

Contesting Intergenerational Relationships and Property Rights



(Source: www.ndtv.com)

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Lead Essay

Contesting Intergenerational Relationships and Property Rights

Background

The joint family system is considered to be the main support system for elderly in India. In fact according to Indian tradition, it is the duty of the son to provide care giving arrangements to his older parents. The Hindu Succession Act (1956) was also based on the assumption that since the son/s is expected to fulfill filial obligations, in case the parent/s dies without a will the property is transferred equally to the son/s of the deceased.¹ This Act was however amended in 2005 and daughters were granted the right to property.² Given the fact that sons were considered to be the rightful owners of older parents property, the Delhi High Court's judgment on 30th November 2016 which declared that "irrespective of his marital status the son does not have legal rights to live on the acquired property of his parents", is surprising.³ Specifically the complaint filed by the senior citizens indicated that their co-resident adult children had made their 'life hell'.³ This judgment challenges the transfer of property rights to sons and also highlights the changing nature of intergenerational relationships. Drawing from this judgment this essay will focus on the changing nature of the joint family system in urban settings. Building on existing literature and reports this essay will indicate how financial arrangements determine intergenerational relationships in urban India. Finally the essay will highlight that this judgment might instigate adult children to force their older parents to transfer property to them even before their death resulting in increasing incidence of property dispute.

The Changing Joint Family System

According to research multigenerational living continues to be the dominant form of living arrangement in India. A recent study (Samanta et al, 2015) drawing from a national representative sample of 17,904 elderly showed that 65% reside in some form of multigenerational households in India. In particular previous studies have indicated that the joint family system is an institution that maintains the values and traditions surrounding filial obligations (Shah, 1973; Madan, 1993). However recent studies have highlighted that intra household power dynamics are determined by economic dependence. For instance Agarwal (1997) in her analysis of property norms in India indicates that depending upon their financial arrangements the elderly in India bargain for respect and care giving arrangements from their children. Similarly Vera-Sanso (2004) in her study on intergenerational households in South India indicates that with their diminishing economic power the elderly are also expected to control their desires and needs for material goods and benefits in order to give priority to the requirements of their adult children. In fact Lamb (2009) in her study on Bengal demonstrated that though the elderly receive material comforts from their children, nonetheless emotional support in the form of company is often not fulfilled by adult children. To summarize these studies it could be indicated that while the joint family system continues to remain the main form of support system for the elderly, nonetheless a closer analysis highlights that financial arrangements play a significant role in determining the position of the elderly within the joint family. In particular as cited in the complaint the older parents have mentioned that their adult children had made their lives hell. The nature of the complaint suggests that while older parents might live with their sons; however that does not mean that their quality of life will improve. In this context it is important to focus on some of the recent cases that highlight how property disputes determine intergenerational relationships.

Property Disputes and Intergenerational Relationships

The recently released National Crime Records Bureau (2015) data revealed that crimes against elderly rose by 10% from last year. In particular studies have highlighted that property issues remains the largest cause for crimes committed against elderly. Specifically studies have indicated that 43% of crimes for property against elderly are committed by

¹ <http://revenue.tripura.gov.in/sites/default/files/hindu-succession-act-1956.pdf>

² http://www.hrln.org/admin/issue/subpdf/HSA_Amendment_2005.pdf

³ <http://www.legalera.in/legal-news/item/20366-no-legal-rights-for-son-in-parents%E2%80%9999-house-hc.html>

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near and dear ones (Mishra and Patel, 2013). In particular media reports have revealed that adult children are often associated in crimes against their older parents for property. A study by HelpAge India (2014) revealed that daughters in law and sons are the main perpetrators of abuse. The Table 1 and Table 2 below highlight some of the data collected by the HelpAge India study.

Table 1: Main perpetrators of abuse

Daughter in law	Son	Daughter	Son in law	Relative	Caregiver/Servant	Others
61%	59%	7%	6%	3%	3%	6%

Source: HelpAge India (2014): <https://www.helpageindia.org/images/pdf/state-elderly-india-2014.pdf>.

