

Property Rights of Women: An Epigraphical Study from the Period AD 600-1200

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Abstract:

This paper explores the property rights of women in various capacities (daughter, wife, mother and widow) through epigraphical records of the period AD 600-1200. Debates over property rights of women are age-old. The concept of property rights of women in Indian early medieval period has been specifically focused here. The research was carried out extensively on the inscriptions of the period dated between AD 600-1200. Simultaneously literary sources of the period under study were also consulted for the linear development of the subject. Scrutinizing differences in inscriptional and literary approaches not only help us to understand the concept of property rights available to women in early medieval India but suggests some valuable parameters needed in present laws also.

1. Introduction

The Hindu Succession (Amendment) Act, 2005, has made the daughter (of a coparcener) by birth a coparcener in her own right in the same manner as the son. This Act has put the son and the daughter on equal footing in the matter of succession, both testate and intestate. Earlier in Hindu Succession Act, 1956 the daughter had got place among the heirs who could not be excluded from the list of heirs of the property. Each of these reforms appeared to open the door for change in gender ideologies and women's rights. To get this right, women of India have struggled enormously over a long span.

Today most of the social systems of the world are trying to provide equal property rights to both, male and female. In India also, recent constitutional and legal developments have enhanced the scope of inheriting property by female almost equal to her male co-partner. Otherwise, history is witness to those sorry moments also when equal rights were denied to woman. Reasons put forth for this gender biased discrimination were biological dependence, women's economic deplorability, or sometimes spiritual inferiority. From Vedic times to the present, she seems to be fighting to get equal rights. Her individuality remained encircled by her identification as a daughter, wife, mother or widow. Even she witnessed the times when her existence was equated with cattle. Besides familial identification, rarely were the chances of

holding any other socially responsible position where she could show her abilities. It was under the patriarchal society's influence that her rights were not equated with male. Her economic dependence gave no chance to expose herself independently.

A woman was always under the tutelage of father, husband and son (*Manu*. IX. 3).ⁱ She independently did not possess any right. Even in property matters, it was male always who decided the fate of female successors. Female was represented as joint owner in property matters in Vedic times. There was no explicit reference to their right to inherit property. But the Rigvedic hymns show that husband was deemed to have a natural proprietary right even upon the wife. The deterioration in her right reached a climax during the later-Vedic period.

It was only in first century that woman became successful in seeking the attention of writers of Dharmasastras where they openly declared that women and children cannot be the objects of sale or gift under any circumstances (*Yaj*. II. 175)ⁱⁱ. Slowly, woman got the status of human being but equality was denied to her, specifically in the field of property matters. From the second century BC onwards, there seems to have been a reversal in the unfavorable attitude of the brahmanical law-givers, for women's right to property came to be openly recognized.

Main thrust of study is to evaluate through inscriptions, of the period between AD 600-1200, the rights of daughter, wife, mother and widow through direct succession among the list of natural heirs to the property. The question which would be probed further is whether the amount of *stridhana*, when given as dowry, constituted $\frac{1}{4}$ th share of property of father in true sense? Did the law makers of early medieval period take any care to safeguard property rights of female section? How far those laws stand complementary to the present property laws relating to women? All these aspects would be touched in the sections that follow.

2. Property Rights of the Daughter

The story of woman from womb to tomb remained of deprivation only. Since birth her social, religious and economic status in the family is never the same as that of her brother. In Rigvedic society, a daughter was first to get her right of inheritance recognized but on the sole ground of not having any brother (*Rigveda*. II. 124. 7). Baudhayana, Gautama and Vasistha omit the daughter as an Heir (Kane. 1974. 714). Yajnavalkya and Visnu both rejected this starkly explicit notion of legal gendering of property ownership and recognized the daughter as an heir after the widow. Narada recognizes the daughter as an heir after the son on the ground that she

continues the lineage (of the deceased father) just like a son (Narada. II. 296). Main liberal thinkers like Yajnavalkya, Brihaspati and Narada wanted to get continued the daughter's rights of inheritance. Their cause was finally recognized and daughter was called to inherit father's property in the absence of brother. After a considerable controversy over the issue whether and to what extent a daughter should succeed along with a son, Manu and Yajnavalkya conceded that a daughter should get $\frac{1}{4}^{\text{th}}$ of the share of a son.

