



YourLawArticle

Open Access Law Journal, ISSN (O): 3049-0057

Editor-in-Chief – Prof. (Dr.) Amit Kashyap; Publisher – Reet Parihar

Property Rights of Women Across Different Religions

Vasant S Sonawane, LL.M. (1st Year), Modern Law College, Pune

Published on: 27th September 2025

Abstract

This research explores the evolution of women’s property rights in India across diverse personal laws, including Hindu, Muslim, Christian, and tribal systems. It examines statutory reforms such as the Hindu Succession Act of 1956 and its 2005 Amendment, judicial interventions like Mary Roy v. State of Kerala, and socio-legal perspectives from scholars. The study highlights persisting gender inequalities, regional variations, and the tension between customary practices and codified law, emphasizing the continuing challenges women face in realizing equal inheritance rights.

Keywords

Women’s property rights, inheritance law, Hindu Succession Act, Muslim personal law, gender equality, customary law, India, succession, tribal women, socio-legal study

Introduction:

Like women of any other country, property rights of Indian women have evolved out a continuing struggle between the status quoist and the progressive forces. The property rights of women elsewhere, property rights of Indian women too are unequal and unfair, while they have come a long way ahead in the last century, Indian women still continue to get less rights in property than the men, both in terms of quality and quantity.

There is no single body of property rights of Indian women. The property rights of the Indian woman get decided depending on which religion and religious school she follows, whether she is married or unmarried, which part of the country she comes from, whether she is a tribal or non-tribal and so on.

In India, property rights for women vary significantly across different religions due to the application of personal laws and customs. While the Hindu Succession Act, 1956, has been amended to grant daughters equal coparcenary rights, other religions like Islam and Christianity have their own distinct succession laws with varying degrees of gender equality.

Hindu, Muslim, Christian, and other religious women's property rights under their respective personal laws are examined in this study. A comparison between women's inheritance rights and their personal laws has also been attempted. The chapter also discusses the significant changes to Hindu women's property rights brought about by the Hindu Succession (Amendment) Act of 2005, which grants Hindu women the right to bear children in Mitakshara joint Hindu family property. In order to highlight the disparity in the property rights of women in the community, the property rights of Muslim women are also examined.

The absence of a uniform civil code has further increased these differences. Despite constitutional guarantees of equality, Indian women often face discriminatory practices in property inheritance and ownership. While the judiciary has played a role in challenging some of these discriminatory provisions, the process of reform has been slow and incremental.

Gender Inequality:

"Gender inequality" is a concept that describes the disparities in status, power, and opportunities between people of different genders. It's often referred to as gender biasness or gender stratification. The term gender, in this context, refers to the social and cultural roles and expectations associated with different sexes, not the biological differences.

Gender inequality manifests in both obvious and hidden forms.

- **Obvious disparities** include things like the wage gap, where women are paid less than men for the same work, or the lack of women in leadership positions in government or corporations. These are often easy to measure and track.

- **Hidden disparities** can be more subtle. This includes things like unconscious biases in hiring or promotion decisions, or the expectation that women will take on a disproportionate share of domestic labor and childcare, which can limit their professional advancement.

According to sociologist Anthony Giddens, gender inequality is about the difference in status, power, and prestige that men and women have in society. This inequality affects various aspects of life, including economic, political, and social spheres, and can be seen globally

Women in Different Religious personal laws:

The status of women within India's religious personal laws is a complex issue, marked by significant disparities and what are often considered discriminatory practices. India does not have a single, unified civil code; instead, different religious communities are governed by their own personal laws concerning matters like marriage, divorce, succession, and guardianship. These laws often reflect patriarchal traditions, which can disadvantage women.

