

Exploring Property Rights and Domestic Violence among Hindu Women

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Abstract: *Property rights have long been recognized as instrumental to autonomy and independence of individuals around the world. The connection between property rights and gender inequality has its roots in centuries of inequality largely perpetuated through state and customary law. Property rights cannot be understood as a privilege but as a fundamental and basic right that empowers women in domestic, economic and other spheres of life. However, in India, the world's largest democracy and with one of the oldest civilizations, despite constitutional protection and a range of statutory and judicial instruments, Hindu women continue to suffer the most under the combined impact of religious, socioeconomic and sociocultural deprivations. In contemporary India, the Hindu Succession Act of 1956 has gone a long way in protecting women's rights to property after marriage. However, legislative reforms have not always translated into equity and emancipation for women. Legal and socio - economic barriers continue to thwart women's ability to exercise what rights have been granted to them. These barriers are particularly significant in the context of domestic violence. The present paper explores the interplay between property rights of the Hindu women and its role in eradicating domestic violence and initiating women empowerment.*

Keywords: Property Rights, Domestic Violence, Hindu Succession Act of 1956, Domestic Violence Act, 2005

1. Introduction

Historical religious and customary laws were based on a patriarchal ideology where men were responsible for caring and providing for their family. Women did not have to control over the family's assets and were given the responsibility of managing only the household and taking care of the family. Women had no rights over property. The Hindu Succession Act, 1956, the Hindu Succession Act (Amendment), 2005, the Protection of Women from Domestic Violence Act, 2005, and the Dowry Prohibition Act 1961 and these legislations were the only few which conditionally granted some rights in the form of maintenance in lieu of accommodation (Sarkar, 2010).

It is estimated that one divorce in India is filed every 11 minutes. According to the National Family Health Survey of 2015 - 16, 30% of married women have experienced physical, sexual, or emotional violence by their husbands at least once in their lives (IIPS, 2017). These women, many of whom come from disadvantaged socio - economic backgrounds, often rely on property rights to break free from violence and secure their own future and that of their children.

Property Rights of Indian Hindu Women

There are various laws in place that seek to ensure that women have a right to, and benefit from, their husbands' properties throughout the marriage and once it's over. These include: the Hindu Marriage Act of 1955, which is applicable to only Hindus, Jains, Sikhs, and Buddhists; the Protection of Women from Domestic Violence Act of 2005; the Hindu Succession Act of 1956, which gives Hindu women the same rights as men over ancestral property; the Dowry Prohibition Act of 1961; and the Indian Divorce Act, 1869, the Parsi Marriage and Divorce present Act, 1936, the Parsi Marriage and Divorce Act, 1936, and the Special Marriage Act, 1956, each of which establishes provisions related to getting married, annulment of marriage, and divorce.

The Hindu Succession Act of 1956. This Act of Parliament was enacted to amend and codify the law relating to intestate succession among Hindus. Earlier if a Hindu died intestate, his property was divided among the persons contained in class I of the Schedule to the Act. If there were no heirs from class I the property would go to the class II heirs and so on. If there were no heirs in the schedule, the property would go to the Government. "The definitions in this Act and in the rules are designed unless there is anything repugnant in the subject or age. The property of a Hindu male dying intestate would be distributed in the manner specified in S.8 and S.9 of the Act since S.6 and S.7 take away the coparcenary rights of sons and others in property and provide for distribution of property as per the Schedule. The property of a Hindu intestate is classified into two classes, viz, (I) Separate property and (2) Coparcenary property: 1. Separate property: Separate property of Hindu dying intestate shall devolve in the manner.

When a male Hindu dies after the commencement of the Hindu Succession Act, having at the time of his death an interest in a Mitakshara coparcenary property, his interest in the property shall devolve by survivorship upon the surviving members of the coparcenary and not in accordance with this Act. Provided that, if the deceased had left him surviving a female relative specified in class I of the Schedule or a male relative specified in that class who claims through such female relative, the interest of the deceased in the Mitakshara coparcenary property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not by survivorship. Explanation of the Acts overall effect across India The Act has been set in as a law that will govern as to how the property should be handled when there are any changes in the family. As the law was initiated it was applicable only in certain areas of the nation and as time passed the scope of the area where the law was applicabled was also increasing. The amendment was brought in after being passed in both the houses of the parliament and by the President of the Republic. The Act has not been set in as a law that will be void, amend or enforce some aspects of the laws that are in force that had been set long ago.

