



INTERNATIONAL LAW
JOURNAL

**WHITE BLACK
LEGAL LAW
JOURNAL
ISSN: 2581-
8503**

Peer - Reviewed & Refereed Journal

The Law Journal strives to provide a platform for discussion of International as well as National Developments in the Field of Law.

WWW.WHITEBLACKLEGAL.CO.IN

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Editor-in-chief of White Black Legal – The Law Journal. The Editorial Team of White Black Legal holds the copyright to all articles contributed to this publication. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of White Black Legal. Though all efforts are made to ensure the accuracy and correctness of the information published, White Black Legal shall not be responsible for any errors caused due to oversight or otherwise.

WHITE BLACK
LEGAL

EDITORIAL TEAM

Raju Narayana Swamy (IAS) Indian Administrative Service officer



Dr. Raju Narayana Swamy popularly known as Kerala's Anti-Corruption Crusader is the All India Topper of the 1991 batch of the IAS and is currently posted as Principal Secretary to the Government of Kerala. He has earned many accolades as he hit against the political-bureaucrat corruption nexus in India. Dr Swamy holds a B.Tech in Computer Science and Engineering from the IIT Madras and a Ph. D. in Cyber Law from Gujarat National Law University. He also has an LLM (Pro) (with specialization in IPR) as well as three PG Diplomas from the National Law University, Delhi- one in Urban Environmental Management and Law, another in Environmental Law and Policy and a third one in Tourism and Environmental Law. He also holds a post-graduate diploma in IPR from the National Law School, Bengaluru and

a professional diploma in Public Procurement from the World Bank.

Dr. R. K. Upadhyay

Dr. R. K. Upadhyay is Registrar, University of Kota (Raj.), Dr Upadhyay obtained LLB, LLM degrees from Banaras Hindu University & PHD from university of Kota. He has successfully completed UGC sponsored M.R.P for the work in the Ares of the various prisoners reforms in the state of the Rajasthan.



Senior Editor

Dr. Neha Mishra



Dr. Neha Mishra is Associate Professor & Associate Dean (Scholarships) in Jindal Global Law School, OP Jindal Global University. She was awarded both her PhD degree and Associate Professor & Associate Dean M.A.; LL.B. (University of Delhi); LL.M.; PH.D. (NLSIU, Bangalore) LLM from National Law School of India University, Bengaluru; she did her LL.B. from Faculty of Law, Delhi University as well as M.A. and B.A. from Hindu College and DCAC from DU respectively. Neha has been a Visiting Fellow, School of Social Work, Michigan State University, 2016 and invited speaker Panelist at Global Conference, Whitney R. Harris World Law Institute, Washington University in St. Louis, 2015.

Ms. Sumiti Ahuja

Ms. Sumiti Ahuja, Assistant Professor, Faculty of Law, University of Delhi,

Ms. Sumiti Ahuja completed her LL.M. from the Indian Law Institute with specialization in Criminal Law and Corporate Law, and has over nine years of teaching experience. She has done her LL.B. from the Faculty of Law, University of Delhi. She is currently pursuing PH.D. in the area of Forensics and Law. Prior to joining the teaching profession, she has worked as Research Assistant for projects funded by different agencies of Govt. of India. She has developed various audio-video teaching modules under UGC e-PG Pathshala programme in the area of Criminology, under the aegis of an MHRD Project. Her areas of interest are Criminal Law, Law of Evidence, Interpretation of Statutes, and Clinical Legal Education.



Dr. Navtika Singh Nautiyal

Dr. Navtika Singh Nautiyal presently working as an Assistant Professor in School of law, Forensic Justice and Policy studies at National Forensic Sciences University, Gandhinagar, Gujarat. She has 9 years of Teaching and Research Experience. She has completed her Philosophy of Doctorate in 'Inter-country adoption laws from Uttarakhand University, Dehradun' and LLM from Indian Law Institute, New Delhi.

Dr. Rinu Saraswat



Associate Professor at School of Law, Apex University, Jaipur, M.A, LL.M, PH.D,

Dr. Rinu have 5 yrs of teaching experience in renowned institutions like Jagannath University and Apex University. Participated in more than 20 national and international seminars and conferences and 5 workshops and training programmes.

Dr. Nitesh Saraswat

E.MBA, LL.M, PH.D, PGDSAPM

Currently working as Assistant Professor at Law Centre II, Faculty of Law, University of Delhi. Dr. Nitesh have 14 years of Teaching, Administrative and research experience in Renowned Institutions like Amity University, Tata Institute of Social Sciences, Jai Narain Vyas University Jodhpur, Jagannath University and Nirma University. More than 25 Publications in renowned National and International Journals and has authored a Text book on CR.P.C and Juvenile Delinquency law.