- **Hindu Personal Laws:** While some progress has been made, particularly with the Hindu Succession (Amendment) Act, 2005, which granted daughters equal coparcenary rights to ancestral property, inequalities still exist. For example, in certain matters of guardianship, the father is often given primary custody rights over the mother. The law still struggles with the complexities of property division after divorce.
- **Muslim Personal Laws:** These laws, largely based on the interpretation of the Quran and other Islamic texts, have been widely criticized for their unequal treatment of women. The practice of triple talaq (now outlawed in India) allowed a man to divorce his wife instantly. While this specific practice has been banned, issues remain. For instance, in matters of inheritance, a daughter's share is typically half of a son's share. In divorce proceedings, a woman's right to initiate divorce (khula) is often more difficult to exercise than a man's right (talaq).
- **Christian Personal Laws:** Christian personal laws in India are a set of legal codes governing matters like marriage, divorce, and inheritance for the Christian community
- **Parsi Personal Laws:** While more equitable in some respects, Parsi women who marry outside their religion can face challenges, including being barred from certain religious rites.

The Impact of Disparate Laws

The existence of different personal laws creates legal and social inconsistencies. For example, a Hindu woman and a Muslim woman living in the same neighborhood might have vastly different rights

regarding inheritance or divorce, simply due to their religion. This non-uniformity is a central argument for advocates of a **Uniform Civil Code (UCC)**, which would replace these personal laws with a single set of laws for all citizens, regardless of their religion. Proponents argue this would ensure gender equality and secularism. Opponents, however, worry that a UCC could infringe upon the religious freedoms and cultural identities of minority communities

Hindu Women's Right to Property:

A. Hindu women's Right to Property in the Pre-Constitutional Period:

Before the **Hindu Women's Right to Property Act of 1937**, Hindu women's property rights were extremely limited and unequal. These rights were primarily governed by two major schools of Hindu law:

- **Mitakshara School:** Prevalent across most of India, this school did not grant women **coparcenary rights**. This meant that women, including daughters, could not inherit or own a share of ancestral joint family property by birth.
- **Dayabhaga School:** Found mainly in Bengal, this school offered slightly better, though still restricted, rights. Widows and unmarried daughters had some inheritance rights, but these fell short of full ownership and control.

The Hindu Women's Right to Property Act of 1937:

The **Hindu Women's Right to Property Act of 1937** was a significant, albeit limited, reform. It was a landmark step that aimed to improve the property rights of Hindu women by addressing the limited inheritance rights of widows.

- The Act granted a widow the right to inherit her husband's share in a joint family property.
- However, the widow was **not considered a coparcener**. Her ownership was limited, and she did not have the same rights as a male heir. For example, she could not alienate (sell or gift) the property without the consent of the male coparceners.
- A major shortcoming of the Act was that it **did not address the rights of daughters**. They continued to have very limited or no inheritance rights in ancestral property.

This Act, therefore, only provided a partial solution and left many inequalities unaddressed, setting the stage for more comprehensive reforms in the post-independence era, such as the **Hindu Succession Act, 1956**

B. The Hindu Succession Act, 1956:

This is a landmark Indian law that reformed and codified the laws related to intestate succession among Hindus, Buddhists, Jains, and Sikhs. It aimed to modernize and standardize inheritance practices, particularly concerning women's rights.¹

Provisions and impact:

- **Equal rights for women:** The Act granted women equal rights to inheritance as men, overturning previous discriminatory practices that limited women's ownership and control over property.
- **Abolition of limited estate:** It abolished the concept of a "limited estate" for women, meaning a woman could now inherit property as its absolute owner, with full rights of disposal.
- **Intestate succession:** The Act primarily governs the distribution of property when a person dies without a will (intestate).
- **Coparcenary property:** The Act addressed the concept of coparcenary property (property held jointly by male members of a Hindu family) and clarified the rights of individuals within this system.
- **Succession to the property of a female Hindu:** The Act also specifies how a female Hindu's property devolves upon her death, including provisions for her husband's and her own relatives.
- **Repeal of the Hindu Women's Rights to Property Act, 1937:** The Act repealed the earlier Hindu Women's Rights to Property Act, 1937, consolidating and expanding upon its provisions.