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Domestic Violence Act (2005) This act consists of 5 chapters and 37 sections stating: chapter 1, section 3 which talks about definitions to domestic violence chapter 2 section 11, 13 dealing with the protection officers, service providers and also gets to know the protection orders, section 19, 21, 22 states the other reliefs and compensations. Chapter 4 section 28 gives punishment for breach of protection orders passed under this act and safety of a complainant woman, while chapter 5 section 33 and 34 talks about the power of the central government to make rules and state government to make the rules, etc.

The Domestic Violence Act is one of the most unique and strongest tools given to Indian women. Under the act women can take not only civil but also criminal recourse which includes protection officers, shelter homes, medical, financial and maintenance facilities. All sections of the act are non-bailable. Any violation of the interim or protection order of the court shall result in one year of imprisonment or a fine of Rs 20, 000. The Integrated LawPedia system created by the students recommend the people to take the help of the Protection Officers regarding any problem. Despite of the free legal services available to the people, there are no provisions for accommodation, medical facilities or any other financial assistance under the act. However, there are provisions for relief from the respondent and maintenance from the husband. The Procedure is a detailed one for The Act. The first process after the violation of the law is to inform the police. In case the complaint is not registered, the police have to provide valid reasons for the same in writing.

A police officer may arrest the accused without a warrant, if he has reasons to believe that the accused has committed an offence. The duty of the protection officer, appointed under this Act, would be to ensure that the orders of the court are implemented and the aggrieved party is protected. The service providers, like medical facilities, are also required to report the incidents of domestic violence to the protection officer. Any person, including a victim, can make an application to the Magistrate, alleging that an offence has been committed. However, only the aggrieved person may apply for reliefs as mentioned above. Generally, the court is supposed to give within 3 days, the date on which, the application will be heard. On the date fixed, the applicant has to prove the allegations. If the court is convinced, then an interim protection order can be granted, which explains the terms and conditions of how the respondent is supposed to behave.

Domestic violence is a multidimensional problem and needs cooperation from various agencies and organizations at different levels. It needs strong political will and changes in societal norms, attitudes, and beliefs. The shortage of trained personnel to handle domestic violence cases is a reality. Another issue is the high level of underreporting that characterizes domestic violence cases. There is a need to relook the methods through which these cases are reported and handled. Although a significant number of cases go unreported, the increase in reporting of cases is creating a lot of stress on existing infrastructure and resources. Research indicates that a large number of cases are withdrawn by the complainants and, as a result, services are overextended to a few. This necessitates the need for a careful evaluation of whether these services are being optimally utilized. These

challenges can only be met if the government takes appropriate steps, and sensitizes and mobilizes all the institutions across the nation.

2. Challenges and Limitations

In almost all the religions, traditions, and customs, women have been made to face disadvantages and biases, Indian women are one of them who have faced abandonment and cruelty in different dimensions. With specific reference to Hindu Indian women, research has been focused on how domestic violence within a marital family has unveiled the hypocrisy of the society and the traditional ways in which they have hidden it, justifying that it belongs to the private sphere. Despite the progress made by the Indian State in terms of law - making and constitution, the testing question remains of the patriarchal system that is still edified and maintained by the family, community, society, and the State. Survivors of domestic violence have to rebuild their lives and future with social support and empowerment.

Lack of Awareness Regarding Property Rights

Although being a well informed and equipped with laws and amendments on paper, in reality many times these women are not able to stand for their rights and control over their own property does not empower them sufficiently. Because of lack of awareness and education, the women are not familiar with their right over the property and in many cases, the women do not have any property in their name (Harris, et al.2020). With no economic independence and financial stability, the women are compelled to live in any condition of life. There is also social pressure where senior citizens and other members of the family pressurize the young women to transfer the property and restrictions over what is to be done with a woman's property. The women are pressurized to take permission from the seniors for using the property (Sabri & Rameshkumar 2022). The domestic violence in the households against those women who are unable to fulfil these secret demands is a common concern in Hindu society. For instance, the daughter in law's family is required to shower gifts to get the acceptance from their in laws otherwise; they are thrown out of the family and are also faced by acute violence.

