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"EVOLUTION OF WOMEN'S PROPERTY RIGHTS: A HISTORICAL AND LEGAL ANALYSIS UNDER HINDU SUCCESSION ACTS IN INDIA"

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Abstract

Gender inequality in property rights has long been a matter of struggle for women, especially in India. In traditional Hindu society, daughters were not given a share in property, while sons were considered the main heirs. The status of women was respectable in the Vedic period, but they were deprived in terms of property. Mahatma Gandhi was of the view that there should be legal equality between women and men, but in reality, the laws made in favour of women have created a situation of conflict between men and women. Legitimate struggle and legal reforms for women's property rights have also given coparcenary rights to daughters through the 2005 amendment, making them equal partners in property. However, there are still many obstacles in the way of women's economic empowerment and their access to productive resources. It is necessary to provide equal property rights to women to maintain social and legal balance, which can lead to overall development of the society

Key words: Gender inequality, legal balance, inclusive development, coparcenary rights, economic empowerment.

Introduction

If a son dies childless (leaving no widow) then his share in the property or estate goes to his mother and if his mother is already dead then his father's mother will inherit the property or estate of the deceased

“A daughter always remains a loving daughter. A son is a son until he gets a wife. A daughter is a daughter throughout her life.”

-Justice Arun Mishra

The above phrase is taken from a recent landmark case in which daughters were given equal status as sons in terms of coparcenary privileges. Women in India and other countries have struggled for centuries to get their most fundamental rights. The right to property is one such privilege. In ancient Hindu society it was believed that the daughter would eventually get married and move to another house. Therefore, in case of division or partition of property only male Hindu family members got a share. Women got property only on marriage (stridhana) and other auspicious occasions in public events. Women were not given a share in the property as they had no other source of income.

In any community, whether developed or poor, women enjoy a special status. This is especially true as they play the roles of daughter, wife, mother, sister, etc. at various stages of their lives. Despite their contribution to the life of every individual, they still belong to a class or group of society that is disadvantaged due to many social barriers and constraints. They have been the object of atrocities by the dominant men in the society. Comparing Indian women with their counterparts across the world, their situation is no better. On the one hand, they are revered by all, are given the highest respect and are seen as the epitome of virtue and tolerance. On the other hand, women have endured countless hardships, horrors and miseries as a result of the male-dominated culture. The economic independence of women as a class has nothing to do with their sensitivity. Irrespective of their financial status, women have been suffering. Both the rich and the poor have to face many social barriers and disadvantages. Women make up half the world's population, work nearly two-thirds of the time, earn a tenth of global income and own less than one percent of the world's wealth, according to a United Nations report.

In the Vedic and post-Vedic period, women had a good reputation and respectable social position. In the era of prosperity, even though they had no property rights, they were treated

like goddesses and had a respectable place in the home.

Mahatma Gandhi says that no legal restriction should be imposed on women which is not imposed on men. This statement also talks about legally looking at women and men from the point of view of equality, but the concept in favor of women is against this statement, which considers the man guilty even before the right to a hearing and has the right to prove him innocent. The burden is on the man. The purpose of making women-centric law was to bring them at par with men while providing security to women. Women came out of the exploited class and became equal partners in development in every field like men, but now this law has brought women and men face to face. Women are proving to be a weapon for this law.

According to Dean Roscoe Pound, the purpose of law is to remove mutual deadlocks and establish harmony between individual interest, social interest and national interest. But women-centric laws and legal concepts in favour of women seem to be a little far from achieving this objective. This is more so because there have not been enough amendments in the laws with the changing environment. If these laws have positive aspects, then there are some negative aspects too which should be considered. Balance between men and women is necessary for the development of society as a whole.

Women's inability to effectively manage productive resources such as property, the belief that productive resources given to women "go to the other family" in the event of marriage, divorce or (male) death, and the expectation that men will provide for women's financial security are all rooted in many communities where gender inequalities in access to property and other productive resources exist. The importance of women's access to, use of and control over productive resources, including property, has recently attracted greater attention. There is a direct link between protecting women's rights to property and other forms of economic empowerment and increased household well-being, as well as the greater enjoyment of many other rights. Both urban and rural spaces share this. As a result, women have greater control and independence in their relationships with their households, communities, as well as economic and political systems. Secure property rights in particular, in their view, help rural women feel more confident and secure and raise their social and political status. Direct and secure property rights increase women's bargaining power in the household and enhance their level of public participation by reducing the likelihood of poverty or forced eviction. The question of women's access to productive resources in general and property in particular cannot

be isolated from the larger context of macroeconomic policy and the international economic system. For inclusive growth, all society groups must have equal access to opportunities and resources, including women as well as men. The international community has a significant responsibility in creating a global environment that recognizes and supports women's property rights. Yet, to do so, there is a need to move away from viewing real estate primarily as a commodity. "...the prevailing discourse about property rights has taken the form of individualizing and commodifying property rights, where access and ownership are perceived in liberal market terms and property is narrowly understood as property." This rhetoric is contrary to many traditional, collective and indigenous understandings of property rights, which view property as a resource to support life rather than a commercial good to be shared and sold. However, social justice demands that women should be treated equally in both economic and social spheres. Hence, many NGOs, political parties, women's organizations, etc. are fighting to give women equal birthrights. Eventually, the Parliament of India amended the current law in the year 2005 and now daughters are also considered coparceners and have all the rights equal to male heirs. If society is to really develop, women should also be given the same rights as men. And from a long-term perspective, development of society does not happen only by educating the male class. And the evils and immoral practices prevalent in society should be abandoned and social property rights should be given to men and women in view of the current environment.

Women's Property Rights: A Timeline

Ancient Times

The scriptures placed the widow in a position of dependency and subordination to her family and community, as well as to all women in general. Day and night, says Manu. Because of their excessive addiction, women should be kept under the control of their guardians and kept in a position of dependence even on lawful and innocent pleasures.

Initially women were considered unfit for independence. They were treated like an object that had to be protected by male family guardians.

स्वातंत्र्यं न कच्चित् स्त्रीं न स्त्री स्वातंत्र्यमर्थि। This quote simply states the social rule that women cannot be autonomous, which our society retained.

The society of the early Rigvedic period seems to have been almost egalitarian in terms of gender. In this period, there was no individual ownership but only community ownership of property and wealth only among the tribal people. Women then had equal status in the field of education and were also free to choose their life partner. Women followed high standards of morality and were allowed to own jewellery and clothes. Also, after the death of the mother, the property was passed on to the daughter. Many women made their mark as famous scholars and philosophers like Visva bhava Gosala and Apala. In ancient India, male dominance was the norm in a patriarchal culture. As a result, women were praised, respected and participated in religious rituals. They had the freedom to choose their spouses and exercised free will in agreeing to become marital slaves; in fact, they were married when they were already adults. In a society with public and private spheres, women felt that justice was being done. However, in the later Vedic period, the attitude towards women changed drastically. Child marriage and other ideas emerged, and women were considered inferior to men. It was believed that the dependent and servile status of women was caused by their inability to offer sacrifices and understand the Vedas. Their right to own property was also disliked due to their autonomous status, due to the resistance of the ancient sages to allowing women to own property. The reason for the resistance was that property in the Smritis was used for religious rituals. The main duty of any person in possession of property was to perform religious rituals and ceremonies, and anyone who performed these rituals and ceremonies was considered a kind of trustee. Since women were declared incapable of leading religious rituals in the Smritis (Manu, Chapter I x, verse 10). Her right to property was therefore extremely limited, and whatever she managed to acquire was also limited. For example, her husband threatened to use his veto over specific Stridhana types. Therefore, the issue of having full ownership in the full sense of the word (which includes rights and privileges) did not arise in respect of property not comprising Stridhana. It was known as a woman's property and she had the legal right to hold and use that property only for her maintenance and maintenance during her lifetime. Even though they may not have had a direct right to inherit property, women in ancient India had some property of their own which they had acquired or owned. This property was known as Stridhana. With certain restrictions, she had full rights over it. Initially she did not have any such rights. Additionally, any property owned by the parents or husband during that time period had to be divided among the sons of the couple. Women were not paid salaries at that time. Their fathers, brothers, spouses and sons supported them financially. Their Stridhana was the only thing they had exclusive ownership over. In ancient India, women would generally pass on jewellery from one generation to the next. This is still true today as they are both tangible and important.

Jewellery has been used as a medium of trading for products and services; while clothing, household items and appliances can become outdated after a few years. In 100 AD Miss Shalini Dixit wrote a long article for Economic and Political Weekly on how Manu Smriti established Stridhana and the restrictions around it. But according to Manu Smriti, a woman cannot spend even a small part of her stridhana without the consent of her husband and a husband cannot deprive his wife of her stridhana. However, it was pointless to write it down as women did not have the autonomy to spend the money as they wished. Under any circumstances, the woman would die and she would leave her property to her late husband and equally to her siblings. However, her stridhana would be divided between her unmarried and married daughter.

Medieval Period

Compared to the ancient times, this time can be considered darker. During this time, Stridhana began to evolve from a status symbol to losing its inherent meaning of “women’s property”. It gradually became necessary for the bride’s family to give Stridhana to the groom instead of the bride. In its literal sense, it became a large sum of money that was given to the groom to marry the bride. The term “dowry” used for this was “Vara Dakshina”, where “Vara” means groom and “Dakshina” means “payment”. This evolved into a strong demand and gave birth to a completely new, unchecked evil in society. Now, this time saw significant reforms in the field of women’s property as it gained good recognition for several social and cultural reasons.