C. Hindu Succession (Amendment) Act 2005:

The Hindu Succession (Amendment) Act, 2005, significantly changed Hindu inheritance law by making daughters equal to sons as **coparceners** in a Hindu Undivided Family's (HUF) property. It came into effect on September 9, 2005, and sought to eliminate gender discrimination.²

The amendment's primary objective was to dismantle the male-centric Mitakshara coparcenary system and ensure gender equality. The main provisions of the Act are as follows:

- **Equal Coparcenary Rights:** The amendment grants a daughter the status of a coparcener by birth, giving her the same rights and liabilities in the coparcenary property as a son.

¹The Hindu Succession Act, No. 30 of 1956, India Code (1956).

² The Hindu Succession (Amendment) Act, No. 39 of 2005, India Code (2005).

- **Property Disposition:** A female Hindu who becomes entitled to property under this Act can dispose of it by creating a will, reflecting her full ownership and control.
- **Devolution of Property:** When a Hindu person dies after the Act's commencement, their interest in the HUF property devolves through testamentary (by will) or intestate succession (without a will), rather than by survivorship. This means that a daughter's share is equal to a son's, and the children of a pre-deceased son or daughter will also inherit their parent's share.
- **Abolition of 'Pious Obligation':** The amendment also ended the traditional doctrine of "pious obligation," which held a son, grandson, or great-grandson responsible for paying their ancestors' debts. This no longer applies to debts contracted after the Act came into force.

In essence, the 2005 amendment completely eradicated gender-based separation in the Mitakshara coparcenary, aligning Hindu inheritance law with the principle of uniformity enshrined in the Indian Constitution.

Muslim Women's Rights of Property:

Since the Constitution's implementation in 1950, there has been debate over Muslim women's rights. Islamic law, or Sharia, is viewed by many as oppressive of women and patriarchal. The Quran addressed women's issues fourteen hundred years ago by improving women's status through a few reforms, but these changes are not common in Muslim society today. Even so, Islam prior to the Prophet Mohammed was not oppressive regarding the way women were interpreted by Islamic law, and day-to-day survival was patriarchal.

An essential principle of justice, freedom, equality, and fraternity for all Indian citizens, the Constitution serves as the foundation for all national laws. Individuals' dignity, regardless of their gender, religion, or place of birth, is taken into consideration by this fundamental law of our nation. The men who drafted the constitution knew full well that the prevailing society was suppressing women's rights and engaging in a number of discriminatory practices. For the sake of women's protection and advancement, certain general and particular provisions were thus included. Since nothing in this article will prevent the State from making any special arrangements for women and children, Article 15(3) declares as much³.

After independence, Hindu women made such rapid progress that they were granted full gender equality in terms of property rights, while Muslim and Christian women are still subject to Islamic and canon laws. Unfair and unequal are the property rights of women who practice other religions. A code of

³ AK Srivastava, 'Muslim Personal Law and Rights of Muslim Women: A Sociolegal Study' (2007) 3 *SCJ* 18.

conduct established by the British for British Christians in India governs Christians, while a Samhita governs Hindus, Sikhs, Buddhists, and Jains. There is no code of property rights for Muslims.⁴

Shariat and the Property Rights of Muslim Women:

In Islam, a Muslim woman's property rights are primarily governed by Sharia (Islamic law), particularly concerning inheritance and other financial matters. While Sharia grants women rights to own and inherit property, there are differences in the shares inherited by men and women, with women typically inheriting half the share of their male counterparts in certain situations like inheritance

Muslim women's property rights under Sharia:

- **Inheritance:** Sharia outlines specific shares for women as legal heirs. For example, a widow is entitled to one-eighth of her husband's property if they have children, and one-fourth if they do not.
- **Mehr:** Upon marriage, a Muslim woman receives "mehr," a sum of money or property from her husband. This is her exclusive property, and she has full control over it.
- **Ownership and Disposal:** Muslim women have full ownership rights over their property and can dispose of it as they see fit, including through sale, gift, or will.
- **Will:** A Muslim can bequeath up to one-third of their property through a will. However, this cannot be to a legal heir.
- **Maintenance:** In case of divorce or widowhood, a woman is entitled to maintenance from her children or ex-husband.

