

SUMMARY

INTRODUCTION

“Women constitute half the world’s population, perform nearly two thirds of its hours, and receive one tenth of the world’s income and less than one hundredth percent of the world’s property.”¹

Women have a unique position in every society whether developed, developing or underdeveloped. This is particularly due to the various roles they play during various stages of their life, as a daughter, wife, mother and sister etc. In spite of her contribution in the life of every individual human being she still belongs to a class or group of society which is in a disadvantaged position on account of several social barriers and impediments. She has been the victim of tyranny at the hands of men who dominates the society. The position of Indian woman is no better compared to their counterparts in other parts of the world. On one hand, she is held in high esteem by all: worshipped, considered as the embodiment of tolerance and virtue. But on the other hand, she has been the victim of untold miseries, hardships and atrocities caused and perpetuated by the male dominated society. She has not only been denied of full justice, social, economic and political but as a "weaker sex" she has been used to be abused and exploited to maximum extent and subject to ignorance at all levels by male dominated society.²

Women play a significant role in the life of every individual human being. Securing her better birth rights would mean giving a better future to our own society, family and to every individual. There is gender inequality in various forms, but most tedious one relates to property rights granted to women. This disparity in property rights pertaining to gender, spells right from ancient times. In India, a woman is seen as divine and worshipped as the embodiment of all the virtues on one hand but on the other she is discriminated against and victimized by the norms created by the male

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- 1 <http://www.un.org/esa/socdev/social/meetings/egm10/documents/Nandal%20paper.pdf>, last visited on 07/09/2016, time: 9:00 am, place: Delhi. This observation from the United Nations Organizations envisages that the women constitute half of the world’s population still they suffer discrimination today in every walk of life. The minute study of world’s women specified records and statistics reveals that the women comprise 66% of the world’s literacy and 70% of the world’s poor.
 - 2 C.A. Gurudath, (ed.), *Women, Child Law and Society*, 119 (2006)

dominated society. She has not been given her due and legitimate place and status in the society even after all the civilization and cultural revolutions. Exploitation of women at home and outside continues in most parts of the country. Male superiority and adverse conditions for women are still widely prevalent. The full development of personality, and fundamental freedom and equal participation by women in political, social, economic and cultural scenario are concomitants of national development which depends on social and family stability. All forms of discrimination on grounds of gender breed unrest.³

Under ancient Hindu society, women were considered to be of low social status and treated as a dependent with barely any property rights. Under the old *Mitakshara* Law, on birth, the son acquires a right and interest in the family property. According to this school, a son, grandson and a great grandson constitutes a class of coparceners, based on births in the family. No female is a member of the coparcenary in the *Mitakshara* Law.⁴

The earliest legislation which brought females into the scheme of inheritance was 'The Hindu Law of Inheritance Act, 1929', which conferred inheritance rights on three female heirs, i.e., son's daughter, daughter's daughter and sister. During this period another landmark legislation conferring ownership right on a woman was 'The Hindu Women's Right to Property Act, 1937'. This Act of 1937 enabled the widow to succeed along with the son and to take the same share as the son. The widow was not a coparcener, even though she possessed a right akin to coparcener's interest in the property and was a member of the joint family.

However, prior to the commencement of 'The Hindu Succession Act, 1956', the property held by a Hindu female was classified under two heads: (1) *Stridhan* and (2) Hindu Women's estate. The former was regarded as her absolute property over which she had full ownership and on her death it devolved upon her heirs. The latter was considered to be her limited estate with respect to which her powers of alienation were limited. The enactment of The Hindu Succession Act, 1956 got all the Hindus under the one kind of joint family coparcenary system, i.e., *Mitakshara* coparcenary. This law was designed to lay down a law of succession whereby sons and daughters would enjoy equal inheritance rights. In fact, however, significant gender inequalities

3 Aftab Alam, *Human Rights in India : Issues and Challenges* 76 (1998)

4 K.M. Kapadia, *Marriage and Family in India* 80 (1955).

persisted that disadvantaged the daughters considerably. The main source of biasness came from joint family property, to which sons enjoyed right by birth to an independent share but daughters did not. Both had equal rights of inheritance to the separate property that their father accumulated during his lifetime. The sons had a share in the coparcenary property of his father and the daughters in the self-acquired property of her father. But due to the fact that a considerable amount of property, especially in the rural areas, is still jointly owned, such biased rights had a crippling effect on the position of women in India.⁵

The gender inequality facets itself in different forms, but the most tiresome one relates to the effective property rights of women. Because the Parliament by enacting the Hindu Succession Act 1956, accorded those property rights to the women whereby she can constitute her independent rights of inheritance and independent stock of descent. Before the passing of this Act, women's right to inherit, own and control property are determined primarily by the values and norms which are socially acceptable and the primary objective of inheritance systems in Indian society has been to preserve property, especially landed property, intact for male heirs.⁶

In addition to inheritance, sons could also demand partition of the joint family property while daughters could not. For example, if the joint family property was a dwelling house, sons (as a part of the coparcenary) could demand a partition of the same but daughters were only allowed right of residence but no right of ownership or possession. Hence, the Hindu Succession Act, 1956 was by no means a gender neutral law.⁷

The Constitution of India in its Preamble provides for Justice – social, economic and political and with its declaration of equality of man and woman through its numerous provisions, eg., Fundamental Rights, Directive Principles of State Policies. It envisages the ushering of new era wherein women as a citizen of India will be treated as equal to man in all walks of life. It is indeed a great proclamation which ends an old era and declares the principles on which the new era will be based.

5 Radhabinod Pal, (*Tagore Law Lectures*) *The History of Hindu Law* 45 (1930)

6 J. Dancan. M. Derret, *A Critique of Modern Hindu Law*, N. M Tripathi Pvt. Ltd, Bombay (1970), p.193.

7 In case of a Hindu woman dying intestate, all her property devolves equally upon her sons and daughters and husband, if alive. If she has no children or other heirs having first right to her property, then the property devolution takes place according to the source of acquisition.