Subhrajit Chanda



BBA. LL.B. (Hons.) (Amity University, Rajasthan); LL. M. (UPES, Dehradun) (Nottingham Trent University, UK); PH.D. Candidate (G.D. Goenka University)

Subhrajit did his LL.M. in Sports Law, from Nottingham Trent University of United Kingdoms, with international scholarship provided by university; he has also completed another LL.M. in Energy Law from University of Petroleum and Energy Studies, India. He did his B.B.A.LL.B. (Hons.) focussing on International Trade Law.

ABOUT US

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provide dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

THE IMPACT OF PERSONAL LAWS ON WOMEN'S PROPERTY RIGHTS

AUTHORED BY - MUSKAN KALRA & AADYA SINGH

ILC, Faculty Of Law, University Of Delhi

ABSTRACT

It is worth noting that the personal laws, irrespective of community have, over time, been heavily influenced by the patriarchal norms, restricting the access of female members to property. Although a significant reform in the form of legislations such as the Hindu Succession (Amendment) Act, 2005 which has advanced gender equality by conferring coparcenary rights to the daughters but even after 20 years of such reform there remain numerous gaps in its practical enforcement. Similarly, under the Muslim Law even though women are entitled to share in the property but their share remains comparatively smaller. Moving to the women governed by Christian as well as Parsi norms who continue to face the customary practices that undermine the available statutory protection.

This paper examines the impact of these personal laws on women's property rights in the country. It further traces the historical exclusion of women from property across various communities such as Hindu, Muslim, Christian, and Parsi frameworks. The paper also argues that the constitutional principles of equality, non-discrimination, and dignity under Articles 14, 15, and 21, along with the international human rights obligations, necessitates a gender-just inheritance framework. Moreover, the judicial precedents in the country also illustrates a progressive judicial approach but reflects a limitation of relying solely of the judiciary for securing women's property rights. Through the comparative analysis across various religious communities this paper identifies the common challenges including gender bias, lack of legal literacy and the procedural complexities, all of which in turn hinders the right to equality.

Finally this paper advocates for a comprehensive reform which ranges from the codification of the uncodified laws to the introduction of a gender-sensitive Uniform Civil Code along with other reforms. Ultimately, ensuring property rights is not only a matter of legal reform for the women but also of securing social justice and empowerment.

Keywords: Women's property rights, Inheritance Laws, gender equality, property reforms, social justice, women empowerment.

INTRODUCTION

Women's property rights have long been shaped by deep-rooted societal norms and legal frameworks that often-favoured male inheritance.¹ Traditionally, in many patriarchal societies, including India, property was passed down through the male lineage, and a woman's right to property was disregarded as she was expected to move with her husband's family upon marriage.² A woman has always been treated as an inferior creature, not merely in society but also in her rights and privileges. However, over the past few decades, significant legal reforms have sought to address these historical inequalities.³

The Hindu Succession (Amendment) Act of 2005 was a landmark change, granting daughters equal rights in parental property, irrespective of their marital status. Similarly, laws governing Muslim, Christian, and Parsi women's inheritance have evolved to ensure better protection of their rights. Despite these legislative advancements, women continue to face challenges such as societal resistance, legal loopholes, and a lack of awareness regarding their entitlements. Understanding the evolution and present status of women's property rights in India is crucial for promoting gender equality and ensuring economic empowerment.⁴

This paper analyses the position of different category of women, i.e., daughter, sister, mother, and widow in succession laws.

HINDU INHERITANCE: EVOLVING TOWARDS EQUALITY

Historical Evolution

Traditionally, the Hindu legal framework was rooted in patriarchal norms, where women's rights to inheritance were either severely limited or completely denied.

In the classical Hindu framework, ancient texts like Manusmriti and Mitakshara, women's property rights were largely restricted to *stridhan* which, although considered their exclusive

¹ Agarwal, B., Anthwal, P., & Mahesh, M. (2021). How Many and Which Women Own Land in India? Inter-gender and Intra-gender Gaps. *The Journal of Development Studies*, 57(11), 1807–1829.

² BeyondWalls, *Property Rights for Women in India*, <https://www.beyondwalls.com/blog/property-rights-for-women-india>.

³ Hetalkumari Ramanbhai Parmar & Dr. Batul H. Amid, *Property Right of Women in Various Personal Laws; Indian Perception*, 2 THE ACADEMIC 598 (2024), <https://theacademic.in/wp-content/uploads/2024/09/63.pdf>.

