

INHERITANCE AND GENDER JUSTICE: A STUDY OF WOMEN'S PROPERTY RIGHTS IN INDIA

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Abstract

The societal norms in our country have traditionally placed women at the forefront and recognized them as equals to men. Looking back at ancient times, women held a revered position, with many divine origins being attributed to women and receiving praise. However, as the new era emerged, the longstanding traditions started to fade, leading to a gradual decline in the status of women. This research aims to gradually enhance the understanding of women's rights to property and inheritance. It is structured to provide insights into the lives of women from ancient times to the post-independence era in India, while emphasizing the significance of women's property and inheritance rights. Although reclaiming women's rights has been challenging, societal norms have historically oppressed women, dating back to the later Vedic period. Nevertheless, evolving laws can restore women's rights, and this study revolves around essential provisions that serve as the foundation for treating women equally, ensuring their fair share of property, and playing a pivotal role in enhancing their inheritance rights.

Introduction

The Indian Constitution guarantees equality for all citizens before the law. Numerous social laws have been enacted to protect women's rights. Recognizing women's property rights is crucial for decision-making, income pooling, acquisition, and their overall role and position in society. When considering women's property rights, it's important to address class differentiation among women in society. In Indian society, the inheritance system has traditionally preserved land property for male heirs. Women's access and control over property are influenced by their living conditions, economic security, and physical safety. Hindus, Sikhs, Buddhists, and Jains are subject to the Hindu Succession Act, 1956, while Christians are governed by the Indian Succession Act, 1925. Muslims have not codified their property rights. Tribal women are governed by the customs and norms of their tribes. Although they face some mobility restrictions, they have significant freedom in choosing marriage partners. Religion plays a significant role in property succession in India. Personal laws of religious communities are largely based on their scriptures. Feminist groups have been advocating for

women's rights, but there are still many areas that society needs to address.

This article presents different constitutional provisions and social enactments related to women's property inheritance. It also explores religion-specific laws related to property inheritance for women. Amendments have been made from time to time to address evolving issues. Women's property rights are recognized as a significant development issue. Land is a critical asset for women, especially in cases of family separation due to desertion, divorce, or illness. Women play a fundamental role in providing for families, communities, and nations. Globally, a significant percentage of women-headed households live below the poverty line or in inadequate housing. The lack of access to land forces many women to urban areas, contributing to the growing number of female-headed households in slums. The globalization and industrialization processes have led to more women entering the waged labor sectors. When considering women's property rights, it's important to address class discrimination among women, as there are significant differences across women from various backgrounds. The

current era demonstrates the increasing involvement of women from a specific class in education and changing societal norms. In Indian society, the traditional inheritance system has historically favored male heirs, especially in terms of land property. In practice, the distribution of assets within families is deeply rooted in a male-centric culture based on patrilineal and patrilocal customs, which define women's roles in both economic and non-economic spheres. Women's rights to access and control property are influenced by their overall living conditions, economic security, and physical safety. Gender discrimination is linked to lower per capita income, life expectancy, and literacy rates, reflecting deep-seated societal biases against women. During the Vedic period, women were highly respected and enjoyed various rights and privileges, including equal rights and responsibilities within marriage. However, they faced discrimination primarily in matters of inheritance, although they were never completely excluded from inheritance. Succession is a significant aspect of property law, with connections to land law, trusts, individual property, and family law. The unequal treatment of women in Indian personal laws is often attributed to the sanctity of Religious laws, with specific instances of this argument being used to justify these disparities. Upholding female property and inheritance rights helps alleviate the negative economic impact on women and their families, while also promoting women's economic security and empowerment, thereby reducing their vulnerability to domestic violence, gender-based discrimination, and other health risks. The issue of women's unequal access to property

Inheritance has long been a concern in achieving gender equality. The Government of India has established specific institutions such as the National Commission for Women and the Department of Women and Child Development. Article 16 of the Convention emphasizes the need for measures to eliminate discrimination against women in all matters related to marriage and family relations, ensuring equality between men and women. Property rights in India are subject to laws enacted by both the Central and State governments, particularly on matters of succession. Different states have their own variations of property laws based on personal law, resulting in a lack of uniform laws governing the property rights of Indian women.