Gender inequality continued in the matter of property rights given to females even after the commencement of the Constitution of India, even though ownership of land and property in fact makes women economically independent and secure.⁸

Property Rights of Women in Vedic Age:

During the Vedic age, the Brahmins occupied the highest position in the socio-religious hierarchy and they for legalizing their superiority adopted the method of relying upon Dharamsastras.⁹ The sources of these Dharamsastras were supposed to be Hindu religious texts like the Vedas and *Smritis*, approved customs and good conscience¹⁰. An important digest on all the *Smritis* written by Jimutvahana in 12th Century was *Dayabhaga* which got much acceptance in Bengal. The *Mitakshara* which was again written in 12th Century is a running commentary on one of the *Smritis* called Yajñavalalkya written by Vijñaneshwara which was accepted in the rest of India. Later on these two (digest and commentary) emerged as two different schools known by the name *Mitakshara* and *Dayabhaga*. These two schools differed on the subject of inheritance.¹¹

Regarding the position of women in early Vedic society, women occupied the same position as the man. There was complete gender equality in all spheres of life and women enjoyed great respect, significant rights and privileges. A girl was free to get herself educated just as boys in those days. During the Vedic period, studies started after the thread ceremony, which was called 'Upnayana Samskara'. In Rig Veda it was mentioned that who wore sacred thread were considered capable of performing many responsible jobs. Many statements in the Vedic literature indicate clearly that women were undergoing Upnayana Samskara, studied Holy Scriptures and recited Mantras. With regard to the institution of marriage, women had also an effective say in the selection of her life partner. The famous system of marriage by 'Svayamvara' had its origin in Vedic literature. It was intended that man cannot perform various religious ceremonies alone. For the performance of religious rites and

8 The Constitution of India, 1950

9 K.M. Kapadia, *Marriage and Family in India* 80 (1955).

10 The Vedas were religious hymns, perhaps 3000 years old, and the *Smritis* were collection of rules of conduct and explanatory principle based on Vedas. The *Smritis* comprised texts, such as Manu Smriti which was written between 300 BC and 300 AD and later on commentaries and digests.

11 Jana Matson Everett, *Women and Social change in India*, Heritage Publishers, New Delhi (1978), p.142.

ceremonies the presence of wife was must. A man was believed to be incomplete so long as he does not have a wife. The wife was said to be her husband's 'Ardhanagini' i.e. half of the man.

The theory that Hindu women are excluded from inheritance was started with the text of Baudhayana, the reputed founder of one of the schools of Black Yajurveda. He was responsible for not giving heritable rights to women. He could never regard women as capable of possessing an independent status. According to him, women were not known to be eligible for freedom. In support of his views he contended:

"The father protects woman in her childhood; the husband during her youth; the son in the old age; woman ought not to have freedom."

The later commentators and digest writers such as Haradatta, King Partap Rudra Deva the author of *Saraswati Vilasa*, Mitra Mishra the author of *Virmitrodaya* have also adopted the same base for excluding the women from inheritance rights. Though, later on it was presumed by the scholars that the Vedic text cited by Baudhayana has nothing to do with the inheritance rights of the women. They are of the opinion that Baudhayana cited this text only to support his own view as to the capacity of women to inherit.¹²

Further the low status of women is attributed to the Manusmriti. Dr. Ambedkar traces the low status of women to Manu's Manusmriti which instructed the menfolk not to allow women to have unbridled rein in any walk of life. Manu observed: A wife, a daughter and a slave have no property. The wealth, which they earn, belongs to their owners. Thus, Manu was deadly against the welfare and giving dignified status to the women at every stage of their lives.

Property Rights of Women under various Schools:

Basically there were two important schools of Hindu Law- *Mitakshara* and *Dayabhaga*. *Mitakshara* is a running commentary on the code of Yajnavalika. It is however more a digest than a mere commentary on a particular Samiriti. It was written in latter part of 11th century by Vijñaneswara. The *Mitakshara* is further sub divided into four minor sub schools, i.e., Benars School, Mithila School, Bombay

12 P.C Jain, *Heritable Rights of Hindu Female: General Survey*, *Journal of Legal Studies*, University of Rajasthan, Vol. 28 (1997-98), pp. 3-6.

School and Dravida School. *Mitakshara* was accepted as supreme authority in whole of India except in Bengal where *Dayabhaga* written by Jimutvahana was prevalent.

These two Schools differ from each other in various aspects but one of the principal differences between these two main schools relates to the law of inheritance, because regarding inheritance, *Mitakshara* system is based on consanguinity or proximity of blood relations where as *Dayabhaga* system is based upon the religious efficacy. According to *Mitakshara*, the nearest “sapinda” is one who is nearest in blood relation but according to *Dayabhaga* the nearest Sapinda is one who offers greatest spiritual benefit by making offerings of ‘Pinda’. But so far as females’ proprietary rights are concerned, in both of these Schools succession to the property was vested in male heirs. Since women were viewed as dependents upon these males, Hindu Law give them right of maintenance but not to inheritance. In *Mitakshara* School son had given a birth right in the father's property. Even at that time (before Amendment 2005) the institution of coparcenary which is the narrower body within the joint family consists only of male members. It comprises of one lineal male ancestor along with his three lineal male descendants.¹³

The text of Yajnavalkya is the foundation of the whole law of inheritance in the Mitakshatra jurisdiction. It runs as follows: “The wife, daughters, both the parents, brothers and likewise their sons, agnates, cognates, a pupil and a fellow-student.” Of these, on failure of the preceding, the next following is heir to the estate of one who has departed for heaven, leaving no putra. This will extend to all males, whether or not belonging to the four classes. Though it is usual to speak of male issue taking as heirs to a man’s property, it is not strictly correct, for, where a man dies leaving a son, grandson or a great-grandson, the inheritance as to them is unobstructed whether it is the ancestral property or separate property of the father. In both cases, they take it by reason of their right by birth. Where it is ancestral property, their right is equal and effective even during the father’s lifetime. Where it is not ancestral, it is an unequal or subordinate right but is effective for purposes of succession in the absence of a disposition by the father. In other words, they take strictly by survivorship.¹⁴

13 T. Buhler, "The Laws of Manu" in Mac Muller (ed.), *The Sacred Books of the East Series* Vol.25 105 (1964).

14 Neelam Upadhyay and Rekha Pandhay, *Women in India, Past and Present* 17-18 (1990)

According to the text of Yagnavalkya, it confines inheritance to the estate of one who leaves no male issue. The *Mitakshara* law of inheritance, therefore, applies exclusively to property which was held in absolute severalty by its last owner. Such property will include: (1) self-acquisitions of the last male owner; (2) property inherited by him from his collaterals, mother or maternal grandfather; (3) property which was allotted to him for his share at a partition with his coparceners; and (4) property which vested in him exclusively as the last surviving coparcener.¹⁵ Under the *Mitakshara* School, property rights are given only to male members. The Supreme Court in a case of *State Bank of India v. Ghamandi Ram*¹⁶ stated that the textual authority of *Mitakshara* lays down in express terms that joint family property is held in trust for the joint family members then living and thereafter to be born.

