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GENDER AND PROPERTY RIGHTS: A STUDY IN MAHARASTRA

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Abstract:

Women's property rights are one of the most significant determinants of their status. In India, a series of laws have been passed to promote the women's property rights have proven largely ineffective in promoting their welfare. The prime reason for this are : the shortcomings and ineffectiveness of laws, women's inability to access legal proceedings, the traditional and cultural negative views about women's rights, the absence of accountable and transparent government, the expensive and time consuming judicial process, the lack of an efficient judiciary and other socio-economic reasons. Hence, the core theme of the thesis concentrates on the shortcomings and ineffectiveness of law enforcement, although viewing them within the folder of other factors. The paper analysis awareness about their property rights among the women in Maharashtra.

KEYWORDS:

Gender, Property Rights.

INTRODUCTION

Historically, law has played an important role in defining the relations between men and women, in setting boundaries as to what women can and cannot do and in upholding the social roles and norms about men and women. The imposition of roles on the basis of anatomical and physiological differences between men and women is done by society and legal institutions have been used to support the ordering of society on a gender role basis. Law, thus, is one among a number of important factors in trying to understand the ways in which women are subordinated. The feminist engagement with law has been at various levels by demanding equality in rights and by setting new norms for society by delegitimising certain negative values in society and legitimizing new social values and roles.

In India, women nearly form 50 percent of the total population. It cannot be denied that opportunities for women have considerably widened at certain levels of Indian societies and has enabled women to achieve advances in spheres, which were never open to them before. But this development has been severely restricted to a small group of privilege women.

Law, therefore, has remained an important site of feminist enquiry and action. Feminist legal thought and practice has moved beyond demanding parity in rights to understanding/addressing fundamental concepts, values and assumptions that are embedded in legal thought. The earliest struggles for equal legal rights can be traced to western feminist engagement with law in the liberal legal paradigm. Demands for same legal rights for women were at the core of the Suffrage movements that brought to forefront the issue of women's citizenship rights and women eventually gained many legal and civil rights.

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But this increasing parity of rights between men and women soon led to the realization that mere sameness of rights in the public sphere was not enough to change the socially subordinate position of women in society as this left out the issue of sexuality and reproduction that were considered a private sphere. For example the debate on rights of women in family and marriage with in personal laws, especially when it has been carried out outside the women's movement has not used an understanding of law as interlinked to the prevailing sexual division of labour.

Family matters in India are governed by the personal laws of the various religious communities within the country. In paragraph 111 of its report, the Indian government states that it "believes in non-interference in the personal laws of the minority communities unless the initiatives come from such community." Equality now submits that the government's obligations under the ICCPR cannot be negated by deference to the personal laws of minority communities when such deference results in the curtailment of human rights. The government's constitutional guarantee of freedom of religion should be subject to the fundamental human rights of women. Many personal laws in force in India are discriminatory in relation to women's rights in marriage, divorce, guardianship and adoption of children, and property ownership. In paragraph 45 of its report, the Indian government concedes that even the judiciary has urged the government to "enact a uniform civil code so that the inequalities suffered by certain women under the personal laws are removed." The government does not, however, indicate any future plans for reforming the personal laws in a manner consistent with its obligations under international law.

REVIEW OF LITERATURE

Mridula Badauria (1997) in her book "Women in India: Some issues" made a sincere attempt to study the status of women, their health, education and employment avenues as well as their participation in decision-making process.

Uma Shanker Jha's (1998) book "Status of Indian women; Crisis and Conflict in Gender Issues", a triple volume set is a comprehensive analysis of crisis and conflict in the twentieth century women in India for equal status in socio-economic crisis. The second volume, gives critical account of women participation in politics and politicalisation of women's issues. Social theories of womanhood in India have been critically examined in the third volume.

K. Rama Kumari (2000) in her book "Women Welfare Programmes in Andhra Pradesh A Policy Analysis" explains about the theoretical perspective of policy analysis and it gives a brief account of status of women in India in general and Andhra Pradesh in particular. The National Policy on Women welfare has been analyzed and various women welfare programmes are discussed and evaluated to find out how far the objectives are realized. The author tried to identify hurdles in the implementation of programmes.

