



Property rights of women under Indian legal system

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Abstract

Property rights restrict financial opportunities, and this is especially true for women. This paper assesses the effect of women's improved financial status on savagery against them by examining a legal change in India's inheritance law that improved women's property rights. This study assesses the causal relationship between the modifications and acts of violence against women by using the legal amendments related to the Hindu Succession Act. Improved inheritance rights, in my opinion, reduced violence directed towards women. Women must be treated equally in social and financial spheres, according to social justice demands. This investigation provides evidence that increased property rights for women may indicate increased government support, which does not necessarily require increased self-rule.

Keywords: Property rights, rights of women, property rights of women, laws for women

Introduction

In any society, whether it be developed, developing, or underdeveloped, women have a special place. This is particularly because of the various roles she has played throughout her life, including those of a daughter, wife, mother, sister, etc. She still belongs to a segment of society that is hindered by numerous social constraints and limitations, despite his contribution to every person's life. Because of the men who rule society, she has suffered from abominations. Indian women's status is no better than that of their partners from other countries. On the one hand, she is revered and regarded as the epitome of virtue and tolerance, so she is held in the highest regard by everyone. However, she has also suffered from unspeakable tragedies, injustices, and horrors brought about by the male-dominated society.

For every man, women are an integral part of his life. Giving our own society, families, and each and every individual a better future would entail defending her better birth rights. Though there are many different kinds of gender inequality, the majority of them have to do with property rights given to worn-out women. Gender-based disparities in property rights have existed since antiquity. In India, women are treated unfairly and mistreated by social norms that were established by the male-dominated society, despite the fact that they are revered and seen as the epitome of virtue and celestial beauty. It still lacks a rightful position in society despite all the civilizations and cultural revolutions. In most parts of the nation, women are still exploited both at home and abroad. Male dominance and women's inferior status are still pervasive. National development, which is dependent on social and family stability, coincides with the full development of the individual as well as the fundamental freedoms of women and their equal participation in the political, social, economic, and cultural spheres. any kind of prejudice stemming from sexual orientation or race.

Women were viewed as dependents with no property rights and of low social standing in ancient Hindu society. According to the ancient Mitakshara law, a son's right and interest in family property are acquired from birth. This school holds that a son, grandson, and an older grandson

form a class of mating based on their place of birth within the family. A woman cannot be a member of the Coparcenary under Mitakshara law.

The Law of Hindu Law, 1929, which grants inheritance rights to three female heirs—a son's daughter, a daughter's daughter, and a sister—was the first law to include women in the inheritance system. 'The Hindu Women's Right to Property Act, 1937' was another historic law asserting ownership over a woman during this period of time. The 1937 act made it possible for the widow to inherit an equal portion of the son and succeed with him. Despite being a member of the joint family and having the right to coparcener's interest in the property, the widow was not a coparcener.

The primary cause of discrimination was joint family wealth, where sons were born with an independent share and daughters did not. Each had an equal claim to a series of distinct assets that their fathers had acquired during their lives. Daughters had a claim to the property owned by their father's daughters as well as his own personal wealth. But such biased rights had a serious effect on women's status in India because a lot of property, especially in rural areas, is still jointly owned.

Differentiating between separate and joint family property is a key aspect of India's Hindu heritage legal system. In general, assets that were jointly acquired or separately acquired but the combined assets were merged make up joint family property. Paternal property is defined as property inherited from the father, paternal grandfather, or paternal great-grandfather. Contrarily, separate property comprises anything that was obtained on its own as well as any inheritance from people other than the father, paternal great grandfather, or paternal grandfather.

Although gender inequality can take many different forms, the most tiresome one has to do with women's effective property rights. Because women were granted the right to property by the Parliament through the enactment of the Hindu Succession Act 1956, which allowed them to establish their own independent stock of descent and rights to inheritance. Before this act was passed, women's rights to inherit, own, and manage property were mostly governed by

socially acceptable norms and values, and the main goal of Indian heritage systems was property, particularly The male heir is still alive, and the property needs to be safeguarded on the land.

