

From Scriptures to Statutes: Women and Property Across Hindu Religion

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Abstract: *Property rights are essential for economic autonomy and social empowerment, yet women's ability to access and control property remains unequal in numerous societies, often shaped by religious beliefs and customary norms. This article argues that property rights are central to economic independence and social empowerment, but women's access to and authority over property in Hindu society has historically been influenced by religious texts, customary practices, and patriarchal interpretations. It traces the historical evolution of women's property rights within the Hindu tradition, beginning with scriptural directives found in texts such as the Manusmriti,¹ and extending through the Mitakshara and Dayabhaga schools of Hindu law, while examining their gradual transformation through legal reforms. The discussion highlights how traditional interpretations of Hindu personal law largely confined women to "stridhan," limiting their inheritance rights and reinforcing gender inequality in property ownership. At the same time, it emphasizes progressive legislative developments, particularly the Hindu Succession Act of 1956 and its landmark 2005 amendment, which granted daughters equal coparcenary rights. By comparing ancient prescriptions with modern legal standards, the article reveals the ongoing tension between preserving religious traditions and advancing constitutional ideals of gender equality and justice in contemporary society.²*

Property rights are a fundamental component of human existence, as they provide economic security, social recognition, and a degree of independence from familial and societal control. For women, these rights carry deeper significance because they are closely linked to autonomy within the household, participation in financial decision-making, and freedom from patriarchal dependence. In many societies, however, women's access to property—

whether through inheritance, ownership, or purchase—remains constrained not only by legal barriers but also by entrenched social norms, religious interpretations, and customary practices. Within Hindu society, women's property rights have evolved under the influence of scriptural authority, judicial interpretation, and later statutory reforms. Early texts such as the Manusmriti established male-preferential inheritance systems, restricting women largely to stridhan. The Mitakshara and Dayabhaga schools further institutionalized inequality by denying daughters coparcenary rights in joint family property. Over time, reform movements and constitutional values encouraged change, leading to legislative milestones such as the Hindu Succession Act of 1956 and its 2005 amendment granting daughters equal rights. Nevertheless, social resistance and lack of awareness continue to limit the practical realization of these rights.³

I. INTRODUCTION

Property rights serve as fundamental aspect of personal freedom and economic empowerment, especially for women. In context of Hindu social and legal frameworks, a woman's capacity to possess, inherit, and control property has historically been linked to religious texts, customary norms, and patriarchal systems⁴. Traditionally, access to property for Hindu women was highly limited—often confined to stridhan (gifts received at marriage or throughout her life)⁵ and restricted inheritance rights under ancient Hindu laws⁶. These constraints significantly influenced their financial autonomy, social status, and

¹ Manusmriti, Chapter IX (various verses on inheritance and women's property rights).

² Mitakshara School of Hindu law, as interpreted by Vijnaneshwara in the *Mitakshara* commentary. Stridhan is discussed in classical Hindu law texts; see also Yajnavalkya Smriti, Chapter II

³ Hindu Succession Act, 1956, Act No. 30 of 1956. Hindu Succession (Amendment) Act, 2005, Section 6 (granting daughters equal coparcenary rights).

⁴ Werner Menski, *Hindu Law: Beyond Tradition and Modernity* 218–20 (2003).

⁵ *Raghunandan v. State of U.P.*, (1973) 1 SCC 817.

⁶ Derrett, *Religion, Law and the State in India* 411–15 (1999).

overall agency within both the household and the community.

Over the centuries, the Hindu personal law concerning property has been shaped by scriptural interpretations from texts such as the Manusmriti⁷ and legal schools like Mitakshara and Dayabhaga. These interpretations favoured male heirs concerning succession, reinforcing a patriarchal inheritance system that diminished women's rights. Nonetheless, social reform initiatives, judicial interpretations, and legislative measures gradually contested these injustices.

The codification of Hindu personal law during the colonial and post-independence eras represented a crucial turning point. Although the Hindu Succession Act of 1956 was a significant achievement, it still preserved several gender-based inequalities. It was not until the Hindu Succession (Amendment) Act of 2005 that daughters were finally granted identical coparcenary rights, placing them on equal footing with sons regarding joint family property. This pivotal reform signified a transition from scriptural authority to statutory rights, aligning the property entitlements of Hindu women more closely with the constitutional principles of equality and justice.

This article aims to trace and critically examine the evolution of Hindu women's property rights—from religious texts to legal statutes. It investigates the historical limitations imposed by sacred writings, the gradual progress through legislative changes, and the persistent challenges of practical implementation. By delving into this evolution, the article emphasizes both the advancements made and the obstacles that still exist, ultimately highlighting the necessity for ongoing efforts to reconcile cultural traditions with constitutional mandates for gender equality.

Property, in its legal and social sense, is far more than a material asset—it is a symbol of identity, status, and independence. For men in patriarchal societies, property ownership has traditionally been assumed as a right. For women, however, property has often been framed as a concession, a gift, or a conditional entitlement. In the Indian context, and particularly within Hindu social and legal frameworks, property

rights have played a defining role in determining a woman's status within the household, her capacity to make decisions, and her ability to lead a life independent of male guardianship.

