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**GENEALOGY OF WOMEN'S PROPERTY RIGHTS AND POLITICAL THOUGHT:
A FEMINIST CRITIQUE OF THEORETICIANS FROM THE ANCIENT WORLD
THROUGH MODERN TIMES**

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Abstract:

The notions of property, possession, and rights are topics of very predominant debate in the history of political thought. The scholars who have discussed state, rights, citizenship, power, the authority have also discussed overtly or covertly property rights and ownership of women. In the works of ancient to modern political thinkers, we have found different thoughts on property rights. Based on it we can analyze the position of women on this question in a particular epoch. This paper aims to understand the political thinkers on property ownership and inquire their thoughts from a feminist perspective. Initially, this paper conceptualizes the idea of property rights found in the Greek philosophical tradition along with the idea on individual property rights found in works of natural rights theoreticians including Locke and liberal theoreticians including J.S Mill. Later it discusses the Marxist ideas on property rights of women that began with Marx and Engels. This review article refers to several research studies, books, journals, and articles, etc. to inquire about the genealogy of property rights of women.

Key Words: *Property, Rights, Genealogy, Women, Possession.*

2.1 INTRODUCTION:

The notion of property rights is not static but deep-rooted in the chronological experiences from ancient to modern thinkers. Different philosophers have presented different thoughts on property rights, but there is no comprehensive work that traces the genealogy of how women's

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property rights have been theorized. Here, we try to develop a genealogy of women's property rights on the basis of existing scholarship. The liberal idea of individual property rights began with the natural rights theoreticians like John Locke, J.S Mill et.al.; the Lockean idea of individual property rights brought a new dimension to the advancement of Liberal thought. Locke formulated the idea that a person can own property through his actions and indicated that property ownership can be seen as an extension of natural rights (Halldenius, 2014) and later the individualistic idea of property ownership was developed by John Stuart Mill in his book *Principles of Political Economy* (1848). Meanwhile, there is another idea with which the critique of Liberalism emerged within the intellectual debates. The idea of socialization of private property got mileage with the writings of Karl Marx and Friedrich Engels; this, especially with Engels's book *The Origin of the Family, Private Property and the State* (1884).

2.2 PLATO ON PROPERTY RIGHTS OF WOMEN:

However, property rights of women were discussed in the philosophical tradition even before the modern era. The scholarly discussion of property rights has received attention since the time of Plato and Aristotle. In the city state of Athens the idea of full citizenship and political rights were restricted to only the property owners that means the non-propertied male adults and women could not take part in public life; they were denied education, legal rights and were confined to homes. At that time Plato took a radical stand and argued that women should have equal political rights as men and get the same education as men. In his work, *Republic*, he has argued for the rights of women but he never gave equal status to both sexes. Actually, Plato wanted women to be educated and learn about the art of war to protect Sparta and to remain the 'guardian' class. Thus, he argued for the rulers to determine with whom they may have intercourse and how often. If the women are not to be tested in the political life, then it would be difficult to assure which women should be permitted to bear the children for the guardian class. In fact, in the Platonean state, child bearing was to be firmly under the state control, and the traditional marriage system or nuclear families were absent among the members of the governing classes.

Plato's idea of property rights was egalitarian and it can be called as common property ownership. He emphasized on community ownership of property to establish a classless society which to him, means a 'Just Society'. To him, the idea of individual property



ownership creates the mind of lavishness that leads to tension or conflict within the society. So, to establish a ‘Just Society’ or to pursue the ‘good will’ he argued for community property ownership or a common land for all. If there is a common land to all then there won’t be any conflict between the communities or individuals and thus people can achieve ‘good will’. Though the Platonic idea of common property ownership is idealistic, we have to keep in mind that in his idea of ‘Guardian’ class (dominant class) where women were tightly controlled by men. In his words, “Women and men have the same nature in respect to the guardianship of the state, save insofar as the one is weaker and the other is stronger” (cited in Smith D. Nicholas, 1983, pp.1). Essentially, it appears that Plato did not argue for equal status of women; rather he discussed the role of women in the state where women were morally inferior and under the control of their fathers and husbands.

2.3 ARISTOTLE ON PROPERTY RIGHTS OF WOMEN:

Plato’s follower Aristotle was more malicious than Plato on women’s rights. To Aristotle, women are morally inferior to men; therefore granting women the same political rights as men is unreasonable. In his work *Politics*, Aristotle states “as regards the sexes, the male is by nature superior and the female inferior, the male ruler and the female subject” (cited in the article of Smith D. Nicholas, 1983, pp.1). Aristotle argued that there is a natural division between men and women where men are considered natural rulers and women as naturally ruled and he did not consider women as fully human beings as they do not pursue any political activity as a citizen in the Polis. He criticized Plato’s idea of common property ownership and argued for private property ownership, which will encourage people to look after their own doings rather than interfering in affairs to others. Aristotle conceived the idea that individual private property could improve the inherent virtue of liberty and morality. Therefore, he argued that sharing the benefit of property ownership with others and right to exclude self from the property, both shows the virtue of the moral order or ‘good virtue’. So, here we can argue that Aristotle through his idea of State and Politics excludes women from the regime of politics and doesn’t consider women as full citizens. To him women are considered a commodity to provide sexual pleasure and to perform household work only. For instance, he argued that silence is the glory of women and they are inferior to men for their biological differences; thus, they should remain silent and obey their husbands.