The property rights of Hindu women during the Middle Ages were restricted and often based on local norms, caste, and geography. In medieval Hindu society, the status and rights of women varied greatly between places and social classes. Traditional Hindu social and cultural traditions of this time period influenced the idea of women's property rights as they favored male inheritance and patrilineal succession. Women's property rights were often restricted and were often considered inferior to men's. Hindu culture in the Middle Ages was predominantly patriarchal, and women's rights were often inferior to men's rights. Women typically had less ownership and influence over their property than men, especially comparatively. It is important to note that throughout medieval India, different communities and regions had different ideas about women's status and rights. Matrilineal forms of inheritance, where property passed down through the female line, were accepted in some places, particularly in the south. These systems gave women a disproportionately greater level of property rights, compared to the patrilineal systems that were more commonly practiced in other regions of India. With many legal reforms in contemporary India, women's property rights did not see any significant change or

improvement until much later.

As a result of social developments in the nation, there were many modifications to the status of women in Indian society. However, the status of women progressively declined in middle life. Male domination in the political and administrative spheres, the domestic sphere, and the military sphere began to emerge in the Middle Ages (1). Since all property rights were transferred and inherited only by male family members, the widow was forced to depend on one of them. When a man died, his property passed only to his sons, grandsons, and other male relatives. (i.e.,) a twentieth share is set aside for the eldest son, an eightieth share for the youngest son, and a fortieth share for the middle sons; what remains is divided equally among them. All unmarried girls must be brought up by their brothers and are not entitled to any inheritance from their father; instead, they share their property equally with their brothers and mother. Social changes in the nation resulted in several modifications in the status of women in Indian society. No property was given to any female member. However, the status of women progressively declined in middle life. Male dominance in the political and administrative spheres, the domestic sphere, and the military sphere began to emerge in middle age. Because all property rights were transferred to and enjoyed by male family members only, the widow was forced to depend on one of them. When a man passed away, his property passed only to his sons, grandsons, and other male relatives. The remaining amount was distributed equally among the boys, with one-twentieth going to the eldest, one-eighth to the youngest, and one-fortieth to the middle sons. Unmarried daughters had to depend on their brothers for maintenance and were not entitled to a share of their father's property; instead, they divided it equally with their brothers and their mother.

Functional Advancement: Hindu Women's Right to Property-

Before the passing of the Hindu Women's Right to Property Act, 1956-

The best way to assess the status of a nation is to find out the status of women. In fact the status of women is the yardstick to assess the standard of culture of any era. Thus, the social status of women in a country represents the social spirit of that era. The rights of women to inherit any property vary from one religion to another, depending upon the individual laws followed by them. In earlier days religion played a very important role in assigning property to women. Initially the entire law of succession was uncodified, but with the advent of modern governments and legislatures, most of the succession laws have been codified and consolidated. However, there is no uniformity in the law of succession relating to women following different

religions.

In India, women had a secondary status with regard to succession. Attempts were made to remove this unequal position by certain laws governing different religions such as the Hindu Women's Property Rights Act, 1937, the Hindu Property Settlement Act, 1916, the Hindu Succession (Prevention of Disqualification) Act, 1928, the Indian Succession Act, 1925 and the Cochin Christian Succession Act, 1902.

The law relating to testamentary succession among Hindus, Christians and Parsis etc. is contained in the Indian Succession Act, 1925. It makes no distinction between the rights of women and men under a will.

It is proposed to review the familial or social, legal and political position of woman as wife, widow and daughter at different stages of the development of Hindu law. This position can be traced in historical perspective from the Vedic period to the modern age. Quite opposite views have been expressed at the same time but there are different schools of thought regarding the importance, nature and value of women. One school of thought believes that woman is the greatest gift given to man by God. When she is treated properly and respected she brings prosperity and is called "Lakshmi", the goddess of wealth and prosperity.

Early Legal Concepts:

To trace the early legal concepts relating to women's inheritance in Hindu law, we must turn to the evidence furnished by the Vedas; for, they represent the first stage in the development of Hindu jurisprudence. Two major commentaries, the Daya Bhaga and the Viramtrodaya, affirm that it is the text of the Vedas which provides simple evidence for the general exclusion of women from inheritance. The authors of both these treatises base their conclusion on the text of Boudhāyana, the celebrated founder of a school of the Khanda Yajurveda, who states that women are generally ineligible to inherit and quote a passage from his Veda to support his opinion. The text is as follows: Nirindriya hyadayah striyonr̥tam. It may be translated thus:

“Bereft of power and incapable of inheriting, women are worthless. There is great disagreement among commentators about the exact meaning of this text. Some of them argue that this text can have no possible application to the succession of women. It is on this Vedic text that one of the fundamental principles of the Hindu law of succession has been the exclusion of the female sex in general. Most modern writers on Hindu law have adopted this principle; and the

true meaning and authenticity of the text on which it is based requires discussion before the principle can be set aside in favour of any other. It is necessary, therefore, to examine how the major commentators have interpreted the text. It would also be necessary to consider whether the passage quoted by Boudhayan actually occurs in the Vedas. Jimūtavāhana refers to this Vedic text to support his conclusion that in Manu's text, "the succession passes to the nearest sapinda (sapinda), which excludes female sapindas". He says, "A woman is entitled, not to inherit; for women and persons who are lacking in sense or organ are held unfit to inherit." This passage means that woman is not entitled to inheritance. But the succession of the widow and certain others, such as daughter, mother and grandmother, is effective under clear texts, without any contradiction to this rule. In the Viramtrodaya, the Vedic reference quoted by Boudhayan is seen at three places. Mitramisra concludes his discussion thus: "For the text of the Smritis, viz., that women are therefore devoid of senses and incapable of inheriting, and for the text of Manu based on it, viz., that the rule in fact is that women are always devoid of senses and incapable of inheriting, both must be interpreted to refer to women whose right of inheritance has not been expressly declared. Haradatta also has explained these texts from this point of view in his commentary on the Institutes of Gautama, called the Mitakshara. But some commentators say that the words 'incapable of inheriting' indicate condemnation only by reason of its connection with the words 'devoid of senses'. This is not tenable; for it cannot be admitted that the part relating to incapable of inheriting is negative and not condemnatory, since inheritance by women is due to the desire for property, and hence it cannot be regarded as a totally superfluous command. But the part 'devoid of senses' must be interpreted as a superfluous command in some way." It should be understood that women are dependent on men, and women are meant to be dependent on men; for the prohibition of what is contrary to the nature of things is objectionable. What has been said above is, therefore, the best explanation. However, the venerable Vidyaranya in his commentary to Parashara has interpreted the above text of the Shruti differently. The word unworthy in the inheritance indicates that the wife is not entitled to a share in the event of her living in the forest; the word Anindya (translated above as devoid of senses) indicates the reason for the same; for it appears from the text; namely, that the woman is not entitled to taste the Soma juice; this text praises the departure of the wife to the forest on the death of the husband. Then in another place where the author deals with the right of inheritance of the paternal grandmother, he comments on the same Vedic text quoted above as follows. However, the interpretation given to the Shruti text agrees with it, therefore women are devoid of senses, etc. Unlike what was quoted earlier by Venerable Vidyaranya, this text does not completely restrict the right of inheritance of women.

Therefore, the rules of succession given by the ancient law were very few. This was probably because property was always held by members of the joint family and individual acquisitions were numerous, so there was no need to formulate elaborate rules of succession.

Key Legislation with Respect to Women's Right:

Hindu Succession Acts (Amendment) Act, 1929

The Hindu Succession Acts (Amendment) Act, 1929 was the first legislation towards enhancing the property rights of daughters. The provisions of the Act introducing female heirs are as follows:

The daughter of a son, daughter of a daughter, sister and sister's son, shall be entitled to rank in the order of succession after the father's father and before the father's brother in the order thus specified, provided that the son of a sister shall not be included, if he has been adopted after the death of the sister.

The Act was very limited in its scope and it did not make any radical change in the Hindu law in favour of women. Neither daughters nor widows were granted the right of succession by this Act. The Act only emphasized that some degree of distant male heirs should be deferred in favor of nearer degree of female heirs and nothing more. Therefore, the provisions of the Act were not particularly radical in supporting women's right to property. Moreover, Act II of 1929 was limited in the sense that it regulated succession only in the case of the separate property of a Hindu male dying intestate. It was not intended to change the law with regard to a woman's property but only to ensure that when the husband inherits his wife's stridhana property, after her death the same is inherited as if it were the husband's. If, at that time, Act II of 1929 was in force, that Act alone regulated succession and the property could not be considered the property of the woman. Thus, the legal status of women as per Act II of 1929 was not satisfactory. Realising this, legislators continued to fight for greater succession rights for women. With the Hindu Women's Property Rights Bill, Dr. G.V. Deshmukh hoped to achieve equality between Hindu men and women with regard to their property. With regard to the transfer of property of a Hindu dying intestate, clause 4 of the Bill specifically provided that the property would pass to the sons as well as the wife, mother, daughter and wife of the pre-deceased son and all would have an equal share in the property. Clause 5 equalised the status of women to that of men and made them full owners of property. There was a lot of opposition to this Bill and thus the provision of giving daughters a share in ancestral property was dropped.

The Hindu Succession Law Amendment Act, 1929 brought about significant changes in the rights of Hindu women with regard to succession in India. Prior to this Act, women were often denied their fair share in ancestral property, and their succession rights were limited.

