

**DYNAMICS OF LAND OWNERSHIP OF WOMEN: A QUALITATIVE ANALYSIS**

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***Abstract***

*Gender inequality is so pervasive that various government bodies and international agency have stepped in to eradicate this social evil. Gender inequality exists in different forms such as mortality, natality, basis facility, special opportunity, professional, ownership and household inequality. Among all, ownership inequality is the one that has started receiving attention of the scholar until recently. Ownership inequality has tendency to perpetuate other forms of inequality against women. Although rights have been given under Hindu Succession Act, 1956 and its amendment act of 2005 to have equal rights over ancestral property. Daughters often do not own property and majority of women in India sign away their share in favour of brothers. The present paper aimed at identifying barriers that emerged in the effective implementation of the legislation passed by the parliament to give daughters right to own property at par with brother. The study used primary data collected in the village Matanhail of district Jhajjar, Haryana. The study used qualitative research methods such as case studies and focus group discussion to fulfill the objective of the study. The study concluded that the women were reluctant to claim share of their parental land on account of societal pressure, village exogamy, technical, administrative and political difficulties.*

***Keywords: Gender Inequality, Hindu Succession Act, Property Ownership***

**INTRODUCTION**

Women who are half of the world population were denied resources, voice and agency be it social, political and economic. It was a long-standing assumption that the household act as a single unit whereby increasing household welfare would also benefit women. But the recent literature suggests that women's welfare does not always increase with the household welfare or more specifically when the resources are controlled by men. The alternate models of gender analysis assert that women and men both have different bargaining approach which may not

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benefit both of them equally. Hence, the researchers have come to the conclusion that women must possess resources independent of their male counterparts in order to enhance their bargain power and agency. In the recent years various studies have emerged that recognize this approach for instance Bina Agarwal in her book “A Field of One’s Own: Gender and Land Rights in South Asia” highlighted the importance of ownership of land as the crucial gateway for women development and welfare categorized into three arguments namely welfare, empowerment and equality. For an agrarian economy such as India, where majority of its population is engaged in agriculture sector, land becomes a crucial resource. Moreover, due to recent male migration out of rural economy, agriculture sector is being feminized which makes it need of the hour that women must possess ownership of the land they actually till in the absence of their male counterparts. In order to give women right to own land, Hindu Succession Act, 1956 was passed by the parliament which recognized daughter, mother and widow at par with son as the heir of deceased’s property. It was further amended in 2005 where women were given right to become coparceners in the ancestral property. Although the legislations have been passed, but the true success lies in its implementation which is still lacking (Landesa, 2013). The present research paper attempts to identify barriers that emerges in the effective implementation of the legislation passed by the parliament by using qualitative analysis method.

## **RESEARCH METHODOLOGY**

The present research paper is based on qualitative methods of research. Qualitative methods such as focus group discussion; case study and life history were used for in-depth analysis of research question. As the research objective was subjective in nature, most suited method was qualitative research methods. Primary data was collected through interview schedule in the Matanhail village of Jhajjar district. The district selected as it comes under NCR region plus a wide ratio of different class and caste people resides there. A total of 50 women were surveyed for the analysis of research objective out of which 15 cases were included in the study to get the inferences from the case studies presented in the research paper. On the other hand, secondary data was taken from various reports of government and other organization working on agricultural land property rights of women.

## LITERATURE REVIEW

Land property rights of women had been widely researched upon topic recently. There were wide range of studies that examine dynamics of land ownership among women. From studies that describe history of women's land rights, to theoretical studies on land ownership; studies that explore land ownership data in its descriptive form; analysis of land ownership on their overall well-being.

One of the most cited study was Bina Agarwal's Prominent work on "A Field of One's Own: Gender and Land Rights in South Asia" wherein she advocated for effective rights over property on the arguments of welfare, efficiency and empowerment. It reaches the conclusion that women having independent rights over land were empowered. The present section of the research paper highlights several studies that were conducted on women's land rights which are as follows:

**Agarwal (1994)** in her paper studied gender gap in ownership and command over property. It was concluded that there was serious mismatch between government policy related to distribution of public land and personal law related to inheritance of private property. The study argued that ownership in land is useless without effective control over it. The study identified social, administrative and ideological factors that hindered land rights of women. It strongly advocated for women's independent rights over property on the grounds of welfare, efficiency, equality and empowerment. It recommended strong enforcement of laws, removing gender bias in land registration system and collective ownership by women groups.