Concept of Coparcenary Property:

Coparcenary is “unity of title, possession and interest”. To clarify the term further, a Hindu Coparcenary is a much narrower body than a Hindu joint family. It includes only those persons who acquire by birth an interest in the coparcenary property, they being the sons, grandsons, and great-grandsons of the holders of the property for the time being.

Concept of *Stridhan*:

As the word denotes, *Stridhan* comprises of two words Stri+Dhan. Thus, it means Dhan of the ‘Stri’ i.e. women's property. The term ‘*Stridhana*,’ first occurs in the *Smritis* and literally means woman's property but various sages use the word in different senses.

The subject of *Stridhana* occupies a large place in the Sanskrit law books. Woman's separate property was, from the most ancient times, known as *Stridhana*. This term ‘*Stridhana*’ first occurred amongst the *Smritis* in the *Dharmasutra* of Gautama which literally means woman's property. The *Mitakshara* and the authorities that follow it take the term in its etymological sense as including all kinds of property of which a woman has become the owner, whatever the extent of her rights over it. *Jimutavahana* restricts the term to that property of woman over which she has absolute control even during the life of her husband.

15 Urusa Mohsin (Dr.), *Women's Property Rights in India* 12 (2010)

16 *State Bank of India v. Ghamandi Ram* AIR 1969 SC 1330

Women's Right of Succession & Inheritance:

As the normal condition of the family was undivided, occasion would seldom arise for recognition of the rights of women. The dictum in Manu stated that the wife, a son, and a slave are declared to have no property, merely meant that they were not independent.¹⁷ But later Manu has himself enumerated six kinds of *Stridhan*.¹⁸ The early importance of *Stridhan* is by itself sufficient to show that women had substantial rights though their position was inferior to that of men. For the purpose of inheritance to *Stridhan*, the first acquirer at least was considered a fresh stock of descent and women was preferred over men. The explanation was that in the case of inheritance to the property of men, males were preferred to women as heirs, while in the case of inheritance to women's property; women were preferred to men as heirs. But neither was completely excluded from inheritance to the other's property. The rights of women in the family to inheritance were in every case very substantial and on the whole, it would seem that some of the later commentators erred in drawing adverse influences from the vague references to women's succession in the earlier *Smritis*. Vijnanesvara nowhere endorsed that women are incompetent to inherit.

The right of a widow to succeed as heir to her husband was recognized at least two thousand years ago. Manu, Yajnanvalkya, Vishnu, Brihaspati, Katyayana etc. all fully recognize her right to succeed to her husband. Vijnaneshwara's conclusion is that the widow is entitled to inherit her husband's property, if he died, separated and not reunited and left no male issue. The text of *Mitakshara* says that: "therefore, it is settled rule that a wedded wife, being chaste, takes the whole estate of a man, who being divided from his co-heirs and not subsequently reunited with them, dies leaving no male issue."¹⁹

Except where the succession is governed by the Hindu Women's Right to Property Act, 1937, the widow will only take in default of male issue. In default of the widow, the daughter succeeds as an heir. Her right was put upon the ground that she produced sons who could present oblations. According to the rule of Hindu law, an unchaste widow cannot succeed to the estate of her husband. But the widow of a predeceased son or of the predeceased son of a predeceased son would, except in

17 Manu, VIII, 416.

18 See Manu, IX, 194.

19 Mitakshara II, 1, 39.

Bengal, not be covered by the condition of chastity but the new rights of succession conferred upon them would prevail without any such condition precedent. The second marriage of a widow was formerly unlawful, except where it was sanctioned by local or caste custom. In all cases, whether it was permitted by usage or otherwise, second marriage entailed the forfeiture or divesting of the widow's estate, or involving degradation from caste.

Remarriage of the widows was legalized in all cases by the Hindu Widow's Remarriage Act, 1856. The Act provided that all rights and interests which a widow had in her deceased husband's estate shall cease and determine on her remarriage as if she has then died. But now it is judicially settled law that once a widow succeeds to the property and acquires absolute right under the Hindu Succession Act, 1956, she cannot be divested of that right on remarriage. The unmarried daughter is first entitled to succession, if there be no maiden daughter, then the daughter who has and the daughter who is likely to have male issue are together entitled to succession and on the failure of either of them, the other takes the heritage. In no circumstance can the daughters who are either barren, or widows destitute of a male issue or the mothers of daughters only, inherit the property. These distinctions under the *Dayabhaga* School are based upon religious efficacy. Where there are several daughters, they take jointly with rights of survivorship and their rights are exactly the same as in the *Mitakshara* School.

On the death of a daughter, who had succeeded before her marriage to her father's estate to the exclusion of her married sister, the estate so inherited by her devolves upon her married sister who has or is likely to have a male issue and not upon her own son. In another case, where two daughters succeeded jointly to their father's estate and on the death of one of them, the survivor is childless widow; she will take the whole estate by survivorship.

RESEARCH OBJECTIVES:

The present piece of work provides the following objectives: -

- 1) To reveal the issues relating to inheritance of property by women in Hindu society.
- 2) To scrutinize the elements of inheritance of property in Indian society.
- 3) To harmonize property rights of women with social norms and practices.

- 4) To study the gaps left out in relation to the present legal norms relating to property rights of women and the implementation of the amended law.
- 5) To come up with certain suggestions or findings.

HYPOTHESES:

After careful analysis of result of a pilot study, following hypotheses are framed. The result of this study will either prove or disprove the following hypotheses:

- 1) The root cause is the discrimination/injustice against women under the Hindu Law while dealing with right of inheritance of women, denial of equal share to her in the ancestral property etc.
- 2) Absence of comprehensive legislation conferring equal rights of inheritance to Hindu women, results in discriminatory practices against them.

SCOPE AND LIMITATION:

The scope of the present study is to analyze and compare property rights of women under Hindu codified laws (including the amended laws). On the basis of the purpose of the research, the scope of the present study is to determine the elements involved in the problem related to inheritance of property by Hindu females in India. The scope of the research is for the benefit of the whole Hindu society whereas area of the study is having the limitation of time, length, expenditure involved in the research. Further limitation of the current study is that the research is limited to judicial/legal analysis of the codified laws and judicial pronouncements.

