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## SUCCESSION RIGHT OF HINDU FEMALES: LEGAL DEVELOPMENTS AND GENDER EQUALITY

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### ABSTRACT

Women enjoyed the same status as men in the Vedic and Ancient eras. Families held women in high regard. In many ways, they were viewed as men's equals. They also had the right to choose their life partner, went to assemblies, and received an education (Swayam war). When it came to inheritance, women faced discrimination. The father's belongings were only inherited by the son.

There was a male-dominated society back then. The son thus inherited the property in its entirety. Back then, child marriage was not common. During the mediaeval era, women's status started to decline, and they faced numerous social injustices. In the family, Hindu women were respected nonetheless. Hindu women participated in spiritual rituals as well. Back then, women had gone to school. The Purdah system and early marriage had an effect on women's social mobility and education. Only the wealthy have access to education because they can afford it. The belief that a daughter's birth was unlucky resulted in the infanticide of females.

In the Middle Ages, Muslims were allowed to have up to four wives. Muslim women followed the purdah system to the letter. Social norms prevented Muslim women from receiving an education. Divorce and remarriage to their spouse are options.

They could also be entitled to a portion of their parents' assets. In general, women's standing decreased in the Middle Ages. According to the Aitareya Brahama, a son is the family's defender, while a daughter brings sorrow.

## **INTRODUCTION**

The Hindu Women's Property Rights Act, 1937 was enacted during the British Empire. The act aimed to improve the equity of succession law. Women did not previously have any property rights. The government has passed a number of laws to better the status of women, grant them rights, and give widows access to property. In the event that there is no will, the Hindu widow's right to her dying husband is addressed by the Hindu Women's Right to Property Act of 1937. In these situations, widows are entitled to a portion of the property. Hindu Law in Karnataka Any woman's property rights are restricted by the Women's Rights Act. In situations where a woman is not allowed to sell her property through a will. We refer to this as the limited estate.

## **HINDU SUCCESSION ACT 1956**

The 1956 Hindu Succession Act significantly altered the property rights of women. The Act's Section 14 states that the only people with absolute property rights are Hindu women. Unrestricted property disposal rights are among the rights, or rights inherent in nature. Section 14 of the Hindu Succession Act, 1956, deals with both immovable and mobile property. Property acquired by Stridhan prior to the enactment of this act includes assets obtained through inheritance, purchase, gifting, in lieu of maintenance, prescription, arrears, or any other means.

In conclusion, whether property is acquired before or after the act's inception, it is subject to Section 14. Additionally, the government implemented a few policies pertaining to Coparcenary property. The undivided property of the Hindu family is known as the coparcenary property.

Members of the Hindu Undivided Family are Coparcener. They are descended from the head of the family and are born with property rights. A woman had not previously belonged to Coparcener. There was no succession to the ancestral property as a result. The Hindu Succession Act, 1956 was amended by numerous states, including Karnataka, Maharashtra, Kerala, Tamil Nadu, and Andhra Pradesh. On July 30, 1994, the Hindu Succession Act amendment took effect in the state of Karnataka. Giving women the same status as men and acknowledging that, like sons, women are part of the coparcener's property from birth were the primary objectives of the act.

Individuals living together in a joint family occupy houses. Therefore, the female member cannot force a partition unless another male member wants to divide the house. Nonetheless, a widow who has been abandoned or split from her husband, a married daughter, or an unmarried daughter are all entitled to a right of residence there. There are limitations on the inheritance or succession of agricultural land by women. (Wives, daughters, and so forth). Women were supposed to get nothing; they could only inherit property if it was specified in the will. Property is divided among certain interstate residents in the event of a will. Thus, everything is determined by the will of the woman (*Dagadu Balu vs. Namdeo Rakhmaji and Ors*).

### **THE HINDU SUCCESSION ACT APPLIES ON:**

1. Any individual who practices Hinduism in any form or who belongs to the Brahmo, Prarthana, or Arya Samaj groups.
2. Any individual who practices Buddhism or Sikhism.
3. Any individual who does not practise Islam, Christianity, Parsi, or Judaism.
4. It is crucial to provide evidence that no one would have been subject to Hindu law.
5. This section also defines who, in terms of religion, is considered a "Hindu," "Buddhist," "Jains," or "Sikh."
6. A child who practices Buddhism, Jainism, or Hinduism as both of their parents do.
7. A person who becomes a Hindu, Buddhist, or Sikh convert.
8. Anyone who reverts to Buddhism, Sikhism, Jainism, or Hinduism.

