

opinion poll set to collect views of her citizens on that!. No one wants to be seen as being soft corner on offender and his/her dependents. The outcome of this is due to the lack of a appropriate penal policy of the Union Republic of Tanzania.

Lastly, let the author sum up/conclude with the African Charter on Human and

Peoples' Rights (1981) provides in Article 4 that Human beings are inviolable. Every human being shall be entitled to respect for his life and integrity of his person. No one may be arbitrarily deprived of this right. In addition to that the International Covenant on Civil and Political Rights (1989) goes a step further in aiming at the abolition of the death penalty/capital punishment altogether.

RIGHT TO INHERITED PROPERTY FOR ADIVASI WOMEN DENIED

By

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Tribal women are denied their right to share in the inherited property on par with men in the tribal societies. The question regarding tribal women's right to land in the tribal patrilineal system has acquired an enormous significance. It is indisputable fact that the tribal women are not absolutely subordinated and possess greater economic independence and freedom of movement than their counterparts of non tribal societies. However all the personal matters of tribal societies are governed by un-codified customary law, under which among patrilineal tribes women's rights are severely circumscribed and limited to usufruct only. The contemporary laws which are recognizing the right to share in the inherited property for a woman of non tribal societies are debarred from its application to Scheduled Tribes.

The majority Judges of the Supreme Court bench also could not come to the rescue of tribal women, and held in *Madhu Kishwar*¹ case that "it is not desirable to declare customs of tribal inhabitants as offending Articles 14, 15 and 21 of the

Constitution and each case must be examined when full facts are placed before the Court".

The Hindu Women's Right to Property Act 1939 which conferred a right on the widow of a coparcener having interest in the joint family property to have the same share as a son would have interest in the interest of the coparcener of a joint family, but such a share of the widow is only limited to her life and thereafter it reverted back to the other coparcener by survivorship. Thus the operation of survivorship as kept in absence or suspended animation during the life time of the widow.

The subsequent Hindu Succession Act governs and prescribes rules of succession applicable to a large majority of Hindus, Sikhs, Buddhists, Jains *etc.*, where under since 1956, if not earlier, the female heir is put at par with a male heir. Next, in the line of Hindu members is the Shariat Law, applicable to Muslims, where under the female heir has an unequal share in the inheritance, by a large half of what a male gets. While the Indian Succession Act which applies to Christians and by and large to people not covered under the aforesaid to two laws, conferring in a certain manner of heir ship on females as males.

1. *Madhu Kishwar and others v. State of Bihar*, AIR 1996 SC 1864

After the advent of the Hindu Succession Act 1956 the operation of survivorship stood frozen and frustrated under sections if a male member having interest in the coparcener, dies leaving behind him, any female relative specified female relative. The interest of the coparcener in such an event devolves on such female relatives *etc.*, by succession, testamentary or interstate as the case may be. The female relative *etc.*, specified in class I heir of the Act are daughters, widow, mother, daughter of a predeceased son, daughter of a predeceased daughter, daughter of a predeceased son of a predeceased son, widow of a predeceased son of a predeceased son.

The Hindu Succession Act regulates succession of agricultural land and the word 'property' in Sections 6 of 8, 14 and 15 and other sections in that Act would include agricultural land.

The Object and purpose of Section 6 of the Hindu Succession Act is an abrogation of the institution of survivorship, though not altogether as an incident of Joint Family sustain for the same reason that there would not be a family without women.

The Hindu Succession Act revolutionized the status of a Hindu female and used Section 14(1) as a tool to undo past injustice in elevate her to equal status with dignity of person on par with man and removed all fetters of Hindu woman's limited estate which blossomed into full ownership. By legislative fiat the discrimination in intestate succession meted out to woman was done away with.

Articles 14, 15 and 16 frowns upon discrimination on any ground and enjoin the State to make special provisions in favour of the woman to remedy past injustice and to advance their socio-economic and political status. Economic necessity is not a sanctuary to abuse woman's person. Section 14, therefore, gives to every Hindu woman full

ownership of the property irrespective of the time when the acquisition was made, namely, whether it was before or after the Act had come into force, provided, she was in possession of the property.

The Hindu Succession Act was amended by AP State Act 13 of 1986 called as Hindu Succession (AP Amendment) Act, 1986 and Section 29-A conferring Coparcener rights on the un-married daughters as introduced if no partition has taken place as on the date of amendment. This amendment came into force on 5.9.1985.

Bar in applicability to Tribes:

Section 2(2) of the Hindu Succession Act, similar to Hindu Marriage Act, Hindu Adoption and Maintenance Act, excludes applicability of customs to the Scheduled Tribes as defined by Clause (25) of Article 366 of the Constitution unless the Central Government, by notification in official Gazette otherwise directs. Explanation 11 to Article 25 does not include them as Hindus.

Thus neither the Hindu Succession Act, the Indian Succession Act, nor even the Shariat Law is applicable to the custom governed tribals. And custom, as is well recognized, varies from people to people and region to region.

Constitutional perspective:

Scheduled tribe people are as much citizens as others and they are entitled to the benefit of guarantees of the Constitution. It may be that the law can provide reasonable regulation in the matter of succession to property with a view to maintaining cohesiveness in regard to Scheduled Tribes and their properties. But exclusion from inheritance would not be appropriate.

