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# Promoting Gender Equality: A Comprehensive Analysis of the Hindu Succession Act, 1956

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## ABSTRACT

*The Hindu Succession Act, enacted in 1956, stands as a crucial legislative framework in India aimed at rectifying gender disparities in matters of inheritance. This research paper undertakes a thorough examination of the historical context, legislative provisions, and the ever-evolving landscape of gender equality under the Hindu Succession Act, with a particular emphasis on its ramifications for women's rights.*

*To grasp the significance of the Act, it's imperative to understand its historical roots, as it was conceived to reform traditional Hindu laws, which had long been characterized by inherent bias against women. The Act marked a pivotal shift from orthodox Hindu legal principles by endowing daughters with equal inheritance rights as sons. Nevertheless, over the years, the Act has undergone multiple amendments to adapt to shifting societal norms and judicial interpretations.*

*This paper critically scrutinizes the primary provisions of the Hindu Succession Act and its successive amendments, scrutinizing the evolution of women's rights in property and succession matters. It unravels the intricacies surrounding joint family property, self-acquired property, and the entitlement to partition. Additionally, it investigates the repercussions of these legal changes on the socio-economic standing of women and their empowerment within families and society.*

*In summation, the Hindu Succession Act has played a pivotal role in championing gender equality in property inheritance. While notable strides have been made, challenges persist, including gaps in implementation and awareness. This paper underscores the continuing necessity for advocacy and awareness campaigns to ensure that women can effectively exercise their rights under the Act. It's crucial to acknowledge the dynamic nature of the Act and its positive impact on gender equality, ultimately fostering a more equitable and just society.*

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## **I. INTRODUCTION**

### **(A) Background and historical context**

From Indian independence until the late 1970s, feminism was not an intersectional phenomenon; upper-caste women alone adopted political and social issues, having benefited from the nationalist movement's emphasis on Indian women's education. Even this came about more by accident since, according to "Indian Women and Protest: An Historical Overview and Modern-Day Evaluation," the movement's main goal was to advance educationally relative to Western women rather than to question "Indian" gender norms. In "a 'nonactivist and non-transformative' state, whose superiority over all others meant she now embodied ghar and the 'unchanged domesticity in an age of flux,'" the great majority of women were still imprisoned at this time.

Women started organizing around gender-related issues in the late 1970s, including, according to "Organizing Against Violence: Strategies of the Indian Women's Movement," "rape, dowry deaths, wife-beating, sati (the immolation of widows on their husband's funeral pyre), female-neglect resulting in differential mortality rates, and, more recently, female feticide following amniocentesis."

A high court reversed the convictions of two police officers in the Mathura rape case, in which a 9-year-old girl was raped inside a police station. This led to one of the first significant rallies of female revolutionaries when this newly discovered, countrywide consciousness kicked in.

### **(B) Overview of Hindu Personal Laws and the Patriarchal Nature of Inheritance**

The Hindu property laws from before independence still included the idea of a woman's estate. The rules under Hindu law controlling a member's inheritance and succession to property made this difference very evident. Unified families the prejudices that were established were so pervasive and organised that they women who are the recipients the essential principles of personal law are rooted from religion Standards remained obsolete and the State never made an effort to correct them. During the legislative process Eventually, it caused a departure from the liberal discourse. of equal rights for women, despite taking away their pre-existing legal rights. The portion of the laws that remained antiquated began to limit the absolute pleasure of one's property rights by women

### **(C) Historical Perspectives on Women's Property Rights in Hindu Society**

In the vedic age, women had equal status to that of men. During that period, women were held in high esteem. They took part in yajnas and offered funeral oblations (pindas) to fore – fathers.

Since property rights were derived out of ones participation in offering spiritual benefits, women were also considered as heirs to property. Thus, they came to enjoy equal rights in the ancestral property proportionate to their share in offering pindas to their ancestors.

The position continued up to the period of smritis, but started deteriorating since then. The smriti literature, including the commentaries, digests and the earliest legislations, interpreted the smritis, to restrict the rights of women on landed immovable property. That was followed by the evolution of a peculiar limited interest known as ‘woman’s estate’ or ‘widow’s estate’. The concept of stridhanam, meaning ‘woman’s property’, thereafter, came to be confined to movable properties including cash, kind and ornaments.

