

Property Rights of Hindu Women: A Feminist Review of Succession Laws of Ancient, Medieval, And Modern India

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ABSTRACT

Hindu women's legal right to inherit property has been restricted from the earliest times in Indian culture. However, women were not always excluded from inheriting movable or immovable property from ancestral and marital families. But their proportion of share in the property was far less than that of their male counterparts. Throughout history, restrictions on Hindu women's property rights have undergone change, and current laws governing these rights are more liberal than those of ancient Hindu society. Patriarchal Hindu society provided women with property known as stridhan (literally, women's property or fortune), and it mainly came from marriage gifts (clothes, jewelry, and in some rare cases, landed properties). However, women were denied property rights to the ancestral or marital landed property, and their right over succession of the landed family property was limited. With the emergence of different schools of Hindu law, the concept of stridhan started expanding its literal and legal meaning, granting women more rights to certain forms of property. Later, the nineteenth and twentieth centuries witnessed the passage of several pieces of legislation that were intended to remove more of the barriers to full and equal property rights for Hindu women. Most recently, gender discrimination in Hindu succession rules was mostly discontinued by the recent Hindu Succession (Amendment) Act (2005). This article critically examines the development of succession rights of Hindu women from the ancient to the modern period, from a feminist perspective. It also analyzes the present status of Hindu women as property owners.

Keywords: *Hindu Women, Property Rights, Hindu Succession (Amendment) Act (2005), Feminist perspective.*

Hindu women's legal right to inherit property has been restricted from the earliest times in Indian culture. In the ancient text Manusmriti,³ Manu writes: "Her father protects her in childhood, her husband protects her in youth and her sons protect her in old age; a woman

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³ The Manusmriti is the Hindu code of ancient India, which dealt with the relationships between social and ethnic groups, between men and women, the organization of the state and the judicial system, reincarnation, the workings of karma, and all aspects of the law. This Hindu Code is important for its classic description of so many social institutions that have come to be identified with the Indian society. Even after several centuries, it still generates controversy, with Manu's verses being cited in support of the oppression of women and members of the oppressed castes.

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is never fit for independence."⁴ However, women were not always excluded from inheriting movable or immovable property from ancestral and marital families. But their proportion of share in the property was far less than that of their male counterparts.

Throughout history, restrictions on Hindu women's property rights have undergone change, and current laws governing these rights are more liberal than those of ancient Hindu society. Patriarchal Hindu society provided women with property known as stridhan (literally, women's property or fortune),⁵ and it mainly came from marriage gifts (clothes, jewelry, and in some rare cases, landed properties). However, women were denied property rights to the ancestral or marital landed property, and their right over succession of the landed family property was limited. With the emergence of different schools of Hindu law, the concept of stridhan started expanding its literal and legal meaning, granting women more rights to certain forms of property. Later, the nineteenth and twentieth centuries witnessed the passage of several pieces of legislation that were intended to remove more of the barriers to full and equal property rights for Hindu women. Most recently, gender discrimination in Hindu succession rules was mostly discontinued by the recent Hindu Succession (Amendment) Act (2005).⁶

This article critically examines the development of succession rights of Hindu women from the ancient to the modern period, from a feminist perspective. It also analyzes the present status of Hindu women as property owners. The article is divided into three parts. The first part examines the influence of the Hindu religion and socio-cultural factors in the formation of succession laws for Hindu women and the concept of stridhan in the ancient period. The second part discusses the plight of Hindu female heirs in the medieval period. The third part analyzes the colonial rules and laws protecting women's right over property and the development of the concept of stridhan to modern inheritance laws.

The Ancient Period

Women and Property in Ancient Hindu Scripts

The Sanskrit saying "Na stri swatantramarhati-'Swatrantam Na Kachit Striyah'⁷ meant that women were unfit for any independent existence and was the rule of ancient Hindu society. A woman was considered less than fully human, an object to be preserved by her male guardians. Even though

⁴ Manu IX.3: Manusmriti: The Laws of Manu, in Sacred Books of the East 56 (G. Buhler trans. 1886) (available at http://www.hinduwebsite.com/sacredscripts/laws_of_manu.htm) (last updated 2007). Even though laws are made to prevent child marriages, such acts still prevail in many villages of India. Once a girl is married as a child, she never returns to ask for the share of her ancestral property, nor are such demands entertained by her parental family. The main reason for this is that, once married, she introduces a new member to the coparcenary property-her husband.

⁵ Stridhan (stri, meaning women, and dhan, meaning fortune or property in Sanskrit) literally means property of a woman. The Manusmriti first used the term stridhan to denote portions of property that can be owned by women alone. Women are regarded as a means of bringing more property to in-laws' families by way of dowry. The language of the Dowry Prohibition Act (1961), India Code Act No. 28 of 1961, gives enough scope to convert stridhan into dowry in camouflaged ways. The text of all Central Acts of the Indian Parliament are available at indiacode.nic.in. The Acts can be searched by their popular names or Act numbers presented in this article

⁶ India Code Act No. 39 of 2005.

⁷ A.M. Bhattachajee, Hindu Law and the Constitution 120 (2 d ed., E.L. House 1994).

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the Puranas, the mythological stories passed on from the time of Krishna,⁸ described Goddesses as Shakti (Goddess of universal power), Mahalakhshmi (Goddess of wealth), and Mahasaraswati, (Goddess of knowledge), mortal women were placed below the status of Sudra,⁹ the lowest varnas¹⁰ of Hindu society.

The ancient scriptures never mention any property for an unmarried woman. However, when she married, a woman could possess a limited range of property, called stridhan, which she received at the time of her marriage and could include movable assets such as jewelry, clothes, utensils or cattle. In some rare cases immovable assets, such as landed property, were also given as stridhan. Nevertheless, a woman was never the absolute owner of her stridhan, because, as mentioned before, the Manusmriti taught that a wife along with her property belongs to her husband.

These ancient texts never properly defined the term stridhan; its characteristics were never specified and the succession rule was not clear. This began to change, however, with the emergence of different schools of Hindu law.

