Khasi Inheritance of Property Bill, 2021

What is the issue?

- A district autonomous council in Meghalaya recently announced that it would introduce the 'Khasi Inheritance of Property Bill, 2021.
- The Bill has brought into focus the practice of matriliny in Meghalaya.

What does matriliny in Meghalaya entail?

The three tribes of Meghalaya - Khasis, Jaintias, and Garos - practise a matrilineal system of inheritance.

- Lineage and descent are traced through the mother's clan.
- Children take the mother's surname.
- The husband moves into his wife's house.
- The youngest daughter (khatduh) of the family is bequeathed the full share of the ancestral (or the clan's) property.
- The khatduh becomes the "custodian" of the land and assumes all responsibility associated with the land.

Property

- The khatduh cannot sell the property, without permission of her mother's brother (maternal uncle) - since he technically belongs to the mother's clan, through which descent is traced.
- This inheritance tradition applies only to ancestral or clan/community property, which has been with the family for years.
- The self-acquired property can be distributed equally among siblings.
- In this traditional set-up, if a couple does not have any daughters, then the property goes to the wife's elder sister, and her daughters.
- If the wife does not have sisters, then the clan usually takes over the property.

Does matriliny really empower women?

- [Matrilineal is not to be confused with matriarchal, where women function as heads.]

- The matrilineal system in Meghalaya rarely empowers women.
- The custodianship is often misconstrued as ownership vested in just one person, the khatduh.
- But this custodianship comes with the responsibility to care for aged parents, unmarried or destitute siblings and other clan members.
- Also, the custodian cannot buy or sell the land, without taking permission from her maternal uncle.
- While women may have freedom of mobility and easier access to education, they are not decision makers in Meghalaya.
- There are barely any women in positions of power, in politics, or heading institutions.
- The Dorbar Shnong (traditional Khasi village governing bodies) debar women from contesting elections.

What are the implications of the system?

- The system "disinherits" men, and denies equitable property distribution between all children in the family.
- Many times, boys are not able to take loans because there is no collateral to show.
- When a couple has no children, and there is no genuine heir, the clan takes over the property, as per custom.
- It leads to a number of litigations by children against their parents.
- Only about 35-38% of women own property in the state; because most of the property is clan property or community property.

What does the Bill envisage?

- "Equitable distribution" of parental property among siblings in the Khasi community - both male and female.
- Let parents decide who they want to will their property to.
- Prevent a sibling from getting parental property if they marry a non-Khasi and accept the spouse's customs and culture.
- If implemented, this would modify an age-old customary practice of inheritance of the matrilineal Khasi tribe.

How likely is the Bill to be passed?

- The Bill is yet to be introduced in the Khasi Hills Autonomous District Council (KHADC).
- Passing it into a legislation is a long-drawn process and may draw opposition.
- Since KHADC is a body under the Sixth Schedule of the Constitution, it does not have the power to legislate.
- Paragraph 12 A of the Sixth Schedule gives the final right of passing a law to the state legislature.
- Also, while some groups have been campaigning for such a legislation, they do not quite agree with the manner the KHADC has introduced the Bill.
- That 70% of Khasi families are property-less needs to be acknowledged when discussing property rights and this Bill.

Reference

https://indianexpress.com/article/explained/explained-a-proposed-bill-and-its-possible-ramifications-in-matrilineal-meghalaya-7603014/