The central theme of Nandini Joshi's (1992) article 'Women Can Change the Future' examines the role of Asian Women-particularly the Asian village women who holds a key to revitalizing the economic system. The theme of Varalakshmi and K.Kamala's (1990) article 'Role of Women in Indian Economic Development' is about the present speed up process of women's economic betterment and how the role of women in the economic activity of the nation was particularly ignored.

METHODOLOGY:

As stated in the section on methodology, the sampling frame adopted was purposive in nature keeping in view the ownership of property and regional background as variables guiding the selection of sample. The respondents were selected randomly from cross section of sample. The present study is carried out in the state of Maharashtra which is one of the leading and the fast developing state in the Union of India. As stated in the sampling frame, six hundred and fifty respondents are selected.

Table-6.1
Place and Hindu Succession Act (HAS)

Place	Hindu Succession Act (HAS)		Total
	Yes	No	
Semi Developed	179	151	330
	(54.2)	(45.8)	(100.0)
	(49.9)	(51.9)	(50.8)
Backward	70	81	151
	(46.4)	(53.6)	(100.0)
	(19.5)	(27.8)	(23.2)
Developed	110	59	169
	(65.1)	(34.9)	(100.0)
	(30.6)	(20.3)	(26.0)
Total	359	291	650
	(100.0)	(100.0)	(100.0)
	(55.2)	(44.8)	(100.0)

The property rights and inheritance of property by Indian women is the well known Hindu succession Act of 1956 and its subsequent amendments. The study reveals that as widely speculated and located, nearly one half (44.8 percent) of the respondents are not even aware of the existence of such a legislation. Even those who are aware of this legislation are not familiar with the nuances and intricacies of the legislation and its subsequent amendments that are of more consequential that the original a Act itself the recent amendments to the Act, have been looked upon as having far reaching implications in weeding or warding off the traditional gender bias and discrimination in giving effect to what has been envisaged and desired by the policy makers in bringing about gender justice in particular and achieving empowerment of women in general.

It could be observed from the data presented in the table that over one half (65.1 percent) of the respondents from developed region are aware of the provisions of HAS, as compared to 46.4 percent and 54.2 percent from the backward and developing regions respectively. It is quite interesting to note that, those from developing regions are least aware, that is much less aware about the provisions of HAS than those from the backward regions of the state.

Table-2
Caste status and Hindu Succession Act (HAS)

Caste status	Hindu Succession Act (HAS)		Total
	Yes	No	
High	129	63	192
	(67.2)	(32.8)	(100.0)
	(35.9)	(21.6)	(29.5)
Intermediate	198	124	322
	(61.5)	(38.5)	(100.0)
	(55.2)	(42.6)	(49.5)
Low	32	104	136
	(23.5)	(76.5)	(100.0)
	(8.9)	(35.7)	(20.9)
Total	359	291	650
	(100.0)	(100.0)	(100.0)
	(55.2)	(44.8)	(100.0)

Although there is no one to one correspondence between the class status, class ideology, those belonging to the intermediate castes appear to be resembling the middle classes, with greater degree of awareness as it is generally found and acknowledged. It may be observed that the level of awareness about the HSA is as high as 61.5 percent among the respondents belonging to the intermediate castes whereas it is as low as 23.5 percent among those belonging to the lower castes. Such level was observed to be at 67.2 percent among the respondents belonging to higher castes. It may be interesting to note that it is assumed that inheritance stakes could be higher among the respondents coming from higher castes the awareness level matches such higher stakes. However, in case of respondents belonging to lower castes, lower levels of awareness about HSA appear to be commensurating with the lower property stakes they could be having.

