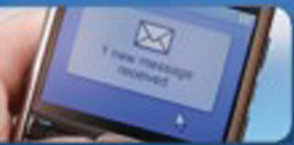


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Equal Rights of Women in Ancestral Property is an instrumental step for Economic Independency-An Analysis

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Abstract

The exclusion of daughters since ancient time from participating in coparcener ownership has been merely by reason of their sex is unjust. For improving the women economic condition and social status was felt the social need by giving them birth right equal to that of son in family. It will also go a long way in eradicating the evils of dowry system prevailing in our society. Keeping daughter away from her equal rights to their male partner and depriving them from ownership and control rights over land was linked to negative development. Since the renewal of the women's movement in the 1970s, it has been frequently debated and resolved that women's subordination and patriarchal gender systems could be combated only if a fundamental change was made concerning women's existing lack of rights to land and property and productive assets.

Key Words: rights of women, ancestral property, economic independency

Introduction

The exclusion of daughters since ancient time from participating in coparcener ownership has been merely by reason of their sex is unjust. For improving the women economic condition and social status was felt the social need by giving them birth right equal to that of son in family. It will also go a long way in eradicating the evils of dowry system prevailing in our society.

Keeping daughter away from her equal rights to their male partner and depriving them from ownership and control rights over land was linked to negative development. Since the renewal of the women's movement in the 1970s, it has been frequently debated and resolved that women's subordination and patriarchal gender systems could be combated only if a

fundamental change was made concerning women's existing lack of rights to land and property and productive assets.

In 2005, the government of India amended the Hindu Succession Act of 1956. The Hindu Succession Amendment Act (2005), a revolutionary legal reform promoting gender equality, retained the concept of joint family and introduced daughters as coparceners who have a right at birth to a share of agricultural land and property equal to that of sons. The 2005 law thereby established a gender-equal basis of land and agricultural property inheritance.

The researcher will find out the result impact of Hindu Succession Act (Amendment) 2005 in eradication of poverty.

Gender Focus

Gender is important not because of inherent differences between women and men but because men and women are socialized differently. Therefore governments have committed to strategies for gender analysis in policy and program development to ensure gender equity. This results in different expectations about appropriate behavior and social roles that lead to different life experiences and opportunities that result in gender disparities.

The independent right of women to own and control land and other assets are integrally linked to measures to change the ideology and structures of patriarchy within the family and in social relations. Poor peasant, agricultural laborer, dalit and indigenous women have repeatedly emphasized the need for measures that would enable women to have inalienable rights to land, property and other productive assets and rectify existing rural and agricultural wage disparity where women workers are lower paid than men.

While economic growth is considered the most powerful instrument for reducing poverty, the power of social and cultural institutions still helps to determine the extent to which women experience economic independence and improve their lives by freeing themselves of violence, attaining better education and health and achieving greater control over their lives.

In recent years, there have been serious questions on women's joint titles to land. A series of policy consultation meetings with civil society groups, including the Feminist Economist Group organized by the Planning

Commission in preparation of the 12th Five-Year Plan, came up with a general conclusion that the measures for joint titles have not worked and remained inconsequential for social and economic empowerment of women. Importantly, as a consequence of the policy consultation meetings, the current 12th Five-Year Plan says: "Where new land is being distributed or regularized, individual titles in women's name only, rather than joint titles with husbands could be considered".

Economic Independence and Security

Economic security is the availability of a steady and reliable source of income to sustain daily living for oneself and one's family and to allow planning for the future.¹ Achieving economic security is dependent upon the availability of social and economic supports including child care, housing, transportation, and public benefits; jobs that provide a sufficient wage and offer benefits and opportunities for career advancement; education and job training programs; and asset development opportunities. Women need hope that they can plan for a future with their children outside an abusive relationship.

Economic security refers to an assured and stable standard of living that provides individuals and families with the necessary level of resources to participate economically, politically, socially, culturally, and with dignity in their communities. Security goes beyond mere physical survival to encompass a level of resources that promotes social inclusion.² Women who are isolated by the abuse need the resources for themselves and their

children to be included in all aspects of community life.

Economic independence refers to a condition where individual women and men have their own access to the full range of economic opportunities and resources in order that they can shape their lives and can meet their own needs and those of their dependants. It recognizes that women are economic players who contribute to economic activity and should be able to benefit from it on an equal basis with men.³ Women need to be valued and recognized for the contributions they make to their children, home, community and economy. Women need economic resources to make choices for themselves and their children.⁴

Hindu Succession Act (Amendment) 2005

Since the daughter has been made a coparcener by way of the amendment she has been put at par with the son and gets a birth right in the ancestral property owned by the coparcener. For example, the daughter would have a birth right in the property Lawyers owned by her paternal grand-father, and if he dies intestate leaving behind his son (the father of the daughter) then the daughter shall have an interest in the said property as a coparcener and she would be entitled for partition along with the right to demand partition from her father.⁵

Barely one in ten women own land, brothers most anti sisters inheriting land: Survey

WOMEN'S INHERITANCE OVER GENERATIONS		
Group	% of women who had inherited land	% of women whose mothers inherited land
AP	34%	25%
Bihar	8%	5%
MP	7%	7%
Overall	13%	12%

Just one in ten (10) women whose parents own agricultural land inherit any land, a soon-to-be-published study by U.N. Women and the land rights advocacy group Landesa has shown. Eight years after women were given equal inheritance rights in law, dowry is still seen as 'adequate' recompense for inheritance, the study finds.

