common law system. During the British colonel, the English
common law rules are applied where there is an absence of local legislation governing particular affairs before the Courts. Judges are granted discretionary power to decide the affairs under justice, equity, and good conscience in the absence of any applicable law.

The Myanmar customary law is comprised of Dhammathats, Judicial decisions of High Court, Chief Court, Supreme Court, the Union Supreme Court, Customs which are firmly applied by Myanmar Buddhists and Laws by legislation (Parliament). The Dhammathats of treaties of rules are the traditions, cultures, social disciplines, and judicial decisions of old cases that causes in Myanmar since the last decades. The Dhammathats of treaties are referred to in settlement of disputes regard with the person and their property of Myanmar Buddhists and which are primarily intended to apply to Barmans who profess the Buddhist religion. Judicial decisions made by the highest courts and under the authority of the sovereignty which to apply the established principles of human affairs in Myanmar are judicial precedents. The legislation is made by a competent authority such as Parliament and legal experts are the source of Myanmar Customary Law which consists of the declaration of the legal rule. The Myanmar Customary Law is civil, not criminal, and not ecclesiastical laws and it is unwritten law or personal law. When the customary law and the enacted law contradicted, the enacted law will prevail on the case

3. Inheritance patterns

The inheritance right is a legal right in self-acquired for personal entitlement. The inheritance is the act or fact of inheriting by succession after the death of properties’ owner. The succession system is a personal right, act, or a process by which one person succeeds in an official position or job, rank, estate, property, dignity, title, or throne of another one. The different notions between inheritance and succession are; the inheritance is a general word, and it means someone who derives the interest in the property, but Succession is that who is the next successor of the predecessor or the person who dies. Intestate succession is a pattern after the death of a person. Inheritance may be after or before the death of the person. Thus, inheritance right is more powerful than succession. And then, Succession is the process and inheritance is the right to transfer the properties by succession.

The Inheritance refers to the assets that are money, property, titles, debts, rights, and obligations after the death of somebody. Otherwise, the Inheritance typically occurs after the death of the household head. Inheritance patterns may be different among various communities. The succession law has defined the rules to partition of properties of the deceased person without making a will. Succession concerns with the transferring property of a deceased person to another person. This devolves property may be ancestral or self-acquired and may transfer in these two ways; by Testamentary Succession and by Intestate Succession.

The anthropologist and sociologist studied several types of inheritance patterns in societies. According to their studies, the patrilineal inheritance states that only male children can inherit from their parents. Some cultures employ matrilineal succession, in which case the female can only the property from her mother. Some ancient societies and most modern states use egalitarian inheritance, which is the pattern without discrimination against gender. In some communities, inheritance rights can override the arrangements by making wills. It means that the inheritance might be either under a term of a will or by intestate laws if the deceased did not conduct will.

According to Jack Goody (British social anthropologist), in the form of primogeniture, the eldest son acts as custodian of the father's rights on behalf of his brothers. In the way of ultimogeniture, the youngest son inherits the residue of his father's property after elder sons have received their shares during the father's lifetime. The inheritance rights and Succession are family matters or civil cases in Myanmar. In Myanmar, the inheritance rights embodied under the customary laws, religious laws, and the enacted laws with Myanmar’s plural legal system. Most communities in Myanmar apply the egalitarian inheritance, but the inheritance systems in some communities are prioritizing the patrilineal inheritance if the sons and daughters are the same conditions in parallel.

There are many inheritance patterns and succession systems in Myanmar. Section 13 of the Burma Laws Act, 1898 permits to decide in which any question relating to succession, inheritance, marriage,
divorce, adoption, and matrimonial rights with any religious usages or institution with the merits as well as justice, equality, and good conscience. Such the Burma laws Act refers that Buddhist Law is for the Buddhist family, Mohammedan Law is for the Mohammedan family, Hindu Law is for the Hindu family, and the Christian Law such as Christian Marriage Act (Amendment Act; 18.8.2017), the Succession Act (Amendment Act; 18.6. 1989) and the Myanmar Divorce Act (Amendment Act; 15.8.2017) are for the Christian family. Besides, one significance of inheritance areas of Myanmar is that every national race has its respective customary rule and it’s a binding force on them. The Myanmar Customary Law is a binding force on the Myanmar people who professed the Buddhist faith whether the people are the Burmese (Burma) or not. But, when the cause of the disputes relates to family matter between parties, the domicile of parties and the location of properties of parties are important factors to consider in the areas of suits according to the Myanmar Legal System.