TOOLS AND TECHNIQUES:

This thesis is in the form of doctrinal research. The ancient as well as the present law relating to the position of women regarding inheritance of property is analyzed through the legislative approach and *ratio decidendi*²⁰ of available case laws. The doctrinal research method has included performing analytical research through the use of primary and secondary material such as library, books, journals, law commission reports, report of Indian Council of Medical Research, internet etc. The resources available in the library of Kurukshetra University, Kurukshetra; Indian Law

20 Salmond, John William and Fitzgerald, Patrick John, *Salmond on Jurisprudence*, 1966 ed.

Institute, Delhi; University of Delhi; National Law University, Delhi; Supreme Court Judges Library, New Delhi have been thoroughly utilized.

SCHEME OF THE THESIS:

The Research work is entitled “PROPERTY RIGHTS OF WOMEN UNDER HINDU LAW: A CRITICAL STUDY”.

Tentative Chapterisation:

It would be divided into six chapter's including the Introduction and Conclusion along with suggestions.

- **Chapter I: Introduction**
- **Chapter II: Property Rights under the Hindu Women Right to Property Act, 1937**
- **Chapter III: Property Rights of Women under the Hindu Succession Act, 1956**
- **Chapter IV: Recent Changes brought about by the Hindu Succession (Amendment) Act, 2005**
- **Chapter V: Critical Analysis of Recent Amendment to the Hindu Succession Act**
- **Chapter VI: Conclusion and Suggestions**

Following is the brief of each chapter in this research:

Chapter I: Introduction: -

The first chapter discusses the general description of the topic i.e. Property rights of women under Hindu Law: a critical study. It brings forth the historical aspect of women right in the property in India. It also includes the methodology, hypothesis & Objective of this research.

Women play a significant role in the life of every individual human being. Securing her better birth rights would mean giving a better future to our own society, family and to every individual. There is gender inequality in various forms, but most tedious one relates to property rights granted to women. Under ancient Hindu society, women were considered to be of low social status and treated as a dependent with barely any property rights. Under the old *Mitakshara* Law, on birth, the son acquires a right and interest in the family property. According to this school, a son, grandson and

a great grandson constitutes a class of coparceners, based on births in the family. No female is a member of the coparcenary in the *Mitakshara* Law.²¹

The Constitution of India in its Preamble provides for Justice – social, economic and political and with its declaration of equality of man and woman through its numerous provisions, eg., Fundamental Rights, Directive Principles of State Policies. It envisages the ushering of new era wherein women as a citizen of India will be treated as equal to man in all walks of life. The Universal Declaration of Human Rights (UDHR) has declared that recognition of the inherent dignity and the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world. Similarly, *the Convention on Elimination of All Forms of Discrimination Against Women, 1979 (CEDAW²²)* is the main foundation of rights in respect of women to which 166 countries including India are members till date.

Chapter II: Property Rights under the Hindu Women Right to Property Act, 1937:

Under this chapter, the women property rights under Hindu Women Rights to Property Act, 1937 is critically analyzed.

Customs were regarded as an important source of law. Especially, local customs under the samritis were held in high esteem and were recognized as an important source of law. The widely used terms in samritis like achara, sadachara, shishtachara, loksangraha etc. symbolize various features of custom. These local customs varied from region to region in terms of their acceptance. So far as the women rights are concerned southern states in their local customs granted much more rights to women. Incidentally, it is also believed that both Yajnavalkya and Vijnaneshwara, who had extended their structure on women's right to property, belonged to the southern (Dakshina) region.

Even in Manusmriti one can see that right to hold property had been respected. Jurists like Yajnavalkya, Katyayana and Narada further promoted the concept of women's right to property. Women's property rights improved and defined during

21 K.M. Kapadia, *Marriage and Family in India* 80 (1955).

22 The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) adopted in 1979 by the UN General Assembly, is often described as an international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.

their time.²³ The Smritikars created a unique type of property to women, the stridhana. Since ancient times stridhana was treated as women's separate property. Jimutavahana went to the extent of stating that woman has absolute control over her property even after marriage.²⁴ The ornaments, the wealth she receives at the time of marriage from her father and relatives constitute her share. The gifts from her own and husband's family would also be added to her own. It was Gautama Dharmasastra who first called women's property as Stridhana share. Mayne also opined that the original bride price payable to the parents appears to have become transferred into the dowry for the wife.

Apart from this stridhana, a married woman could receive gifts from strangers; she could also make her own contributions by doing other skilled labor. Yet she had no absolute control over her property because her right to dispose of the property is restricted. This was done to control her. If there was no control, she would become independent. So it became clear that women did not enjoy property rights in the ancient period. Yet woman was allowed to keep her Stridhana as her separate property. Manu also followed the tradition of Gautama and recognized seven forms of stridhana that consisted of gifts from relatives.

The property she obtained before marriage or after marriage from her father's and husband's family constitute saudayika stridhana. A woman was given absolute right over her properties in the sense that nobody including father, mother, brother, husband and son can take the property away from her.²⁵ In case if the husband had borrowed from her, he had to repay it with interest. Hence, it sets out a warning that the male members should not touch upon the property of the women. The property earned by her through her own skills was classified as asaudayika stridhanam on which husband has control. This was also formed her separate property. The only difference was that before disposing of it she had to obtain husband's consent. With regard to enjoyment of her property she was absolutely free.

Certain customs existed in southern part of India among the Dravidians to give a piece of land to the bride. The daughter can take this income and use it for her own daily needs. This constituted her stridhanam and it was passed on to the daughter by

23 Kanaka Latha Mukund, *Turmeric Land, women's property rights in Tamil society since early medieval times*, XXVII/17, Economic and Political Weekly, WS-2 (1992)

24 Alladi Kuppaswami (ed.), *Mayne's Hindu law and Usage*, 12th edn., 1986, p.840.

25 Gill K, *Hindu women's Right to Property in India*, 301

the mother. The land was named as 'manjalkani'.²⁶ This would enable her to have an income for her needs especially to purchase turmeric and vermilion after marriage. Similarly, a custom of handing over 1/3rd of the property by the husband existed when he remarries. It was called patnibhagam. In coastal Andhra Pradesh also a custom of giving land to the daughter at the time of marriage existed. It was termed as Katnam.²⁷ The peculiar feature of this practice was that women could exercise control over this property even after marriage. In the same way 12% of the Karnataka Vira Saiva women also inherited property from the mother which would be passed to the successive generations for daughters. It is pertinent to note that women inherit this property where as even a boy could not inherit it.²⁸ The Sudra women from Dharwar region also enjoyed property rights. In spite of all these, her freedom was restricted by way of non- participation in decision making especially in financial matters and that it was a patriarchal concept.

