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Women Empowerment through Property Rights in India

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ABSTRACT

Property rights being fundamental to women's empowerment serves as the cornerstone for gender equality, economic independence, and social mobility. Historically in India, where women traditionally have faced obstacles to property, there has been an acceleration in initiatives to improve women's control and access to property. India has seen a transforming path for women's inheritance rights, characterized by cultural upheavals, legislative reforms, and egalitarian fights. This research article looks at the complex link between women's empowerment and property rights in India by analyzing empirical evidence surrounding women's property ownership and examining the legal framework including social cultural dynamics. This paper presents a thorough analysis by explaining how property rights may benefit women while discussing the reform potential and obstacles. It also advocates the radical changes required to realize gender neutral property rights. Meanwhile the paper also highlights how the reforms acted as a catalyst in empowerment of women and their socio economic advancement.

I. INTRODUCTION

“To awaken the people, it is woman who must be awakened; once she is on move, the family moves, the village moves and the nation moves.” JAWAHARLAL NEHRU

A civilization cannot exist without its women. They are crucial when it comes to a country's future. Consequently, it is more crucial that they receive the proper acknowledgment from society and that they participate more in socioeconomic and political issues. That being said, women have always been confined and segregated within the four walls of their homes. Within the family, they had no say in decisions. On the other hand, throughout the past 20 years, women's advancement has been more noticeable throughout the nation. New problems and strategies to improve awareness among women have been brought forward, and various structures seem to be mobilizing.

Over the last two decades, a global endeavor has been underway, heavily backed by the United

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Nations, to identify the root causes of discrimination against women and help them escape it in order to secure their rightful place in society. Peace, progress, and equality have been the catchphrases. In addition to announcing the International Women's Decade and the International Year for Women in 1975, the UN General Assembly also arranged three global conferences, taking place in Mexico in 1975, Copenhagen in 1980, and Nairobi in 1985. The structural changes pertaining to women that are required in society were the main topic of discussion during the Fourth World Conference on Women, which was held in Beijing in 1995. It stressed that without full involvement and empowerment of women, society's most pressing social, economic, and political issues cannot be solved in a way that would last.

The Government of India has continuously been formulating the strategies and initiating processes to bring women in to the mainstream of society. It is a clear fact that women constitute half of the country's population so no development and progress is possible unless their needs and interests are fulfilled and protected.³

The aims of the socioeconomic goals stated in the Constitution's Preamble are directly related to the position of women in India. The prevalence of deeply ingrained social injustice, disability and sex-based discrimination within the inherited social system led to the formulation of particular provisions for children and women in the Constitution. The aims of a socialist, secular, republic and democracy could not be achieved without gender equality. The attainment of gender equality necessitates the empowerment of women throughout all domains of life. It is understood that women who are empowered would have higher levels of self-assurance, a stronger feeling of independence, and the capacity to fend off prejudice from a culture that is controlled by males.

Empowerment⁴ of women is a process that leads women to claim their rights to have access to equal opportunities in economic, cultural, social and political spheres of life and realize their full potential. This progress has to be accompanied by their freedom in decision making both within and outside their home with the ability to influence the direction of social change.⁴ It would consist in providing greater access to knowledge and resources, greater autonomy in decision making, greater ability to plan their lives, greater control over the circumstances to influence their lives and freedom from the shackles imposed on them by custom, belief and practice.⁵

³ R.K. Rao, *Women in Education*, KALPAZ PUBLICATION, NEW DELHI, 210 (2000).

⁴ Ministry of Women and Child Development, 7 WOMEN EMPOWERMENT & PROTECTION ANNUAL REPORT (2017-18).