The major provisions of the Act include:

- 1. Equal succession rights for daughters:** Daughters got the ability to request partition and demand their share after being recognised as coparceners in the family property.
- 2. Rights of widows:** The Act also aimed to strengthen the legal rights of Hindu widows. It gave widows the right to inherit their husband's property. If the spouse died without leaving a will, the widow and other legal heirs would each be entitled to a share of his property.
- 3. Birthright of coparceners:** The idea of coparceners, which refers to a joint Hindu family governed by the Mitakshara law, was created by the Act. This idea gave coparceners – those who inherit ancestral property by birth – the right to do so. This change gave women the same opportunity to inherit ancestral property as sons had as coparceners.
- 4. Female lineage:** According to the Act, women have the right to represent the lineage. When there was no direct male descendant from a male line, the daughter's daughter's daughter (up to three generations) was considered the legitimate heir.

The Hindu Succession Acts (Amendment) Act 1929 was an important piece of Indian law that attempted to strengthen the inheritance rights of Hindu women. Prior to this reform, the inheritance rights of Hindu women were limited, especially when there were male heirs to the property.

Overall, the Hindu Succession Law Amendment Act 1929 significantly enhanced the inheritance rights of Hindu women, but other amendments have continued to address the gender imbalance and provide more intensive protection to the inheritance rights of women in India.

The Hindu Women's Property Rights Act, 1937

“Half the population of India is also like this. Women have always been discriminated against and have suffered discrimination silently. Self-sacrifice and self-denial are their greatness and courage and yet they have had to suffer all the inequalities, humiliations and discrimination”.⁸

– Madhu kishwar v. State of Bihar (Justice K. Rama Swamy)

The Hindu Women's Property Rights Act was passed in 1937 primarily to reform the Hindu law of succession across all schools so as to provide women with better, equal and substantial inheritance rights. As a result, constructive amendments were made to the Mitakshara law. In fact, it had an impact on the statutes governing coparcenary, partition, separation and succession. It collectively granted rights to more than one widow who were the widows of a man and provided them with an equal share as that of a son. The widow of a pre-deceased son and the widow of a pre-deceased son's pre-deceased son, both had the same rights. Therefore, the Act had validity even when a Hindu died intestate, either partially or fully, whether under the Mitakshara or Dayabhaga law, and she had the right to inherit the property even if he left behind no male issue. The widows of his pre-deceased son and the widow of a pre-deceased son, both were given the same privileges. After the passing of this Act, the widow of a deceased coparcener has the right to inherit her share of the joint family in a Mitakshara undivided family. Widows had the right to file a claim in every situation. Before the passing of this Act, the widow had no succession rights over the separate property of her deceased husband. Only if her husband had not left behind any son, grandson or great-grandson could she inherit as heir in respect of his separate property. Even if she inherited as heir in the absence of these persons, she would lose that inheritance immediately after her husband adopted a son. Additionally, when the separate property of the deceased dies intestate, this Act gave the above-mentioned widows better rights to the common family properties in which the deceased had a share at the time of his death. By virtue of the 1937 Act, she now has new succession rights, and she is now entitled to inherit the properties of her late husband in the same manner as a son would. In other words, the Act gave her the right to inherit in her own right as well as the same percentage as the son in the property of the husband of her son. The Act provided a joint share to more than one widow which was equal to that of a son. The widow of the first son who died and the widow of the first son who died before the first son both had equal rights. Therefore, when a Hindu dies intestate, whether partially or fully, the Act applies.

Early Legal Concepts:

We must look at the evidence provided by the Vedas as they represent the initial stage in the development of Hindu jurisprudence to know about the early legal concepts regarding women's inheritance in Hindu law. According to Dayabhaga and Viramtrodaya, two of the most respected commentators, the Vedas contain material which serves as a direct justification for excluding women from inheritance in general. The authors of both these texts based their decision on the text of Boudhayan, the famous founder of one of the schools of the Khanda

Yajurveda, who claimed that women were generally unable to inherit and then cited a verse from his Veda to support his claim.

Nirindriya Hyadayādah Striyonṛtam is this text. It can be rendered thus:

“Women are worthless because they lack skill and are unable to inherit. The interpretation of this text by commentators has not been entirely consistent. Some of them argue that the scripture cannot possibly apply to women’s inheritance. One of the major principles of Hindu law regarding inheritance has been the general exclusion of the female sex, which is based on this Vedic literature. This hypothesis has been adopted by most contemporary writers on Hindu law, and before it is abandoned in favour of another, it should be discussed in order to determine what is the true significance and reliability of the text on which it is based. Therefore, it is important to see how the text is interpreted.

It would also be important to consider whether the passage quoted by Boudhayan actually appears in the Vedas. Jimūtavāhana used this verse from the Vedas to prove that Manu’s statement, “The nearest sapinda inherits, except female sapindas,” is accurate. He claimed: “A woman entitled, does not proceed in inheritance; because women and a person lacking a sense or organ are considered incapable of inheriting.” The way the verse is written, women have no claim to inheritance. However the inheritance of a widow and a select group of people, such as a daughter, mother, and maternal grandmother does not contradict this saying.

The Vedic context to which Boudhayan refers is mentioned three times in the Viramatrodya. According to Mitramiśa, the Smṛiti text states that women do not have senses (nirindriya) and are therefore incapable of inheriting, and based on this the text of Manu states the same thing. In fact, the rule is that women are always incapable of inheriting and devoid of senses; these two terms should be taken to refer to women whose right to inheritance is not explicitly stated. Similar interpretations of these texts can also be found in Haradatta, in his commentary on Gautama’s Institutes, known as the Mitākṣara. However, some analysts claim that the phrase “incapable of inheriting” only expresses disapproval because it is linked to the phrase “devoid of senses”. This is false because it cannot be said that the part about being incapable of inheriting is prohibitive rather than deprecatory and because it cannot be said that it is a completely unnecessary rule, since women can take advantage of their inheritance because of their desire for property. However, the phrase “devoid of senses” should be explained as a superfluous rule meaning that women are dependent on men; for the negation, which is contrary

to nature, means that the hinge is offensive. Therefore, what has been said so far constitutes the best explanation. However, the Venerable Vidyanarya provided a different interpretation of the above-mentioned Shruti text in his commentary on the institution of the Parasram. The phrase "incapable of inheriting" means that if the wife goes to the forest she will not be entitled to a share; the phrase "anindriya" (translated above as "devoid of senses") expresses this reason, which is supported by the text, which praises the wife's decision to remain in the forest after the husband's demise. On the contrary, the author makes the following observation about the rights of succession of the paternal grandmother at another place in the same Vedic book referred to earlier. Though it is true that the eminent Vidyanarya referred to earlier interpreted the Shruti text to mean that women lack the senses, etc., this scripture does not absolutely deny women the right to inherit from men.

It has often been claimed that women have traditionally been excluded from inheriting property. Undoubtedly, the status of women as heirs has been a contentious issue ever since the advent of the commentators.

Applicability of the Act:

Only separate property left by a Hindu male is covered under Section 1 of the Hindu Women's Property Rights Act of 1937. It applies neither to coparcenary property nor to property of a Hindu female.

Changes made by the legislation with Respect to the Society Phenomena:

The Act replaces the principle of Hindu law according to which the widow gets a share only when her sons or stepsons actually divide the inheritance among themselves, except in Madras, where it has been made obsolete. According to the Act, the widow is entitled to an equal share as that of a son along with her sons or stepsons after the death of her husband, irrespective of whether they participate in any partition or not. In fact, the Act has had a great impact in Madras. In addition, it abolishes the old American rule according to which a widow can inherit only in the absence of a male progeny. For example, if her husband leaves an only son, she still inherits along with him to the son's share and there can be no discussion of partition. The Act gives the widowed daughter-in-law and widowed granddaughter the right to participate along with the male progeny and the widow or in the absence of the same, which clearly adopts the view of Visvarupa (para 457). It integrates the Mitakshara and Daya Bhaga systems by providing the widow of a member of an undivided family the ability to inherit his coparcenary

interest. She will also always be able to enforce partition. Although the Act aims to provide rights to widows, it also provides for additional succession rights in several areas of Hindu law, including the law relating to Mitakshara coparcenary ship. While the terms of the Act are clear, it not only changes the order of succession but also has far-reaching implications.

It is, however, likely that the legislature has left Hindu law untouched in other areas. The Act must, therefore, be interpreted so as to prevent a further break from Hindu law, as this inevitably indicates. The difficulties posed by the phrase "die intestate" in Section 2 regarding the application of subsection (2) of Section 3 are not solved by the definition of "unmarried" introduced by the Amendment Act in Section 5. The inappropriate words "die intestate" in that subsection were repealed because it is clear from the legislation that the Legislature intended to make subsection (2) of Section 3 applicable in every circumstance. Section 2 also should not have contained those words. As written, subsection (2) of Section 3 of the Act can apply only when a Hindu dies intestate in accordance with Section 2. Because of this, and because those words are already present in Section 3(1), a person cannot be said to have died intestate if he has made a full and lawful disposal of all his separate and self-acquired property. However, since intestacy cannot under any circumstances be a requirement for the application of subsection (2) of Section 3, the phrase "died intestate" in Section 2 must be treated as insignificant. The 1937 Act gave the widow the opportunity to continue the son and to seize a part of the son's share. Only a small amount of property in the deceased's estate, with the right of partition, was available to the widow. The daughter was given almost no inheritance rights. The Hindu Women's Property Rights Act, passed in 1937, gave the widows of deceased husbands the ability to inherit their husbands' property after their demise. Unlike in the past, when the principle of survivorship shared the property among the remaining co-owners, the widow now had an exclusive claim to such property. However, she had only limited rights (often called "limited estate") over such property as was in her possession until her demise. The above law, made in response to many complaints about the inadequate status of women's rights, provides a lot of protection for widows who are left without any rights after the death of their husbands. The Act is very clear that it applies only if a Hindu male dies intestate without making a will governing his succession. The above law was intended to protect widows by recognising their right to a little inheritance even after their husbands passed away. The rights and protections provided by the 1937 Act were extended to include not only the widow of the deceased, but also the widow of a pre-deceased son, as well as the widowed granddaughter-in-law of a pre-deceased son. However, no other woman, including a daughter, was covered under

the said Act. Dayabhaga and Mitakshara are the two schools of Hindu law on which the above law was modelled.