The southern and primarily Dravidian regions followed various pro-women practices of property inheritance even under samriti law. The broadminded definition of stridhana under the Bombay and Madras schools is an example of these pro-women practices. There were also various other lesser known local customs and practices prevalent in the region which also favours women. For example, there are many references to women and their use of property in inscription in Tamil Nadu which can be traced back to the thirteenth to the fourteenth century AD, during the reign of the Cholas, Pandyas and Pallavas. These inscriptions indicate that at that time ownership rights including the power of alienation through gifts and sales were given to females.

Similarly, a custom of handing over a piece of land to the daughter at the time of her marriage existed within the Madras presidency also. The income accrued from this land was meant for the women's exclusive use. This constitutes her stridhana and devolved on the female heirs and passed from mother to daughter. A similar custom of providing a piece of land for the daughter's personal expenses also prevailed in the Maratha region of Bombay presidency which is named as 'Bangdi Choli' (which

26 Kanaka Latha Mukund, *Turmeric Land, women's property rights in Tamil society since early medieval times*, XXVII/17, Economic and Political Weekly, WS-2 (1992) at 2.

27 Flavia Agnes, *Law and Gender Inequality: The politics of women's Rights in India*, 19 (Oxford University Press, New Delhi, 1999)

28 Mullati, L, *The Bhakti movement and the status of women: A case study of Virasaivism*, 106 (Abhinav Publications, New Delhi, 1986)

literally means bangles and blouse). A woman was also entitled to get one third of the property upon her husband's remarriage. It was recognized within certain lower castes of Madras Presidency and was termed as patnibhagam.

Carol Upadhyia in her study of the coastal Andhara region has recorded a practice of giving land to the daughter at the time of her marriage, which was known as 'katnam'. As per her observation, this land owned by the woman was very distinct from the land owned by husband's family and also distinct from the present day north Indian practice of dowry. Even after marriage, traditionally, women continued to exercise control over this land.²⁹

On the other hand, the Brahminical-Aryan customs followed by the upper castes of north India exercised a stringent control over women and their powers. The status of these upper caste women of north India was low, as compared to women from the lower castes and the women belonged to Dravidian regions. These prevalent customs of northern India symbolize that the woman was a mere bearer of the children who actually belonged to the man. These are the indication of the lower status of women among the north Indian higher castes.

Among various castes and tribes, along the Malabar Coast, there were female headed joint family households having matrilineal inheritance patterns. Out of these matrilineal joint family systems, the Marumakkathayam and Aliyasanthana received judicial recognition during the British period. The female-headed joint families were called Tarwaad and Tavazi and in these families the line of descent was traced through the female line. These systems were in the exercise up till recently and were brought to an end through specific state intervention in the form of legislations in the post-independent period. Thus, these customs show pro-proprietary status of females but gradually along with the development of society these custom came on the back foot and patriarchal customs giving preference to males for a dominate position to come into existence.

A Hindu father in patriarchal family enjoyed absolute power just as the Roman father in ancient Rome. The scriptures undoubtedly contributed much to make the father, the head of the family a despotic ruler. Manu said that three persons, a wife, a son and a slave are declared by law to have in general no wealth exclusively their

29 Carol Upadhyia, *Dowry and Women's Property in Coastal Andhra Pradesh in Contribution to Indian Sociology*, Sage Publications, New Delhi (1990), p. 29.

own; the wealth which they may earn is regularly acquired for the man to whom they belong.³⁰ Similarly, Narada held the view that a son could be independent only if his parents are dead; during their lifetime he is dependent even though he is grown old.³¹ So in a patriarchal family women and children did not have property rights. The wife was put into the group of chattels and slaves. They had an oppressed and subjugated life in the traditional patriarchal families.

In order to confer better, equal and significant inheritance rights to the women, the Hindu Women's Right to Property Act was passed in 1937 basically to amend the Hindu law of succession amongst all the schools. It made innovative changes in the Mitakshara law. In fact, it affected the law of coparcenary, partition, alienation and succession. It conferred upon the widow of a man, whether governed by the Mitakshara or the Dayabhaga law, right to inheritance to the property even when he dies leaving behind a male issue. Similar rights were conferred upon the widows of his pre-deceased son and the widow of pre-deceased son of a pre-deceased son. After this Act, in the Mitakshara undivided family the widow of a deceased coparcener was entitled to take his interest in the joint family. In all cases, widows were entitled to claim partition. All the females took a limited estate.

Chapter III: Property Rights of Women under the Hindu Succession Act, 1956:

The Third Chapter discusses about nature and scope and the changes brought about by the famous Hindu Succession Act, 1956 in the society and in the life of women. A detailed critical analysis is made of various provision of this Act and the effect is caused.

Indian Constitution has a substantially elaborate framework to ensure equality amongst its citizens. It not only guarantees equality to all persons, under Article 14 as a fundamental right, but also expands on this in the subsequent Articles, to make room for affirmative action and positive discrimination. Article 14 of the Constitution of India states that: "The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India." In practice this guarantee has been read to infer 'substantial' equality as opposed to 'formal' equality, as judicially explained and elaborated upon in several judgments of the Supreme Court

30 Manu, VIII, 416.

31 Narada 1, 36, III.

of India as well as the Indian High Courts. The latter dictates that only equals must be treated as equals and that unequal may not be treated as equals. This broad paradigm itself permits the creation of affirmative action by way of special laws creating rights and positive discrimination by way of reservations in favour of weaker classes of society.

This view is strengthened by Article 15 of the Constitution, which goes on to specifically lay down prohibition of discrimination on any arbitrary ground, including the ground of sex, as also the parameters of affirmative action and positive discrimination.

