

**INHERITANCE –THE LANDMARK AREA CREATING GENDER  
EQUALITY FOR FEMALE**- Vedika Dhawan<sup>1</sup>**ABSTRACT**

The article includes an understanding of inheritance rights of women and their struggle for gaining those rights. It mentions the historical challenges due to some of the rigid traditions and ancient texts that were followed and how they suppressed women making them subordinate than men. Women were not considered equal and how men gained all benefits of ancestral property. The article then justifies its claim of the suppression of inheritance rights of women and their success which depicted a long way struggle for women to gain their right of inheritance and some of the crucial case laws that led to women gaining their right to inherit property.

**SUBORDINATION OF WOMEN UNDER THE HISTORICAL AND ANCIENT AGE**

Inheritance is one of the crucial topics under Indian law. It is not only important for the sustainable rights of women but further leads to women empowerment. As a society, India has long discriminated against women by curtailing their right to equal shares of inheritance due to the stereotypical traditional laws in ancient India.<sup>2</sup> According to the old traditional concepts and social taboos in ancient India under Vedic literature and Hindu Shashtra's, women are supposed to be under the control of men where a woman is under the control of her father and dependent on him before marriage and after marriage, she must surrender her rights to that of her husband.<sup>3</sup> There have been discriminatory practices that subordinate the position of women in society like that of the concept of *Kanyadan* in a Hindu marriage which symbolizes a daughter being given as a gift to the husband thereby terminating her relations with her natal family. The status of a woman is lowered when she is only considered to be a

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<sup>2</sup> Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 666

<sup>3</sup> Jain, Prakash Chand, "WOMEN'S PROPERTY RIGHTS UNDER TRADITIONAL HINDU LAW AND THE HINDU SUCCESSION ACT, 1956", 509

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caregiver for her children and should work within the domestic household thereby restricting her opportunities for independent growth.<sup>4</sup>

### ***PROBLEMS AND PREJUDICES PROHIBITING WOMEN TO GAIN EQUAL SHARE TO INHERITANCE***

Women have faced significant challenges and restraints concerning access to land in India, especially ownership to land and ancestral property. Customs that influence women's access to land are rules regarding property inheritance, marriage, and residency after marriage.<sup>5</sup> Women have less equal rights to inherit land compared to men, especially because the inheritance laws recognized by religious and cultural groups continue to give women fewer rights to land. Even while some women have titled land, male relatives control the land. If women manage to get control over land despite these constraints, various social pressures and bias of government officials prevent women from gaining access to land. Land reform diminishes the status of women in families because the men that are given land titles gain greater power over women in families.<sup>6</sup> The overarching issue here is patriarchy. South Asia is a place where despite some variation, male authority is firmly established. Hindus in India are governed by patrilineal kinship systems.<sup>7</sup> As social identity is secured from the father, a son is a permanent member of the natal household and a daughter is considered transient.<sup>8</sup> In north and west India, Nepal and other states in India, women have less effective land rights. Regional customs influence state legislation regarding land and sometimes directly recognize some regional customs regarding inheritance, some giving women less rights than religious laws do.<sup>9</sup> The three prominent determinants in this respect are marriage alliance, post-marital residence, and property inheritance.<sup>10</sup> First, marriage alliance points to the rules for “regional exogamy”, where women must marry outside their immediate village or region. Within groups with these rules, women move away from their region of origin as they marry, making

<sup>4</sup> PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA, 672

<sup>5</sup>Rajak K, “Trajectories of Women’s Property Rights in India: A Reading of the Hindu Code Bill, 82

<sup>6</sup>Jain, Prakash Chand , “WOMEN'S PROPERTY RIGHTS UNDER TRADITIONAL HINDU LAW AND THE HINDU SUCCESSION ACT, 1956, 507

<sup>7</sup>Halder, Debarati, and K. Jaishankar, “PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA”, 666

<sup>8</sup>Halder, Debarati, and K. Jaishankar, “PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA, 667

<sup>9</sup>Jain, Prakash Chand , “WOMEN'S PROPERTY RIGHTS UNDER TRADITIONAL HINDU LAW AND THE HINDU SUCCESSION ACT, 1956”, 505