In this connection, Kay O’Pry argued that Spartan women not only had more education than men, they could possess property and dispose of it. They could enjoy equal shares from



their father's property and thus, women possessed two-fifths of the land in the Spartan region. According to Kay O'Pry, in Sparta women also received more legal rights in connection with their property and inheritances. Dana Jalbert also shared a parallel argument on Aristotle's view on women and slaves. According to Jalbert, Aristotle does not associate the subjection of women with slavery; rather he indicates important connections between the two. To him, Aristotle gives an overall impression on how to build a family with the voluntary cooperation of all its members; he silently indicates that power (male control) played a significant role to continue the relationship between the sexes.

It is now quite clear from the Aristotelian idea that inherent moral order or 'good virtue' differs from gender role. Thus, there is an interconnection between 'good virtue' and 'good women', where if a married woman gives up her property share for her brothers, husband, son or in the name of any male inheritors then she is considered as 'good woman' that she is having good values or morality. In this connection, Feminist economist Bina Agarwal's discussion is very much relevant. She argued that in the contemporary era many women give up their property shares by force, by societal and marital pressure, sometimes under the threat of her life and dignity but not by her 'good will' or 'virtue' in favor of her brothers to be a 'good sister', in favor of her sons to be a 'good mother', in favor of her husband to be a 'good wife' in fact to be a 'good woman'. So, in this regard, eliminating self from the property may not be the symbol of good will or 'virtue' always. In her book *A Land of One's Own* (Agarwal, 1994), she has shown that there is a co-relation between land ownership and socio-economic empowerment of women. She argued that if women have landed property, then they are likely to be more socio-economically empowered than those who do not have landed property. They are also likely to participate more in the political decision making process. So, from the time of Plato and Aristotle, property ownership and political participation were deeply embedded in power which was essentially male centric.

2.4 ST. THOMAS AQUINAS & HEGEL ON PROPERTY RIGHTS OF WOMEN:

St. Thomas Aquinas and Hegel were in favour of individual property rights. According to St. Thomas Aquinas, community ownership of property encourages neither efficiency nor harmony in a society; it causes conflict within the community or in society. Thus, he was in favour of individual ownership to improve the spirituality of humans' and to protect the



security of human lives. But there are different arguments and explanations on Aquinas' thought on the question of women. On one hand, he has expressed very derogatory opinions on women, where he says that women are only the 'helper' and to provide 'sexual pleasure' to men. On other hand Aquinas said that the relationship between man and woman is to make a true society. According to him, they meet not only to extend the lineage but also for the purpose of a conjoint domestic life, in order to make a just society. Where men should direct the women and they will perform according to the male directions for the betterment of the whole society.

Aquinas' successor Hegel argued property rights as crucial to the development of self. According to him, marriage and 'civilised social life' is the foundation of individual property, but that individual property must be recognized by others and an individual cannot possess any property until it is recognized by the members of the civil society. However, on the question of women, Hegel portrayed the relation between men and women like the animal and plants i.e. the food and eater. Women are the food and men are the eater. He also considered that if women are in power to govern then the state will be in danger because their action is based on emotion rather than universality. And on the question of property, he argued in his thesis *Elements of the Philosophy of Right* that everyone must have property but having property does not determine the idea of equality rather depends on how much a person actually possesses it.

Thus, here the argument is that, if an individual wants to possess a property and it requires societal recognition then how the women who are considered inferior than men and controlled by men will possess and get recognition of her property? Where all societal order depends on male's recognition, then how can a woman develop her personality? Hegel was aware about the establishment of a protective legal system for societal recognition of individual property; but still there are huge gaps between legitimate and actual property rights of women. In many societies, religious and customary laws are there that deny women's rights to access property and they are subjected to gender discrimination. In many societies though women have the legitimate property right, but the gender role, customs and associated practices within the family and outside the family determine the actual control rather than the legal ownership of women over property.



Therefore, in the contemporary era if we critically analyse the Hegelian idea of 'protective law' in connection with property rights thus, in spite of having property inheritance rights that protects property rights of women, men occupy direct and indirect decision making power regarding the cropping, mortgaging, selling and distribution of land; and in such situations women play only the role of viewer or namesake consenters on property related issues.

