



A Review of the Rights of the Woman to Hold the Property in India

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DOI : <https://doi.org/10.55248/gengpi.5.0724.1827>

ABSTRACT

This paper delves into the relatively recent history of women's land rights in India. It examines the significance of a gendered perspective on land ownership and explores potential avenues for enhancing women's access to land. While land can be acquired through state, familial, or market mechanisms, this research focuses on the latter two, given the predominance of private land ownership in India. A key departure from existing research is the emphasis on collective land ownership and management by women's groups as a strategy to overcome challenges faced by individual women in accessing and utilizing land. This approach is posited as a means to revitalize land reform, foster community collaboration, and empower women through joint farming initiatives. The study analyzes government policies aimed at empowering women's property rights and advocates for equal tenure rights for women and girls, irrespective of marital or civil status. Employing a quantitative methodology with a sample size of 201, the research utilizes SPSS for data analysis. The ultimate goal is to trace the evolution of women's right to property in India.

Keywords: Woman, Property, Right, Family & Land

1. Introduction

The property rights of Indian women have been a complex and evolving issue, shaped by a confluence of historical, cultural, and legal factors. Unlike many Western countries, India's diverse religious and cultural landscape has resulted in a fragmented legal framework governing property ownership for women. While there have been strides towards greater equality in recent decades, significant disparities persist. The personal laws of different religions, such as Hinduism, Islam, Christianity, and tribal customs, continue to govern property rights for women. This diversity, coupled with variations in state-level legislation, creates a complex patchwork of laws and customs across the country. The absence of a uniform civil code has further exacerbated these disparities. Despite constitutional guarantees of equality, Indian women often face discriminatory practices in property inheritance and ownership. While the judiciary has played a role in challenging some of these discriminatory provisions, the process of reform has been slow and incremental.

Objectives

- * To analyse on rights on woman to hold property
- * To examine the development of the rights of the woman to hold the property
- * To interpret the agreed ability towards the women right to hold the property with respect to gender of the respondents
- * To interpret the agreed ability towards the women right to hold the property with respect to age of the respondents

1.1. Review of Literature

It has never been a good time to be a woman. Shackled at home, deprived of rights in society, and subjected to gender bias at the workplace, women have borne the brunt of being the weaker sex all through history. Though the skew in rights and treatment hasn't quite corrected itself, women are possibly in a better place today than ever before. (Brulé) This is because rising awareness, availability of global forums and social media to voice their anguish and angst, changes in laws to empower them, and proactive governments to implement gender neutral laws have all converged to give women a hearing and heft. (Riju Mehta(India)

There are many areas that can do with a nudge to empower them, one being the succession and inheritance laws. For years, women in India have been discriminated against and denied the right to ancestral [property](#) due to various reasons (India). One, there is no uniformity in inheritance laws, with various religious communities governed by their own personal laws and different state tribals by their customary laws. ET Bureau (Patel, Hindu Women's Property Rights in Rural India: Law, Labour and Culture in Action)

Apart from the ongoing struggle for a uniform civil code in accordance with the Constitutional framework, today the India women are fighting for rights in marital property, denied uniformly to them across all religious boundaries. (Agarwal) There is also a significant movement in some of the hill

states, towards community ownership of land by women by creating group titles and promoting group production and management of land and natural resources by landless women for joint cultivation or related farm activity. **Meera didi se poocho**([Brulé](#))

Women's property rights are important, as these are fundamental to women's economic security, social and legal status, and sometimes their survival. ([Baruah](#)) Land and property ownership empowers women and provides income and security. Without property rights, women have limited say in household decision-making, and no recourse to the assets during crises. The lack of property rights also results in domestic violence. **loonwijzer**([Baruah](#); [Food and Agriculture Organization of the United Nations](#))

Property rights require an egalitarian approach for men and women. In fact, property rights are considered to be an inalienable human right, a position recognised by the International Human Rights Law and conventions. **Sujata Kumari**

The bicameral legislative body, an independent judiciary, and the other checks and balances established by the Constitution are expected to create a political climate in which property interests of women would be better protected. **Muni**([Agarwal and Bina](#))

Economically, when women have greater access to land-ownership in rural areas, which started being implemented by the government following the 20th century mandates on property laws in order to ultimately promote greater gender equality, women begin to independently cultivate their own land (given to them either by the state itself, allocated otherwise through the private market, or passed on by a male relative), form women collectives to learn more about agricultural practices as well as profit-generating skills and ultimately, have yielded more output from that given land than the previous owners. ([Agarwal and Bina](#); [Brulé](#)) Further, the psychological benefits from increasing women's access to property rights is that this leads to a significant decrease in instances of marital domestic violence. **Bina Agarwal**([Amaral](#))

