

Women's Property Rights in Bangladesh: What is Practically Happening in South Asian Rural Communities

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Abstract: From religious and normative point of view, women in rural Bangladesh may legally claim their inheritance of the paternal property through a hereditary rule of succession which is also prescribed by the Islamic religion. Among the rural communities in Bangladesh, land and any other properties can be inherited legally and conventionally by both boys and girls but usually, this line of inheritance for the girls does only prevail among those who live there permanently with their parents even after marriage. Ideally, a woman within the family appears to have nearly an equal right to property having legal claiming of half of the share of property of a man which is a common practice representing the religious scripture. But women's customary rights of property ownership, often cease to continue as soon as they leave their parents' house to move out with their husbands, after marriage at distant places. In legal context though, the scriptural and normative rules partially recognize their claim to paternal property but in actuality, the women eventually dispossess them because of the prevalence of a stereotyped community ideology.

Key words: Normative rules, property, hereditary rule, village, Bangladesh

INTRODUCTION

Recent development slogans on gender asymmetry express a kind of equal rights and participation of the women in different spheres of the community activities (Kabeer, 1995). As recently as in 1970s, a special type of development programs ensures an equal participation of the women in different spheres of community activities. This image of the women is further highlighted particularly during the mid 1970s, when the United Nations designated in 1975, as the International women's year. In 1980s, women were again declared theoretically as the beneficiaries in all sectors of development programs. During the 1990s, the concept of WID (Women in Development) emerged administratively with the UN framework of the country (Kabeer, 1995; Emelina, 1991). In fact, many women involved in these development activities believe that these programs simply reinforces women's subordination contributing legally to the preservation of the same traditional male dominance (Emelina, 1991). As part of continuing women development, the recent strategies of micro-financing programs have also been evolved to generate their own income for subsistence as women are identified as better users of credit and better borrowers having a high record of repayment (Getubig, 1993; Yunus, 1991). In regard to women in development, the concept of micro-financing is another important innovation towards creating a poverty free world, specially designed to empower the women to

generate their own income for subsistence (Yunus, 1991; Getubig, 1993). Grameen bank is perhaps the first type of program where the women are directly allowed to involve themselves in economic activities. Yet, the difficulties are found here because of some structural impediments of patriarchal dominance in the Asia-pacific Region where the real control of money still remains with the male persons. This is also true that the extension services further enhanced women privileges by providing them employment in various private and public sectors, thus empowering them through social capital. In this context, the most crucial is to ensure their socio-political and economic rights within the structural framework of their family and communities. It seems to be essential because it is often predicted that if their family rights within the community is well protected, it will eventually give them due status in the society.

In many South Asian societies, women subordination is acknowledged in every sphere of their life. In several respects, women are regarded as a legally disadvantageous group by many interpretations in regard to their family rights. From legal point of view, daughters always inherit lesser property than their sons, yet this right is not protected. Under this condition, this study is designed to depict the real situation of the women property rights within the family and community in rural Bangladesh. Based on this data gathered from two interior villages in the Northwestern part of Bangladesh, the study gives us a few empirical evidences in this context.

WOMEN PROPERTY RIGHTS IN BANGLADESH: AN EXPLANATION FROM LEGAL AND RELIGIONS PERSPECTIVES

It is reported that South Asian women, whether she is a Hindu or a Muslim had always remained to be in a very culturally disadvantageous position as compared to men. Bodley mentioned that in both the Holy books of Hinduism and Islam have undermined the position of women indicating the point that they are always treated as subordinate to the men. The Holy books of religions subscribe this kind of submissive role to the women (Bodley, 1994). But, it may be noted here that this interpretation is not however accurate in regard to Islam as it does recognize the principles of property inheritance. This disadvantage of the women perhaps is based on the mythological beliefs and the religious doctrines written in the sacred books of their respective religion. This is also particularly true in context to Bangladesh society where the women in rural areas are enjoying relatively low status both within and outside their families. Many observers find it clear that in most cases of rural Bangladesh religion prescribes an important guideline for their cultural way of life (Bodley, 1994). Women's rights in marriage, divorce and inheritance in property ownership are fully dictated by the Islamic prescription and these are later stigmatized in the societal situation. In this context, women are clearly discriminated in regard to their right to property ownership which is visible in their inherent traditional socio-cultural context. The Western scholars often blame Islam for treating women as inferior to men, from legal and moral point of view (Bodley, 1994). But, it seems to unjustified, as Islam clearly speaks about the rights of men and women, especially in regard to property ownership. This position has often been misinterpreted by the western scholars (Papanek, 1982). Islamic rules kept the provisions of allowing the girls to inherit paternal property at par with the sons and accordingly it says that the sons will receive full share of property while the daughters always will receive half of their brothers' share (Coulson, 1971). This system of greater share of inheritance for the boys is justified with an argument that a male member as husband is always responsible for the maintenance of his wife, independent of her own means. But on the other hand, as a wife, the girl does not have any such responsibility for her husband as such. But in the case of South Asian societies, this rule is not actually followed in proper sense of the term. What is particularly happening there is that when Islam recognizes half of the share of inheritance, the existing social institutions and customs have entirely forbidden them from owning parental property.