**Agarwal (2003)** in her paper explored prospects and problems of acquiring land from state, family and market. This paper argued that rural women did not demand land rights because they adapt their preferences according to their deprivation. It advocated for acquiring land through family and market since most of the land in India is privatized. It recommended measures to access land such as joint lease and cultivation of land, access to government credit to purchase land and joint investment on land by women groups

**Agarwal, Anthwal & Mahesh (2021)** conducted study to find out inter gender and intra gender gap in ownership of property using longitudinal panel data collected by International Crop Research Institute for Semi-arid Tropics. It was found that women constitute 16 per cent of all landowners owning 10 per cent of the plots and 11 per cent of the agricultural land.

Moreover, it was found that the probability of men owning land is 48 points higher than women. It was also found that the probability of widow owning land is 22 points higher than other women. The study recommended gender disaggregated data collection for better policy implementation

**Brule (2012)** conducted study to assess the impact of inheritance reforms on gender equality in land ownership in rural India by using difference in difference strategy created by state level amendments in inheritance laws. The study used panel data of 8569 household's Rural Economic and Demographic Survey collected by National Council of Applied Economic Research. It was found that there was no positive impact of inheritance reforms on women's land ownership on account of women's unwillingness to forgo social security provided by their brothers. It was also found that land officials were unwilling to implement reforms due to their loyalty towards male headed households. The study suggested understanding socio-political dynamics of land officials and stakeholders in ability of inheritance law reforms in changing social customs towards women.

**Deere and Leon (2003)** conducted study to find out gender asset gap in Latin America, methodological problems in measuring gender asset gap and factors that contributes towards gender inequality in land ownership. It was found that men on an average own more land than women in terms of quantity and quality of land. Also, it was found from the available data set on Latin America that woman owns less than one-quarter of the total landholdings. The study found that inheritance was the most important form of land acquisition which ranges from 42 to 84 per cent in case of women. The study found that gender difference in land is due to the male preference, gender bias in community as well as state programs. However, it was found that greater legal literacy, change in laws and state policies have significant positive impact on property status of women. The study recommended more vigorous collection of data on gender assets to explore the dynamics of gender and land

**Doss et al (2014)** conducted study to explore the relative inequalities between women and men in terms of landownership and to evolve measure of gendered land outcomes. The study conceptualized different types of ownership i.e., effective ownership having all kinds of bundles of rights i.e., right to make improvements, rent out, use and potential sale of the property apart from reported and documented ownership of land. From the analysis of micro

level data of sixteen countries, it was found that, Ethiopia has relatively gender-equitable levels of land ownership while South Africa and Nigeria have less gender-equitable levels of landownership. It was also found that women are disadvantaged compared with in terms of reported and documented landownership while there was lesser gap in terms of operational, management and decision-making control over the land. It was concluded that to assess gender gap in ownership it is essential to critically define ownership as it will lead to more reliable comparison being made on gender analysis of land ownership.

**Kelkar (2013)** in his paper examined experience of women farmers who lack land rights, constraints to rural women's land rights and measures to close gender gap in ownership. The study analyzed the field survey done by Landesa in 19 villages of Andhra Pradesh and Bihar. It examined constraints such as unawareness of legal rights, social norms, lack of recognition of women's access to land, biased inheritance practices, lack of formal documentation, lack of confidence among rural women to interact with government officials and lack of authority on decision-making on land. It recommended measures to reduce gender gap in land ownership through awareness of women's land rights, representation of women in revenue administration, gender responsive research.

**Sircar et al (2014)** conducted study to examine factor which were creating barriers in the implementation of Hindu Succession (Amendment) Act, 2005 by using mixed methods. The study was conducted in Bihar, Andhra Pradesh and Madhya Pradesh. It was concluded from the study that there is wider gap in ownership and right to use the land. In addition to this, it has been found that gender identities and institutional practices create barriers in the effective implementation of Hindu Succession (Amendment) Act, 2005. The study recommended strict implementation of laws and creating awareness of the law for its effective implementation.