<sup>10</sup>Sona Khan “Inheritance of Indian women: a perspective”, 151

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it easier for male relatives to take control over the land and its benefits.<sup>11</sup> Second, post-marital residence involves the variations of patrilocal, matrilineal, and nuclear residence. Patrilocality has the least advantages to women, for the reason the woman must move far away from her land of origin, allowing for consequent loss of land control.<sup>12</sup> Patrilineal inheritance provides least advantage for women among them as the sons of the family receive rights to land ownership.<sup>13</sup> However, even in matrilineal control where property is passed down female line of the family, women do not possess full control over the land in some cases, as the male effective heads of the family wound up controlling the land. Constructions of gender further restrain women from claiming land rights and being able to effectually use the land they own. For example, notions of feminine virtue, linked to seclusion, limits women in terms of tilling the land, access to needed inputs, and to hire labour.<sup>14</sup>

There are social biases and preconceived notions linked to women as not to acquire a share in the ancestral property as a man is said to be the Karta (dominant manager of collective property and head of the household).<sup>15</sup> It is widely believed in Indian households that a woman has to marry and from then she belongs to her husband's household.<sup>16</sup> This itself acts as a major reason to extend a man/son/husband's rights over the ancestral property. Parents have a rigid belief that a son would provide economic support for them in their old age and they would be dependent on him as a result of which they provide property as a way to give compensation to the son as a guarantee for their security in their old age.<sup>17</sup> The traditional patriarchal customs and social attitudes of the society has discriminated against daughters thinking them to be a burden due to the custom of dowry which was earlier practiced and is now a punishable offence under law.<sup>18</sup> Earlier parents used to provide gifts to the daughter on her marriage and such gifts be it land, property or non-movable property which were classified as dowry for the husband's family used to be a burden on the daughter's

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<sup>11</sup>Sona Khan, "Inheritance of Indian women: a perspective", 149

<sup>12</sup>Rajak K, "Trajectories of Women's Property Rights in India: A Reading of the Hindu Code Bill", 83

<sup>13</sup>Sona Khan, "Inheritance of Indian women: a perspective", 143

<sup>14</sup>Sona Khan, "Inheritance of Indian women: a perspective", 140

<sup>15</sup>Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 665

<sup>16</sup> WOMEN'S RIGHTS OF INHERITANCE IN INDIA, 523

<sup>17</sup>Sona Khan, "Inheritance of Indian women: a perspective", 138

<sup>18</sup>Jain, Prakash Chand, "WOMEN'S PROPERTY RIGHTS UNDER TRADITIONAL HINDU LAW AND THE HINDU SUCCESSION ACT, 1956, 534

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parents.<sup>19</sup>On providing dowry to the daughters in her marital home, parents consider this to be a form of giving their valuable assets to the daughter and a justification for not providing a share to daughters in their ancestral property.<sup>20</sup>Dowry was seen as a justification by the parents not to give inheritance rights to daughter in her father's estate as she was given her share in marriage.<sup>21</sup>

### ***TRADITIONAL SCHOOLS OF LAW AND THE CONCEPT OF STRIDHAN***

The traditional legal doctrines cause inequality for women and doctrines such as the *Mitakshara* school where a man is given a superior and exclusive status to be a coparcener (a person who has a share in inheritance to an individual's estate). It provided the right only to a son to inherit property with the unobstructed right by birth.<sup>22</sup> Married women were denied the right to inherit property in her father's estate and further any woman was only given the right to her *Stridhan* which was referred to as women's estate.<sup>23</sup>*Stridhan* reflects the property including movable or immovable gifts that are given to a woman during her marriage. Women is entitled to her *stridhan* but was not given an equal control as that of her brother over the ancestral property.

The ancient scriptures never mention any property for an unmarried woman. However, when she married, a woman could possess a limited range of property, called *Stridhan*, which she received at the time of her marriage and could include movable assets such as jewellery, clothes, utensils or cattle.<sup>24</sup> In some rare cases immovable assets, such as landed property, were also given as *Stridhan*.<sup>25</sup>

In *Pratibha Rani vs Suraj Kumar (AIR SC 1985)*<sup>26</sup>, Justice Fazal Ali has beautifully described the concept of *Stridhan* and what constitutes *Stridhan* and how it is the exclusive

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<sup>19</sup>Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 673

