

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi Disciplinary
Peer Reviewed

www.ijlra.com

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INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

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HISTORY OF HINDU WOMEN'S INHERITANCE RIGHTS AND TRANSITION FROM MALE- DOMINANCE TO EQUAL RIGHTS

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INTRODUCTION

In the Vedic era, Hindu women were respected and were at par with men in the society. Women at the time were educated, attended ceremonies, social gatherings, etc., were part of numerous rituals, and had the right to choose their own husbands but were deprived of the right of inheritance of properties. By the medieval period, women started losing respect and say in society and the status of women started declining.

During their advent in India, the British codified common criminal laws but left civil laws untouched, allowing Hindus and Muslims to follow their personal laws. It was laid down by the Britishers that the laws of the Quran would apply to Muslims, while those of the Shastras would apply to Hindus.

The law of inheritance in India is dictated by personal laws. Inheritance in the case of Hindus, Buddhists, Jains, and Sikhs is governed by the Hindu Succession Act, 1956, in the case of Muslims is governed by the Muslim Personal Law (Shariat) Application Act, 1937, and by the Indian Succession Act, 1925 in the case of Christians.

Since the dawn of time, men have utilized laws and scriptures to uphold a hierarchy of power over the handling of property. In this article, we will discuss the transition from gender inequalities in Hindu inheritance laws in the past to equal inheritance rights for men and women.

HINDU LAWS

The Manusmriti is the root of Hindu Personal Laws today. The Manusmriti was written as a guide for social conduct, discipline, and duties, outlining the roles and expectations of different

sections of society, particularly women. However, in the modern era, its principles appear outdated and misaligned with contemporary values of equality and justice.¹ Many of the social inequalities and injustices faced by women can be traced back to its teachings, which were formulated at a time where the position of women in society was that of complete subservience and subjugation².

Among various schools, the Mitakshara and the Dayabhaga were two primary schools that governed the inheritance for Hindus. Devolution of property according to Mitakshara law was done by two rules – either succession or survivorship. Succession was applied for self-acquired property and survivorship for coparcenary or Joint Hindu Family property whereas, Dayabhaga law only recognized succession as a rule. The concept of the "coparcenary" was central to the Mitakshara school, which governed the inheritance rights of Hindu families in most parts of India. According to this system, property was passed down through male descendants, and only sons, grandsons, and great-grandsons were considered coparceners with a birthright to ancestral property.³ The Dayabhaga school, prevalent in Bengal and Assam, differed from the Mitakshara system by recognizing the absolute ownership of property by an individual rather than the joint family. Under this system, sons did not have an automatic birthright to ancestral property; instead, inheritance was determined upon the father's death. In both schools, however, daughters had limited or no rights to inheritance, as property was generally passed down through the male line.

The Manusmriti and the Vedas never gave women inheritance rights or even right to own property except "Streedhan". Streedhan was to property (mainly jewellery) gifted to women at the time of their marriage and they had absolute right over the property but as the British influence grew in India, they introduced the Hindu Law of Inheritance Act, 1929 – one of the first legislative efforts to bring reform. This act granted inheritance rights to three female heirs—sons' daughters, daughters' daughters, and sisters – who were previously excluded under traditional Hindu law. However, the act applied only in limited circumstances and did not significantly alter the male-dominated inheritance system.⁴

¹ Doniger, W., & Smith, B. K. (1991). *The Laws of Manu*. Penguin Classics

² Prachi Dutta, *Gender Inequality and Hindu Personal Laws*, *India Law Journal*, <https://www.indialawjournal.org/archives/volume8/issue-1/article10.html>

³ Mulla, D. F. (2016). *Principles of Hindu Law*. LexisNexis

⁴ Mulla, D. F. (2016). *Principles of Hindu Law*. LexisNexis

Hindu Women's Right to Property Act, 1937 was also introduced in the colonial rule. This act gave widows the right to inherit their husbands' properties after his death but the rights were not absolute and had rights only to "limited estate". This meant that the widow could not freely sell or transfer their deceased husbands' property and after her death, the property went back in the hands of the male heirs of the deceased husband.

Post independence, the Hindu Succession Act (HSA), 1956 was enacted which governed the inheritance laws for Hindus, Buddhists, Jains, and Sikhs. Under the HSA, 1956, women were granted equal rights as men in inheriting property from their fathers, husbands, and sons. The law abolished the concept of "limited estate" for widows, granting them full ownership of inherited property. Daughters were also recognized as legal heirs, although they were still not granted coparcenary rights in ancestral property. Instead, inheritance among Hindus followed a structured order of heirs, known as "classes," where male heirs, such as sons and grandsons, remained primary inheritors.

Despite these advancements, the 1956 law still reflected patriarchal biases. The exclusion of daughters from the Hindu coparcenary system meant that ancestral property continued to be primarily controlled by men. This limitation prompted further legal challenges and demands for reform in the following decades.⁵

The Hindu Succession Act, 1956 was further amended in 2005 through the enactment of the Hindu Succession (Amendment) Act, 2005. This amendment granted daughters, irrespective of their marital status, the same coparcenary rights as sons in ancestral property, ensuring gender equality in inheritance laws. This amendment gives sons and daughters, or rather males and females the same inheritance rights and makes no inequality on the basis of gender.⁶

CONCLUSION

The evolution of Hindu inheritance laws in India reflects the nation's journey toward gender justice and social equity. From ancient religious traditions that favoured male heirs to modern legal frameworks that ensure equal rights for daughters, the transformation has been profound. The Hindu Succession Act, 1956, and its 2005 amendment have played a crucial role in

⁵ Agarwal, B. (2005). "Women's Inheritance Rights in India: A Long Road to Equality." *Economic and Political Weekly*.

⁶ Sharma, U. (2013). *Women, Work and Property in North-West India*. Routledge

dismantling patriarchal norms and empowering women with property rights. However, continuous efforts are required to ensure the effective implementation of these laws so that legal equality translates into social reality. The progress made so far is a testament to India's evolving legal landscape, but the journey toward complete gender equality in inheritance laws is still ongoing.