After the passing of the Hindu Succession Act, 1956

The Hindu Succession Act, 1956 marks the beginning of a new era in the history of social legislation in India. Vigorous efforts have been made to bring about certain reforms having far reaching consequences in the system of succession and inheritance. There was a need to completely change the law in these areas as certain legal provisions under the old text of law had become obsolete. For example, the exclusion of female relatives in succession to property and the preference given to males. Some revolutionary changes in the law were required in this regard so that the right of succession of Hindu women could be recognised at par with that of men.

Proposals for reform of Hindu Personal Law, particularly relating to property, have been before the country in one form or the other since the 1940s and the Rao Committee was set up to examine and suggest reforms in Hindu law. The question of codifying the Hindu law of succession had been engaging the attention of the Government since 1941 when a committee known as the Rao's Committee was constituted to report on the desirability of codifying Hindu law and in particular to examine the Hindu Women's Right to Property Act, 1937, to remove doubts about the interpretation of the Act and thus to remove any injustice done to daughters. While suggesting amendments to the existing law the Committee recommended that the best way would be to codify the entire Hindu law in gradual stages. The Rao's Committee's Hindu Code of 1947 was the result of that recommendation. Major changes were made in the draft Hindu Code prepared by Rao's Committee during its examination by the Select Committee of the Provisional Parliament in 1948. But the positive problem of modernisation of Hindu law was that the Hindu Code Bill introduced in the Provisional Parliament on the basis of the recommendation of the Rao Committee was a vigorous attempt to incorporate partly radical reforms. In pursuance of its avowed policy of codifying Hindu law in gradual stages, the Legislature passed the Hindu Marriage Act, 1955 relating to the law relating to marriage and divorce among Hindus and thus facilitated the passing of the Hindu Code Bill. The second of such positive measures is the enactment of the Hindu Succession Act, 1956, which became law on 17 June 1956, the day it received the assent of the President (Published in the Gazette of India. Extraordinary, Part II Vol. 1 dated 18/06/1956). The third instalment of the Code relating to minority and guardianship among Hindus also became law on 5 August, 1956, and the fourth

instalment is the Hindu Adoption and Maintenance Act, 1956, which became law on 21 December, 1956.

Like women of any other country, the property rights of Indian women have evolved out of a continuous struggle between the status quo and progressive forces. And like women's property rights elsewhere, Indian women's property rights are also unequal and unfair: while they have come a long way in the last century, Indian women still enjoy fewer rights in property than men, both in terms of quality and quantity.

What may be a little different about Indian women's property rights is that as with many other individual rights, in the case of property rights too, Indian women are very divided within themselves. Home to various religions, India has failed to bring in a Uniform Civil Code till date. Hence, each religious community continues to be governed by its respective individual statutes in many matters – property rights being one of them. In fact, even within different religious groups, there are sub-groups and local customs and norms with their own property rights. Thus Hindus, Sikhs, Buddhists and Jains are governed by one code of property rights, which was codified as recently as the year 1956, while Christians are governed by another code and Muslims have not codified their property rights, neither have Shias nor Sunnis. In addition, tribal women from different religions and states continue to be governed by the customs and norms of their tribes for their property rights. To complicate this further, under the Indian Constitution, both the central and state governments are competent to legislate on matters of succession and so states can enact their own variations of property laws within each individual state, and some have done so.

Objectives

The Hindu Succession Act of 1956 came into force on 17 June. The main objective of this Act was to provide a comprehensive and uniform scheme of intestate succession laws for Hindus. Some of the basic features of the parliamentary legislation are as follows:

1. The Act abolished separate methods of succession under the Dayabhaga and Mitakshara systems and provided a uniform method based on love, affection and proximity in relations.
2. The parliamentary legislation modified the methods of Mitakshara coparcenary and its transfer by survivorship.
3. It continued to permit a Hindu male to hold twofold share, a separate as well as a share

in undivided coparcenary.

4. Disqualification for succession on the ground of physical and mental illness was removed. The same was done in terms of the Caste Disabilities Removal Act 1850.
5. All the basic concepts of Mitakshara coparcenary are classification of property into separate and ancestral, mode of acquisition, characteristics, concept of karta etc. 6. This act retained the concept of dwelling house, but only in respect of female class 1 heirs in the presence of male heirs.
6. The Act specifically protects the rights of posthumous children.
7. The parliamentary legislation laid down new provisions for the transfer of property of a male Hindu as well as a female Hindu on interstate death.
8. A male member of a coparcenary was permitted to dispose of his interest in the coparcenary by will.
9. The Act abolished the concept of limited property for Hindu women and replaced it with absolute ownership.

While drafting the Hindu Succession Act 1956, pressure was exerted on the Indian Parliament to retain certain traditional concepts even though they had been abolished by the original Hindu Code of 1948. Salient Features of the Act:

Following is some of the salient features of the Hindu Succession Act, 1956:

1. The Hindu Succession Act, 1956 extends to the whole of India except the State of Jammu and Kashmir. (Section 1)
2. The Act applies to all Hindus (including Veera Shaiva, Lingayat or member of Brahmo, Prarthana or Arya Samaj), Buddhists, Jains and Sikhs, but not to Muslims, Parsis and Jews. It also applies to persons either of whose parents is a Hindu. Buddhists, Jains and Sikhs. (Section 2)
3. One of the most important features of the Act is that the right of succession to property of a Hindu woman has been fully recognised and she has been entitled to an equal share with male heirs. The limited property rights of women have been abolished. The Act has given an important place to Hindu women in the classification of heirs.
4. The effect of the Act is paramount. It repeals all rules of the law of succession which were hitherto applicable to Hindus, whether by way of any text, custom or usage, having the force of law. No other law contained in the Central or State Legislature shall have effect so far as it is inconsistent with any provision contained in the Act. (Section 4)
5. The Act has abolished the special mode of inheritance of immoveable property and its

- inheritance. (Section 5)
6. This Act does not apply to the property of a person who has married under the provisions of the Special Marriage Act, 1954. [Section 5].
 7. The Act will also not apply to Mitakshara coparcenary property, except where a coparcener dies and leaves female heirs as mentioned in Section 6. The Act has given the right of succession to certain women in the coparcenary property of the deceased. (Section 6)
 8. The Act has repealed the provisions of various Acts relating to succession under the matrilineal system prevalent in the South. Separate provisions have been provided for transfer of interest in property to Tavazhi, Kutumba, Kavaru or Illume (Section 7)
 9. The Act has provided a uniform order of succession governing the property of a male Hindu with certain changes in respect of Marumakkattayam and Aliyasantana laws. (Sections 8 and 17)
 10. The Act has abolished the rules of succession prevailing under the Mitakshara and Dayabhaga laws, and has provided a uniform code to determine the rules of succession.
15. The Act provides the order of succession among heirs in the Schedule (Section 9), rules relating to distribution of property among heirs of Class I of the Schedule (Section 10) and among heirs of Class II of the Schedule (Section 11). The order of succession of agnates or cognates, as the case may be, is by degree (Section 12) and is calculated in accordance with the rules contained therein (Section 18). (Section 13)
 11. The Act has abolished the limited property of Hindu females and made them the absolute owner of property irrespective of the source of acquisition. Any property acquired by any Hindu woman in any lawful manner and held in her possession becomes her absolute property and she has the full right to dispose of it as she wishes (Section 14)
 12. The Act has abolished stridhana and provided rules of succession relating to different types of stridhana (Section 15)
 13. The Act has also provided a uniform order of succession in respect of the property of a Hindu woman. If a woman dies without a will, her children will inherit her first, followed by her husband and her parents. In the absence of any children, property inherited from her father will revert to her family and property inherited from her husband or father-in-law will revert to the heirs of her husband. [Sections 16 and 17]
 14. The Act lays down certain general rules of succession, which among other things include that if there is a full blood relationship between a man or a woman, the heirs

- related thereto shall be given preference over half blood relatives, if the nature of relationship between the other heirs is the same
15. Where two or more heirs succeed to the property of an intestate holder, they shall take their share per capita and not per lease and as tenants in common and not as joint tenants (Section 19).
 16. The right of a child in the womb at the time of the death of the intestate holder and of a child subsequently born alive shall relate to the date of the death of the intestate holder. (Section 20)
 17. Where two persons have died in circumstances which make it uncertain whether any one of them, and if so, who, is the heir. If one of the sons survives the other, then for all purposes affecting succession to the property, until the contrary is proved, it shall be presumed that the younger son survived the elder son (Section 21).
 18. Where the property of an intestate person is transferred to two or more heirs and any one of such heirs proposes to transfer his interest, the other heirs shall have a preferential right to receive the interest proposed to be transferred, i.e. the so-called right of pre-emption is recognised in the Act. (Section 22).
 19. Right of residence in the dwelling house of the intestate family is given to the female heir if she is unmarried or married but deserted or widowed (Section 23) (This section has been deleted by the Hindu Succession (Amendment) Act, 2005).
 20. The murderer is not the heir to the property of the person murdered, which is the basis of justice and equity. (Section 25)
 21. The descendants of a converted person are disqualified from inheriting the property of their Hindu relatives. [Section 26] It is interesting to note that under the Act the convert is not disqualified but only his descendants are excluded from succession.
 22. A disqualified heir is one who has died before the intestate person. (Section 27)
 23. Disease, defect or deformity is no longer a ground for exclusion from succession under the Act. (Section 28)
 24. If an intestate person has left no heir qualified to inherit his property in accordance with the provisions of this Act, such property shall devolve on the Government; and the Government shall take over the property subject to all the obligations and liabilities to which an heir would have been subject. (See 29)
 25. The Act empowers a male Hindu to dispose of his interest in a Mitakshara coparcenary property by will. [Section 30]. 31. The right of illegitimate children to succession to the property of their mother is reserved and recognised but they have no right to succession

to the property of their father. On the other hand, an illegitimate son of a person from a continuously kept concubine is not recognised under the present Act.