## **II. LEGAL FRAMEWORK**

Hindu Succession Act, 1956:

Overview of key provisions related to succession and inheritance. –

- Introduction: The law applies to Hindus, including Sikhs, Jains and Buddhists. This applies to probate, which is the distribution of property when a person dies.
- Class I heirs: The law divides heirs into classes I, II and III. Class I heirs include deceased persons:
  - Widow
  - Children
  - Mother
  - Living children of a deceased son or daughter
  - Widow of deceased child (if no surviving children)
- Class II heirs: If there are no class I heirs, the property goes to class II heirs, including:
  - Father
  - Brother
  - Deceased cousins
  - Mother (if there are no living children, widows or children of a deceased child)
- Agnates and others: The law recognizes the concept of agnates (relatives through men) and parents (relatives through women) in the absence of heirs of class I and II.
- Mitakshara and Dayabhaga Schools: The Act takes into account the two main schools of Hindu law, Mitakshara and Dayabhaga, which have different rules on inheritance.

- **Compatibility:** The 2005 amendment made a big difference in giving women equal rights to speak. Women now have the rights of men over ancestral property and are co-sharers by birth.
- **Share of female heirs:** A 2005 amendment removed gender discrimination from the law. Women have the same rights as men over the property of the deceased, including agricultural land and residential buildings.
- **Change of interest in joint family property:** The law deals with the distribution of a person's interest in family property upon death.
- **Testamentary Succession:** Hindus can make decisions under the law to dispose of their property.

The right must be exercised after the specified legal procedure has been completed.

- **Stridhana:** The Act recognizes the concept of "Stridhana", which includes property acquired by a woman through gifts, rights or other transactions.
- **Rights of the unborn child:** The law takes into account the rights of the unborn child if he is born alive.
- **Succession to the property of a Hindu female:** The Act governs the collection of property from a Hindu woman who dies during pregnancy. In summary, the Hindu Succession Act, 1956 laid down the rules for the transfer of property between heirs, and other reforms, especially the 2005, have gone a long way in promoting gender equality by removing provisions related to inheritance. limits and respect for women in matters of inheritance.

## **GENDER-SPECIFIC PROVISIONS AND THEIR IMPLICATIONS.**

The Hindu Succession Act, 1956, initially contained gender-specific provisions that reflected the prevailing social norms and biases. However, subsequent amendments, especially the amendment in 2005, brought about significant changes to promote gender equality. Below are the gender-specific provisions and their implications under the Act:

### ➤ **PRE-AMENDMENT (1956) PROVISIONS**

**Limited Rights for Daughters:** Before the amendment, daughters had restricted rights in ancestral property. They were not considered coparceners and did not have equal rights as sons.

**Discrimination in Succession:** Gender bias was evident in the distribution of property, with sons having preferential rights over daughters.

Widow's Limited Rights: Widows had specific rights but were often constrained in enjoying full ownership or control over the property.

➤ **POST-AMENDMENT (2005) PROVISIONS:**

Equal Coparcenary Rights: The most significant change was the recognition of daughters as coparceners, giving them equal rights as sons in the ancestral property.

Removal of Discrimination: The amendment removed gender-based discrimination, ensuring that daughters are treated on par with sons in matters of succession.

Widow's Enhanced Rights: Widows gained enhanced rights, especially in cases where there were no surviving children. They were now entitled to a share in the deceased husband's property, including coparcenary property.

➤ **IMPLICATIONS**

- Promotion of Gender Equality: The amendments aimed at rectifying historical gender disparities, promoting equal rights for both sons and daughters.
- Empowerment of Daughters: Daughters are now recognized as coparceners by birth, contributing to their economic and social empowerment.
- Widow's Financial Security: Widows, particularly those without children, gained increased financial security and a more significant share in the deceased husband's property.
- Impact on Succession Planning: The amendments impacted traditional succession planning within Hindu families, challenging existing notions of preferential treatment based on gender.