⁴ Meenakshi Taheem, *Evolution of Women's Rights to Property in India*, BASIC HOME LOAN (Apr. 10, 2025), <https://www.basichomeloan.com/blog/home-loans/womens-rights-to-property-in-india>.

property, was circumscribed in scope and often subject to the control of male guardians.⁵

The *Mitakshara* school of law, the predominant school across much of India, gave coparcenary rights only to male coparceners.⁶ The *Dayabhaga* school, followed in Bengal, was marginally more progressive, yet it too failed to establish full equality in inheritance.⁷

Colonial era legislations such as Hindu Law of Inheritance Act, 1929⁸ and the Hindu Women's Right to Property Act, 1937⁹, largely preserved traditional laws but also led to minor reforms. However, such measures did not disrupt the broader male-dominated inheritance structures.¹⁰

The Hindu Succession Act, 1956

Post-independence, India promised equality and non-discrimination and sought to modernize personal laws to reflect this egalitarian ethos enshrined in the Constitution of India under Article 14¹¹ and Article 15¹². The Hindu Succession Act, 1956 was enacted to codify the laws of intestate succession among Hindus.¹³

Under this act, for the very first time, women were included as Class I heirs, placing daughters, widows, and mothers on par with sons and male relatives for succession purposes.¹⁴ Importantly it abolished the doctrine of limited estate, allowing Hindu women absolute ownership over inherited property.¹⁵

However, a significant lacuna remained, this act failed to confer coparcenary rights upon daughters in joint Hindu family property under the *Mitakshara* system.¹⁶ Coparcenary rights were still restricted to male members of a Hindu Undivided Family. This exclusion maintained gender inequality within joint family systems.¹⁷

⁵ See *Mitakshara & Manusmriti*, ancient Hindu texts governing traditional laws of inheritance.

⁶ *Id.*

⁷ See generally *Drishtijudiciary.com*, Women's Right to Property Under Hindu Law, <https://www.drishtijudiciary.com/to-the-point/ttp-Hindu-law/women%E2%80%99s-right-to-property-under-Hindu-law>.

⁸ Hindu Law of Inheritance Act, § 3, India Code (1929).

⁹ Hindu Women's Right to Property Act, § 3, India Code (1937).

¹⁰ See NUJS, *Gender & Law Article*, <https://www.nujs.edu/wp-content/uploads/2023/07/9.pdf>.

¹¹ INDIA CONST. art. 14.

¹² INDIA CONST. art. 15.

¹³ Hindu Succession Act, India Code (1956).

¹⁴ Hindu Succession Act, § 8, Sch, India Code (1956).

¹⁵ Hindu Succession Act, § 14, India Code (1956).

¹⁶ See ClearTax, *Hindu Succession Act*, <https://cleartax.in/s/Hindu-succession-act>.

¹⁷ See also LC-II, Women's Right to Succession and Inheritance in Hindu Law, <https://lc2.du.ac.in/DATA/Women.s%20Right%20to%20succession%20and%20Inheritance%20in%20Hindu%20Law.pdf>.

The Hindu Succession (Amendment) Act, 2005

The Hindu Succession (Amendment) Act, 2005 was a watershed moment in the legal recognition of women's property rights. It altered and rectified the inherent gender parity of the 1956 Act by amending Section 6, which governs coparcenary rights.¹⁸

Key provisions of the 2005 Amendment:

- Daughters were statutorily recognized as coparceners by birth, mirroring the legal status of sons;
- They were vested with identical rights, duties, and liabilities in the joint family property;
- Daughters acquired the right to seek partition and bore liability for ancestral debts to the extent of their share.¹⁹

This amendment was a milestone in aligning Hindu personal laws with the constitutional guarantee of gender equality, providing equalized property and reconceptualized the daughter as an integral stakeholder within the Hindu Undivided Family.

The judiciary, in *Vineeta Sharma v. Rakesh Sharma*²⁰, further reinforced the amendment by holding that held that a daughter's status as coparcener is conferred by birth, and does not depend on the survival of the father at the time of the amendment.

Challenges and Ongoing Issues

Despite legislative and judicial strides, the practical realization of women's inheritance rights remains fraught with challenges:

1. Lack of Awareness and Social Conditioning:

Deep-seated sociocultural norms continue to impede the operationalization of legal rights. Many women are unaware of their legal rights or are socially pressured to forgo their share to preserve familial harmony. Cultural and religious traditions continue to trump legal provisions.²¹

2. Implementation and Litigation:

Legal battles over inheritance are prolonged, financially burdening and procedurally

¹⁸ Hindu Succession (Amendment) Act, India Code (2005).

¹⁹ Hindu Succession (Amendment) Act, § 6, India Code (2005).

²⁰ *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1 (India).

²¹ See generally Starli D., *Female Property Rights in India*, TNSJA (2023), <https://www.tnsja.tn.gov.in/article/11%20Starli%20female%20property%20rights%20article%20-%20corrected.pdf>.

complex.²²

3. Ambiguities in Law:

Despite judicial clarifications, some ambiguities persist for example, the treatment of property partitioned prior to the 2005 amendment.²³

4. Exclusion of Agricultural Land:

In certain states, particularly with regard to agricultural land, the application of personal laws has historically excluded women from inheritance, though recent judgments have worked toward correcting this anomaly.²⁴

5. Symbolic vs. Substantive Equality:

While the legal framework increasingly reflects formal equality, the gap between de jure rights and de facto realization continues to persist.²⁵

MUSLIM INHERITANCE: NAVIGATING SHARIA AND EQUITY

Principles of Inheritance under Islamic Law

Islamic law, also called *Sharia*, has clear rules about how a person's property should be divided after death.²⁶ These rules are mostly taken from the Quran and are considered to be commands from God. People are not allowed to distribute all of their property according to their wishes, only a third can be given away in a will. The rest must be divided as per the Islamic rules.