26. In the Schedule to the Act, the list of heirs in class I and class II is given as Explanation to section 8 of the Act.

Overriding effect of the Hindu Succession Act, 1956: Section 4 of the Act mentions the overriding effect⁸ of the Act. Section 4(1) of the Hindu Succession Act, 1956 provides that “except as otherwise provided in this Act:

- a) no text, rule or interpretation of the Hindu law in force immediately before the commencement of this Act or any custom or usage forming part of that law shall cease to have effect in respect of any matter for which provision is made in this Act;
- b) no other law in force immediately before the commencement of this Act shall continue to apply to Hindus in so far as it is inconsistent with any provision contained in this Act.”

The Hindu Succession (Amendment) Act, 2005 deleted sub-section (2) of section 4 of the Hindu Succession Act, 1956 (with effect from 5th September, 2005), which reads as follows: Sub-section (2) For the removal of doubts it is hereby declared that nothing contained in this Act shall be deemed to affect the provision of any law for the time being in force. All existing laws, texts, customs and usages in accordance with section 4 which are inconsistent with this Act are repealed by the Act. It is clear that customary rules of succession by primogeniture have been abolished by the Act. But where no provision has been made in the Act, the Hindu law as found immediately before the commencement of the Act will continue to apply. This section does not affect the provisions of the law made for prevention of fragmentation of agricultural holdings, etc. The overriding effect of the Act made by section 4 of the Act is only in respect of such matters "for which provision has been made in this Act". In the absence of any provision in the said Act, the question of the said Act overriding any text, rule or interpretation of Hindu law in force immediately before the commencement of the Act does not arise. For example, the fact that the right of the mother to maintenance has been recognised and codified under the Hindu Adoption and Maintenance Act, 1956 is not at all indicative of the fact that it was not intended to give her a share in the partition of the joint family property. Section 4 repeals only those provisions of the rules of Hindu law which are inconsistent with the provisions of this Act and it cannot be said that it has repealed all the rules of Hindu law. The class of reversionary has been abolished and they no longer enjoy such a status after the passing of the Act; the Act has given Hindu women full rights in respect of property acquired

by them by lawful means. Therefore the old class of reversionary finds no place in the existing law. After the death of the husband, when his widow inherits any property, she inherits it absolutely and after her death, his legal heirs shall inherit the property. The Act is a codified Act. It supersedes the earlier law and prescribes in codified form the entire law of succession. Therefore, an appeal to any rule of succession which was earlier applicable to Hindus is now permissible only in respect of those matters for which no provision has been made in the Act. Thus, the concept of reversioner has not been totally abolished by the provision of this section; and appeals may still lie in respect of properties which belonged to the revertant before the commencement of the Act.

The Hindu Succession Act, 1956, does not purport to abolish custom in the abstract. It does not discriminate in the application of custom in exactly the same circumstances. If custom is abolished in respect of one aspect of the law it does not mean that its continuation in respect of other aspects of the law would be discrimination under Article 14 of the Constitution.

The Hindu Succession Act, 1956 does not affect the law relating to joint family and partition. It also does not abrogate any rule of customary law relating to prohibition on alienation by the male owner in Punjab. In *Joginder Singh v. Kehar Singh* it was held that the right of revertants to challenge any such alienation made before the coming into force of the Hindu Succession Act, 1956 does not cease to exist. In *Sundari v. Lakshmi* it was held that the provisions of section 7 of the Hindu Succession Act, 1956 would apply in the case of undivided interest of a Hindu in the Aliyasantana Kutumba or Kaveeru and the rule of transfer contained in section 36(5) of the Madras Aliyasantana Act would be suppressed in this regard. In *Ram Singari Devi v. Govind Thakur* it was held that once the law regarding succession among Hindus has been codified, thereby bringing about a substantial change in the otherwise well-established norms of succession, the codified law would have to prevail over the pre-existing customs or rules. It is worth noting that the personal properties of the erstwhile rulers of Indian States do not become the property of the Hindu joint family by virtue of merger and merging. Accordingly, section 4 of this Act and the Twenty-sixth Amendment to the Constitution do not apply in such cases.

Rules of succession to property of women - Section 15 of the Act lays down the general rules of succession to the property of a woman dying intestate and section 16 lays down the order of succession. Section 15 is as follows:

"Section 15(1), the property of a Hindu female dying intestate shall devolve in accordance with the rules laid down in section 16:

- (a) firstly, to the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;
- (b) secondly, to the heirs of the husband;
- (c) thirdly, to the mother and father;
- (d) fourthly, to the heirs of the father; and (e) lastly, to the heirs of the mother.

Section 15(2), notwithstanding anything contained in sub-section (1):

- (a) any property inherited by a Hindu female from her father or mother shall, in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter), devolve on the other heirs specified in sub-section (1) in the order specified therein, but on the heirs of the father; and in the absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) on the other heirs specified in sub-section (1) in the order specified therein, but on the heirs of the father.
- (b) Section 15 does not apply to property which is held by a Hindu woman at the time of her death with restricted rights [in view of subsection (2) of section 14]. It applies in cases where the Hindu woman (b) Any property inherited by a Hindu woman from her husband or her father-in-law shall be a new stock of descent.
- (b) The words 'son' and 'daughter' of the deceased in section 15(2)(b) of the Act can only mean a son or daughter born to the woman from any previous or subsequent husband who dies intestate. This definition includes illegitimate children. But it does not include step-children who will not be able to inherit from their stepmother. In *Keshri Lodhi v. Har Prasad*, the Court held that it is clear from the language of subsections (1) and (2) of section 15 that the legislature intended the succession of the property of a Hindu woman to be passed on to her sons and daughters. Only in the absence of such heirs will the property devolve on the heirs of the husband. Consequently, the property of the woman will devolve on her sons and daughters even if the sons and daughters are born of the first husband and the property left by the woman is inherited by her from the second husband.

Fundamental changes brought by the Hindu Succession Act, 1956:

1. In the old Hindu law there were two systems governing Hindu succession, namely (I) Mitakshara and Dayabhaga. However, the Hindu Succession Act, 1956 brings all the

systems into one uniform system.

2. In the old law there was a distinction between male and female heirs, but the Hindu Succession Act, 1956 does not make any distinction between male and female heirs
3. The rule of preference under the old law is based on the right of Pinddan or blood ownership, but the order of succession provided by the Act is based on the concept of love and affection.
4. Simultaneous succession of different types of heirs was not recognised under the old law. Now under the Hindu Succession Act the heirs of class 1 inherit together.
5. While female heirs (except in Bombay) used to get only life estate, under the Hindu Succession Act, all female heirs get absolute estate.
6. Under the old law, 14 degrees of Sarandakos marked the limits of agnatic kinship and similarly five degrees on the mother's side and seven degrees on the father's side marked the limits of consanguineous relationship. However now these limits have been removed by the Hindu Succession Act, 1956.
7. The old law extended the benefit of the principle of representation only to the sons, grandsons and great-grandsons of pre-deceased sons. But the Hindu Succession Act, 1956 extends the benefit of this principle to the children of pre-deceased daughters and daughters of pre-deceased sons and daughters of pre-deceased son of pre-deceased son as well as to the widow of pre-deceased son and the widow of pre-deceased son of pre-deceased son.
8. Under the old law, certain female heirs had no right of succession in the interest of Mitakshara coparceners, but the Hindu Succession Act, 1956 has given certain female heirs the right of succession in the interest of Mitakshara coparceners.
9. Under the old law, there was stridhana and women's property (limited property), but the Hindu Succession Act abolished sthitham and women's property.
10. Under the old law, there was a lot of confusion and disorder in calculating the order of succession among the gotras or cognates. But the Hindu Succession Act, 1956 has provided very clearly the order of succession among the gotras or cognates, as the case may be.
11. Under the old law the rights of illegitimate children depended on the caste to which the parents belonged and they also varied from school to school. Now under the Hindu Succession Act. 1956 illegitimate kinship is recognised only with reference to the mother for the purposes of inheritance.
12. The old law of succession had rules for disinheritance on the ground of incapacity, such

as insanity and idiocy. Similarly, the immorality of the widow made her ineligible for inheritance. Now the Hindu Succession Act, 1956 has removed all these disqualifications and disease, defect or deformity is no ground for exclusion from inheritance under the Act.