However, when the studying of the inheritance rights in Myanmar, the three types of inheritance patterns can be studied; the first one is that the inheritance patterns under the Customary laws, the second is that the inheritance patterns under the religious laws or institutions, and the third means the inheritance patterns under the Statutory laws as well as the Succession Act, the Myanmar Divorce Act, the Christian Marriage Act, the Monogamy Law. Practically, this study intends to describe only the inheritance rights under the Myanmar Customary Law.

4. Inheritance’s rights under the Myanmar Customary Law

A Myanmar Buddhist who professes in the Buddhist faith, a Burmese (Bamar) Buddhist or an Indigenous Buddhist, does not have the right to conduct a will to dispose of his or her property after he or she dies or before under the Myanmar Customary Law. A Myanmar Buddhist can only conduct to inherit by intestate succession. But, if immovable properties are transferred by way of gift, the devolve properties (as prescribed the Section 122 to 129 of the Registration Act) must be registered under the Registration Act. The main important principle of the inheritance system is that the assets can descend although it shall not ascend. Then, an ascendant who is nearer of heir can exclude to a descendant who is remoter of an heir. Men and women are not only an equal role in their family as managers and shares but also they have equal rights in the inheritance under the Myanmar Customary Law.

When the inheritance patterns under the Myanmar Customary Law study, in brief, the six types of principles can be found to study;

(1) Intestate succession.
(2) The husband may inherit the properties of his wife after she died and the wife may also inherit the properties of her husband after he died if they have not lived children.
(3) The assets can descend and it cannot ascend.
(4) The nearer of heir can exclude to the remoter of an heir.
(5) In a competition between equidistance collaterals of different levels, the brothers or sisters of full-blood can exclude the brothers or sisters of half-blood from the heir.
(6) Then, although the person cannot get the heir by good behavior, the person can lose the right to get the inheritance by bad behavior.

Succession cannot be kept in abeyance, and once it has vested cannot be divested. Regarding with Will “Thedansa”, it is a type to transfer of movable properties or immovable properties. Although Myanmar Buddhists cannot do the Will, they can do an agreement called “family plan” before the parents die. The family plan for the distribution of properties can do orally. However, if the value of movable properties exceeds more than 100 kyats, the agreement needs to register to the Court by the Transfer of Property Act. All family members who are including in an agreement of Family plan are the righters to entitlements in heir. A Family plan for the partition of properties is an agreement among family members on how to distribute the properties of a deceased person and the agreement conducts before the owner dies. The family plan is a binding force on every family member even the rights of some family members including the agreement are not justice with the laws.

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As it is generally known, Mugs from Chittagong, the Chin people, and the Shans who are domicile in Myanmar and profess Buddhism are governed by Myanmar Customary Law in their family relations. The Supreme Court defines the re-affirming principle that “a Buddhist in Burma, irrespective of what his nationality is, and of whence he came, is governed by the Burmese Buddhist Law”.

5. The role of Children under the Myanmar Customary Law

The Dhammathats envisaged close-knit families in which the children lived under the gentle control and the loving care of the fathers- the nominal heads – and the mothers, the real managers of family affairs. Among the children equality is the rule, though the Dhammathats spoke of various modes of partition among them, sometimes favoring the oldest son, sometimes favoring the oldest daughter, and, occasionally, the youngest child, male or female.

According to the Myanmar Customary Law, the Dhammathats mention twelve classes of children, those belonging to six being entitled to inherit the property of the parents, and those who fall in the remaining six being disqualified. Modern times and the changed circumstances of society and the family have rendered the classifications largely obsolete. The Manugye describes the following classes of children who have the right to inherit: 1. Orasa; 2. Keittima; 3. Hetthima  4. Khettaja; 5. Pubbaka; and 6. Apatitha. Then, the six classes of children who are not entitled to inherit are: "1. Paradinna; 2. Sahoddha; 3. Punnanuggali; 4. Kilita; Swanutta; and 6. Chatabhatta.”