⁵ N. Linga Murthy, T. Jyoti Rani, *Towards Gender Equality, India's Experience*, SERIAL PUBLICATION NEW DELHI, 176 (2007)

II. FACTORS DEMEANING EMPOWERMENT

Several factors creating hindrance in the way of women empowerment are as follows. They can be categorized majorly under four heads-

1. Social factors
2. Cultural factors
3. Economic factors
4. Legal and Political factors

Social Factors

- Conventional Discrimination: It is stated that, like animals and low caste women, women have such weak character that they are suited to be beaten and whipped. A woman may even murder them and die for him. It is reported that wise men in China have advised husbands to pay attention to their wives' advice but to act against it. Shakespeare even said as much in Hamlet, "Frailty thy name is woman." Italians believe that women need to be thrashed and spurred much like horses do. Likewise, women were not permitted to participate in religious rites or even to pray in ancient Japan. Given that having a daughter was viewed as a severe calamity, the Pagan Arabian women buried their daughters alive. The contemporary era has placed women on an equal footing with men. The constitution of India gives equality to woman but the constitution of Indian society still goes on to maltreat woman and considers her to be inferior and subservient to man.⁶
- Medieval Feudal Concept of Master and Servant Predominates in Man and Woman Relationships: Human civilization was split from the perspective of authority by the feudal hierarchical system of the middle Ages. According to such perspective, the connection between a man and a woman is not one of equality but rather one of supremacy and inferiority, as demonstrated by the relationship between a master and a servant. When viewed from this angle, a woman's standing as a mother, wife, maid, or son's wife was reduced to that of a slave, thus making them inferior. She was therefore exploited like a slave. Man's relationship with women is still shaped by the feudalism and medievalism of men's value system for women, which persists in his thoughts and emotions. This leads to accidental harm, sexual assault, discrimination, abuse, and complete commercial exploitation of women in a variety of contexts and ways, all under

⁶ Subhash Chandra Singh, *Gender Justice*, SERIALS PUBLICATIONS, NEW DELHI, 130 (2009).

the guise of moral rectitude, family harmony, peacefulness, and social harmony, among other things.⁷

- A reduction of women's physical strength and power over the evolution of civilization: When society was in its hunting stage, women were just as strong and aggressive as men. However, in the agricultural period, women physical strength and power compared to man were much diminished because of her fixed home existence and the household chores of childrearing and cooking. Her complexion lightened, but she lost her sense of adventure and became more reliant on men in her life. She also stopped fighting and struggling physically. She started to obey him because she accepted men's dominance and control. Notwithstanding all conceptual respect and deference, women turned into merchandise to be traded like chattel with the development of the notion of property and the institution of slavery. Women were viewed in religion as a barrier to achieving spiritual advancement. Then, all of man's purported appreciation and respect for women really amounts to his avarice and self-interest.⁸
- Patriarchal culture: One of the main causes of gender disparity is the patriarchal culture. In Hindu society, men have always held the position of dominance over women in all spheres of life, dating back to ancient times. Women lack decision-making authority and are not financially independent. They are reliant on the men for all actions. The current modern civilization exhibits the same circumstances. Because of the patriarchal nature of Indian society, women suffer in most areas. They are seen as equals to slaves and as tools of gratification. They are segregated behind four walls and denied chances to which they are legally entitled.⁹
- Illiteracy: The most powerful tool for bringing about social and economic change is education. Opportunities for both individual and collective entitlements to gainful work and involvement in a variety of social activities are made possible by education. In actuality, education sparks social transformation and spurs economic expansion. Worldwide recognition of education for everyone is acknowledged. India is also making significant progress toward its goal of reimagining and reorganizing education in order to promote equitable growth. Over time, it has been discovered that the majority of females in India lack access to education. Even though the nation's gender gap within the educational system has been closing, there is still a significant inequality that has to

⁷ Id. 132.

⁸ Id. 134.