**Conclusion:** It is stated that most of the studied that the researcher highlighted in the literature review were only statistical and theoretical in nature that lack deeper understanding of the subject matter. As the area of our interest in more psychological in nature that involve complex kinship relation, societal norms and customs rather than just bundle of rights that are legally valid and enforceable by legal authority. Considering this fact the present research attempted to understand the land ownership in context of their economic, kinship and social

structure with the help of qualitative research methods such as focused group discussion, case studies etc.

### **DATA ANALYSIS**

In Traditional patriarch society land is considered as the heritage of male descendants only excluding daughter out of the family picture. The women were not entitled to get land or any kind of immovable property as they marry off and settle in the family of their husbands which would introduce cognate descendants in the list of potential heirs. Moreover, complex kinship structure, social and cultural patterns along with village exogamy and caste endogamy also prevent women from exercising their land rights. The presents section of the paper analyses different case studies related to dynamics of land ownership of women.

### **MALE MEDIATION TO MEET OFFICIALS**

First and foremost, the main reason that women do not possess land is the male mediation required to meet the revenue official which hamper women ability to inherit land and sustain it without the support of male counterparts. As it is evident that in India Purdah system was prevalent which restricts mobility of women to deal with the revenue official which are often male oriented. In this regard following case were worth mentioning.

Sunita, 42 from Matanhail district told that her natal property in Sampla village of Rohtak district was acquired from her brother was transferred on his husband's name as she was not allowed to visit revenue office. In her words she expressed "*Mere papa ke jane ke bad jameen hum teeno bhai bheno ke naam chadh gyi thi, lekin mere pati hi pdha likhi ka kaam smbhate hai esliye men appne jameen unke naam karva di vse bhi humhare ghar me aurte court kacheriyo me nhi jaya karti*"

(After my father's death the land was transferred on my name including my brother and sister, however as my husband performs all the paperwork I transferred my notional share on my husband's name. As in our family women do not visit offices and court.)

### **VOLUNTARY GIVING UP CLAIMS**

As per the Hindi Succession act, ss soon as the father dies the property of the deceased get transferred automatically on his heirs which include his son, daughter, widow and mother.

However, in India, daughter sign away their share in favor of their brothers for variety of reasons. One of the most important reasons that women give away their share in favor of their respective brother is to keep their brother as their go to person in case of marriage or financial breakdown etc. Moreover, brother's support is crucial for women in her lifetime at various occasion such as *bhat*, *chookchak* and various other festivals for which brother performs his duties even after the death of the parents. In addition to these signing away their share would keep open doors of their natal home. Considering all these facts women generally sign away their share as evident from the field survey.

Rajwanti, 68 in her interview with the researcher told that *"Mein to apni jameen bhaiya ke naam utrva ai thi bad me role rapde ho uste to bdhiya ae se. Hamne ke karna se mhare to sausral me jameen se ae. Bhaiya ka hak mhare dhore konya khaya jave"*

(I transferred land on my brother's name as it is better to transfer the land in advance rather than having quarrels afterwards. Anyway, I do have land in marital family. I cannot enjoy having my brother's share).

Kesar, 78 in her interview share that she was reluctant to give her share to her brother as her brother were sent to further pursue their studies of law in Chandigarh. It was her sister and she that actually worked on the farm. She told that *"Mere bas me hove to mein apne bhaiya ke naam jameen kde na utrvau. En ne ke jameen pe kaam karya hai ve to padhan khatar sher rhya karta, gham me to hum donu bhan tapya karti kheta mein. Ab donu bhaiya sher me ae rhve hai gaaon ki jammen bechn khatar mharti bulaya tha, hum to apne jameen utarva ai thi"*

(If it was in my hand I would have never signed no objection certificate for transferring the land on my brother's name. As they have not worked on the field rather, they were sent to pursue higher studies in Chandigarh, it was me and my sister who worked on the fields. As of now they were living in the city, we were called to sell off the land we had in village hence we have transferred the land on their name)

Inferences: From the above cases it was evident that the women sign away their share in favor of their brother whether it is willingly or unwillingly.