➤ **CHALLENGES AND CRITICISMS**

- Awareness and Implementation: Despite legal reforms, awareness about the amended provisions may be limited, and implementation challenges might exist at the ground level.
- Resistance to Change: Societal and familial resistance to accepting the changed norms, particularly in more conservative or traditional communities.
- Incomplete Reforms: Some argue that the amendments, while a step forward, may not completely eliminate deeply entrenched patriarchal practices.

➤ **LEGAL INTERPRETATIONS**

Court Decisions: Judicial interpretations play a crucial role in shaping the implications of the amended provisions. Landmark court decisions can set precedents for the application of gender-

neutral succession laws.

In conclusion, the gender-specific provisions of the Hindu Succession Act, both before and after the 2005 amendment, have significant implications for the rights of daughters and widows in matters of inheritance. The amendments mark a positive shift towards gender equality, but challenges in awareness, implementation, and societal acceptance persist. Ongoing legal, social, and educational efforts are crucial to ensuring the effective realization of gender-neutral succession laws.

### **AMENDMENTS TO THE ACT:**

The Hindu Succession Act, 1956, has been amended, with the most notable change in 2005. Here are the key points in simpler terms:

- **AMENDMENT IN 2005:**

**Equal Rights for Daughters:** Daughters now have the same rights as sons in ancestral property, ensuring fairness.

**No Discrimination:** The amendment removed unfair rules against women, promoting equal inheritance rights.

**Widow's Rights:** Widows, especially without children, gained more rights in their deceased husband's property.

**Unborn Child's Rights:** An unborn child is considered to have a share in the property from the time of conception.

**Effective Date:** These changes became effective on September 9, 2005.

- **IMPLICATIONS:**

**Gender Equality:** The goal was to make sure men and women have equal rights in inheriting property.

**Empowerment of Women:** Daughters got more power and rights in family property.

**Widow's Financial Security:** Widows without children have more financial security through enhanced property rights.

- **ONGOING DEVELOPMENTS:**

**Judicial Decisions:** Courts help interpret the amended laws, guiding how they're applied in real situations.

**Awareness Programs:** Efforts are made to inform people about their rights under the new rules.

Continued Reforms: Discussions and changes are still happening to improve the law and address any remaining issues.

- **CHALLENGES:**

Lack of Awareness: Some people might not know about the changes, especially in more traditional areas.

Resistance to Change: Some families might resist accepting the new rules about property inheritance.

### III. CASE STUDIES

In Hindu succession, gender equality has been a significant area of debate and change. Over time, several case studies have highlighted the evolution and challenges related to gender equality in Hindu succession laws in India. Here are a few notable cases

**Danamma vs Amar:** In 2018, the Supreme Court of India ruled on the case of Danamma vs Amar, marking a significant change in the Hindu Succession Act. The court held that daughters have equal rights to ancestral property as sons, regardless of whether the father was alive or deceased at the time of the amendment of the Hindu Succession Act in 2005. This case emphasized gender equality in inheritance rights and brought about a shift in the interpretation of the law to ensure parity between sons and daughters in ancestral property rights.

**Prakash vs Phulavati:** Before the amendment of the Hindu Succession Act in 2005, there was ambiguity regarding whether the daughters had equal rights in ancestral property. The case of Prakash vs Phulavati in 2016 clarified that the amended Act applies prospectively. It highlighted the importance of legal changes and amendments to ensure gender equality retrospectively in inheritance laws.

### IV. CONCLUSION

In conclusion, the amendments to the Hindu Succession Act in 2005 marked a crucial milestone in promoting gender equality within the framework of inheritance among Hindus in India. These changes were instrumental in rectifying historical disparities, particularly by granting daughters equal rights as sons in ancestral property and enhancing the rights of widows. The amendments aimed at fostering economic and social empowerment for women, challenging traditional norms, and ensuring a more just distribution of family property.

However, challenges such as a lack of awareness and societal resistance to change persist. Ongoing efforts, including judicial interpretations, awareness programs, and discussions for further reforms, are crucial to bridge these gaps and ensure the effective implementation of the



amended provisions. The journey toward gender-neutral succession laws is an ongoing process, requiring continued commitment to uphold the principles of equality and justice within the diverse tapestry of Hindu personal laws.

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