Levels of education, often products of restrictions on women's interaction with institutions which are primarily composed of men, create a mystique and illusion about legal actions. Additionally, ideologies about the conduct that a woman displays, normally taking the form of docility, can bring shame to the idea of challenging persisting gender inequalities in law, policy and land rights. **Schlager**([Agarwal and Bina](#); [Brulé](#); [India](#); [Patel](#), *Hindu Women's Property Rights in Rural India: Law, Labour and Culture in Action*)

There are a growing number of contemporary laws, as framed by the modern State, which give inheritance rights to daughters when they are recognized as individuals among the communities, the process of marriage and the traditionally patrilineal customs have remained largely unchanged. ([Agarwal and Bina](#); [Brulé](#); [India](#); [Patel](#), *Hindu Women's Property Rights in Rural India: Law, Labour and Culture in Action*; [Agarwal](#)) Thus, there remains a mismatch between marriage practices and inheritance laws, with the strength and biases of the marriage practice often overriding inheritance laws.

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Firstly, women are one of the identified sections that are vulnerable to discrimination and hence expressly protected from any manifestation or form of discrimination. ([Miller](#); [Patel](#), "Conversations: What Women Think") Secondly, going a step further, women are also entitled to special protection or special rights through legislations, if needed, towards making up for the historical and social disadvantage suffered by them on the ground of sex alone.

Ostrom([Amaral](#); [Joseph](#))

The property rights of the Hindu women are highly fragmented on the basis of several factors apart from those like religion and the geographical region which have been already mentioned. ([Patel](#), "Conversations: What Women Think") Property rights of Hindu women also vary depending on the status of the woman in the family and her marital status: whether the woman is a daughter, married or unmarried or deserted, wife or widow or mother. It also depends on the kind of property one is looking at: whether the property is hereditary/ ancestral or self-acquired, land or dwelling house or matrimonial property. **Elinor**([Basu](#); [Food and Agriculture Organization of the United Nations](#))

Till as late as the formulation of the Hindu Succession Act, 1956, the law was blatantly biased against women," says Rohan Mahajan. ([Patel](#), *Hindu Women's Property Rights in Rural India: Law, Labour and Culture in Action*) "It was only after the amendment in the Hindu Succession Act in 2005, ([Miller](#); [Brulé](#)) whereby equal rights were awarded to daughters in their fathers' ancestral property, that it became more balanced," says Raj Lakhota, Founder & Director, Dilsewill.com, an online will-maker. **Leslie C.**([Food and Agriculture Organization of the United Nations](#))

Still, there are many areas that can do with a nudge to empower them, one being the succession and inheritance laws. For years, women in India have been discriminated against and denied the right to ancestral property due to various reasons. ([Patel](#), *Hindu Women's Property Rights in Rural India: Law, Labour and Culture in Action*) One, there is no uniformity in inheritance laws, with various religious communities governed by their own personal laws and different state tribals by their customary laws. **Michael**([Patel](#), *Hindu Women's Property Rights in Rural India: Law, Labour and Culture in Action*)

During Vedic period woman was considered as a goddess and was adored. The only Disability from which she suffered is that she didn't have the right of inheritance. Vedic literature prescribed inheritance to the unmarried daughter and to a brother-less married daughter. ([India](#)) The widow was not given any right of inheritance in her husband's property but childless widow was entitled to succeed to her husband estate. **Gray**([Basu](#))

The Indian woman's position in the society deteriorated during the medieval period when Sati , child marriages and a ban on widow remarriages became part of social life. ([Patel](#), *Hindu Women's Property Rights in Rural India: Law, Labour and Culture in Action*) The Muslim invaders brought the purdah practice in the Indian society. Among the Rajputs of Rajasthan, the Jauhar was practiced. Polygamy was widely practised especially among Hindu Kshatriya rulers. Women had no property rights during this period. **Keavane**([International Center for Research on Women](#))

There is a popular sentiment in society that since women anyway receive valuable gifts from their parents during festivals, besides her share of dowry, she should not claim property from the paternal home. **Grown, Caren**([Basu; Baruah; Food and Agriculture Organization of the United Nations; Agarwal and Bina; True](#))