<sup>20</sup>*Ibid.*

<sup>21</sup>Sona Khan, "Inheritance of Indian women: a perspective", 152

<sup>22</sup>Caroll Lucy, "Daughter's Right of Inheritance in India: A Perspective on the Problem of Dowry", 805

<sup>23</sup>Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 666

<sup>24</sup>Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 681

<sup>25</sup>Sona Khan, "Inheritance of Indian women: a perspective", 151

<sup>26</sup>Sona Khan, "Inheritance of Indian women: a perspective", 151

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property of the married woman only, to whom it is given at the time of marriage.<sup>27</sup> This is a classical judgement and has set at rest many controversies with regard to who is to be in possession of the *Stridhan* and who would control it and what actually constitutes *Stridhan*.<sup>28</sup> It has been pronounced to be the exclusive estate of the married woman, which she can dispose of in any manner she likes. She may spend the whole of it or give it away at her own pleasure by gift or will without any reference to her husband. The *Mitakshara* School of law only saw a man as the legal heir which further reflects the patriarchal norms under the ancient Vedic age.<sup>29</sup>

Property ownership rights reflect cultural and religious issues to the unequal share of inheritance rights provided to women. In rural areas when women are denied their right to land this leads to a decline in their status and income further declining their social and economic status.<sup>30</sup> If women are not given a share in their natal (ancestral) property, they are treated as inferior and are not given respect in their marital house of residence which leads to their vulnerable status.<sup>31</sup> There is a social bias towards the preference of sons over daughters as parents consider daughter to be a burden and the customs of marriage and dowry are costly to the parents who believe that sons are a support for their old age and further would look after their land better than their daughters.<sup>32</sup> The social taboos restrain women from gaining equal inheritance rights as there is fear in the minds of the daughters' parents that her husband will control and seek benefits of their land thereby reducing the advantages for the daughter.<sup>33</sup> Lack of property rights to a woman leads to economic insecurity, domestic violence and causes vulnerability to women thereby declining her status as a daughter.<sup>34</sup> It is as indeed necessary to raise awareness and provide education to women to make them aware of their rights and stop the daughters from sacrificing their own inheritance rights by males when forced under community or social pressure to do so.<sup>35</sup> India is a country with diverse

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<sup>27</sup>Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 681

<sup>28</sup>Patel, Reena. "Hindu Women's Property Rights in India: A Critical Appraisal", 1265

<sup>29</sup>Jain, Prakash Chand "WOMEN'S PROPERTY RIGHTS UNDER TRADITIONAL HINDU LAW AND THE HINDU SUCCESSION ACT, 1956", 514

<sup>30</sup>Daniel Rosenblum, "Unintended Consequences of Women's Inheritance Rights on Female Mortality in India", 223

<sup>31</sup>Patel, Reena. "Hindu Women's Property Rights in India: A Critical Appraisal, 1267

<sup>32</sup>Daniel Rosenblum, "Unintended Consequences of Women's Inheritance Rights on Female Mortality in India", 226

<sup>33</sup> Women's inheritance rights reform and the preference for sons in India, 4

<sup>34</sup>Patel, Reena. "Hindu Women's Property Rights in India: A Critical Appraisal", 1268

<sup>35</sup> Women's inheritance rights reform and the preference for sons in India, 2

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religions and each culture has its own set of inheritance or family laws and there is a growing concern to modify or rectify these legal laws of different religions relating to inheritance rights for women to ensure gender parity as laws of Muslims, Christians, Parsis give preference to sons and a larger share to the son than daughters. Such personal laws do violate fundamental rights of women as daughters in their share of ancestral property.<sup>36</sup>

Coparcener is a person who shares equally with others in inheritance in the estate of common ancestor. Coparcenary property is one which is based on ancestral property.<sup>37</sup>The concept of a coparcenary is classified as joint property held under common ownership by coparceners.<sup>38</sup> The share of a person is uncertain when the property is undivided as he or she cannot claim their share and it keeps fluctuating upon the death or birth in the family but on actual partition a coparcener becomes entitled to a definite share.<sup>39</sup>The Mitakshara school of Hindu law codified as the Hindu Succession Act, 1956 governed succession and inheritance of property but only recognised males as legal heirs.<sup>40</sup>