## **NATAL KIN RELUCTANCE TO GIVE HER DUE SHARE**

Another factor which hinders the women position with regard to ownership of property is that male was generally reluctant to give share to their daughter out of many complex reasons such as village exogamy, marriage outside the class, patrilocality. Earlier, in the absence of HSAA, there were no cases of women inheriting the father's property it is only after the introduction of HSAA, that the fear of family property going out of the clan comes. However, with the introduction of Hindu Succession Act, it comes with a loophole that exists in the Section 30 of the Hindu Succession Act, 1956 which empowers the Hindu male and female to make a will or testamentary succession of their property. This section was used against daughter to make her deny her due share by making will in favor of son which often do not include daughters as heirs to his father's will.

Seema, 52 of village Matanhail told researcher that her father was himself patwari. He was not well for a long period of time. Long before his death he made a will where all of his property was divided between his two sons. His four daughters were not given even a small piece of land. In her words she told that "*Mere pitajii bimar rehne lge the unhone jane se pehle hi apne vasiyat bnva li thi jisme unhone apni sampati ka batwara dono bhaiyo ke beech kar diya tha*". (My father was ill for a long time, considering this fact he made a will wherein he transferred his property on both his son equally and the sisters didn't get anything.)

Reet, 28 of village Matanhail village of Jhajjar district had love marriage against the will of her parents. She married secretly with her friend who used to study with her in college without consent from her family. As told by her mother his father and brother were not in favor of marriage. After a while she filled for property inheritance with the help of her in-laws and husbands. However, her father had disinherited her from all his movable and immovable property in order to save his ancestral property from going into different lineage.

Inferences: From the above case it was found that daughter though given share in her father property by virtue of section 6 of the Hindu Succession Act. But it is section 30 of the act which empowers Hindu male to make will against daughter which becomes a weapon to disinherit daughters.

### **DOWRY AS THE SHARE**

Dowry system that was being prevalent since long time was another reason that women do not claim their share in the parental property. As it was asserted that at the time of marriage daughter were given dowry and valuable which is considered as her due share in her father's property.

Ompati, 70 expressed her views with researcher that it would be partiality with the son if daughter would get share in the parental property as daughter's marriage requires handsome amount of money in the form of gift, gold and other valuables which often equals the value of the property that a father possess. Thus, it was asserted that daughters should not get claim to the parental land as she gets dowry at the time of her marriage. In her words she told that *"Choriya ke byah me khoob karch hove hair pher byah ke baad bhaat, choochak or baar tyohar choriya ke jaave hai to sampati me hissa kessa"*

(Daughter's marriage comes with lot of expenses and even after marriage social customs such as bhaat, choochak, sidha requires expenditure, that way the question of share in property doesn't arises).

Sunita, 58 expressed her views that if women would start claiming share of their natal property no brother will come to fulfill cultural responsibilities such as Bhaat, Choochak and Sidha that is given to daughter on various occasions. In her words she expressed that *"Agar laugaiya hissa mangna chalu lardengi to bhai bhaat, choochak bharne na avege. Eb to har baar tyohar bhai ave hai, hissaa mange baad to ana jaan ae band hojaga."*

(If women will start asking for their share in natal property, then brothers would not come to fulfil social customs like *bhaat, choochak*. As of now my brother used to come on every festival to give gifts and sweets etc. If women will ask for property, then they would stop coming.)

### **WOMEN'S ABILITY TO RETAIN THEIR LAND**

Another factor which hampers women ownership of land was ability of women to inherit land and retain effective control over it. In this regard it is worth mentioning the following case where in the property of a widow was snatched by zameendar.

