

Legal And Social Analysis of Women's Property Rights in India

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Abstract

Women's property rights in India have evolved significantly through constitutional provisions, legislative reforms, and judicial interpretations. Despite legal advancements, women continue to face social, cultural, and economic barriers in exercising their property rights effectively. Property ownership is closely connected with empowerment, financial independence, dignity, and social security. Historically, patriarchal traditions restricted women's inheritance and ownership rights, particularly in ancestral property. However, reforms such as the Hindu Succession (Amendment) Act, 2005, marked a transformative step toward gender equality by granting daughters equal coparcenary rights. This research paper examines the legal framework governing women's property rights in India and analyzes the social realities affecting their implementation. It also evaluates constitutional safeguards, major personal laws, landmark judicial decisions, and persistent challenges. The paper concludes that although India has made notable progress in recognizing women's property rights, effective implementation requires legal awareness, social transformation, and stronger institutional mechanisms.

Keywords: Women's rights, inheritance, property law, gender equality, Hindu Succession Act, constitutional rights..

INTRODUCTION

Property rights for an Indian woman will soon become more difficult depending on what religion or denomination she belongs to, whether she is married or unmarried, what part of the country she is from, whether she is tribal or nontribal. India's patriarchal society ignores the property rights of Hindu women and views them as inferior in the social and economic aspects of human relationships. Women's property rights in India are very different from women's property rights in other countries. In addition to many other personal rights, Indian women themselves are also highly divided about what property rights are. In fact, even within various spiritual groups there are subgroups and local customs and norms, each with its own rules regarding property rights. Ironically, what unites them is that Indian women's property rights are not constitutionally protected across all these borders. Various property rights are certainly true in some ways, but they can be discriminatory and arbitrary despite constitutional guarantees of equality and justice. Recently, the idea of women's emancipation has received a lot of attention. The collective progress made possible by modern technology has awakened a new consciousness within humanity itself. The banquet of new ideas and ideologies has been made more modest by modern means of communication. In ancient times, Hindu women's property rights were subject to various restrictions. Each religious community therefore continues to be governed by its own personal law on several issues, property rights being one of them. Within various religious groups there are also subgroups and indigenous customs and norms with their own property rights. Thus, Hindus, Sikhs, Buddhists and Jains were subject to a property rights regime that was not codified until 1956, Christians were subject to additional laws, while Muslims, including Shiites and Sunnis, were subject to has not yet codified property rights. For Indian courts, with a few exceptions, have generally refused to..

consider personal law against constitutional touchstones in order to undermine it, which is clearly unconstitutional. It is up to the wisdom of the legislature to decide when to draft it. Uniform Civil Code (UCC) based on the mandate of the policy principles of Article 44 of the Constitution. The modern age, despite its negative aspects, all nuclear armament and wars waged in reverse to conquer each, seems more receptive to humanity's problems.¹

However, women were denied inheritance and ownership of marital property and their rights to inherit family property were restricted. With the rise of various Hindu legal schools, the concept of Stridhan began to expand in its precise and legal sense, giving women more rights to certain forms of property.² To make matters worse, the Indian Constitution gives both the central and state governments the power to legislate on inheritance matters, allowing states to enact their own property laws within their respective personal laws and in fact some places have enacted. However, there have been attempts in India to improve the position of Hindu women in terms of inheritance and inheritance rights through various laws before and after Indian independence. The property rights of tribal women of various religions and states shall also continue to follow tribal customs and norms. Worse still, in the Indian Constitution, both the central and state governments have the power to legislate on inheritance matters, so each state can enact its own property laws within the personal statutes, and indeed enact them. Some do. Therefore, there is no uniform regulation of Indian women's property rights. An Indian woman's property rights are determined by what beliefs and sects she follows, whether she is married or single, which part of the country she is from and whether she is tribal or nontribal. Subsequently, from the 19th century to her 20th century, several laws were enacted aimed at removing further obstacles to Indian women's full and equal property rights. Ironically, what unites Indian women is that across all these divisions, their property rights are protected from constitutional protection. Despite constitutional promises of equality for all, various property rights can be discriminatory & arbitrary and in practice are discriminatory in many ways. Indian courts have always dismissed the subject of personal law because of women's religious feelings. Choose the right time to involve communities, allow community leaders to legislate for all without restriction and formulate a uniform civil code, guided by the policy principles of Article 44 of the Constitution is left to the wisdom of the legislature.