The Emergence of Different Schools of Hindu Law

According to ancient Hindu mythologies, the earliest texts of Hindu religion were created by Lord Brahma in the form of four Vedas (the Rig Veda, Atharva Veda, Sama Veda and Yajur Veda). Ancient Hindu sages added various Smritis and Srutis (respectively, nonrevealed and revealed texts) to the Vedic literature,¹¹ many dealing explicitly with issues of property and women's rights regarding it.¹² While these commentaries on the Smriti and Sruti were being written, different

⁸ The Puranas are the richest collection of mythology in the world. Most of them attained their final form around 500 A.D. but they were passed on as an oral tradition since the time of Krishna (c. 1500 B.C.). There are eighteen major Puranas and a few minor ones. The most important Puranas are the Vishnu, Siva and Markandeya Purana. They are believed to be written by Vyasa. All the Puranas belong to the class of Suhrit-Sammitas, or the Friendly Treatises, while the Vedas are called the Prabhu-Sammitas, or the Commanding Treatises with great authority

⁹ Sudras were the lowest class and mainly served the other three higher classes of the Varna system, namely the Brahmins (priestly), Kshatriyas (princely) and the Vaisyas (commercial). They had no particular profession but many historians described them as slaves.

¹⁰ The word Varna is derived from the root "NR" to screen, veil, covering, external appearance-Varna also means color. Varna was used to denote groups having different skin coloration. The Aryans were fair skinned and the Dravidians black skinned. Apart from the skin color the four varna's applied specific color marks on their fore head (called chandan or kumkum) to identity themselves differently (The color difference may also be in their dress.). The brahmin applied a white chandan mark signifying purity, as his profession was of a priestly or academic nature. The kshatriya applied a red kumkum mark signifying valor as he belonged to warrior races. The vaishya wore a yellow kesar or turmeric mark signifying prosperity, as he was a businessman or trader devoted to creation of wealth. The sudra applied a black bhasma, kasturi or charcoal mark signifying service as he supported the work of the other three divisions. But color is only one of the many aspects of the term. Varna also denotes species, kind, character and nature. Racial, tribal and familial solidarity also had a part to play in the origin of the Varna system. The divisions may have been made based on religious beliefs, cult practices, and even eating habits. Above all, there is the theory that the Varnas derived their basis from the Purushasukta (Rig Veda 10.90) in dividing mankind into four socially separate interdependent categories and this was incorporated in the Manu Dharmasastra.

¹¹ Smriti ("that which is remembered") refers to a specific body of Hindu religious scripture. Smriti also denotes non-Shruti texts generally, seen as secondary in authority to Shruti.

¹² Sruti ("what is heard") is a canon of Hindu sacred texts. They do not date to a particular period, but span the entire history of Hinduism, beginning with the earliest texts known, with some late Upanishads reaching down into modern times.

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schools of thought arose in different parts of the Indian subcontinent, and these schools laid down several rules and principles for marriage and inheritance. The Mitakhshara and the Dayabhaga were the most prominent schools, each of them based on a different interpretation of Yagnavalkya Smriti, which was written by sage Yagyavalkya and is one of the three main Smritis of ancient India and the second most important source of Hindu code after Manusmriti. The Mitakhshara School is based on Sage Vigneswara's interpretation of Yagnavalkya's text, while the Dayabhaga School derives from Sage Jimootvahana's commentary. The rules made by these schools are still followed as the basic principles for inheritance law in India.

The Mitakhshara School¹³ was followed throughout India, except the eastern part, and is divided into four sub schools on the basis of geographic region, namely the Dravida, Maharashtra, Banaras, and Mithila schools. The Mitakhshara School is distinguished by three characteristics:

- (1) the importance of blood relationship in matters of inheritance;
- (2) the restrictions placed on coparceners' share in the joint family property;¹⁴ and
- (3) the distinction between male and female heirs.

Concerning the second point, the Mitakhshara School claimed that a coparcener's share in joint family property is not absolute and constantly fluctuates due to the birth or death of other coparceners. Coparceners therefore do not have absolute right to transfer their shares.

As for the third point, the Mitakhshara School believed that a woman could never become a coparcener and the widow of a deceased coparcener could not enforce partition of her husband's share against his brothers. Property rights for Hindu women were severely restricted, then, by this school of interpretation.

The second most prominent school of law after the Mitakshara, the Dayabhaga School, was mainly followed in the eastern part of the country, especially in the provinces of Bengal and Assam, and had no sub schools. It differs from the Mitakhshara School on principles of inheritance and the position of women as heirs. According to the Dayabhaga School:

- (1) the right to inheritance arises from the spiritual offerings to the deceased ancestors;
- (2) the right over Hindu joint family property devolves to the heir on the death of the father and not by birth, as was maintained by the Mitakhshara School;
- (3) for heirs of joint family property, each share is definite, and each brother can sell his particular fraction of the share;
- (4) if there are no male descendants, a widow has the right to succeed to her deceased husband's share and enforce partition.

The Dayabhaga School differed considerably; therefore, from the Mitakhshara School on the question of a woman's standing as property owner. Still, this more liberal policy had well-defined limits. For instance, women were not absolute owners of the property inherited from their male

¹³ One of the prominent commentaries of Smritis, and it is divided into four sub-schools on the basis of geographic region, namely the Dravida, Maharashtra, Banaras and Mithila schools.

¹⁴ See Janaki Nair & Natl. L. Sch. of India U., *Women and Law in Colonial India: A Social History* 196 (Kali for Women in collaboration with the Natl. L. Sch. of India U. 1996) (discussing the Mitakhshara generally).

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ancestors, because they could sell the property only for limited legal necessities and not for other reasons. On the death of the woman who had no sons, such property did not pass to her female heirs but to the nearest male heir of the deceased male owner and not to the heirs of the deceased. Another difference between the Mitakhshara and Dayabhaga schools was the extent to which the Dayabhaga School divided women into five categories that determined priority in inheritance cases. These are wife, daughter, mother, father's mother and father's father's mother.

The Development of the Concept of Stridhan

The Mitakhshara School did not recognize women's right to inherit property from her husband's family. Accordingly, a woman could possess only stridhan, whose technical and legal meanings the Mitakhshara School expanded to include nine types: (1) gifts and bequests from relations; (2) gifts and bequests from strangers; (3) property acquired by self exertion and mechanical arts; (4) property purchased with stridhan; (5) property acquired by compromise; (6) property obtained by adverse possession; (7) property obtained in lieu of maintenance; (8) property obtained by inheritance; and (9) share obtained by partition.¹⁵

However, even though the first seven types were recognized and established as different forms of stridhan, the last two remained controversial until the early twentieth century.

