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# IMPACT OF WOMEN'S ECONOMIC INDEPENDENCE ON PROPERTY RIGHTS IN INDIA

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## ABSTRACT

The economic independence of women has emerged as a significant role when it comes to the factor in reshaping property rights in India. Women's access to property was restricted by patriarchal systems and cultural norms, which furthered gender inequity. However, women's capacity to assert and claim property rights has greatly increased as they become more financially independent and engage in the labor. Economic independence fosters awareness and empowerment, enabling women to challenge discriminatory practices and claim their rightful share under laws such as the Hindu Succession Act, 1956, and its 2005 amendment, which granted daughters equal inheritance rights. This shift has also influenced judicial interpretations, with courts increasingly upholding women's property claims in alignment with constitutional principles of equality. Despite progress, challenges persist, including societal resistance, lack of legal awareness, and procedural barriers. Economic empowerment, coupled with legal literacy and supportive policy frameworks, can further bridge the gap between legal rights and their practical realization. This paper explores the transformative impact of women's economic independence on property rights in India, examining legal reforms, case law developments, and socio-economic trends. It underscores the need for continued efforts to dismantle structural barriers and ensure gender-equitable property ownership.

**Keywords:** Women's economic independence, property rights, gender equality, inheritance law, Hindu Succession Act, legal reforms, empowerment.

## Introduction

The prominent aspect to attain unrestricted access to freedom exclusively implies fiscal sovereignty . When it comes to policy discussions, economic independence is associated to achieve a minimum subsistence level. According to equality framework , an individual is deemed economically independent if their net income from employment or business activities meets or exceeds the policy-defined minimum income threshold. This threshold is typically set at 70% of the legal minimum wage, corresponding to the net social assistance amount allocated to a single individual.<sup>1</sup>

Women's economic empowerment involves enabling women to participate equally in and benefit from decent work and social protection, access markets, and exercise control over resources, time, lives, and bodies. It also includes amplifying their voice, agency, and active participation in economic decision-making at all levels, from households to global institutions.<sup>2</sup> This paper deals with the compendium of economic empowerment of women, when it explicitly comes to property rights in India .

This paper includes the description of the property rights which is subjected only to women, and this paper answers ,how and why women were suppressed from the property rights in India , how women evolved through ages and how the economic development impacts the property rights which the women were avid to get .This paper categorized from ancient persuasion to contemporary principles ,where the women get to mature their way up to achieve proprietorship that she owns now. I hope that this paper offers comprehensive insights into women's property rights.

## Understanding property Rights

Rights belong to every individual, irrespective of their nationality, gender, race, ethnicity, skin color, religion, dialect, or any other classification. From the most basic right to life to those that enrich life, like the rights to food, education, employment, health and freedom, human rights encompass a broad spectrum of essential values.<sup>3</sup> Every

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<sup>1</sup> Centraal Bureau voor de Statistiek, <https://www.cbs.nl/en-gb/news/2018/50/economic-position-of-women-has-improved/economic-independence>.

<sup>2</sup> <https://www.unwomen.org/en/what-we-do/economic-empowerment/facts-and-figures#:~:text=Women's%20economic%20empowerment%20means%20ensuring,at%20all%20levels%20from%20the>

<sup>3</sup> <https://www.ohchr.org/en/what-are-human-rights>

civilization has inequality. However, the alleged clash between human rights and property rights is a myth. Human rights include property rights.

Property rights significantly empower the owner or holder to have control over how they use their property. This includes retaining it, selling or renting it for financial gain, or transferring it to someone else. Property rights establish the theoretical and legal ownership of resources in order to determine their permissible use. Various resources, whether tangible or intangible, are held by individuals, businesses, and governments.

A system of property rights is one of the most essential components of a capitalist economic system and one of the most misinterpreted ideas.<sup>4</sup> When it comes to property rights dealing with the definition, distribution, and defense of property rights is among the most complex challenges that every community faces still finding a solution is necessary and inevitable. This such property rights has to be enjoyed equally without any such disparity . Unfortunately , In India , women are deprived from property rights and have faced lot of lot of discrimination. The subsequent topic deals with, struggles that women had endured to enjoy the Land rights.

### **Historical overview**

The ancient perception of the property rights when it comes to women, often subjected her in the name of dependency. According to Manusmriti, A woman must live her entire life under the supervision of her father, husband, or son since she is a permanent minor.<sup>5</sup> Similarly the chronology of women and property rights in India has been influenced over the years by cultural, legal, and economic factors. Traditionally, land ownership in India was mostly controlled by men due to patriarchal social customs.