In the rural areas of Bangladesh, it is always customary that daughters after their marriage should not claim any property from their parents. From socio-cultural point of view, it is a kind of disgrace for them to claim parental property when they leave the family, after marriage. This study, thus will document this situation by providing empirical evidences in the following pages. These customary practices are regulated under the samaj (an informal village social organization), where it's leaders actually place some embargo on the women in land transfer and title-change due to their marriage.

SOCIO-ECONOMIC AND CULTURAL FACTORS AFFECTING WOMEN'S INHERITANCE

It has been already indicated that in Bangladesh women discrimination in regard to property ownership is exclusively visible in its inherent socio-cultural situation, a traditional belief system and the cultural practices that had long been prevailing in that society since long past. It is therefore very essential for us to understand women's status and position from the societal context.

Whatever social activities the women usually perform within the family, the social customs of rural culture always induced them to accept a subordinate status accompanying a sense of inferiority to males. Every social practice clearly excludes women from the socio-economic rights in the family and thus enforces a negative image of them in terms of economic rules. For example when a girl after marriage leaves her parent's house, it is assumed that she becomes a member of her husbands lineage. Ellickson (1972) reported that the women in Bangladesh after their marriage become members of their husband's gosthi and also at the same time, they retain membership of their father's lineage and it then becomes the responsibility of her husband to provide her with all sorts of economic and social protections. In rural Bangladesh, it is usually the system that at the time of her marriage, a girl brings in with her a few valuable gifts from her parents and relatives. Customarily, these gifts are the clothing, ornaments and certain other household equipments which are brought by the bride during her arrival at her husband's house. In many occasions, the bride's family presents a kind of material goods and cash money in the form of dowry (A dowry is very common to South Asian society and it consists of the property given to the brides' family which enables the newly married couple to establish their new household) to the groom himself or to his family. The dowry goods often includes a bicycle, motor cycle, radio, video cassettes, sleeping bed and many other valuable items depending on the economic ability of the bride's father and based on the negotiations

agreed upon during the marriage and depending on the capability. Data gathered from the investigations of 191 housewives from Dhononjoypara and Gopalhati villages were analyzed and it gave us a clear picture of the situation when it was found that as many as 149 (78.01%) respondents had brought some kind of dowry gift from their paternal homes for the groom's family. It is however, relatively rare for the women to bring any land, cattle or any other forms of capital goods. The researchers have only found 22 (11.52%) of such cases from the study villages who had accepted some homestead land from their parents for their settlement, after marriage. Even we have example when a property is bought in her name but as soon as she is married, her disposition on it temporarily ceases away. This is however not only the situation in rural areas but the same thing also happens in the urban areas as well (Ahsan, 1994).

ECONOMIC OPPORTUNITIES AND THE ROLE OF WOMEN IN THE FAMILY

Traditionally, Bangladesh is a patrilineal society and the male members of the family control the capital resources in most of the cases, even though it might be legally owned by a woman. There is a rhetoric concerning the importance of women as a channel through which wealth and money moves within the family. It is their brothers, fathers and uncles who usually control the economic transaction within and outside the family.

A woman has only a formal control over the goods and possessions within the sphere of her domestic households. She is responsible for its maintenance and has to work hard for its every type of socio-economic well-being. As a matter of fact, like Bangladesh, many women in the Asia-Pacific regions, usually are found to work for 14-18 h a day which has often been described as invisible unpaid and unrecognized (Narula, 1991). In Bangladesh, all family supplies whether in the form agricultural produce or any other resources, come under the direct control of the wives. But to speak of the cash money as it has been indicated before is fully controlled by the male members. Many examples from the different village studies give us evidences to corroborate this statement where the family purses are remaining with the males (Chowdhury, 1978; Karim, 1990).

The control of the domestic resources constitutes an important prerogative of the senior women of the family. And such women from the rich households obviously can exercise maximum domestic power having been able to control more resources. But in the case of poorer families, women's power on such situation is reduced to a great

deal because of their lacking of resources. During economic scarcity, such women from the poorer households are even expected to find out the means to provide her family with all necessary food and subsistence. In many cases, these women from the poorer families remain unfed and hungry to arrange food for other members of the family.