Controversy over the Property Obtained by Inheritance by Woman

The Mitakhshara School considered all these nine types of succession as Stridhan. But, the Privy Council differed from the ancient school of thought regarding the characteristics of the inherited property. It was decided that when the property is inherited by females from males¹⁶ and also by females from females,¹⁷ it no longer retains the characteristics of "Stridhan," but becomes women's estate. But the Bombay school disagrees with the English judgment on the characteristics of the Stridhan. This school divided inheritance of property by women into three groups:

- (a) inheritance of property by woman from female,
- (b) inheritance of property by a woman from a male in whose family the woman is born, such as daughters, sisters, brothers' daughter, etc., and
- (c) inheritance of property by a woman from a male, where the woman in question is introduced to the father's gotra or lineage by marriage, such as intestate's widow, mother, etc. The Bombay School certifies that the first two groups of property qualify the characteristics of Stridhan¹⁸ whereas the third kind of property is not Stridhan but women's estate.

¹⁵ Paras Diwan, *Modern Hindu Law Codified and Uncodified* 346-347 (10th ed., Allahabad L. Agency 1995).

¹⁶ *Bhagwande v. Maya Bae*, II M.I.A. 487 (1867).

¹⁷ *Sheo Shankar v. Devi Saha*, 25 All. 468 (1903).

¹⁸ *Kaseerbai v. Hunsraj*, 30 Bom. 431 (1906).

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Controversy over Share Obtained on Partition

Even though the ancient schools differed about the characteristics of stridhan when discussing property inherited by a woman, almost all schools of Hindu law unanimously agreed that the share obtained by partition is not Stridhan but women's estate.¹⁹

From Stridhan to Women's Estate

Thus we can see that with the passage of time the concept of Stridhan develops into two distinct categories of rights over the property, the one being full ownership, including the right to alienation and the other being limited, excluding the right to alienate. The two leading schools of Hindu thought clearly regarded stridhan as a women's "own property." But not all stridhan was out of reach of male claimants. Stridhan was divided into two types:

- 1) the sauadayika, which she received as gifts from relatives of both sides (parents and husband), and which she acquired by self exertion and mechanical arts during her maidenhood or widowhood, over which she had full rights of disposal, and
- 2) the non-sauadayika,²⁰ which included gifts from strangers and property acquired by self-exertion, mechanical art, and so forth as a married woman, over which she had no right of alienation without the consent of her husband. Her husband also had the power to use it. However, upon her death all types of stridhan would pass over to her own heirs.

This age old confusion of women's limited rights over certain types of property was finally put to rest by the Privy Council. It coined the property with limited rights as "women's estate,"²¹ whereby the female owner takes it as a limited owner.²² The two main characteristics which make women's estate different from Stridhan are

- (a) she cannot ordinarily alienate the corpus, and
- (b) on her death it goes to the next heir of the last full owner, i.e., the male owner from whom the woman had inherited.²³ In *Janki v. Narayansami*,²⁴ the Privy Council aptly observed, "her right is of the nature of right of property, her position is that of the owner, her powers in that character are, however limited.... So long as she is alive, no one has vested interest in the succession."²⁵

Other sources help to complete the picture of ancient Hindu women's property rights. The Dharma Shashtra-Sanskrit texts pertaining to Hindu religious and legal duty-says that the wife of an absent manager, or the widow of a dead manager, can alienate or transfer family property belonging to numerous minors who are unable to enter into contractual relationships in their own persons, especially in situations that call for maintaining dependents and carrying out the various

¹⁹ *DeviPrasadv. Mahadeo*, 39 I.A. 121 (1912).

²⁰ *Vibha Sirothya*, Student Author, *Stridhan And Womans' Estate Under Section 14 of Hindu Succession Act 1956*, www.indlaw.com/publicdata/articles/article189.pdf (accessed March 7, 2022).

²¹ *DeviPrasadv. Mahadeo*, 39 I.A. 121 (1912).

²² *Diwan*, supra n. 13, at 346-348

²³ *Biay v. Krishna*, 44 I.A. 87 (1907).

²⁴ 43 I.A. 207 (1916).

²⁵ However, post independence, Hindu Succession Act (1956), India Code Act No. 30 of 1956, abolished the concept of woman's estate and conferred full rights to women over all types of property that have been discussed here. The broad discussions of the Hindu Succession Act (1956) are done below.

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obligations of the family. Katyana,²⁶ Smritichandrika,²⁷ Bhavasvamin,²⁸ and Yagnavalkya Smriti²⁹ also support this right.³⁰ However, what is clear from the Dharma Shastra is that women were considered to be managers in cases only of distress and never had the power to manage property by themselves for their own purposes.

It is also clear that many socio-religious crimes had their roots in ancient succession laws. A Hindu woman was never recognized as full owner of any property received by her, especially when it was landed property. Manu's attitude regarding the inferiority of women extended even to circumstances in which a woman was the only child. For such cases, ancient law makers suggested adopting a male baby to look after parental property, which should never be left with the woman, regardless of how educated she might have been. This fight with women for ownership over property gave birth to a number of socio-religious crimes that were given legal color in the name of protecting family wealth. Hence, bigamy, remarriage for the male heir, forced sexual intercourse with another man to have a male child, female infanticide, and wife abandonment were made widely acceptable, if not legally, then in the name of religion, for situations in which a woman could not produce a male heir.

THE MEDIEVAL PERIOD

Succession Rights for Hindu Women: Darker than Ever?

The strong shadow of male dominance over the succession rights of Hindu women became even darker in the medieval period with the Muslim invasion.³¹ The Muslim rulers in this period introduced a new set of rules from the Shariat³² for the followers of Islam but did not disturb the personal laws of the Hindu community for marriage or succession. During this period, stridhan in the form of jewelry and other movable gifts started losing its implicit meaning of "women's property" and became a status symbol for matrimonial gifts to the newlywed couples in the form of Vara dakhshina or dowry.³³

²⁶ Katyana was an ancient Hindu legal text writer. See <http://www.legalserviceindia.com/articles/kar.htm> (accessed March 7, 2022).

²⁷ SmritiChandrika is a Hindu legal text written to supplement Mitakhshara, the ancient Hindu text for inheritance. It is more a sort of digest of ancient texts dealing with inheritance than a commentary. Devanna Bhatta, Smritichandrika (Vyavaharakanda) (L. Srinivasacharya Pandit ed., Gov. Oriental Lib. 1914).

²⁸ Bhavasvamin was an ancient Hindu legal text writer.

²⁹ Smriti by Sage Yagnavalka, an ancient legal text writer.

³⁰ Garg Manisha & Nagar Neha, Student Authors, Can Women be Karla?, <http://www.legalserviceindia.com/articles/kar.htm> (accessed March 9, 2022).

³¹ The Muslim conquest in the Indian subcontinent mainly took place from the 11th to the 17th centuries, though earlier Muslim conquests made limited inroads into the region, beginning during the period of the ascendancy of the Rajput Kingdoms in North India, from the 7th century onward. V.D. Mahajan, History of Medieval India (S. Chand 2004).

