



## Tribal Women's right of inheritance

### What is the Hindu Succession Act?

- The [Hindu Succession Act, 1956](#) deals with the succession and inheritance of property of Hindus in India.
- The act also includes intestate or unwilled (testamentary) succession.
- The Hindu Succession Act of 1956 guarantees equal shares for male and female heirs.

### What are the provisions and applicability of the law?

- The provisions of the act are applicable to -
  1. Any person who is Hindu by religion or any of its forms or developments, including a Virashaiva, Lingayat, or a Brahmo, Prarthna or Arya Samaj follower.
  2. Any person who is a Buddhist, Sikh, or Jain by religion.
  3. Any other person who is not a Muslim, Christian, Parsi, Jew, unless it is proved that such person would not be governed by Hindu law or custom.
- The Act does not cover the tribal population of the country i.e. Scheduled Tribes as per the Article 342 of the Constitution.
- The section 2(2) of the Hindu Succession Act of 1956, says that the provisions of the act is *not applicable to Scheduled Tribe members*.

### What does the law say on female inheritance?

- If a male dies intestate, leaving behind a female heir, the property would devolve according to the provisions of this Act and not the rule of survivorship.
- Under Section 6 of the Act (2005 Amendment), daughters are coparceners by birth and have the same and equal rights as sons irrespective of their marital status and financial position.
- She has all the rights to inherit coparcenary property like a son and would also have to fulfil the liabilities.

### What are the inheritance rights of tribal women?

- The Scheduled Tribes of India are governed by customary laws in matters of inheritance, marriage and succession.
- Inheritance rights of tribal women is neither covered under the Hindu Succession Act, 1956 nor under the Indian Succession Act, 1925.
- They are governed by local customary laws which are safeguarded under several provisions under the Indian Constitution.

- The customary tribal laws continue to discriminate against tribal women in the matter of succession.

### Why tribal women are denied rights on inheritance of property?

- There are two laws in India namely, the Indian Succession Act, 1925 and the Hindu Succession Act, 1956 which deal with intestate succession of Christians and Hindus, respectively.
- **Indian Succession Act, 1925** - Not explicitly exempts tribes; but state government has the power to exclude any tribal community or groups from its application.
- **Hindu Succession Act, 1956** - Explicitly exempts tribes under section 2(2) of the act.

### What did the SC say?

- **SC observation** - A female tribal is entitled to parity with male tribal in intestate succession.
- It directed the Centre to examine the issue and consider amending the provisions of the Hindu Succession Act so as to make it applicable to the members of the Scheduled Tribes.
- **SC reasons** - When the daughter belonging to the nontribal is entitled to equal share in the property of her father.
- Including Scheduled Tribe women in the ambit of the Hindu Succession Act to treat them equally under the law
- **Provisions** - The court ruled that the Act would apply in cases where evidence shows that parties belonging to tribes were practising Hindu customs.
- It excludes cases where the customs of a particular Scheduled Tribe give women an advantageous position.

### What are the repercussions of this ruling?

- **Reason against amending Hindu succession Act** - The Court recognizes the concept of Hinduization of the tribals.
- Scheduled Tribes are determined not by religion, but by social, cultural, and economic characteristics and the region or state in which they live.
- This means that communities that practice religions other than Hinduism may still be included in the list of STs.
- The extension of Hindu law over them will potentially impact on the cultural and social identity of these tribes.
- Securing rights over the inherited property should not come at the cost of cultural identity.
- The extension of provision should not lead to the loss of constitutional benefits reserved for STs.

### Reference

1. [Indian Express | Succession right of tribal women](#)



# IAS PARLIAMENT

*Information is Empowering*

A Shankar IAS Academy Initiative