The daughters of a "Hindu" man, that is, a man without a will who had sons, were equal heirs under the Hindu Succession Act, 1956, but only for his father's separate property and his "notional" share of joint family property; he had no direct inheritance in joint family property. Alternatively, sons inherited not only a 'remarkable' portion of their father's wealth and a portion of their joint family, but they also had a direct right of birth to an independent portion of the joint family property. In actuality, the Hindu Coparcenary—which shares ideological similarities with a typical male membership club—was said to include all individuals who had inherited an interest in joint family property from birth. This group excludes women from discussing inheritance-related matters.

Sons could demand the division of joint family property in addition to inheritance, something daughters could not. For instance, if the joint family property was a dwelling house, the daughters were only permitted to live there and had no ownership or other rights; however, the sons, as part of the coparcenary, could demand the division of the same. Consequently, the Hindu Succession Act of 1956 was by no means a gender-neutral statute.

Concept of Coparcenary Property

A unity of title, possession, and interest is known as a coparcenary. A Hindu coparcenary has a far narrower body than a Hindu joint family, to further exemplify the term. Only those who have been interested in coparcenary property since birth are included in this; they are sons, grandchildren, and great-grandchildren of property holders, and have been for a while.

The term coparcenary is defined in greater detail in Black's Law Dictionary. According to the statement, this kind of property develops when numerous individuals descended from the same ancestor as the same heir, all of whom become coparceners while still possessing an heir, an estate, and a connection to the unity and title of interest. a type of property, or tenancy, in which the land of inheritance is passed down to two or more people from the predecessor. By special practice or common law, it began in England.

Common law states that when someone who is seized in charge of basic or expense tail passes away, at least two women—his daughters, sisters, aunts, cousins, or their representatives—become beneficiaries. In this scenario, everyone inherits, and these coworkers are referred to as "coparceners" or, for "parceners" only. Especially in accordance with custom, where the land passes down to all fellows in the same degree, as sons, brothers, uncles, etc., as in gavelkind. a possession held by many, regardless of gender, as an heir. Although the interests of the coparceners may be out of proportion, this property has three units of time, title, and authority.

Hindu Women's Right to Property

A Hindu woman is always allowed to use her property to secure it, regardless of her status as a young woman, wife, or widow. In fact, it is evident that the right to own property was upheld even in Manusmriti. Yajnavalkya, Katyayan, and Narada are among the jurists who introduced the notion of women's property rights. During their time, women's

property rights improved and were more clearly defined. Stridhan is a special kind of wealth that Smritiras created for women. Stridhan has always been viewed as the exclusive domain of women. Jimutavahana asserted that a woman retains total authority over her belongings even after marriage. Part of it consists of the wedding ornaments she receives from her father and other family members. She will also have family gifts from her husband and herself.

The term "Stridhana Shari" was initially used by Gautama Dharmashastra to refer to women's wealth. Means added that it seems the bride price that was initially paid to the parents has changed to a dowry for the wife. A married woman can also contribute by performing other skilled labour in addition to receiving gifts from strangers in addition to this stridhana. Because of limitations on his ability to dispose of his property, even then he did not have total control over it.

This was carried out to manage him. Without supervision, she would grow autonomous. It follows that it is evident that women did not have the right to own property in the past. The woman was nevertheless permitted to keep her stridhan as private property.

Muslim Women's Rights of Property

Discussions about Muslim women's rights have arisen ever since the 1950 Constitution went into effect. Many people believe that Sharia law, which is part of Islam, is patriarchal and oppressive towards women. While the Quran addressed women's issues some fourteen hundred years ago, with some reforms aimed at improving women's status, these changes are not common in modern Muslim society. While the laws of Islam prior to the time of the Prophet Mohammed did not oppress women, daily survival in Islam is patriarchal.