³² The code of law derived from the Qur'an and from the teachings and example of Mohammed.

³³ Originally a woman received gifts from her family during her marriage as a form security also, but slowly it turned into a compulsion for the bride's family to gift the Stridhan not to the girl but to the bridegroom, which was termed as Vara (bridegroom) dakhshina (payment) or payment to the bridegroom for marrying the daughter. This forceful demand of Stridhan remained an unprotected social evil until the creation of the Dowry Prohibition Act (1961) which defined Vara Dakhshina or "dowry" as any property or valuable security given or agreed to be given either directly or indirectly-(a) by one party to a marriage to the other party to the marriage; or (b) by the parents of either party to a marriage or by any other person, to either party to the marriage or to any other person, at or before any time after the

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The concept of women's estate³⁴ gained favorable recognition in Hindu society at this time due to socio-cultural reasons. When a woman received landed property either:

- 1) by inheritance specially from the male members of the family such as the husband or the father-in-law or
- 2) by share obtained by partition of the property, she was made the owner subject to two limitations-first, she could not ordinarily alienate the corpus and, second, on her death it devolved upon the next heir of the last full owner, also known as a reversioner. This was established by the Privy Council in the case of *Bioy Gopal Mukherji v. Krishna Mahishi Debi*³⁵

The customary laws, however, gave three options in which a woman could alienate her estate by herself:

1. legal necessity (that is, for her own need and for the need of the dependants of the last owner);
2. for the benefit of estate; and
3. for the discharge of indispensable duties (marriage of daughters, funeral rites of her husband, his shraddha and gifts to Brahmans for the salvation of his soul; that is, she can alienate her estate for the spiritual benefit of the last owner, but not for her own spiritual benefit).³⁶

In other words, her position was reduced to that of a mere caretaker of the property for the sake of male members of the family.

This practice of devolving only limited ownership on the women became more common during the medieval period to protect ancestral property from the grab of the Muslim rulers in cases in which full owners died intestate. Young widows were used as a mode to transfer the succession rights to the nearest male member of the husband's family. Immediately after her husband's death, a widow would be declared the limited owner of her deceased husband's property. She was allowed to wear only white attire and no ornament. Her jewelry would be forcefully taken by the male members of her immediate family. Then, if she was young, she would be encouraged or, in majority of cases, forced to submit to the ritual of bride burning or sati.³⁷ Older women would be

marriage in connection with the marriage of the said parties but does not include] dower or mahr in the case of persons to whom the Muslim Personal Law (Shariat) applies. Dowry Prohibition Act (1961), Act No. 28 of 1961, available at <http://wcd.nic.in/dowryprohibitionact.htm>.

³⁴ In the Mitakhshara jurisdiction, including Bombay and the Dayabhaga School, the legal commentators finally dictated that the share obtained in partition is not stridhan in its true sense. It was given the Colonial legal recognition as "women's estate" in *Devi Prasad v. Mahadeo*, 39 I.A. 121 (1912).

³⁵ 34 I.A. 87 (1907).

³⁶ Sirothyia, supra n. 20, at 4.

³⁷ Sati is the practice of burning the Hindu widows alive with their husbands. This practice became more common during the Muslim rule in northern India to protect the chastity of Hindu women from the Muslims. But this heinous practice became more in vogue in northern, western and eastern India in the 17th and 18th centuries, mainly to kill the widows so that they could not claim the property of their deceased husband. By the end of 18th century, the British rulers in India, along with the social reformers like Raja Ram Mohan Roy, made strict rules preventing the practice of Sati. In modern India the practice of Sati is considered to be a criminal act and punishable by both the Sati Prevention Act and the Indian Penal code, along with the Criminal Procedure Act. But unfortunately still in interior parts of

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left to beg in some Hindu holy place. The practice of sati still continues in many parts of India to unethically gain women's property.

The late seventeenth century saw the eruption of another socioreligious crime-that of dowry,³⁸ which made stridhan part of the gift to the bridegroom. For centuries, stridhan was demanded by prospective bridegrooms as part of the dowry given to them. This was unethical, according to the ancient srutikaras (or authors of the shruti). Colonial rule made the situation little better. By creating laws that followed British models for securing succession rights for women, these laws could not help Hindu women, who almost by definition were not as rich as their British counterparts. Hence Hindu women continued to be tortured for being born a daughter who could demand a share of property and family wealth in the name of stridhan, for being a young bride whose stridhan was considered an insufficient contribution to her husband's dowry, and for being a widow who could demand her husband's share in the family property and her own stridhan.

THE MODERN PERIOD

Stridhan, Sati and Dowry

The biggest socio-legal problem which the colonial rulers faced in India with their Hindu "subjects" was the Hindu religious practices and social customs, all of which generated from one issue, the deprivation of women from their legitimate rights. When the British invaded India, the Hindu socio-religious-cultural situation reached its nadir. The practice of demanding stridhan as part of dowry became entrenched. This encouraged female infanticide, marrying young girls with dying men and the heinous practice of bride burning. Furthermore, even though the Mughal emperors tried to stop the practice of bride burning, or sati, the barbaric practice continued to be practiced into the eighteenth and nineteenth centuries. Persuaded by social reformers such as Raja Ram Mohan Roy and Lord William Bentinck, for the first time in Indian history the practice was abolished by the Sati Regulation, XVII of 1827. Sati became a punishable act when the Indian Penal Code of 1860 established that such practice amounts to murder and homicide. These acts paved the way for ensuring Hindu women's lawful right over their property. But the question of dowry remained unsolved and continued to be interpreted as part of stridhan.

A. Colonial Laws: Hindu Women's Right to Property Act (1937)

Hindu customary laws and rules continued to be practiced well after the British invaded the country. Even while they introduced uniform laws governing other features of social life, such as crime and commerce in the eighteenth and nineteenth centuries, British colonial rulers recognized distinct Hindu family laws for different religious groups and other cultural groups.³⁹ The inheritance laws thus continued to be governed by the Mitakhshara and Dayabhaga laws till the beginning of the twentieth century.

The colonial rulers' first attempt to make a uniform law of succession for Hindu women was the Hindu Women's Right to Property Act (1937), which emphasized women's estates. This Act was

Northern India, the ritual of Sati is practiced, even though very rarely. Arvind Sharma, *Sati: Historical and Phenomenological Essays* (Motilal Banarsidass 1988).

³⁸ Srimati Basu, *Dowry and Inheritance: Issues in Contemporary Indian Feminism* 318 (Zed Books 2005).