Historically, Hindu women's access to property was severely curtailed. The main avenue available to them was stridhan, which included gifts of jewellery, clothing, or money received from parents, relatives, or the husband's family at the time of marriage or during her lifetime. While stridhan was considered the woman's absolute property, its scope was limited compared to the extensive rights enjoyed by men through birth in coparcenary property. Furthermore, social norms often allowed husbands and in-laws to exercise control over women's stridhan, thereby reducing its practical utility as a tool of independence.

Ancient Hindu law, as shaped by texts like the Manusmriti and later interpreted through the Mitakshara and Dayabhaga schools, systemically favoured male heirs. Under the Mitakshara system, sons acquired coparcenary rights at birth, whereas daughters were excluded entirely. The Dayabhaga system, while somewhat more progressive in granting limited inheritance rights to widows and daughters, still positioned them as secondary claimants, subordinate to male relatives. These interpretations institutionalized the idea that women were dependents—first on their fathers, then on their husbands, and finally on their sons.

The colonial period marked a paradox in the evolution of Hindu women's property rights. On the one hand, the British codification of Hindu law entrenched patriarchal customs, privileging the Mitaksharaschool in most regions and thereby reinforcing gender inequities. On the other hand, colonial encounters introduced new legal frameworks and reformist debates, setting the stage for statutory reforms in the twentieth century. The Hindu Women's Right to Property Act of 1937 was the first legislative attempt to grant women limited inheritance rights, particularly to widows, though daughters remained excluded from coparcenary property.

⁷*Manusmriti*, Ch. IX, Verses 27–37 (on inheritance and women's property).

A more transformative moment arrived with India's independence and the framing of the Constitution, which enshrined equality and non-discrimination as fundamental rights under Articles 14 and 15. The codification of Hindu personal law through the Hindu Succession Act of 1956 was a landmark, but it retained the patriarchal essence of the coparcenary system by continuing to exclude daughters from ancestral property.⁸ It was not until the Hindu Succession (Amendment) Act of 2005 that true statutory equality was achieved, granting daughters equal coparcenary rights by birth alongside sons.

However, legal reform does not automatically translate into social reality. Even today, many Hindu women find themselves unable to claim their rightful share of property due to resistance from male relatives, lack of legal literacy, procedural hurdles in partition and mutation of land records, and social stigma associated with women demanding their rights. Judicial interventions in recent decades, especially the Supreme Court's progressive judgments, have reinforced statutory equality, but gaps remain between law on paper and law in practice.

This study, therefore, aims to trace the historical journey of Hindu women's property rights, from their scriptural origins through colonial codification to modern statutory reform. By highlighting the interplay between tradition and reform, it underscores the need to harmonize cultural values with constitutional principles of equality. Ultimately, property rights for Hindu women are not merely a question of legal entitlement but of social justice, gender equality, and human dignity.

II. HISTORY

Property rights form the cornerstone for economic independence and social empowerment. For women, the capability to own, inherit, and manage property is crucial not only for financial security but also symbolizes personal liberty and equality in citizenship. However, within Hindu law, the rights of women regarding property have frequently been

constrained by patriarchal interpretations of religious texts and longstanding customs. This paper intends to analyze the evolution of property rights for Hindu women, tracing their development from sacred texts to legal frameworks. It begins with the origins in scriptures, progresses through classical Hindu law, investigates colonial-era codification and reforms post-independence, and assesses current challenges.⁹

Property rights are the cornerstone of both economic independence and social empowerment. For men, the ability to inherit and manage property has historically been taken for granted. For women, however, the struggle for equal rights has been long and complex. In Hindu society, women's property rights have evolved through four major phases:

Scriptural foundations (Vedic and Smriti texts)
Classical Hindu law (Mitakshara and Dayabhaga interpretations)
Colonial codification under British rule
Post-independence reforms and modern statutory guarantees, each of these stages reflects both progress and regression, showing how women's status was shaped by religion, tradition, and law.

I. Scriptural Bases of Women's Property Rights

2.1. Vedic and Smriti Traditions

Compared to later periods, women enjoyed a comparatively greater standing throughout the early Vedic period. In many Rigvedic hymns, women are mentioned as taking part in ceremonies, receiving gifts, and occasionally handling household goods.

Although they rarely inherited land, women may inherit transportable possessions. Women's rights started to decline as the Dharmashastras (legal codes such as the Manusmriti, YajnavalkyaSmriti, and NaradaSmriti) gained popularity.

By stating that women should always be under the supervision of men—first the father, then the spouse, and finally the son—these scriptures methodically upheld patriarchy.

⁸ Principles of Hindu Law, LexisNexis (latest edition).

⁹ Werner Menski, *Hindu Law: Beyond Tradition and Modernity* 218–20 (2003).

2.2. The Concept of Stridhan

Stridhan, which means "woman's property," became the main idea guiding women's ownership in Hindu culture. Gifts from parents, in-laws, family members, or complete strangers were among them. assets (cash, jewellery, clothing, and utensils) acquired at marriage property inherited by testamentary bequests or affectionate gifts.