According to Manu , that women were not suitable for any self-sufficient life and was the norm of ancient Hindu society. A woman was seen as less than fully human, an item to be protected by her male guardians. <sup>6</sup> The complete historical viewpoint regarding the ancient women's property rights can be categorized through various school of thoughts , one such thoughts be

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<sup>4</sup> [https://www.investopedia.com/terms/p/property\\_rights.asp](https://www.investopedia.com/terms/p/property_rights.asp)

<sup>5</sup> [https://equalitynow.org/discriminatory\\_law/india](https://equalitynow.org/discriminatory_law/india)

<sup>6</sup> <https://www.studocu.com/in/document/bangalore-university/ballb/the-hindu-womans-right-in-coparacenary-property/29447421>

called as Smirithikars, this includes the significant smritis called, Baudhayana, Panini, Gautama, Kautiliya, Manu, Vasishtha and Apastamba.

### **Baudhana**

Baudhayana, a Black Yajurveda founder, believed that Hindu women are not entitled to inheritance. He argued that women are not capable of independent status and should not have freedom. Baudhayana also cited the Veda, which he believed ruled women devoid of senses and thus not sharers in property, thus concluding that the Vedas did not grant women inheritance rights.

### **Panini**

Panini, a grammarian from around 600 B.C., wrote the Ashtadhyayi, which provides insight into social life during that time. Although it lacks direct evidence on inheritance, it provides references about women's positions in the household, such as maiden, wife, and mother, aiding in understanding their legal status.

### **Gautama**

The Gautama Dharmasutra, the first written record of the Indo-Aryan legal system, emphasizes traditions and practices. It also discusses women's property rights, with Kane citing passages from the Vedas. However, there are two inconsistent views: women were assigned an exalted rank, and they were treated incompetent to hold property.

### **Kautiliya**

Ancient Indian legal authorities did not recognize women's right to own immovable property like land or houses. However, they acknowledged women's right to stridhana, which were given to them by their husband, parents, or relatives at the time of marriage. The Arthashastra of Kautilya stated that stridhana was the property of the married woman and that she could not own money up to 2000 silver panas or any sum held by her husband in trust.

### **Manu**

Manu, a prominent figure in Indian tradition and literature, is associated with the Manusmriti code. He views women as essential in man's life, treating them as equal to sons and daughters.

Manu asserts that women have no proprietary rights, and their wealth is acquired for their own family.

### **Vasishtha**

Vasishtha, a 300-100 B.C. sutra writer, lived between Narmada and Vindhya. The Vasishtha Dharmasutra, containing thirty chapters, resembles Gautama's style and contains sutras similar to Gautama and Baudhayana. It contains interpolations and quotes from Manusmṛiti.

### **Apastamba**

Apastamba, a prominent figure in the Andhra region, lived between 450 B.C. and 350 B.C. He is considered the best preserved Sutra and advocated for equal division between brothers. He opposed the law of primogeniture and considered preference for the eldest son contrary to the Vedas. Apastamba also believed that no division took place between husband and wife, as they were united in religious ceremonies, rewards, and property acquisition. A wife had no right to own property, and her earnings went to her master. Kane argues that this verse may have been an ancient opinion and that women should never make hoards from common property or their own without their husband's permission.

From the above expositions it is evidentiary that women are not allowed to expose socially women herself considered as a property. The subjugation of women during those periods resulted as improvident economically.

### **Medieval women and their claims to property**

The rights of women in medieval India were also determined by their social class and religious background. Predominantly women during those times were split up as upper class women and lower class women. The general customary says that the upper classes had the right to property, and they could inherit their father's property if he had no sons.<sup>7</sup>

However, women from the lower classes did not have such right, and their property was often controlled by their male relatives. Women from the upper classes also had the right to choose their husbands. It is significant fact that powerful shadow of male supremacy over the sequence

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<sup>7</sup> Property Rights of Hindu Women: A Feminist Review of Succession Laws of Ancient, Medieval, and Modern India, Jaishankar karuppannan, January 2008, 24(2):663-687

rights of women and it became even horrendous in the old ending accompanying the Muslim attack. The Muslim sultans in this ending brought in a new set of rules from the Shariat for the devotees of Islam but acted not upset the individual laws of the Hindu society. During this ending, stridhan in the form of gem and different movable endowment begun defeated allure inherent intention of "women's feature" and enhanced a rank character for married endowment to the newly wedded couples in the form of *Vara dakhshina* or tradition.