Even if they do not follow Hinduism, a person who satisfies the act's requirements is still regarded as Hindu. Hindus' laws regarding inheritance are also included in the Hindu Succession Act of 1956. Women are now allowed to purchase property under this law, but not on the same terms as men.

The Hindu Succession Act's Section 6 discusses about coparcenary. Ancestral and self-acquired property are distinguished by the Mitakashara School of Hindu Law. It picks up on the word "coparcenary."

## **ACCORDING TO THE HINDU SUCCESSION ACT AMENDMENT 2005, THE MEANING OF THE COPARCENER MEAN**

1. The daughter, in the same way as the son, becomes a coparcener by birth.
2. If the woman had been a son, she would have had the same rights to the property.
3. Have the same obligations with regard to the coparcener's property as the son's.

In addition to differences in the Hindu Joint Family framework, there were gender disparities .

The Hindu Joint Family was a society where men predominated. The male was considered the head of the family. Male members of such a joint family were therefore expected to inherit both property and wealth by virtue of their birth.

It was difficult for the heir who was female. In this instance, a female heir's share of the property was significantly smaller than a male heir's. In the second case, a mother, a father, and two daughters make up a family of four. An heir who was a woman if the father passed away. The female is, therefore, the owner of this. The second scenario is this one.

The Hindu Succession Act was passed in September 2005. The act aims to eliminate the difference in property inheritance between Hindu joint families headed by men and women. It is rare for married women to cede to a male family member their portion of joint family or ancestral property to keep family ties intact. If they can't agree, they can file a case in Indian courts.

There are significant gender differences in the Succession Act, and women experienced significant discrimination in the personal law field. The government is promoting gender equality in a number of ways. Every now and then, gender equality reaches a low point. Women and men enjoyed the same status in antiquity. Women participate in all activities and enjoy the same status as men now that everything has changed.

Women no longer have to worry about discrimination to pursue careers as diverse as doctors, teachers, politicians, or civil servants. The Indian government runs various programmes to educate women under the 'Beti Bachhao Beti Padhao Andolan,' such as free education and education loans for girls.

## **PERSONAL LAW**

A law that applies to a particular class or caste on the basis of religion, faith, or culture is known as personal law. Everyone in India has a different caste, religion, and set of faiths and beliefs because it is a secular nation. Religion laws were formulated taking into account different customs. Indians have complied with the law ever since the colonial era. In personal cases, when there is no statutory law that addresses the matter, courts must deal with personal laws.

## **SOURCES OF HINDU PERSONAL LAW**

1. The Rig Veda, Sama Veda, Yajurva Veda, and Atharva Veda are the four Vedas. 'Shruti' contains all of these Vedas.

2. Smritis come in three different varieties: Manu, Yajnavalkya, and Narada codes. The Smritis contain commentary written by numerous historical writers as well as the teachings and proverbs of Hindu holy figures and rishis.

Hindus are governed by customs and personal laws that are recognised by statute. These are all connected to legal matters. Legal issues include inheritance, succession, marriage, adoption, coparcenary, the division of family property, sons' debt-payment obligations to their father, maintenance, guardianship, and donations to charities and religions.

The laws that control the establishment and dissolution of marriages, parent-child relationships, marital property, child custody, and inheritance are collectively referred to as religious personal law. India has numerous laws pertaining to personal religion because it is a secular nation.

## **GENDER EQUALITY**

Gender inequality exists in our personal religious laws. Laws based on personal religions promote patriarchy. Muslim personal law states that there is no minimum age for marriage and that it happens with parental consent. Early marriage results from it, and social mobility and education are constant problems. As everyone knows, parents in our nation of India will give their daughter more dowry as compensation if she does not receive an education. Domestic violence is a result of dowering. It was decided that dower was either a good custom or a caste or family tradition. It's now frowned upon in our society, though.

In dowry disputes, about 15,000 women are killed by their husbands. In the last ten years, there has been roughly a 170% increase in dowry deaths. Thousands of instances also exist where women are killed by their husbands or the husband's family as a result of their dissatisfaction with the dowry she contributed to the union. When a girl marries, if her parents do not provide a sufficient dowry or money the woman will burn in a kitchen accident.

## **HINDU PERSONAL LAW SUCCESS**

Throughout the nineteenth and twenty-first centuries, the law has undergone various modifications. The allocation of property among women in Hindu Undivided Families (HUF) is regulated by these laws. The head of the Hindu Undivided Family is called "Karta." Between 1860 and 1937, there was a major shift in the laws pertaining to Hindu Undivided Families.