In inscriptions we have examples where daughter succeeded their mother's property. The case of Bhauma-kara queens is a glaring example of daughter's succession to their mother's property though it was considered more of administrative and political interest than a familial relation. As no male member survived, then only, girls got the chance to succeed to the throne as well as property. An inscription of Jayasimha, dated tenth century of Madras state sufficiently throws a light on the property rights of a daughter (*EI.* vol. XXIX. 203). In this fascinating inscription the concept of *Kanyadana* has also been discussed. The king gifted a piece of land to a damsel. The lady converted the barren and rocky piece of land into a fertile field. Then had arisen the question of property rights over this piece of land. The record ended with a statement to the effect that the right of succession to the ownership of land should devolve upon the female children in the lineage of the female and not the male offspring. In case there was no female issue, the right was to pass to the male children. Text of the inscription reads:

... Jayasimha, having said to Mochabbarasi, 'I have made you a gift due to an unmarried girl (of the family)', she received (it), felt glad... (ll. 5-7). In the lineage of excellent Jogavve, the right (of succession) goes to the female children and not to the line of male children; when there are no female issues it goes to the male children (ll. 26-7) .(*EI.* vol. XXIX. 203). This inscription clearly shows the dominant trend of absolute interest over the property and independent transfer of land to the daughter by a mother on the basis of first preference.

This document challenges the conservative opinion of Baudhayana, Gautama and Vasistha who omitted girl from the list of heirs. Even lawgivers such as Manu and Yajnavalkya's views were set aside by this inscription by declaring daughter as absolute owner of mother's property. So far as the property relation between daughter-father was concerned, obviously father kept a soft corner for his daughter. Daughters were never the natural heirs of their father. The father was however, at liberty to give any amount of wealth as a gift to his

daughter (Kumkum Roy 1999. 118). The relatives of royal class of early medieval period are found as keeping sentimental feelings for their womanfolk in property matter, except widow. In Mamballi Plate of Srivallavangodai (AD 973) found in Trevandrum region, the father made the gift of land to his daughter. The finances, for raising the statue of a god as well as temple on that land, also came from father. The dependence of daughter even in religious matters though without any formal obligation can be seen in this inscription. It tells us that Adichehan Umaiymmai of Tirukkalayapuram, daughter of Adichchan, set up a *bhattaraka* (image) in the temple at Ayurur. The king Sri Vallavangodai made a gift of land to Umaiymmai for the purpose of keeping up the services of the *bhattaraka* set up in the Ayurur temple; and she, in her turn, made over the subject matter of the gift to the Tiruchchengunrur temple, in order that it might be placed under the management of Poduvals of that temple (*EI* vol. IX. 235).

Daughter got ample opportunities of developing her religious tastes in connection with property matters. An inscription of AD 986 from Tiruchirapalli district (Tamilnadu) recorded a sale of land by the *mahasabha* to a temple which were endowed by the daughter of a Cera king (*SII* vol. XIX. 408).

In literary sources, Sukra has championed the cause of a daughter's share in her patrimony, even if, she was not brotherless (Altekar, 1938, reprint 1978. 241). We have several pieces of evidence in inscriptions which seem to have followed Sukra's viewpoint in division of property. In AD 990, inscriptions of Kudur district (Karnataka), girls were listed along with their male counterparts in the division of property, and that also for the equal share as for male(*EC* vol. VI no. 9). An another inscription from Mysore region dated AD 1188 refers to a gentleman named Machi, who partitioned his landed property both among his sons and daughters (*EC* vol. VI no. 24). Atleast in the south region of India, daughters had got full share in property matters in early medieval period. These inscriptions, therefore, present a view in contradiction to those statements of law givers which favour woman's share directly or indirectly in husband's property, but never in father's property.

Inscriptional and literary examples of cross-cousin marriage as well as marriage with the maternal uncle especially in South disclose the attempt to keep the property which went to the daughter within the control of natal family (Kumkum Roy 1999. 136) .

Contrary to it we also have several examples where property from paternal home shifted in the form of dowry items including cash, land or even cattles. One such example is given in the Hebbal inscription of Dharwar district of AD 975 which clearly stated the dowry items in the form of a pieces of land given to the daughter in marriage(*EI* vol. IV 350.) This inscription tells first that it was during the Rastrakuta king Krisna III that Baddegadeva, i.e., his son Amoghavarsavadiga gave his daughter Revaka in marriage. In the last lines land-items in dowry are elaborated. It reads: Hail! Baddegadeva (holding her) in (his) lap, Revaka ... gave her in marriage to the illustrious Permanadi – Batayya, and gave, as (her) dowry, the Puligere three hundred, the Belvola three hundred, the Kisukad seventy, and the Bage seventy...(*EI* vol. IV. 350).

An inscription of AD 1188 from Mudgere taluq of Karnataka interestingly states of a case where father left his land for both son and daughter, and later on daughter's children encroached upon the land of the son's children. Surprisingly no hue and cry was raised over it. Neither we hear of any case against this injustice nor any law seems to be working against it (*EC* vol. VI. 24).