³⁹ Narendra Subramaniam, *Family Law and Cultural Pluralism*, in *Encyclopedia of India* 55-58 (Stanley Wolpert ed., Charles Scribners Sons: Thomson Gale 2006).

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the first of its kind to put an end to the controversial debate over the characteristics of stridhan, and it established Hindu women's rights over landed properties inherited from male owners, especially from husbands, even though to a limited extent.

The 1937 Act recognized three types of widows: 1) intestate man's widow; 2) widow of a pre-deceased son; and 3) widow of a pre-deceased grandson who is the son of a predeceased father. The widows were given a share in the undivided interest of a Mitakhshara coparcener.⁴⁰

Much was made of the Hindu Women's Right to Property Act as an instrument for improving the treatment of Hindu women, especially for young widows. Pressure for this type of social reformation came at the instigation of European as well as Indian social reformers stretching back to Raja Ram Mohan Roy⁴¹ Despite this reformist agenda, the ancient Shastric laws survived intact. Though the 1937 Act established limited rights for Hindu women in their intestate husband's property, its biggest flaw was that it could never guarantee any rights to women successors when the deceased had disposed of his property by will. Neither did the Act mention anything about the shares of women in agricultural lands.

Conversion of Women's Estate to Stridhan Hindu

Women's limited interest in landed property continued even after the independence of India (1947). During the Constitutive Assembly of India (legislative) debates of 1948, Dr. B.R. Ambedkar pointed out the disadvantages in the succession laws for Hindu women and made changes in the existing laws in the new Hindu Code Bill. These changes are as follows:

[T]he widow, the daughter, the widow of a pre-deceased son, all are given the same rank as the son in the matter of inheritance.

[T]he daughter also is given a share in her father's property; her share is prescribed as half of that of the son....

[T]he number of female heirs recognized now [should be made] much larger than under either the Mitakhshara or the Dayabhaga....

[U]nder the old law, whether the Mitakhshara or the Dayabhaga, a discrimination was made among female heirs, as to whether a particular female was rich or poor in circumstances at the death of the testator, whether she was married or unmarried, or whether she was with issue or without issue. All these consideration which led to discrimination in the female heirs are now abolished by this Bill. A woman who has a right to inherit gets it by reason of the fact that she is declared to be an heir irrespective of any other considerations....

Under the Dayabhaga the father succeeds before in preference to the mother; under the present Bill the position is altered so that the mother comes before the father. ...

⁴⁰ Diwan, supra n. 13, at 352.

⁴¹ Raja Ram Mohun Roy (Aug. 14, 1774-Sept. 27, 1833) was best known for his efforts to abolish the practice of sati, the corrupted Hindu funeral practice in which the widow was compelled to sacrificed herself on her husband's funeral pyre. It was he who first introduced the word "Hinduism" (or "Hindooism") into the English language in 1816. For his diverse contributions to society, Raja Ram Mohan Roy is regarded as one of the most important figures in the Bengal Renaissance and is hailed as "the father of modern India."

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[I]t consolidates the different categories of stridhan into one single category of property and lays down a uniform rule of succession; there is no variety of heirs to the stridhan in accordance with the different categories of the stridhan-all stridhan is one and there is one rule of succession.

[T]he son also is now given a right to inherit the stridhan and he is given half the share which the daughter takes. ... [By this] the Bill seeks to maintain an equality of position between the son and the daughter The Bill ... converts this limited [women's] estate into an absolute estate just as the male when he inherits gets an absolute estate in the property that he inherits and

[The Bill] abolishes the right of the reversioners to claim the property after the widow.⁴² The Hindu Code Bill was therefore the first step toward abolishing the idea of limited estate for women and converting it into a full estate.

The Modernized Concept of Stridhan:

The Hindu Succession Act (1956)

Based on the Hindu Code Bill, a uniform succession law, the Hindu Succession Act (1956), was adopted for Hindus in free India and finally gave a death blow to the ancient practice of preventing women from inheriting landed property from male heirs. With this Act, the concept of women's estate was finally discarded and the meaning of stridhan expanded by including landed property along with other movable and immovable properties. Women's estate was now converted into stridhan by Section 14 of the legislation, which said that any property a Hindu woman receives after June 17, 1956, will be her absolute property.

According to the Act, "property" includes both movable and immovable property that she receives as gift, or through maintenance or inheritance, or that she acquires by her own skill or by purchase, prescription, partition etc.⁴³ The definition of the property enumerated in Subsection 1 of Section 14 of the Act includes all the types of property that were enumerated in the ancient text *Vo'naneshwar*, in which stridhan was shown to be of nine types. But even the Hindu Succession Act did not give women full ownership over property, as Subsection 2 of Section 14 retains the power of any person or the court to give limited estate to a woman in the same manner as a limited estate may be given to any other person.

Thus, Section 14 has had a retrospective or backward-looking glance.⁴⁴ It converts an existing women's estate into stridhan or absolute estate only when two conditions are fulfilled: 1) ownership of the property must vest in her and it is not limited ownership; and 2) she must be in possession of the estate when the Act came into force.⁴⁵ The Act also keeps silence in cases of a woman's deceased husband's property. Except for the right of maintenance, the property cannot become her absolute property.⁴⁶

⁴² B.R Ambedkar, Law Minister of India, Remarks on the Hindu Code Bill 599 (C.A. (Leg.)D., Vol. IV, 9th April 1948, pp. 3628-3633) (available at http://wxvw.ambedkar.org/_ambcd/)

⁴³ Hindu Succession Act § 14(1) (1956)

⁴⁴ Diwan, supra n. 13, at 354.

⁴⁵ Deenadayal v. Raju Ram, 1970 S.C.R. 1019 (1970) (Hedge, J.).

⁴⁶ SurajMal v. Babulal, 1985 Del. 95 (1985).

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Critique of Hindu Succession Act 1956

Even though Section 14 of the Hindu Succession Act (1956), converted women's estate to stridhan, it was not flawless. The issue of female inheritance was questioned in case of inheritance with limitation clause. There were several other clauses which continued the age old discrimination of male and female heirs.

The Act of 1956 is meant for unmarried daughters to claim inheritance of the property. Under Section 15 of the Hindu Succession Act (1956), the daughter-in-law inherits only when she is a widow. Hence she can not inherit her due share in her father-in-law's property when her husband is alive.⁴⁷ This decision was arrived at by the Courts while discussing the applicability of Section 15 (b), which states 'any property inherited by a female Hindu from her husband or from her father-in-law shall devolve in the absence of any son or daughter of the deceased (including the children of any predeceased son or daughter) not upon other heirs referred to in subsection (1) in the order specified therein, but upon the heirs of the husband.

