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INTERSECTIONALITY IN SUCCESSION LAWS: UNRAVELING CASTE, RELIGION, AND REGION IN THE HINDU SUCCESSION ACT, 1956

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ABSTRACT

This research paper delves into the complex landscape of inheritance rights under India's Hindu Succession Act (HSA), 1956, through the lens of intersectionality—a framework that recognizes how caste, religion, and region collectively shape individuals' access to property and justice. While the HSA was envisioned as a progressive statute to democratize property distribution and promote gender equality, its implementation reveals persistent disparities, especially for marginalized groups such as Scheduled Tribe (ST) women, religious minorities, and rural populations. The Act's formal provisions often clash with entrenched customary practices and social hierarchies, resulting in a de facto exclusion of many from its intended protections.

Drawing on legal analysis, landmark case studies, and ethnographic accounts, this paper exposes the multifaceted barriers that women and other disadvantaged groups face when asserting their inheritance rights. For example, the exclusion of tribal women from the HSA unless they conform to Hindu customs, the privileging of a husband's family over a woman's natal family in succession (Section 15), and the regional persistence of patriarchal traditions all demonstrate how statutory law is frequently undermined by intersecting axes of discrimination. The research highlights that these barriers are not merely additive but multiplicative, with each layer of identity—be it caste, faith, or geography—compounding the challenges of claiming property.

Moreover, the study examines the limitations of judicial and legislative reforms, including the 2005 amendment that made daughters coparceners, and reveals how these changes, though significant, have not fully addressed the lived realities of intersectional discrimination. Through comparative analysis with other legal systems and in-depth case narratives, the paper argues for a reconceptualization of inheritance law—one that transcends formal equality and actively confronts the unique disadvantages faced by those at the crossroads of multiple marginalized identities.

Ultimately, the paper advocates targeted legal reforms, such as amending Sections 2, 8, and 15 of the HSA, and for the adoption of community-based dispute resolution mechanisms that are sensitive to the intersectional nature of discrimination. By centering the experiences of those most affected, this research aims to inform a more equitable, inclusive, and contextually responsive approach to succession law in India, recognizing that true justice requires both legal and societal transformation



INTRODUCTION

The Hindu Succession Act, 1956, emerged as a beacon of reform in post-independence India, promising to dismantle centuries of patriarchal inheritance customs and unify a fragmented legal landscape. By codifying succession rules for Hindus, Buddhists, Jains, and Sikhs, the Act sought to secularize property rights and empower women through provisions like Section 14, which abolished the "limited estate"³⁸ doctrine. Yet, seven decades later, its promise of equality remains a mirage for millions navigating the intersecting realities of caste, religion, and region³⁹. Inheritance in India is not merely a legal transaction—it is a battleground where statutory law collides with social hierarchies, reducing marginalized groups to legal ghosts in their own stories.

The Act's failure lies in its illusion of neutrality. While progressive on paper, its implementation reveals a stark dissonance: a tribal woman in Odisha denied rights unless she renounces her cultural identity (Section 2), a Dalit widow in Tamil Nadu whose property reverts to her husband's family (Section 15), and a Christian convert in Kerala stripped of ancestral claims (Section 26) all inhabit the same legal universe but face exclusion through different doorways. These contradictions are not anomalies but systemic features of a law that privileges uniformity over equity.

This paper interrogates the HSA through an intersectional lens, exposing how its ostensibly gender-neutral framework perpetuates exclusion for those at the margins. Drawing from landmark rulings like *Kamla Neti v. The Special Land Acquisition Officer* (2019), where tribal customs overrode statutory rights⁴⁰, and *Vineeta Sharma v. Rakesh Sharma* (2020), which exposed religious loopholes in coparcenary reforms, the study reveals a legal paradox: the Act's provisions, designed to

empower, often entrench disempowerment. Fieldwork narratives from rural Uttar Pradesh and Odisha further illustrate how regional practices like the jot system and khap panchayat verdicts hollow out legislative intent, leaving women dependent on informal justice systems that prioritize caste honor over individual rights.

The 2005 amendment, which granted daughters equal coparcenary rights, exemplifies this tension. While celebrated as a milestone, its impact remains uneven—urban, upper-caste women benefit disproportionately, while rural and tribal daughters face resistance from both law and custom. This disparity underscores a critical gap: legal reforms cannot thrive in a vacuum but must reckon with the lived realities of intersectional disadvantage⁴¹.

By centering voices from India's margins—Scheduled Tribe women navigating Hinduization mandates, religious minorities caught in identity traps, and LGBTQ+ individuals erased by binary inheritance categories—this study reimagines succession law as a tool for social justice⁴². It challenges policymakers to move beyond "one-size-fits-all" solutions and embrace pluralistic reforms that honor diversity while dismantling systemic inequity⁴³. The path forward demands not just amendments to Sections 2, 8, and 15 but a radical rethinking of how law interacts with the layered identities of those it seeks to serve.