⁹ Priti Jha and Niti Nagar, *A Study of Gender Inequality in India*, 2 IJIP47 51 (2015).

be addressed.¹⁰

- Women's Incapability to Make Decisions: It is thought that women lack the aptitude and skills necessary to manage any form of affairs. They are unable to fulfill obligations within or outside the house. The ladies are prevented from taking part in the current situation by this notion. They are not even permitted to make life decisions. Even now, parents still make the decisions about marriage and outside employment. There is nothing for them to do. They must follow their parents' wishes.¹¹

Cultural Factors

- Son Preference: Historically, boys have consistently been preferred above females. When a girl kid is born, it is viewed as an impending doom upon the family, but when a son is born, it is praised. A girl faces discrimination from the moment of her birth. She has learned to be obedient to others and to maintain her shyness, grace, humility, and duty. Son receives this kind of instruction, while she does not. Not even she is permitted to go outside. Boys are seen as adding prestige to their family and are granted the only right to inherit the family estates and name. Parents are further discouraged from having daughters by the possibility of "losing" them to the husband's family and the high cost of a daughter's dowry. Many people firmly believe that having a daughter is a liability. As a result, gender inequity has existed since a girl was born. In certain regions of the nation, sons are still given precedence over daughters. They are not having access to the same rights and benefits as their brothers.
- Patrilocality: This is the arrangement used by many cultures in which a married couple resides with or close to the husband's parents. A lady practically integrates to her husband's family when she gets married, leaving behind her own. In this arrangement, parents spend money on their son's education and health since he will stay in the family, but a girl will marry into a different home and depart both materially and monetarily. Hindu civilizations have far higher rates of adult sons living with their elderly parents. The financial mindset about investing in daughters is encapsulated in an often quoted Indian saying that —raising a daughter is like watering your neighbors' garden. This sentiment is echoed in a Chinese proverb that describes —raising a daughter as ploughing someone else's field.¹²

¹⁰ Dinesh Das and Minakshee Pathak, *Gender Equality: A core Concept of Socio-Economic Development in India*, 1 AJSS&H 261.

¹¹ Supra note 7.

¹² Seema Jayachandran, *The Roots of Gender Inequality in Developing Countries* 7 ANNUAL REVIEW OF

- Support from son in old age- In current culture, it is believed that a boy is useful and beneficial to his parents in particular, as well as to the family as a whole. When the parents pass away or retire, he takes over the family, provides for them, and assumes management of the household while the daughter is living with another family.
- Sons' Place in Religious Rituals: Giving birth to a son is highly valued in Hinduism. A son is responsible for carrying on the family lineage, or "Vansh," in a patriarchal Hindu society. Manu says that without a son to fire his funeral pyre, a man cannot achieve moksha. Furthermore, it mentions that a woman may be abandoned after eleven years of getting married if she exclusively had girls. Traditional Hindu society contains gender-biased rituals and behaviors that discourage having girls in the household and overemphasize having boys.

Economic Factors

- Patrilineality: Names and property are passed down to the following generation via male ancestors in a patrilineal society. Sons are given preference in this system over girls. For instance, in India, where it is customary for widows to not inherit any of their husbands' ancestral property, widows rely on their sons to keep onto the family assets and uphold their widowhood quality of life. This thought may be one of the reasons why men and women's desires to have boys frequently don't differ all that much.
- Involvement in the Labor Force: The pattern of women's labor force involvement can reveal how well-educated they are, enabling them to participate equally in the growth of their country. There are still differences in pay between men and women. The majority of women work in services related to consumption rather than in industrial jobs related to manufacturing. Most female workers are employed in low-status, low-skilled, dead-end positions including midwives, food preservers, unskilled office workers, teachers, clerks, health visitors, cannery workers and nurses, among other low-status, low-skilled occupations. As a result, it is evident that men still hold the highest positions in the modern industry and that women face obstacles at the lowest vocational ladder.¹³
- Property Rights: Despite having equal legal rights for owning property and inherit it, women are nevertheless at a disadvantage in everyday life. Equal inheritance rights to jointly held and ancestral property are granted by the Hindu Succession (Amendment) Act of 2005; nevertheless, the law is not strictly implemented. In addition, women are

ECONOMICS 75.