In theory, stridhan was acknowledged as the woman's own property, which she might possess, give, or sell without her husband's approval. In contrast to men's inheritance rights, its reach was incredibly constrained. In actuality, women hardly ever had autonomous authority over stridhan. Social customs precluded women from claiming ownership, and husbands or in-laws frequently took it. As a result, stridhan offered dignity in theory but nothing in the way of actual autonomy, making it more symbolic than substantive.

2.3. Inheritance under Mitakshara and Dayabhaga Schools

Dayabhaga and Mitakshara were the two main classical schools that contributed to the further systematization of Hindu law. According to the Mitakshara School, which is practiced in most of India with the exception of Bengal and Assam, sons were born with coparcenary privileges, which meant they were entitled to a portion of the family's property. However, daughters were not allowed to own any coparcenary property at all. Though not as complete proprietors, women could inherit as limited owners, typically through maintenance or short-term interests¹⁰. Property remained exclusively within the male line, as the system placed a strong emphasis on patrilineal continuity. According to the Dayabhaga School, which is popular in Bengal and Assam, a son's rights were created after his father passed away; they were not born. Widows and daughters had slightly better inheritance rights compared to Mitakshara. For example, widows could inherit a life estate in property if there were no male heirs. However, their rights were

¹⁰ Hindu Succession Act, 1956, Act No. 30 of 1956

still inferior to male heirs and usually restricted to enjoyment of property rather than full ownership.

III. CLASSICAL HINDU LAW AND PATRIARCHAL INTERPRETATIONS

Hindu legal beliefs gradually perpetuated inequality by denying women substantial property rights. Daughters and widows were supposed to rely on maintenance rather than inheritance. This implied that rather than a legal right, women's survival depended on the generosity of men. A woman was always subject to the authority of her father, husband, or son, according to the fundamental idea of "male guardianship. Daughters were frequently viewed as a financial obligation, and dowries were used in place of inheritance of real estate.

This solidified a patriarchal family system in which women's identities were linked to domestic and reproductive responsibilities and men controlled wealth and ancestry.

IV. COLONIAL CODIFICATION AND THE SEEDS OF REFORM

British Codification of Hindu Law

For administrative convenience, the British attempted to codify Hindu personal law when they occupied India. The British imposed strict classifications on customary behaviours rather than letting Hindu law develop naturally. By giving the Mitakshara school precedence, they solidified the most patriarchal system in many regions of India. Colonial rulers, who valued stability over social transformation, frequently disregarded reformist Hindu voices that called for more equality.¹¹

Legislative Reforms in the 20th Century

With the passage of the Hindu Women's Right to Property Act in 1937, widows were given the opportunity to inherit from their departed husbands, marking the first fractures in this patriarchal system. Widows could enjoy the property but could not freely alienate it, hence this was a limited entitlement. The exclusion of daughters from coparcenary property persisted. The fundamental structure of male

¹¹ archanaParashar, *Women and Family Law Reform in India* 55-59 (1992)

supremacy persisted even after these laws were defined and expanded by the Hindu Women's Right to Property (Amendment) Act, 1938.

A. Scriptural

Vedic and Smriti Traditions: Initial Vedic texts permitted women a certain level of independence concerning household assets.¹²

Manusmriti and similar Smritis upheld patriarchal norms, largely restricting inheritance to male heirs. The Concept of Stridhan, Stridhan is described as the property assigned to a woman at the time of her marriage or throughout her life. This property is recognized as fully belonging to her, though its breadth is limited compared to men's inheritance rights. Inheritance under Mitakshara and Dayabhaga Schools¹³ In the Mitakshara framework, daughters were excluded from coparcenary property, with sons gaining rights by birth. The Dayabhaga system provided some recognition of women's rights, but their inheritance always remained inferior to that of males.¹⁴

B. Classification

Classical Hindu legal doctrines entrenched inequality by consistently preventing women from accessing ancestral property. Widows and daughters frequently relied on maintenance instead of inheritance. Women's dependence on male guardians (father, husband, or son) reinforced a patriarchal familial structure.

C. Colonization

1. British Codification of Hindu Law: British authorities formalized Hindu personal laws, stalling their progress and disregarding reformative practices. The focus on the Mitaksharaschool solidified gender-based disparities.

2. Legislative Reforms in the 20th Century: The Hindu Women's Right to Property Act of 1937 provided widows with limited access to their deceased husbands' estates. The Hindu Women's Right to Property (Amendment) Act of 1938 further clarified

widows' rights, although daughters continued to be excluded.¹⁵

D.Reforms After Independence: 1956 to 2005¹⁶

1. Hindu Succession Act, 1956: This legislation formalized the succession rules applicable to Hindus. It acknowledged women as legal heirs but preserved the coparcenary system, which excluded daughters.
2. Judicial Efforts for Equality: Legal cases like *Vineeta Sharma v. Rakesh Sharma* (2020) affirmed equal coparcenary rights, regardless of whether the father had died before 2005.
3. Hindu Succession (Amendment) Act, 2005: This significant reform granted daughters equal coparcenary rights. It stipulated that daughters should be accorded the same rights as sons concerning ownership of ancestral property.¹⁷

E. Constitutional and Human Rights Basis

Articles 14 (Equality before the Law) and 15 (Prohibition of Discrimination) of the Indian Constitution provide the foundation for reform. International treaties such as CEDAW have shaped India's legal obligations to ensure women's equal rights.¹⁸ Judicial activism has supported women's constitutional rights to property against discriminatory practices.