The Hindu Succession Act, 1956 marks a new era in the history of social legislation in India. A vigorous attempt has been made to bring some reforms of far reaching consequences in the system of inheritance and succession. The law in these areas needed complete overhauling as some of the legal provisions under the old textual law had become obsolete. For example, the non-inclusion of female relatives to inherit the property and giving preference to the males. The law in this respect needed some revolutionizing changes so as to recognize the long felt right of inheritance of Hindu females at par with males.³²

Proposals for reforming the Hindu Personal Law particularly, relating to property, have been before the country in one form or the other since the forties and the setting up of Rau's Committee to inquire into and suggest reforms in Hindu Law. The question of codifying the Hindu Law of succession was engaging the attention of the Government since 1941 when a Committee was formed which is known as Rau's Committee to report on the desirability of codifying Hindu Law and more particularly to examine the Hindu Women's Rights to Property Act, 1937, to remove the doubts as to the construction of the Act and so to remove any injustice that might have been done to the daughter. The Committee while suggesting amendments in the existing law recommended that the best course would be to codify the entire Hindu Law in successive stages. The Rau Committee's Hindu Code of 1947 was the result of that recommendation.

The draft Hindu Code prepared by the Rau's Committee underwent substantial changes in the course of its examination by a Select Committee of Provisional

32 R.K. Aggarwala, *Hindi Law*, 22nd ed. 2007, p.243

Parliament in 1948. But the positive problem of modernization of Hindu Law on important issues could not be dealt with except by a straight legislation. The Hindu Code Bill introduced in the Provisional Parliament based on the recommendation of Rau's Committee, was in part vigorous attempt to incorporate radical reforms.

In pursuance of its accepted policy to codify Hindu Law in gradual stages, the Legislature passed the Hindu Marriage Act in 1955 dealing with the law relating to marriage and divorce among Hindus and it thus facilitated the passage of the Hindu Code Bill. The second of such positive measures is the enactment of the Hindu Succession Act, 1956, which became law on 17th June, 1956, the day on which it received the assent of the President and got published in the Official Gazette on 18th June, 1956. The third installment of the Code dealing with Minority and Guardianship among Hindus has also become law on 5th August, 1956, and the fourth is the Hindu Adoptions and Maintenance Act, 1956, which became law on 21st December, 1956.

The Rau Committee vested a Hindu woman with full rights over stridhan property and laid down certain rules of succession with respect to stridhan. The Select Committee on the Hindu Code incorporated the substance of all these provisions in a separate chapter headed "Women's Property" and provided that after the commencement of the Code, whatever property was acquired by a woman becomes her absolute property and devolved on her own heirs. Clause 16 of the draft Bill followed the Select Committee's draft and declared that whatever property is acquired by a Hindu woman after this law, it shall be her absolute property.

Women's right to property has been substantially improved since the birth of Hindu Succession Act 1956. The concept of women being entitled to a limited estate when they acquire property by inheritance is abolished and women are entitled to an absolute estate like men when they inherit any property. The daughter of a predeceased son and the daughter of a predeceased daughter are raised to a higher rank. They became Class – I heirs and get a share along with the son, and other Class – I heirs. The daughters are included in the Class – I in order to remove the discrimination on the basis of sex. Similarly, succession to a women's property or stridhanam of whatever nature is made uniform irrespective of the nature of stridhanam. In the same way the distinction between male and female heirs in the case of succession has been taken away and now they are treated on equal basis if they

belong to the same degree of relationship. Women will no longer be disinherited on the ground of unchastity. Under Section 14 of the Hindu Succession Act 1956, the limited interest of Hindu female is converted into absolute rights. If she gets property from her husband she can sell it and the purchaser gets absolute right in the property.³³

Formerly she was not given the power of alienation.³⁴ The provision has been given retrospective effect. Consequently the limited estate becomes absolute. Another important change brought out is to the explanation Section 6 of the 1956 Act.³⁵ Upon the death of a coparcener the property devolves upon his mother, widow and daughter along with his son by testamentary or intestate succession and not by survivorship. This rule confers on the women an equal right along with the male members of the coparcenary.³⁶

Chapter IV: Recent Changes brought about by the Hindu Succession (Amendment) Act, 2005:

The Hindu Succession (Amendment) Act, 2005, has brought about a sea change in the women right to property. This chapter compares the changes in women right to property under Hindu Succession (Amendment) Act, 2005, with the previous Acts passed by the Indian Parliament. It also discusses the 174th Report of Law Commission of India.

174th Law Commission of India Report on “Property Rights of Women: Proposed Reforms under the Hindu Law” led to the giving effect proposed a Bill entitled

33 Prior to the Act, she could sell it only for the necessities of the family or to perform religious ceremonies for the benefit of her deceased husband.

34 See Section 14 of the Hindu Succession Act 1956. Section 14 is wide in its ambit. The legislation has defined women’s property in the widest possible manner. The property includes both movable and immovable property acquired by a female by inheritance, partition, in lieu of maintenance, arrears of maintenance, gift from any person, a relative or not, before or after marriage or by her own skill, exertion, by purchase or by prescription or in any other manner whatsoever and also any such property held by her as stridhanam immediately before the commencement of the Act.

35 Section 6 of the 1956 Act provides: Devolution of interest in coparcenary when a male Hindu dies after the commencement of this Act, having at the time of his death an interest in a Mitakshara coparcenary property, his interest in the property shall devolve by survivorship up on the surviving members of the coparcenary and not in accordance with this Act: provided that if the deceased has left him surviving a female relative specified in class – I of the schedule or a male relative specified in that class who claims through such female relative the interest of the deceased in Mitakshara coparcenary property shall devolve by testamentary or intestate succession, as the case may be under this Act and not by survivorship.

36 Sruthi Pandey, “*Property Rights of Indian Women*” available at: <http://www.muslimpersonallaw.com> (Accessed on 02.05.2010).

“Hindu Succession (Amendment) Bill, 2000”. On this recommendations the Hindu Succession (Amendment) Act, 2005 was carried on. The Commission undertook a study of certain provisions regarding the property rights of Hindu women under the Hindu Succession Act, 1956. The Commission had taken up the aforesaid subject *suo motu* in view of the pervasive discrimination prevalent against women in relation to laws governing the inheritance/succession of property amongst the members of a joint Hindu family.

