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REDEFINING SUCCESSION: GENDER EQUALITY IN INDIAN INHERITANCE LAW

AUTHORED BY - DIVYA SHARMA

Inheritance laws, a fundamental aspect of legal systems worldwide, have evolved over time due to cultural norms, societal values, and legal frameworks. Traditionally, inheritance laws were patriarchal, favoring male heirs and perpetuating gender disparities. However, with the advancement of human rights and women's movements, there has been a gradual shift towards more equitable inheritance rights. In many jurisdictions, inheritance laws have evolved to grant equal rights to both male and female heirs, often through legislative reforms, judicial interpretations, and international conventions promoting gender equality.

Judicial decisions have also played a crucial role in interpreting and enforcing inheritance laws, recognizing the importance of gender equality in inheritance. Landmark cases have set precedents, affirming women's rights to inherit property and challenging traditional notions of male primogeniture. Despite these advancements, challenges persist in ensuring equitable inheritance rights for women, particularly in regions where patriarchal norms remain entrenched. In many developing countries, cultural traditions and customary laws continue to discriminate against women, relegating them to secondary status in inheritance matters. Inadequate legal protections and enforcement mechanisms exacerbate these disparities. Equitable inheritance laws can significantly influence women's socio-economic status, autonomy, and empowerment. They empower women by providing access to property, resources, and financial security, promoting economic independence and empowerment. Conversely, discriminatory inheritance laws perpetuate gender disparities, exacerbating women's vulnerability to poverty, exploitation, and marginalization.

- **Rights of women under Hindu Succession Act of 1956**

Inheritance laws in India have evolved over time, reflecting societal changes and efforts towards gender equality. The Hindu Succession Act of 1956 challenged traditional gender norms by granting daughters equal inheritance rights in ancestral property. However, these reforms were limited, with coparcenary property exclusion for daughters until recent amendments in 2005. Muslim Personal Law governed inheritance among Muslims, often

favoring male relatives. Inheritance laws among Christians and other communities also exhibited gender disparities, reinforcing patriarchal norms.

The Hindu Succession (Amendment) Act, 2005 (HSA), aimed to rectify gender disparities by granting daughters equal rights in coparcenary property. However, enforcement and interpretation remain contentious, with lingering societal biases and patriarchal attitudes influencing implementation. Muslim Personal Law continues to uphold male primogeniture, contributing to unequal inheritance rights for women within Muslim communities. The evolution of inheritance laws has improved gender equality in India, particularly among Hindu communities. Equal inheritance rights empower women economically, providing access to property and financial resources crucial for their autonomy and well-being. However, challenges persist, especially within Muslim communities where patriarchal interpretations of religious texts hinder progress towards gender parity in inheritance rights. The lack of uniformity across religious laws further exacerbates disparities, impeding broader efforts towards gender equality. It retained discriminatory provisions such as the limited estate rights of daughters compared to sons.

- **Amendments in the legislation and leading cases**

The Hindu Succession Act has undergone several amendments since its inception in 2005. The 2005 amendment granted daughters equal coparcenary rights in ancestral property, addressing historical discrimination faced by daughters in succession matters. This change aimed to empower women economically and socially. The 2015 amendment clarified that daughters have the same rights as sons in matters of inheritance, regardless of the father's existence at the time of the amendment. It also addressed issues related to the devolution of property in cases where a Hindu dies intestate without a will, ensuring fair distribution among all legal heirs. The 2019 amendment aimed to further enhance women's rights in matters of inheritance, focusing on widows and their entitlement to property rights. This amendment aimed to rectify historical injustice faced by widows by ensuring they receive their rightful share of the deceased husband's property, regardless of whether the husband acquired the property before or after the marriage. It aimed to provide greater financial security and independence to widows, enabling them to assert their inheritance rights effectively.

There are several landmark cases that have played a pivotal role in shaping the interpretation and implementation of inheritance laws in India. One such landmark case is **Vineeta Sharma v.**

Rakesh Sharma, (2020), where the Supreme Court reaffirmed the equal rights of daughters in ancestral property, irrespective of when they were born. This ruling overturned previous judgments that upheld discriminatory provisions of the HSA, setting a precedent for gender equality in inheritance. Similarly, in **Danamma v. Amar, (2018)** the court reaffirmed the principle of gender equality in inheritance rights, granting daughters equal coparcenary rights in ancestral property, regardless of the father's existence at the time of the amendment. These cases marked significant steps towards gender equality in inheritance rights.

There are such other important cases which lead the rules regarding the various legislation in Hindu law for females. The very famous case **State of Bombay v. Narasu Appa Mali, (1952)** was a landmark case that influenced the legal landscape of Hindu personal laws. The Bombay High Court ruled that Hindu law could be amended by the legislature, leading to future legislative reforms; thus, it is not subject to the doctrine of precedent. This case strengthens the rights of women through reformation in the legislation of India.

However, in the case **Githa Hariharan v. Reserve Bank of India, (1999)**, where the Supreme Court addressed gender discrimination in guardianship and succession, stating that the discriminatory provisions of Hindu Minority and Guardianship Act and the Hindu Succession Act were unconstitutional.

The Legislation effectiveness in promoting equitable inheritance rights for women depends on the legal framework, enforcement mechanisms, and socio-cultural context. In jurisdictions with robust enforcement mechanisms and public awareness campaigns, significant progress has been made in promoting gender equality in inheritance. However, legislative reforms alone are insufficient to address deep-rooted gender inequalities, as cultural norms, customary practices, and socio-economic factors often undermine the implementation of equitable inheritance laws.

In developing countries, women face systemic barriers to accessing education, employment, and healthcare, exacerbating their vulnerability to discrimination and marginalization. To effect meaningful change, comprehensive approaches that combine legislative reforms with community engagement, education, and economic empowerment are essential. Efforts to promote equitable inheritance rights must be evaluated within the broader socio-economic context, as women often face systemic barriers to accessing education, employment, and healthcare. Legal complexities and ambiguities often lead to protracted legal battles, deterring

women from asserting their rights.

Equitable inheritance laws have far-reaching socio-economic implications, shaping wealth distribution, social mobility, and intergenerational transmission of resources. By granting women equal rights to inherit property and assets, societies can promote economic development, poverty reduction, and social inclusion. Studies show that secure property rights lead to investment in the well-being of families, education, and health, leading to positive outcomes for future generations. These rights contribute to greater social stability and cohesion by reducing intra-family conflicts and tensions arising from disputes over inheritance. They also foster trust and cooperation among family members and communities, promoting inclusive growth and reducing gender disparities.