By operation of Article 13(3)(a) of the Constitutional law includes custom or usage having the force of law. Article 13(1) declares that the pre-constitutional laws, so far as

they are inconsistent with the fundamental rights shall, to the extent of such inconsistency, be void. The object, thereby, is to secure paramountcy to the constitution and give primacy to fundamental rights. Article 14 ensures equality of law and prohibits invidious discrimination. Arbitrariness or arbitrary exclusion are sworn enemies to equality. Article 15(1) prohibits gender discrimination.

Article 15(3) lifts that rigour and permits the State to positively discriminate in favour of women to make special provision, to ameliorate their social, economic and political justice and accords them parity. Article 38 enjoins the State to promote the welfare of the people (obviously men and women alike) by securing social order in which justice, - social, economic and political – shall inform of all the institutions of national life. Articles 39(a) and (b) enjoin that the State policy should be to secure that men and women equally have the right to an adequate means of livelihood and the ownership and control of the material resources of the community are so distributed as best to sub serve the common good. Article 38(2) enjoins the State to minimize the inequalities in income and to endeavor to eliminate inequalities in status, facilities and opportunities not only among individuals but also amongst groups of people.

Article 46 accords special protection and enjoins the State to promote with special care the economic and educational interests of the Scheduled Castes and Scheduled Tribes and other weaker sections and to protect them from social injustice and all forms of exploitation. The Preamble of the Constitution charts out the ship of the State to secure social, economic and political justice and equality of opportunity and of status and dignity of person to every one.

International Laws:

All forms of discrimination on grounds of gender is violative of fundamental

freedoms and human rights. Vienna Convention on the elimination of all forms of Discrimination against Women (for Short “CEDAW”) was ratified by the UNO on December 18, 1979. The Government of India who was an active participant to CEDAW ratified it on June 19, 1993 and acceded to CEDAW on August 8, 1993 with reservation on Articles 5(e), 16(1), 16(2) and 29 thereof. The Preamble of CEDAW reiterates that discrimination against women, violates the principles of equality of rights and respect for human dignity; is an obstacle to the participation on equal terms with men in the political, social, economic and cultural life of their country; hampers the growth of the personality from society and family and makes it more difficult for the full development of potentialities of women in the service of their countries and of humanity. Poverty of women is a handicap. Establishment of new international economic order based on equality and justice will contribute significantly towards the promotion of equality between men and women *etc.*

Restrictions may be imposed in land transfers:

Thus tribal women are discriminated only on the ground of sex in the matter of intestate succession to the estate of the parent or husband. In the context of tribal land alienation problem in the Fifth Scheduled Areas of the State there is also a need to protect the tribal lands from alienation to non tribals. The argument of traditional tribal elders is that if tribal women are given right to inherited property there will be every possibility to non tribal migrants gain access to land through developing social relations with innocent tribal women. However this argument is not just because in the name of tribal land alienation tribal women can not be deprived of their right to property and securing land rights.

Therefore a law is to be brought out with pre requisite conditions that right to

alienation of land by a tribal women to other shall be subjected to the relevant provisions of A.P. Scheduled Area Land Transfer Regulations 1 of 70 which prohibits transfer of lands not only between tribals and non tribals but also between the non tribals in the Scheduled Areas. Further amendments could also be required suiting the interest of tribals at large in the case of a tribal woman marries a non tribal person, that Tribal woman should first offer the land for sale to the brothers or sisters in their absence to any male or female lineal descendent of the family and the sale will be in terms of mutually agreed consideration and other terms *etc.* If no tribal comes forward to take the land from her then she can surrender that land to the Government on payment of compensation. Then the Government can take over that land and assign the same to the eligible tribals in that village. And in no case succession of property to a non tribal husband shall be permitted

to devolve if a tribal woman dies intestate. Because the lands situated in the Scheduled Areas are once belonged to tribals and a legal presumption also encapsulated in the Land Transfer Regulations 1 of 70 it self. This principle may also be made applicable to tribal men also if he marries a non tribal woman.

As rightly viewed by the Hon'ble Justice *Ramaswamy* in *Madhu Kishwar* case though a minority view, "the provisions of Hindu Succession Act 1956, and the Indian Succession Act 1925 though in terms would not apply to ST, the general principles contained there in being consistent with justice, equity, fairness, justness and good conscience would apply to them". Thus a comprehensive legislation is essential to bring out under Fifth Schedule to the Constitution in order to reverse the historical injustice being done to tribal women in claiming her share in the inherited property.

IMPACT OF GLOBALIZATION ON INDIAN ECONOMY

By

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The word globalization means development or operation world wide. In a globalized economics, private sector plays a key role. The public sector assumes a secondary position. The liberation policy introduced in India opened the flood gates for the establishment of a world market. The concepts, liberlization, privatization and globalization are thus interconnected with each other.

According to Stiglitz, "Globalization is the closure integration of the countries and peoples of the world which has been brought about by the enormous reduction of costs of transportation and communications, and the breaking down of

artificial barriers to the flow of goods and services, capital, knowledge, and (to a lesser extent) people across borders"¹ *Jagadish Bhagavati* defines globalization in the following words: "Economic globalization constitutes integration of national economies into the international economy through trade, direct foreign investment (by corporations and multinationals), short-term capital flows, international flows of workers and humanity generally, and flows of technology"².

The globalized economy has made traditional State borders increasingly porous,

1. (Stiglitz 2002, pp.9)

2. (Bhagwati P3)