Property Right overvie

Each religious community has its own specific laws, and within each religious group, there are subgroups and local customs that influence individual property rights. Property rights are typically associated with the strong sense of ownership and the right to fully and exclusively control an asset. Hindus, Sikhs, Buddhists, and Jains are governed by the Hindu Succession Act, 1956, while Christians are subject to the Indian Succession Act, 1925. On the other hand, Muslims, including both Shias and Sunnis, have not codified their property rights. Tribal women from different religions and states continue to be governed by the traditions and norms of their clans, with limitations on their freedom and extensive decision-making power in choosing marriage partners. Tribal societies generally have lenient rules regarding discrimination and remarriage by women, and under customary laws, property, particularly land, is passed down through male lineage, depriving women of inheritance rights to land. In the 1950s, the Hindu Personal laws were amended to prohibit polygamy and grant inheritance rights, adoption, and protection against discrimination to women. Under Hindu law, children have an independent share in tribal property, but a daughter's share is contingent on what her father receives, allowing a father to effectively exclude a daughter by revoking a portion of the hereditary property. Married daughters, even those facing marital harassment, have no individual rights in the ancestral home. Inheritance rights pertaining to immovable property, especially land, were a significant issue, as women were unable to inherit such property due to the male-dominated culture's desire to preserve properties within their own families. Widows typically had the right to maintenance from their husband's heirs and virtually no share in the family property, except in cases where the husband had already separated from the joint family. Muslim Personal laws differ significantly from those of Hindus and permit polygamy, despite the existence of laws safeguarding women's rights, traditional patriarchal attitudes continue to prevail.

Role of Religion in the Succession of Property Right

Hindu Religion plays a significant role in the inheritance laws of India, with religious scriptures dominating the individual laws of different religious communities. In the

past, succession laws were largely unorganized and based on community traditions. As society progressed, governments began to organize succession laws, often relying on traditional practices, resulting in inconsistency. Nevertheless, religion continues to influence the organization of succession laws, often leading to unequal treatment of women. During British rule, certain laws were enacted to improve the status of women, and many of these laws have been retained by the Indian government post-independence, subjecting Indian citizens to the religious laws they follow. The property rights of Hindu women in India vary based on their marital status and the type of property, whether it is ancestral, self-acquired, land, residential, or marital property. Before the 1956 Act, Hindu succession laws were governed by Shastric and customary laws, leading to regional and status-based variations. The diversity in the laws was further complicated by their varied origins. However, social changes during the pre-independence period led to efforts to address gender discrimination in succession laws. While there was a push for equal distribution between male and female heirs, the Hindu women's limited estate was not expanded to full ownership. The earliest legislation that included women in inheritance was the Hindu Law of Inheritance Act, 1929, which granted inheritance rights to three female heirs: son's daughter, daughter's daughter, and sister.

Women's Property to Assets Act of 1937

This became the milestone enactment which gave proprietorship rights on girls. This Act performed progressive modifications in the Hindu law, the entirety being equal, and brought changes in the law of joint inheritance as well as in the regulation of phase, estrangement of property, inheritance and reception. The Act of 1937 empowered the widow to prevail alongside the child and to take an offer equivalent to that of the child. Be that as it could, the widow didn't develop into a coparcener in spite of the reality that she had a correct like to a joint inheritance hobby inside the property and was a person from the joint circle of relatives. The widow changed into certified distinctly for a restricted domain inside the assets of the expired with an option to assure parcel. A bit lady had practically no inheritance rights. Regardless of those

establishments having gotten substantial modifications the law of succession by imparting new rights of succession on unique women, those had been as yet found to be garbled and blemished in several regards and offered ascend to various abnormalities and Left immaculate the crucial highlights of oppression women.

Hindu Succession Act of 1956

The Hindu Succession Act ordered in 1956 changed into the main regulation to provide a complete and uniform arrangement of inheritance among Hindus and to deal with sexual orientation imbalances within the zone of inheritance. It was for this reason a cycle of codification just as an exchange simultaneously. The Hindu Succession Act changed into the primary put up-independence enactment of assets rights among Hindus. The Hindu Succession Act, 1956 become made to arrange the regulation figuring out with intestate succession amongst Hindus. It reaches out to the entire of India apart from the Province of Jammu and Kashmir. This Act is fabric to all the Hindus, Buddhists, Jains and Sikhs with the aid of religion. The upkeep of the joint inheritance without remembering women for it implied that girls couldn't acquire ancestral assets as adult males do. On the off risk that a joint circle of relatives gets isolated, every male coparcener takes his offer and females get nothing. Just when one of the coparceners bites the dirt, a woman receives a portion of his offer as a beneficiary to the Perished. Along these strains the law via barring the daughters from participating in joint inheritance ownership sincerely through purpose of their gender delivered to an imbalance against girls in addition to has brought on abuse and Invalidation in their right to fairness and offers off an affect of being a funny story of the crucial rights ensured by the charter. Henceforth, this very truth required a similarly change with admire to the assets rights of girls, and which was finished by using the Hindu Succession (change) invoice, 2004.