13. Under the old law, in a joint family, on the death of a coparcener, the principle of survivorship operated and the widow or daughter or mother of the deceased coparcener or daughter of his pre-deceased son or daughter of a pre-deceased daughter could not inherit his share. The Hindu Succession Act, 1956 resolved this.
14. Under the old law of succession, a coparcener could not make a will in respect of his interest in the joint family property. Section 30 of the Hindu Succession Act, 1956 enables him to execute a will in respect of such property.
15. Under the old law of succession there was a provision for indivisible property. But the Hindu Succession Act abolished indivisible property not created by statutes.
16. There was no uniform order of succession under the old law of succession. But, Section 8 of the Hindu Succession Act provides for a uniform order of succession governing the property of a male Hindu and Section 15 of the Act provides for a uniform order of succession governing the property of a female Hindu.
17. There was no particular type of organised system regarding superior heirs and this created many difficulties and disputes, injustice, inconveniences, etc. However, a schedule is annexed to the Act and in the schedule there are two classes of heirs. Class I are superior heirs as compared to Class II and women have been given equal status as men. The above are only some of the main points on which changes have been made under the Hindu Succession Act, 1956.
18. Under the old law, succession to stridhana depended on the nature of stridhana and the nature of marriage (whether accepted or rejected) and the particular school of law of the parties. The Hindu Succession Act created a simplified system.

Recent Changes Made by the Hindu Succession (Amendment) Act, 2005

Hindu Succession (Amendment) Act 2005- Primary Changes:

The Hindu Succession (Amendment) Bill was introduced in the legislature on December 20, 2004, and both the Rajya Sabha and the Lok Sabha passed it in August 2005 on August 16 and August 29 respectively. The basic goal of the proposed amendments under Hindu law, which were based on the recommendations of the 174th report of the Law Commission on property rights of women, was to eliminate gender inequalities under the Act, as existed before the

amendment. The amendment was also necessitated due to amendments made to the Hindu Succession Act 1956 in five Indian states of Kerala, Andhra Pradesh, Tamil Nadu, Karnataka and Maharashtra. The President signed the bill on September 5, 2005 and it came into force on September 9. It is interesting to note that in Kerala the concept of joint family and the religious duty of the son to pay his father's debts were abolished, while in the other four states they were retained, along with the inclusion of the unmarried daughter as a coparcener. The present Act contains amendments that combine elements of the Kerala and Andhra models. While it introduces daughters as coparceners and retains the idea of a joint family, it abolishes the son's sacred duty to fulfil his father's obligations. Apart from these basic changes, it amends the concept of coparcener, abolishes the principle of survivorship, amends the provisions relating to transfer of interest in Mitakshara coparceners, amends the provisions relating to intestate succession, category of Class I heirs, rules relating to disqualification of heirs and slightly touches the provision relating to intestate succession. The primary changes introduced by the Act are discussed in detail under the following headings.

1. Abolition of principle of survivorship in case of male coparceners: The amended Act, by a specific provision, abolishes the incidents of survivorship, which is one of the primary incidents of coparcenary ship, on the death of a male coparcener. Section 6(3) states that, if a Hindu dies after the coming into force of the Hindu Succession (Amendment) Act, 2005, his interest in the joint Hindu family property, which is subject to the Mitakshara law, shall pass by testamentary or intestate succession, as applicable, instead of by survivorship, and the coparcenary property shall be deemed to be divided as if the partition had taken place. Thus, the traditional concept of coparcenary ship, where the coparcenary property survives with the incidents of survivorship, has been expressly abolished by the legislature. As per classical law, the share of each coparcener used to change according to births and deaths of members of the family. It used to decrease on the birth of a coparcener and increase on the demise of the coparcener. When a coparcener died, the remaining coparceners would take his entire interest and leave nothing for his female dependents. The 1937 Act was the first Act to change this method, allowing the widow of a coparcener to retain her share for the rest of her life before the concept of survivorship came into effect and the male collateral could take possession of the property. According to the classical law, the share of each coparcener changed according to births and deaths in the family. It used to decrease on the birth of a coparcener and increase on the demise of the coparcener. The 1937 Act was the first Act to change this method, allowing the widow of a coparcener to retain her share for the rest of her life before the concept of survivorship

came into effect and the male collateral could take possession of the property. The application of the principle of survivorship calculated after applying the notional partition was defeated if any class I female heir or the son of his predeceased daughter existed, and as per the Act the interest of the male Hindu in the Mitakshara coparcenary had passed by intestate succession. Hence the application of the principle of survivorship required the death of an undivided male coparcener without leaving behind any of these nine heirs. As per the present Act, the principle of survivorship has been unconditionally abolished. Now, if a male Hindu dies, he had an undivided interest in the Mitakshara coparcenary at the time of his death.

2. Inclusion of daughters as coparceners: One of the most important amendments made by the amendment is that now the daughter is also given rights in the coparcenary property by birth, thereby changing the exclusive privilege of males as coparceners in the Hindu joint family. This extreme change has considerably changed the personality of the Mitakshara coparcener. Before the national law came into force, daughters were included as coparceners in four Indian states. At present, any child born or legally adopted in the family will be a coparcener and have a right over the coparcenary property, and not just a son can have a claim by birth. Thus, the traditional concept that only men can be members of a coparcenary and no woman can ever be a coparcener or own coparcenary property is no longer the law. According to Section 6, in a joint family governed by Mitakshara law, the daughter of a coparcener-

(a) shall become a coparcener in her own right, like a son, from birth.

(b) shall have the same rights in the coparcenary property as she would have had in the case of a son.

(c) shall be subject to the same obligations as a son in respect of the said coparcenary property and any reference to the Hindu Mitakshara coparcenary shall be deemed to include a reference to the daughter of the coparcener.

This section declares that daughters are no longer subject to discrimination as they have the same rights and obligations as sons. A daughter is now able to acquire a share in the coparcenary property, request its partition and dispose of it through will as a result of this development. Additionally, girls will be able to start joint families for themselves and will have the right to form coparceners with their other siblings (irrespective of gender). She can also become the karta and contribute her salary to the joint family fund, which was not allowed before the amendment. The rule that women cannot form or start a joint family on their own, but can continue it even if a male member dies, provided they have the capacity to add a male member to it by birth or through adoption, is now repealed. In other words, all the privileges and distinctions of a son's status in the family are available to a daughter as well. As per Section

6(2), a Hindu woman will be allowed to own property with the appurtenances of coparcenary ownership. As a result, there is now a distinction between female joint family members in terms of their ownership rights over joint family properties. There are two categories of women, those who are born into the family and those who join the blended family by marrying coparceners. Women born into the family, such as daughters and sisters, have a right to coparcenary property from birth, as do women who join the joint family through the amendment. Their rights over joint family property will continue to be the same, such as maintenance from its funds, right of residence in the family house, etc.

3. Property held by daughters with incidents of coparcenary ownership: The amendment makes it clear that daughters will hold joint family property as they have acquired coparcenary ownership rights, as stated in Section 6(2).

Section 6(2) states that notwithstanding anything contained in this Act or any other law for the time being in force, any property to which a Hindu woman becomes entitled by virtue of subsection (1) shall continue to be held by her with the incidents of coparcenary ownership and shall be deemed to be property which may be disposed of by her by testamentary disposition. Two things are clear from the phrases of the section. In circumstances where a Hindu male dies, his interest in the Mitakshara coparcenary will be determined by the use of a valid partition or a notional partition. First, the principle of survivorship for male coparceners has been repealed.

4. Dissolution of coparcenary interest held by woman: The Amendment Act states that a woman shall hold coparcenary property with the incidents of coparcenary ownership, but it is unclear what will happen to the property after her death. If a Hindu woman who wishes to divide it gets her share, gets married and then dies, who will inherit her share in the coparcenary property – her husband or her paternal family? This issue is particularly important for women, because under the statutes governing intestate succession, a woman's potentially inheritable property is divided into three distinct groups: (i) property she inherits from her parents; (ii) property she inherits from her husband and or father-in-law; (iii) and any other property. A daughter acquires coparcenary interest by birth; despite the fact that it comes from her father's family, it is not a trait she inherits from her parents. In this situation, it would undoubtedly fall under the third classification, that is any other property or common property. In such a case her husband, children and the children of the predeceased children would be her heirs. Additionally, this would mean that if she filed for divorce and died without issue, her husband would inherit all her property, including his share in the coparcenary property. Similarly, if she dies without seeking partition, her share would be determined by making a notional partition,

and the share so calculated would be taken by her husband as her primary heir. This approach appears to be inconsistent with Section 6(3), which states that if a Hindu dies after the coming into force of the Hindu Succession Act, 2005, his share in the joint Hindu family property subject to the Mitakshara law shall pass by testamentary or intestate succession and not by survivorship, and the coparcenary property shall be deemed to have been divided by partition under this Act, as the case may be. The applicability of this section in the event of the death of the female coparcener has already been doubted because of the use of the phrase "her interest" and not "his interest". Assuming that it applies to a woman with no will, according to which the husband will take the property along with her children or the children of the pre-deceased children. However, the gist of Section 6(3)(b) and (c) supports the claim that the interest of the female coparcener is only that of her children and Section 15 of the Act does not apply to her. It clearly states that if a divorce takes place and one of the children has already died but has left behind the child or children of the deceased child, the surviving children of the deceased child will get the share of the deceased child which they would have got had they been alive at the time of the divorce. Therefore, if the female coparcener dies without seeking partition, the partition will take place, her share will be allotted to her surviving children, and the husband will get no share even if he survives. This is contrary to Section 15 where the spouse inherits along with the children of the woman. Contradiction has been introduced between the first part and sub clauses (b) and (c) of Section 6(3).