Manju, 58 who was widow gave her land on lease to a known jameendar of her village after death of his husband as she was not in a state of tilling the land after the demise of her husband. Later on, when she asked ask him to leave the land as she herself wants to cultivate the land, her land was forfeit and was given land of bad quality in lieu of that which is unfit for cultivation. Despite of report to the local police station no action was taken against him as he was politically and financially powerful. In her words she expressed that “*Manne to jammen mere pati le jaane ke baad booai pe di thi magar vo jameender ne mere jammen hatiya li or ek kill ke badle nalle ke side wali jammen de di jispe kheti nhi kri ja skti. Mene police thane me bhi report karvai par koi sunvai nhi hui bda jameendar tha gareeb aurat ki kon sunta. Ab m kissi or ke khet me dhihadi pe kaam karke apna gujara karti hu*”

(After the death of my husband I gave my land a big landowner on lease as I was unable to cultivate the land myself. After a few years when I asked him to give my land back as I myself wants to cultivate it he gives sides of land instead of actual land which was unfit for cultivation. I filled FIR report in the police station however he was a mighty landlord for whom no action was taken. As of now I work as an agricultural labour on someone’s farm to feed.)

Nirmal Devi, 45 had two daughter and a son. Her husband died during covid 19 outbreak in June 2021. After her husband’s death her mother-in-law along with her brother-in-law thrown her out of the house. They were forcing her to leave the house. Nirmal Devi also called a panchayat meeting to sort out the matter but it was in unsuccessful. Ultimately, she filled a case to get property share of her deceased husband in order to survive and make her ends meet.

**Inference:** From the above case studies, it was concluded that the women are at disadvantage position and incapable of having effective control over their property due to her less bargaining power and lack of resources.)

### **WIDOWHOOD: BLESSING IN DISGUISE**

Despite of social, administrative and cultural obtundation on women to inherit the agricultural land there are several factors which promote inheritance of the land. Among them one was the widowhood as the land gets transferred automatically on the name of son, daughter, widow

and mother. This is how widow become de facto head of the household and enjoys ownership of property.

*Nanni, 68 of the village Matanhail told researcher in her interview that her husband was army personnel. She had three sisters and one son. Her husband was martyred. Afterwards, her son also died of cardiac arrest. On his death, entire property was transferred on her name along with that she gets pension of his late husband with which she is making ends meet.*

Inferences: It is evident that widowhood is the only state in which women come to own land with due regard in the society which comes at the cost of losing her husband. Thus, widowhood can be truly considered blessing in a disguise for women property ownership.

### **ABSENCE OF BROTHER**

Another most common reason where daughters come to own land is the absence of brother. As it is evident that only the male line of descendants was entitled to get land. However, in the absence of any male descendants, women or specifically daughter in the absence of any brother automatically became the undisputed heir of the property. That's another way out from where daughters came to own land as evident from the below case studies.

Rosy, 40 who was doctor by profession had one sister only. Her father was retired professor while her mother was retired lecturer. Her father decided to have two children only regardless of whether it is girl or boy. Her father had six acres of land which was distributed equally among both of the sisters. As told by Rosy "My father was of feminist ideology he never bothers that he didn't have a son. We studied in reputed school and I got supported by my father to pursue BAMS. It was from his retirement gratuity amount that I have started my own hospital. He even made his will wherein all of his property was equally divided between us".

Kavita, 48 who was daughter of Matanhail village was married in Kahnaur village of Rohtak district. They were three sisters only, while her younger sister got married and settled in their respective husband's village. She along with her husband decided to stay with her mother to take care of her. She told that being elder sister she performs all the rituals as brother to give *bhaat* and *choochak* of their sisters. Also, her mother decided to distribute property between three sisters equally.

## CONCLUSION

Gender inequality in the ownership of property is a complex issue that has received attention of scholars recently. It was asserted that household is a single unit which benefits all of the members equally. However, it was evident that women welfare may not increase with household welfare. Thus, women were provided equal ownership rights at par with men with the passing of legislation i.e. Hindu Succession Act, 1956. However, the law was not being implemented in its true spirit. The present study found that women were reluctant to claim their due share because of societal norms, their confinement to the four walls of home, village exogamy and male dominated administrative bodies. The study further recommended ethnographic study in order to better understand the subject matter, along with that the study recommended awareness of law among women and gender sensitization in society.

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