The Hindu Succession modification Act, 2005

The Hindu Succession (amendment) Act, 2005 attempts to make widespread adjustments in the Hindu Succession Act, 1956. To start with, it is proposed to do away with the sexual orientation Segregation in region 6 of the first Act.

2d, it proposes to miss segment of the first Act, which disentitles a lady beneficiary to Request section in regard of a residence house, completely concerned by means of a joint circle of relatives, till the male Beneficiaries decide to split their precise gives in that. Section 6 of the Hindu Succession Act, 1956 has been rehashed for convenience-Devolution of interest in joint inheritance assets. On the factor while a Male Hindu died on after the start of this Act, having on the hour of his death an interest in a joint Inheritance property, his gain in the assets will degenerate with the aid of survivorship upon the enduring people from the joint inheritance and now not as per the Act. The Act offers that if the perished had left him enduring a lady relative decided in class I of the agenda or a male family member indicated in that magnificence who claims thru such female member of the family, the hobby of the expired in the joint inheritance property will regress with the aid of testamentary or intestate Succession, all matters considered and now not with the aid of survivorship. The Hindu Succession (amendment) Act, 2005 is a milestone. Following 50 years, the authorities at lengthy final tended to some enduring sexual orientation imbalances in the 1956 Hindu Succession Act, which itself become manner breaking. The 2005 Act covers disparities on a few fronts: agrarian land; joint family property; parental residing house; and positive widows. The correction has come into pastime from 2005.

Property Rights of Muslim Women

The assets rights of Muslim women vary from different religions as it depends on the Islamic law of Succession at the fundamentals of Holy Quran. Muslims comprehensively have a place with schools Of notion: the Sunnite and the Shiite. Below the Sunnite school, there are 4 sub classifications; Hanafis, Shafis, Malikis and Hanbalis. The standard exercise in this sub-continent is to utilize the terms 'Sunnī' regulation or 'Shia' law. After the Shariat Act of 1937, Muslims in India came to be administered of their very own issues, including assets rights, through Muslims non-public law as it "restored" personal regulation in desire to custom. Considerably, the Islamic scheme of inheritance uncovers 3 highlights, which are specially no longer similar to the Hindu law of Inheritance: (I) the Koran offers explicit offers to specific humans (ii) the construct-up is going to

The agnatic beneficiaries and bombing them to uterine beneficiaries and (iii) endowments are constrained to 33% of the area, i.e., maximum extreme 33% offer within the property may be willed away through the owner. The Muslim regulation of Succession is un-labeled; there is no parcel of acquired assets. Succession opens just on the passing of the predecessor, and in a while by myself the belongings vests within the beneficiaries. The Islamic regulation of succession relies upon at the concepts of the Holy Quran. No woman became avoided from inheritance simply based on intercourse. Girls have equal option to percentage the property of the perished. Islamic principles of Succession in keeping with Prophet the standards are the couple being equal are certified for gather to each other, some close to females and cognates are likewise perceived and counted as beneficiaries, Guardians and sure special ascendants are made beneficiaries in any occasion, when There are loved ones and the recently made beneficiaries are given indicated shares alongside popular beneficiaries, who're Reliquaries.

Belongings Rights of Christian Women

The legal guidelines of succession for Christians are set down within the Indian Succession Act, 1925 (ISA). Sections 31 to 49 cope with Christian succession. The Indian Christian widow's privilege isn't a selective right. It gets faded as specific beneficiaries step in. simply if the intestate has left none who are of fellow to him, the whole of his assets might have an area along with his widow. Where the intestate has left a widow and any lineal loved ones, 33% of his assets declines to his widow and the extra 66% visit his lineal household. on the off danger that he has left no lineal descendants except for has left those who are fellow to Him, one part of his property declines to his widow and the excess half of goes to the individuals who are of Fellow to him. Any other irregularity is a not possible to miss encompass that the widow of a pre-expired infant gets no offer, but the children whether conceived or within the belly at the hour of the passing might be certified for equivalent offers. Where there are not any lineal loved ones, in the wake of getting deducted the Widow's offer, the leftover assets reverts to the father of the intestate in the important example. Simply at the off hazard that the father of the intestate is dead but mother

and brothers and sisters are alive, they all might percentage similarly. If the intestate's father has died, however his mother is dwelling and there are not any surviving brothers, Sisters, nieces, or nephews, then, the entire assets might belong to the mother. The Indian Succession Act, 1925 gives that succession to ardent assets in India of a man or woman perished who is certifiably now not a Hindu, Mohammedan, Buddhist, Sikh or Jain, can be controlled via the regulation of India. because the Hindu law of Inheritance: (I) the Koran offers explicit gives to particular people (ii) the build-up is going to The agnatic beneficiaries and bombing them to uterine beneficiaries and (iii) endowments are restricted to 33% of the domain, i.e., maximum severe 33% offer within the property may be willed away by means of the owner. The Muslim law of Succession is un-labeled; there is no parcel of obtained belongings. Succession opens simply at the passing of the predecessor, and in a while by myself the assets vests inside the beneficiaries. The Islamic law of succession depends at the principles of the Holy Quran. No female changed into avoided from inheritance simply primarily based on sex.

