



MATRIMONIAL RIGHTS OF HINDU WOMEN

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ABSTRACT

This paper shall examine the history of women's rights under Hindu family law. There will be a discussion and analysis of many legislative changes and significant court rulings. An overview of Hindu marriage rules, guardianship, and succession will be included in this course. What impact these have had on mothers, wives, daughters, and widows. The stances taken by various courts on the rights of women to marriage, right to maintenance and adoption will also be discussed in this part. This study will attempt to trace the laws of succession as applicable to hindus. It will touch upon the issue of unilateral divorce and payment of alimony through the various cases. It will also underscore the rights of daughters, wife, mother and widows where is concerned.

Keywords: *Divorce, Marriage, Maintenance, Property and Succession.*

I. INTRODUCTION

Hindu law from long ago discriminated against women on many fronts. Men and women were not subject to the same marital laws. The Vedas provide a description of Hindu marriage. These differences have almost disappeared thanks to the Hindu Marriage Act of 1955. It has established monogamy as the norm for both sexes. According to the law, a woman is permitted to end her marriage and get married again. The grounds for divorce have been listed in the Hindu Marriage Act of 1955. Despite their gains, women in India continue to confront enormous hurdles. Gender discrimination and violence against women continue to be important concerns, particularly in rural regions, causing concern. Under hindu law, womens have right to marriage, right to restitution of conjugal rights, right to divorce, right to maintenance and right to property. Owing to the Hindu population in India's strong traditional traditions and rigorous adherence to Manu Smriti, its execution is viewed as a significant difficulty. Women who are



wives, mothers, daughters, and widows are included in this research. One of the most contentious topics causing a rift between the reformist and orthodox schools of thought is the property rights of Hindu women¹. India has demonstrated that it can go forward with reformation agendas into legislation enactment so as to offer and govern equal status for both sexes in property rights, even in the face of strong opposition from interest groups and religious pressure.

II. MATRIMONIAL RIGHTS OF WOMEN IN HINDU LAW

Over the years, women in India have been awarded a number of legal rights to advance gender equality and safeguard their interests. The following are some of the most significant privileges that Hindu law grants to women:

A. RIGHT TO MARRIAGE

We consider marriage to be one of the cornerstones of our civilization. Contrarily, there are obligations and guidelines associated with marriage that both sexes must follow. For women, this entails taking charge of the household and catering to the family's needs. Because they've been socialized to believe in these beliefs and the fantasy of happily ever after, most Indian women enter weddings unaware that it may also be an unhappy or stressful relationship. There are various legal rights of a wife over the husband. Every woman, whether married or not, young or old, should be aware of her legal rights as a wife over the husband. If women are aware of the legal right of a wife over the husband, they may punish any tyranny in marriage and claim independence and dignity from the union. In light of the government's plans to raise a woman's legal marital age from 18 to 21, there are certain legal privileges that every married Indian woman is entitled to².

Any party to the marriage may request the remedy under a clear provision (section 9) of the Hindu Marriage Act of 1955. Despite being presented in a gender-neutral manner, this cure has different effects on husbands and wives. This was noted by the Andhra Pradesh High Court,

¹Halder, Debarati and Jaishankar, K. 2009, "Property rights of Hindu women: a feminist review of succession laws of ancient, medieval, and modern India", Journal of Law and Religion, Vol. 24, No. 2 (2008-2009), at p.663, available online at <http://www.jstor.org/stable/25654333>, last visited May 02, 2015.

² The Hindu Marriage Act, 1955, sec.5



which expressed the opinion that, in the woman's situation, if her husband was given the remedy, the court would have to authorise "humiliating sexual molestation," which would end in a pregnancy that is "forced upon her by the state and against her will." Based on this rationale, the High Court determined that the legislation transgresses the Indian Constitution's guarantees of dignity and the right to privacy.

B. RIGHT TO DIVORCE

The Hindu Marriage Act of 1955 gives wives, the authority to file for divorce without their husbands' consent. Divorce can be granted for a variety of grounds, including infidelity, abuse, desertion, expulsion from the marital residence, and mental illness³. By mutual consent, divorce is also permitted by the statute. There are various additional grounds for the wife as a legal right of a wife over the husband, Even today, we do not teach our girls or future brides how to deal with a painful marital union. The stigma attached to terms like divorce and separation is indicative of this. However, things have changed, and women are no longer reliant on their close relatives for knowledge, at least when it comes to obtaining it. When divorce laws were introduced, a Hindu woman can be separated from her spouse, lose her marital property, and become estranged from her joint family after a divorce.

C. RIGHT TO MAINTENANCE

A married woman has the legal right of a wife over the husband to request permanent maintenance, from her husband under the provisions of the law. If a marriage fails, the Hindu Marriage Act gives women the legal right of a wife over husband to seek support for themselves and their children from their husbands both during (interim maintenance) and after divorce (permanent maintenance).Section 18 of the aforementioned Act deals with maintenance and the wife's separate residence: Regardless of when the aforementioned Act went into effect, Hindu wives are entitled to lifetime maintenance from their husbands. If a Hindu woman becomes unchaste or converts to another faith, she will no longer be eligible for separate housing and maintenance from her husband. Section 24 of the Hindu Marriage Act of 1955 (henceforth referred to as the HM Act) allows for the provision of interim support to either the lady or the

³ The Hindu Marriage Act, 1955, § 13 (1)



husband. The request for interim maintenance is based on the lack of an independent source of income for self-support. The section makes no mention of maintenance amounts; instead, it is at the court's discretion. The other spouse is required to pay court expenses, and in the event that the claimant is not self-supporting, they will require pendente lite support.

