

Trapped in a 'Reproductive Economy', Most Women Can't Access Property

Analysis shows that only 7% of married women own land in landed households. The comparable number is 93% for currently single women.



Illustration: Pariplab Chakraborty

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“When the husband and wife are treated as two wheels of a family cart, then the contribution made either by the husband by earning or the wife by serving and looking after the family and children, would be for the welfare of the family and both are entitled equally to whatever they earned by their joint effort. The proper presumption is that the beneficial interest belongs to them jointly. The property may be purchased either in the name of husband or wife alone, but nevertheless, it is purchased with the monies saved by their joint efforts.”

The recent landmark judgement by the Madras high court (*Kannaian Naidu vs Kamsala Ammal*) shines a spotlight on three interrelated issues. First, the gendered roles and responsibilities dictated by social norms, the structural inequality faced by women in our country, and the interplay of norms and lack of legislations for gender equality in an intimate relationship can have material (and non-material) consequences for the parties involved.

In short, the Madras high court held that a wife as a homemaker is entitled to an equal share in marital property as she has performed household chores round the clock, thereby enabling the

husband to engage in gainful employment and accumulate sufficient savings to purchase property. [The judgment](#) in its entirety is well worth reading, [and a shorter summary is here](#).

In most societies around the world, including in India, the male breadwinner and female caregiver model is deeply entrenched. This social expectation affects women and girls from the cradle to the grave. Admittedly, men suffer too, but in a patriarchal society, women are much worse off. From an early age, girls are socialised to perform well in the reproductive economy encompassing biological reproduction and social reproduction, including home maintenance, child rearing, elderly care and transmission of cultural values. Men, on the other hand, are expected to participate in the productive economy and put bread on the table for their spouses, children and parents.

This gendered social contract translates into structural inequalities that largely impact women far more negatively than they do men. Fewer resources are invested in girls in terms of education and health. Investment in women is not approached through a lens of social and economic equality, but from the perspective of families and communities which will thrive with healthy and educated women in their midst. Given women's reproductive responsibilities, their participation in the productive economy remains low. Women's labour and contribution to the reproductive economy remains invisible, taken for granted, and euphemistically termed 'priceless' when any attempt is made to value this work.

The judgement correctly points out that women's reproductive labour "frees her husband for his economic activities". Thus, as a matter of economic justice, both spouses should be the legal owners of property and other assets acquired during marriage. This can be achieved by a gender egalitarian marital regime (rules governing the ownership and management of property during marriage and upon its dissolution).

Broadly, there are community property and separation of property regimes. In community property, all assets acquired during marriage are treated as belonging to both spouses. Assets acquired prior to marriage or inheritances received is considered individually owned in partial community, whereas in full community, such assets are also jointly owned. In contrast, the separation of property marital regime treats all property irrespective of the time of acquisition, as individually owned property. Thus, community of property recognises women's contribution to marital assets via their reproductive labour.

Community of property is of great relevance in a country like India, where women's avenues for asset acquisition are limited. Women do not typically inherit from their parents and due to their low labour force participation, often lack sufficient earnings to purchase property and other high-value assets.

An analysis by Deere et al (2013) across different marital regimes found that separation of property regime is disadvantageous to married women (Ghana and Karnataka) compared to partial

community property (Ecuador). This is confirmed with recent data from the All India Debt and Investment Survey (2019) which for the first-time included information on ownership of land by individuals within a household. Unfortunately, an individual's marital status is not collected. Our analysis shows that only 7% of married women own land in landed households. The comparable number is 93% for currently single women. Presumably, the currently single category is largely comprised of widows who inherit their husband's property.

Indian society should not have to wait for enlightened judgements to realise the goal of gender equality that is promised under our Constitution. We urgently need laws to deliver on this promise so that all married women have rights and entitlements within marriage without having to approach the court for redress.

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