

Land and Property Rights of Rural Women in Bangladesh

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Abstract

Land property is the best resource to remove poverty rather than any other economic sources. Land plays a very important symbol of social prestige and power. But, Women are being deprived from land rights in society and family levels due to socio-cultural constructs in the patriarchal mind-set up society. Consequently, policy and laws are not gender-sensitive and failed to take initiative for ensuring women land rights. So it is crucial to recognize the significance of equitable land rights for women play in their socio-economic empowerment which reduces the power gap between men and women in a society and leads towards gender equality and human justice.

Land is very important to rural people. Land gives them food and sustenance. It provides shelter. It ensures continuing income. Land provides security in times of peril when poor people need money. In terms of area of land per capita, Bangladesh is ranked 227 out of 237 countries with 0.872 square kilometers per 1000 people. Arable land is 0.05 hectares per person. The economy of the country is still heavily dependent on agriculture. The paper is an attempt to present the priority issues and challenges for rural women in the context of women's land and property rights in Bangladesh.

Women in Bangladesh face various discriminations; social and economic disparity is a common feature in the society. The main factor acting as a hindrance against development of the women is related to their limited and unequal right and access to resources, particularly to land and other fixed assets. The existing laws of inheritance, patriarchal values and social practices in Bangladesh society are inclined towards consolidation of discriminatory attitude. The law of inheritance related issues is governed by personnel law based on the religion of the concerned individual. Thus, the Muslim women are governed by the Sharia Law(applicable for more than 90% of the population. According to the Sharia Law,

As a daughter:

1. A daughter of a late father has only one daughter and no son then the daughter will get only half of the property.
2. If a late father doesn't have son and he has more than two daughters then they will get two third of the property together.
3. If a late person has daughter and son. Then every son will get half of the property that means one daughter will get half property of her father. More than one daughter will get two third of the property. If there is a son then daughter will not get the half of the property, relatives will get partial of the property. In this case according to Muslim law no one can donate not more than one third of property and if there are another inheritance they cannot make will of whole property to daughter.

As a wife:

1. If late person doesn't have any children or doesn't have any grandson or generations down wards than wife entitled of one fourth of the property. For any children the wife will get one eighth of property.
2. If a late person have son or grandson than wife (One or More than one) together will get one eight of the property.

As a mother:

1. If late people have children or have any grandson or generations down wards than mother will get one sixth of property.
2. If late person doesn't have any children or doesn't have any brother or sister than mother entitled of one third of the property.

The Hindu women are governed by Daidhag (affects 9% of the population) According to the Hindu Law,

As a daughter of a late father:

1. If late fathers have son, grandson, great grandson, daughter and wife than daughters are not entitled of property.

2. If above mentioned are absent than unmarried daughters right will be the first.
3. Barren daughter, daughter with no son, widow daughter are not entitled for property.

Wife or Widow of a late person:

After passing the Act in 1937 the widow also can enjoy life time enjoyment opportunity. According to that the widow only can access to property during her life time. But can sale or donate.

As a Mother of a late son:

1. If the late person has, son, grandson, wife and father than mother is not entitled for property.

As a Sister of a late person:

A sister cannot be an owner of property of her father.

It could be mentioned that after passing the Hindu Disposition of Property Act 1956, Son and Daughter has equal rights over late father's property. The only declared Hindu country Nepal also ratified laws on same issue. But there are no ratifications made in Bangladesh therefore the Hindu Women situation remain unchanged. Recently while Bangladesh Law Commission initiated for ratification of Hindu Laws than a part of the community stand against the ratification.

\According to the Christian Law,

The Christian are the minor but very important part of Bangladesh. Christian women property rights are as follows:

As a daughter of a late father:

According to the Act 1925 Son and daughter will have equal rights on father's property.

As a wife of a late person:

If a late person has children than widow will have one third of property. If the late person doesn't have children than widow will have the ownership of whole property.

As a mother of a late person:

If a late person have son, daughter and father than mother will not get any property. In absence of above the property would be shared by mother, brothers and sisters equally of the late person. If a late person doesn't have any brother or sister than mother will get the whole property.

As a sister of a late person:

If father of a late person, has father or son than sister cannot be entitled for property. In absence of above sisters will have equal opportunity to share property with mother and brothers.

If there is a minor change in state laws regarding land rights that change should not be rebellious, it is evaluated. The situation of inheritance laws of Bangladeshi women is wide spread throughout the country. This is only a symbol of women rights.

According to the Muslim Shariah, a Muslim woman has some limited right to inherit property, while Hindu law in general does not have any provision for a Hindu women to inherit, except in few extraordinary and exceptional circumstances. The maximum entitlement of a Hindu woman according to the law ends only with the right to be maintained by the males during the prenuptiation period at the paternal side, and husband's side after her marriage till her death. Their position in the family and society is peripheral and vulnerable. On the other, whatever limited access to inherit has been provided to a Muslim woman, in practice, she rarely gets what she is legally entitled to, due mainly to patriarchal system. The practice of execution of ownership right in the land by women is also enrooted in the cultural customs of the Muslim society. The established values and norms reveal that a "good sister" should surrender her share on paternal property in favor of her brothers. This is also discourages women from asserting their right.