The oppression of Muslim women is actually a result of conservative interpretations of the Shari'a, which also include customs that discriminate against women based on their gender and present them as unchangeable commands from God. Muslim feminists attribute women's oppression to the same Sharia laws, which are erroneously interpreted as theocratic laws. Moreover, there are many patriarchal interpretations of Islamic law. While women's status had improved during the Prophet's lifetime, it was only temporary. Muslims see Islam as a comprehensive way of life and do not look outside of it. Husbands are now using the divorce law as a weapon against Muslim women. Muslim scholars believe that Muslim women suffered greatly under the Muslim Personal Law that was in place under the Shariah Act, and that if Allah were to personally appear, he would bow his head in shame at the mistreatment of Muslim women.

Christian Women's Rights of Property

India, a multireligious and multicultural nation, has allowed its citizens to fully express their gender, caste, religion, or race by guaranteeing them a number of fundamental rights under Part III of the Constitution. In spite of this, national and international laws that were helpful, humanitarian, and practical were consistently overruled by religious precepts. Even after the Constitution was proclaimed 66 years ago, the constitutional requirement of not discriminating against any person based on their religion, as stated in Article 15 (1), has not been fully implemented. Due to ingrained religious beliefs, church instruction, and the upholding of

the notion of women's subjugation by making them non-units after marriage, Christian women's property rights remain a pipe dream. The Church has consistently stressed a woman's husband's duty to obey her.

Hindu Women's Property Rights under the Hindu Succession Act 1956

The Hindu Succession Act of 1956 significantly enhanced women's property rights. Women now have the right to full property, just like they do with any inheritance, and the idea that they only have a limited right to property has been eliminated. Once more, the daughter of a previous daughter and the daughter of an earlier son are elevated. He was designated as the Class-1 heir and received a share along with the son and other Class-1 heirs. In order to eliminate sex-based segregation, daughters are included in Class-I. In a similar vein, the succession of a woman's assets, or Stridhanam of any kind, is standardised with minimal regard for the concept of Stridhanam. Similar to this, the distinction between male and female heirs has been eliminated in terms of succession, and if they have the same degree of relationship, they are now treated equally. Women won't be forced to live in unstable situations any longer.

The limited fervour of a Hindu woman becomes full rights under section 14 of The Hindu Succession Act 1956. She can sell the property and give the buyer all ownership rights if she inherits it from her husband.

He was not granted the authority to secede in the past. Retrospective application has been made to the provision. Limited property thus becomes absolute, and the interpretation of section 6 of the 1956 Act undergoes another major shift. When a coparcener passes away, the property is left to her mother, widow, daughter, and son, who do not survive. This is known as intestinal succession. This rule is predicated on women having the same rights as male Coparcenary members. It should be noted that despite the complete exclusion of mother-daughter relationships, Section 6 nevertheless preserves Mitakshara covenants, which forbid women from surviving because father and son jointly provide a uniform scheme of intestinal succession. Oh, Parliament eventually overrode the strict limitations imposed by the Shastric law on women's heritage in order to bring it into compliance with the equality mandate of the constitution. The 1956 Act's Section 6 removed the restriction on women's ability to inherit their fathers' property.

Similar to this, Section 15 is the first legislative act that addresses the succession of a Hindu woman's property when she passes away intestate prior to the act; previously, customary Hindu law applied to the property of women who passed away intestate. His interest was limited and would expire upon his death. The Act's provision of two distinct laws according to the sex of the intestine is encouraging. The conventional approach to family property protection is this dual plan. In accordance with the regulations outlined in section 16(a), the property of a Hindu woman who commits suicide will go to her sons (including their offspring) first (including the children of a previous son or daughter) and then, second, to the husband's beneficiaries. Mother and father (d) on the father's beneficiaries in fourth place and (e) on the mother's heirs in last place.