In the period between AD 600-1200, we have many references to cite where daughter not only succeeded her mother's property but took keen interest in sale-purchase transactions of the property. An inscription in the Ranganathasvami temple (Kongu country) doted to the twelfth century recorded endowment of land by sale by the daughter (*SII* vol. XXIV 104). Although her identity as a wife had also been shown but she had not lost her parental identity. In the Srirangam inscription of Patta-mahadevi, endowment of two plots of land was done by a queen in daughterly capacity in AD 1154 in Tiruchirapalli district of Tamilnadu (*EI* vol. XXXVIII. 229.). these inscriptions also suggest that woman was almost free in her transactions of property. Secondly, it was not necessary that her individual identity as a daughter was lost even after marriage.

3. Property Rights of Wife

The land that was given in the form of dowry items was considered as *stridhana*. Woman had absolute right over *stridhana*. She could manage it anyway she liked. An inscription of AD 986 from Tanjavur district detailed for a gift of land by a Cola queen to a temple. The land was stated to have been purchased for the religious purpose from a lady by

name Kadan Singam to whom it belonged as *stridhana*. (*SII* vol. XIX 404). *Stridhana* literally means woman's property (Kane 1974.vol. III. 772.) . It has got its identification as bride-price also. Manu gives a comprehensive description of *stridhana*. According to him that 'which is given over the nuptial fire (*adhyagni*), that which is given in the bridal procession (*adhyavahanika*), that (which is given) for an act of love (*dattam-pritikarmani*), and that (which is) received from brother, mother, and father, (all this) is called the six-fold property of woman(*Manu*. IX. 194.). Jimutavahana limited the scope *stridhana* by declaring that only that much property was *stridhana*, which women were allowed to dispose of according to their own free will, but conceded to women full proprietary rights over its time-honoured six-varieites (Altekar. 1978. 225.). But so far as inscriptional evidence in the matter of *stridhana* in the period AD 600-1200 was concerned, it can be seen that property right as accorded to women in theory did not have same substance in reality. An inscription from Tanjore district (AD 986) made this clear that woman was free in the property rights granted to her as *stridhana*.(*SII* vol. XIX no. 404.).

Even the amount given to the bride on her marriage as *stridhana* could not be spent lavishly by her husband. If he spent the amount, he must reimburse the same either by equal share of land or by any other means. An inscription found at Kilaiyur in the Thanjavur district dated in the tenth year of Kulottunga I registered a sale of 115 *kuli* dry land by a woman to a temple for 690 *kasus*. She sold the land through her husband (*ARE* No. 83 of 1925). Another inscription found in Mayuram Taluq goes back to the twenty-seventh year of Kulottunga I (AD 1070-1122) referred to the sale of a house through her husband. It further mentions that he had signed in the document (*ARE* No. 70 of 1925.). Miserably enough women could be seen fighting for her property rights even till the twentieth century where in Pratibha Rani v/s Saroj Kumar case, Supreme Court of India had to declare that the husband is pure and simple custodian of the property (*stridhana*) of his wife and mere fact of joining her husband would not indicate that she has entrusted her *stridhana* to her husband (*AIR* 1985 SC 628). In the list of property, jewels were also counted, upon which woman had absolute rights. This is borne out by an inscription issued from the twenty-second year of the reign of Rajaraja I (AD 985-1016), which stated that: A lady by name Perarullan-kerri purchased 100 *kuli* of lands by selling her jewels (*ARE*, No. 431 of 1919.)

4. Property Rights of Mother

Mother remained an undisputed legal successor of her son. Her right to inherit the property of her son was recognized since early times. Manu, who did not recognize the widow as an heir, concedes to the mother, the right to inherit the property of a son dying without any issues (*Manu*. IX. 217)ⁱⁱⁱ Yajnavalkya allowed the widowed mother a share equal to that of her son (*Yaj*. II. 123).^{iv} Inscriptions across north to south throw light on the property rights of mother. Starting from Chamba (Himachal Pradesh) in northern region, where a title-deed of queen-mother had been preserved in a copper-plate inscription of Somavarman and Asata (Vogel. no. 25, p. 193.).

