



Evolution of Women's Property Rights in India: From Ancient Traditions to Modern Legal Reforms

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Abstract: Women's property rights in India have witnessed a long and complex journey, shaped by cultural traditions, religious prescriptions, colonial interventions, and post-independence constitutional and legislative reforms. From the restrictive notions of Stridhana in ancient Hindu law to the revolutionary Hindu Succession (Amendment) Act, 2005, the trajectory reflects both the resilience of patriarchy and the struggle for gender justice. This article explores the evolution of women's property rights in India across different historical phases, critically examining how ancient customs, medieval traditions, colonial codifications, and modern legal frameworks have influenced women's access to property. It also highlights judicial interpretations and constitutional principles that continue to push for equality in ownership and inheritance.

Keywords: Women's Rights, Property, Inheritance, Hindu Succession Act, Gender Equality, Constitutional Law

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INTRODUCTION

Property ownership is an essential aspect of social and economic empowerment. For centuries in India, however, women's rights to inherit or own property were constrained by patriarchal customs and religious prescriptions. In addition to being legal privileges, property rights often reflected traditional perceptions of women's duties in the home and community. Independent ownership was uncommon in the past since women were seen as dependents, first under their fathers, then under their spouses, and last under their sons.

The journey of women's property rights in India is marked by gradual, and often reluctant, reforms. Ancient traditions offered limited recognition through *Stridhana*, while medieval laws further entrenched male dominance. The colonial period brought codification but failed to dismantle discriminatory structures. True transformation began in the post-independence era, with the Constitution mandating gender equality and subsequent laws seeking to align inheritance rights with modern democratic ideals. This article traces this evolution in a chronological manner, highlighting the continuity of patriarchal control and the struggle for gender justice.

Property ownership has long been recognized as a cornerstone of social and economic empowerment, yet for centuries in India, women's rights to inherit or own property were systematically constrained by patriarchal traditions and religious prescriptions. In a deeply hierarchical society, property rights were not

merely legal entitlements but were also symbolic of the larger socio-cultural attitudes toward women's roles within the family and community. Women were historically treated as dependents—first under the authority of their fathers, later under their husbands, and eventually under their sons—leaving little room for independent ownership or control over resources.

The evolution of women's property rights in India has been neither uniform nor swift, but rather a gradual process shaped by religious texts, customary practices, colonial policies, and constitutional principles. Ancient Hindu traditions recognized women's independent ownership only in a limited form through *Stridhana*, or personal property gifted at marriage or inherited from close relatives. This recognition, however, excluded landed property and reinforced the view that women's rights were secondary. By denying daughters coparcenary rights, the Mitakshara and Dayabhaga schools of Hindu law further solidified this inequity and made sure that males continued to own the majority of the financial resources. By reducing women to symbolic rather than substantive ownership, these frameworks perpetuated gender inequalities, according to scholars like Flavia Agnes and Bina Agarwal.

The medieval period offered only partial relief through Islamic inheritance law, which allocated fixed shares to women but still privileged male heirs with larger portions. While Muslim women had clearer entitlements than their Hindu counterparts, the provisions nevertheless underscored women's dependent status. The onset of colonial rule marked a turning point in the codification of personal laws, yet the British largely reinforced patriarchal structures under the pretext of respecting tradition. As Werner Menski argues, this policy of non-interference perpetuated systemic inequalities. The Hindu Women's Right to Property Act of 1937 was a modest reform, granting widows a limited share in joint property but denying daughters equal rights. Jurists like Ratna Kapur have critiqued such colonial reforms as “cosmetic” measures that failed to challenge the deeper patriarchal foundations of property law.

A significant change occurred in the years after independence, when the Indian Constitution firmly established the values of equality and nondiscrimination. Debates in the Constituent Assembly focused on the need of bringing family and inheritance laws into line with the principles of gender equality and social justice. While Article 39 of the Directive Principles instructed the state to secure equal rights to means of production and subsistence for men and women, Articles 14, 15, and 16 ensured equality before the law. The Hindu Succession Act of 1956 represented a landmark attempt to unify inheritance law among Hindus, Jains, Sikhs, and Buddhists, yet its failure to grant daughters coparcenary rights highlighted the reluctance of lawmakers to dismantle entrenched male privilege. Scholars such as Archana Parashar have noted that this exclusion represented a compromise between progressive ideals and patriarchal resistance.