¹³ Nitin Doshi, *Towards Empowerment of Women*, CYBER TECH PUBLICATIONS, NEW DELHI 9 (2010).

somewhat denied their rightful heritage in terms of culture and religion. Women are not granted equal inheritance rights under the religious constitution; instead, they are given property in a way that separates them from males. Despite the fact that the Islamic law allows women to own at least half as much property as males, society is hesitant to provide women the desired property, much alone an equal portion.

- Employment Inequality: Gender disparities in who has authority and control over the organization's management are among the prevalent forms of inequality that exist in the workplace. Because of their moderate personalities and outward look, women are thought to be less qualified than males for better paying jobs. There are several instances where women with same qualifications and talents are passed over for promotions simply because they are female. It is indeed a sad state of affairs that women with greater potential are unable to present themselves. It actually is a major obstacle to a country's ability to thrive economically.¹⁴

Legal And Political Factors

The Indian Constitution contains many clauses that specifically grant men and women the equal rights and forbid discrimination against women in any form. Additionally, it gives the government the authority to pass welfare laws and programs that will benefit women in society as a whole. In response to this obligation, the state has passed a number of laws such as Prohibition of Sexual Harassment at Work Place Act, 2013, Prohibition of Child Marriage Act, 2006, Dowry Prohibition Act, 1961, Hindu Adoption and Maintenance Act, 1956 (HAMA), Hindu Succession Act, 1956, Hindu Marriage Act, 1955, etc. for the purpose of protection of these rights. Unfortunately, gender discrimination against women still exists, therefore these constitutional and legislative protections were unable to fully achieve their intended outcome. Their right that was established for them cannot be enjoyed by them. The main factors contributing to the presence of gender disparity in society are ineffective execution, a lack of knowledge about these regulations, and societal attitudes toward women. Therefore, it is imperative that these laws be implemented as soon as possible in order for every woman to be able to exercise her rights.

III. PROPERTY RIGHT DIFFERENTIATION UNDER DIFFERENT RELIGION

Since personal laws control succession concerns and since personnel laws are well recognized in India, succession rules have a diverse range of sources and characteristics. In India, a person's

¹⁴ Supra note 8 at 50.

personal law is applicable based on their particular religion and is intended for individuals of various faiths. Thus, the Indian Succession Act, 1925 governs Christians, whereas the Hindu Succession Act, 1956 governs Hindus, Buddhists, Jains, and Sikhs. The Act in question addresses Christian succession in sections 31 through 49. The Sunni and Shia schools of thought comprise the majority of Muslims. Following the Shariat Act of 1937, Muslims in India began to have their own personal rules that covered all aspects of their lives, including property rights. The Indian Succession Act of 1925 establishes the rules governing Parsi succession. The Act's Sections 50–56 address Parsi succession law.¹⁵

(A) Muslim Law

The two main Muslim sects, Sunnis and Shias, have different inheritance rules. Four sub-sects comprise Sunnis: Shafeis, and Hanabali, Hanafis, Malikis, In India, Sunnis control the inheritance laws of the Hanafi School. There are three sub-sects among Shias: Zaidiyas, Ismailiyas, and Athna-Ashariyas. The majority of Shias in India are Athna-Ashariya. Women are full owners of property and are entitled to acquire, possess, and dispose of it as such under Hanafi Law. They, along with male heirs, are eligible to inherit property of propositus. The procedures governing inheritance under Muslim law must be followed while allocating the remaining property.

-Daughter

A daughter inherits in the event that a son is not present as a sharer, and takes half of his share under Sunni and Shia law. She receives half of the inheritance if there isn't a male, and more than one daughter split the remaining two thirds. This is because there were few girls in families and infanticide was a frequent practice in pre-Islamic Arabia. If there is just one daughter or descendant, the daughter inherits, then under Shia law, as a sharer, getting half of the property. However, in Hanafi law, brother is entitled to one-third of the estate, the daughter to half, and the mother to one-fourth. Unlike under Hanafi law, the children of a deceased girl are rightfully entitled to succeed based alone on their propinquity. Muslim law grants daughters complete authority over the property, allowing them to manage, govern, and dispose of it as they see fit throughout their lifetime or after death.

