

Navigating Legal Labyrinths: Hindu Women's Inheritance Rights and Societal Realities

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ABSTRACT

The quest for freedom is incomplete without the liberation of women from all forms of oppression, as famously stated by Nelson Mandela. This paper explores the transformative impact of the 2005 amendment to The Hindu Succession Act of 1956, which marked a pivotal shift by granting daughters the same rights as sons to coparcenary property in joint family estates. Prior to this amendment, daughters were significantly marginalized in matters of inheritance, which not only perpetuated gender inequality but also reinforced societal biases against women as property owners. Despite the legal advancements, societal attitudes have been slow to change, and there remains a notable discrepancy in the realization of these rights by women. This study delves into the generational effects of these legal reforms, highlighting the hurdles and societal issues daughter face to inherit land and other property. Furthermore, it underscores the broader implications of equal inheritance rights for women's empowerment and the potential for societal transformation through equitable wealth distribution. By examining intergenerational transfers of assets and the empowerment of women through enhanced inheritance rights, this paper advocates for the continued evolution of inheritance laws and creation of legal & financial awareness among women to achieve gender justice in India.

Keywords: Societal attitudes, Empowerment, Commitment, Equality, Traditional, Emotional

Introduction

In the contemporary era, the status of women in society has seen remarkable progress due to heightened awareness, the proliferation of global platforms and social media for expressing views, and significant legal reforms aimed at empowering women. Governments have played a crucial role in enacting gender-neutral laws that have furthered the cause of women's rights. Among these, inheritance rights stand out as a critical area where significant strides have been made, yet absolute equality remains elusive. Despite legislative advancements like the amendment to The Hindu Succession Act, which sought to equalize inheritance rights between genders, challenges persist. The societal fabric, woven with deeply ingrained patriarchal norms, continues to undervalue women's rights to inheritance. This discrepancy not only fuels practices like female

foeticide and increases female infant mortality rates but also reflects a broader societal reluctance to embrace legal reforms fully. The Economic Survey of 2017-18 shed light on a distressing outcome of these prejudices: an estimated 63 million women are 'missing' from the Indian population, a direct consequence of the societal preference for sons. This preference is rooted in economic considerations and traditional expectations that sons will inherit property, contribute to the family's wealth, and care for their parents in old age. In contrast, daughters are often perceived as liabilities. Once married, any property they inherit is feared to be lost to their in-laws, further dissuading families from supporting daughters' rights to inheritance. Moreover, the lack of awareness and education among women about their legal rights exacerbates their reluctance to

challenge these norms in court. The stronghold of patriarchal traditions not only deters women from asserting their rights but also poses a threat to their safety should they choose to do so. Thus, the need for better implementation of inheritance laws has never been more urgent, demanding a reevaluation of societal attitudes and legal frameworks to ensure true equality.

Tracing Women's Inheritance Rights in the social context

The concept of property rights for women encompasses their ability to own, acquire, enjoy, manage, and dispose of both tangible and intangible assets, such as land, money, housing, bank accounts, livestock, and pensions. However, the reality for many women, especially widows and daughters, is a far cry from this ideal. Till 1956 women were granted only temporary rights to land, leading to decreased productivity and an increased risk of instability. This situation is symptomatic of a larger issue of systemic inequality, wherein women's lack of asset ownership diminishes their bargaining power, restricts their resource allocation for investment and consumption, limits their livelihood opportunities, and curtails their legal rights to property. These temporary rights not only hinder women's economic independence but also perpetuate a cycle of poverty and disempowerment.

The belief in inheritance exclusive to males, upheld by the Mitakshara school², was in stark opposition to the constitutional prohibition of discrimination based on gender, prevalent across numerous Indian regions³. Despite substantial societal resistance, incremental reforms were implemented to enhance the rights of women. Ultimately, in 2005, amendments ensured women attained equal status as coparceners, allowing them the same inheritance rights as men. Leaders like Jawaharlal Nehru passionately supported the entitlement of women to property rights, among other rights.⁴