F.Current Challenges¹⁹

1. Gaps in Implementation: There is societal resistance to daughters exercising their property rights. Many women are often unaware of their legal rights.
2. Customary Practices vs. Legal Framework: In many rural and traditional families, patriarchal customs persist despite legal advancements.
3. Interaction with Other Laws: The interplay with personal laws regarding marriage, dowry, and maintenance can frequently undermine property rights

¹² Stephanie Jamison & Joel Brereton, *TheRigveda: The Earliest Religious Poetry of India* (2014).

¹³Poonam Pradhan Saxena, *Family Law Lectures: Family Law II* 92–94 (3d ed. 2011).

¹⁴*BhugwandeeDoobey v. MynaBae*, (1866) 11 M.I.A. 487 (P.C.).

¹⁵ Id. ¶ 230–234.

¹⁶ J.D.M. Derrett, *Religion, Law and the State in India* 411–15 (1999).

¹⁷*Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1.

¹⁸ina Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia* 128–31 (1994).

¹⁹Mulla, *Principles of Hindu Law* ¶¶ 223–225 (21st ed. 2010).

V. WOMEN'S PROPERTY RIGHTS IN HINDU RELIGION: FROM TRADITION TO COLONIAL TRANSFORMATION

Women's rights to property in Hindu society have their roots in the pre-colonial period, although these rights were typically limited to the confines of home and community. Ancient texts, customary laws, and traditional writings acknowledged some forms of women's ownership—most notably stridhan—yet these rights were narrow in extent and were heavily shaped by women's roles within the family. Their property rights were closely linked to marriage, dowry traditions, and their defined duties within the patriarchal domestic sphere.²⁰

The story of Hindu women's property rights is not just a matter of legal texts and statutes; it is also a lived experience shaped by customs, rituals, and social practices. For centuries, women's ownership of property was defined not in terms of equal rights but in symbolic gestures tied to marriage, dowry, and familial obligations. With the arrival of British colonial rule, these practices interacted with Western legal notions, leading to tensions and eventual transformations.

With the onset of British colonial rule in India, the framework of women's property rights within Hindu society experienced a significant shift. The colonial government aimed to codify and organize indigenous customs, but this often led to tensions between Hindu traditional practices and British legal notions of inheritance and property rights. The introduction of English common law principles, including primogeniture and survivorship laws, contrasted sharply with Hindu joint family norms and property allocation methods from the Mitakshara and Dayabhaga schools. This conflict notably altered the legal status of Hindu women concerning inheritance and property ownership.²¹

In traditional Hindu customs, marriage represented a crucial event that determined a woman's rights to property. Throughout the late 19th and early 20th

centuries (which extended into modern reform periods), traditions such as Vardakshina (monetary or gift transfers from the bride's father at marriage) and HundaPratha (dowry consisting of cash, grains, gold, or garments) symbolized the wealth transfer associated with the bride. Likewise, DyajPratha pertained to gifts provided by the bridegroom's family to the bride's family.²²

To officially transfer a daughter from her family of birth to her husband's family, a small portion of family property was occasionally designated to her, commonly called CholiBangdi.²³ However, this designation did not confer full ownership upon her. Instead, it was provisional—often recorded in land record amendments—and usually limited to agricultural usage by her husband's family. Essentially, it served as a symbolic arrangement rather than an equitable inheritance.

These customs demonstrate the profoundly gendered aspect of property rights for Hindu women before reform. While women were not completely barred from property ownership, their rights were conditional, limited, and subordinate to patriarchal structures. It was only through legislative reforms in the post-independence period—especially the Hindu Succession Act of 1956 and its 2005 amendment—that these historical disparities began to be addressed, transitioning Hindu women's property rights from customary traditions rooted in scriptures to contemporary statutory assurances of equality.²⁴

Different Propertorial Rights for Women in India among Hindu Religion-

In India, the rights of women regarding property within the Hindu community (which encompasses Hindus, Sikhs, Jains, and Buddhists) have seen significant changes—shifting from scriptural constraints and traditional limitations to legal acknowledgment of equality. The property rights of Hindu women are mainly regulated by the Hindu Succession Act of 1956, revised in 2005, although

²⁰ The Hindu Succession (Amendment) Act, No. 39 of 2005, INDIA CODE (2005).

²¹ *Manusmriti*, Ch. IX, Verses 27–37.

²² The Hindu Succession Act, No. 30 of 1956, INDIA CODE (1956).