-Widow

Both Shia and Hanafi laws grant widows and children the right to inherit. According to Hanafi law, a widow receives one-eighth of the inheritance if she leaves a kid or a son's descendent; if

¹⁵ Kumkum Aggarwal, *Rights Of Women Under Changing Perspective of Hindu Law With Special Reference To Hindu Succession Act*, (Shodhganga, 2019), <http://hdl.handle.net/10603/291386>.

no child is left, she receives one-fourth. Until there exist another heir, "Return" is prohibited by law. If there is a widow or widows and three brothers, the brothers are entitled to the residual and that widow must be entitled to 1/4th of the inheritance. While this law could aid in preserving property in the agnates, social justice is not served by it.

According to Shia law, a widow without children has a specific impairment and is not eligible to share in her husband's land. She is not allowed inside mansions or homes, but she inherits the worth of structures and furnishings for the home. According to Mulla, a childless widow is not entitled to a portion of her husband's land but entitled to a quarter of the value of buildings, trees, and moveable goods, including any debts he may have incurred.

(B) Christian Law

In Christian Law, the daughter of an intestate inherits as his child, a portion that is equal to the son's in every way, together with son and any other lineal descendants. To the widow goes the remaining third. Should a widow not be present, the entire estate will pass to the children and the other lineal descendants. A set one-third part of the property passes to the widow together with their children and other lineal descendants. Should there be no living heirs, the widow is entitled to the whole estate.

(C) Hindu Law

Even in cases when there are several daughters, property is distributed equally amongst them and their sons according to Hindu law. Daughters were first discriminated against by the Act of 1956 because they had a smaller portion than males. But this prejudice was eliminated by the 2005 Amendment Act, which gave daughters the status as independent coparceners. Hindu law abolishes the notion of limited ownership, granting daughters total ownership of all of property they held both before and after the Act. Son and daughter rights were not differentiated by this Act until 2005.

IV. LEGAL FRAMEWORK

(A) Mitakshara And Dayabhaga Schools

Up to the middle of the 19th century, the ancient Hindu law of succession was in force throughout the nation. Hindu law is divided into two main schools: Dayabhaga and Mitakshara. While the Mitakshara School was operational throughout the nation, the Dayabhaga School mostly functioned in Bengal and Assam. Both of these legal systems were developed from shastras and were predicated on sages' digests or commentary (Smritis). The Dayabhaga was built upon the text of Jimutavahana, while the Mitakshara was based upon Vijnaneshwara's

commentary on the Yagnavalkya Smirit. There were notable distinctions between these two systems with regard to inheritance and property.¹⁶

The Mitakshara School- An absolute stake in the property was held by each coparcener, who might be a member of the Mitakshara system for up to four generations. Splitting the property into distinct properties was the only way to ascertain the precise value of this interest, which changed based on the births and deaths of the coparcener. The assets, including those inherited from the male lineage and any other assets accumulated by a single coparcener, were held jointly as shared family property prior to division. With limits on alienation abilities, property devolution occurred through survivorship. Both acquired by self and inherited assets from non-male forebears was entitled to separate property rights, which were absolute.

Women were not entitled to joint inheritance by birth under the Mitakshara, nor were they permitted to become coparceners. The latter were entitled to gifts and costs associated with their marriage. Nonetheless, they might be supported by male family members as widows, wives or single daughters. Daughters were only eligible to inherit from their father's inheritance in the event that both parents and named male heirs were deceased, whilst widows were only eligible to inherit a restricted portion of their spouse's separate property.

The Dayabhaga School- Males might inherit property by demise under the Dayabhaga system, with full ownership and heirs receiving a set portion. Property was distributed equally to sons of deceased men or their surviving descendants. If there were no male heirs, a widow may get a little inheritance. Daughters who were single came next, with single women being given priority. Women did, however, inherit a share of all property, both joint and separate.