The Court had to clarify the wordings of Section 15 (b) for the purpose of finding out the right heir of the property of widowed woman who have inherited her share from her father in law. In the case of *Kailash v. Kishan*, the court thus decided that there is no flaw in the factual operation of the Section. For the purpose of the widow's heir in question, the inherited property from her father-in-law would be devolved upon the heirs of her husband after her death. In case she remarries and her second husband also dies and she inherits property from her father-in-law from the second marriage, the said inherited property from the second marriage would be devolved upon the heirs of the second husband and not on the heirs of the first marriage.

Another big difficulty the women had was the partition of the dwelling house. Even though Section 14 mentions that stridhan property includes property inherited by way of partition, Section 23, while discussing about the partition of the dwelling house, clearly discriminates the women heirs. Hindu law gives special position to the dwelling house, which as per the smritikaras should not be partitioned. Male heirs (sons and grandsons) and not the female heirs were considered the only successors of the dwelling house. Hence the problem of male and female succession rights could not arise the way it may arise now. "

Section 23 of the Hindu Succession Act states that the right of female heirs to claim partition of the dwelling house shall not arise until the male heirs choose to divide their respective shares therein.

The above-mentioned Act, under Section 23, differentiates between married, unmarried and widowed daughters' ability to claim right of residence. It does not give the right to claim partition, but gives a right of residence only if the daughter either is unmarried, has been deserted or has been separated from her husband.⁴⁸

⁴⁷ *Kailash v. Kishan*, Pat 154.

⁴⁸ *Sripatinath v. Ira Ram*, 1992 Cal. 60 (1992)

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Married daughters do not have either right to claim partition or right to residence. A married daughter who has left her husband of her own accord and is not deserted by her husband has no right to reside in the dwelling house.⁴⁹ When a married daughter becomes a widow or has been deserted by her husband she can claim only residential rights in the dwelling house.

The restriction on the partition is imposed only on the female heirs. If a male heir chooses to partition the dwelling house, the female heirs cannot prevent him, but they will be entitled to their share.⁵⁰

Thus it could be seen that the Hindu Succession Act (1956) excludes married daughters from the right of residence in the dwelling house as well as a share of partition. Here again the controversy for women's succession begins. Even though this Act abolished the difference of stridhan and women's estate, the issue of partition and right of residence in the dwelling house made the age old practice of discriminating against female children more exposed.

Efforts to End the Inequality

Constant researches in the field of succession rights of Hindu women in India made some of the state governments develop unbiased succession rules. The Hindu Succession (Andhra Pradesh) Amendment Act (1985) made a remarkable development. This law stated that the rights of the daughter are equal to that of the son, in any circumstances. This law found the Mitakshara system is in violation of the fundamental right of equality. The States of Tamil Nadu, Maharashtra and Kerala have also amended the law by including women as members of the coparceners. But unfortunately this law is not a universal law. Except the southern states who were already following the Marumakkattayam⁵¹ and Aliyasantana⁵² laws, other states of India refused to deviate from the

⁴⁹ Kalamma v. Veeramma, 1992 Kant. 362 (1992).

⁵⁰ Usha v. Smriti, 1988 Cal. 115 (1988).

⁵¹ In the Marumakkattayam law, which prevailed in Kerala wherein the families were joint families, a household consisted of the mother and her children with joint rights in property. The lineage was traced through the female line. Daughters and their children were thus an integral part of the household and of the property ownership as the family were matrilineal. It is applicable to a considerable section of people in TravancoreCochin and districts of Malabar and South Kanara. It is followed by non Brahmin castes, Nairs and Thyas, other cognate castes and Payyannur Graman of North Malabar. Under the Marumakkattayam system of inheritance, descent and succession to the property was traced through females. The mother formed the stock of descent and kinship as well as the rights to the property was traced through females and not through males. Marumakkattayam literally meant inheritance by sisters' children as opposed to sons and daughters. Word "Marumakkal" in Malayalam means nephews and nieces. It is generally agreed by scholars that matrilineal system was the direct result of some system of polyandry that existed among ancient races. Descent through females indicated uncertain paternity. It has been unanimously agreed by the historians that the origin of this system is traceable to polyandry prevalent in ancient Malabar. S.J. Prasanth & Shastri Shivani, Student Authors, Should Women be Given Coparcenary Rights?, <http://www.manupatra.com/PopUp/PopOpenArticle.aspx?ID=afd18f30-7d79-477e-8271-44b5ed62f8d1&a=08518b77-12a6-4d60-8f5e-08e494e015d6> (accessed Feb. 23, 2009) (subscription required for access).

⁵² This system is applicable in South Kanara. The Bunts, the Billawas and the non Priestly class among the Jainas in Kanara are governed by this system. This tradition came into practice and was followed by every one in the Bunts' community with the belief that it was an ancient practice. Bunts still believe that this tradition was inherited from a King Bhutala Pandya who ruled Tulunaadu and introduced this system in 77 A.D. The Aliyasantana system is the system of inheritance through female line which gives property rights to the lady and all rights are centralized on her, example: Some of the surnames of Bunts come from the mother side; the name of the mother's ancestral house normally became the prefix or suffix of one's name. This may be because when men went to the battlefield, the wife

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patriarchal tradition in case of property rights. There are numerous laws that say that there should be no discrimination between the sexes, but in reality none are effective enough to actually bring about a revolution; a change in society. The main hurdle in achieving gender equalities in case of succession amongst the Hindus remains the difference in the two schools of law which govern different parts of the country.

The 174th Law Commission took up the task to end this thousands-year-old custom alienating woman from property inheritance. It found that 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."⁵³ The Commission took 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 felt that further reform of the Mitakshara Law of Coparcenary is needed to provide equal distribution of property both to men and women. The law commission took a revolutionary step by recommending changes in the ancient succession laws of Mitakshara and Dayabhaga and thereby amending the existing Hindu Succession Act (1956) to give equal share to Hindu women in their ancestral properties.

Dowry and Stridhan

While the Hindu Succession Act (1956) assured Hindu women their succession rights, the enactment of Dowry Prohibition Act (1961) addressed the problem of forceful demand of stridhan in name of dowry and made it a penal offense.⁵⁴ The Act defined dowry as any property or valuable security given or agreed to be given at the time of marriage, or before the marriage or at any time after the marriage by one party to the other party in the marriage or by the parents of either party to a marriage or by any other person to either party of the marriage or to any person. However, Section 2 of the Act draws a thin line between stridhan and dowry and states that when presents are gifted to the bride and bride groom respectively and such presents are not demanded and entered in the list as has been provided by The Dowry Prohibition (Maintenance of Lists of Presents to the Bride and Bridegroom) Rules (1985) and signed by the bride and bride groom respectively, it will not fall under the term "dowry."