Table 2: Reasons for abuse as per victims

Emotional dependence on the abuser	Economic dependence on the abuser	Changing ethos	Economic dependence of the abuser	Lack of effective legal deterrents	Increased longevity and need for care
46%	45%	38%	30%	28%	9%

Source: HelpAge India (2014): <https://www.helpageindia.org/images/pdf/state-elderly-india-2014.pdf>.

As can be seen in Table 1 sons and daughters in law are the highest perpetrators of abuse. Additionally as can be seen in Table 2 emotional and economic dependence on the abuser are the major reasons for abuse. Drawing from the data it could be suggested that adult children, particularly sons acting as dutiful agents of filial obligations are changing. In this context it could be suggested that property has emerged as a major concern which results in intergenerational conflict. Within this backdrop the high court's judgment in favor of the elderly is a step forward in protecting the rights of the elderly in India.

Conclusion

As per the provisions in the Maintenance and Welfare of Parents and Senior Citizens Act, 2007 the older parents have the right to deny inheritance rights to their adult children. In particular in case older parents are neglected in a multigenerational setting, the elderly need not transfer their property to their adult children. In fact the law also states that older parents can "take back" their property in case the adult children are not fulfilling their filial obligations. As discussed older parents being harassed by their adult children is quite common. Since alternate care giving arrangements such as old age homes are still not considered to be the norm this provision in the Act is important. While cases of older parents facing neglect in the joint family system increases, more awareness needs to be created regarding this law which allows older parents to claim their already transferred property. Similarly many adult children do not plan their investments and savings and rely on their parental property for their own future needs. However older parents facing neglect from adult children after transferring property has become quite common. In this context the judgment of the high court which mandated that the son is living at the mercy of his parents and cannot claim even the acquired property of his parents could result in more incidences of forceful transfer of property rights even before the death of the older parents. To improve the condition of elderly and reduce dependence on property, some form of income and free medical aid from the State should be provided to all elderly. In addition free counseling services should be available to guide elderly on property issues. Since inheritance rights are a major cause of contested intergenerational relationships, it is important to make better provisions to protect the elderly.

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Headlines

Govt to amend RBI Act to annul old Rs 500, Rs 1,000 notes

(Live Mint, December 12, 2016)

Higher dividend from the RBI due to cancellation of Rs500/1,000 notes may not be applicable until the RBI law is amended. Last week, Reserve Bank governor Urjit Patel had said it would not have any automatic impact on the central bank's balance sheet as per the existing law.

“Actually, the withdrawal of legal tender characteristics status does not extinguish any of RBI's balance sheet. Therefore, there is no implication on the balance sheet as of now. The question of a special dividend automatically does not arise as of now,” Patel had said.

Read More: <http://www.livemint.com/Politics/CgR6cWYeonFe6JBFpLqaaM/Govt-to-amend-RBI-Act-to-annul-old-Rs500-Rs1000-notes.html>

Date Accessed: 12.12.2016

Economy

GST rollout looks unlikely by April 1, 2017

(*The Times of India*, 12 December, 2016)

The Centre and states failed to approve the [GST](#) laws on Sunday and agreed to meet on December 22 and 23 to hammer out a consensus, dashing hopes that the crucial bills would be introduced in the ongoing winter session of [Parliament](#) and making it tough to meet the April 1 rollout date for the goods and services tax (GST) across the country .

Read More at: <http://timesofindia.indiatimes.com/business/india-business/GST-rollout-looks-unlikely-by-April-1-2017/articleshow/55932263.cms>

Date Accessed: 12/12/2016

Govt fast-tracks Rs 60,000-crore ‘Make in India’ project for infantry combat vehicle

(Rajat Pandit, *The Times of India*, 12 December, 2016)

The Union defence ministry is finally fast-tracking the long-pending mega 'Make in India' project to produce at least 2,610 future infantry combat vehicles (FICVs) for the Army at an estimated cost of about Rs 60,000 crore.