Domestic Violence against Women

In modern Indian society, the state has implemented laws to protect the rights of women and has provided them with the means to encounter abuses (Daruwalla, et al.2020). However, in practice, these laws are not enforced effectively which leads to a decline in physical and psychological well - being of many women. In India, domestic violence is common across all communities and social groups, but it appears to be more prevalent among Hindu women.

Domestic violence against women is a global public health concern. Epidemiological data of Department of Women and Child Development, Govt. of India suggests that 70% of women in India are victims of domestic violence. In a study by the International Institute of Population Sciences (IIPS), in collaboration with the WHO, Ministry of Health and Family Welfare, Govt. of India, 2% victims among ever - married women. According to (NFHS - 4), in Uttar Pradesh which is one of the populous states of India 51% of women were found

beaten, or sexually assaulted during their married time. Materialism and idealisation of wives are two forms of domestic violence very rare/widely observed among Hindu Indian families (Sabri & Rameshkumar 2022).

In a patriarchal society where men dominate and women are to submit to every need and demand of their men, it has become difficult to eradicate domestic violence as a social problem. In India, domestic violence is deeply rooted in gender inequality and traditional gender roles, which make women subservient. It has also come to be recognized as a justification for men to assert power and control over their women. Women are generally seen as the weaker sex and men are often compelled to hold control and dominance over the women, but this perception is increasingly being challenged by various women's organizations (Steinert, et al, 2023).

Hindu Indian women survivors of domestic violence also face daunting challenges in accessing support services and legal remedies that are meant to protect them from violence and abuse. Shelter homes, counselling centers, legal aid and medical services are either not available or are not sensitive to the unique needs and values of Hindu women. Key informants in the NGO and government sectors provide examples of struggles of women survivors of domestic violence and challenges faced in gaining access and protection from abuse.

Intersection of Property Rights and Domestic Violence

Property rights and domestic violence form a high - impact intersection, with the position of the husband's family members in the household taking center stage. Dower rights and enforced joint property often deter women from speaking out against abuse, given the risk of being disowned by the family and husband and losing all possible benefits in terms of property (Peterman, et al.2017). Another form of abuse comes in the form of women being deprived of maintenance as a form of threat of being disowned, and also legal recourse is very formidable considering the long - drawn ordeal of litigation and the legal fees, which is sometimes only possible by selling off the woman's share on property.

The existing literature has provided compelling evidence that the practice of harboring property in a woman's name is a significant protective measure against domestic violence (Kanougiya, et al.2021). However, it is important to be aware of the constraints which come with such protection. Akin to wider structural constraints and limitations, the practice of placing property in the domain of women's rights, poses its own web of potential domestic violence challenges which further sheds light on already existing areas of contention that are privileged upon by norms and beliefs that seek to undermine women's property rights (Peterman, et al.2017).

Role of Property Rights in Empowering Women

Property Rights is important to empower women in society. They are the basic necessities for women to protect themselves from domestic violence. When the ownership of property and assets is given to women, they are not only brought on par with men, but the atrocities and inhuman behavior meted out to them from husbands, in - laws, relatives and children stop almost immediately (Daruwalla, et al.2020). When a woman is thrown out of her marital house, the only

place she can find refuge is her parental house. If her parents are non - supporting, she will either turn into a destitute or commit suicide. The Unni Family.

Challenges in Exercising Property Rights due to Domestic Violence

As a result of domestic violence, many women face difficulty in approaching public authorities for support. The experiences of abused women demonstrate the institutional apathy and challenges at the administrative level that impact their ability to exercise women's property rights (Kanougiya, et al.2021). Additionally, abusive spouses and in - laws also actively sabotage women's efforts and sometimes forcibly change property records. Authorities delayed taking actions on complaints as the urgency of providing immediate relief - eviction or restraining orders - in such matters is not fully understood. Therefore, there are significant barriers in women exercising property rights.

Initiatives and Interventions by the Government

Government of India has introduced several reforms in the legal and policies to strengthen the property rights of the women. It is observed that these initiatives address the needs of the women where in they are required to be made aware of their rights and ensuring their ability to articulate and negotiate. As a result of the Indian government ratifying the Convention on Elimination of all forms of discrimination against women (CEDAW), the national government has undergone the reform both legally and in policies. The reforms have been undertaken in the Rashtriya Mahila Kosh (National Credit Fund for Women), Balika Samrudhi Yojana (Child Prosperity Plan), the National policy for the empowerment of women and a deliverance partnership with agriculture, corporate banks, and commercial banks as well. In terms of their collaboration with the international NGOs, they also maintain the UN Women organisation partnership.