Table-3
Educational Status and Hindu Succession Act (HAS)

Educational Status	Hindu Succession Act (HAS)		Total
	Yes	No	
Low	90	247	337
	(26.7)	(73.3)	(100.0)
	(25.1)	(84.9)	(51.8)
Moderate	237	39	276
	(85.9)	(14.1)	(100.0)
	(66.0)	(13.4)	(42.5)
High	32	5	37
	(86.5)	(13.5)	(100.0)
	(8.9)	(1.7)	(5.7)
Total	359	291	650
	(55.2)	(44.8)	(100.0)
	(100.0)	(100.0)	(100.0)

Quite expectedly and rationally the proportion of those with awareness about HSA and related inheritance laws is as high as 86.5 percent among those with higher levels of educational attainments whereas the corresponding proportion stands at 85.9 percent among those with only 26.7 percent of those having low levels of educational attainments including illiterates having awareness or knowledge about HSA and legal provisions pertaining property rights. The educational status of the respondents was found to be significantly associated with the levels of awareness about the HSA and other legal provisions pertaining to property rights the analysis several that the educational level of the family as a whole, as a contextual variable, makes much of a difference in the levels of awareness among the respondents. The analysis reveals that in each cases where the family educational status being considerably higher as many as 93.4 percent of the respondents had higher levels of awareness about the inheritance and property rights in general and HSA in particular. The corresponding proportion among those coming from relatively less educated families was also considerably high at 79.1 percent.

Table-4

Type of family and Hindu Succession Act (HAS)

Type of family	Hindu Succession Act (HAS)		Total
	Yes	No	
Nuclear	255	231	486
	(52.5)	(47.5)	(100.0)
	(71.0)	(79.4)	(74.8)
Joint	94	52	146
	(64.4)	(35.6)	(100.0)
	(26.2)	(17.9)	(22.5)
Extended	10	8	18
	(55.6)	(44.4)	(100.0)
	(2.8)	(2.7)	(2.8)
Total	359	291	650
	(55.2)	(44.8)	(100.0)
	(100.0)	(100.0)	(100.0)

Hence, an attempt was made the study to probe empirically as to whether the respondent aware of the crucial difference between the ownership and the effective control of the property. The finding pertaining to this indicates that such awareness is much less than the general awareness about the property rights related legal provisions. In all about 31 (30.9) percent of the respondents appeared to be aware of the actual difference between the mere ownership and the affective control of the property. Another 30 (29.7) percent of the respondents had some knowledge about the difference between the two whereas about the difference between the two whereas about 40 (39.4) percent of the respondents appeared to have no idea whatsoever about the difference between the ownership and effective control of the property.

However, such awareness appeared to be varying significantly with other personal and contextual variables. Although the association was not statistically significant, the data seen to indicate that the respondents coming from developed regions are more prone or likely to be aware of distinction between the ownership and effective control of property (45.8 percent) than those coming from less developed and backward regions of the state (32.6 percent, 2.8 percent) respectively. Such higher levels of awareness could be the function of better exposure to and acquaintance with these issues focused by the media as well as familiarity with the actual cases or instances that those living in relatively developed region come across in day to day livings.

Table-5

Age status and ownership and effective control of landed properties

Age status	Ownership and Effective Control			Total
	Yes	Some extent	No	
Young	52	64	57	173
	(30.1)	(37.0)	(32.9)	(100.0)
	(25.9)	(33.2)	(22.3)	(26.6)
Middle age	91	73	109	273
	(33.3)	(26.7)	(39.9)	(100.0)
	(45.3)	(37.8)	(42.6)	(42.0)
Old (45+)	58	56	90	204
	(28.4)	(27.5)	(44.1)	(100.0)
	(28.9)	(29.0)	(35.2)	(31.4)
Total	201	193	256	650
	(100.0)	(100.0)	(100.0)	(100.0)
	(30.9)	(29.7)	(39.4)	(100.0)

Awareness about the distinction between the ownership and effective control or management appears to be having a curve linear association with the age background of the respondents. Those who are aware of such distinction constitute about one third (30.1 percent) of the respondents coming from younger age group, whereas it increases to the proportion of one third (33.3 percent) among the respondents in their middle ages and declines to 28 percent among the respondents in their old age. This difference could be attributed to the assumption that those in younger age groups are yet to be drawn in property issues and those in their middle ages tend to have faced the situations of property divisions and litigation pertaining to the same and as such being aware of the distinctions between the issues of ownership and control of property. Similarly, as expected, the awareness about the distinction between ownership and effective control of property varies very significantly with the caste status of the respondents. It could be observed from the analysis of the data that, the level of such awareness is highest among the respondents coming from higher castes with the proportion of such respondents being over one third (35.9 percent).