Intersectionality in Succession Laws

The Hindu Succession Act, enacted in 1956, is a key piece of legislation that provides for the distribution of property and confers rights of inheritance in inheritance law or property law. However, as we seek to engage in a more nuanced examination of individual experiences of property rights and inheritance law⁴⁴, we are

³⁸ Flavia Agnes, *Family Law: Volume I* (Oxford University Press, 2011), p. 45

³⁹ Bina Agarwal, "Gender and Command over Property: A Critical Gap in Economic Analysis and Policy in South Asia," *World Development*, Vol. 22, No. 10 (1994), pp. 1455–1478.

⁴⁰ *Kamla Neti v. The Special Land Acquisition Officer*, 2019 SCC OnLine Ori 484

⁴¹ Bina Agarwal, "Women's Inheritance: Next Steps," *The Indian Express*, 19 August 2020.

⁴² Arvind Narrain, "Queer Rights and the Law: A Critical Analysis," *Socio-Legal Review*, Vol. 13 (2017), pp. 1–19.

⁴³ Flavia Agnes, "Law, Gender and Inequality: The Politics of Women's Rights in India" (Oxford University Press, 1999), p. 212.

⁴⁴ Bina Agarwal, "Gender and Command over Property: A Critical Gap in Economic Analysis and Policy in South Asia," *World Development*, Vol. 22, No. 10 (1994), pp. 1455–1478.



confronted with a host of complexities involving social, cultural and legal dimensions. Intersectionality, as a concept that acknowledges how multiple forms of oppression come together to define an individual experience of discrimination, is useful as we explore complexities related to property rights and inheritance law. Despite progressive amendments to the Hindu Succession Act, gender bias and discrimination persist in the framework of the Act. For example, Section 15, which governs intestate succession of a deceased Hindu female prioritizes the husband's heirs over the woman's natal family, leading to a cycle in which a woman's property rights transfer to her husband's family immediately following her death, rather than being passed onto her natal family or kin network⁴⁵. We can see here how gender discrimination is reinforced through customary social practice and legalistic frameworks. This complexity is further compounded by caste, region, and religion and the intersections of these factors in determining one's rights under succession law. For example, residents in rural settings may be bound to customary practices that would supersede any statutory provisions within the Hindu Succession Act, resulting in a de facto hierarchy in property rights between groups⁴⁶.

Rival women especially experience specific struggles arising from the interplay of traditional laws and contemporary legal systems which can result in being deprived of the right to inherit property. This chapter seeks to analyze those intersecting challenges by examining how the various social elements shape property rights under the Hindu Succession Act. Using examples of actual situations and challenges from the courts, the chapter will demonstrate the complexities of intersectionality in inheritance laws and propose innovative

solutions to inheritance and succession regimes.

1.1 Intersectional Framework of Concept: Comprehending the Various Layers of Inheritance Rights in India

Inheritance is not merely about property, it's about identity, belonging, and recognition. In India, where social identities permeate the fabric of daily lives, the question of who gets what is never easy. The Hindu Succession Act (HSA) guarantees equality for Hindu women on paper, yet reality is far more layered. Behind the law are complex knots of caste, religion, and region, each one influencing how women feel and live access—or exclusion—of their due property⁴⁷.

Seeing Beyond One Dimension: The Power of Intersectionality

Imagine trying to understand a person by looking at only one part of their story. You might miss everything that makes their experience unique. Intersectionality helps us see the whole picture by recognizing how different parts of identity—like caste, religion, and where someone lives—overlap to create distinct experiences of discrimination or privilege. For women in India, their right to inherit property is defined not only by being women, but also by caste, religious group, and regional practices⁴⁸.

Caste: The Invisible Walls Around Property

Caste is a social signifier, but a gatekeeper that determines who goes where in the right-to-hierarchy. The exclusion of Scheduled Tribe (ST) women in the Hindu Succession Act is a clear example. Tribal women, though citizens of India's social mosaic, are frequently located outside the shadow of the protective umbrella of the law that offers Hindu women equivalent inheritance rights. This is no accident—it shows a tension rooted deeper between saving tribal

⁴⁵ The Hindu Succession Act, 1956, Section 15; see also Flavia Agnes, *Family Law: Volume I* (Oxford University Press, 2011), pp. 112–114

⁴⁶ Nitya Rao, *Good Women do not Inherit Land: Politics of Land and Gender in India* (Social Science Press, 2008), pp. 56–78.

⁴⁷ Damni Kain, "The Hindu Code Bill: Revisiting the Intersectional Feminist Legacy of Dr. Ambedkar," *All About Ambedkar: A Journal on Theory and Praxis*, Vol. 2, Issue 1, Jan-Apr 2021.