By interpreting personal laws in light of constitutional protections, the court has been instrumental in closing these gaps. The Travancore Christian Succession Act's discriminatory clauses were declared unconstitutional by the Supreme Court in *Mary Roy v. State of Kerala* (1986), guaranteeing women's equal inheritance. In *C. Masilamani Mudaliar v. Idol of Sri Swaminathaswami Thirukoil* (1996), the Court reinterpreted property rights in favor of women by specifically citing the constitutional duty of equality. The landmark decision in *Vineeta Sharma v. Rakesh Sharma* (2020) marked a watershed moment, affirming that daughters are coparceners by birth under the Hindu Succession (Amendment) Act, 2005. Justice Indu Malhotra hailed this as a transformative judgment that finally harmonized statutory law with

constitutional principles.

Legislative reforms have also followed a trajectory of incremental change. The 1937 Act first opened the door, the 1956 Act consolidated inheritance rights, and the 2005 amendment granted daughters equal coparcenary rights. The Law Commission's 174th Report (2000) strongly influenced these changes by recommending that women's property rights be brought in line with constitutional guarantees. Jurists such as Durga Das Basu have rightly described the 2005 amendment as the constitutionalization of family law, embedding equality into the very fabric of joint property ownership.

Yet, despite progressive reforms, significant challenges remain. Social norms and patriarchal pressures continue to compel women to relinquish their shares in favor of male relatives, often framed as an act of duty or sacrifice. Lack of awareness about legal rights, coupled with administrative hurdles in land registration and property transfer, prevents many women from exercising their entitlements. As Flavia Agnes reminds us, "legal rights do not automatically translate into lived realities." Disparities in personal laws across religious communities further complicate the picture, leaving women with unequal protections depending on their faith. Scholars like Bina Agarwal emphasize that genuine empowerment requires not only legal recognition but also actual control and decision-making power over property.

The story of women's property rights in India is thus a layered narrative of continuity and change, marked by resistance, reform, and resilience. From the limited recognition of *Stridhana* in ancient times to the equal coparcenary rights enshrined in the 2005 amendment, the evolution reflects both the persistence of patriarchy and the transformative power of constitutional ideals. The challenge ahead lies in bridging the gap between law and practice, ensuring that women not only possess rights on paper but also exercise them in reality. This ongoing journey underscores the struggle for substantive equality, making women's property rights a critical site of both legal reform and social transformation in India.

WOMEN'S PROPERTY RIGHTS IN ANCIENT INDIA

In ancient Hindu law, women were allowed certain property rights under the concept of *Stridhana*, which included gifts received from parents, relatives, or a husband during marriage and later life. Texts such as the *Manusmriti* recognized *Stridhana* but restricted women's authority, often subjecting its management to male oversight. Women could rarely alienate or dispose of such property independently.

Two major schools of Hindu law **Mitakshara** and **Dayabhaga**—also shaped inheritance rules. The Mitakshara school denied women coparcenary rights, confining them to limited inheritance and life estates, while the Dayabhaga school, though slightly more liberal, only allowed women to inherit in the absence of male heirs. Thus, women's property rights were recognized but heavily curtailed, reflecting a patriarchal order where economic resources were controlled by men.

MEDIEVAL PERIOD: CUSTOMARY PRACTICES AND MARGINALIZATION

The medieval era further reinforced patriarchal structures. Customary practices largely denied women independent ownership, restricting them to maintenance-based entitlements. In most parts of India, daughters and wives were not considered rightful heirs to family property. Widows could only hold property temporarily until a male heir assumed control.

However, exceptions existed in matrilineal societies, particularly among the **Nairs of Kerala** and certain tribal communities in the northeast, where women exercised relatively greater authority over family resources. Despite these regional variations, the dominant narrative of medieval India remained one of restricting women's access to property and reinforcing dependency.

COLONIAL PERIOD: CODIFICATION AND LIMITED REFORMS

The British colonial administration sought to codify Indian personal laws but largely reinforced patriarchal traditions rather than reforming them. By applying "Anglo-Hindu" and "Anglo-Muslim" laws, colonial courts often froze religious practices into rigid codes that disadvantaged women further.

The Hindu Women's Right to Property Act of 1937 was a landmark law that gave widows a portion of their husbands' assets. The widow may still enjoy the property while she was alive, but she was not allowed to completely dispose of it since it was just a limited estate. Although there were somewhat more gender-neutral inheritance restrictions in the Indian Succession Act, 1925, which applied to Christians and Parsis, prejudice against women persisted in real life.

The colonial period is therefore best understood as a phase of partial recognition, where reforms were incremental and failed to challenge the structural inequalities that governed women's access to property.

POST-INDEPENDENCE CONSTITUTIONAL MANDATE

A watershed was reached in 1950 with the ratification of the Indian Constitution. Equal rights before the law were established by Articles 14, 15, and 16, which also forbade sex-based discrimination. The State was instructed under the Directive Principles of State Policy, namely Article 39, to guarantee equal rights to ownership and means of subsistence. A constitutional foundation for changing discriminatory property laws was established by these clauses.