A Hindu wife was not capable of holding of property separate from her husband. But however Hindu succession ([Klugman et al.](#))([Miller](#)) Act is an Act of the Parliament of India. It enacted to amend and change the law relating to intestate or un-willed succession, among Hindus, Buddhists, Jain and Sikhs. **Gupta**([Agarwal and Bina](#))

Ancestral property cannot be sold without consent of successors in case of major and in case of minority you might have to take permission from the court. And if property disposed without consent can be reclaimed. **Geeta Rao**([Agarwal and Bina; Brulé](#))

A wife is entitled to inherit an equal share of her husband's property. ([Brulé](#)) However, if the husband has excluded her from his property through a will, she does not have a right to her husband's property. ([India; Brulé](#)) Moreover, a wife has a right to her husband's ancestral property. **Kes**([Agarwal and Bina](#))

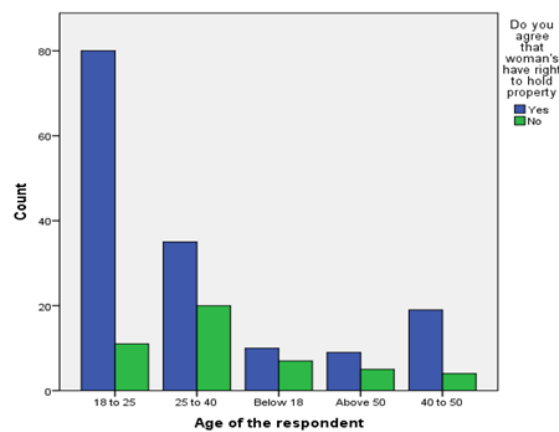
The widow is entitled to inherit 1/6 of the self-acquired property of the father-in-law. Indian inheritance law gives more rights to a daughter than a daughter-in-law in father-in-law's property. ([Miller](#)) The widow would be entitled to her deceased husband's share in an intestate succession. **Aslihan**([Miller](#))

1.2. Methodology

The research method adopted here is an empirical research method. The researcher has collected the samples through a convenient sampling method. The sample size of the study is 201. The survey was conducted through online means. The independent variables are age, gender, educational qualification and occupation. The dependent variables are the, do you agree that woman's have right to hold property, rate the development of the rights of the woman to hold property.

1.3. Analysis

FIGURE-1

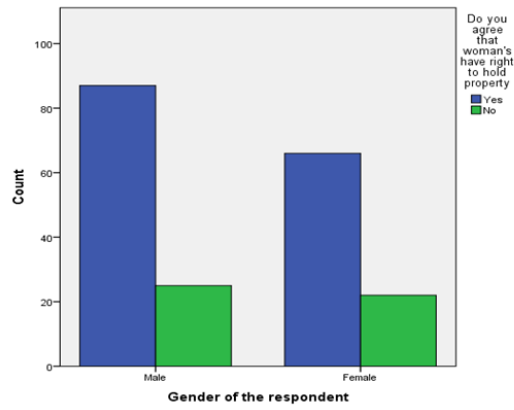


Legend: Age of the respondents and women's right to hold the property

RESULT : From the above graph it is clearly seen that most of the respondent who are 18 to 25 has responded that women have the right to hold the property.

DISCUSSION: The highest respondent are from the age group 18-25 years they say yes for women to have right to hold the property.

FIGURE-2

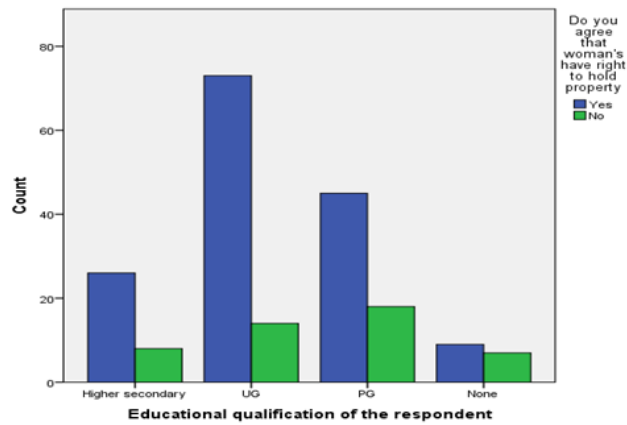


Legend: gender of the respondents and women’s right to hold the property

RESULT : From the above graph it is clearly seen that most of the respondent who are male has responded that women have the right to hold the property.