Although women can inherit and/or own a part of her father's and husband's landed property, they seldom exercise their rights to do so. The common view in rural areas is that men play the major role in cultivating land. Only men have the right to make decisions about how to use and exploit the land. Women rarely have their names on land titles, certificates, leases and contracts. In rural areas man is often considered as the head of the family, either implicitly or through designation, and this status gives him authority over decisions on property and land. Sometimes women have the legal documents and deeds for their land ownership but it does not mean actual rights at all. Since women landowners do not control their land holdings, it cannot be assumed that their economic and social status never be the same as male landholders own

Still, there are several factors that rural women do not enjoy their land rights,

- Discriminatory laws and regulations especially related to property and inheritance
- Customary practices and traditional patriarchal relations within families and communities
- Overall disadvantaged position of women (nutrition, education, access to information etc.).
- There is no autonomous law in Bangladesh.
- There are several laws for several parts of the society.
- Basis of Law is Religious.
- Land rights of Women are based on religious and customs, therefore equal rights are violated and discriminated.

The consequences are massive when women's rights are violated. If a woman does not have productive assets, that makes a big difference. Without property, children don't look after their parents well. When women get divorced, become widows, or their husbands take another wife, they become vulnerable because they don't have any land where they can shelter. Women are excluded from participating in community decision making. Even, within the household women have no control how household resources and income are utilized? Women are responsible for only maintaining the household, childrearing and subsistence farming. Women's lack of rights in, access to and control over land, housing and property can also contribute to women's experiences of violence. Without security of tenure it is difficult for women to leave abusive and violent households. At the same time, a lack of security of tenure means that women can be forcibly evicted from their homes and lands on the whim of an angry spouse or male relative upon marriage breakdown or widowhood which invariably leads women to homelessness, landlessness and destitution, exposing them to further violence. Women's continued lack of rights in, access to and control over land is one of the underlying impediments to women's empowerment. Women's disadvantaged economic position creates a structural dependence on men for access to resources which, in turn, subjects women to insecurity. This is particularly damaging to women in today's privatization-driven economy where economic assets and resources are increasingly determinants of power and independence. Until women have power and control in the processes that confer economic power, women will continue to be subordinate to men. Women are being deprived from land rights in society and family levels because of the gaps in so called main stream development mechanism at the moment. The ultimate result of this situation is inhuman dowry system and the number of divorced are increased day by day.

A woman's right to property, her powers to make household financial decisions, and her access to credit, productive resources and extension services all directly affect her family's health, nutrition and financial well-being. In the context of Bangladesh women has limited power to make financial decisions and access to right the property. Legal or social restrictions prevent many women from owning or inheriting land, water rights or livestock, borrowing money and making decisions regarding the use of family assets. This has a direct and detrimental impact on their ability to manage security.

Women's involvement in economic decisions is extremely limited. It is also noted that women have little access to asset ownership. Because of the prevailing traditions, very few women own land or other physical assets. The lack of asset ownership, especially in terms of land, limits their access to the institutional credit. This keeps them away from self-employment opportunities.

The decision-making power has significant impact on the family size. In a male dominating society like Bangladesh, husband plays a predominant role in all major household decisions.

However, there are some good practices around the promotion and protection of the land rights of rural women such as poor men and women constitute a significant percentage of landless section in Bangladesh and by default neither they have capacity to purchase nor inherit land from their ancestors. At this backdrop Government of Bangladesh have undertaken policy and laws and subsequently initiated public land re/distribution programme to the land poor man and women where women's equal rights have been entrenched. For instance the Government of Bangladesh drew up the Khas (Government owned land) Land Distribution Policy that guarantees joint ownership of husband and wife.

The registration of marriage and divorce has been made compulsory in Bangladesh (Compulsory Hindu marriage and divorce registration Act very recently been proposed in Bangladesh). Such registration of marriage gives legal approval to someone's marriage which has a direct impact on achieving rural women's land rights. If one of the partners dies, such registration authorizes the women to claim for the property and the investments of her husband. Due to unregistered marriages women counter problem in proving them as single claimant of the public land distributed to their joint name when there is divorce, separation or abandonment.

The Issues of Movements and which are for Reconstruction in Bangladesh:

- Release access land according to ceiling allocation.
- Reconstruction of Land Management.
- Initiate to distribute Khas land among the landless and information dissemination.
- Administrative reform and distribute among women.
- Present power structure should be reformed
- Awareness among the women to establish individual land right and initiate to develop independent human being.
- Land movement could be accelerated against communist rules.
- Women Land Rights means free from control of men and establish rule of law.
- Politicians should be sensitized with the issue of women land rights.

Land Rights of Women is not only legal entity: It is also,

- Social
- Administrative
- Doctrine

Movement, reconstruction, policy orientation, development of laws should be considered in light of above context.

Recommendation:

1. Reformation of inheritance law (Ensure equality and balance among men and women)
2. Priority should be given upon the distribution of Khas land and on raised up Khas land where women should be more emphasised.
3. Provide legal base to the Ethnic minorities/Adibasis community and eliminates the historical rightlessness of women.
4. Women land rights is recognized in Ethnic society. State should preserve political and cultural rights of this community.
5. Implement the declaration of CEDAW & Beijing conference plan for action.
6. Detail survey on situation of land ownership.
7. Information dissemination on related land laws/acts

8. Develop different political organization including mobilization, organization and cooperative.
9. Reformation of land administration, generalization of land law and computerization.
10. Development of land related international laws.

If the state really wants to empower women, it is very important to provide them the rights to control over their property, respect their decision to family, society and on the state.

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