It is also prominent to understand the school of thoughts which mentions about the evolution of women holding the property in order to grasp that knowledge it is important to realize the understanding of Sage Vignaneswara, who enhanced the Mitakshara School of Thought, and the understanding of Sage Jimootavahana, who later became the Dayabhaga belief. One of the chief schools of concept in pre-pioneering India concerning property and heritage is the Mitakshara School of Thought, accompanying the basic standard of heritage innately.<sup>8</sup>

While Mitakshara was a dominant belief in North, West and South India- accompanying alternatives, the domain of Bengal had a different school of thought named Dayabhaga. The most appropriate dissimilarity between Mitakshara and Dayabhaga is that the latest prescribed generous views on the rights of widows and eligible daughters over a partner's or father's characteristic.

The Dayabhaga school grasped that even in an whole family, the relict take care of come into possession of her partner's share of possessions on his demise when skilled is no male inheritor, while the Mitakshara thought that she was not named to that right.

The concept of Stridhana still survived all the while pre-pioneering and pioneering occasions. Stridhana, which mostly incorporated transportable feature, was a form of ability on a woman by her father, parent or companions or mothers and likewise contained her own earnings event of merger. Even though Dayabhaga had comparatively generous understanding when distinguished to Mitakshara, with respect to the movement for equal rights for women, the rights stopped to survive as speedily as the woman with dead husband who received the feature expired.<sup>9</sup>

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<sup>8</sup> <https://cjp.org.in/the-evolution-of-womens-property-rights-under-the-hindu-succession-act/>

<sup>9</sup> <https://www.legallore.info/post/mitakshara-and-da>

Even if the widow had female inheritors, the property previously in time or order pass on to the most familiar male inheritor of the widow's deceased spouse. It is main to note that two together these schools acted not present certain control of property to daughters. The girls manage not estrange that is, sell the feature

### **Economic Development of women and Property Rights**

**Economic development**, the process whereby simple, low-income national economies are transformed into modern industrial economies. Although the term is sometimes used as a synonym for economic growth, generally it is employed to describe a change in a country's economy involving qualitative as well as quantitative improvements.<sup>10</sup>

A vital instrument for gaining access to economic opportunities is significantly through property rights. The ultimate secret to economic growth relies on property rights. The basis for both economic freedom and growth is established by protected property rights. However, men are disproportionately granted property rights.

When it comes to the ability to obtain land and property rights, women have been left behind. One of the primary causes of the disparity in social standing, financial security, and empowerment between the male and female cause the gender difference in property ownership and control.<sup>11</sup> Women must be granted land rights through additional legal reform in order to guarantee property rights for everyone. Having access to land rights can give women greater independence and influence over decisions.

The economic empowerment of women is directly linked to their property rights. The foundation for agricultural production and revenue generation in developing nations, where agriculture serves as the primary source of income, is land. Reducing poverty and ensuring food security require secure land rights. Obtaining land rights presents numerous obstacles for women.<sup>12</sup> The legal system in many nations does not support women's land ownership and inheritance rights, which makes it a major obstacle. Socioeconomic, cultural, and structural factors include patriarchal family structures, customary laws, and a lack of knowledge about

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<sup>10</sup> <https://www.britannica.com/money/economic-development>

<sup>11</sup> <https://www.doublexeconomy.com/post/property-rights-an>

<sup>12</sup> Sheehan, Kathleen and O'Reilly, Colin, Gender, Property Rights and Economic Growth: Including Women's Rights in Studies of Growth (July 2, 2023). Available at SSRN: <https://ssrn.com/abstract=4497586>

women's rights in communities.

Owning a property gives women financial stability and independence, which is essential for their empowerment. It also helps them pursue business endeavours, gives them control over financial matters, and improves the welfare of their family. In India, changing legal frameworks have gradually enhanced women's property rights, promoting greater economic empowerment and gender equality.<sup>13</sup> In India, a society that prioritizes women's general well-being, financial independence, and gender equality can be established with persistent efforts in this direction.