5.1. The inheritance’s right of Orasa Child

The Orasa child is the firstborn of a couple and the child shall be legitimate. The Orasa, the child of the breast, is a special position in the family. The oldest son steps into the place of the father on the latter’s death and the oldest daughter into the place of her mother. Thus, the word “ Orasa” concerns with both boy and girl. Regards with the rights of Orasa child, when the father has passed away from the scene, the son becomes an Orasa and when the mother has passed away from the scene, the daughter becomes an Orasa to inherit one-fourth of the estate of parents.

However, the Orasa son cannot claim the estate from the father when the mother died. As above mentioned, the Orasa daughter cannot claim from the mother when the father died. Besides, an Orasa child who is not maturity does not have to claim the estate from the mother when his father died. In which one man has two wives, only if the children of the first wife can become Orasa child. The Orasa child cannot claim the shares that are estates getting my father and the second wife. Besides, if an Orasa child did not claim the estate for twelve years from the surviving parent when one parent died, he or she will lose to inherit under the limitation Act of Myanmar. But, when the surviving parent gets married again after his or her spouse has died, all an Orasa child and the younger children ( Kanihta children) will have the right to get the estate from the surviving parent for twelve years. If children did not claim the estate from parents during such a limitation period, their rights have to lose.

There are five facts to be an Orasa child under the Myanmar Customary Law; the child must be- (a) a legitimate child, (b) a natural child of love, (c) has completed the eighteen years old before the parents die,(d) the oldest child while he or she is eighteen years old and he or she can enable the responsibilities of home. (For example, the child must not be an unsound mind), and (e) -can enable the properties to improve if the child is boy and – can enable the responsibilities for the home if the child is a girl. But, although the customs envisaged that the Orasa child must be firstborn and legitimate of a couple in ancient times, at present times the second born child may be the Orasa child if the child had qualified to be an Orasa child after the firstborn died.

The Orasa or Aursa may be the eldest son or the eldest daughter and he or she has a special position in a family. The Orasa child acquires a vested right to one-fourth of the estate from the left surviving parent and can claim his or her shares within twelve years. But he or she cannot claim the estate exceed the limited times according to the Transfer of Property Act. If the Orasa child has passed away, his or her heirs can
claim the share from other children of deceased parents. If the Orasa child is only one child of the couple, when the remaining parent got remarried again, the Orasa child can get half of all estate.

5.2. The inheritance's right of natural children except for Orasa child

When a parent dies of parents, after the Orasa has acquired a fourth share of the estate of their parents, the other younger children acquire share equally when they are completed to inherit due to regardless of age. The other children can become as an Orasa child if he or she owned the qualification to be Orasa when the Orasa child died. The other younger children can call “Kanihta” and the meaning is the younger children. Although the Orasa child can claim his or her share from the surviving parent, the Kanihta child or the younger children cannot claim the estate from the surviving parent. They can only get the estate under the word of “giving (Pay Kan)” by the surviving parent. However, when the left parent got married again, the Kanihta children can claim the estate from the parent.

When the surviving parent dies or remarries, the rights of the younger children only ripen and the children receive half the estate to share equally among themselves a per-capita sharing. If the children received their share before the remarriage of their parents, they have not right to claim again from the second marriage. When the children (Atet children) from the previous marriage and the children (Auk children) from present marriage do the partition the properties from their parents, through the different sources, the Atet children may take the Payin property of their father and the Auk children the Payin of their mother; the Atet children may take a third of the Lettepwa, and the Auk children may take the remaining two-thirds. But, sometimes, the partition of properties may vary in detail depending on circumstances. When there has only one child of a separate couple, the only child can get the estate of his or her parents if any of the couples have not maintained a filial relationship with their parents.