Differences in Inheritance Shares:

- **Daughters:** Generally, daughters inherit half the share of their brothers.
- **Wives:** Wives inherit a smaller share than their husbands in inheritance matters.

Factors influencing property rights:

- **Religious Schools:** Different schools of Islamic law (e.g., Sunni, Shia) may have variations in interpreting inheritance rules.
- **Cultural Practices:** Customary practices within a community can also influence how these laws are applied.
- **Legislation:** In some countries, specific laws have been enacted to address women's property rights, sometimes modifying or clarifying Sharia provisions.

Controversies and Reform Efforts:

⁴ K. G. Gill, Hindu Women's Right to Property in India (Deep & Deep Publ'ns 1986).

- **Calls for Equality:** There are ongoing discussions and movements advocating for equal property rights for Muslim women, particularly regarding inheritance.
- **Uniform Civil Code:** Some argue for a Uniform Civil Code in India that would standardize family laws, including property rights, for all citizens, regardless religion.
- **Debate on Sharia:** The interpretation and application of Sharia provisions related to women's property rights remain a topic of debate and discussion, with varying perspectives on whether it adequately protects women's interests.

Christian Women's Rights of Property:

Disparity in the Status of Women in their Personal Laws Due to Separation Based on Religion, She is entitled to maintenance, from her husband, but his failure to provide the same is note by itself ground for divorce. Upon death of her husband, she is entitled to a one third share of his property, the rest being divided among the children equally.

Despite being generally applicable to Christians, the Indian Succession Act is implemented in different parts of the nation. In contrast to Indian Christians, this law primarily applied to Europeans and other foreigners because the Act of 1925's Section 29(2) did not enforce the customary laws of a sizable portion of the Christian community.

Property owned by Jews, Christians, all Indians, and those who register their marriages under the Special Marriage Act of 1954 or marry under it is subject to the general scheme of succession.

Here's a more detailed breakdown:

1. Inheritance Rights of Daughters:

- Christian daughters have the same inheritance rights as their brothers in their parents' property, regardless of whether the parents die with or without a will.
- This means a daughter is entitled to an equal share of her parental property.

2. Rights of a Wife (Widow):

- **With Lineal Descendants:** If a Christian man dies leaving behind a widow and children (or other lineal descendants), the widow is entitled to one-third of his property, while the remaining two-thirds goes to the descendants.
- **Without Lineal Descendants:** If there are no children or grandchildren, but other relatives exist, the widow is entitled to one-half of the property, and the other half goes to those relatives.
- **No Relatives:** If there are no relatives, the entire property goes to the widow.
- **Minimum Share:** The Indian Succession Act also sets a minimum share for a widow, which is ₹ 5,000, or the entire estate if the net value is less than or equal to ₹ 5,000.

3. Rights of a Mother:

- A mother is not automatically entitled to maintenance from her children.
- However, if a Christian man dies without children and leaves behind his mother, the mother is entitled to a share of his property.
- If there are no children, the mother may inherit a portion of the property, often one-fourth, according to some interpretations.

4. Key Considerations:

- **Indian Succession Act, 1925⁵:** This Act is the primary law governing inheritance for Christians in India.
- **No Discrimination:** The Act generally does not discriminate between male and female heirs.
- **Will vs. Intestacy:** The rules of inheritance apply when someone dies without a will (intestate). If there is a will, the deceased can specify how their property should be distributed, within the legal framework.
- **Recent Changes:** Landmark cases like **Mary Roy v. State of Kerala (1986)⁶** have ensured equal inheritance rights for Christian women, especially in regions like Travancore and Cochin, where discriminatory practices previously existed.

Parsi women's right to property:

Parsi women have specific property rights under Parsi law, particularly concerning inheritance and succession. Generally, Parsi women are entitled to inherit property from their parents and spouses, with certain nuances based on marital status and the presence of other heirs

Key aspects of Parsi women's property rights:

- **Intestate Succession:** Parsi law dictates how property is divided when someone dies without a will (intestate).
- **Equal Shares:** In many cases, a Parsi woman is entitled to an equal share of her parents' or spouse's property, alongside her siblings or other relatives, according to some legal resources.
- **Spouse's Property:** A Parsi widow inherits a share of her husband's property, often equal to the share of her children, according to some legal sources.
- **Children's Property:** Daughters inherit from their parents, and their marital status (married or unmarried) doesn't affect their right to inherit.