²³ Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* 17–19 (1998).

²⁴ Archana Parashar, *Women and Family Law Reform in India* 55–59 (1992).

their origins can be traced back to ancient texts and classical Hindu legal traditions.

Marriage as the Defining Event

A woman's marital status had a significant impact on her property rights in traditional Hindu society. When a daughter married, it was believed that she would permanently relocate to her husband's home (patrilocality). Since she would be "cared for" by her husband's family, this change frequently served as justification for the idea that she did not need an equal portion of the property owned by her birth family.

Dowry and Gifts: A daughter's right to inherit was converted into marital presents, which included jewellery, clothes, kitchenware, and occasionally money or land. Although these presents were considered her stridhan, her husband's family frequently controlled them in practice.

Dependency on Male Guardians: She was seen as protected and provided for by her father, brother, husband, or son, which strengthened the idea that women were property custodians rather than owners.

Customs of Wealth Transfer at Marriage: Several customs developed across regions of India to mark the transfer of wealth during marriage:

Vardakshina: Refers to the material or monetary presents that the bride's father gave her at the wedding. Although it was portrayed as an act of love, in reality it was a way to make up for the daughter's lack of a portion of the family's wealth. The patriarchal agreement was embodied by this ritual, which prohibited a daughter from inheritance but included a one-time wealth transfer upon her marriage.

HundaPratha: A type of dowry custom in which gifts can be cash, clothing, gold, animals, food grains, or other items. It was socially required even if it was officially presented as voluntary, which frequently put a significant financial strain on the bride's family. The hunda was incorporated into the husband's household's joint family assets; therefore it wasn't actually the bride's property.

DyajPratha: Refers to presents given to the bride's family by the groom's family. The magnitude and type of these presents were significantly less than the dowry, despite their apparent reciprocity, signifying an imbalance in economic transaction. These customs demonstrated how a woman's marriage was viewed as a business deal rather than a declaration of her own property rights.

CholiBangdi: Symbolic Transfer of Property In some regions, a small portion of agricultural land or property was transferred to a daughter at marriage. This was called CholiBangdi (named after women's clothing ornaments).

However, this property: Was usually in the name of the daughter but controlled by her husband 'Family. Was often restricted to use, not ownership—meaning she could cultivate or enjoy its produce but not sell or alienate it²⁵. Functioned as a symbolic gesture, not a genuine recognition of equal inheritance rights. In effect, customs like CholiBangdi made women appear to be property owners while ensuring real control remained with male relatives.

The Colonial Encounter: New Tensions: With the arrival of the British in India, Hindu women's property rights underwent a complex transformation.

Codification of Hindu Law: The British, aiming for legal uniformity, codified Hindu personal laws, relying heavily on texts and interpretations from male Sanskrit scholars. This process froze patriarchal practices that had been more flexible in customary usage. For example, some local traditions allowed widows or daughters to manage family land in practice, but codification emphasized male-line inheritance.

Introduction of Western Legal Principles: The British applied concepts like primogeniture (eldest son inheriting) and survivorship, which were alien to Hindu joint family traditions. This often clashed with Hindu norms, particularly the Mitakshara and Dayabhaga principles of coparcenary.

²⁵ archanaParashar, *Women and Family Law Reform in India* 55–59 (1992)

Impact on Women: Women's position became even more precarious because colonial courts emphasized strict interpretation of male-centric laws.

At the same time, British influence generated debates on reform, as Indian social reformers like Ishwar Chandra Vidyasagar and others began questioning the exclusion of women from inheritance.

The Pre-Independence Transition: During the late 19th and early 20th centuries, reformist pressures combined with colonial legal interventions to initiate small but important changes:

Hindu Women's Right to Property Act, 1937: For the first time, widows were given rights to share in their deceased husband's property. This was a radical departure, though still limited, since widows could not alienate the property and daughters remained excluded.

Amendment of 1938: Clarified widows' rights but reinforced the principle that women's claims were secondary and temporary. Thus, by the time of independence in 1947, Hindu women's property rights reflected a strange mix of tradition and colonial codification: Symbolic ownership through dowry and marriage customs. There was limited recognition through, colonial legislation and continued exclusion from full coparcenary rights.²⁶

Significance of this Phase: This transitional period highlights how deeply gendered property rights were in Hindu society: Women were never completely barred from property but were always conditional owners, their rights framed in relation to men. Customs like Vardakshina and HundaPratha reflected economic substitution rather than genuine equality. Colonial codification froze inequality into law, while only minimal reforms were allowed before independence.

²⁶ The Hindu Succession (Amendment) Act, No. 39 of 2005, INDIA CODE (2005)

²⁷ Narendra Subramanian, *Legal Change and Gender Inequality: Changes in Muslim Family Law in India* 56–59 (2008).

i. Scriptural and Classical Foundations

Stridhan (Women's Property): Ancient writings such as the Manusmriti and the commentaries from the Mitakshara and Dayabhaga schools acknowledged stridhan as assets bestowed upon a woman during her life (at marriage, through gifts, or via inheritance). Unlike other property types, stridhan was viewed as her exclusive right, albeit often with limitations on its extent.²⁷

Mitakshara School: Daughters were not included in coparcenary property (ancestral joint family estate). Sons gained rights to property by birth, while daughters' entitlements were constrained. Dayabhaga School: Somewhat more progressive, particularly in Bengal, yet still relegated daughters' rights to inherit after those of sons. Widows could inherit in the absence of male descendants but only possessed a life interest in the property.