Under classical Muslim law, women have a clear right to inherit property. A woman can inherit as a daughter, wife, mother, or sister. There are clear allocations as to how much property the women receive.²⁷

The basis for the differentiated shares lies in the Quranic verse:

“To the male, a portion equal to that of two females...” – *Surah An-Nisa*, 4:11.²⁸

This gives a mandatory rule for succession, fixing the ration in which men and women receive property. It gives a man twice the right of a woman, giving him precisely double of what a woman is entitled to.

These rules were revolutionary when they were introduced because they gave women property

²² See also India Legal, *Status of Women under Hindu Law*, <https://indialegallive.com/laws-research-indepth/status-of-women-under-hindu-law/>.

²³ See supra note 19.

²⁴ See blog.ipleaders.in, *Evolution of Hindu Women's Right to Property*, <https://blog.ipleaders.in/evolution-of-Hindu-womens-right-to-property/>.

²⁵ *Id.*

²⁶ See *Muslim Law of Inheritance*, iPleaders (2022), <https://blog.ipleaders.in/muslim-law-of-inheritance/>.

²⁷ Qur'an 4:11; See also [Freelaw.in](https://www.freelaw.in), *Women's Right to Property under Muslim Law*, <https://www.freelaw.in/legalarticles/Women-s-right-to-property-under-Muslim-Law>.

²⁸ The Holy Qur'an, *Surah An-Nisa*, Ayah 11.

rights at a time when many societies gave them nothing at all. These rules are reflective of the socio-economic context of 7th-century Arabia, where men bore financial obligations for the family.²⁹

Issues of Disparity and Interpretation

The principal issue arises from the disparity in the share allotted to male and female heirs. The reasoning behind this was that men are financially responsible for the family, so they need more resources. While this made sense long ago, today, many people argue that these rules should be updated to match modern times where women also earn and support families.³⁰

Although this ratio is scripturally mandated, the socio-economic rationale underpinning such rules have become irrelevant in today's world.³¹

Furthermore, women still face major obstacles in getting their shares, despite the law. In some families, women are even pressured to give up their share to their brothers or male relatives. Clubbed with ineffective legal mechanisms for protecting such rights, women are pressured to relinquish their right.

Additionally, the different schools of Muslim law have different rules. Some are more open to women inheriting property, while others are more conservative.³² Also, different interpretations lead to disagreements among Islamic scholars about whether these laws can be changed. Some believe that the laws must be followed exactly as they are written in the Quran, while others say that times have changed, and the law should be updated using modern thinking.

The Indian judiciary has traditionally been reticent in interfering with personal law unless it violates constitutional principles.³³ This means that unfair practices can continue unless women go to court themselves to fight for their rights, which is not easy for many.

Recent Legal Challenges

In India, Muslim personal law is not codified in the same way as Hindu law. Muslim inheritance

²⁹ LawBhoomi, *Inheritance Right of Women under Islamic Law*, <https://lawbhoomi.com/inheritance-right-of-women-under-islamic-law-of-succession/>.

³⁰ LC-II, *Women's Right to Succession under Muslim, Christian, Jews and Parsi Law*, https://lc2.du.ac.in/DATA/Women_sRighttoSuccessionandInheritanceunderMuslim,Christian,JewsandParsiLaw.pdf.

³¹ Isha Chaudhary, *Property Rights of Women under Hindu and Muslim Law*, Legal Service India (2022), <https://www.legalserviceindia.com/legal/article-10463-property-rights-of-women-under-Hindu-and-muslim-law.html>.

³² See *Examining the Inheritance Rights of Muslim Women under Muslim Law*, iPleaders (2023), <https://blog.ipleaders.in/examining-the-inheritance-rights-of-muslim-women-under-muslim-law/>.

³³ A.M. Shaikh, *Gender Equality in Muslim Personal Law: Scope for Reform*, SSRN (2023), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4541215.

laws are followed through a law passed in 1937, which says that Islamic rules should be used when dividing a Muslim person's property.³⁴ However, this law does not clearly explain the rules, leading to people often relying on traditional customs, and those customs sometimes treat women unfairly.³⁵

Courts have occasionally intervened to uphold women's rights, but such instances remain sparse and dependent on litigation initiated by the affected women themselves.³⁶

Recent debates centred around whether gender-differentiated inheritance shares violate the constitutional guarantee of equality under Article 14 of the Constitution of India.³⁷ Some scholars and women's rights groups have suggested ways to improve the situation. One suggestion is to keep the religious identity of the law but interpret it in a way that fits modern society and supports equality or another idea is to create new laws that clearly give equal rights to women while still respecting religious beliefs.³⁸