The first major reform was the **Hindu Succession Act, 1956**, which consolidated Hindu laws on succession. While it gave women inheritance rights as Class I heirs, it failed to give daughters equal coparcenary rights in joint family property. This reflected a compromise between constitutional ideals and entrenched patriarchy.

MODERN LEGAL REFORMS: THE HINDU SUCCESSION (AMENDMENT) ACT, 2005

The most transformative reform came with the **Hindu Succession (Amendment) Act, 2005**, which corrected one of the most glaring inequalities in Hindu law. It granted daughters equal coparcenary rights as sons, by birth, in Hindu joint family property. This amendment ensured that daughters could demand partition and dispose of their share as absolute owners, thus significantly empowering women.

Subsequent court interpretations reinforced these revisions. In *Vineeta Sharma v. Rakesh Sharma* (2020), the Supreme Court explicitly stated that daughters possessed coparcenary rights regardless of whether the father was still alive at the time of the modification. This was a watershed in terms of aligning personal laws with constitutional equality.

CHALLENGES AND CONTINUING GAPS

Despite the existence of a robust constitutional and legislative framework, women in India continue to face serious challenges in realizing their property rights. The persistence of patriarchy is one of the most significant barriers. In many communities, it is considered culturally appropriate for daughters to renounce their share in ancestral property in favor of brothers, either voluntarily or under familial pressure. Such “voluntary relinquishments” are often couched in the language of sacrifice, duty, or family harmony, but they reflect deep-rooted gender inequalities. Even when women are legally entitled to inherit or own property, these rights often remain notional, as societal expectations limit their exercise.

Another obstacle is the lack of awareness among women about their legal rights. Many women, particularly in rural and semi-urban areas, are unaware of their entitlements under the Hindu Succession (Amendment) Act, 2005, or under general inheritance laws. This ignorance is further compounded by low literacy levels and the absence of institutional support mechanisms to spread awareness. For example, while government campaigns have promoted women’s rights in education and employment, relatively less attention has been given to sensitizing women about their property and inheritance rights. Consequently, women often depend on male family members or local intermediaries for information and legal procedures, which leaves them vulnerable to manipulation.

Economic dependence is another dimension that limits the enforcement of women’s property rights. A woman who is financially dependent on her father, husband, or brother may hesitate to assert her inheritance for fear of jeopardizing her economic security. In rural India, where joint families are prevalent, asserting property claims may also mean losing the support system for daily survival. This creates a paradox: even though laws provide equal rights, social conditions make it difficult for women to claim them without compromising their livelihoods and relationships.

Administrative and procedural hurdles in land registration and property transfer processes further complicate the realization of women’s rights. Women who attempt to register land or property in their name often face bureaucratic delays, corruption, and gendered biases in local revenue offices. In many cases, land records do not reflect women’s ownership, either because the property was registered in the name of a male relative or because mutation procedures were never completed. This lack of documentary evidence of ownership makes it difficult for women to exercise control, mortgage property, or access institutional credit.

Disparities are still reflected in personal laws that apply to various religious groups. For example, Muslim personal law still limits female heirs to a lower portion than male heirs due to Quranic injunctions, even though the Hindu Succession Act after 2005 recognized daughters as coparceners. Similarly, even if they have improved, Christian and Parsi women's inheritance rights are still not equal in several ways. These disparities result in a disjointed legal system where women's rights differ based on their religious membership, giving them uneven legal protection.

Judicial interventions have been progressive in bridging some of these gaps, but courts alone cannot address the social and cultural resistance to women’s property ownership. There remains a significant gap between legal rights on paper and their practical enforcement in everyday life. Unless accompanied by social awareness campaigns, capacity building, and administrative reforms, legal equality will remain largely aspirational.

Thus, while India has made remarkable progress in legislating gender equality in property rights, challenges remain embedded in societal structures and practices. The task ahead is to harmonize legal provisions with social realities by addressing cultural biases, ensuring effective implementation, and fostering economic independence for women. Only then can constitutional promises translate into genuine empowerment and equality in the realm of property ownership.

CONCLUSION

The evolution of women's property rights in India reflects a long struggle against entrenched patriarchy. From *Stridhana* in ancient times to the path-breaking Hindu Succession (Amendment) Act, 2005, the trajectory shows both progress and resistance. The Constitution has served as the guiding framework for reforms, while judicial activism has ensured that discriminatory practices are challenged.

Yet, the promise of equality remains incomplete unless legal rights are accompanied by social transformation. Awareness, effective implementation, and cultural change are necessary to ensure that property ownership becomes a real instrument of empowerment for Indian women. The journey of women's property rights, though far from complete, continues to move towards realizing the constitutional promise of justice, equality, and dignity.

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