(B) The Hindu Law Of Inheritance (Amendment) Act, 1929¹⁷

It was the first legislation extending property rights of daughters. Since the Indian Act of 1929 did not provide daughters or widows the ability to inherit, it did not materially change Hindu law favorable to women. Rather, it placed emphasis on deferring to female heirs to a considerable extent male heirs. Act II of 1929, on the contrary hand, solely governed inheritance for independent property of a Hindu male who passed away intestate. This ensured that the property of a husband's wife would pass down after her death in the same manner as if it had belonged to him. Legislators fought for increased rights to inheritance for women despite this restricting women's legal standing.

¹⁶ Ibid 4, 130.

¹⁷ PACHIAMMAL (HERSELF AND AS THE LEGAL REPRESENTATIVE OF THE DECEASED ANGAMMAL) V. VEERAPPA THEVAR AND OTHERS, (1975) 1 MLJ 39.

(C) The Hindu Women's Right To Property Act, 1937

It was a groundbreaking piece of law that allowed widows to inherit alongside their sons and accept equal portions, challenging the concept of survivorship. But as widows had restricted estate rights and were not part of the joint family, they did not become coparceners. The Act acknowledged three widows—intestate widows, widows of dead sons, and widows of a deceased son of a predeceased son—as heirs of a Hindu male. It did, however, only provide a small estate and a portion of a Mitakshara coparcener's undivided stake. The Act did not apply to property that was disposed of by will or on agricultural land. The laws were overturned because they discriminated against women and had intrinsic flaws.

(D) The Hindu Succession Act, 1956

The Act updates and adjusts the ancient Hindu law concerning testamentary succession, intestate succession, joint Hindu families, and Mitakshara coparcenary. It eliminates separate laws under the Mitakshara and Dayabhaga systems and offers a comprehensive plan for property disposal through intestate succession. The Act also replaces, for Hindu women, the notion of restricted estate with absolute ownership. It offers distinct succession plan for female and male intestates, with an additional variation pertaining to the female intestates' means of acquiring property.

The line drawn in between female and male heirs under old-law succession was eliminated by the Hindu Succession Act, 1956. It converted the property that a son received from his biological father, paternal great-grandfather, and paternal grandfather into property that was distinct from that of his offspring. The Act changed the nature of inheritance rights such that daughters and their offspring became the major heirs, regardless of marriage status. Eligibility for success was based on both affinity and consanguinity. Hindus were given the authority under the Act to make dispositions of property through a will in favor of anybody.

Additionally, it changed the Mitakshara coparcenary statute and its survivorship devolution. When an undivided coparcener passes away, the law assumes that the decedent requested a partition, dividing the asset into his distinct portion. Certain female heirs, including widows, daughters, mothers, and grandparents, were granted rights under the Act. Deformities, physical and mental illnesses, and disabilities were no longer grounds for disqualification from inheritance.

The Hindu Succession Act of 1956 established the widow as the principal heir of an intestate, guaranteeing that her claim to inherit will not be contested on the grounds of her adultery. Even in the event that she gets remarried, she will always own the entire property. The Act places a

lower value on relationships based on uterine blood and favors full blood links over half blood relations. Under the Act, Class 1 heirs take concurrently. For inheritance purposes, the illegitimate issue's rights are currently exclusively acknowledged in relation to the mother. Particularly, the Act safeguards posthumous children's rights.

V. JUDICIAL PERSPECTIVE

- *Savita Samvedi v. Union of India*¹⁸

As a married daughter has to have lived in that state at least once in order to be eligible for the benefit, it was decided that her eligibility should be equal to that of an unmarried daughter. Since a daughter now has the same rights as a son, she should be happy and fulfilled in her role as a coparcener.

- *Radhika v. Aghnu Ram Mahto*¹⁹

In the case of the daughter of the second wife's property rights, the Supreme Court ruled that, in the event that a female Hindu inherits property from her father or mother, her right of succession broadens to the heirs of the father or mother and the class I heirs in the order listed in sub-section (1) of Section 15 and Section 16 of the Hindu Succession Act of 1956, provided that the female does not have a daughter or son or children of predeceased son or daughter.