This paper aims to provide a comprehensive legal and social analysis of women's property rights in India. It evaluates constitutional provisions, statutory laws, judicial interpretations, social challenges, and the significance of women's property ownership in achieving gender equality and social justice.

OBJECTIVES OF THE STUDY

The major objectives of this research paper are:

- To analyze the legal framework governing women's property rights in India.
- To examine constitutional provisions related to gender equality and inheritance.
- To study the rights of women under different personal laws.
- To evaluate landmark judicial decisions concerning women's property rights.
- To identify social barriers affecting the implementation of these rights.
- To suggest reforms for improving women's access to and control over property.

RESEARCH METHODOLOGY

The present study is doctrinal and analytical in nature. It is primarily based on secondary sources such as books, journal articles, government reports, statutes, constitutional provisions, and judicial decisions. Relevant legal materials have been critically analyzed to understand the development and present status of women's property rights in India.

ROLE OF RELIGION IN THE SUCCESSION OF PROPERTY RIGHT

Hindu Religion plays a significant role in the inheritance laws of India, with religious scriptures dominating the individual laws of different religious communities. In the past, succession laws were largely unorganized and based on community traditions. As society progressed, governments began to organize succession laws, often relying on traditional practices, resulting in inconsistency. Nevertheless, religion continues to influence the organization of succession laws, often leading to unequal treatment of women. During British rule, certain laws were enacted to improve the status of women, and many of these laws have been retained by the Indian government post-independence, subjecting Indian citizens to the religious laws they follow. The property rights of Hindu women in India vary based on their marital status and the type of

¹ Paras Diwan, *Modern Hindu Law*, Allahabad Law Agency.

² Flavia Agnes, *Law and Gender Inequality in India*, Oxford University Press.

property, whether it is ancestral, self-acquired, land, residential, or marital property. Before the 1956 Act, Hindu succession laws were governed by Shastric and customary laws, leading to regional and status-based variations. The diversity in the laws was further complicated by their varied origins. However, social changes during the pre-independence period led to efforts to address gender discrimination in succession laws. While there was a push for equal distribution between male and female heirs, the Hindu women's limited estate was not expanded to full ownership. The earliest legislation that included women in inheritance was the Hindu Law of Inheritance Act, 1929, which granted inheritance rights to three female heirs: son's daughter, daughter's daughter, and sister.³

WOMEN'S PROPERTY TO ASSETS ACT OF 1937

This became the milestone enactment which gave proprietorship rights on girls. This Act performed progressive modifications in the Hindu law, the entirety being equal, and brought changes in the law of joint Inheritance as well as in the regulation of phase, estrangement of property, inheritance and reception. The Act of 1937 empowered the widow to prevail alongside the child and to take an offer equivalent to that of the child. Be that as it could, the widow didn't develop into a coparcener in spite of the reality that she had a correct like to a joint Inheritance hobby inside the property and was a person from the joint circle of relatives. The widow changed into certified distinctly for a restricted domain inside the assets of the expired with an option to assure parcel. a bit lady had practically no inheritance rights. Regardless of those establishments having gotten substantial modifications the law of succession by imparting new rights of succession on unique women, those had been as yet found to be garbled and blemished in several regards and offered ascend to various abnormalities and Left immaculate the crucial highlights of oppression women.⁴