The Mitakshara was considered to be more biased against women and gave them the least rights to inherit property. Though Dayabhaga was also biased, it still gave more rights to the women and was thus considered to be a liberal school.<sup>41</sup>Coparcenary property or ancestral property is that property which a coparcener has inherited either from his father, grandfather or great grandfather. Further, under a Mitakshra coparcenary, right to such property is available only to the son(s), grandson(s) and great-grandson(s), who formed the coparcenary under Mitaksharaschool, and no female had a right to such property.<sup>42</sup> Although females were not part of coparcenary, they were entitled to maintenance out of coparcenary property.<sup>43</sup>

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<sup>36</sup> <https://www.legalserviceindia.com/legal/article-5615-succession-rights-of-women-in-hindu-law.html>

<sup>37</sup> Daughter's Right of Inheritance in India: A Perspective on the Problem of Dowry, 794

<sup>38</sup>Caroll Lucy, "Daughter's Right of Inheritance in India: A Perspective on the Problem of Dowry", 794

<sup>39</sup>*Ibid.*

<sup>40</sup>Caroll Lucy, "Daughter's Right of Inheritance in India: A Perspective on the Problem of Dowry", 800

<sup>41</sup>Sona Khan, "Inheritance of Indian women: a perspective", 143

<sup>42</sup>Jain, Prakash Chand. "WOMEN'S PROPERTY RIGHTS UNDER TRADITIONAL HINDU LAW AND THE HINDU SUCCESSION ACT, 1956", 524

<sup>43</sup>Jain, Prakash Chand. "WOMEN'S PROPERTY RIGHTS UNDER TRADITIONAL HINDU LAW AND THE HINDU SUCCESSION ACT, 1956, 524

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## ***HINDU SUCCESSION ACT BUT THERE STILL PERSISTS A DEMAND FOR EQUITABLE LAWS***

Due to the demands of equitable inheritance by ending inequity, need for social justice, and requirement to bring social change there was a need for amendment of traditional laws to grant equal access of rights of inheritance to women, an act came into force called the Hindu Succession Act of 1956 which abolished women access to limited estate and mentioned any property possessed by a Hindu female is to be classified as her absolute property and she is given full power to deal with it.<sup>44</sup> Women were excluded from legal ownership of joint property and were still dependent on male property. This Act although gave equal share of rights to women in the area of the women's inheritance (estate) but men were given the exclusive right to have the position of a coparcener in a joint family whereas women were excluded from the right to be considered a coparcener to inherit ancestral property.<sup>45</sup> Joint ownership being the privilege of the male members in the family, females were precluded from acquiring any interest in the coparcenary property. Thus, very restricted rights were conferred upon the females with regard to succession, partition and interest in joint family property.<sup>46</sup> The Hindu Succession Act was discriminatory as Women were not made members of the coparcenary under the Hindu Mitakshara law and, not entitled to have any right in the coparcenary property.<sup>47</sup>

The Hindu Succession Act of 1956, clarified the inheritance rights of women over private property, giving them an equal share. However, this Act did not ensure equality for women in the domain of ancestral property.<sup>48</sup>

Based on the 174<sup>th</sup> Law Commission Report, some states marked a turning point to bring state reforms before 2005 amendment by giving equal inheritance rights to men and women namely Kerala, Andhra Pradesh, Tamil Nadu and Maharashtra and Karnataka where women were given equal rights to their share of ancestral property.<sup>49</sup> This marked the removal of gender

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<sup>44</sup>Caroll Lucy, "Daughter's Right of Inheritance in India: A Perspective on the Problem of Dowry", 792

<sup>45</sup>Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 678

<sup>46</sup>Caroll Lucy, "Daughter's Right of Inheritance in India: A Perspective on the Problem of Dowry", 793

<sup>47</sup>Daniel Rosenblum, "Unintended Consequences of Women's Inheritance Rights on Female Mortality in India", 225

<sup>48</sup>Patel, Reena. "Hindu Women's Property Rights in India: A Critical Appraisal", 3

<sup>49</sup>Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 679

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discrimination under the Mitakshara law as now the daughter was allowed to be a coparcener by birth equal to the right of a son.<sup>50</sup>