But could these "gifts" received by the bride at the time of marriage be termed as stridhan? The Supreme Court of India finally settled this issue in the case of Prativa Rani v. Suraj Kumar⁵⁵ and stated that "the stridhan property of a married woman cannot acquire the character of a joint property of both the spouses as soon as she enters her matrimonial home."

took the whole responsibility of the family and became the decision-maker. So in the Aliyasantana system more importance is given to the mother's side of the family. More respect is given to maternal uncles than to the paternal uncles. Doshi Manita, Student Author, The Marumakkattayam and Aliyasantana System, <http://www.legalserviceindia.com/articles/mds.htm> (accessed March 9, 2022).

⁵³ Law Commission of India 174th Report, Property Rights of Women: Proposed Reforms under the Hindu Law, D.O. No.6(3)(59)/99-LC(LS) (May 5, 2000), available at <http://www.lawcommissionofindia.nic.in/kerala.htm> (emphasis added).

⁵⁴ Sec. 3 of the Dowry Prohibition Act makes taking, giving or abetting the act of dowry a penal act with imprisonment for five years and a fine of fifty thousand rupees. The Dowry Prohibition Act § 3 (1961), <http://wcd.nic.in/dowryprohibitionact.htm> (accessed March 22, 2022).

⁵⁵ 1985 S.C.R. 628.

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The court further held that:

The position of stridhan of a Hindu married woman's property during coverture is absolutely clear and unambiguous; she is the absolute owner of such property and can deal with it in any manner she likes. She may spend the whole of it or give it away at her own pleasure by gift or will without any reference to her husband. The entrustment to the husband of the stridhan property is just like something which the wife keeps in a bank and can withdraw any amount when ever she likes without any hitch or hindrance. Ordinarily, the husband has no right or interest in it with the sole exception that in times of extreme distress, as in famine, illness or the like, the husband can utilize it but he is morally bound to restore it or its value when he is able to do so. This right is purely personal to the husband and the property so received by him in marriage cannot be proceeded against even in execution of a decree for debt.⁵⁶

This revolutionary judgment finely defined stridhan which were immovable and received as gifts by the Hindu women and thereby sealed any controversy in regard to its absolute ownership by women. The further amendments made to the succession laws upheld women's position as at par with their male counterparts in dealing with succession and property matters.

The Hindu Succession (Amendment) Act 2005

The Hindu Succession Act (amended) 2005, gave Hindu women right to become a coparcener in the ancestral property like their male counterparts. Under Section 6 of the Hindu Succession (Amended) Act (2005) daughters get equal rights of the ancestral properties. Hence it could be seen that: The daughter of a coparcener cell by birth becomes a coparcener in her own right in the same manner as the son;

The daughter has the same rights in the coparcenary property as she would have had if she had been a son;

The daughter shall be subject to the same liability in the said coparcenary property as that of a son; and any reference to a Hindu Mitakshara coparceners shall be deemed to include a reference to a daughter of a coparcener; The daughter is allotted the same share as is allotted to a son;

The share of the pre-deceased son or a pre-deceased daughter shall be allotted to the surviving child of such pre-deceased son or of such pre-deceased daughter;

The share of the pre-deceased child of a pre-deceased son or of a pre-deceased daughter shall be allotted to the child of such predeceased child of the pre-deceased son or a pre-deceased daughter.⁵⁷ The age-old tradition of investing the whole share of the property of a Hindu who died intestate to his male heirs only has come to an end ultimately. By the New Succession law, the female heirs became equally eligible to inherit the equal share of the property as their male counterparts. In other words the effect of the Hindu Succession Act (2005) is two-fold:

⁵⁶ Prativa Rani v. Suraj, Kumar 1985 S.C.R. 628 (emphasis in original).

⁵⁷ Subhamoy Das, Hindu Succession (Amendment) Act (2005): Equality for Women (Sept. 10, 2005), <http://hinduism.about.com/od/history/a/successionact.htm> (accessed March 22, 2022).

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Women became active members of the coparcenary property and enjoyed the right of partition of the ancestral dwelling house. In other words, they became the Karta, which was limited to the male heirs only before the promulgation of the new Act.

Women became entitled to enjoy the right to property fully, no matter whether she inherits the property from her parents or her in laws.

The Hindu Succession (Amended) Act 2005 has brought a revolutionary change in the Hindu succession law by making the women Karta⁵⁸ of the joint family property. Women therefore can manage the property as the male heirs were doing since ages. But historically, such power of women is not new. The Dharma Shastra says that alienation can be done by the wife of an absent, or the widow of a dead manager, of family property belonging to numerous minors, unable to enter into contractual relationships in their own persons, yet reasonable for maintaining dependants and carrying the various burdens of the family.⁵⁹

This position

is further supported by Katyana, Smritichandrika, Bhavasvamin and Yagnavalkya Smriti. Some of the Sanskrit text says- "sishyantevasi-dasa-stri-vaiyavritttyakarais ca yat Kutumbahetor ucchinam vodhavyam tat Kutumbina" ["The manager (or householder, actual or eventual) is liable to accept (or admit) all alienations made for the purposes of the Family by a pupil, apprentice, slave, wife, agent or bailiff"]. Narada says-"Na ca bharya-kritam rinam kathancit patyur abhavet Apat kritad rite, pumsam kutumbartho hi vistarah" ["A debt contracted by his wife never binds the husband, except that incurred in a time of distress: expenses for the benefit of the family fall upon males"]. Women were considered as just managers in case of distress and never had the power to manage the property by themselves for their own purposes. By the amended Act women were elevated to the position of full property owners.

DISCUSSION

Since the inception of the concept of stridhan, the characteristics of the controversial part of the stridhan, which are acquired by either inheritance or by share, and the legality of such property remained controversial. As mentioned earlier, according to Yagnavalkya "[what was given to a woman by [her] father, mother, her husband or her brother or received by her at nuptial fire or presented on her super session and the like is denominated women's property" (Ya, II, 143).⁶⁰ Vijnaneshwara interpreted the original version of Yajnavalkya's commentary and interpreted the "and the like" as property including inherited property and out of share or purchase. He was the first among the ancient law givers to interpret stridhan to a broader aspect to include property acquired by inheritance and by share or purchase. But other smritikaras⁶¹ opposed such idea and, finally, Manusmriti, which is considered as the first and the main source of Hindu law, dictated

⁵⁸ The word Karta denotes Lord in Sanskrit. In ancient Hindu codes the word Karta has been used to depict the main owner or the Lord of the property who is usually the male descendant. The modern Hindu Succession Laws in India also use the word to denote the main owner of the property.