Ladies have equivalent option to share the property of the perished. Islamic principles of Succession in step with Prophet the concepts are the couple being equal are certified for acquire to one another, a few close to females and cognates are likewise perceived and counted as beneficiaries, Guardians and sure distinctive ascendants are made beneficiaries in any event, while there are spouse and children and The currently made beneficiaries are given indicated shares alongside fashionable beneficiaries, who're Reliquaries.

Assets Rights of Christian Women

The laws of succession for Christians are set down inside the Indian Succession Act, 1925 (ISA). Sections 31 to forty nine deal with Christian succession. The Indian Christian widow's privilege isn't a selective right. It gets diminished as distinct beneficiaries step in. just if the intestate has left none who are of fellow to him, the whole of his property would have a place together with his widow. Wherein the intestate has left a widow and any lineal family, 33% of his property declines to his widow and the excess 66% go to his lineal spouse and children. on the off threat that he has

left no lineal descendants except for has left those who are fellow to Him, one portion of his belongings declines to his widow and the extra 1/2 is going to the folks who are of Fellow to him. Every other irregularity is a not possible to miss encompass that the widow of a pre-expired baby receives no offer, but the kids whether or not conceived or in the belly at the hour of the passing would be certified for equivalent offers. Wherein there are not any lineal spouse and children, within the wake of having deducted the Widow's offer, the leftover belongings reverts to the daddy of the intestate within the major instance. Just on the off hazard that the daddy of the intestate is lifeless yet mom and brothers and sisters are alive, all of them would share in addition. If the intestate's father has died, however his mother is living and there are no surviving brothers, Sisters, nieces, or nephews, then, the complete belongings would belong to the mom. The Indian Succession Act, 1925 gives that succession to ardent belongings in India of an person perished who's certifiably no longer a Hindu, Mohammedan, Buddhist, Sikh or Jain, could be managed by way of the regulation of India.

Assets Rights of Tribal Women

To the extent assets rights of the Tribal girls are involved, they keep on being administered by means of appreciably extra archaic arrangement of trendy law below which they truly need rights of Succession or section. Indeed, the Tribal girls don't have any rights in agrarian grounds. It's miles fun That property rights of gender have been adversarial for the sake of safety of Tribal tradition. The property proper of a Tribal lady likewise relies on the sort of circle of relatives and marriage. In monogamous circle of relatives, the belongings rights appreciated by way of a female are not quite similar to polygamous and polyandrous type of circle of relatives. another time, the assets right of a widow isn't similar to the belongings right extremely joyful in with the aid of a girl whose spouse is alive, the property rights of a fruitless woman who's honored via kids. The supreme court docket of India has set out a few sizable standards to keep the rights of inheritance of the Ancestral ladies, in view of the expansive manner of considering the Indian charter and stated, "The Constitutional way of wondering imagined under Articles 38, 39, forty six and 15 (1) and (3) and 14 is to accord

Social and financial vote primarily based device to women as guaranteed inside the preamble of the constitution. They represent middle basis for monetary empowerment and social fairness to ladies for stability of political Democracy. As such, they disapprove of gender discrimination and focus on disposal of obstructions to understand social, economic, political and social rights on equal balance."

Estimate

In conclusion, women play a crucial role in upholding the values of family and society. Historical evidence also showcases women as rulers, scholars, and scientists. However, the current dismal state of women reflects the degradation of their status in society. Women are often considered inferior to men and are in a dependent position. Despite the ongoing efforts of women's rights activists, there are still numerous areas in which society needs to focus its attention. One such area is women's right to inherit property, which is influenced by various religious and social norms. These factors have become barriers to women's property rights due to a complex interplay of individual, social, communal, and cultural elements. Although laws exist to provide equal inheritance rights for women, many are unaware of these rights due to cultural factors. Women often sacrifice their rights to property in order to maintain support from their maternal family. The

practice of dowry in marriage is a major obstacle for married women in asserting their inheritance rights. Consequently, male family members often deny women their property inheritance rights, and women themselves willingly relinquish their rights to property.

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