To overcome poverty and inequality it is crucial to give women access to resources, assets and land. Providing land title enhances a woman's self-esteem, as there is a feminisation of agricultural work as there is a rise in access to agricultural land for women but the legal customs restrain women from the right to ownership of land. Law has advanced from time to time and made progress depending on the needs of society but earlier Hindu law relied on Vedas and past smriti's which regard custom as the basis of Hindu law.<sup>51</sup> Various international organizations and non- organizations have given women awareness and education about their inheritance rights and a platform to claim and demand justice to seek equal rights as men. The inheritance rights were unequal, unfair and there was historical or social disadvantage upon women and it was a violation of Article 14 and 15 of the Indian Constitution which guarantee right to equality and prohibition against discrimination on the basis of caste, gender, race or religion of a person.<sup>52</sup> The inheritance rights of women were gender unjust and against the directive principles of state policy based on the premises of equality and social justice.<sup>53</sup>

### ***LANDMARK JUDGEMENTS AND THE CODIFICATION OF HINDU SUCCESSION ACT 1956 AS HINDU SUCCESSION ACT 2005 UNDER SECTION 6***

The Hindu Succession Act 1956 was amended and reinterpreted as the Hindu Succession Act 2005 which was the most significant social change to a woman's position under society and the law as they were made joint legal heirs/coparcener's equal to males in the share of ancestral property by being given the status of a legal coparcener.<sup>54</sup> Section 6 of the Hindu Succession Act (1956), was amended as per the substituted Hindu Succession Act of 2005 granting coparcenary rights on daughters and she is held to be a coparcener by birth. It was

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<sup>50</sup>Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 679

<sup>51</sup>Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 685

<sup>52</sup> <https://www.businesstoday.in/opinion/columns/story/female-property-and-inheritance-rights-in-india-empowered-women-a-key-to-economic-progress-231889-2019-10-07>

<sup>53</sup>Sona khan, "Inheritance of Indian women: a perspective", 139

<sup>54</sup>GOVIND KELKAR, "The Fog of Entitlement: Women's Inheritance and Land Rights", 53

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held by the Hon'ble Supreme court in the case of *Vineeta Sharma vs Rakesh Sharma*<sup>55</sup> under section 6 of Hindu Succession Amendment Act 2005, that a Hindu woman has a right to be a legal coparcener/ joint heir to ancestral property by birth as equal to that of a son and it doesn't depend if the father was alive or not when the act was amended in 2005.<sup>56</sup> Earlier under the Hindu Succession Act 1956, only a son could claim right by birth in an undivided joint family but the daughter was not given the right to be a coparcener by birth which was amended by the Hindu Succession Amendment Act 2005.<sup>57</sup> Earlier if a male coparcener left behind a female relative on death under class 1 of schedule the daughter was only entitled to limited share in the coparcenary interest of her father and not a share as a coparcener in her rights.<sup>58</sup> The daughters could not under the Hindu Succession Act 1956 inherit the ancestral property like son/males.<sup>59</sup> The Mitakshara law contributed to discrimination on the basis of gender and was oppressive and violated the principle of right to equality by the Constitution of India.<sup>60</sup> The Hindu Succession (Amended) Act 2005 has brought a revolutionary change in the Hindu Succession law by making the women Karta of the joint family property.<sup>61</sup> Women therefore can manage the property as the male heirs were doing since ages. The verdict of this larger bench upheld that the coparcenary status of daughter is created by birth and is not dependent on whether the father was alive or not on the date the amendment came into force.<sup>62</sup> A daughter would have the same status as a son as soon as she is born. This verdict lays to rest any doubts around interpretation of the amendment and whether any women can be left out due to prospective application of the law.<sup>63</sup>

In the case of *Prakash vs Phulwanti*<sup>64</sup> daughters were not conferred upon full rights and there were restrictions on the claim of a daughter to be a coparcener as it was held that benefit for a

<sup>55</sup> <https://indiankanoon.org/doc/67965481/>

<sup>56</sup> [https://main.sci.gov.in/supremecourt/2018/32601/32601\\_2018\\_33\\_1501\\_23387\\_Judgement\\_11-Aug-2020.pdf](https://main.sci.gov.in/supremecourt/2018/32601/32601_2018_33_1501_23387_Judgement_11-Aug-2020.pdf)

<sup>57</sup> Rajak K, "Trajectories of Women's Property Rights in India: A Reading of the Hindu Code Bill", 86

