

## CONSTITUTIONAL EQUALITY AND WOMEN: A GROUND REALITY OF PROPERTY RIGHTS

*Sakuntala Gouda*

*Lecturer Capital Law College, Bhubaneswar, Odisha, India*

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### ABSTRACT

*Women and men are an equal and integral part of society. The constitution of India also declared men and women as equal. Thus, we all are habituated with these constitutional messages of equality between men and women. But despite constitutional rights and provisions, in fact, inequality is persisting among us. A big conflict between the dogmas of the society and constitutional rights is causing misfortune to women and they are deprived of their rights. Especially the property right of women is not protected as per constitutional provisions but replaced by social dogmas and women remained silent and unequal in the society. So it is an effort to know the ground reality of property rights and economic safeguard of particular community and how they enjoyed the constitutional rights of equality in terms of property and other economic security in reality. The methodology of the study is the descriptive analysis based on both primary and secondary data. The findings of the study reveal that though constitutionally stated men and women as equal, but equality is not reflected in the case of property rights, getting property shares in the family, and other economic safeguards. Women were deprived of property rights. The social dogmas replaced the constitutional rights of women where near about 100% of women are denied getting of land property and other property shares from the family. Moreover, women were also denied getting equal pay for equal work in daily- wage earning in society.*

**KEYWORDS:** *Constitutional Equality, Property Right, Women*

### INTRODUCTION

As humans, we all are equal in the eye of law and an equal part of society. All of us want to realize it and want to live in it. Our constitution has also given its approval that we men and women are constitutionally recognized as equal and it can glance from the messages of our constitutional provisions given in preamble, fundamental rights, fundamental duties, and directive principles.

**Part III** of the constitution specifies the fundamental right of equality of men and women in all spheres.

**Article 14** confers equal rights and protection to men and women.

**Article 15 (1)** also prohibits discrimination against any citizen on the grounds of sex, religion, race, caste, etc.

So, constitutionally we all are equal, equal in every sphere of life, in social, economic, political, education, etc. But what the ground reality says about equality is also to be considered. When we go through various fields and women's participation in these fields like social, education, economic and political then the picture is just different. The participation

of women in these areas is divergent. They are not participating equally as men. Women though work more hours than male members then also only just 25.70% female workforce was recorded in the 2001 census and their unprofessional activities are unrecorded. Likewise, participation in politics and the percentage of education among men and women are also saying the same story and reflecting the ground reality of women's states. So, we have to consider the reality around us so that we can do something for the equality of women and can make them free from any kind of injustice that may happen due to social dogmas or unawareness of their own rights.

Women's property rights mean the property inheritance and enjoying by women in the family. It means enjoying the property of the family as equal to the male member of the family. The property right of women itself is a very controversial issue as all caste creed are moving with their own traditions and customary laws. About the property rights in 1956 India's top court has ruled that daughters have equal rights to Hindu family property. All Hindu women have equal rights to their father's property as a result the Hindu Succession Act, 1956 was passed. Then the Hindu Succession (Amendment) Act, 2005 (39 of 2005) came into force from 9<sup>th</sup> September 2005. The Amendment Act removes gender discrimination provisions in the Hindu Succession Act 1956 and declared the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son. Moreover, the daughter has the same rights in the coparcener property as she would have had if she had been a son. But what we observe on the ground does not say the same story or reality. Women are not enjoying as equal right with men and it can be proved through the study. So, the target of the present study is to know about the ground reality of property sharing in the family among the Bodo community and state of women's getting land property share and other property shares in the family and their rights in other economic fields.

## REVIEW OF THE LITERATURE

Review of related literature is very important part of study as it helps to get idea, comparative review and helps to avoid any kind of duplication in the study. So for this particular work, related articles are studied and collected ideas and information. The following are reviews of such articles.

Patel, R. (24 Jan 2007) has studied on Hindu Women's Property Rights in India: a Critical Appraisal where the paper addressed the need to critically define the bases and contours of rights as created by law. Moreover, telling the example of changes in Hindu women's position in relation to property through the rights generated by statutory and constitutional provisions, the article critically evaluates the potential for such a „rights regime“ to enable Hindu Women's greater access to property.

Panday, S. (n.y.) has written on Property Rights of Indian Women and stated how Indian women's property right is unequal and unfair, diverted and determined depending on religion, married and unmarried, parts of the country as she belongs and tribal and non-tribal and so on.