A significant turning point in women's land rights was the Hindu Succession Act of 1956, which excluded women from ancestral land but initially gave them limited rights to inherit self-acquired property. Women now have more access to land thanks to the Hindu Succession (Amendment) Act of 2005, which gave daughters equal rights to inherit ancestral property. This legal change was a major step toward bettering women's economic status because land is an essential resource for generating income, ensuring security, and empowering women.

As agriculture continues to be a crucial industry for many rural women, programs aimed at enhancing women's economic development have encouraged their involvement in it. The ability of women to own and manage land has improved as they have greater access to financial resources, education, and employment opportunities. Economic independence for women has also been made possible by programs that support their land ownership, such as government initiatives for land distribution to women and agricultural credit availability. Challenges still exist in spite of these developments, especially in rural areas where women's control over land is frequently restricted by social norms, ignorance, and resistance to change. Nonetheless, strengthening women's economic standing is essential to advancing their land rights and general empowerment.

### **Hidden Inequalities: The Gender Gap in Land Ownership**

One major example of hidden inequality that persists, particularly in rural India, is the gender disparity in land ownership. Economic obstacles, cultural norms, and societal expectations still limit women's access to and control over land, even in the face of legal reforms intended to grant them equal rights.

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<sup>13</sup> <https://www.un.org/en/un-chronicle/securing-women%E2%80%99s-land-rig>



Women have historically been routinely denied the opportunity to own or inherit land, despite the fact that it has historically been a symbol of economic stability and power. Although women are granted equal inheritance rights to ancestral property under the Hindu Succession (Amendment) Act of 2005 and other policies, traditional patriarchal norms frequently impede the implementation of these laws.<sup>14</sup> Land is registered in the names of male family members, even if it was inherited by a woman, undermining women's rights to property in many communities where men are still viewed as the primary landowners.

This disparity is exacerbated by the fact that women frequently encounter obstacles when trying to obtain agricultural resources and credit, which are essential for managing and acquiring land. Stereotypes about women's economic potential and perceived risks make financial institutions less likely to lend to them, especially in rural areas. In addition, even though women contribute a substantial amount of labour to farming, their roles are usually underestimated. The gender disparity in land ownership is frequently disregarded because of the covert nature of this inequality.

### **Judicial reforms**

In India, judicial reforms have been essential in establishing and upholding women's land rights, supporting legislative measures meant to lessen the disparity between men and women in property ownership. Here are a few significant court interventions:

### **Interpretation of the Hindu Succession Act of 1956**

Over time, the Supreme Court's interpretation of the Act changed. The Hindu Succession (Amendment) Act of 2005 gave daughters the same rights as sons in relation to ancestral property, which was previously prohibited by law.

The decision in *Danamma v. Amar singh*, Women's rights to inherit are strengthened by Amar's (2018) clarification that daughters have equal coparcenary rights in ancestral property from birth, even if their father passed away prior to the amendment.<sup>15</sup>

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<sup>14</sup> Kumar Mahato, Rakesh and Das, Arindam and A, Bheemeshwar Reddy, Gender Inequality in Land Ownership in India: Evidence from National Sample Survey (November 26, 2023). Available at SSRN: <https://ssrn.com/abstract=4644790> or <http://dx.doi.org/10.2139/ssrn.4644790>

<sup>15</sup> AIR 2018 SUPREME COURT 721, 2018 (3) SCC 343, 2018 (2)

## **Land Records and Joint Ownership**

The judiciary has supported women's rights to own property in joint names with male family members in a number of cases.

The 2016 decisions of the Supreme Court in cases such as *Prakash vs Phulavathi*, The idea of joint ownership for both sexes is supported by *Phulwati*, who underlined that daughters should be listed in land records and inheritance as equal coparceners in the family property<sup>16</sup>

## **Property Rights for Married Women**

Married women's property rights have also been guaranteed by court rulings. The decision of the Supreme Court in *V. Tulasamma vs V. Seshareddi*, According to *Sesha reddy* (1977), women, even those who were married before the reference, are entitled to a portion of ancestral property.<sup>17</sup> The court held that the section 14 (1) of The Hindu Succession Act 1956 states that a female Hindu must hold all property acquired by her as full owner, regardless of whether it was acquired before or after the Act's commencement. This includes both movable and immovable property acquired by her through inheritance, devise, partition, gift, or other means. Section 14 (2) does not apply to property acquired through gift, will, decree, order, or award with a restricted estate.