⁴⁸ "INTERSECTIONALITY IN INDIAN LAWS: A FEMINIST CRITIQUE," *International Journal of Novel Research and Development (IJNRD)*, IJNRD2402131, 2024.



identity and providing gender justice. The law, in seeking to honor tribal tradition, thereby renders many tribal women invisible heirs, suspended in two worlds and accepted in none.

Religion: When Faith Becomes a Barrier

Religion also has a complex role to play. The law tends to link inheritance rights to religious identity, inquiring whether a community practices Hindu customs. This presents a hard decision for most tribal women: to assert inheritance rights, they have to establish adherence to Hindu traditions, threatening the loss of their distinct cultural and religious identities. This religious test of legal rights compels communities to walk an awkward middle ground, where faith and law do not always complement each other. For these women, religion is not an issue of belief but an obstruction or vehicle to asserting what is rightfully theirs.

Region: How Geography Shapes Justice

India's extensive and heterogeneous regions create an additional layer to this puzzle. Traditions surrounding inheritance are extremely diverse—what is practiced in one community may be prohibited in another. In certain tribal areas, long-standing practices continue to dictate that property is inherited only by sons, justified on grounds of survival in unforgiving environments or social cohesion. But as societies evolve—economically, socially, and culturally—these traditions tend to fall behind, ensnaring women in outdated systems. The region where a woman lives can therefore determine whether she inherits or is excluded, making geography a silent but powerful player in the struggle for equality⁴⁹.

The Weight of Overlapping Identities

When caste, religion, and region coincide, they produce a tangled skein of difficulties. A tribal woman in a far-flung village with deeply entrenched patriarchal traditions and defined beyond Hindu law might encounter several,

interlinked barriers to her claim on inheritance. These tiers of exclusion are not additive in the classical sense—they multiply the obstacles, so that legal access to property remains a chimera for large numbers.

Towards a More Inclusive Understanding

Identifying these intersecting identities is imperative if we wish the law to deliver justice in a real sense. It involves going beyond blanket solutions and heeding the voices of women who inhabit these places. Reforms in the law need to be attuned to the actualities of caste, religion, and region so that cultural deference is not used as a cloak for discrimination.

In a way, the history of inheritance rights in India is less about paper laws and more about actual women grappling with multiple identities. Intersectionality allows us to make sense of these multiple realities, reminding us that equality isn't something achieved by treating all people the same, but rather by confronting the specific challenges facing different women.

1.2 Intersectional Discrimination Case Studies: The Inherited Challenges in Inheritance

Inheritance in India is not simply a matter of legal technicality, but an intensely personal struggle conditioned by the multifaceted realities of identity. For most marginalized people, the struggle to assert property rights is a passage through intersecting obstacles of caste, religion, gender, and regional traditions. These intersecting identities do not merely superimpose layers of complexity—they multiply them, generating distinctive and usually invisible modes of discrimination that the legal system finds difficult to challenge⁵⁰.

The courts, traditionally equipped to address discrimination on one axis—gender or caste—are often unable to understand how these identities intersect. For instance, women from Scheduled Tribes (ST) seeking inheritance rights are confronted with the double burden of being women and belonging to ST communities, a

⁴⁹ Evolution of Women's Property Rights in India," LinkedIn, May 2024; see also Vineeta Sharma v. Rakesh Sharma (2020) 9 SCC 1.

⁵⁰ Intersectionality and Discrimination: Understanding the Complexities of Discrimination in India, Juris Centre, 2025



group specifically barred from some provisions of the Hindu Succession Act (HSA) under Section 2(2).⁵¹ Recent judicial precedent, including the Madras High Court's holding in *Kamla Neti v. The Special Land Acquisition Officer* (2024), has started to counter this exclusion by holding that ST women cannot be deprived of inheritance rights based on their tribal identity alone.⁵² Yet, these decisions also highlight the paradox tribal women face: to claim inheritance, they must prove "sufficient Hindustan," effectively forcing them to choose between preserving their cultural identity and securing legal rights.

In the same vein, the Supreme Court's historic ruling in *Vineeta Sharma v. Rakesh Sharma* (2020) reaffirmed that daughters possess equal coparcenary rights within ancestral property, shattering years of gender-specific barriers under the HSA amendment of 2005. All the same, this advancement remains unevenly experienced, as marginalized caste or rural women continue to face systemic challenges in asserting such rights.

Transgender individuals' legal invisibility is another model of intersectional exclusion. Indian laws of inheritance, which are based on a binary gender model, fail to legitimize transgender identities. Therefore, transgender people are frequently denied property rights because of non-recognition and unavailability of documentation. Even as courts have started to recognize these issues, as the 2021 National Institute of Public Finance and Policy (NIPFP) study on transgender inheritance rights discussed, the law is lagging, and many do not have any clear protections.