## THEORITICAL FRAMEWORK

The targeted group of the people in the study is Bodo women of Baksa District. Bodo community belongs to the Scheduled Tribe or tribal community following all characteristics of tribal with their distinct identity. They are economically backward, and their residence is mainly in the villages of Assam. Baksa District is one District of Assam as per the Bodo land Territorial Area District formation on 10<sup>th</sup> February 2003. As we know, the development of a nation depends upon

each and every section of people's development. So, the developments of the women of Scheduled Tribe, as well as the development of Scheduled Tribe people as a whole, are also equally responsible for nation-building and nation's development. Thus for women's upliftment, the constitution has given many provisions and we also come across many laws to safeguard them. To uphold the Tribes, the constitution has given some special provisions for their social, economic, political development through which they could develop. But the way in which they should progress was not reflected in the proposed target and till now they are economically backward in comparison to General people. According to the constitution from the proposed reservation system in Article 334, they should get equality within 10 years from the commencement year in 1960 and reservation will be withdrawn after then, but that was not done and as a result, it is extended from time to time in 1970, 1980, 1990, 2000, 2010, 2020 and 2030 by the 8<sup>th</sup>, 23<sup>rd</sup>, 45<sup>th</sup>, 62<sup>nd</sup>, 79<sup>th</sup>, 95<sup>th</sup>, and 104<sup>th</sup> Amendment consecutively. Other than that, all together women are already backward in every field of life, in the social, economic, political, and decision making in every sphere of life. So, Scheduled Tribe women are also not an exception from it. It is already stated that as a tribal they have their own identity and rich with some customary laws. Their society is a patriarchal society, though the customary laws of Bodos in the distribution of land for both male and female states the society as an equalitarian society without having any difference of high and low position between the male and female; then also the condition of the society where the father is the head of the family and in the absence of him the eldest son's responsibility as the head of the family represent the society as the patriarchal as well as reveal the position of women in the society.

### **OBJECTIVES OF THE STUDY**

The objective of the study is to know the Bodo women's sense of equal rights of property like getting of land property, other property shares in the family, and other economic rights in terms of the constitutional rights for equality.

### **METHODOLOGY OF THE STUDY**

The methodology of the study is a descriptive analysis based on primary and secondary data. Both quantitative and qualitative analysis is done for the study.

#### **Data Collection**

The primary data collection is based on a stratified random sampling technique comprising 160 respondents from three Sub-Divisions of Baska District, which is a newly created district under Six Schedules as per the administrative provision for the scheduled tribe in the constitution under Article 244 (2) for the states of Assam, Meghalaya, Tripura, and Mizoram. In the district Tamulpur, Masulpur and Salbari are the three Sub-Divisions wherefrom data are collected. Under each Sub-Division, some developmental Blocks are there like, Barama, Baksa, and Dhamdhama under Masulpur Sub-Division, Tamulpur, Nagrijuli, and Goreswar Block under Tamulpur Sub-Division, and Jalah and Gobordhana under Salbari Block. So from each Block, one village is selected for the study. Out of 20 respondents from a village, 10 respondents are literate and another 10 respondents are illiterate women between the age group of 18 to 60 years of age.

#### **Delimitation of the Study**

The Baksa District is covering a very large area of 2,457 km with a total population of 9.5 Lakhs (2011) with 387/km (1,000/sq mi). The total Bodo community's people in the district are though less than the total number of population of the district then also it is not possible to cover every household in the study as time and money become an issue for the study. So, only selective samples of 160 women are targeted for the study.

## ANALYSIS AND INTERPRETATION

The development of the particular community is mirrored by both male and female's equal participation and development. Equal participation of women in social, economic, political field and decision-making in every field makes the development prompt. The Bodo Community belongs to Scheduled Tribe and their dwelling place is mostly in village areas. Economically, politically, educationally they are underdeveloped in the sense that their participation in earning, political participation, and literacy percentage is comparatively lower than the general people and very measurable. Thus while to know about the Bodo community's developments then definitely we have to study Bodo women's participation in different areas of life. Among all the women's participation in economic life makes a different social status. Thus, the target of this study is to know women's property rights and getting of property share in the household. With this purpose study was done with a stratified random sampling method on a total of 160 Bodo women, to know their states in economics and especially on getting a share of the property in the family for equal development and honor of equal property rights. Women's sense of awareness in different fields of life can make them competent to participate and demand to get the same right. Likewise, women's sense of equality and equal right of property and equal wages of equal work will definitely make them competent to get an equal share. Thus, considering it the study was done to know women's sense of property rights and the daily wage of women.

The study on **women's awareness of their equal right of property with men among women**, out of a total of 160 Bodo women 43.12% revealed that they know they have the same property right with men in the family, whereas 56.88% of women were denied of having any idea of such same property right with men. It may be due to their ignorance or lack of knowledge, more than 50% of women were not aware of the same property right of women as men which ultimately defeat women's equality with men and not in favour of getting equal status in the society. (Source: Brahma, B., 2014).

In the study on **women's awareness or knowledge of the same daily right with men**, out of a total of 38 daily wage earner respondent women, 26.32% were aware of or known about the same daily wage with men, whereas 73.68% of women were not known about the same daily wage with men. So, this situation of women where the majority of women are not known or unaware about the same daily wage will definitely hamper women's getting the same wage in earning and it will definitely paralyze economic balance and hamper in being an equal part of the society. (Source: Brahma, B., 2014).