Right to maintenance as married daughter, Both the mother and the father have an equal responsibility to provide for all children, biological and adopted, as stated in Section 20 of the HAM Act. One distinctive feature of the Hindu legal system is the equal responsibility of both parents for parenting their children. Under the HAM Act, minor children are entitled to maintenance under Section 20(2). The daughter is still eligible for support until she marries. The expenses of her wedding must be met by her parents. If the claimant is in charge of the children's maintenance, then the children have a entitlement to maintenance after submitting an application in accordance with HM Act sections 24 and 25. This suggests that the claimant's maintenance entitlement also includes the children's maintenance entitlement.

Right to maintenance as Mother, Furthermore sec. 20 of the HAM Act also creates a maintenance obligation for parents who are too old or too handicapped to take care of themselves using their own assets, such as their home and income. The "HAM ACT" is the first law in India requiring children to provide for their parents. In addition to sons, daughters are also subject to the requirement for maintenance. The HAM Act allows for maintenance claims to be made by both the father and the mother.

D. RIGHT TO MATRIMONIAL HOME

A wife has the legal right to live in the marital residence even after her husband passes away. She has the right to live there even if it is his parents' or a rented property instead of the husband's. In the case of a divorce, she is free to move back in with her parents or stay in the married residence until a better one is found for her. There is no clause allowing a married woman to move back to her parent's house under the Hindu Marriage Act, 1955⁴. If and when she wants to stay, she has the legal right of a wife over her husband. One of a wife's significant legal advantages over her husband is the right of matrimonial home.

⁴ The Hindu Marriage Act, 1955, § 9



E. RIGHT TO PROPERTY

Right to property as married daughter, According to amendment act 2005, states that a daughter has the same rights to inherit her father's assets as her brother, regardless of marriage⁵. In order to provide girls in Hindu families with equal inheritance rights, the Hindu Succession Act of 1956 was amended in 2005. Daughter's Right to Ancestral Property Inheritance Report of the 174th Law Commission (2000) The Hindu Succession Act of 1956's provisions were the subject of pervasive gender discrimination (against women), according to the 174th Law Commission report. The study addressed the prejudice in section 6, which dealt with the daughter's inherited rights to family property. Amendments to the Hindu Succession Act in 2005 granted daughters equal rights to coparcenary property. Coparcenary rights are extended to coparcenary property by the 2005 amendment⁶. The 2005 amendment eliminates the disability that girls experienced and grants them the coparcenary right to property at birth, together with all of a son's rights and obligations.

Right to property as Wife and Widow :Even if the property is held by the husband, a wife is entitled to live in her husband's house, often known as the "matrimonial home," under the Hindu Marriage Act. In the event of a divorce or separation, the woman is eligible to receive maintenance from her husband in addition to a portion of his assets, including both inherited and self-acquired property. According to the Hindu Succession Act, the wife and his other legitimate heirs are entitled to a portion of the husband's estate in the event of his death. In Hindu law, a wife is entitled to a share of her husband's ancestral property. The Hindu Succession Act of 1956 states that a wife's part is equal to that of a son. According to the Hindu Succession Act of 1956, a wife's portion of ancestral property is equal to that of a son's. But this privilege does not extend to possessions that the spouse has independently obtained; rather, it solely covers ancestral properties.

⁵ Rig Veda, Translated by Griffith, T.H. Ralph (1896)

⁶This amendment was brought in pursuance to the Report titled "Property Rights of Women: Proposed Reform under the Hindu Law" prepared by Indian Law Commission in May 2000, available online <http://www.lawcommissionofindia.nic.in/kerala.htm>, last visited May 31, 2015



Right to Property as Mother: A mother obtains the same portion of her deceased son's assets as his wife and kids since she is a class 1 heir. A mother is entitled to the same portion of the family assets as each of her children if the children split the assets after the father passes away. Her eligible children must also provide her with maintenance and a place to live. She is fully entitled to her possessions and can use them whatever she pleases. However, all of her children get her possessions equally upon her death.

III.CONCLUSION

In conclusion, while there has been a notable improvement in the position of women in India recently, much work remains. Acknowledging the progress accomplished thus far and carrying on with efforts to create a fairer and more equal society for women is imperative. We can guarantee that women in India may fully engage in all facets of life and contribute to the advancement of their nation by tackling the obstacles that women encounter and advocating for gender equality. The argument that Indian laws are somewhat biased in favour of women is unavoidable after talking about all the legal privileges that Indian women have and how they develop after marriage. The reason for this is that becoming a bride in Indian society frequently means sacrificing one's individual identity. But a woman should stand up for herself and empower herself for all the right reasons, if no one else does.

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