Hindu Succession (Amendment) Act 2005

The Hindu Succession Act of 1956 is being amended with the intention of undermining the male-centric society that the Mitakshara coparcenary has maintained. The Act's Section 6 forbade women from obtaining hereditary property because, in any case, they are not coparceners. Part III of the Indian Constitution upheld the principle of uniformity, which was undermined by the Amendment Act 2005, which also brought an end to the exclusive male coparcenary institution. By giving female members of the Hindu joint family the same status as male coparceners, the sex division in the Mitakshara coparcenary has completely disappeared.

The Law Commission's recommendations in its 174th Report on Hindu women's property rights served as the basis for the 2005 amendment. In all honesty, the Commission had taken up the topic on its own initiative because of the obvious segregation that existed in the Mitakshara coparcenary. The Commission observed that property laws had been permitted to aid men since ancient times. Hindu women had been denied property rights in order to exercise control over them, oppress them, and subjugate them to men. Women in the Joint family were only eligible for maintenance. Contrary to popular belief, a son who is a coparcener inherits the genealogical property. The traditional male dominance in matters of legacy was maintained by the coparcenary barring females. The Commission pointed out this disparity and declared that it is essentially an extortion on the Constitution. The commission suggested amending Section 6 of the Hindu Succession Act 1956 in light of these findings.

It is important to remember that the Hindu Succession Act of 1956 was amended in order to pass the Act of 2005. The Hindu Succession Act of 1956 is said to have been modified in order to formalise the legal definition of Hindu intestate succession. It goes on to say that a woman must treat social justice and economic justice equally in order to uphold social justice. It is unfair to restrict daughters' access to coparcenary property ownership based only on their gender. The Commission has considered the modifications brought about by the state's adoption of the Mitakshara Coparcenary concept. The Act changed the Hindu succession law and granted them rights over women's property that they had not previously had.

Property Rights of Muslim Women under the Customary Law

The legacy law in pre-Islamic Arabia was based on rejections from legacy. The wives and children of Comrades-in-Arms were excluded from the legacy. In actuality, the tenets of women's exclusion and agnostic preferences determined the rule of legacy. It was therefore impossible for a daughter, sister, daughter's son, or sister's son to inherit the property. It is evident that prior to the arrival of Islam, women were not only deprived of their right to inherit, but their destiny was also determined by the family or clan of their spouse. Men had the upper hand over women in pre-Islamic society when it came to issues pertaining to ancestry. After a person passed away, his heir would marry the widow and assert control over her. He refuses to give her the share of the inheritance made up of the dowry after they get married. He can also ask someone to marry him and accept a dowry. In addition, fatherless children were never inherited; instead, they suffered from

maltreatment and inadequate care, and young girls were frequently the targets of sexual assault.

Without doing away with all of pre-Islamic Arabia's traditions, the Prophet did, however, entirely revamp the pre-Islamic law of inheritance. They kept many original Arab customs that did not contradict with the central tenets of Islam. The prophet triumphs over certain social and economic evils. For example, women were not allowed to inherit in pre-Islamic Arabia. Islam thus took the place of the husband or wife. It was made possible for the cognates and females to inherit. Even though they were male descendants, parents and mountaineers were entitled to inheritance rights. Women were usually given half of another woman.

Women who had not been granted a share in pre-Islamic Arabia were thus granted one under Islam. Because women are weak, pre-Islamic Arabs opposed women taking over as leaders. He is incapable of heroic deeds or acts of defence. Thus, the property was inherited by the family's distant relatives. The sons of Thabit's uncles seized all of their belongings and left nothing for his wife and daughters after the well-known Arabian poet passed away, leaving behind him a few daughters and a wife. The prophet received a complaint from the widow. The verse that had appeared to him was then related to him by the prophet. Thus, at a time when women had no such rights, the Quran established inheritance rights for them. Half of the brother belongs to the daughter.

Conclusion

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