The study on **getting the same daily wage by women with men in their locality** reveals that, out of a total of 38 identified daily wage earners women, 100% women or all total women were denied of getting same daily wage with men. It means that all daily wage earner women were not got same daily wage of their earning and it passage a message of fast disparity of economic security as well as inequality in earning place and women's deprivation in the society. (Source: Brahma, B., 2014).

The study on **women's thinking or feeling to be justice on not getting the same daily wage as men** reveal that 34.21% of women felt it justice as women themselves are weaker to do physical labour than the men, whereas 65.79% of women were not felt it justice as they were compelled to do equally with men. As per the study, the more than 50% of women were feeling it injustice towards women and it is some extend well that they can be the driving force to go against the system in future. (Source: Brahma, B., 2014).

The study on **women's realization on how women's daylong household work or agriculture work remains unpaid and unrecognized** then out of a total 160 of women, 21.88% of women always felt that their daylong household or agriculture work remained unpaid and unrecognized and 63.75% of women sometimes felt so and 14.37% were not at felt that their daylong household work or agriculture work remains unpaid and unrecognized. To feel always and sometimes unpaid and unrecognized of their daylong work by the majority of women is really a matter of tension for women's equality in the society where women are always striving for equality. (Source: Brahma, B., 2014).

The study on **woman's acquiring land property share from father's property**, out of a total of 160 women only 3.12% of women revealed that they acquired the land property from the family or father's property, whereas 96.88% of women revealed that they were not got land property share in the family. It is the fact and very astonishing matter where our constitution has given us equality in property there the majority of women or near about 100% women denied of getting property share in the family. (Source: Brahma, B., 2014).

The study on **women's acquiring other property shares in the family** reveals that 8.12% of women acquired other property shares from the family, whereas 91.88% of women denied of acquiring any other property shares from the family. The majority of women or near about 100% women denying to acquire other property shares from the family is really not showing positivity towards equal development of women and these are just denying the constitutional rights of women to be an equal part of the society. (Source: Brahma, B., 2014).

The study on **women's being earner** reveals that 64.37% of women were earner against 35.63% of women out of a total of 160 respondent women. From this study it can be concluded that more than 50% of women were earners, it may be service, daily wage or other ways but they earned for their survival which is a good sign for women for their equal economic development. (Source: Brahma, B., 2014).

The study on **earner women's self-decision making on own earning** reveals that out of a total of 103 earner women 61.17% women were free to take self-decision on their own earning whereas 38.83% women were not free to take self- decision. It is good that more than 50% of women were free to take self-decision by themselves and it will definitely help to be an equal part in many sects of life. (Source: Brahma, B., 2014).

The study on a total of 57 **non-earner women and their feeling of getting the same status in the family** reveals that 68.42% of women felt that they got the same status in the family though they were not earner, whereas 31.58% of women felt that they had not got the same status in the family in which way they should get like other earner women. So, it is really not good for women that some women are feeling that they are not getting the same status in the family. (Source: Brahma, B., 2014).

So from the study, it is clear that though constitutionally it is stated men and women are an equal part of the society but whatever study revealing is showing another picture where women are not getting equal sharing, equal daily wage and equal status in the family. Maybe it due to own cultural heritage, tradition and custom, but it is really against of our constitutional rights where men and women are directed to be an equal and an equal in the eye of law.

## MAJOR FINDINGS

- The major findings of the study reveal that,
- More than 50% of women, as well as the majority of women, were not aware of their equal right of property and equal right of daily wage.
- 100% of women denied of getting same daily wage with male and more than 50% of women were not felt it justice towards them.
- In the study near about 100% of women denied of getting the land property and other property shares from the family.
- Majority of women felt that always and sometimes their daylong household work and agriculture work remained unpaid and unrecognized.
- In the study, more than 50% of women were earner and more than 50% of women took self-decision on their own earning.
- Women those who were not earner, more than 50% of women felt that they are getting the same status in the family like other earner women.

## CONCLUSIONS AND RECOMMENDATIONS

To be an equal is our birthright. But due to our ignorance or some social reasons women are denied to be equal with men. The patriarchal outlook is the reason behind the scene, with which all rules and dogmas are set and ruling the whole system. The Bodo community is also directed with their customary law the first preference is given to the male child in the family after the father. So, due to the reason women are deprived of property share in the family as well as they are not getting equal status and wages for earning, which is just degrading outlook and unfair for women's equality with men. So, it's time to be free from such a mindset so that equality and development are guaranteed in society.

It is highly recommendable that all people of the community should be aware of women's equal right to property as well as daily wages. The community should come out from social dogmas of giving more preferences and thinking male child as the runner of the family. Women themselves should also be bold enough to bear the responsibility and participated equally with men in every sect of life and bold enough to get their own rights. Ultimately the development of a society is possible if men and women are developed, participated equally, considered, respected each other equally. The responsibility lies in both for generating equal society and all-round development of the nation and development of the human as a whole.

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