These interpretations solidified a patriarchal inheritance system, leaving women to rely predominantly on their fathers, husbands, or sons for property security.²⁸

ii. Colonial Codification and Pre-Independence Reforms

While under British administration, the codification of Hindu law frequently perpetuated existing inequalities instead of instituting reforms. The Hindu Women's Right to Property Act, 1937 represented a limited advancement, granting widows rights regarding their husband's property (though not full ownership). Nevertheless, daughters continued to be excluded from coparcenary rights. This legislation set the stage for reforms following independence by disputing the complete supremacy of male heirs.²⁹

iii. The Hindu Succession Act, 1956

²⁸ Werner Menski, *Hindu Law: Beyond Tradition and Modernity* 218–22 (2003).

²⁹ Bina Agarwal, *A Field of One's Own: Gender and Land Rights in South Asia* 23–27 (1994).

The establishment of Hindu succession law through codification in 1956 was a significant move towards achieving gender equality: Women were acknowledged as legal heirs in cases of intestate succession (when someone passes away without a will). They gained the ability to inherit property from their parents, husbands, and sons. However, the Act maintained the Mitakshara coparcenary system, which continued to exclude daughters from coparcenary rights. Only sons were granted rights to ancestral joint family property by virtue of their birth.³⁰This incomplete reform still illustrated a patriarchal inclination, as daughters could inherit self-acquired property, yet were barred from ancestral property.

iv. The Hindu Succession (Amendment) Act, 2005

The Hindu Succession (Amendment) Act, 2005 marked a significant shift in the statutory recognition of gender equality by granting daughters equal coparcenary rights as sons in ancestral property, making them coparceners by birth with the entitlement to demand partition and manage their shares, while also guaranteeing that Hindu women obtained full rights to own, inherit, and independently manage property; in cases where a Hindu woman dies intestate, her property devolves first on her children and husband's heirs, then her own parents, and finally her father. Judicial clarifications, most notably in *Vineeta Sharma v. Rakesh Sharma* (2020), and designation as coparceners with equal standing in joint family property, although implementation challenges still exist,³¹ particularly in rural India where patriarchal customs prevent women from claiming their rights. Following India's independence in 1947, women's rights underwent a paradigm shift, with the Constitution's Articles 14, 15, and 21 laying the groundwork for equality and gender justice, making property rights essential to reform that resulted in the Hindu Succession Act, 1956.

A historic law that was influenced by Dr. B.R. Ambedkar and the B.N. Rau Committee. It modernized inheritance laws for Hindus, including Sikhs, Jains, and Buddhists, by recognizing mothers, daughters, and widows as legal heirs in intestate succession, allowing women to inherit self-acquired

property from parents, husbands, and sons, but maintaining the Mitakshara coparcenary system, which limited widows' ownership in many situations and excluded daughters from rights by birth in ancestral property, leaving women as second-class heirs in coparcenary property between 1956 and 2005. Judicial actions sought to reconcile statutory interpretation with constitutional equality, with courts typically upholding the exclusion of daughters but progressively leaning towards fairness, as evidenced by cases such as *Satyendra Kumar v. Shakuntala Kumari Verma* (2012), signaling a phase of gradual advancement pending legislative change; the amendment of 2005 represented a significant turning point by providing daughters with equal coparcenary rights at birth, the ability to request partition, shared responsibility for family debts, and complete ownership of inherited assets, highlighted by the transition from sons solely inheriting coparcenary property before 2005 to daughters receiving equal portions afterward; subsequent judicial clarifications after the amendment reinforced these rights, with *Prakash v. Phulavati* (2016) initially interpreting the amendment as prospective and contingent on the father's existence, *Danamma v. Amar* (2018) contradicting this by upholding rights regardless of the father's death, and *Vineeta Sharma v. Rakesh Sharma* (2020) ultimately clarifying the law by asserting daughters' rights from birth irrespective of the father's status, thus removing ambiguity; these developments are grounded in constitutional articles such as Article 14 ensuring equality, Article 15 prohibiting discrimination based on sex while permitting special provisions for women, and Article 21 safeguarding dignity and economic security, alongside international commitments like CEDAW that mandate the eradication of property rights discrimination; however, despite advancements in law and judiciary, various challenges persist, including women's lack of awareness, familial and communal resistance, pressure to surrender rights, the ongoing use of dowry as an alternative to inheritance, bureaucratic obstacles in property transactions, patriarchal biases in administration, complex interplays with other laws undermining women's rights, and social stigma deterring women from claiming their entitlements,

³⁰ The Hindu Succession Act, No. 30 of 1956, INDIA CODE (1956).