Read more at:

http://economictimes.indiatimes.com/articleshow/55933486.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst

Date Accessed: 12/12/2016

Payment of Wages Act to be amended: Bandaru Dattatreya

(*The Times of India*, 11 December, 2016)

Union labour minister [Bandaru Dattatreya](#) today said the Centre would soon amend the Payment of [Wages Act](#) to ensure that workers get their salaries either through cheques or in their bank accounts. "As Labour Minister, I feel happy that, in the government of Narendra Modi, Payment of Wages Act, Trade Unions have been asking for it, that the salaries of workers should come in bank accounts, in electronic mode.

Read More at <http://timesofindia.indiatimes.com/india/Payment-of-Wages-Act-to-be-amended-Bandaru-Dattatreya/articleshow/55924677.cms>

Date Accessed: 12/12/2016

Soon, industrial workers to get only cashless payments

(Panjaj Dovali, *The Times of India*, 12, December, 2016)

In a move that will impact salary payments to millions of factory and industrial workers, the government plans to make it mandatory for payments to be made only through cheque or directly into their bank accounts, against the current practice of paying cash. The move — for which a [Cabinet](#) note has been circulated — is in line with [demonetisation](#) and also aimed at ensuring that workers are paid the minimum wages stipulated by the Centre and states, senior government sources told TOI. The idea is in line with the Modi government's efforts to promote a [cashless economy](#). Workers whose wages do not exceed Rs 18,000 per month will be covered under the new rule.

Read More at

<http://timesofindia.indiatimes.com/india/Soon-industrial-workers-to-get-only-cashless-payments/articleshow/55931656.cms>

Date Accessed: 12/12/2016

Economy

One item Digital India must urgently address – strengthening data security and privacy rights

(Rajeev Chandrasekar, *Scroll*, 12 December, 2016)

The government's demonetisation decision of November 8 has, while kicking off a noisy debate on its disruptive, positive and negative impacts, launched the country on the irreversible path of digital payments as a substitute to cash.

While the pros and cons of demonetisation will be debated for some time, expanding digital transactions in our economy has obvious advantages. However, the creation of the digital payments ecosystem needs to be well-planned, keeping the citizen in mind. Presently, the discussion is predictably centred around devices and infrastructure to expand the reach of the ecosystem nationwide. But there are critical issues relating to the rights, privacy and data security of transactees that must be addressed.

Read More: <http://scroll.in/article/823792/as-india-goes-digital-data-security-and-privacy-rights-must-be-strengthened>

Date of Access: 12.12.2016

NSE gave preferential access to some brokers: Govt.

(Digital team, *moneylife*, 10 December, 2016)

As per the findings of a Securities and Exchange Board of India (SEBI) appointed Committee, National Stock Exchange (NSE) had given preferential access to some brokers to its co-location servers for algorithmic trading, says the union government.

In a written reply in the Lok Sabha, Arjun Meghwal, the Minister of State for Finance, says, "The architecture of NSE with respect to dissemination of tick-by-tick through transmission control protocol (TCP) or internet protocol (IP) was prone to manipulation or market abuse. And this system has been discontinued by NSE from 3 December 2016".

Read More: <http://www.moneylife.in/article/nse-gave-preferential-access-to-some-brokers-govt/49112.html>

Date of Access: 12.12.2016

Tamil Nadu's healthcare numbers look good – but its people aren't getting healthier

(Raja Shekar, *scroll*, 12 December, 2016)

Soumya Ramakrishnan said she was 20. But she looked younger. It had not been easy to find her house in Yerumuttinapalli hamlet in Krishnagiri's Anchetty panchayat. This reporter found it only after asking several villagers for the house of the woman whose newborn died earlier this year.

The baby's death had predictable explanations. Krishnagiri is one of the poorer districts of Tamil Nadu. A large number of families, many of whom are Adivasi, depend on the subsidised food rations provided by the state's public distribution system.