Transfer of share in coparcenary property – Under Section 6 of the Hindu Succession (Amendment) Act, 2005:

The Mitakshara Hindu coparcenary idea has been significantly affected by the Hindu Succession (Amendment) Act, 2005. Since the daughter was treated like a son under the Hindu Succession (Amendment) Act, 2005, it completely destroyed the idea of Mitakshara coparcenary. By virtue of her birth, she gets a share in the coparcenary. She acquires the same status as a man as a coparcener by birth. She not only acquires coparcenary rights as a son but also all the rights held by a son in coparcenary, she is also subject to the same obligations as a son. The main achievement is that all daughters, particularly married daughters, are now considered co-owners of joint family property.

Separate property is unaffected by the 2005 Act (apart from the extension to Category 1 heirs). However, it includes daughters as co-owners of Mitakshara joint family property, giving them equal rights to shares, the ability to divide property and the ability to become managers (as

recognised).

By designating two generations of children of the preceding daughters as class-1 heirs, as was already the case with sons, the Act also creates greater equality between the heirs of deceased sons and daughters. For women, the key amendment making all daughters, including married daughters, co-owners of joint family property is important both monetarily and symbolically. In terms of the economy, it can increase women's security by giving them a birthright to properties that men cannot inherit. This is a significant victory in a male-biased society where women are often excluded from wills. Women can also become kartas of property, as was mentioned. All this symbolically suggests that sons and daughters are equally valuable members of the parental household. It disproves the idea that a daughter belongs only to her husband's family after marriage. She has a right, not an obligation, to return to her maternal home if her marriage fails. As a result she will become more self-confident and socially valuable, which will increase her ability to negotiate on her and her children's behalf with parents and married families.

It is unusual to grant coparcenary privileges to married daughters from the outset. With the exception of Kerala, which abolished joint family property, Tamil Nadu, Andhra Pradesh, Karnataka and Maharashtra granted coparcenary rights only to daughters who were unmarried at the time the amendment was passed. However, it should be noted that they retained this right even after marriage, and the fear that their married daughters might get embroiled in long legal battles was unfounded.

Married daughters will also benefit from the repeal of Section 23 of the Hindu Succession Act, 1956, by the 2005 Amendment Act, as they will now have the right to live in the family home and to divide it. Victims of domestic abuse will especially have somewhere to go. The main drawback is that enabling partition may make elderly parents more vulnerable. If the family owned only one household, it would be better to prevent both sons and daughters from requesting divorce while the parents were alive. As per a recent decision of the Madras High Court in *Nagammal v. N. Desiappan*, unmarried daughters of a Hindu coparcener will become coparceners by birth, and unmarried daughters of the deceased will be treated at par with sons and will be entitled to an equal share.

Key Issues Related to Women's Property Rights in Developing Countries:

In developing countries, women's property rights are a critical issue that directly impacts economic development, gender equality and social empowerment. Historically, women have faced significant barriers to owning, controlling and inheriting property in many developing countries. These barriers are driven by a combination of legal, social and cultural factors, which often favour men in property ownership. However, recent efforts are being made to improve legal frameworks, promote women's rights and challenge deeply ingrained cultural norms.

Key issues related to women's property rights in developing countries: 1. Legal barriers Many countries in the developing world have legal systems that disadvantage women when it comes to property ownership: Discriminatory inheritance laws: In countries where inheritance laws are influenced by patriarchal customs or religious traditions, women may be excluded from inheriting property. For example:

Islamic law (sharia), as practised in parts of the Middle East, Africa and South Asia, grants women the right to inheritance, but generally gives them a smaller share than male heirs.

Customary law in Africa and South Asia: In many African countries, traditional or customary law trumps formal legal structures, preventing women from inheriting land and property.

Marital property regimes: Many countries follow property regimes that benefit men more than women, particularly after divorce or the death of a spouse.

In countries with separate property regimes, women may not automatically have rights to property acquired during marriage, unless it is registered in their name

Even where joint ownership is legally recognised, women may have difficulty enforcing their property rights, particularly if social norms discourage them from demanding their share.

2. Cultural and social norms

Cultural beliefs often prevent women from owning or controlling property, even when legal rights exist:

Patriarchal norms: In many parts of Africa, South Asia, and Latin America, men are traditionally seen as the "head of the household" and the primary owners of property, even when laws allow women the right to own land or inherit property.

Bride price and dowry systems: In South Asia, dowry practices can give control of a woman's property to her husband or in-laws, limiting her economic independence. In parts of sub-Saharan Africa, the bride price system reinforces the notion that women are the property of their husbands, which affects their legal status and ability to claim property.

Land as male-dominated property: In agricultural societies, especially in rural areas of Africa

and Asia, land is the most important asset, but it is almost always controlled by men. Women's access to land is often through male relatives, which limits their control and decision-making power over how the land is used

3. Economic inequalities

Women in developing countries often face economic barriers that prevent them from purchasing property or achieving financial independence:

Limited access to credit: In many developing countries, women struggle to obtain loans and credit because they lack collateral, which is usually associated with property ownership. Banks and financial institutions may require land or other assets as collateral for loans, which women often do not have.

Income inequality: The gender pay gap is particularly evident in developing countries, where women are often concentrated in informal or low-wage sectors. With lower incomes, women have fewer opportunities to invest in assets.

Dependency on male family members: In patriarchal societies, women often rely on male family members for economic support. Even when they do acquire property, men can control property and financial decisions.

4. The Impact of Property Rights on Women's Lives

Secure property rights are critical to women's economic empowerment and well-being in developing countries:

Economic independence: Property ownership gives women the ability to generate income, secure credit, and provide for their families. In many agrarian societies, land ownership allows women to grow food, engage in small-scale farming, or start businesses.

Protection from poverty: Women who own property are less vulnerable to poverty, especially in the case of divorce, widowhood or family conflict. In countries where women have little legal protection in marriage or inheritance, property ownership provides protection.

Social empowerment: Property ownership increases women's social status and bargaining power within the family and community. Women who control property are more likely to participate in decision-making processes both in the household and in the public sphere.

5. Regional overview: women's property rights in key developing regions:

Land ownership and customary law: In many African countries, customary law and traditions greatly restrict women's land ownership. While statutory laws in countries such as Kenya,

Uganda and Rwanda provide equal property rights to women, enforcement is often weak, especially in rural areas where customary practices prevail.

Kenya: The Matrimonial Property Act (2013) provides equal rights to spouses with respect to property acquired during marriage, but cultural norms and weak enforcement continue to marginalise women.

Rwanda: Rwanda is a positive example of progress, where the Land Law (2013) supports gender equality in land ownership. Women can now inherit land, and joint ownership between spouses is legally recognised, leading to a substantial increase in the number of female landholders.

South Asia:

Inheritance and dowry system: South Asia is one of the regions where women's property rights are most restricted, due to deeply entrenched cultural norms. In India, the Hindu Succession Act (2005) granted equal inheritance rights to daughters, but many women still face social pressure to give up their share to male relatives. **Bangladesh and Pakistan:** Inheritance laws influenced by Islamic jurisprudence provide women with a lower share than men. Additionally, the dowry system in parts of these countries contributes to women's limited property ownership. **Latin America: Positive legal reforms:** Several Latin American countries, such as Bolivia and Peru, have made significant progress in ensuring women's land rights, particularly through joint titling of land and inheritance statutes that favour gender equality. These reforms have been particularly effective in urban areas. However, in rural areas, indigenous communities may follow traditional practices that limit women's ability to own or inherit property. **Agrarian reforms of the 1990s,** which aimed to grant land titles to small farmers, often failed to address gender inequalities, resulting in land being registered in men's names.

Middle East and North Africa (MENA):

Inheritance under Sharia: Inheritance statutes based on Sharia law, which prevail in many MENA countries, generally give women the right to inherit property, but only half of those of their male counterparts. While reforms in countries such as Tunisia have sparked debate on equality in inheritance, much of the region continues to operate under statutes that disadvantage women in property ownership.

Tunisia has led the way with progressive reforms in women's rights, including discussions on more equitable inheritance laws.

6. Global and regional efforts to strengthen women's property rights

International initiatives:

UN Women and other international organizations advocate for women's property rights as part of broader gender equality and poverty reduction strategies. The Sustainable Development Goals (SDGs), particularly Goal 5 (gender equality), include goals related to women's equal rights to land and property ownership.

The World Bank: Through its Women, Business and Law program, the World Bank tracks and promotes reforms that remove legal barriers to women's economic participation, including property rights. The Bank also supports land ownership projects and legal reforms aimed at securing women's land rights in several developing countries.

Local reforms and NGO efforts:

Lindesay and other NGOs work on the ground in countries such as India, Ghana and Tanzania to help women secure land ownership, educate them about their property rights and challenge discriminatory practices. These organizations also work with governments to draft and implement more gender-inclusive land laws.

Legal reform: Some countries are implementing legal reforms that promote gender equality in land ownership. For example, Ethiopia introduced reforms to land certification programmes to ensure joint ownership for husband and wife, which helped secure land rights for women.

7. Challenges and way forward

Enforcement of laws: Even where laws exist, enforcement remains a significant challenge. Governments need to improve judicial systems, raise awareness and remove administrative barriers to ensure that women can exercise their property rights.

Cultural change: Legal reforms alone are not enough without addressing cultural norms and practices that prevent women from claiming and controlling property. Community-level education, advocacy and the promotion of female role models are essential to change these social norms.

Economic empowerment: Women's ability to own property is closely linked to their overall economic status. Greater access to education, financial resources and credit will help women acquire property and claim their rights.

Judicial Contributions Regarding Women's Property Rights in Indian Perspective:

Contribution of High Courts on Women's Property Rights:

Before the Hindu Succession Amendment Act, 1956, which granted women their property rights in 2005, states including Andhra Pradesh, Maharashtra, Karnataka and Tamil Nadu had established statutes pertaining to women's property rights for their respective states. To support women's property rights, the High Courts of various states have enforced these statutes. Additionally, other High Courts have demonstrated their abiding concern for the equal rights of women.