⁵⁹ Garg Manisha & Nagar Neha, Student Authors, Can Women be Karta?, www.legalserviceindia.com/articles/kar.htm (accessed March 19, 2022)

⁶⁰ Diwan, supra n. 13, at 345 n. 2

⁶¹ The lawmakers.

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that women were unable to own such property as they are inferior to men. The two schools of Hindu law, namely the Mitakhshara and the Dayabhaga schools, upheld succession laws of Manusmriti and women remained as secondary owners of the landed property until the inception of Hindu Women's Right to Property Act (1937). By the promulgation of the this Act, the colonial rulers in India in the eighteenth and nineteenth century took the first step to secure a married woman's right to property, to a limited extent. Property acquired by inheritance or by share or partition was named as women's estate and wives of Hindu men or the widows of Hindus got the right to reap the benefit of the property even though they were not allowed to alienate the property. The rigid Hindu society and customary rules suppressed women for a long time. Hindu Women's Right to Property Act (1937) was followed by the Hindu Code Bill on the eve of independence of India and then finally by the Hindu Succession Act (1956) whereby the modern law makers abolished the concept of women's estate and included such property as stridhan.

Thereby the modern Hindu succession laws came out of the rigid rules of male dominated succession rules of Manusmriti and adopted Vijnaneshwara's interpretation of the extended concept of stridhan. But even though the modern Hindu succession laws gave a secured position to the Hindu wives and widows over the property of their husband or the property belonging to their in-laws in case of a predeceased son's widow, the question of unmarried girls' right to partition of the dwelling house or the right of residency of the married daughter in the ancestral house remained unanswered. It was nearly fifty years after the inception of the Hindu Succession Act (1956) that these questions were solved in the Hindu Succession (Amendment) Act (2005). The ancient concept of stridhan included nine types of property, namely,

- i) gifts and bequests from relations,
- ii) gifts and bequests from strangers,
- iii) property acquired by self exertion and mechanical arts,
- iv) property purchased with stridhan,
- v) property acquired by compromise,
- vi) property obtained by adverse possession,
- vii) property obtained in lieu of maintenance,
- viii) property obtained by inheritance and
- ix) share obtained by partition, which were finally recognized by the modern legislation; and women, whether married or unmarried, were given the equal right to own property as their male counter parts.

Even after the inception of the new Act in 2005, discrimination of women toward succession has not been fully wiped out. The reasons are both sociological and historical in nature, namely:

Hindu orthodox families discriminate against female children from birth in education, health and hygiene matters. Hence, mostly girls remain oblivious of their basic rights.

Even though laws are made to prevent child marriages, such acts still prevail in many villages of India. Once a girl is married as a child, she never returns to ask for the share of her ancestral property, nor are such demands entertained by her parental family. The root cause for this is she will introduce a new member to the coparcenary property namely, her husband.

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Women are considered elements to bring more property to the in-laws' family by way of dowry. The language of the Dowry Prohibition Act (1961) gives enough scope to convert stridhan into dowry in camouflaged ways.

The new Succession Act (2005) gives women rights over their parental property. Possibilities of dowry harassment increase as the women may be pestered to demand family property not for themselves but because of the greed of their in-laws.

The new Law may tempt the in-laws to practice the heinous custom of bride burning or Sati in order to remove the women from the list of legal successors of the landed property. The new law makes women eligible for the position of Karta of joint family property. But many Hindu families where women are severely discriminated against may not allow women to use the new law.

The question arises when a Hindu daughter marries a person belonging to another faith and converts to the said religion, whether she would have the same rights of partition, succession of ancestral property, as she would have before such marriage.

SUGGESTIONS AND CONCLUSION

Promulgation of new legislative acts will have no effect if they are not properly implemented. The ancient texts of the Hindu religion mention that women can own property, but shun the responsibility of women. Ironically, Hindu rituals and practices of worshipping the Shakti⁶² were never honored in real life. Women are considered outcast. The modern concept of Hinduism has to be expanded and broadened to inculcate the laws relating to women in the society. The authors feel succession rights and right to own property of the Hindu women would be stronger if the following suggestions are considered:

General awareness should be created among the women about their rights from the grassroots level.

The Hindu Succession Act should include a separate provision for prevention of dowry harassment. It should be mentioned that the stridhan or the property of women would be solely her own property and any kind of forceful recapture of the property which belongs to the bride would make such ownership null and void, and it would be considered a penal act.

The Dowry Prohibition Act should be amended to give a clear meaning of Stridhan.

India needs moral policing to strengthen the human rights situation for women. Often the bride's parents encourage the inhuman torture of their daughter indirectly by not complaining about dowry harassment to the police. They accept this as a curse of bearing a daughter.

The Hindu religion and society can boast of having the oldest code in the world defining property rights for both men and women. But at the same time, continuous research is needed to upgrade

⁶² 'Sakti' means the ultimate power. The Ancient Hindu mythology describes Sakti as a female goddess in the forms of Durga, Kali and Chandi

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the women's position as property owners. The ancient law and codes can never dictate the modern woman's position in the name of religion.

Legal literacy camps for women belonging to all faiths must be encouraged by the government. The Vedic texts have referred to married women as Ardhangin⁶³ of their husband. A broader look at the word Ardhangini would show that women are not only the "other half" of their husbands physically or mentally, but it also depicts the sense of equality among husband and wife and equal rights of the Hindu married women over their husband's interests. The age-old confusion over the concept of the stridhan and legal position of women were finally settled to a greater extent by the Hindu Succession (Amended) Act (2005). It has taken nearly five thousand years to break the myth created by the ancient text Manusmriti, that Hindu women are dependant on their father as a maiden, dependant on their husband as a wife and dependent on their son as a mother. Constant evaluation of the legal principles and interpretation of texts finally made a woman a right holder equal to her male counterpart. She can now demand the right over ancestral property when she is unmarried or even when she is married; as a wife she has equal rights over her husband's property and she can have a safer old age with her acquired property out of partition, inheritance or share.

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Conflict of Interest

The author declared no conflict of interest.

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⁶³ 'Ardhangini' means the other half. In the Sanskrit language it denotes wife.