⁵ The Indian Succession Act, No. 39 of 1925, India Code (1925).

⁶ Mary Roy v. State of Kerala, A.I.R. 1986 S.C. 1011 (India).

Property Rights of tribal Women⁷:

In India, the property rights of tribal women have been a subject of legal debate and evolving jurisprudence. While the Hindu Succession Act, 1956, generally doesn't apply to Scheduled Tribes, the Supreme Court has increasingly emphasized the need for equal inheritance rights for tribal women, citing principles of equality and justice. This means that in many cases, tribal women are now entitled to an equal share in their ancestral property, similar to their male counterparts, unless specific customary laws of their tribe dictate otherwise.

- **Hindu Succession Act and Tribes:** The Hindu Succession Act, specifically Section 2(2), generally excludes Scheduled Tribes from its purview.
- **Equal Rights in Practice:** The Supreme Court has, in several cases, recognized the right of tribal women to inherit ancestral property equally with men, stating that denying this right is discriminatory.
- **Customary Laws:** If a tribe has a specific customary law that governs inheritance, and it provides for equal or even preferential rights for women, that law will be upheld.
- **Central Provinces Laws Act, 1875:** In the absence of a specific law, the courts have sometimes applied the Central Provinces Laws Act, 1875, based on "justice, equity, and good conscience" to ensure equal inheritance for tribal women.⁸
- **Land Rights:** Tribal women's land rights are crucial for their economic empowerment and overall well-being.
- **Government Initiatives:** The Indian government is also working on initiatives to safeguard the land rights of Scheduled Tribes, including special provisions for Scheduled Castes and Tribes under the Right to Fair Compensation and Transparency in Land Acquisition, Rehabilitation and Resettlement Act, 2013, according to PIB.

Conclusion:

In India, while legal frameworks exist to protect women's property rights across religions, implementation challenges and disparities persist. Hindu women, particularly after the 2005 amendment to the Hindu Succession Act, have gained equal inheritance rights, but social pressures and legal loopholes still hinder their ability to fully exercise these rights. Muslim, Christian, and Parsi women are governed by their respective personal laws, which, while providing for inheritance, often differ from each other and from the Hindu Succession Act, creating further complexities

⁷ Property Rights of Tribal Women, Int'l J. Advanced Res. & Dev. vol. 3, no. 2, 2017, at 45.

⁸ Central Provinces Laws Act, No. 20 of 1875, India Code (1875).

Despite legal provisions, social customs, lack of awareness, and discriminatory practices continue to impede women's ability to claim their rightful share of property. The Supreme Court has played a crucial role in interpreting and upholding women's property rights through landmark judgments. Understanding one's rights and seeking legal advice is crucial for women to protect their inheritance and prevent unfair settlements.



References:

Anthony Giddens, *Sociology* (6th ed. Polity Press 2009).

K. G. Gill, *Hindu Women's Right to Property in India* (Deep & Deep Publ'ns 1986).

A. K. Srivastava, Muslim Personal Law and Rights of Muslim Women: A Sociolegal Study, 3 SCJ 18 (2007).

A. Singh, *Women in Personal Law* (1st ed. Rawat Publ'ns 1992).

A. Banu, *Status of Women in Islamic Society* vol. I (Anmol Publ'ns 2003).

The Hindu Succession Act, No. 30 of 1956, India Code (1956).

The Hindu Succession (Amendment) Act, No. 39 of 2005, India Code (2005).

Mary Roy v. State of Kerala, A.I.R. 1986 S.C. 1011 (India).

The Indian Succession Act, No. 39 of 1925, India Code (1925).

Central Provinces Laws Act, No. 20 of 1875, India Code (1875).

YourLawArticle

ISSN (0)
3049-0057

WRITE WHAT YOU ASSERT