The period of Classical Law was from 1860 to 1937. A law that prohibited widows from demanding property division was passed during this period; however, when property was divided amongst family brothers, the widowed mother was entitled to a certain amount.

With the passage of this Act in 1937, there was a change in the law pertaining to widows' rights in Hindu undivided families. The right of widows to partition was added to this act through amendment. The widow's rights were also restricted by the act, and it was not her prerogative to alienate the property whenever she pleased. In the Hindu Undivided Family, this is the first attempt to grant women equal rights to property

The Hindu Succession Act saw its next modification in 1956. Experts claim that this was one of the most important changes to women's property rights in the Hindu Undivided Family. A list of individuals who will be first in line to receive property in the event that a Hindu Undivided Family is divided is contained in Section 6 of the Act.

## **AMENDMENT 2005**

One of the most forward-thinking moves the Indian judiciary has made in recent years is this. The property rights of women were altered in a number of ways by this amendment. This amendment made women and men equally. It's one of the best things the Indian government has done. A few legal counsellors from across India put forth a lot of effort and best efforts towards the amendment. The Act has undergone some modifications.

## **ACT OF 2005 CHANGES ARE**

Section 4(2), This amendment from 2005 removed this section. The Section states that no provision of any other act shall be superseded by the Act (Hindu Succession Act). This section prevents women from participating fully in agriculture, which leads to inequality among them.

Section 6: The woman was regarded as a coparcener under Section 6 of the Act. It gives women equal opportunities. It grants women the privilege of coparcener. All of a son's responsibilities and rights are extended to women. Since the daughter was born with the coparcener right, she also possesses coparcener property after the marriage. When it comes to a Hindu Undivided Family's property, women and men have equal rights.

Section 23: The woman was granted the right to a dwelling house by this act. According to the clause, only single, separated, or widowed women are allowed to reside, which leads to inequality. This Section was also amended, and the decision was made to grant women the right to occupy a dwelling, which was in their best interests.

Section 24: According to Section 24 of the act, a widow of a brother who has passed away is not entitled to a share of her husband's assets if she remarries. That is the reason the Amendment Act of 2005 repealed this Section.

Section 30: This section gives women the right to dispose of their property by adding the words "disposed by him or her" in place of he.

## **DEVELOPING JURISPRUDENCE**

### **Phulavati v. Prakash (2016)**

The Two-Judge Bench was in charge of making the decision in this case. The bench decided that if the father, the coparcener, passes away before September 9, 2005, the amendment will not apply to the daughter's right to inherit coparcenary property. Therefore, only "living daughters of living coparcener on September 9, 2005" will benefit from this amendment.

### **Amar Singh v. Danamma.**

The father does not have to be living at the time the Hindu Succession Act of 2005 was passed

in order for a daughter to become a coparcener.

A two-judge bench led by Justice A.K. Sikri has ruled that a daughter may be entitled to coparcenary property even if their father passed away prior to the Hindu Succession Act of 2005 taking effect.

The reference to the larger bench of Three Judges in the Vineeta Sharma case resulted from the benches of equal strength providing these opposing viewpoints. V. Rakesh Sharma.

### **Rakesh Sharma vs. Vineeta Sharma**

The ruling in the Danamma v. Amar Singh case was upheld by the Supreme Court, while the ruling in the Prakash v. Phulavati case was not.

Daughters have the same rights to ancestral property as sons since they are coparceners by Laws.

### **CONCLUSION**

The World Bank Collection of Development Indicators estimates that 48.03% of Indians are women. Women make up the majority of the Indian population. "Women make up half of the Indian population as well. Women have suffered and faced discrimination forever. They are silently subjected to discrimination. According to Justice K. Rama Swamy, "their mobility and fortitude are self-sacrifice and self-denial, but they have been subjected to all equity's indignities, inequality, and discrimination." Justice K. Rama Swamy asserts that discrimination against women persists in India. There are different religious and personal laws according to the specific religion. However, there is persistent discrimination against women under this religion's personal law. In contrast to religious personal law, women are likewise treated better under civil laws. Therefore, civil law nations with a diversity of religious beliefs, like India, which chose to be a democratic and secular state, do not mention this kind of discrimination. Every Indian citizen has the right to choose their government through the electoral process. The State has an obligation to offer a voluntary, secular family law code.