LAND INHERITANCE AND CONTROL OF OTHER INTANGIBLE PROPERTY IN RURAL BANGLADESH

The researchers have to bear it in mind that the most important aspect of property in rural Bangladesh, from which the women are usually deprived of their rights is land. Admittedly, it is agreed that land is the most visible form of wealth and the status and position of a person is significantly related to it. Stepanek also observed that land is the security for a person in rural Bangladesh and it is an important item for establishing dominance in this society. In this study, researcher therefore provided data to exemplify the deprivation of the women from the land property in the villages in Bangladesh.

First of all, let me begin with the Islamic way of looking at property system and thus make a judgment about its applicability in rural Bangladesh. Prior to the emergence of Islam, there had existed a long inter-tribal hostility or warfare in the form of jahiliyyah (unruly barbarian) among various groups and sub-groups of Arabian Peninsula (Zulkifley, 2007). In the tribal society of pre-Islamic Arabia, there was a system of property inheritance where they wanted to keep their paternal property within their individual tribal jurisdiction. These tribes were patriarchal and patrilocal where the women always had occupied a subordinate position (Coulson, 1971). These tribal groups clearly mentioned that a woman after her marriage to another tribe, henceforth along with her children will belong to her husband's tribe. Islamic principles, however specifically forbidden these customary practices of succession and instead, it transformed a new social scheme which for the first time recognized women property rights, from the legal point of view.

Almost a similar type of pre-Islamic tribal system of property inheritance now exists in Bangladesh. In anthropological research on two villages in the North Western Bangladesh. Data for this study were gathered from two villages named; Dhononjoypara and Gopalhati located in the Northwestern part of Bangladesh. The researcher conducted this ethnographic study of 2 villages in the Northwestern part of Bangladesh during

1980s where he had stayed for more than a year since August, 1984-1985 for an extensive fieldwork as part of doctoral program in Syracuse University, USA. Since then, researcher frequently went to these villages to refresh fieldwork memories and finally, as part of formal revisitation as a researcher again was done for a shorter period in the years 2010 and 2012. Total enumerations of the villages were again done in 2012 with a set of all inclusive questionnaire. But, the women interviews were done in 2010 in his presence. Gender played a vital problem and it was a specific constraint to gather data from the women. But researcher and his assistants kept distancing from the women and in many occasions very tactfully managed to get their views through their husbands and kin members. Researcher has observed that for consolidating their power, the lineage members in rural Bangladesh are united under a common political leadership. They corporately conserve its severally owned estates and so prevent land owned by gosthi members from being alienated. In the villages, Dhononjoypara and Gopalhati which the researcher studied most extensively during the middle of 1980s, researcher clearly observed that the villagers successfully keep their land title mostly within the patrilineage and almost the village (Karim, 1990). If a villager, for example, wants to buy or sell a piece of land, the usual custom is that he first of all must consult the lineage head with an expectation that he might find out someone within the group who can buy it. Three motives work behind this custom firstly, selling land outside the lineage weakens their community tie in the samaj secondly, an economically weaken lineage will probably become politically weaken as well and thirdly, the villagers discourage outsiders from gaining access to village land. One point becomes clear from this type of land transaction system which indirectly discourages a patrilineally dominant society like Bangladesh, disallowing their women to receive paternal property who are married outside (or within) the village (Karim, 1990). In the foregoing discussion, researcher tried to put an argument saying that in Bangladesh, state legislation and religious rules though theoretically recognize women's property rights but the local customs often prevent this fully depriving the women from their parents' property. Menon (1995) observed that while the women in India are reported to have considerable legal rights to inherit property, only very few of them actually claim these share of property. This is also particularly true for the rural women in Bangladesh. It can be proved from my data from two villages of Dhononjoypara and Gopalhati where researcher conducted an intensive ethnographic fieldwork by staying in them for more than a year during 1984-85.

And subsequently, researcher conducted a small field study in the early part of 2010 in the same aforementioned villages. During subsequent field studies of 2010, a total of 191 housewives were interviewed most extensively to learn about their attitudes regarding women property ownership in the villages. From those interviews of 191 households, at least 169 (88.48%) were identified who did not inherit any land-property from their parents, although most of the respondents are well aware of their religious and legal rights in regard to property ownership. In a few cases when a woman takes any land from her father, she actually takes it under some specific situation in which a husband usually presses his wife to bring property from her father.

But, this is never appreciated by the community people rather he is regarded as greedy and it eventually undermines his status in the society. It happened for example in the case of Munira Begum from village Gopalhati who had claimed her share from her father's land in the village. Due to this, her brothers became very much annoyed with her and broke all types of social and family connections with Munira and after that, they never visited her house. Munira was also socially condoned and almost lived a lonely life being neglected by all her relatives and kin members.