CHRISTIAN SUCCESSION: RIGHTS AND REGIONAL VARIATIONS

The Indian Succession Act, 1925

The property rights of Indian Christians are covered under the purview of a single law called the Indian Succession Act, 1925³⁹. This law seeks to provide a uniform legal framework for intestate and testamentary succession among Christians, it tries to ensure gender equality in matters of succession and is significantly different from the patriarchal religious personal laws. Section 33 states that if and when a Christian man dies intestate, his widow gets one-third of the property, and the remaining two-thirds is divided equally among the lineal descendants, including both sons and daughters. If there are no lineal descendants, the widow's share increase and she gets half of the property, and the rest goes to the relatives according to the rules set out in Part V of the Act.⁴⁰

Further, when a Christian woman dies intestate, the same rule applies: her widower gets one-third, and the lineal descendants get the remaining share. In the absence of lineal descendants, the husband gets half, and the other relatives get the rest. This reflects parity between genders.

³⁴ Muslim Personal Law (Shariat) Application Act, No. 26 of 1937, India Code (1937).

³⁵ *Id.* § 2.

³⁶ See generally JSTOR, *Women's Rights and Legal Reforms in Muslim Law*, <https://www.jstor.org/stable/26330985>.

³⁷ INDIA CONST. art. 14.

³⁸ Isha Chaudhary, *Property Rights of Women under Hindu and Muslim Law*, Legal Service India (2022), <https://www.legalserviceindia.com/legal/article-10463-property-rights-of-women-under-hindu-and-muslim-law.html>.

³⁹ Indian Succession Act, India Code (1925).

⁴⁰ Indian Succession Act, § 33, India Code (1925).

There is also no distinction in the shares of sons and daughters. Also, widows and widowers have legally recognized rights to inherit from their husbands or wives, respectively.

However, this framework of legal equality is not always reflected in real life, due to customs, social pressure, and lack of awareness. In reality, these customary norms continue to undermine the effectiveness of the statutory provisions.

Disparities and Regional Variations

Although the law is clear, Christian women in various regions, particularly in the state of Kerala, continue to encounter systemic barriers to asserting their rights to succession. The Travancore Christian Succession Act, 1916, previously applicable in the former princely state of Travancore, historically provided significantly diminished rights to Christian women.⁴¹ For instance, under that statute, daughters received only one-fourth of the share of sons and were often denied rights to ancestral property if they were married off with a dowry, they were completely ignored for property division, even though the law says otherwise. These families believe that daughters have already been compensated through dowry, leading to a practice that lacks any legal justification under the 1925 Act.⁴² In some church-managed cases, daughters receive a symbolic gift or a small share, while the sons get full control over land and homes.

Although this statute was rendered ineffective following the Supreme Court's decision in *Mary Roy v. State of Kerala*⁴³, the society adhering to its norms continues to linger. This judgement gave equal intestate succession rights to women belonging to the Indian Christian Community. But many Christian women do not go to court to claim their rights, even when they are denied property. They may avoid legal action to maintain family peace or because they do not know the law supports them.

Moreover, churches in Kerala often exert considerable influence in inheritance matters, with informal guidance sometimes taking the place of codified statutory law.⁴⁴ This entrenched discrimination has been documented in multiple sociological studies and has been the subject of public interest litigation and legislative proposals, particularly in the context of the demand for a Uniform Civil Code.⁴⁵

⁴¹ Travancore Christian Succession Act, (1916) (repealed).

⁴² The News Minute, *Christian Women in Kerala Still Denied Right to Inherit Property—Here's Why*, (Dec. 13, 2021), <https://www.thenewsminute.com>.

⁴³ *Mary Roy v. State of Kerala*, (1986) 2 S.C.C. 209 (India).

⁴⁴ Christianity Today, *India's Uniform Civil Code Could Endanger Christian Women's Inheritance Rights*, (May 7, 2024), <https://www.christianitytoday.com>.

⁴⁵ The Economic Times, *Inheritance Rights of Hindu, Muslim, Christian Women Are Not the Same*, (Mar. 8, 2022), <https://economictimes.indiatimes.com>.

The persistence of such discriminatory customs underscores the limitations of the state's ability to enforce succession rights uniformly, particularly when legal norms conflict with religious and cultural practices. While there have been growing demands from women's groups and legal experts for stronger enforcement of the Indian Succession Act, with some Christian women even going to court to claim their rightful inheritance, with decisions in their favour, the reality is that many are deterred by familial pressure, lack of legal literacy, or economic dependence.⁴⁶

PARSI SUCCESSION: BALANCING TRADITION AND MODERNITY

The Indian Succession Act, 1925

The inheritance laws for Parsis are codified under Part III of the Indian Succession Act, 1925⁴⁷ which incorporates provisions from the earlier Parsi Intestate Succession Act, 1865⁴⁸ and the Parsi Marriage and Divorce Act, 1936⁴⁹. This Act tells us how property should be divided if a Parsi person dies intestate, it is characterized by a structured scheme of lineal and collateral heirs, with specific enumerations under Schedules II to IV of the 1925 Act.⁵⁰