The Hindu Succession Act of 1956 marked a pivotal moment in the codification and unification

of succession laws for Hindus, significantly impacting women's rights in the process. This legislation not only abolished the disparity between sons and daughters regarding their inheritance rights of separate property but also elevated the widow's status to be on par with a son, granting her an interest in separate property⁶. It ensured that conversion did not disqualify women from their rights, established the mother as a Class I heir, and bestowed upon women absolute power over their property, including the right to dispose of it as they saw fit⁷. Prior to the amendments in 2005, sons and daughters had inherently different rights concerning their father's Hindu Undivided Family (HUF) property⁸. Sons had complete rights over the deceased father's HUF property, while daughters would lose their rights upon marriage, even in dwelling house of her parents⁹, as they were then considered part of their husband's family. The HUF concept encompasses all individuals descended from a common ancestor, highlighting a traditional practice that, despite constitutional guarantees of equality, perpetuated gender biases in succession rights for intestate property. Only coparceners, or joint owners, could acquire notional shares of the ancestral property upon the death of a Hindu family head, with the deceased person's share later being distributed equally among all heirs. The Act governs inheritance and succession among Hindus, including Sikhs, Jains, and Buddhists, without distinguishing between movable and immovable properties. It applies in cases of intestate succession, where there is no will. In such cases, a man's property devolves among the agnates or the male blood relatives or those related by adoption, with a preference for these relatives. A wife, as an heir, is entitled to her husband's property like any other heir and may inherit the entirety of her husband's property if there are no other heirs.

Sections 14, 15, and 16 of the Act addresses the inheritance of Hindu women's property.

Section 14 grants women absolute ownership over various types of property. Section 15 addresses the succession of a woman's estate in the absence

of a testamentary disposition, wherein the statute accords precedence to her progeny and spouse above all other kin. This clause exhibits a preferential bias towards the heirs of the woman's husband over her own biological parents. It is imperative to underscore that this engenders apprehension among families concerning the prospect that assets bestowed upon daughters will, in effect, be transferred to their marital family, thereby precluding any reversion to her natal family. The ramifications of this legal provision extend equivalently to the woman's separately accumulated property. In an era where parental investment in offspring is substantial, this stipulation culminates in divergent outcomes concerning inheritance, thereby delineating a conspicuous disparity in the treatment accorded to males.

The 2005 Hindu Succession (Amendment)

Act was a pivotal reform that significantly advanced women's rights in India by ensuring daughters have the same inheritance rights as sons, irrespective of their marital status. This legislative change not only challenged traditional norms but also strengthened gender equality concerning property rights. The amendment brought about various positive shifts, including the removal of Section 23, which had previously limited married women's rights to dwelling houses, thereby extending their entitlements. Additionally, a vital modification to Section 6 recognized daughters as coparceners in Mitakshara coparcenary, allowing them equal status with sons in inheritance rights. The inclusion of equal rights for sons and daughters under section 6, underscored the commitment to women's inclusion in legal rights, aiming to correct historical injustices in property distribution. Subsequent to this amendment, judicial interpretations, such as the Supreme Court's verdict in Vineeta Sharma vs Rakesh Sharma, reinforced the intention behind the law by ruling that daughters' rights as coparceners apply in a retroactive manner regardless of their birth date. This landmark decision underscored the commitment to ensuring equal rights for women, marking a significant step towards gender equality. However, despite these legislative advancements, societal practices and biases continue

to undermine gender equality. **Traditional prejudices** persist, leading to discrimination against women within families and society at large. Customs like "**Haq Tyag,**" i.e. **Relinquishment Deed**, where women voluntarily give up their property rights, further entrench inequalities. Throughout history, numerous instances have emerged wherein families have resorted to **emotional coercion**, essentially threatening to sever familial ties unless their daughters relinquish all claims to their rightful inheritance within their father's estate.¹⁰ This phenomenon underscores the persistent gap between the formal legal framework and societal practices, illustrating that legislative reforms have yet to catalyze the necessary shifts in societal norms and attitudes. Despite the progressive evolution of laws intended to bolster women's rights to property within the Joint Hindu Family system, a significant disparity remains in the awareness and actualization of these rights, particularly among women residing in rural areas and, surprisingly, in urban settings as well. This glaring disparity underscores the urgent necessity for concerted efforts aimed at enhancing awareness and financial literacy among Indian women. Such initiatives are crucial for empowering women to assert their legal rights and navigate the complexities of property inheritance, thereby fostering a more equitable distribution of wealth and contributing to the dismantling of entrenched patriarchal structures.