Social justice demands that a woman should be treated equally both in the economic and the social sphere. The exclusion of daughters from participating in coparcenary property ownership merely by reason of their sex is unjust. The Commission has also taken into consideration the changes carried out by way of State enactments in the concept of Mitakshara coparcenary property in the five States in India, namely, Kerala, Andhra Pradesh, Tamil Nadu, Maharashtra and Karnataka. The Commission feels that further reform of the Mitakshara Law of Coparcenary is needed to provide equal distribution of property both to men and women. The recommendations contained in the Report are aimed at suggesting changes in the Hindu Succession Act, 1956 so that women get an equal share in the ancestral property.

In 2005, the central government amended the Act correcting these inequalities. The Hindu Succession (Amendment) Act of 2005 amended Section 6 of the Hindu Succession Act, 1956, allowing daughters of male dying intestate equal rights with sons. In this amendment, the restriction regarding the marital status was also abolished. These amendments are now in force for all the remaining states for which the law applies to, making daughter's entitled to the same liabilities as if she would have been a son.

The Hindu succession (Amendment) Bill was introduced in the parliament on 20 December 2004 and was passed by the Rajya Sabha on 16 August 2005 and the Lok Sabha on 29 August 2005 respectively. Based on the recommendations of the 174th Report of the law Commission on property right of women proposed reforms under Hindu Law its primary aim was to remove gender inequalities under the Act, as it stood before the amendment. The amendment also become necessary in view of the changes in Hindu Succession Act, 1956, in five Indian states namely, Kerala, Andhra

Pradesh, Tamil Nadu, Karnataka and Maharashtra. The Bill received President's assent on 5 September 2005 and it came into force on 9th September 2005.³⁷

The Hindu Succession Act, 1956 amended and codified the law relating to intestate succession amongst the Hindus. The Act brought about changes in the law of succession among Hindus and gave rights which were till then unknown in relation to women's property. However, it does not interfere with the special rights of those who are members of Hindu Mitakshara coparcenary except to provide rules for devolution of the interest of a deceased male in certain cases. The act lays down a uniform and comprehensive system of inheritance and applies, inter alia, to persons governed by the Mitakshara and Dayabhaga schools and also to those governed previously by the Marumakkattayam, Aliyasantana and Nambudari laws. The act applies to every person who is a Hindu by religion in any of its forms or developments including a Virashaiva, a Lingayat or a follower of the Brahmo Prarthana or Arya Samaj; or to any person who is Buddhist, Jain or Sikh by religion; or to any other person who is not a Muslim, Christian, Parsi or Jew by religion. In the case of a testamentary disposition, this Act does not apply and the interest of the deceased is governed by the Indian succession act, 1925.³⁸

Chapter V: Critical Analysis of Recent Amendment to the Hindu Succession Act:

This chapter analyses the effect of Amendment brought by the Hindu Succession (Amendment) Act, 2005 on the rights of the women to acquire property through succession or otherwise. The chapter also assesses the social effect of these amendments.

After the passing of the Hindu Succession (Amendment) Act, 2005, the daughters have an equal hold onto the share of her father's coparcenary property. The daughter born in a family which is governed by Mitakshara law has –

- a) by birth become a coparcener in her own right in the same manner as the son;
- b) have the same rights in the coparcenary property as she would have had if she had been a son;

37 Poonam Saxena, Family Law lectures Family Law-II, 2nd edition 2007, p. 338.
 38 Dr. S.R. Myneni, Hindu Law (Family Law-I) 1st edition, 2009 p. 493.

- c) be subject to the same liabilities in respect of the said coparcenary property as that of a son.³⁹

This Hindu Succession (Amendment) Act, 2005 is enacted to empower women, especially daughters in order to hold property through their ancestral coparcenary property. This coparcenary property held by a daughter after 2005 shall be held by her with the incidents of coparcenary ownership and shall be regarded as property being capable of disposal as by her by testamentary disposition. Where a Hindu dies after the commencement of Hindu Succession (Amendment) Act, 2005, his interest in the property of a joint Hindu family governed by Mitakshara law, shall be devolved by testamentary or intestate succession, as the case may be, under this Act and not by survivorship, and the coparcenary property shall be deemed to have been divided as if partition had taken place and –

- a) the daughter is allotted the same share as is allotted to a son;
- b) the share of the pre-deceased son or pre-deceased daughter, as they would have got had they been alive at the time of partition, shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter; and
- c) the share of the pre-deceased child of a pre-deceased son or of a pre-deceased daughter, as such child would have got had he or she been alive at the time of the partition, shall be allotted to the child of such pre-deceased child of the pre-deceased son or daughter, as the case may be.

Section 6 of the Act before the Amendment of 2005 dealt with devolution of interest of a male Hindu in coparcenary property and recognized the rule of devolution by survivorship among the members of the coparcenary. The retention of the Mitakshara coparcenary property without including the females in it meant that the females cannot inherit in ancestral property as their male counterparts do. The law by excluding the daughters from participating in the coparcenary ownership not only contributed to her discrimination on the ground of gender but also has led to oppression and negation of her fundamental right of equality guaranteed by the Constitution of India having regard to the need to render social justice to women. Thus, in 2005 the Parliament after much agitation thought of amending this provision

39 Section 6, the Hindu Succession Act, 1956

and on 9-9-2005 the said Section 6 was amended providing the daughters with equal rights and liabilities in the acquisition of ancestral coparcenary property by them, same as equivalent to the share of a male Hindu coparcenar in a family governed by Mitakshara law. Section 6 after amendment also conferred an absolute right in a female heir in respect of partition of property occupied by joint family.

The Hindu Succession (Amendment) Act, 2005 has widely affected the concept of Mitakshara Hindu Coparcenary. Hindu Succession (Amendment) Act, 2005 has totally damaged the concept of Mitakshara Coparcenary because the daughter has been treated like a son under Hindu Succession (Amendment) Act, 2005. She becomes entitled to a share in coparcenary by birth. She by birth becomes a coparcener in her own right in the same manner as the son. She is not only conferred the coparcenary right as the son; she has been given all the rights possessed by the son in the coparcenary and similarly, she is also bound by the similar liabilities as a son. The major achievement lies in including all daughters especially married daughters, as coparcenary in joint family property.⁴⁰

The 2005 Act does not touch separate property (except broadening the class-1 heirs). But it includes daughters as coparceners in the Mitakshara joint family property, with the same rights as sons to shares, to claim partition and (by presumption) to become karta (manager), while also sharing the liabilities.