A Kilita child may inherit from the mother but, there is no mention in the Myanmar Customary Law that a Kilita child cannot obtain the estate from the father. If the deceased person had not the children to inherit or the children of husband or children of the wife (consanguinity descendant), a Kilita child may have the right to inherit. A Kilita child may inherit in the absence of children or descendants at the couple. A Kilita child is not an illegitimate child. However, a Kilita child was born inferior to parents who live openly together. Although children cannot get the estate from their parents by the way they obey the wishes of their parents, the children can forfeit the rights to inherit their parents as they disobey the wishes of their parents that the Manugye mentions. Then, the children may lose their inheritance rights in other ways. And then, when the adopted child joins another family, he or she is losing the right to inherit to their estate.

5.3. The inheritance's right of an adoptive child

Adoption is an honored institution among Myanmar families. Any person who can do the contract can adopt a child but a Buddhist monk cannot adopt a child because he is being bound by the Vinaya. A married couple may do adoption by mutual consent of their for the adoptive child comes in inheritance. The Dhammathats mentions several classes of adoptive children. But there are only two types which have practiced today; the Keittima and the Apatitha.

A Keittima child owes the same filial duties to his adoptive parents as a natural child according to the Registration of Adoptions Act of 1926. But a Keittima child cannot acquire the status of Orasa. A Keittima child can claim the estate like a natural child from the surviving parent after one parent. Then, a Kittima child can inherit from the relatives (lineal descendants) of adoptive parents. As the children may forfeit the inheritance rights if they did the opposition on parents, the Keittima child may forfeit the same.

In the case of the adoption of Apatitha child, he or she does not have the right to inheritance as there is no intention to inherit to Apatitha child. However, when there are not natural children including Keittima child to inherit by the type of succession, an Apatitha child can inherit the half estate from the adoptive parents and another half of estate will be obtained by the lineal descendant of relatives. Apatitha will obtain the half estate after the adoptive parents. Although a Keittima child does not need to live with his or her adoptive parents to inherit by succession, an Apatitha child needs to live with adoptive parents to get the
inheritance rights. If an Apathitha child did not live with his or her adoptive parents, such Apathitha child will lose to inherit from parents.

Adoption agreement may be ended by mutual consent of the adoptive parents and adopted children a son enters the Buddhist priesthood intending to dedicate his life to the order and he leaves the lay life behind, he loses the right to inherit from his parents. However, according to the Myanmar Customary Law, when a woman is becoming a nun, she renounces her property and dies a civil death arose. A nun does not occupy a position analogous to that of a monk.

5.4 The inheritance’s right of grandchildren and great-grandchildren or lineal consanguinity

Under the Myanmar Customary Law, relates with inheritance rights, Kittima children who were adopted by natural children and the children of Keittima children are treated alike as legitimate grandchildren or natural grandchildren for inheritance. The grandchildren who were born by Kilita daughter and grandchildren who were born by Apatitha son have the right to inherit.

There are two types of grandchildren; grandchildren who can inherit in-time (A Mwee M Myae) and grandchildren who cannot inherit in-time (A Mwee Ma Me M Myae). If their parents die after the grandparents died, such grandchildren call “A Mwee Ma Me M Myae” and if their parents die before the grandparents are dying, such grandchildren call “A Mwee Ma Me M Myae”. There are different inheritance rights between the two types of grandchildren. “A Mwee Ma Me M Myae” does not inherit by the representative of their parents which rights are the rights of parents and they inherit as their per –capital rights. The great-grandchildren cannot inherit by comparing with grandchildren. Even if the children and grandchildren are not being to inherit, the great-grandchildren can inherit.

According to the inheritance pattern of Myanmar Customary Law, when the husband, children, grandchildren, and great-grandchildren who are the descendants by succession type and, Kitima children, children of husband (Lin Par Tar Tamee) and children of a wife (Mayar par Tar Tamee), and Kilita children can not enable to inherit, their relatives (lineal consanguinity) may inherit. In where the partition of properties between the children of husband or wife and step-mother or stepfather, the children will get third-fourth of estate of their parents and step-mother or step-father will obtain the one-fourth of estate of their spouse.

If somebody looked after the deceased person in health and sickness when he was deserted and cremated him or did a funeral for a deceased person, such person has the right to inherit that the rule was prescribed in the Managye Dhammathas.