In a recent judgment, it was determined that unmarried women are entitled to the same rights as sons under Section 6 and 6A of the Hindu Succession Act, 1956.

The Andhra Court ruled in favour of the first wife of the deceased husband in the case of Millipede (Death) vs Narendra Tulasamma (Death). Given that there are no other survivors, the first wife is entitled to the entire property. In a separate instance, the Karnataka High Court ruled that the widow of a deceased son, who was not a Class I heir, was ineligible to exercise the privilege of prelature on behalf of her children. Section 23 of the Hindu Succession Act, 1956, later deleted by the Hindu Succession Amendment Act 2005, was upheld by the Madras High Court in the case of R. Devanai Ammal, in which a female heir sought to exercise her right of partition. Properties purchased by a Hindu widow out of money from the shared Hindu family lands should be treated as her own acquisitions, unless the person claiming a share in them pleads and demonstrates that the widow has treated them as an addition to the joint family property.

Supreme Court Judgments on Women's Property Rights:

The judiciary has consistently supported gender justice. In the history of the Indian Supreme Court and High Courts, protection of women's property rights is nothing new. The High Courts of Bombay, Delhi, Orissa and Gujarat had interpreted Explanation I of Section 6 of the Hindu Succession Act, 1956 (before its 2005 amendment) differently.

Case Law: Danamma v. Amar Singh Facts: • In this case, two daughters of Shri Gurulingappa Savadi are the appellants.

With Sumithra, they were married and had two children, Arun Kumar and Vijay.

- On July 1, 2002, respondent No. 1, Amar, son of Arun Kumar filed a suit for partition of the property, claiming 1/15th share in the property.
- The complaint stated that both the sons and the widow were in joint possession of the properties as co-owners and certain other properties mentioned in the complaint were purchased from the nucleus of the joint family in the name of Shri Gurulingappa Savadi. The claim in the case was that the appellants were not co-parceners as they were born before the Hindu Succession Act 1956 (hereinafter referred to as "the Act").
- The case claimed that the appellants were not coparceners as they were born before the Hindu Succession Act 1956 (hereinafter referred to as "the Act"). The appellants argued that since Gurulingappa Savadi died after the 1950 Act came into effect, they were also coparceners.
- Since the appellants were born before the Act came into force, the trial court in its judgment refused to treat them as coparceners
- In 2008, the High Court heard an appeal from the trial court's judgment. By order dated January 25, 2012, the High Court agreed with the trial court and upheld its position. A review petition was filed on March 4, 2012, and the result was upheld. Same, and once again the trial court order was upheld

Issues: 1. Can the daughter's share be withheld because she was born before the passing of the Hindu Succession Act 1956 and is therefore not considered a co-liability? 2. Will the 2005 amendment apply to daughters and give them the right to be co-parents "by birth", as applicable to sons, as well as the right to a share equal to that of sons? Judgement: However, the Supreme Court ruled that the transfer of co-liability property is affected retrospectively by Section 6 of the Act. Whether the father died before or after the 2005 amendment, the daughters are co-liabilities. Ultimately, the claim was divided into five equal parts, one for each widow, two daughters and two sons. In light of the father's date of death, the case demonstrated the retrospective effect of the Act on co-liability of women.

Case Law: Vineeta Sharma v. Rakesh Sharma; Facts: • This case involved a joint Hindu family and coparcenary rights of daughters. As amended in 2005 (enacted on November 9, 2005), Section 6 of the Hindu Succession Act provided daughters with full coparcenary rights equal to men. However, under Section 6(1)(a) of the Act, daughters were given coparcenary

rights from birth. Questions were raised about whether daughters born before 2005 would be eligible for coparcenary rights and whether both the father and daughter were required to be alive on November 9, 2005 for the new part of the provisions of the Act to take effect. • In the case of Prakash vs Phulwati, these questions were answered. According to the Hon'ble Supreme Court Bench, the 2005 Act is prospective in nature, and the privileges given to daughters under Section 6 of the 2005 Act are for the surviving daughter of a surviving coparcener, and the coparcener must be alive on 9th September, 2005, for the daughter to claim ownership of the coparcenary property. Since the coparcener in this case died before the 2005 amendment, the daughter was not eligible to receive the share of the coparcenary property, as she was not the child of the surviving coparcener. Though the Supreme Court of India did not specifically address the consideration of the surviving daughter of a surviving coparcener in the case, it was later decided in Danamma v. Amar. In 2001, the coparcener Gurunalingappa (father) died, leaving behind a widow, two daughters and two sons. When the amended Section 6 of the Act came into force, the heir of the coparcener was not yet alive. The Court held that daughters have equal rights to coparcenary property as sons, even if the coparcener died before the 2005 amendment.

Issues:

- Whether daughters born before the date of enactment of the Act will be eligible for the rights under the 2005 Amendment Act?
- Whether adopted daughters have access to the rights of coparcenary property under the 2005 Amendment.
- Whether the amended Section 6 of the 2005 Act of Congress is applicable prospectively, retrospectively or both?

Judgment:

In this case, the Supreme Court bench cited several Hindu legal principles, both codified and customary, including coparcenary and joint Hindu family, uninterrupted and interrupted inheritance, as well as several judgments. After considering these issues, the court declared the property of a joint Hindu family as uninterrupted inheritance. The right of partition in this type of property is absolute and is given to a person by virtue of his birth. However, a separate property is an uninterrupted inheritance in which the death of the owner of the separate property interrupts the ownership and right of partition. In cases of uninterrupted inheritance, ownership rights are determined by the death of the original owner rather than by birth. Because the right

to partition is based on the birth of a daughter (uninterrupted inheritance), the Supreme Court determined that it did not matter whether the father coparcener was alive or dead on the day the amendment was passed. The court overturned the judgment in Phulwati vs Prakash and declared that coparcenary rights are transferred from the father to his surviving daughter and not from the “surviving coparcener to the surviving daughter”.

On August 11, 2020, a three-judge panel of the Supreme Court headed by Justice Arun Mishra delivered an important judgment that cleared this confusion. The bench overturned the judgment in Prakash vs Phulwati and affirmed its judgment in the case of Danamma vs Amar Singh. It was held that a daughter is a coparcener by virtue of her birth, whether her father is still alive or not. Further, the judgment upheld and established the retrospective effect of the 2005 amendment.

Case Law: Prashant Kumar Sahu and others vs Charulata Sahu and others Facts: The house and the land on the site were originally owned by the fathers of the parties. Their daughters opposed their son’s attempt to stake their claim to the property after his demise. The daughters argued that under the Hindu Succession (Amendment) Act, 2005, they were entitled to the rights of coparceners. The daughters are entitled to a share in the property inherited as coparceners. They argued that they are entitled to a share in the property as the amendment gave daughters equal rights in ancestral property as men. However, the son claimed that the amendment was not applicable in the present situation as it was ratified in 2005 and his father had died in 2001 itself. Since the girls were not coparceners before the amendment, the trial court ruled in favour of the son and declared that they were not entitled to a share in the ancestral property. On the other hand, the High Court upheld the girls' appeal against this decision.

Issues:

- Whether the settlement deed is invalid or not?
- Whether the first and second daughters can get the benefit of the 2005 amendment.
- Whether the daughter has a right to one-third share of all the property including inherited and self-acquired property?
- Whether the daughter has a right to one-third share of all the property including inherited and self-acquired property? Judgement:

According to the Supreme Court, the rights of girls who were already married or who had

already received a share of inherited property before the change were not affected. For women's rights and gender equality in India, the implications of this judgement are very significant, especially with regard to property rights. Apart from recognising the equality of daughters in Hindu joint families, it upholds the ideal of gender equality established by the Indian Constitution.

Furthermore, even though it came very late, the Hindu Succession Act, 1956 was amended in August 2005, which was a boon for Indian women. Perhaps this has to do with the Indian government's dedication to gender justice. Despite ratifying the International Convention on the Elimination of All Forms of Discrimination against Women in 1979, the Law Commission of India sensitised it in 2000. Although two measures were enacted in 2002 and 2004 for this goal, the final act was passed in August 2005 for this particular woman's property rights based on the committee's recommendation. Since the advent of civilization, love for sister and daughter has ceased to be sentimental. It may be said that: In this regard.

“New laws may give legal scholars the impression that they have corrected a long-standing wrong. But on the contrary, they force people to think forever about socially unenforced rights.”

Conclusion

The evolution of women's property rights in India, particularly under Hindu law, reflects a gradual but significant shift towards gender equality. Historically, women were marginalised in matters of property inheritance, with limited rights that were largely dependent on their roles as wife or daughter. The Hindu Succession Act of 1956 marked a watershed moment by granting women equal rights in property inheritance, a move that was further strengthened by the Hindu Succession (Amendment) Act of 2005, which recognised daughters as co-heirs, giving them equal rights in ancestral property. Judicial contributions and amendments to the law, such as the 2005 reforms, have brought about the necessary changes in addressing gender bias. The changes made in Section 6 of the 2005 Amendment Act eliminated the male-centric nature of Hindu succession laws, giving daughters an equal share. The efforts of the Law Commission and various court decisions underscore the importance of securing equal property rights for women, recognising their economic independence and contribution to the family unit. However, despite these advances, challenges remain in fully implementing these rights in practice due to social and cultural barriers. Nevertheless, the legislative strides made,

particularly in the last century, represent a significant achievement in promoting justice and equality for women in property matters.

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