While, the housewives were interviewed further to express their views in regard to a question as to whether they should inherit parental property. It is surprising to note that most of the respondents (162 or 84.81%) mentioned that the women should not inherit property from their parents. Some of them are reluctant to inherit paternal property because of the reason that they take it un-prestigious for a woman to claim it. The researcher has a specific example from village Dhononjoypara where Azhar Sarker, an exceptionally rich and wealthy person in the village having owned more than hundred bighas of land had died leaving behind him, three sons and two daughters. His daughters were married outside the village and they never claimed their share from father's property. Leaving their share in father's estate and renouncing their inheritance rights as a matter of fact, enhanced their status in the village and it had increased their social prestige.

With regard to general attitude about property inheritance, almost all the respondents however, categorically told us that they feel it disgraceful to accept father's property. Thus in rural Bangladesh, it is the social norms and customs which prevent the women in their economic rights Islamic religion does not have any bearing on their attitudes. This is also equally true for other South Asian communities (Orr and Whyte, 1982; Bhutto, 2005).

DISCUSSION

We often assume that the enactment of laws is a basic policy for effecting changes in regard to socio-political, economic and cultural norms of a given society for reaching a desired direction. But, it is clear from the foregoing discussion on women's property rights in rural Bangladesh that merely the existence of rules does not always mean that it has a practical implementation of it. This has been found true when it is observed that the Islamic rules of inheritance recognized the ownership of property for the women yet, it is not propagated truly nor it is practiced in real sense. *Asabiyya* designates a descent through male links from a common ancestor. It is a kind of monopoly of rights of succession by the male agnate, relatives or *asba* of the deceased (Coulson, 1971). This is a kind of tendency that had existed prior to the arrival of Islam in Arabian peninsula (Zulkifley, 2007). Although, a few researchers often want to blame Islam for only recognizing partial share of property for women but in reality, we find good argument in the system of property ownership in Islam. Women in South Asian communities are discriminated socially and it is inherent fully in the patriarchal traditions that keep women subservient to men. Islam should not be blamed in this regard. Through informal discussion with the villagers, researcher learned that many issues are discussed in the village mosques during the Friday prayer but a topic like property distribution has never been discussed there in a big congressional meeting. As a matter of fact, in the South Asian context, the existing institutional framework and the normative systems simply discourage the women to claim paternal property in the rural areas. In rural Bangladesh, it is not customary that women after their marriage take share of the parents' property; the claiming of property rather disrupts kinship ties and family relationship. Due to social disapproval and family disliking, in many cases women usually forego their property rights. Researcher has a feeling that the religious laws and the state legislation deliberately overlooked this issue. In strict sense, there are no initiatives for the legal enforcement of such legislation nor is there any authoritative implementation of such rules. This might be equally true for other South Asian countries.

For example, it has been reported from India that there exists a kind of legal rights for the women to own and inherit property but very few of them actually can claim these (Menon, 1995). Most important factor which creates impediments for the women to gain access to land is the most complicated and cumbersome procedures of land transfer systems that prevail in our country. Women usually become the victims of such procedures. Women illiteracy also contributes much towards the economic

deprivation of them in rural Bangladesh. Being illiterate, the women are mostly put to domestic spheres of activities and as such, the male members are trying to rationalize their involvement more in the family, in the name of its welfare. By adopting the structural explanation, the women are made educated for the usefulness of the family they are not educated to be aware of their fundamental rights (Ahsan, 1994). Because of the inherent traditional complexities of the social structure, women are continued more to the social roles, fully constricting them to the domestic sector. Because of the inherent traditional complexities in the social structures, women are advised to remain inside homes and also they are discouraged to come in public for participating in the economic production system.

A few devoid women often want to argue that since the girls during their marriages, bring enough material goods as dowry from their parents, it is not however, desirable that they also subsequently accept parental property. But they do not however, have such practical realization that the boys also at the time of their marriages spend an equal amount of money and resources. In a patrilineally dominant society like Bangladesh, there is a stigmatized tradition where the economically capable and solvent son-in-laws do not often encourage their wives to bring property from their parents. The policy planners, researchers and administrators should take caution of all these issues, to make fair justice in terms of gender asymmetry.

CONCLUSION

In Bangladesh, there is a predominant social stigma where a woman always will have low symbolic family status, if she claims her paternal property. The scriptural legislation therefore becomes very much ineffective by way of showing a clear deprivation of women property rights. Based on empirical data collected through an anthropological method from two remote villages in the Northern part of the country, the study explains analytically as to what cultural understandings support this inherent contemptible South Asian pattern of the women property rights in rural Bangladesh.

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