Unlike other personal laws in India that often exhibit deeply embedded gender biases, the Parsi law of succession, as codified in the Indian Succession Act, reflects a relatively egalitarian approach. Both male and female heirs are entitled to inherit, and there is no distinction in quantum of shares based on sex. Widows of male descendants are also given rights to inherit property.⁵¹ This makes Parsi law more gender-equal than many other personal laws in India. However, this statutory framework does contain some patriarchal trace. If a Parsi woman marries someone who is not Parsi, her children are excluded from inheritance, whereas those born to Parsi men who marry non-Parsi women retain their rights to inheritance.⁵² This unequal treatment has been criticized and has given rise to constitutional scrutiny and advocacy for reform.

Inheritance Rights and Gender Equality

Parsi law is, on paper, one of the more progressive inheritance systems in India, offering great

⁴⁶ LawTeacher.net, *Christian Law of Succession*, <https://www.lawteacher.net/free-law-essays/property-trusts/christian-law-of-succession.php>.

⁴⁷ Indian Succession Act, India Code (1925).

⁴⁸ Parsi Intestate Succession Act, (1865) (repealed).

⁴⁹ Parsi Marriage And Divorce Act, India Code (1936).

⁵⁰ Indian Succession Act, §§ 50–56, Schedules II–IV, India Code (1925).

⁵¹ Legal Service India, *Women Rights in Parsi Community*, <https://www.legalserviceindia.com/legal/article-4034-women-rights-in-parisi-community.html>.

⁵² Scribd, *Property Rights of Women under Parsi Law*, <https://www.scribd.com/document/570392846/PROPERTY-RIGHTS-OF-WOMEN-UNDER-PARSI-LAW-1>.

gender symmetry in matters of succession. Women are given equal rights as heirs and are not deprived of property rights upon marriage or motherhood.⁵³ Daughters, widows, and mothers inherit alongside sons and fathers, and the law does not presume any reduced legal standing for women in the devolution of estate.

But in real life, things aren't always so fair. Many community practices and customs make it harder for women to enjoy these rights. As per customary interpretations, a Parsi woman who marries outside the faith, along with her children, is often treated as having renounced the community, despite the absence of any such statutory disqualification.⁵⁴ This exclusion from both community and property has often led to litigation and public discourse.

Further, while statutory law does not differentiate in shares between male and female heirs, there have been cases where women do not to claim their share of family property, due to societal pressure.⁵⁵

Challenges and Recent Changes

The challenges confronting Parsi women's property rights are situated at the intersection of statutory modernism and customary conservatism. Even though the law gives women equal rights, old customs and religious practices still create barriers. Many Parsi religious and community bodies try to follow traditional rules that exclude children of Parsi women who marry outside the religion.

Some of these practices have been challenged in court, Judicial responses to these challenges have been gradual and often reluctant, particularly when cases invoke Article 26 of the Constitution⁵⁶, which protects the right of religious denominations to manage their own affairs. Religious groups argue that they have a right to run their affairs without interference, which is protected by the Constitution. Further the court has also held that personal laws are not 'laws' under Article 13 of the Constitution⁵⁷, and therefore, they cannot be tested for their constitutionality.⁵⁸

But many people believe that this right should not be used to discriminate against women or deny them their inheritance. Legal scholars have advocated for a Uniform Civil Code or

⁵³ LawBhoomi, *Women and Personal Laws: Analysis Through Provisions of Inheritance and Succession*, <https://lawbhoomi.com>.

⁵⁴ The Academic, *Status of Parsi Women in India and Their Right to Property*, <https://theacademic.in/wp-content/uploads/2024/09/63.pdf>.

⁵⁵ Lodha Group, *Understanding Women's Property Rights in India*, <https://www.lodhagroup.com/blog/homebuyers-handbook/understanding-women-property-rights-in-india>.

⁵⁶ INDIA CONST. art. 26.

⁵⁷ INDIA CONST. art. 13.

⁵⁸ *State of Bombay v. Narasu Appa Mali*, A.I.R. 1952 Bom. 84 (India).

amendments to the Indian Succession Act that would bring Parsi personal law in line with constitutional guarantees of equality under Articles 14 and 15^{59, 60}.