Additionally, the legal framework governing the **intestate succession of women** favors the husband's heirs over her birth-family, which could worsen gender imbalances. In 1955, Naryani Devi entered into matrimony, subsequent to which she relocated to her husband's residence. Tragically, her husband's demise occurred less than three months post-marriage, leading to her expulsion from her matrimonial domicile. Thereafter, she sought refuge with her parental family, who provided for her education and essential needs in the ensuing years. Through her industrious efforts, Naryani amassed a significant portfolio of properties. However, her life concluded in 1996, leaving no progeny, and thus, her acquired assets and land became the subject of inheritance disputes. Her mother endeavored to

claim a portion of the estate, a move that was later contested by her in-laws. The pivotal question regarding the rightful heir to Naryani Devi's estate was deliberated in the landmark case of *Om Prakash vs. Radhacharan*¹¹, wherein the apex court, adhering to the Hindu Succession Act of 1956, adjudicated in favor of her in-laws, disenfranchising her biological mother from any entitlement to the estate. This decision underscored a preference for the deceased's marital kin over her natal family, notwithstanding the latter's significant role in the accumulation of the contested property. Consequently, the husband's distant relatives emerged as the beneficiaries of the estate, to the detriment of her immediate family. This scenario illuminates a stark disparity in the treatment of property inheritance based on gender, particularly under the Hindu Succession Act¹². Had Naryani Devi been male, the inheritance of the property would likely have remained within her immediate family, underscoring a gender-based inequity in the legal provisions governing the succession of property. The Act delineates distinct succession protocols for males and females, manifesting a pronounced bias in instances where a childless woman's estate is in question. Specifically, Sections 8 and 15 of the Act confer preferential rights to the husband's family over the wife's relatives, even in instances where the latter's contributions were instrumental in the property's acquisition. This discrimination underscores the need for a reevaluation of succession laws to ensure equitable treatment regardless of gender.

In certain instances, parents opt to present **gifts to their daughter at the time of her marriage**, which are then considered as her inheritance. This practice, it is essential to emphasize, diverges from the confines of legal frameworks, and judicial institutions have, on numerous occasions, reaffirmed this stance through their rulings¹³. Such a tradition, ostensibly benign in its intention to provide for the daughter, subtly perpetuates a societal malaise by reinforcing gender-biased inheritance practices. This phenomenon underscores a deeper *systemic*

issue within the societal fabric, where patriarchal norms dictate the distribution of wealth and assets, often marginalizing daughters in favor of sons. The legal system's repeated invalidation of this practice signals a recognition of its inherent inequality and the perpetuation of gender disparity. However, the resilience of this tradition, despite legal censure, highlights a significant lag in the evolution of societal norms towards more equitable practices. The persistence of such practices, in defiance of legal statutes, reveals an unsettling inertia within society, where normative changes lag considerably behind legislative advancements. This discord between legal frameworks and societal practices exemplifies the challenging road ahead in eradicating deep-seated societal evils. It illustrates the necessity for a multifaceted approach, encompassing not only legal reforms but also educational and cultural interventions, to foster a societal paradigm shift towards gender equity and the equitable treatment of all progeny, irrespective of gender.

The issue of **sex-selective abortion** persists as a troubling phenomenon, reflecting entrenched societal attitudes that prioritize male heirs over female inheritance rights.¹⁴ This troubling reality underscores a fundamental disconnection between legal advancements and societal norms, underscoring the imperative for a profound cultural transformation towards acknowledging and respecting women's property entitlements while dismantling entrenched patriarchal conventions. Advancing gender-neutral legislation and enhancing awareness regarding women's rights emerge as pivotal strategies in ensuring the practical enforcement of legal reforms and redressing systemic societal disparities. In essence, while legislative enhancements have undoubtedly propelled women's standing in property matters forward, achieving genuine gender parity demands a comprehensive approach that confronts both legal and cultural prejudices. A concerted endeavor to challenge discriminatory customs and advocate for inclusive policies is indispensable in upholding constitutional mandates of equality, thereby facilitating economic empowerment and nurturing

widespread acceptance of women's property rights within the fabric of Indian society.

Conclusion:

In the article underscores the critical need for a shift in the implementation framework to empower women, particularly in rural areas. The initiative in the Uttarakhand district, which involves adding women's names to house nameplates, serves as an exemplary model of how simple measures can significantly impact women's recognition and empowerment. Building on this foundation, it is recommended that similar efforts be extended to increase women's financial and legal awareness. Specifically, launching succession and inheritance rights campaigns in rural areas could profoundly affect women's autonomy, ensuring they are informed and equipped to assert their rights. Such campaigns would not only educate women about their legal rights but also foster a cultural shift towards gender equality. Implementing these recommendations requires concerted efforts from government bodies, non-profit organizations, and the community. By prioritizing women's financial and legal empowerment, we can pave the way for a more equitable and just society where women's rights are not just acknowledged but actively protected and promoted.

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