## **Suggested approach**

In India for the purpose of reducing the gender gap in land ownership and ensuring women's full property rights it requires a multi-faceted approach combining legal reforms, judicial enforcement and social change.

## **Strengthening legal enforcement**

India has made significant progress in enacting women's land rights legislation (e.g., the Hindu Succession (Amendment) Act, 2005), but these laws need to be strictly enforced. Local and state governments should update the land records to include women as co-owners, and the legal system should facilitate smoother real estate transactions for women.

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<sup>16</sup> AIR 2016 SUPREME COURT 769, 2015 AIR SCW 6160, 2016 (1) ABR 83, 2016 (2) AJR 391

<sup>17</sup> 1977 AIR 1944, 1977 SCR (3) 261, 1977 SCC (3) 99

### **Awareness and Education**

One of the major barriers to women's land ownership is lack of awareness. Government programs and NGOs should focus on educating women about their property rights, especially in rural areas. Empowering women through knowledge of their legal rights will help them claim their property and protect their rights in family disputes.

### **Financial Inclusion and Credit Access**

Women often face difficulties in obtaining loans for land purchase due to risks and biases from financial institutions. Targeted financial schemes that provide low interest rates or subsidies, especially for women in the agricultural sector, can significantly improve women's access to land. Banks and credit institutions should be interested in providing financial products that meet women's needs.

### **Cultural change and social awareness**

Social and cultural resistance remain major obstacles. Awareness campaigns should combat the misconception that land ownership is a male privilege and promote the importance of women's economic independence. Encouraging joint family ownership and involving both men and women in land-related decision-making can challenge patriarchal norms.

### **Judicial support**

The judiciary should continue to support and interpret laws that uphold women's rights, ensure strict enforcement of inheritance laws, and adjudicate family disputes over property in a gender-equal manner.

### **Promote women-friendly land reform programs.**

States can introduce gender-sensitive land redistribution programs that prioritize land allocation to women, especially where women have been historically disenfranchised. Introducing \*quotas\* for women on public lands or allowing women to own land jointly with men can provide greater access to land.

### **Incentives for women farmers**

Governments can provide grants, subsidies, and agricultural training programs specifically for women farmers. These programs can help increase land productivity, secure economic independence, and build a strong case for land ownership.

### **Family Mediation and Awareness**

To address resistance within families, it is important to promote family mediation programs that educate both men and women about women's legal rights to land. Increased awareness among men about the positive impact of women's ownership of land on their family's well-being and development can change deeply entrenched patriarchal attitudes.

### **Reform of inheritance laws across communities**

While some legal reforms have been made in Hindu law, Islamic, Christian and tribal laws also need to be similarly reformed to ensure equal inheritance rights for women. A Uniform Civil Code (UCC) may be a long-term solution, but until then, individual community laws need to be harmonized to give women equal rights to inherit property. By combining these proposals with existing legal and social frameworks, India can make more sustainable progress in reducing the gender gap in land ownership and promoting economic equality for women.

### **Conclusion**

In conclusion, while India has made significant strides in advancing women's rights to land through legal reforms and judicial support, the gender gap in land ownership remains a deeply entrenched issue, particularly in rural areas. The Hindu Succession (Amendment) Act, 2005 and various state-level initiatives have laid a strong foundation for gender equality in property rights, yet the implementation of these laws is inconsistent, hindered by cultural norms, and often stymied by practical barriers such as family resistance and outdated land records. The judiciary has played a critical role in interpreting laws to support women's claims to property, but more needs to be done to ensure the full enforcement of these rights.

In spite of the fact that, Hindu succession act, 2005 could be a critical headway towards sexual orientation correspondence and financial security of women in Hindu Law, however other females such as mother and widows have not been given acknowledgment as coparceners. Within the nonattendance of such acknowledgment, the property procured by a female Hindu cannot be understood as coparcener property in regard of her child since in such circumstances,. According to section 15 (2) (a) of the Act too causes difference which entirely depend upon gender by giving right to father and denying right to the mother indeed in regard of property obtained from mother.

Women's empowerment and economic development are interconnected, with development bringing about empowerment and empowering women influencing decision-making. However, a one-time impulsion of women's rights may not create a virtuous circle, resulting in equal partners in richer societies. Economic development alone may not guarantee significant progress in women's empowerment, particularly decision-making ability. Women's empowerment improves health and nutrition but at the expense of education. Equity between men and women may only be achieved through policy actions favoring women at the expense of men, potentially for a long time.

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