Table-6
Caste status and ownership and effective control of landed properties

Caste status	Ownership and Effective Control			Total
	Yes	Some extent	No	
High	69	61	62	192
	(35.9)	(31.8)	(32.3)	(100.0)
	(34.3)	(31.6)	(24.2)	(29.5)
Intermediate	108	109	105	322
	(33.5)	(33.9)	(32.6)	(100.0)
	(53.7)	(56.5)	(41.0)	(49.5)
Low	24	23	89	136
	(17.6)	(16.9)	(65.4)	(100.0)
	(11.9)	(11.9)	(34.8)	(20.9)
Total	201	193	256	650
	(30.9)	(29.7)	(39.4)	(100.0)
	(100.0)	(100.0)	(100.0)	(100.0)

It may further be noted from the data presented in the table that those who accept total ignorance about the distinction between these two aspects of property relations constitute a proportion as high as 65.4 percent compared to 32.6 percent and 32.3 percent among those coming from intermediate and higher castes respectively, which may be attributed to the lower levels of education and lesser likelihood of possessing property among the respondents coming from lower castes, which could be viewed as representing a case of double deprivation.

Even with regard to the type of family the respondents come from the findings reveal that those coming from joint families are more aware of the distinction between ownership and effective control of property. The analysis of the reveals that the proportion of those with awareness of such distinction is as low as just below one fourth (24.9 percent) among those coming from the nuclear families. Whereas the corresponding proportion among those coming from joint family is considerably higher at 43.8 percent and it comes down drastically to just around one tenth (11.1 percent) among the respondents coming from extended families.

Table-7
Occupation status and Hindu Succession Act (HAS)

Occupation status	Hindu Succession Act (HAS)		Total
	Yes	No	
Low	87	192	279
	(31.2)	(68.8)	(100.0)
	(24.2)	(66.0)	(42.9)
Moderate	211	93	304
	(69.4)	(30.6)	(100.0)
	(58.8)	(32.0)	(46.8)
High	61	6	67
	(91.0)	(9.0)	(100.0)
	(17.0)	(2.1)	(10.3)
Total	359	291	650
	(55.2)	(44.8)	(100.0)
	(100.0)	(100.0)	(100.0)

It would be observed from the analysis presented in the data that as many as 91 percent of those in occupational status that could be described as high were aware about the provisions of HSA. The corresponding proportion among those who could be stated as having a moderate or intermediate occupational status could also be taken as representing a rather high level of awareness with proportion of such respondents being close to 70 (69.4) percent. However, it is significant to note that the proportion of respondents with such awareness sharply declines to less than one third (31.2 percent) among those who are housewives without a job or those engaged in mental or low prestige occupations like wage labourers or domestic servants and the like.

CONCLUSION:

The lack of awareness is independent of many explanatory variables that are normally assumed to be having a say in determining the levels of such awareness such as rural urban background caste, religion and the like. The general awareness among women about their legitimate and legal rights property is alarmingly low with about one half of the women having no ideas whatsoever about the legal provisions relating to their property rights, warranting immediate steps to bring about improvement in the situation. However, further analysis of the data could provide significant clue to ascertain the causal variables that need to be addressed in order to bring about improvement there are a few independent background variables that are significantly associated with the level of awareness observed, like caste, type of family and region of residence that are rather difficult to be controlled or manipulated. But, there are a few other explanatory variables that could be controlled and manipulated so as to bring about desired effects and results and they being education and employment. It was observed that, educational level of the respondents in particular and the educational status of the family in general could be of immense significance in determining the level of awareness about property rights among women and effective control of the property inherited. Another important variable that could make all the difference is the employment or occupational status of the women that was found to be of greater consequence for awareness among women about their property rights than mere attainments of higher educational levels by the women folk.

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