

The Movement for equal property rights for Women

by Bandana Rana

SOCIAL BACKGROUND

Women constitute more than 50 percent of the population of Nepal. However, they are far behind men in all aspects of life. There is a wide gender gap in the social, economic, administrative, political and legal fields, primarily because of the patriarchal social system that confines women within the home and places men in control of all resources.

The Nepalis prefer sons over daughters. A son guarantees that the family line will continue and the parents will have a blissful path to heaven. According to religious tradition, when the parents die it is their sons who are entitled to carry out the different rituals ensuring their passage to heaven. Therefore, in many families the mother must continue giving birth until a son is born.

On the other hand daughters are considered a great burden to the family. Since they have to leave their father's home after marriage, from birth they are already thought of as the property of someone else. That is why the majority of



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poor families don't spend more to improve the health, nutrition and educational status of a daughter. Therefore, the usually scarce family resources are directed to boys, and a daughter is always relegated to a lower status than her brothers.

ECONOMIC STATUS

One of the biggest hindrances to women's economic development and empowerment in Nepal is the absence of a legal provision that grants women equal property rights. The property of ancestors and forefathers can be legally inherited only by sons.

The question of education for girls is also tied to the question of inheritance. The general belief in most areas of Nepal is that "If you educate a son, he is yours and so he brings fortune to the family. But it is no use educating a daughter who will eventually belong to others." With the sons looking after the parents because they will eventually be the ones to inherit the property, it doesn't make

sense to many to spend precious resources on educating someone who will not be contributing anything to the family welfare in the future.

Discrimination against daughters begins even before birth and continues into adulthood.

The absence of property rights hinders the economic development and empowerment of women.

Women are seen as weak and dependent on men, and derive their status—including inheritance rights, ritual status and access to property—from their fathers, husbands and sons. Most families do not provide any concrete economic security to daughters. Apart from shouldering her marriage expenses and giving her dowry in the form of some jewelry and clothes, most parents do not give anything to their daughters. Thus, a woman never takes part in decision-making, depending solely on her father before marriage, her husband after marriage and her sons in old age.

The absence of property rights hinders the economic development and empowerment of women. A Nepali woman cannot inherit family property of ancestors and forefathers because only sons can do so.

The Constitution of the Kingdom of Nepal, drawn up in 1990 after the restoration of democracy, carries special provisions that are meant to make women legally equal to men and to ensure their social and economic development. Article 11 states that every citizen is equal before the law, and no citizen shall be deprived of the protection of law, nor be discriminated against because of religion, color, sex, caste and ideological faith. The government's ratification without any reservation of the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is also an encouraging step for securing the rights of women.

Many organisations have examined the significance of this state of affairs and clearly observed that the absence of equal property rights is the main root of the varied problems that women face. Voices from various social sectors have been raised to amend this situation since as early as 1975 with the declaration of

the international year of women. However, to date most of the existing laws are discriminatory and their implementation is arbitrary and biased. Legal provisions relating to the inheritance of parental property, divorce, citizenship, tenancy rights are a few such examples which violate the letter and spirit of the Constitution.

MOVEMENT FOR EQUAL PROPERTY RIGHTS

The Constitution of 1990 states, "The laws which conflict with the Constitution will be inactive after one year of the establishment of the Constitution." Article 88 states, "If any law conflicts with the country's main law (constitution), any Nepali citizen has the right to appeal to the Supreme Court for its abolishment and the court can use the same right to inactivate the law."

On the basis of this, two women lawyers filed a writ with the Supreme Court in May 1994 seeking to amend the discriminatory provisions in the Code of the Country, concerning the property rights of women in Nepal. After many postponements the Supreme Court finally gave a verdict in January 1996, directing the government to bring forth new legislation which is not gender-biased or discriminatory towards women within a period of one year.

The Supreme Court's verdict opened up avenues for women's organisations to advance the movement for improving women's economic status and identity. Several NGOs working for women's rights got together to formulate appropriate strategies for drafting the proposed bill on prowomen legislation and also for lobbying and conducting advocacy programmes for the promulgation of the bill. At the initial stage, the proposed bill on property rights was drafted with inputs from organisations working on the issue and public opinion collected from various districts. The laws of other countries concerning property rights and women's issues were also studied to help in the drafting of the bill.