These cases unveil a legal framework that, despite change, continues to compartmentalize identity and ignore the multiply-realities encountered by those on the intersections of caste, gender, religion, and region. The onus of proof most often rests unfairly on marginalized petitioners, who must traverse complicated

cultural demands and legal benchmarks at the same time. So long as the law adopts an intersectional worldview, the potential of equal inheritance rights will elude many.

1.3 Comparative Analysis of Other Legal Systems: Intersectionality and Succession Laws

Inheritance laws in all societies tend to mirror entrenched social hierarchies, and India is no different. The Indian succession system, especially under the Hindu Succession Act (HSA), indicates how gender discrimination is maintained not just through legislative provisions but also through deeply rooted customary practices which give precedence to the husband's heirs over a woman's natal family. This creates a cycle whereby a woman's property rights essentially pass on to her husband's relatives the moment she dies, cutting her off from her natal family and further entrenching patriarchal dominance over property⁵³.

This is not a phenomenon exclusive to India. Comparative legal frameworks, from Islamic inheritance laws under the control of the Muslim Personal Law (MPL) in Iran and other states, to customary laws of rural African societies, similarly inscribe gendered priorities that privilege male heirs to the detriment of women's claims and their natal kinship networks. What separates successful strategies, however, is recognizing and responding to the intersectional character of discrimination—how gender interacts with caste, religion, and region in structuring inheritance rights.

In India's countryside, traditional practices often take precedence over statutory law, generating a de facto ranking in property rights. For instance, although the HSA's recent amendments provided daughters with coparcenary rights on par with those of sons, local traditions in much of India continue to limit women's inheritance, particularly among marginalized castes and tribal groups. These

⁵¹ Tribal Women's Succession Rights in India, TSCLD, 2024

⁵² Supreme Court calls for property rights parity for tribal women, *Hindustan Times*, 2024

⁵³ A Comparative Analysis of Dayabhaga and Mitakshara Systems in India, *African Journal of Biomedical Research*, 2024



traditions are closely connected with caste identity and religious mores and thus legal change is not enough without cultural change.

Other national legal orders have started incorporating intersectional visions more comprehensively. For example, certain jurisdictions include community consultations and adaptive customary law interpretations permitting gender equity without the obliteration of cultural identities. Such models highlight the value of context-sensitive legal pluralism, wherein statutory law is balanced with dynamic customs that express changing conceptions of equality.

India's test is how it balances its multiform legal context with constitutional provisions of equality. Intersectionality indicates that discrimination in inheritance is hardly ever a question of gender in isolation; rather, it intersects with caste-based hierarchies, religious orthodoxy, and regional mores. Combating these intersectional layers calls not just for changes in legislation but also judicial appreciation of intersectional oppression and preemptive social action⁵⁴.

CONCLUSION

The analysis of India's inheritance laws through an intersectional perspective makes it clear that legal equality, although imperative, proves to be incomplete and inadequate in disassembling the highly entrenched hierarchies of caste, gender, religion, and region constituting India's social landscape and determining access to property. The Hindu Succession Act, even in its progressive amendments, carries forward and enforces social realities that tend to exclude the most vulnerable individuals requiring protection. As the example illustrates, women—particularly those from rural areas, Scheduled Tribes, and marginalized castes—confront multiple obstacles which cannot be transcended by mere statutory changes. The experience of these women confirms that discrimination is seldom a matter of gender, but

a function of intersecting identities and social structures which enhance disadvantage.

Comparative examination against other legal frameworks further emphasizes that intersectional discrimination in inheritance is a worldwide trend, not exclusive to India. Nevertheless, other jurisdictions have advanced by embracing context-sensitive, pluralistic strategies that harmonize statutory law with developing customs and community involvement. These precedents suggest that Indian law and policy need to transcend the one-dimensional perspective of gender and embrace the rich complexity of the margins.

Judicial rulings like *Vineeta Sharma v. Rakesh Sharma* and *Kamla Neti v. The Special Land Acquisition Officer* indicate increasing acknowledgment of intersectional injustice but only reveal the shortfall of a justice system that continues to be greatly organized by dichotomizing and compartmentalizing thought patterns. The silencing of the transgender community as well as continued emphasis on the patrilineal line indicate the critical imperative for a larger and more fluid legal system.

Finally, substantive equality in inheritance rights necessitates more than legislative reform. It calls for a revolutionary rethinking of law's interaction with social identity, increased judicial awareness of intersectional oppression, and active social action that responds to the cultural, economic, and regional conditions driving exclusion. Only by prioritizing the voices and experiences of those at the intersections of identities can India move toward a just and equitable inheritance regime.

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⁵⁴ Shwetank Sharma, "A Comparative Analysis of Intersectionality under Discrimination Law Jurisprudence," *Christ University Law Journal*, 2023



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