- *Kalawatibai v. Soiryabai*²⁰

In this case, the Supreme Court decided that a female Hindu who was in possession of the property on the day the Act of 1956 went into effect could only become the absolute owner if she was a limited owner. This decision concerned the widow's entitlement to property. Whether or not a female Hindu was a limited owner, the legislation did not intend for her to have the advantage of enlargement of estate.

- *Prakash v. Phulavati*²¹

Hereby it was ruled that, starting of September 9, 2005 (the day the amendment to the Act began), the change in Section 6, not retroactive and only applies to a surviving daughter of a live coparcener, regardless of the daughter's date of birth. Additionally, it should be noted that this scenario shall remain untouched if any sort of division, disposal, or alienation occurred prior to December 20, 2004, in which case the previously mentioned statute would be applicable. Consequently, as of September 9, 2005, a daughter's part of the coparcenary

¹⁸ Savita Samvedi v. Union of India, (1996) JT (1) 680.

¹⁹ Radhika v. Aghnu Ram Mahto, (1998) 232 ITR SC 898.

²⁰ Kalawatibai v. Soiryabai, (1991) SC 1581.

²¹ Prakash v. Phulavati, (2016) 2SCC36.

property could only be inherited if both her father and she were still living.²²

- *Vineeta Sharma v. Rakesh Sharma*²³

Arun Mishra headed a bigger panel of three judges to consider an additional case due to these differing opinions. The right as coparcenary has been awarded to girls, placing them on an equal footing with sons. The exclusion of daughters from this privilege was discriminatory, leading to despotism and the denial of basic rights. In the case of Tulasamma & Ors. versus V. Sesha Reddi (1977)3SCC99, the Supreme Court of India elucidates the scope and dimensions of Sections 14(1) and (2) of the HSA 1956. The court distinguished subtly between the 2759 woman's entitlement to her possessions and her pre-existing right to maintenance.

- *Arunanchala Gounder v. Ponnusamy and Ors.*²⁴

The Supreme Court stated that prior cases under the Hindu Succession Act, 1956 stated that in the event that a Hindu male died intestate and left behind property that he had personally acquired, such property would descend by inheritance and not by survivorship.

VI. JOURNEY OF WOMEN PROPERTY RIGHT LEGISLATION FROM HINDU SUCCESSION ACT 1956 TO AMENDMENT OF 2005

Coparcener is a well-known trait among Hindus. Not every HUF member is qualified to be a coparcener. Son's Hindu coparcener status gives him some special rights over coparcener property. The denial of a daughter's right in coparcener contributes to the dissimilarity of sexual categories since daughters are unable to claim ancestral property. It also results in dominance and deprivation of her basic rights. The law of succession was significantly altered and women's property rights, which had previously been undefined, were granted by the passage of the Act 1956. Nevertheless, compared to siblings, women were not allowed to hold the post of coparceners. It states clearly that, in the event of a male Hindu's death, his stake in HUF property would transfer to remaining members of the coparcener through survivorship rather than succession. On the other hand, the Hindu Code Bill sought to provide women the freedom to own property and to prohibit gender discrimination. This regulation made it possible to abolish the "graded inequity" of caste system by putting out the notion that both male and female should be treated equally in order for a community to advance. Article 6 of the Act was drastically altered by the 2005 Amendment Act, which also altered the notion of the transfer of ownership

²² Dr Apeksha Kumari, Gender Justice v. Property Rights Under Hindu Succession Amendment Act, 156 <https://www.scconline.com/Members/SearchResult.aspx>.

²³Vineeta Sharma v. Rakesh Sharma, MANU/SC/0582/2020.

²⁴Arunanchala Gounder v. Ponnusamy and Ors (2022) SCC.

from Coparcener property to Hindu daughters' Coparcener property.