Her name (Rardha) sounds among the persons who enjoyed the lands at the time when grant was made in AD 1070-80. From the language of the title-deed it can be inferred that she was alive at the time of donation, and subsequently survived her husband as his widow. In inscription her title was of queen-mother, who possessed a *jagir*, which has been indicated by the name of *kuloti*, out of which she granted four *bhu* of land (Vogel. no. 25 193). Coming down to south, we find open participation of mother in property matters. A record of AD 979 found in Tanjavur district registered an endowment of land after purchasing the plots from several persons. (*SII*. vol. XIX. no. 228.) It was made by the queen-mother of Gandradittan Madhurantaka Sri Uttama Cola for the merit of her son in the temple of Tiruchchelur-Alvar. In the above-cited inscription as the mother-queen purchased a land from several persons, it seems likely that she was quite independent in her property matters. Perhaps this exalted position and independence was limited only up to royal class mothers. The property rights of mother in early medieval period extended even from daughter's side. An inscription of Ranganathasvami temple from south of AD 1127 recorded the property rights of mother of a queen in following words: It registers a gift of *ma* of land bounded by Jayangondasolan-tirunandavanam on the west, Rajadhirajan-tirunandavanam on the north, Alappirandan-tirunandavanam on the east and Kaveri on the south by Tillaiyalagiyar, the mother of queen Araiyanulagudaiyar alias Ologa (Loka) – Mahadeviyar to Kandadai Tiruvaranga-narayanan Sri Sadagopan for a flower garden in her name and for her own welfare at the instance of Kalivalam-udaiyan Tiruvayikulam-udaiyan alias Valavanarayana-muvendavelan, the *srikaryam* of the temple. (*SII*, vol. XIV, no. 117.).

Very precise demarcation of the boundaries of land gifted by mother of the queen tend to indicate that queen had given this piece of land with absolute property rights to her mother for further use.

5. Property Rights of Widow

There is a considerable debate going on among scholars about the property rights of widows. For a long time widow's right to inherit deceased husband's property have remained unrecognized. Infact a Hindu widow neither got share in her father's property nor in husband's for her support in her widowed life. Before Hindu Succession Act of 1956, mostly due to non-possession of legally enforceable rights to property, the position of widows remained precarious. In early medieval period the champions of liberal school included smritis of Visnu, Yajnavalkya, Jimutavahana and Brihaspati, whereas Baudhayana, Apastamba and Manu smritis repeatedly asserted an orthodox point of view on the issue of property rights of widow. Most of the Dharmasutras are also opposed to widow's property rights. Whether he was Baudhayana who expressly rejected the wife's (widow's) claim, (Kane 1974. vol. III, 702.) or Apastamba who preferred male *sapinda* relatives than widow. (Altekar 1978. 251.) Both are against widow's property rights. Manu has also echoed the same bias against the fair sex in the matter of property rights by declaring bluntly that the property of a sonless person will first devolve upon his father, then upon his brother, and finally upon a *sapinda* or *sakulya* in accordance to his propinquity. When none of these options were available, first a preceptor, then a disciple, and finally the king should take it away (*Manu*. IX. 185 and 187.) . Medhatithi who was a commentator on *Manusmriti* has pointed out this flaw of Code of Manu. Narada also confirmed the same view (*Narada*. XIII, 50-2.).

Gautama tried to put forth a modest proposal that the widow should be regarded at least as a co-heir with other *sapindas* (Altekar 1978. 252-3.). These strong defenders of Hindu laws of joint ownership found the claim of widows as an individual's demand against the legal norms. Historic shift had occurred after the first century AD with the statement of Visnu demanding the property rights to be vested in women by declaring that a widow will succeed as first heir of a deceased person in the absence of a son (Kane 1974. 702.) Yajnavalkya with a liberal social outlook strongly upheld the claims of widow and a daughter as heirs in the absence of a son (*Yaj*. II. 135, 136). According to the Dayabhaga school there being no *apartibandha-daya*,

the widow of a sonless member even in a joint family succeeds to share in the family property and there is no difference between joint family property and separate property (Kane.1974.708.) . Brihaspati has argued in favour of widow's share in the property in a convincing manner thus: 'Since a wife has been considered as half of her husband in sharing his good and evil deeds, when a man dies leaving behind his widow he still continues to live as being represented by her. How can therefore anyone succeed to his property except his widow?' (Kane 1974. 703.). Hence these legal debates were marker of broader discursive shift which occurred from the time of Manu to Brihaspati in the matter of property rights of widow. It seems that during early medieval period many centrifugal and centripetal forces were working in favour of widows.

Let us discuss the views reflected in the epigraphical sources of AD 600-1200, regarding property rights of widow. First inscription which is being discussed is of eighth century AD found in Ratnagiri district, where grant was made by Vijayamahadevi, or Vijayabhattacharika, the queen consort of Chandraditya. The language of the grant indicates that Vijayabhattacharika continued to reign after her husband's death, probably as a regent during the childhood of her son. She granted some land in the memory of her husband (IA. vol. VIII. 45-7.).