CONSTITUTIONAL AND HUMAN RIGHTS PERSPECTIVES

Constitutional Provisions: Equality and Non-Discrimination

The Indian Constitution enshrines gender equality as a fundamental tenet of its democratic framework. Articles 14 and 15⁶¹ impose an affirmative obligation on the State to ensure that no person is denied equality before the law or subjected to discrimination based on sex. These articles support the idea that women should not face unequal treatment in matters like inheritance. Further, clubbed with Article 21⁶² there is a right to equality and dignity and personal laws, whether codified or uncodified, which discriminates against women can and must be challenged as being unfair and unconstitutional.⁶³

International Human Rights Standards

India has ratified the Convention on the Elimination of All Forms of Discrimination Against Women, which imposes an international obligation to give equal rights to women, including in family and inheritance matters. CEDAW General Recommendation No. 21 explicitly underscores equality in family relations and succession, demanding parity in proprietary entitlements.⁶⁴ These global standards guide countries to treat women fairly in legal and social matters. When Indian laws fall short of these goals, there occurs a gap between international human rights jurisprudence and domestic implementation. As highlighted by empirical studies, this disjunction severely impairs women's economic autonomy.⁶⁵

Judicial Interventions and Landmark Judgments

The Indian judiciary has increasingly adopted a transformative constitutionalist approach in redressing gender inequalities in personal law. In the *Vineeta Sharma* case, the Supreme Court

⁵⁹ INDIA CONST. arts. 14–15.

⁶⁰ Ipleaders, *Property Rights of Women in India*, <https://blog.ipleaders.in/property-rights-of-women-in-india/>.

⁶¹ *Id.*

⁶² INDIA CONST. art. 21.

⁶³ *Women's Rights in India*, NAT'L HUM. RTS. COMM'N, https://nhrc.nic.in/sites/default/files/Women%E2%80%99s%20Rights%20in%20India%20complete_compressed.pdf.

⁶⁴ Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13.

⁶⁵ IJRPR, *Women's Inheritance Rights in India: An Analytical Perspective*, <https://ijrpr.com/uploads/V5ISSUE7/IJRPR31573.pdf>.

confirmed that daughters are coparceners right by birth.⁶⁶ In *Shayara Bano*⁶⁷, the Court held triple talaq unconstitutional, underscoring that personal laws are not immune from fundamental rights scrutiny. These cases show that courts are ready to protect women's rights, even in personal laws. Although the court does not have capacity to review uncodified personal law directly.⁶⁸

COMPARATIVE ANALYSIS: DISPARITIES AND SIMILARITIES

A Cross-Personal Law Comparison of Women's Inheritance Rights

Women's inheritance rights differ across religious communities in India. Hindu women, after the 2005 amendment, enjoy coparcenary rights, though practical enforcement remains limited. Muslim women, while statutorily entitled to inheritance, are relegated to lesser shares under Sharia principles.⁶⁹ Christian women, governed by the Indian Succession Act, 1925, often face regional disparities, particularly in states like Kerala, where customary practices dilute statutory mandates.⁷⁰ Parsi succession, though relatively gender-neutral in statutory terms, excludes non-Parsi wives and children of female Parsis, reflecting embedded communal and gender exclusions.⁷¹

Identifying Common Challenges: Gender Bias and Legal Interpretation

Despite legal reforms, a big problem is how religious texts are interpreted, in ways that subordinate women's claims, with social customs reinforcing these exclusions.⁷² In addition, many women don't claim their rights due to social pressure or because they are unaware of them. Courts have at times deferred to religious autonomy over equality, leading to an inconsistent jurisprudential landscape. Further, procedural barriers continue to marginalize women's inheritance claims.⁷³

⁶⁶ *Vineeta Sharma v. Rakesh Sharma*, (2020) 9 S.C.C. 1 (India).

⁶⁷ *Shayara Bano v. Union of India*, (2017) 9 S.C.C. 1 (India).

⁶⁸ *Supra* at 57.

⁶⁹ *Muslim Law of Inheritance*, IPLEADERS, <https://blog.ipleaders.in/muslim-law-of-inheritance/>.

⁷⁰ *Christian Women in Kerala Still Denied Right to Inherit Property*, THE NEWS MINUTE, <https://www.thenewsminute.com/kerala/christian-women-kerala-still-denied-right-inherit-property-here-s-why-159812>.

⁷¹ *Women's Rights in the Parsi Comm⁷¹ Property Rights of Women in India and Maintenance*, VIKASPEDIA, <https://socialwelfare.vikaspedia.in/viewcontent/social-welfare/women-and-child-development/women-development-1/meera-didi-se-poocho/property-rights-of-women-in-india-and-maintenance?lgn=en.unity>, LEGAL SERVICE INDIA, <https://www.legalserviceindia.com/legal/article-4034-women-rights-in-parsi-community.html>.

⁷² *Status of Women under Hindu Law*, INDIA LEGAL LIVE, <https://indialegalive.com/laws-research-indepth/status-of-women-under-hindu-law/>.

⁷³ *Property Rights of Women in India*, FIREFLIES LEGAL, <https://fireflieslegal.com/rights-of-women-Hindu-muslim-and-christian-on-property/>.