DISCUSSION: The highest respondent are from the gender of male respondents they say yes for womens to have right to hold the property.

FIGURE-3

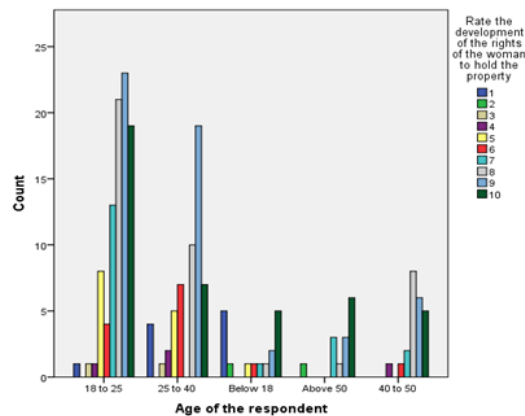


Legend: educational qualifications of the respondents and women’s right to hold the property

RESULT: From the above graph it is clearly seen that most of the respondent who are doing higher secondary has responded that women have the right to hold the property.

DISCUSSION: The highest respondent are from the UG respondents they say yes for womens to have right to hold the property.

FIGURE-4

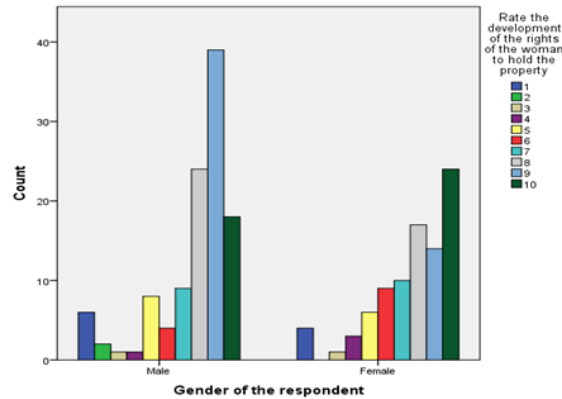


Legend: Age of the respondents and women’s right to hold the property

RESULT :From the above graph it is clearly seen that most of the respondent who are 18 to 25 has responded that women have the right to hold the property.

DISCUSSION: The highest respondent are from the age group 18-25 years the respondents say yes for womens to have the right to hold the property and the highest count is 7 out of 10.

FIGURE-5



Legend: gender of the respondents and women's right to hold the property

RESULT:From the above graph it is clearly seen that most of the respondent who are male have responded that women have the right to hold the property.

DISCUSSION: The highest respondent are from the respondents say yes for womens to have the right to hold the property and the highest count is 7 out of 10.

2. LIMITATION:

Women has full rights to hold their ancestral and their own property in India. They have full rights to acquire the share in every property and they have full rights to sell their property and the ownership power is as equal to both men and women in India. The laws also speaks about the sharing of property among both the men and women equally in India.

3. SUGGESTIONS:

Land rights are fundamental human rights for rural women and girls. Governments must actively challenge patriarchal norms and discriminatory practices that hinder women's access to land and resources. Recognizing the multifaceted nature of discrimination faced by rural women, states should prioritize land rights as essential for their overall well-being and livelihood. To achieve gender equality in land ownership, states must ensure equal rights for women and men, regardless of marital status. Legal frameworks should protect women's tenure rights and provide them with equal opportunities to participate in land governance. Overcoming obstacles faced by women in securing and maintaining land rights requires targeted measures, including legal aid and support services. States should adopt affirmative actions to empower women, such as promoting women's leadership in land management and ensuring equal access to land-related information. Providing rural women with identification documents is crucial for their participation in decision-making processes. Transparent and inclusive procedures for land-related matters are essential to ensure women's voices are heard.

4. Conclusion

Rights are fundamental tools that empower citizens to live peacefully within a nation. While these rights are theoretically granted equally to all, irrespective of gender, women across the globe continue to face significant disparities. Their rights, particularly in civil, political, and economic spheres, remain restricted in many countries. This is especially evident in property rights, where women often lack ownership, even when they are the primary contributors to agricultural labor. Consequently, their economic independence and overall empowerment are hindered. Despite these challenges, both international bodies and governments, including India, have implemented measures to safeguard women's rights. The Indian Constitution explicitly guarantees gender equality through provisions like Articles 14 and 15. However, the implementation of these rights, especially in the realm of property ownership, still faces obstacles. This article delves into the gaps and progress made in ensuring women's property rights within the framework of broader women's rights.

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