In some ancient Dhammathats, the heirs who are living with the owner of an estate can be given more rights than the heirs not living with the owner of the estate. However, the rights of heirs who are not living with the owner of the estate and the rights of heirs who are living with the owner of the estate are equal rights due to at present rulings. A stranger may inherit who looked after the deceased in health and sickness when he was deserted, or intentionally neglected, by the natural heirs, and such a stranger was held to even exclude the heirs.

6. The right of property’s possession between spouses

Sharing is an important element in the Myanmar Buddhist family. The husband and the wife are equal roles as sharers or joint-owners in their family and they share in the toils of earning and of running the home under the Myanmar Customary Law. The principle of community flows from the status of women and the social custom which acknowledges their role as partners to their men. Generally, if the spouse did not have the living children to inherit, the wife gets joint-owned properties after the husband died, and in the same way, the husband gets the joint-owned properties after the wife died which is a basic principle of the Myanmar Customary Law. But when the remaining spouse got remarried again, the succession patterns may change.
In which the Orasa child or one child is remaining after one parent dies, the remaining child or Orasa child obtains half of all estate of parents. When one spouse of the couple died, the remaining spouse obtains the third-fourth of estate and the Orasa child gets the one-fourth of estate. In which a man got married the wives more than one, when a man died, the remaining wives do the partition his properties as the classes of an estate under the Myanmar Customary Law.

The classes of the family's property may be different between the couple. There are seven kinds of properties between Myanmar Buddhist couple under the Myanmar Customary Law; the name called (1) Kanwin property, (2) Payin property, (3) Atetpa property , (4) Hnapazon property, (5) Lettetpwa property (6) Thinthi property, (7) Minbe property. A Buddhist husband and wife are partners and all the properties that got during the marriage, whether Payin or Lettetpwa, are possessed as co-owner. The general rule is that the spouse holds equal interests in all Lettetpwa property, except property inherited or received as a gift by either spouse.

Where the partition of properties on the divorce of a couple or succession when one spouse died, the partition of properties on divorce usually goes by mutual consent, or it was settled under the arbitration of friends and elders. If the divorce is by mutual consent, distribution conducts based on the cruelty of one spouse. The guilty party can forfeit his or her share of the joint property. When they separate by mutual consent, the richer spouse is the Nissaya or supporter, and the poor is the Nissita, the supported or the dependent. If the wife is a dependent person on the husband,” the husband shall obtain two-thirds of their property and the wife takes the remaining one-third.

A husband cannot mortgage or sell the joint property acquired by either of them before or during the marriage except in circumstances in which it may properly be said that he has acted with the consent of his wife or as her agent. When a husband dies, the widow sells a piece of land; a son who is not being the Orasa cannot claim the right of pre-emption because he is not a co-heir of the mother. But, when a mother remarries or later the step-father marries again on her death, the children can claim their shares and the right of pre-emption. Thus, A Myanmar Buddhist couple who are living together are agents for both of them. But, in which case of their property is a mortgage or sell by a spouse, it cannot be defined that the consent of another spouse will involve selling or mortgaging of the properties. Myanmar Customary Law entitled the wife to sue for one-third of the husband’s monthly income.

When the couple does divorce by mutual consent, if the parties are Nge-lin nge maya marriage (the couple got marriage since young ages and it is the first marriage for them), they take back their Payin properties. While the couple is Eindaunggyi (The marriage is the second for the couple), they take back their Atetpa properties. Where the relationship of Nisaya (Supporter) and Nissita (Dependent), the dependent takes a third of the Payin or Atetpa property of the other spouse. In the case of Lettetpwa property acquired by succession by one spouse, the other is entitled to receive a third share. Where a divorce is adjudged through the fault of one party, the innocent party obtains all the property, including the joint property and the separate property of the guilty spouse.