2.5 JOHN LOCKE ON PROPERTY RIGHTS OF WOMEN:

With the beginning of Protestantism and Enlightenment the natural rights champion John Locke in his book *Second Treatise on Government* (1689) argued about the boundaries of property rights. The natural right and liberal theoretician John Locke begins his argument that property right is a natural right and it has been equally distributed in the state of nature. He also asserted that property rights can be achieved by mixing individual labor on property and it can be an essential part of individual freedom. According to Locke, in the State of Nature property initially goes to everyone in common and all individuals are eligible to acquire some of the common property by their own labor. He was the first classical thinker who discussed more about property rights than others. Locke's idea of property right suggests that when an individual contributes his or her labor, cultivate or work on the land then an individual is entitled to achieve the ownership right of the land (Birdal, pp.41-45). In the writings of John Locke, the position of women in society was not the primary concern, but Locke did not admit that the sexes had an equivalent ability to exercise their labor. He thought that women are less capable to undertake heavy physical work and 'stress of labour' than men. To him, if a married couple made a property of their 'common labours' then the husband has no right to arbitrarily use it as he desired.

The Lockean idea of self-ownership may advantage the gender hierarchy that perpetuates alienation in the society. Therefore, since a property less individual does not even possess his own labour, then obviously he/she does not hold the right to property. Hence, in a gendered power structure where women are being treated as vulnerable and physically weak, one wonders how can they possess their labour in the state of nature and thereby how can they hold property rights? So, Locke's idea of labour theory is gendered in nature that excludes and devalues women concerns.



2.6 JOHN STUART MILL ON PROPERTY RIGHTS OF WOMEN:

John Stuart Mill was one of the most influential writers on women's rights of 19th century and he perceived private property as an institution through the eye of just and unjust. To him when a person acquires private property by his or her own effort then it becomes just property. He also mentioned that a fair legal agreement and honesty makes it just and on other hand to 'deprive anyone of his personal liberty, his property, or any other thing which belong to him by law' is considered as unjust to him. However, on the question of women's property rights, in his book the *Subjection of Women* (1869) Mill discussed women's property rights. He reflects his idea on marriage, law and customs in relation to women's property rights. Firstly, he argued on the unequal status of women in marriage contracts where the legal burden deprived women from property owning and other economic activities. Interestingly, Mill doesn't consider inheritance property as a just property. To him if a person possesses any property through inheritance then the possessor does not require any effort to acquire it and it is an unequal distribution of private property.

Thus, Mill was in favour of limited inheritance property rights to women. The rationality behind his argument is that, in an unequal contract of marriage the women's inheritance property becomes men's property and women loses her control on it. Rather, he was in support of family earnings and common arrangement to support the family. Though Mill distances himself from contemporary liberal feminists but he is not totally against gender division of labour in family. To him men will earn for the family and wife will manage the domestic chores. Basically, he was in favour of the contribution of wife's labour to the income of the family. Thus, Mill emphasized on women's education and legal reforms in the marriage system to revive women's dignity within the family. Thus, Mill says 'the power of earning is essential to the dignity of a woman, if she has no independent property' (*The Subjection of Women*, 1869, p. 483). He also kept in mind that for earning women need freedom from the marital slavery and thus he was in favour of reforming the unequal marriage contract established by Victorian law. In the Victorian law if the wife leaves her husband then she cannot take anything, not even the children with her. After marriage only the father has legal rights over the children not the mother. She must have to take her husband's approval to do any activities, within the institution of marriage. Women become slaves and considered as the 'property' of their husbands. So here Mill contributed a different idea on property where he considered women as a unit of 'property' within the patriarchy.



However, in this context Susan Okin argued that, through his idea Mill accepted the traditional gender role and gender division of labour within the family and he wants it to remain. As Susan Okin claims, 'Mill never questioned or objected to the maintenance of traditional sex roles within the family, but expressly considered them to be suitable and desirable' (Okin, 1979, p. 237). It seems that he emphasized more on equality before law to eliminate subjugation of women but on other hand he has ignored the custom, tradition and general feelings that make women more vulnerable within the society. Therefore, the evolution of women's movement made it clear that equal law and rights are not sufficient to the emancipation of women rather to make an ultimate solution.