Read More: <http://scroll.in/article/820861/part-1-tamil-nadus-healthcare-numbers-look-good-but-its-people-arent-getting-healthier>

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Bank 'Gandhigiri', Cashless Hara-Kiri in Marathwada

(P. Sainath, *thewire*, 10 December, 2016)

The bank has "decided to use Gandhigiri to try and recover the loans [from you]. For this the bank has decided to do one of the following: Put up a tent opposite your house to protest, make use of a band, ring bells.

"Due to these actions, your standing and image in society are likely to be in danger."

That is the Osmanabad District Central Cooperative Bank (ODCC) promising 20,000 of its clients public humiliation and ridicule. Those clients, mostly farmers, have seen many years of distress. Sometimes from crop failure, sometimes from a glut or price crash. A crippling drought and water crisis have further hit their loan repayments. On top of that, the government's recent scrapping of Rs

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500 and Rs 1000 notes has left them unable to pay their labourers' daily wages. "Farm workers have not been paid a single paisa in cash since November 9," says S.M. Gavale, a small farmer from Khed village. "All are hungry."

Read More: <http://thewire.in/85876/bank-gandhigiri-cashless-hara-kiri-in-marathwada/>

Date of Access: 12.12.2016

Expert Gyan: Nine Economists on the Costs of Demonetisation

(*The tribune*, 07 December, 2016)

Featured are summary views, solicited by *The Tribune*, on the government's demonetisation move from nine economists of impeccable credentials, differing ages, a spectrum of ideological persuasions and a variety of locations. We encounter amidst this diversity of backgrounds a profound sameness of opinion, as reflected in unanimous denunciation of the government's action in sentiments and assessments such as: "essentially political move, ...insensitive, ..., gratuitous, ..., appalling"; "firing cannonballs to kill mosquitoes"; "arrogance and insensitivity"; "an exercise in Manichean economics"; "authoritarian quackery"; "heavy cost to the economy"; "frightening abandonment of reason"; "throwing the baby out while retaining the bathwater"; and "a cavalier or even cynical political calculation. Here's a cross-section of scholarly opinion.

Read More: <http://thewire.in/85152/demonetisation-costs-economists/>

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The fungibility of black money

(Anil Padmanabhan, *Live Mint*, December 12, 2016)

Since one of the three objectives of the initiative was to target black money, critics are right in arguing that the government is off target. But this is a case of missing the woods for the trees. The successful laundering of black money is a revelation on not just the consummate skills of criminals but also on how endemic corruption is—something that is crippling India.

The fungibility of black money reveals that over seven decades, the parallel economy has so spectacularly permeated life around us that it has got completely intertwined with the formal economy. This is frightening—a Hydra, the multi-headed serpent from Greek mythology, which can strike at will.

Read More: <http://www.livemint.com/Opinion/L9SMtkyypS5nQ4931DFS7I/The-fungibility-of-black-money.html>

Date Accessed: 12.12.2016

Governance & Development

ENVIRONMENT

Rising temperature causes soil to release more carbon dioxide

(Aakriti Shrivastava, *Down to Earth*, December 08, 2016)

Soil holds majority of Earth's carbon and warming of the planet is triggering its release into the atmosphere, a new study published in journal *Nature* points out. More carbon dioxide in the air would accelerate planetary warming. Authors of the paper analysed data from 49 sites in different ecosystems America, Europe and Asia. They measured the carbon stored in soil core samples before and after warming. Researchers predict that over 55 trillion kilograms of carbon can be released by 2050 from soil in a business-as-usual scenario. This is about 17 per cent more than projected emissions because of human-related activities.

Read More: <http://www.downtoearth.org.in/news/rising-temperature-causes-soil-to-release-more-carbon-dioxide-56528>

Date Accessed: 12.12.2016

Society

REGIONALISM

Much Has Changed in Ahmedabad, But Support for Modi Remains Intact

(Kingshuk Nag, *The Wire*, 7 December, 2016)

Even though Gujarat Fisheries have hawked their wares in places as far as Delhi, the people of the city had become increasingly vegetarian in the 1990s. It was almost impossible to find a neighbourhood shop that sold eggs, and several hotels only had a vegetarian or Jain food section at their buffets. Non-vegetarian dishes were out of the question and in order to buy fish one had to cross the Sabarmati river to go to the Muslim-dominated quarters in the old city. But things are now changing. The city's main streets are dotted with restaurants and food trucks that serve non-vegetarian dishes.