The Impact of Sociocultural Factors

In many parts of India, especially in rural areas, social customs are stronger than written law. Studies indicate that women often renounce their inheritance voluntarily to keep peace in the family or because they believe it's the "right thing" to do.⁷⁴ Rural women are disproportionately disadvantaged, lack of education and legal knowledge also keeps women from fighting for their rights. Programs like "Meera Didi Se Poocho" show that when women know the law, they are more likely to stand up for themselves.⁷⁵

REFORMS, RECOMMENDATIONS AND CONCLUSION

The Need for Uniformity and Gender Justice

To make sure all women are treated equally, some people suggest creating a Uniform Civil Code under Article 44 of the Constitution.⁷⁶ This would mean that all Indians, no matter their religion, follow the same rules for family matters like inheritance. While a one-size-fits-all approach may not be feasible in India's diverse socio-religious landscape, a calibrated UCC, centred on gender justice and drawn through democratic deliberation, can establish uniform entitlements without undermining religious freedoms.⁷⁷

Recommendations for Legal Reform

Some laws need to be updated to reflect gender equality more clearly. Legislative action must prioritize the codification of uncodified personal laws, particularly Muslim and tribal succession frameworks, integrating gender-sensitive provisions. Harmonization of state-level succession laws with central statutes would further ensure consistency in the application of legal norms.⁷⁸

The Role of Awareness and Empowerment

Alone, even the best laws won't help if women. They need to know about them and not feel afraid to use them. Programs focused on legal literacy, especially among rural and semi-urban

⁷⁴ *Women and Personal Laws: An Analysis Through Inheritance*, LAWBHOO MI, <https://lawbhoomi.com/women-and-personal-laws-analysis-through-provisions-of-inheritance-and-succession/>.

⁷⁶ INDIA CONST. art. 44.

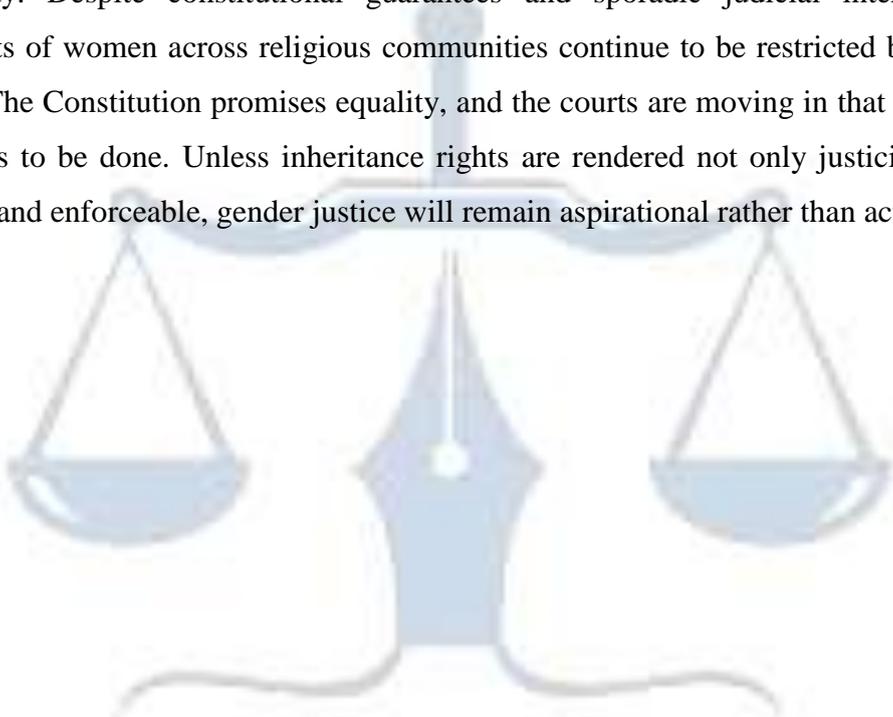
⁷⁷ Tanja Herklotz, *Law, Religion and Gender Equality: Literature on the Indian Personal Law System from a Women's Rights Perspective*, 1 INDIAN L. REV. 250 (2017), <https://doi.org/10.1080/24730580.2018.1453750>.

⁷⁸ *Women's Rights in India*, NAT'L HUM. RTS. COMM'N, https://nhrc.nic.in/sites/default/files/Women%E2%80%99s%20Rights%20in%20India%20complete_compressed.pdf.

women, must be expanded and adequately funded. Further, Civil society organizations and state institutions, such as the NHRC, must monitor enforcement of inheritance laws and ensure accountability.⁷⁹ Support from the government and community groups can make a huge difference.

Conclusion

Women's right to inherit property is a major issue that sits at the crossroads of law, religion, and society. Despite constitutional guarantees and sporadic judicial intervention, the entitlements of women across religious communities continue to be restricted by patriarchal tradition. The Constitution promises equality, and the courts are moving in that direction, but more needs to be done. Unless inheritance rights are rendered not only justiciable but also accessible and enforceable, gender justice will remain aspirational rather than actual.



WHITE BLACK
LEGAL

⁷⁹ *Understanding Women's Property Rights in India*, LODHA GROUP, <https://www.lodhagroup.com/blog/homebuyers-handbook/understanding-women-property-rights-in-india>.