Daughters have the same rights in property that males have. In fact, the 2005 Amendment Act significantly modifies the Hindu Succession Act regarding women's status as coparceners, with the goal of empowering women economically through enabling them rights in the property as per their own manner. In India, women are entitled to the same portion of their deceased husband's property as other heirs, but if there exists no co-sharers, they have exclusive ownership of the whole estate. Whether they are earned, inherited, or gifts, she has the authority to own her possessions. Traditionally, inheritance laws stated that women were entirely exempt and barred from owning property.

The eldest son in the family, whether biological or adoptive, was entitled to all the property upon the death of his father. A woman was not allowed to inherit her father's property since she is not seen as independent. On August 11, 2020, the Indian Supreme Court handed down a historic ruling in *Veenita Kumara v. Rakesh Sharma*²⁵, which addressed the rights of Hindu women to inherit property. Three judges were supervising the bench. According to Bench, women are entitled to share in the inheritance of their ancestors' property by birth. Whether or not the father was alive at the time the 2005 law was passed is irrelevant.

(A) National Policy For The Empowerment Of Women (2001)

The primary goal of policy is to eliminate the disparity in women's equality by creating policies and standards. The committee examined how legislation pertaining to the constitution, the law, and management affected women, especially in rural regions, and they offered suggestions on how to encourage women to participate less in the workforce. The nation goals outlined in the policy were Advancement, Empowerment, Growth, and Equal Women's Participation and Decision-Making in the Political, Social, and Economic Aspects of the Nation, with a Gender Perspective in Development Strengthening and Expanding Links with Civil Society. The study of law is included in the category of general education known as legal knowledge. It is our duty as community members to be informed about these laws and advancements that instruct us in the creation, interpretation, and critique of laws.²⁶

VII. CONCLUSION

Despite a doubt, women cannot achieve equality until they are granted equal economic rights. The woman must be allowed to live in her birth and marriage homes in order to uphold her

²⁵ Supra note 18.

²⁶ Shalini, S., Dhiman, S., Pathak, D. N., Singh, U. K., & Narayan, J., 6 (S5) *Intergenerational reforms in women's right to inheritance in India*. *International Journal of Health Sciences*, 2752–2762(2022).

rights to life, dignity, and respect. The fundamental issue is how to make de facto equality for the great majority of rural, illiterate women and other marginalized groups in society become de jure equality. Now is the moment for all women, regardless of caste, creed, religion, or sect, to really and ardently work towards realizing what has escaped them—the unfulfilled goal of eliminating all gender inequality and discrimination based on sexual orientation. They had to follow and capture the dynamic time by its forelock, walking in tandem the entire time. Women's equality declarations alone won't mean anything unless society as a whole advances. She still has a long way to go, since there is still much that has to be done to ensure that men and women have equal access to proprietary rights, particularly with regard to women's property rights.

Women are now gradually gaining access to several rights that were previously denied to them due to their gender. With the introduction of landmark legislation, daughters are now accorded coparcenary rights and obligations. It appears that policy makers are becoming less averse to the partition of family property, as seen by the recent modification of Hindu law that allows daughters to demand their parts of ancestral property. More female heirs have been elevated from Class II to Class I by the Amendment Act of 2005, making them the major heirs. Additionally, the provisions that had restricted males' access to the dwelling house's partition rights have been removed. Everyone now gets equal inheritance according to the 2005 Amendment Act. Within the Hindu household, a girl born into a coparcener family shares the same rights and duties as a boy, including the right to survive and the ability to escape certain situations.

However, unless women are more aware of their entitlements, this legislation will not be effective. Women often experience deprivation and give up their rights. It is impossible to ignore the shift that took centuries for women to be treated equally to men when it came to their inheritance rights because of people's ignorance. Additionally, the judiciary ought to try to enforce the law.

Without a question, the way that property law has been seen in relation to women's rights has evolved throughout time. Women now have more influence thanks to the current legislation, which has mostly succeeded in achieving gender equality. Still, reform cannot be fully achieved unless the laws are put into force. Before society adopts the changes brought about by legislation, no law can accomplish its intended purpose. Therefore, efforts should be taken to educate the public and use the media to raise awareness of how the law is being viewed.