In 2005, India amended the Hindu Succession Act to give sons and daughters equal rights in inheriting agricultural land. (Five southern States — Tamil Nadu, Kerala, Andhra Pradesh, Karnataka and Maharashtra — had already amended their State laws between 1986 and 1994.) The study, the first substantial evaluation of the impact of the amended law, covered a sample of 1,440 women and 360 men in three States — Andhra Pradesh, Bihar and Madhya Pradesh — between August and October 2013.⁶

Rate of Inheritance

Despite the poor impact of the 2005 legislation, the study still shows that laws are significant. Andhra Pradesh, which has had an equal inheritance law in place for 20 years more than the other two States, had over four times the rate of female inheritance as in Bihar and Madhya Pradesh; over one-third of women in the AP sample had either inherited parental land or expected to as compared to 8% in Bihar and 7% in MP. Moreover, the rate of female inheritance has gone up substantially in AP, the researchers found, since far more women in the sample had inherited land than their mothers had.

Overall, only 36 women in the entire sample said they had claimed parental land and of

these only six women reported being the ones who had handled the paperwork. Women inheriting land is so uncommon that 69% of the women interviewed said that they didn't know any woman who had inherited land from her parents.

If the women in the sample had inherited the share of land which they are entitled to by law, they would have inherited an average of 11.88 decimals of land each, the study found. The real average, however, was just 0.93 decimals of land each. Nor was the value of dowry received by women in the sample equivalent to the value of land they were legally entitled to, the study found, "Dowry is used as an alibi to deny women land rights," Anisa Dabroo, Landesa's national advocacy manager, told *The Hindu*. Those women who had received land as dowry had no papers for the land, she said.

Three out of four women were aware that daughters had the right to inherit land from their parents, but most were unaware of the specifics of the law. The majority of women said that they did not want to inherit land, because of the opposition they would face within their families. Proving their apprehensions well-founded, the majority of men said that they were opposed to their sisters or daughters inheriting land, the survey found. Land and revenue officials were overwhelmingly male and most were unaware of the specific clauses of the Act.⁷

The Hindu Succession Act 1956 that covers inheritance and succession of property of Hindus, Sikhs, Buddhists and Jains comprising 83.6% of the Indian population was amended in 2005 to grant rights to women to inherit agricultural land of the parents and husband. This amendment

happened almost a decade after five southern states namely Maharashtra, Kerala, Andhra Pradesh, Karnataka and Tamil Nadu had amended their succession laws to allow women to inherit agricultural land subject to various conditions.

The survey found that over 73% of all kinds of land are acquired through inheritance. By contrast, only 25% were purchased and a negligible 2% were obtained through government programmes or leasing. Hence, inheritance rights have a huge significance for women's ownership of land which is abysmally low, especially in rural areas, where 80% of the women are dependent on agriculture for their livelihood doing most of the agricultural work as more men migrate to cities looking for employment. Yet, only 11% rural landholders are women.

According to the report, women's desire to inherit land is very low in Bihar and MP, less than 10%, and family opposition to daughters inheriting land is markedly higher in Bihar, where women reported opposition from parents and from brothers in 70% and 79% of the cases. In contrast, women's desire to inherit land is higher and, perhaps not coincidentally, family opposition is lower in Andhra Pradesh. There is relatively larger occurrence of the widows getting husband's land in inheritance in comparison to daughters getting land from the parents.

Women have very low awareness about the laws of inheritance with most of them having very low levels of education. The study also found that in the few cases, where land was registered in the name of women to take advantage of the lower land registration rate for women, the women did not have possession of the land papers nor control

over their land, making the ownership merely notional. Interestingly, the study also found that in the cases where women did receive dowry, the value of the dowry was far lesser than the value of land a daughter ought to have received under equal inheritance.

Key barriers to women inheriting land seem to be the predominant view that their dowry is a fair share of property, women's reluctance to claim their property rights in exchange for familial support in case they suffer from marital breakdown, general lack of awareness of the provisions of the law, a gender insensitive revenue administration, and flaws in the legal framework. Quite obviously, land which has historically been a male domain continues to be so.

Attitudes toward women inheriting land

- Women who would like to inherit land - 11%
- Parents would not like to bequeath land to daughters - 42%
- Brothers do not wish sisters to inherit land - 51%
- Panchayat officials do not recognize daughter's right to inherit land - 47%
- Community does not recognize women's right to inherit land - 45%

Suggestion

Researcher has come out strongly with idea for transfer of property rights especially land rights must be qualified by effective control as crucial for women's empowerment⁸ and quest for equality in gender relations. He identified the following broad categories of advantages for women having independent land rights:

(A) Welfare effects: Giving women economic resources independently is

likely to reduce poverty and destitution of households. That is, women tend to spend proportionately more resources on family sustenance and hence women's earnings will have a positive effect on household nutrition, mortality and morbidity.

(B) Efficiency effect: Giving women direct ownership can increase their access to credit and technological help, and this will ensure better returns because women tend to be better at paying back loans and at environmental preservations.

(C) Equality and empowerment criteria: Recognizing women as equal heirs has symbolic value, and this is likely to affect women's participation in the political and social arena. Arguing along the same line of thought, feminists too have come out strongly in favour of women's ownership of property as it has a positive effect on women's well-being in addition to its immediate economic benefit. Property ownership i.e., ownership of productive source like land could influence areas such as nutrition, fertility, household decision making and resistance to violence.

(D) Free allocation and equal distribution of ancestral property amongst male and female at the time of marriage in the name of daughter duly partition deed and Issue of marriage certificate on production of this deed.

(E) Relaxation in the Taxation exemption slab must be continued for women as was pre-2012-2013 Financial Year to strengthen them.

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8. *Ibid.*
9. Empowerment is an active multidimensional process which enables women to realise their full identity and powers in all spheres of life. It can be seen as a continuum of several interrelated and mutually reinforcing components such as awareness about ones situation, rights and opportunities, participation in decision making at home, community and society, access and control over resources. In other words it means being able to 'create' from women's perspectives (Pillai 1995).