<sup>58</sup> <https://indiankanoon.org/doc/67965481/>

<sup>59</sup> <https://indiankanoon.org/doc/67965481/>

<sup>60</sup> The Hindu Succession Act, 1956: An Experiment in Social Legislation, 488

<sup>61</sup> Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 683

<sup>62</sup> Rajak K. "Trajectories of Women's Property Rights in India: A Reading of the Hindu Code Bill", 86

<sup>63</sup> [https://indianexpress.com/article/explained/reading-supreme-court-verdict-on-hindu-womens-inheritance-rights-](https://indianexpress.com/article/explained/reading-supreme-court-verdict-on-hindu-womens-inheritance-rights-6550767/#:~:text=The%20Hindu%20Succession%20(Amendment)%20Act,2005%2C%E2%80%9D%20the%20ruling%20said.)

[6550767/#:~:text=The%20Hindu%20Succession%20\(Amendment\)%20Act,2005%2C%E2%80%9D%20the%20ruling%20said.](https://indianexpress.com/article/explained/reading-supreme-court-verdict-on-hindu-womens-inheritance-rights-6550767/#:~:text=The%20Hindu%20Succession%20(Amendment)%20Act,2005%2C%E2%80%9D%20the%20ruling%20said.)

<sup>64</sup> <https://indiankanoon.org/doc/143363828/>

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daughter to be a coparcener was to be provided only to the *daughter of a living coparcener* meaning that both the daughter and coparcener have to be alive on the date of the Amended Act i.e. 9-9-2005.<sup>65</sup> Such a decision was scrapped by the Supreme Court in 2018 giving the status of right by birth to a daughter to be legal heir which was called unobstructed heritage. The claim of the daughter of a living coparcener is substituted by the *right by birth* granting women an equal and just mode of succession.<sup>66</sup> The death of a coparcener doesn't terminate the right of a daughter as a coparcener and the coparcener from whom the daughter inherits need not be alive according to the 2005 amendment.<sup>67</sup> The Supreme court removed further discrimination by giving equal rights to women. In the *Danamma @ SumanSurpur v. Amar (2018)*<sup>68</sup> case, the Supreme Court removed inequality for women by declaring that the amended section 6 gave full rights to the daughter as a coparcener.<sup>69</sup>

Female inheritance rights in India empowered women and are a key towards economic progress for women. The Indian society marked a historic move by giving equal inheritance rights to women thereby making them self-sufficient.<sup>70</sup> By the amended section 6 under the Hindu Succession Act, 2005 it was held that the coparcenary rights are by birth and the daughter is treated as a coparcener with equal rights and liabilities as a son at the time of birth.<sup>71</sup> The claim by birth has accorded women their long struggle for equal right to inheritance as it removes inequality by granting right to coparcenary property by birth which is distinguishable from earlier forms of unjust modes of succession and is similar as the son.<sup>72</sup> The daughter under section 6(1) and 6(2) can claim partition of the coparcenary and the rights of a daughter are at par with that of a son as a coparcener.<sup>73</sup> Section 6(5) is a protection to daughters as it doesn't deprive a daughter from her right as a coparcener and eliminated

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<sup>65</sup> <https://blog.ipleaders.in/plight-struggles-hindu-women-field-property-rights-historical-study/>

<sup>66</sup> <https://indianexpress.com/article/explained/reading-supreme-court-verdict-on-hindu-womens-inheritance-rights-6550767/>

<sup>67</sup> <https://indiankanoon.org/doc/143363828/>

<sup>68</sup> <https://blog.ipleaders.in/plight-struggles-hindu-women-field-property-rights-historical-study/>

<sup>69</sup> <https://blog.ipleaders.in/plight-struggles-hindu-women-field-property-rights-historical-study/>

<sup>70</sup> Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 683

<sup>71</sup> <https://blog.ipleaders.in/plight-struggles-hindu-women-field-property-rights-historical-study/>

<sup>72</sup> Halder, Debarati, and K. Jaishankar, "PROPERTY RIGHTS OF HINDU WOMEN: A FEMINIST REVIEW OF SUCCESSION LAWS OF ANCIENT, MEDIEVAL, AND MODERN INDIA", 683

<sup>73</sup> <https://lawtimesjournal.in/succession-rights-of-women/>

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discrimination as there was no exclusion of daughter from coparcenary thereby bringing equality with sons.<sup>74</sup>

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