Since early 1996 intensive lobbying activities have been undertaken among parliamentarians, leaders of various parties and concerned government officials for the proposal to be taken up and passed. Organisations conducted workshops, seminars and interaction programmes with people from various walks of life for lobbying purposes and to assess the negative and positive impact of the bill and

Fast Facts: Nepal

Education

Female literacy rate	25%
Male literacy rate	55%
Female Enrolment in:	
Primary School	41%
Lower Secondary High School	38%
Secondary High School	37%
Proportion of female school Teachers	17%

Employment

Share of women in the total Labour force (1991)	45.4%
Share of women in the total Labour force (1981)	46.2%
Activity rate of females in the Labour force (1997)	66.4%
Activity rate of males in the Labour force	71%
Women working as unpaid family workers	63%
Men working as unpaid family workers	24%
Women's workload	10.9 hours/day
Men's workload	7.8 hours.day
Self-employed females	82%
Self-employed males	69%
Wage-employed females	12%
Wage-employed males	27%

Political Participation

Female politicians In the National Legislative	3.9%
Female politicians in the House of Representatives	3.41%
Male politicians in the House of Representatives	96.59%
Total Number of women Candidates in the General Election (1999)	6.10%
Total Number of women Elected in the General Election (1999)	5.6%
Total number of women members In the National Assembly	6 out of 60

formulate joint strategies to advocate for it. Awareness-raising and advocacy programmes were conducted by women's organisations throughout the country. Such programmes included rallies, demonstrations, street plays, publication of reports and articles in the newspapers, radio and television programmes, distribution of posters, advertisements, etc. Other organisations who did not have any specific programme on property rights also started integrating the issue in their ongoing programmes such as nonformal literacy, door-to-door campaigning, legal awareness, women's empowerment, counselling, training, etc.

Women's organisations met with all political parties to garner support for the bill. However, though almost all the parties agreed, none of them actually did so during the Parliament sessions. Thus, the bill that will provide equal property rights to women still remains frozen in the human rights committee of Parliament with little chance of actually being revived in the near future, especially with all parties busy campaigning for the elections in May. Meantime the concerned organisations must sit together and review the past weaknesses and strength of the movement, and ensure that votes in the election will go to candidates who will speak for the equality of women in every sphere.

The following is a summary of the activities planned by the network of NGOs working to secure equal property rights for women in Nepal.

Formulation of long-term strategy planning by key NGOs and GOs

- ◆ In-depth study to be conducted on the bill's immediate and long term impact in various societies and communities for stronger and more logical justification;
- ◆ Further clarification of the concept for effective advocacy and awareness-raising;
- ◆ Dissemination in simple language of the existing legal provision and the proposed legislation;
- ◆ Activities raising national mass awareness of gender equality even after the bill is passed;
- ◆ Lobbying at the policy level to amend existing discriminatory legal provisions and implementation of CEDAW and the Beijing commitment.

CONCLUSION

The national commitment of mainstreaming women in the process of national development



Backbreaking work done by women is hardly recognised – either in Nepal or elsewhere

on the basis of gender equality has opened a new dimension of women in development, awakening the society, among other things, to equal parental property rights for women. This called for an amendment in the existing property right laws in Nepal.

But in spite of an increasing need to adjust existing legal provisions in order to create a just and equitable society, there have been diverse views and opinions for and against the issue of granting women equal property rights.

Nepal is a society where women are looked upon differently among the rich and the poor. The equal right to property may not make much difference to rich and middle-class women who are educated and can stand on their own feet. But such families in Nepal are in the minority. The majority of the Nepali women are illiterate, dominated by the family, dependent on their fathers, husbands or sons and victims of domestic and social violence. They suffer discrimination at every turn. Therefore the

struggle for an equal right to property holds more meaning for these women.

In the debate about property right, the question arises which should come first, the law or the change in social attitude to instigate the law? Reviewing the history of legislation in Nepal has revealed many instances where laws preceded the change in social attitude and behavior, e.g. abolition of slavery, abolition of widow-burning (sati), age of consent for marriage, etc. This reinforces the fact that if introduced, the law to equal property right will gradually bring about positive changes in discriminatory attitudes and practises.

Additionally, there have been arguments that the bill, if adopted may upset the social and cultural milieu. However, one should keep in mind that throughout history, the oppressors have always resisted the liberation of the oppressed. Raising people's consciousness about their oppression and revealing their true interest, and advocating the decision-makers for change in the current structure is a necessary condition for bringing about a truly democratic society.

It may be true that once the bill becomes law there may be some upheaval in the society as is inevitable with all kinds of change and transition. Democracy was reinstated in the country in 1990. But the people of the country were not able to savor the fruits of democracy immediately after that. Even now the country is undergoing a lot of instability and disorder. But does that mean that we should go back to the period before democracy, or even further back to the autocratic Rana regime when there were hardly any registered cases in the court?

So the question facing us today is—do we retain the situation of gender inequality in the country despite the commitment made by the government at various United Nations Conventions for fear of temporarily disturbing the discriminatory social milieu in Nepal? or do we look beyond that and work for permanent changes that will benefit future generations and help to establish a developed society based on gender equality? ↻

Bandana Rana has been working in the field of media and development communications for the last 14 years. Presently, she is the General Secretary of the Women's Media Group and Saathi, an NGO that works in the area of violence against women. She also works for Nepal Television.