³¹ The Hindu Succession (Amendment) Act, No. 39 of 2005, INDIA CODE (2005).

thus emphasizing the divergence between legal equality and social reality

VI. HINDU SUCCESSION ACT, 1956

The Hindu Succession Act of 1956 was enacted with the knowledge that no particular law could interfere with the important rights of women, which are safeguarded by Articles 14 and 15 of the Indian Constitution. Women's property rights were reformed as a result, granting them full ownership of the limited rights in the inherited property. Section 6 of the Act addressed the transfer of ownership of a Mitakshara coparcenary property, whereas Section 8 addressed the transfer of ownership of Hindu males.³²

The Hindu Succession Act, which was drafted by the B.N. Rau Committee under Dr. Ambedkar's direction, called for the principle of inheritance by succession to take the place of the Mitakshara coparcenary and its idea of survivorship as well as the son's birthright in joint family property. Following a surge of conservative opposition from the Constituent Assembly, these proposals were abandoned, and the Mitakshara coparcenary was retained in the Act with men acting as coparceners. Consequently, the Act maintained the survivorship rule, with the exception that in situations where the deceased left behind a female relative under Schedule 1 Class 1 or a male relative from that Class who falls under such a female relative, the focus would pass through testamentary or intestate succession.³³

Prior to the Amendment³⁴

As previously stated, the Mitakshara School acknowledges two methods of property devolution: succession and survivorship. Whereas succession pertains to an individual's separate or self-acquired property, the rule of survivorship applies to coparcenary property. An ancestral property of a Hindu joint family, coparcenary property includes:

1. Property that a person inherits from their ancestors,
 2. Any property that coparceners jointly acquire,
- Any property that coparceners acquire with the assistance of ancestral property, and separate

coparcener property as common stock. Once a Hindu joint family has been divided, the idea of coparcenary vanishes. The devolution of interest in coparcenary property is outlined in Section 6 of the Act. Prior to the 2005 Amendment, a person's interest in coparcenary property would have been managed and devolved in accordance with the rule of survivorship rather than succession if they passed away intestate, that is, without leaving a will. Additionally, it stipulated that the laws of succession would apply if deceased individual left female heirs listed in Class I. This meant that female heirs were not subject to the rule of survivorship and did not inherit property in the presence of male heirs.

For instance, if A person X passes away intestate, his two sons, B and C, and daughter, D, are left behind. The clause prior to the modification said that B and C would receive his undivided share. According to the court's ruling in *Satyendra Kumar v. Shakuntala Kumari Verma (2012)*, a coparcener's gift of his undivided share of a coparcenary property shall be deemed void if there is no proof that the partition has been completed.³⁵

After Amendment

Since the 2005 amendment, the law's stance on coparcenary property has evolved. The fact that daughters are coparceners by birth and have the same and equal rights as sons is now a well-established statute under Section 6 of the Act. Like a son, she is entitled to all coparcenary property, but she would also be responsible for paying the debts. All of this is relevant upon the start of the amendment act. Nevertheless, no devolution carried out prior to 2004 will be altered.

Additionally, it stipulates that a woman who inherits such property will be the sole owner and not a limited shareholder. Additionally, it specifies that a coparcenary property shall be devolved if a division has been completed regarding it, with the daughters receiving the same portion as the sons. In the 2017 case of *Ramesh Verma v. Lajesh Saxena*, the court ruled that distinct property acquired by an individual on

³² The Hindu Succession (Amendment) Act, No. 39 of 2005, INDIA CODE (2005)

³³ The Hindu Succession Act, No. 30 of 1956, INDIA CODE (1956).

³⁴ The Hindu Succession (Amendment) Act, No. 39 of 2005, INDIA CODE (2005).

³⁵ The Hindu Succession (Amendment) Act, No. 39 of 2005, INDIA CODE (2005).

division by notional partition would be subject to the rules of succession.³⁶

A woman who inherits such property will also be the sole owner, not a limited shareholder, according to the clause. Furthermore, it stipulates that if a split has been made regarding a coparcenary property, the daughters will receive the same share as the males. The court determined that different property obtained by an individual upon division by notional partition would be subject to the rules of succession in the 2017 case of *Ramesh Verma v. Lajesh Saxena*.

According to the Madras High Court, unmarried daughters must be treated the same as their boys because they are coparceners by birth and should therefore receive an equal portion. Additionally, according to the Amendment Act, married girls' ability to request partition is unrestricted and unassailable (*Nagamal v. N. Desiyappan*, 2006). In one of the cases, the Supreme Court ruled that daughter rights as coparceners under the 2005 amendment extended beyond their birthdates. Regardless of when they were born, they have the right to be coparceners (*Prakash v. Phulavati*, 2016).³⁷

VII. RECOMMENDATIONS & CONCLUSION

The evolution of Hindu women's property rights illustrates a significant shift from exclusion in scripture to legal equality. Ancient Hindu laws limited women to stridhan and nominal rights, while colonial legal frameworks reinforced patriarchal views.