Read More: <http://thewire.in/84870/much-changed-ahmedabad-support-modi-remains-intact/>

Date of Access: 9.12.2016

India and World

INTERNATIONAL AFFAIRS

Russia says no safe exit for Aleppo rebels proposed

(*Aljazeera*, December 12, 2016)

Moscow has not reached an agreement with the US on safe exit for Aleppo fighters, the Russian deputy foreign minister said after rebel officials claimed a proposal had been presented by the two countries.

"The issue of withdrawing militants is the subject of separate agreements. This agreement has not yet been reached, largely because the United States insists on unacceptable terms," Sergei Ryabkov was quoted as saying by the RIA news agency on Sunday.

Read More: <http://www.aljazeera.com/news/2016/12/aleppo-safe-passage-syrian-fighters-proposed-161211170351336.html>

Date Accessed: 12.12.2016

EAST AND SOUTH EAST ASIA

South Korea Parliament Votes to Impeach President Park Geun-hye

(*Ju-Min Park and Jack Kim, The Wire*, 9 December, 2016)

Park, 64, is accused of colluding with a friend and a former aide, both of whom have been indicted by prosecutors, to pressure big businesses to donate to two foundations set up to back her policy initiatives. Park, who is serving a single five-year term that was set to end in February 2018, has denied wrongdoing but apologised for carelessness in her ties with her friend, Choi Soon-sil. Park has been under heavy pressure to quit but this week said she would await the court's ruling on the impeachment vote. Mass rallies have been held in the capital, Seoul, every Saturday for the past six weeks to press her to quit. Opinion polls show overwhelming public support for her impeachment.

Read More: <http://thewire.in/85756/south-korea-parliament-impeach-park-geun-hye/>.

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Opinions/ Books

OPINIONS

Democracy Died, And No One Noticed

(Meghnad S, *NewsLaundry*, 3 December, 2016)

For the past three weeks, both the houses of Parliament were getting adjourned due to the demonetisation issue. It became evident that both sides wanted a debate but, in Lok Sabha, the argument was over [which rule to use](#) to have that discussion. The deadlock continued last week but there was a window on Tuesday when -- while the house was going bonkers -- the Taxation Laws (Second Amendment) Bill was passed in a din.

Read More: <https://www.newslaundry.com/2016/12/03/democracy-died-and-no-one-noticed>.

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By flirting with isolationism, Trump could be teeing up a third world war

(The Conversation, *NewsLaundry*, 8 December, 2016)

Throughout his presidential campaign, Donald Trump repeatedly opined that the US should no longer serve as the world's policeman. He publicly questioned what the US gets out of its military presence in South Korea and Japan, where it plays a strategic role in facing down China and North Korea. He also expressed admiration for Vladimir Putin, and indicated that Russia's actions in Ukraine are legitimate (to the extent that he's even acknowledged them).

Read More: <https://www.newslaundry.com/2016/12/08/by-flirting-with-isolationism-trump-could-be-teeing-up-a-third-world-war>

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Why Fidel Castro Is A Hero Despite His Many Flaws

(Vinay Aravind, *NewsLaundry*, 8 December)

"Nothing important can come from the South. History has never been produced in the South. The axis of history starts in Moscow, goes to Bonn, crosses over to Washington, and then goes to Tokyo. What happens in the South is of no importance." - Henry Kissinger. With Fidel Castro's passing last week, there has been a predictable line of obituaries from commentators (mostly in the West, but also from those in the global South who look up to the West as a saviour) denouncing him as a monster and a rogue, and expressing astonishment or sneering condescension that so many looked up to him.

Read More: <https://www.newslaundry.com/2016/12/08/why-fidel-castro-is-a-hero-despite-his-many-flaws>

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