It is clear that a widow in early medieval period (if did not adopt path of *sati*), had to observe very strict rules of chastity. That is majority of land donations of widows have been either donated to religious institutions or for religious ceremonies. An another inscription of AD 979 from Tanjavur district, the widow queen-mother made land grant for the merit of her son to the temple of Tiruchchelur Alvar (SII, vol. XIX. no. 235.). It seems very likely that during the Cola period the bias against widow reached to the extent that property was given to Crown/*sabha* (as prescribed by Manu) but not to the widow of the deceased person. An inscription found at Achchalpuram dated in the fourteenth year of the Rajadhiraja II, gives a clue that in the case of a sudden demise of husband, the *sabha* possessed all rights to decide the right of lands, jewels, and other properties of the deceased person (ARE No. 538 of 1918.). Ironically, it included jewels also among the list of property of deceased husband, which was counted among *stridhana* of the woman. What to say of common women, even women hailing from royal class came under the authority of these unfair laws. The position of widowed queen-mothers seem to be better off up to the extent that they could donate land grants for religious purpose. Also the

question of specific share in property did not bother them much. Small pieces of land-donations satisfied their religious urges, completed social responsibility and enhanced the prestige of king also. But they could never enjoy fairly extensive ownership rights over any immovable property. It does not seem to have amounted to anything more than their right to claim maintenance from their immediate male guardians. It was possible that she could only spent some allotted pieces of lands. Instances are found when mothers are seeking the permission of their sons to donate land.

6. Conclusion

In this whole narrative of granting property rights to female, the society of early medieval period seems to have followed liberal attitude, however, strict prevailing ordinances (laws) tried to push social fabric backward. It is strange to note that it was only in case of property rights of female that development stages were noticed to gradual upgradation otherwise in rest of the cases reverse trend was perceptible. In the case of daughter's property right, the tenth century inscription of Jayasimha stands as a milestone. It openly forfeited the claim of *smritikaras* that only son could succeed the property. And only jewellery could be claimed by the daughter that also only from *stridhana*, property of mother. The free dealing of women in land and money transactions, specifically of *stridhana* shows that male dominance factor worked weakened practicality. To royal class female had the independence to make land tax-free. Even widow, who was completely denied the right of inheritance, figures sympathetically in property rights in the inscriptions. As she was leading a more religious way of life as a widow, her interest of land donation naturally took more religious turn, but she was given free hand in religious land-dealings. Though her legal relationship to property illuminated contradictions also. For her survival, inscriptions indicate, she might get share in the property of deceased husband. Similarly the society of the period between AD 600-1200, followed liberal trend in providing property rights to mother. Inscriptional study also contradicts the observations of those historians who emphasized that women were granted the right to inherit property mainly to save it from falling escheat of the state in the absence of complete ownership over the inherited property. The available inscriptional evidence may not be much in number but are conclusive in character.

Abbreviations

<i>ARE</i>	<i>Annual Report on [South Indian] Epigraphy</i>
<i>AIR</i>	<i>All India Reporter</i>
<i>EC</i>	<i>Epigraphia Carnatica</i>
<i>EI</i>	<i>Epigraphia Indica</i>
<i>IA</i>	<i>Indian Antiquary</i>
<i>Manu</i>	<i>Manusmriti</i>
<i>Narada</i>	<i>Narada Smriti</i>
<i>SII</i>	<i>South Indian Inscriptions</i>
<i>Yaj.</i>	<i>Yajnavalkya Smriti</i>

Notes

- i. The father guards them in childhood, the husband guards them in youth, in old age the sons to guard them. A woman ought not to be in a state of independence.
- ii. This records a sale of land, 6 *ma* and odd in extent, free of taxes by the *mahasabha* of Nityavinitamangalam, a *brahmadeya* in Idaiyarru-nadu to the temple of Isvara-Bhatara at Tiruttavatturai, for 30 *kalanju* of gold, which had been endowed to the temple for burning a perpetual lamp of Sankaran-kunrappolan of Puttur in Malai-nadu on behalf of Kokilanadigalar, the daughter of Seramanar Chera king.
- iii. The mother should receive the heritage of a childless son, and in case the mother is also dead, the father's mother should receive the property.
- iv. Neither brothers, nor parents, (but) sons take the inheritance of a father; the father should take the inheritance of (a son who dies) without a son, and also the brothers. The property (of one deceased) should belong to that (man) who (is) next after the *Sapinda*; next to him, one of the same clan should be (the heir); (next) the teacher, or even a pupil.

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