Post-independence reforms have progressively paved the way toward equality. The Hindu Succession (Amendment) Act of 2005, bolstered by forward-thinking judicial interpretations, marks a pivotal achievement in the quest for gender equality.

However, enduring societal resistance, a lack of awareness and deep-rooted patriarchal norms still pose significant challenges. Genuine empowerment necessitates not just progressive laws but also a transformation of cultural attitudes, education, and effective enforcement, ensuring that the property rights of Hindu women are realized in practical terms rather than remaining mere legal concepts.³⁸

The evolution of Hindu women's property rights is a story of struggle, resilience, and gradual progress. It

reflects the broader tension between patriarchal traditions rooted in scripture and the egalitarian ideals of the Indian Constitution. From the limited recognition of women's rights in ancient times to statutory equality in the modern era, the journey has been long, uneven, but transformative.

Recommendations

- a) Awareness Campaigns: Government bodies and NGOs should work to inform women about their rights following the 2005 amendment.
- b) Streamlined Processes: Facilitate easier access for women to property partition and mutation procedures.
- c) Judicial Training: Equip lower courts to manage women's property claims with care and efficiency.
- d) Engagement with Communities: Collaborate with religious and community leaders to align traditional practices with legal equality.
- e) Integration of Policies: Connect property rights to women's empowerment initiatives, such as access to financial credit and ownership of agricultural land.

Bridging the gap between law in the books and law in action requires a multi-pronged strategy involving legal reforms, awareness programs, judicial training, and community engagement.

1.1 Awareness Campaigns: Many women remain unaware of their coparcenary rights after the 2005 amendment. Strategy: Government and NGOs should conduct grassroots campaigns in rural and urban areas. Use vernacular languages through pamphlets, radio, television, and digital media. Collaborate with schools and universities to include legal literacy modules for young women. Example: A campaign in Karnataka (2018) educated rural women about their property rights through workshops in panchayats.

1.2 Streamlined Administrative Processes: Procedures like partition, mutation of land records, and obtaining succession certificates are complex and biased. Recommendation: Introduce single-window clearance

³⁶ *Ramesh Verma v. Lajesh Saxena* [(2017) 1 SCC 257 (India).]

³⁷ *Prakash v. Phulavati*, (2016) 2 SCC 36.

³⁸ Flavia Agnes, *Marriage, Divorce and Matrimonial Litigation* (2011); Nivedita Menon, *Seeing Like a Feminist* (2012).

systems for women's property claims. Digitize land records to prevent manipulation.³⁹ Establish helplines and legal aid cells dedicated to women's property disputes.

1.3. Judicial Training: Lower courts and revenue officers often reflect patriarchal biases. Recommendation: Conduct gender-sensitization training for judges, magistrates, and revenue officials. Encourage fast-track courts for women's property disputes. Ensure that judges apply the spirit of the 2005 amendment without allowing technical loopholes.

1.4. Engagement with Communities: Social stigma discourages women from asserting inheritance rights. Recommendation: Work with religious and community leaders to reinterpret traditions in line with constitutional equality. Encourage mediation by women's collectives at the village level to resolve disputes without stigma. Highlight positive examples where families have shared property equally among sons and daughters.

1.5. Integration with Women's Empowerment Policies: Property rights must link with broader empowerment strategies. Ensure that women's access to agricultural land qualifies them for government credit schemes. Connect property ownership with microfinance programs for entrepreneurship. Promote joint property registration in the names of both husband and wife during land or house purchases.

1.6. Encouraging Legal Literacy and Litigation Support: Free legal aid cells should be expanded to specifically assist women in succession disputes. Law schools can set up legal aid clinics to help women file partition suits or challenge unlawful relinquishment deeds. Significance of These Recommendations: Awareness + Access = Empowerment: Legal literacy ensures women know their rights; streamlined processes ensure they can claim them. Law + Social Reform = Sustainability: Judicial activism must be

complemented by social acceptance to prevent backlash.

Individual + Community Empowerment: Linking property rights to women's financial independence uplifts not just individuals but entire communities.

The evolution of Hindu women's property rights exemplifies the shift from exclusion to equality and from scripture to statutes. Early post-independence reforms provided partial equality, colonial codification solidified patriarchy, and ancient Hindu law reduced women to symbolic ownership. However, Hindu women now enjoy legislative parity with males thanks to the 2005 amendment and judicial reinforcement.

However, legislation alone cannot bring about empowerment. Women's rights will continue to be more ideal than actual as long as patriarchal attitudes, social stigma, and ignorance endure. In addition to legal reform, real change necessitates cultural shifts, educational initiatives, and enforcement systems.

In the end, protecting Hindu women's property rights is about fairness, equality, and dignity as Indian citizens, not just about inheritance. Making sure women are active participants in the family, economy, and society rather than passive dependents is the goal. The promise of gender equality in the constitution can only be fully realized when the law in books is translated into legislation in reality.

³⁹ Flavia Agnes, *Marriage, Divorce and Matrimonial Litigation* (2011); Nivedita Menon, *Seeing Like a Feminist* (2012).