In addition, the Act makes the heirs of predeceased sons and daughters more equal, by including as class-1 heirs two generations of children of predeceased daughters, as was already the case for sons. The main significant change making all daughters (including married ones) coparceners in joint family property is also of great importance for women, both economically and symbolically. Economically, it can enhance women's security by giving them birth rights in property that cannot be willed away by men. In a male-biased society where wills often disinherit women, this is a substantial gain. Also, as noted, women can become kartas of the property. Symbolically, all this signals that daughters and sons are equally important members of the parental family. It undermines the notion that after marriage the daughter belongs only to her husband's family. If her marriage breaks down, she can return to her birth home by right, and not on the sufferance of relatives. This will enhance her

40 Prof. U.P.D. Kesari, Modern Hindu Law 10th edition 2015, p. 270

self-confidence and social worth and give her greater bargaining power for herself and her children, in both parental and marital families.

Chapter VI: Conclusion and Suggestions:

The last chapter summarizes the whole research and test the hypothesis. This chapter suggests some measures with regard to women right to property under Hindu laws. To conclude, the researcher has theoretically analyzed the law prior to and after The Hindu Succession Act, 1956, as well as Amendment to the Act in 2005 and has given a few suggestions to ensure the effective implementation of the Act, so that it could be made an authentic personal law and would be in a position to settle the litigation arising due to confusion in classification of succession rights. Though, the actual functioning of the Act could only be assessed when the Act is implemented. Still the legislation gives hope that it tends to have overcome the inherent defects and tends further to ensure equality to both men and women without discrimination within the framework, letters and spirit of the Constitution.

Sometimes laws themselves discriminated against women. This was particularly true in the sphere of family laws in India which are “Personal Laws”, that is the law applicable to a person on the basis of his/her religion. Some of these personal laws exhibit strong features of discrimination against women. The Supreme Court and the various High Courts while dealing with the joint family property rights of Hindus interpret the position of the Mitakshara law that supports such a static relation as a custom based law. The property which is inherited by a daughter from the father or great grandfather is treated as the coparcener right i.e. right on ancestral property by birth which is given only to sons under the Mitakshara law. In this respect the Mitakshara system is a system which is patrilineal system, whereby son acquires the right to family property and succeeds by his sons and grandsons but not the daughter.

Even if the retention concept of Mitakshara coparcenary i.e. joint family system with its promised inequality between female and male heirs confines, after the Hindu succession Act was enacted in 1956 by establishing the inheritance right by wiping out the estate of female heirs. Under this Mitakshara system of law property

rights are given to male only. The Supreme Court in a case of *State Bank of India v. Ghamandi Ram*⁴¹ elaborated system of Mitakshara law.

The Hindu Succession Act, 1956 is the landmark legislation in this field, it got all the Hindus under the one kind of joint family coparcenary system i.e. Mitakshra coparcenary. It was the revolutionary Act of its time.

Social justice demands that women should be treated equally in both the economic and social sphere. The exclusion of daughters from participating in coparcenary property ownership merely because of their sex is unjust. It also means that if she is not a coparcener then she cannot ever become 'karta' also. Therefore, to improve their economic conditions and social status by giving them equal rights by birth is a long felt social need. Undoubtedly, radical reform of the Mitakshara law of coparcenary is needed to provide equal distribution of property not only with respect to the separate or self-acquired property of the deceased male but also in respect of his undivided interest in the coparcenary property.

Hence, many NGO's, political parties, women organization etc were fighting for the equal birth right to women. They get support from the 15th Law Commission's 174th Report. At last, the law has been reformed by the Parliament in the year of 2005 and now the daughters are also considered coparcener and have all equal right to that of male heirs. Most controversial Section 6 of Hindu Succession Act, 1956 which was not included women as a coparcener in the joint family property before 2005 but with the amendment Act of 2005, daughters are now entitled to the same coparcenary rights as the son have. Section 23 of the old Act of 1956, has been deleted and equal coparcenary venture has been given to the daughter under the new law but the Mitakshara coparcenary system retained.⁴²

Thus, the Amendment of Hindu Succession Act of 1956 in 2005 is a total commitment for the women empowerment and protection of women's right to property. This Amending Act in a patrilineal system, like Mitakshara school of Hindu law opened the door for the women to have the birth right in the family property like the son. The women were vested with the right of control and ownership of property beyond their right to sustenance.

41 AIR 1969 SC 1330

42 174th Report of Law Commission, 2000.

These amendments can empower women both economically and socially and have far reaching benefits for the family and society, if effectively implemented. Independent access to agricultural land can reduce a woman and her family's seek of property, improve her livelihood options and ambience prospects and child of survival, education and health. As wished through amendment, women owning land or house also face less spouse violence as their confidence and sense of security increases, and land in women's names can increase productivity by improving credit and input access for numerous defector female household heads.

Making all daughters coparceners likewise has far reaching implications. It gives women birthrights in the joint family property that cannot be willed away. Rights in coparcenary property and the dwelling house will also provide social protection to women facing spousal violence or marital breakdown, by giving them a potential shelter. Millions of women or widows or daughter and their families thus extend to gain by these Amendments.

The objective of Article 15 of the constitution of India has been achieved by these Amendments. Article 15(2) enjoins, "To accord to women equality with men before law, in particular to administer property." The Hindu Succession (Amendment) Act of 2005 has improved the succession rights of widows in contrast to the rights vested in her under the Act of 1956.

Effects of the Amendment:

As concluding the whole study, it is necessary to mention the effects of the amendment which can be there in the near future upon the status of joint family, joint family property, society and moreover on women itself.

- Increasing the cases of Female Feticide:
- Indirect form of Dowry:
- Affects the Concept of Joint Family:
- Affects the Property or Fragmentation of Land:
- Indirect Right to in-laws:
- Enhancing the cases of Domestic Violence:
- Increasing Dowry Deaths:
- Destruction of Social Values:

Suggestions:

On the basis of this study following appropriate suggestions are made for effective enforcement of the law that governing women property rights, such as:

- Society Needs to be Educated
- Awareness of Law
- Legal-Aid Camps
- Better to Abolish Mitakshara Coparcenary System
- Mother should also be included in Coparcenary
- Reconsideration of devolution of property of female Hindu
- Rule of testamentary succession should also be amended
- Over-Lapping should be removed from Class I and Class II Heirs
- All descendants should be treated equally
- Reconsideration of Position of Father
- Anomalies regarding the Mother's position should be Removed
- Same right should also be given in the Property of Her in-laws

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