

# SC VERDICT ON HINDU WOMEN'S INHERITANCE RIGHTS IS A SEAL ON A SUBSTANTIVE CHANGE IN THE UNDIVIDED FAMILY

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The Supreme Court has placed Hindu women's right to inherit ancestral property beyond the pale of ambiguity — a welcome ruling and a logical culmination of a long process to weed Indian laws of patriarchal prejudice. It was an exercise that was speeded up soon after Independence, with the framers of the Constitution inscribing the promise of gender equality in the founding-document of the nation. They walked the talk by pushing through the Hindu Succession Act, 1956, in the teeth of fierce opposition from conservative Hindu opinion. Over the years, the expansion of educational and other opportunities has bent social attitudes towards gender justice, making what seemed abhorrently subversive once (the right to divorce, the end of polygamy) a matter of reasonable progress now.

In 2000, the 174th Law Commission noted that “the framing of all property laws have been exclusively for the benefit of man” even though the right to property is “important for the freedom and development of a human being”. It pushed for a change in law that barred women from being considered co-parceners (or joint legal heirs) of a Hindu undivided joint family. Only male descendants of an ancestor, their mothers, wives and unmarried daughters were given that right. The commission's report was followed through in Parliament by the 2005 amendment to the Hindu Succession Act, 1956 that said that a woman could be a co-parcener by birth “in her own right in the same manner as the son”. Nevertheless, the gap between precept and practice was manifest in several cases and in several court judgments, when the interpretations of whether the amendment could apply retrospectively or depended upon the father's being alive in 2005 threw up conflicting answers. The three-judge bench of the SC has put an end to this confusion by emphasising again that it is a right “by birth” of a Hindu woman to become a joint heir to ancestral property. In doing so, the court has interpreted the law capaciously, keeping in mind the progressive intent behind the 2005 amendment.

Gender justice is far from being reality in India, with several other inequalities of caste, religion and class reinforcing the secondary status of women. But the judgment is in sync with a larger churn in Indian life, that has seen women extract similar concessions from families and religions, that involves citizens and communities using constitutional promises to push institutions towards change. This ruling is a seal on a substantive change in the Hindu undivided family.

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