HINDU SUCCESSION ACT OF 1956

The Hindu Succession Act ordered in 1956 changed into the main regulation to provide a complete and uniform arrangement of inheritance among Hindus and to deal with sexual orientation imbalances within the zone of Inheritance. It was for this reason a cycle of codification just as an exchange simultaneously. The Hindu Succession Act changed into the primary put upindependence enactment of assets rights among Hindus. The Hindu Succession Act, 1956 become made to arrange the regulation figuring out with intestate succession amongst Hindus. It reaches out to the entire of India apart from the Province of Jammu and Kashmir. This Act is fabric to all the Hindus, Buddhists, Jains and Sikhs with the aid of religion. The upkeep of the joint inheritance without remembering women for it implied that girls couldn't acquire ancestral assets as adult males do. On the off risk that a joint circle of relatives gets isolated, every male coparcener takes his offer and females get nothing. Just when one of the coparceners bites the dirt, a woman receives a portion of his offer as a beneficiary to the Perished. Along these strains the law via barring the daughters from participating in joint inheritance ownership sincerely through purpose of their gender delivered to an imbalance against girls in addition to has brought on abuse and Invalidation in their right to fairness and offers off an affect of being a funny story of the crucial rights ensured by the charter. Henceforth, this very truth required a similarly change with admire to the assets rights of girls, and which was finished by using the Hindu Succession (change) invoice, 2004.⁵

THE HINDU SUCCESSION MODIFICATION ACT, 2005

The Hindu Succession (amendment) Act, 2005 attempts to make widespread adjustments in the Hindu Succession Act, 1956. To start with, it is proposed to do away with the sexual orientation Segregation in region 6 of the first Act. 2d, it proposes to miss segment of the first Act, which disentitles a lady beneficiary to Request section in regard of a residence house, completely concerned by means of a joint circle of relatives, till the male Beneficiaries decide to split their precise gives in that. Section 6 of the Hindu Succession Act, 1956 has been rehashed for convenience. Devolution of interest in joint inheritance assets. On the factor while a Male Hindu died on after the start of this Act, having on the hour of his death an interest in a joint Inheritance property, his gain in the assets will degenerate with the aid of survivorship upon the enduring people from the joint inheritance and now not as per the Act. The Act offers that if the perished had left him enduring a lady relative decided in class I of the agenda or a male family member indicated in that magnificence who claims thru such female member of the family, the hobby of the expired in the joint

³ Mohsin, (2010) Women's Property Rights in India with Latest Amendments and Cases, Kalpaz Publications.

⁴ Kurian, (2011) Women Laws and Judicial Pronouncements, Indian Social Institute.

⁵ Bina Agarwal, A Field of One's Own: Gender and Land Rights in South Asia.

inheritance property will regress with the aid of testamentary or intestate Succession, all matters considered and now not with the aid of survivorship.⁶ The Hindu Succession (amendment) Act, 2005 is a milestone. Following 50 years, the authorities at lengthy final tended to some enduring sexual orientation imbalances in the 1956 Hindu Succession Act, which itself become manner breaking. The 2005 Act covers disparities on a few fronts: agrarian land; joint family property; parental residing house; and positive widows. The correction has come into pastime from 2005.⁷

PROPERTY RIGHTS OF WOMEN IN INDIA CONSTITUTIONAL AND LEGAL PROVISIONS

Article 14 – Equality Before Law: This article ensures that every person is treated equally in the eyes of the law. It means women cannot be denied property rights just because of their gender.

Article 15 – No Discrimination: It clearly says that discrimination on the basis of sex is not allowed. It also allows the government to make special laws or policies to support and protect women's rights, including property rights.

Article 21 – Right to Life and Dignity: This article protects a person's right to live with dignity. Courts have interpreted this to include economic security, meaning women should not be deprived of property through unfair customs or practices.

Article 39(a) – Equal Livelihood Opportunities: This is a directive principle that guides the government to ensure that both men and women have equal opportunities to earn and own resources for their livelihood.

Hindu Succession Act, 2005 Amendment: This law gives daughters equal rights as sons in ancestral property, making them coparceners by birth. However, it does not apply to tribal communities, as they are governed by their own customary laws.

Forest Rights Act, 2006 (FRA): This law recognizes the rights of people living in forest areas. It provides joint ownership (in the name of both husband and wife), which helps strengthen the position of tribal women.

Scheduled Tribes and Other Traditional Forest Dwellers Act: This law supports fair and inclusive land rights, ensuring that women in tribal and forest communities are also recognized as rightful owners along with men.

LANDMARK CASES ON PROPERTY RIGHTS OF WOMEN IN INDIA

Mary Roy v. State of Kerala (1986)⁸: The Supreme Court held that discriminatory provisions of the Travancore Succession Act were unconstitutional and gave equal property rights to daughters under the Indian Succession Act, ensuring Mary Roy received her rightful share.