2.7 MARXIST THOUGHT ON PROPERTY RIGHTS OF WOMEN:

In the realm of Marxist Feminism the path breaking book written by Friedrich Engels, *The Origin of the Family, Private Property and the State* (1884) portrays distinguished ideas and shows how historically with the changes of communities' women have been alienated from property ownership. According to Engels, in egalitarian society, the division of work was simple and natural. Women had sexual freedom and they were free to choose their sexual partners. Men were mere visitors in the household and could be asked to leave when the women did not wish them. Thus the control of the household decisions exclusively rested with women. But the development of the idea of stable living, animal husbandry and accumulation of surplus food leads the communities to battle among them. Thus the society is divided into two sections that are the conquerors and the conquered; according to Engels it was 'the first great division of society into two classes' that is the dominant and dominators. Gradually, when war becomes the common phenomenon of the society to survive, then the relation between men and women also changes. Food and wealth gathering becomes a male activity and thus women become dependent on men for food and survival. Domestic work and child bearing becomes the main priority of women. The communistic nature of child bearing and rearing changes and thus the woman becomes a 'domestic slave'; she loses her significance in the communistic society.

The wealth accumulation or surplus food gathering creates a tendency among men to keep everything for them and thus the idea of surplus accumulation advanced the idea of private property. For the time being, men included women in the context of private property



along with land, animals and slaves. They included women in the context of private property to control the children who will bear their wealth in the name of inheritance. So only to get male successors, gradually men started to control women's sexuality and considered it as their individual property. The role of women becomes only the bearer and rearer of men's successors. The process of socialization shifted towards the male side and slowly women lost their control over their children. Over a time, children were being socialized to recognize their inheritance from the father side. Gradually, men and his property gained more importance and men became the leaders of the group's life. Thus patriarchy emerged and women have been excluded from wealth or property ownership. In short, the dominance of male over the economic resources reinforced the sexual authority of male over women and that was the 'world historic defeat of the female sex'. The contemporary Marxists Feminist scholars have also argued that in the emergence of private property men do not only possess their control over property; they also try to keep it in their name through the male inheritors. Thus the preference for male children, sex selection, female infanticide & feticide, violence against women in household are the common phenomenon within the patriarchal societies. Thus we can understand from the Marxist point of view, the women's oppression in the patriarchal society is only for property relations and necessity for male inheritors to transfer their property. Therefore, the Marxist scholars argue for socialization of private property, to give labour value of domestic work to reorganize the household where the men are already in an advantageous position.

In contrast to the idea of socialization of private property, Virginia Held argued in her article *Property Rights and Interest* that, the property rights must exist for all citizens, not only to hold it but also to protest against the government if the government fails to provide basic facilities like food, shelter, employment etc. Economic self-sufficiency secures citizens against the government and gives wider economic power which supports the political rights of citizens like the right to fair trial and right to speech. The individual property rights save citizens from surrendering their liberty to the state.

Nivedita Menon in her book *Seeing like a Feminist* (2012) argued that the legitimization of individual rights to property is considerable achievement of Capitalist State for its economic transformation. The establishment of individual property rights under Hindu law is a strategy of bourgeois to make land completely alienable from the state or community ownership, because it makes easier to pressurize individual owners to sell the land on



industrialist and capitalist demand (Menon, 2012, p. 29). Another argument reflects in the book of V.Geetha, where she emphasized the historical fact of declination of women's rights on household and property. The emergence of private property and the declination of women's rights from the property ownership have been described as the world-historical defeat of the female sex. It also shows that there is a deep rooted link between the concept of 'inheritance' or 'lineage' and the emergence of private property. The emergence of private property recognized the disposition of women's control over household and property and made children identify their lineage or inheritance through their father's only. Thus historically men were given importance to control over property and lineage and women become as a sex object to produce the lineage or property protectors (Geetha, 2002).

Though the idea of individual freedom and liberty signifies the sovereignty of individual body and mind which is against the practice of slavery, but the emergence of private property and its principle subjugated this morality in the real world. We have shown earlier in the discussion of liberal thinkers, that how their ideas on individual property rights are gendered. The liberal concept of property denotes the idea of commodity by the involvement of labour and self-ownership but the social characteristic of property ownership emphasized the interest of the entire society and not the individual ownership alone. The social concept of property fulfils the needs of all members of the society. It seems that, according to the liberal idea of property ownership, if an individual does not put his/her own labour then he/she does not own the ownership of property. Moreover, the liberal idea of 'self-ownership' the person has also the right to get profit of the property equally when the person mixes his/her labours on it. By contrast, according to G.A Cohen, if a person is controlled by his master and he has no control over his mind and body; in this case, the master is allowed to make comprehensive use of the slave's labour for his own profit without any contribution of the master's own labour. In this context, our argument is that, if we look at the reality we realise that in a patriarchal society women are being controlled like a 'slave' by her husband or the male persons of the household, they are considered as her 'de-facto master' of her. Thus, when in a patriarchal society men are the decision makers over all activities of the household and women are presumed as 'subordinate', 'physically less strong' and excluded from the labour market for their gender identity, then how can they contribute their labour directly to the land to get the ownership right on it? Even the 'invisible work' of women in the household does not count as



a ‘labour’. So the liberal philosophical understanding of property excluded women from its thought process and it shows historically how women are being excluded from one of their basic property rights.

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