Efforts made by the government are not comprehensive enough to address this issue and do not match the powers secured by the Hindu Succession Act as it remains a passive agent in the radii of enforcing these laws. The government has introduced the Domestic Violence Act however, it fails to reflect the property rights which have been created by different religious scriptures. This issue therefore falls in the civil domain which is still not partially covered under the overburdened Indian legal system.

Non - governmental Organizations (NGOs)

Several non - governmental organizations (NGOs) work together to promote and protect women's rights, and the number of such organizations focusing on property rights and women's rights in general is steadily increasing (Steinert, et al, 2023). . These organizations also provide critical support systems for victims of domestic abuse through shelters, counseling, and legal aid. It is important to note that these organizations rely on the work of dedicated volunteers and have limited resources.

Awareness Campaigns and Advocacy

Awareness campaigns and advocacy work in India has been a prominent fixture in the public sphere, particularly in the wake of the 2012 gang rape that took place in New Delhi (Steinert, et al, 2023). This horrific event served as a catalyst

for numerous NGO and global human rights campaigns to raise attention to the ongoing and unaddressed issue of violence against women in India. A variety of such campaigns aim to raise awareness of domestic violence and sexual violence. In addition to this, advocacy movement has gained significant ground in the past few years, attempting to bring to light a more rights - based discourse and one that acknowledges these rights within the context of Indian culture and tradition.

There is a need for case studies and examples to highlight the different ways in which women assert their property rights. These could be successful or not so that we are aware of the methods that work, those that might work and those that do not work. It is also important for us to understand the unforeseen challenges that women are likely to face, without providing us with the relief and the redressal that would follow (Krishnakumar, & Verma, 2021). Generally, in situations involving families, the play of power is so deeply entrenched, that those at the bottom of the hierarchy are usually not aware of where they can seek solutions. Enforcement of laws, sometimes judicial delays, sometimes the mere police apathy towards registering an FIR, sometimes the threats and stigma attached to such proceedings. Moreover, for some women who come from the uneducated strata fear the unknown, the fear of what happens in police stations, fear of loss of honor that the family entrusts in the women (Sharma & Khokhar, 2022). All these fears come in the way of a domestic violence victim seeking her rights as retaliation against an abusive husband.

Successful Cases of Women Asserting Property Rights

The success stories of women who took on their families in court and were able to get justice sometimes come out as positive stories of the hard truth of life. Rakhiben, Rama, Lalita, Vimla, Tejasvini and Ashaben in Vadodara, Gujarat, Urvashi, Pramila (All the names were changed to maintain confidentiality) and many other women went through the ordeal only to emerge stronger (Krishnakumar, & Verma, 2021). The justice delivery system did not fail them. They filed cases in the lower courts, but the accused approached the Gujarat High Court with the appeals. Once the Gujarat High Court was approached, the lower courts no longer had the right to deliver a judgment. After years of their penance and fighting, these women received justice when they approached the Women's Commissioner and sought justice.

Challenges Faced by Women in Seeking Justice

Another major problem which is faced by women when they are trying to assert their property rights happens to be the lack of legal aid. Most of the women are from poor economic backgrounds, and they do not have the resources to invest in good legal aid (Sharma & Khokhar, 2022). This is very crucial for them because a bad legal aid can result in a long drawn legal battle, leading to mental and emotional harassment. The laws governing property rights in India are more than 100 years old which makes them outdated. Even though the laws have been reformed to some extent, they still lack clarity. A good example to cite the above point comes from a lawyer who has been practicing in this area for the past 30 years. He says, "In case a woman has to prove her rights in the agrarian land, she along with her lawyer and the village Patwari have to visit the land to prepare a map. They then will

have to take that map to the revenue courts, to get it rubber stamped. "

3. Conclusion

In summary, while it is clear that financial security, or lack of it, can have detrimental impacts on the abuse that Hindu Indian women suffer, dealing with this issue entails changing traditional cultural attitudes towards women and helping to combat cultural and religious institutions that discriminate against women. Changes must come from the ground up, with grass roots level activism to help change attitudes towards women, and improve their chances of fighting the institution of dowry, and the violence and discrimination that comes from it.

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