Where the couple separates by mutual consent, as well as the distribution of properties is important cases, the case of children is important as well. It is for the parting parents to arrange and agree on which children should go with whom, the girls generally are going with the mother, and the boys are going with the father. Thus, the girls who go with the mother lose their rights of inheritance to the father's estate, and the boys who go with the father lose their rights in the mother's estate. But, in the present day, the child has the right to inherit from his or her divorced parents. The Guardianship of the person or minor children are governed by the Guardian and Wards Act and it is not governed by the Myanmar Customary Law. The Court may consider the child's preference for a guardian where a guardian needs to be appointed to take care of a minor child, but the paramount consideration is the minor's welfare and happiness.
Table of Intestate Succession under the Myanmar Customary Law

The above table shows the succession system for the inheritance right under the Myanmar Customary Law. According to the following table, sons and daughters of the deceased person are the first giving priority in the case of inheritance. And then, the grandchildren are the second giving priority and relatives (lineal-consanguinity) next will continue as the table.

7. Findings and Discussions
The Myanmar Customary Law governs on Myanmar Buddhists who are Burma or not, including not indigenous people who profess in Buddhism. However, this Myanmar Customary law cannot govern Myanmar people who are not professing in Buddhism according to the Burma Laws Act 1898. An inheritance right under the Myanmar Customary Law is, commonly, the egalitarian inheritance which is a system without discrimination against gender. Myanmar Buddhists cannot make a will but they can make family planning before the owner of the estate is dying how to distribute his properties among family members.

Male and females have the right to inheritance but every child cannot obtain the estate from the parents because of the classes of the children under the Dhammathats of Myanmar. Significant factors of succession patterns under the Myanmar Customary law are; the oldest son or the oldest daughter, as we know as the firstborn, the Orasa child has the rights to obtain the one-fourth share estate of parents and the Orasa child can claim the estate from the surviving parent after one parent passed away during twelve years. The Younger children have the right to get third-fourth of the estate with the surviving parent and they do not have the right to claim the estate from the left surviving parent. Thus, it can be concluded that although Myanmar customary law has the notion of gender equality in the inheritance patterns, it has not the notion of equal rights for every child.

There can be found that the oldest children get more favors among family than the youngest children according to the Myanmar Customary Law. The inheritance rights in Myanmar Customary Law are not prescribing law, as the inheritance laws in Myanmar Customary Law are composed of the judicial decision by the High Court and Treatises of Dhammathats, in the case of inheritance rights may contradict among the society. Besides, Man and women are equal roles as partners, generally, as join owners in the family.

8. Conclusion

As people from other countries, all Myanmar people pay respect to the parents, teachers, the old people, and the elders due to the nature of Myanmar. Generally, all Myanmar people including not ethnic people have the same cultures in where the daily lifestyle such as farming, fishing, and growing paddy. Besides, every indigenous group in Myanmar owns the customary laws and it is governed on them for their family affairs in which areas of marriage, divorce, inheritance, succession, adoption, and matrimonial rights. The plural legal system of Myanmar recognizes the customary laws of ethnic groups in Myanmar to apply in their respective family matters under the Burma Laws Act, 1898.

Regarding the rights of inheritance, some community practice the egalitarian inheritance pattern and some community is prioritizing the patrilineal inheritance if the sons and daughters are the same conditions in parallel. The inheritance system in Myanmar Customary Law is the egalitarian pattern. Thus, every child has the rights to inheritance under the Myanmar Customary law and the enacted Laws, but as such as the enacted laws did not prescribe the regulations how to share the estate among children or heirs, the Myanmar Customary Law has not the notion of equal rights among children because the Orasa child, the first natural-born child can obtain the one-fourth portion of all estate of parents and the younger children can get the remaining third-fourth estate including their Mother's share. Inheritance is a blessing for children.

Every child hopes and wishes to inherit the assets from their parents. However, although every child has the right to inheritance, they cannot get an equal portion of the estates from their parents under the Myanmar Customary Law. Sometimes, Parents, themselves, plan the family planning to manage the estates of them before they die and they planned to intend it for not arising disputes relates to the assets after they died. In conclusion, the inheritance rights by the intestate succession system of Myanmar Customary Law emphasize the gender equality for inheritance. Thus, this Law is a Law with the norms of human rights under the UDHR as women's rights are human rights.

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