Madhu Kishwar v. State of Bihar (1996)⁹: The Court struck down some discriminatory provisions favouring men but also recognized that tribal communities follow their own customs, and not all general inheritance laws apply to them.

Prakash v. Phulavati (2016)¹⁰: The Supreme Court ruled that the 2005 Amendment granting coparcenary rights to daughters applies only if the father was alive at the time of the amendment.

Danamma v. Amar Singh (2018)¹¹: The Supreme Court held that daughters have equal coparcenary rights even if the father died before 2005, allowing daughters to claim equal share in property.

Vineeta Sharma v. Rakesh Sharma (2020)¹²: The Supreme Court clarified that daughters are coparceners by birth, regardless of whether the father is alive, and confirmed that the 2005 Amendment applies retrospectively.

SOCIAL CHALLENGES AFFECTING WOMEN'S PROPERTY RIGHTS

Patriarchal Social Structure: Indian society continues to be deeply patriarchal. Property ownership is often associated with masculinity and family lineage. Sons are traditionally viewed as heirs responsible for

⁶ Mulla, Principles of Mohammedan Law, LexisNexis Publication.

⁷ United Nations Women, Women's Land and Property Rights in South Asia.

⁸ AIR 1986 SC 1011.

⁹ 1996 AIR 1864, 1996 SCC (5) 125, AIR 1996 SUPREME COURT 1864, 1996 (5) SCC 125, 1996 AIR SCW 2178, (1996) 4 JT 379 (SC), (1996) 1 HINDULR 610, (1996) 2 PAT LJR 133, (1996) 2 BLJ 327

¹⁰ AIR 2016 SUPREME COURT 769, 2015 AIR SCW 6160, 2016 (1) ABR 83, 2016 (2) AJR 391

¹¹ AIR 2018 SUPREME COURT 721

¹² (2020) 9 SCC 1.

carrying forward the family name, while daughters are expected to marry and become part of another family. This mindset discourages women from claiming inheritance rights. Families often consider daughters demanding property as socially inappropriate or morally wrong.

Lack of Legal Awareness: A major obstacle to women's property rights is lack of awareness. Many women, especially in rural areas, are unaware of laws granting equal inheritance rights. Illiteracy and limited access to legal information further weaken women's ability to seek justice.

Economic Dependence: Economic dependence on male relatives prevents many women from asserting their legal rights. Women fear losing financial support or family relationships if they demand their share of property. Lengthy litigation and legal expenses also discourage women from approaching courts.

Emotional and Social Pressure: Women are frequently pressured to relinquish property rights in favor of brothers. Social customs encourage daughters to sacrifice inheritance for maintaining family harmony. In many cases, women sign release deeds without fully understanding their legal consequences.

Rural-Urban Divide: Urban women generally have greater awareness and educational opportunities compared to rural women. Rural women face stronger social restrictions, limited mobility, and dependence on traditional community structures. Customary practices often override legal protections in villages.

Gender Bias in Administration: Women sometimes face discrimination in land registration offices, revenue departments, and local administrative institutions. Officials may discourage women from independently owning or managing property. Such institutional barriers reduce effective implementation of legal rights.

CONCLUSION

Women's property rights are essential for achieving social justice, economic empowerment, and gender equality in India. Over the years, India has witnessed significant legal reforms aimed at improving women's inheritance and ownership rights. Constitutional guarantees of equality, progressive legislation such as the Hindu Succession (Amendment) Act, 2005, and landmark judicial decisions have strengthened women's legal position.

However, legal recognition alone is not sufficient to ensure effective realization of rights. Patriarchal customs, social pressure, economic dependence, lack of awareness, and institutional barriers continue to restrict women's access to property.

True empowerment can only be achieved when women not only possess legal rights but are also able to exercise them freely and effectively. Ensuring women's equal access to property is not merely a matter of legal reform; it is a necessary step toward building a more inclusive, equitable, and democratic society.

The government, judiciary, civil society, educational institutions, and families must collectively work toward eliminating gender discrimination and promoting women's economic independence. Equal property rights for women are fundamental for sustainable social and economic development in India...

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