

## Rethinking Tribal Women's Inheritance Rights

*Mains: GS-II - Polity & Governance*

### Why in News?

*The question of women's inheritance rights in tribal communities remains unresolved - Customary laws of most tribal communities deny absolute property rights to their women, and the Hindu Succession Act, 1956 keeps tribal women out of its purview.*

### What are the key Supreme Court Judgements?

- **Ram Charan v. Sukhram (July 2025)**
- The SC ruled that tribal women are entitled to equal inheritance rights as men, declaring that excluding them is discriminatory and unconstitutional, violates their fundamental right to equality (Article 14).
- The Court held that customary practices cannot override constitutional rights to equality, placing the burden on parties to prove if custom forbids female inheritance.
- **Nawang v. Bahadur (October 2025)**
- The SC ruled that the Hindu Succession Act cannot apply to Scheduled Tribes under any circumstances, reaffirming the validity of Section 2(2) of the Hindu Succession Act, 1956.
- **Background** - It overturned a Himachal Pradesh High Court's order that had extended inheritance rights to "Hinduised" tribal daughters under the Hindu Succession Act, 1956.
- It reaffirmed that only Parliament has the authority to extend the Act to tribal communities.
- The High Court had overstepped its jurisdiction by directing legislative changes.
- It affirmed that tribal inheritance remains governed by customary practices, unless the Central government officially intervenes.

### What about the SC's view on defining the term 'Hindu'?

- **Sastri Yagnapurushadji v. Muldas Brudardas Vaishya (1966)** - The SC said that Hinduism is not a religion in the narrow sense but "a way of life."
- Hinduism doesn't have one founder, one god, one fixed belief system, or one set of rituals.
- It's not a religion in the narrow sense of having a single prophet or dogma.
- Instead, it's best understood as a broad, flexible way of life that can include many different practices, philosophies, and traditions.
- **Conversion** - A person can be a Hindu either by birth or by conversion.

- Conversion means a bonafide intention to follow a particular faith with an unequivocal conduct expressing sufficient evidence of conversion.
- **Tribal link** - A converted person continues to be a member of the tribe unless his ancestors had converted long time ago and abandoned tribal customs long ago.
- **The Problem with “Hinduisation”**
- **Earlier practice** - The Courts used to broaden Section 2(1) of the Hindu Succession Act to include Scheduled Tribes, reasoning they fell under the definition of “Hindu.”
- **Contradiction** - But this went against Section 2(2), which clearly says the Act does not apply to them.
- This practice pressured tribal women to choose between their tribal identity and becoming followers of Hinduism.
- **Constitutional concern** - This undermined the guarantee to protect the unique identity of tribal people while also perpetuating gender discrimination.

### What is the Hindu Succession Act?

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

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

- **Intestate Succession** - If a man dies without leaving a will, and he has a female heir, the property will pass according to the provisions of the Hindu Succession Act rather than by the old rule of survivorship.
- **Section 6 of the act** - Under the 2005 amendment, daughters are recognized as coparceners by birth.
- This means they hold the same position as sons in the family property, regardless of their marital status or financial condition.
- **Equal Rights & Liabilities** - A daughter has full rights to inherit coparcenary property just like a son.
- Alongside these rights, she also shares the same responsibilities and liabilities attached to the property.

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

- **Customary laws governing tribes** - The Scheduled Tribes of India follow customary laws in matters of inheritance, marriage, and succession, these practices are distinct from mainstream statutory frameworks.
- **Exclusion from Succession Acts** - Inheritance rights of tribal women are not covered under either the Hindu Succession Act, 1956 or the Indian Succession Act, 1925.
- **Constitutional safeguards** - Tribal customary laws are protected under several provisions of the Indian Constitution, which recognizes the need to preserve indigenous identity and autonomy.
- **Persistent discrimination** - Despite these safeguards, customary tribal laws continue to discriminate against women, especially in succession matters, leaving

them without equal property rights.

### 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 lies ahead?

- **Special tribal inheritance law** - Introduce a special enactment governing inheritance rights among the indigenous population, ensuring gender parity while respecting cultural identity.
- **Codifying customary laws** - The law of succession in other States with significant tribal populations on the lines of Mizoram (codified its customary succession laws) could provide a solution to ensure gender parity while preserving tribal identity.
- **Statutory expansion** - Parliament could expand another statute (outside the Hindu Succession Act) to cover tribal inheritance rights to avoid assimilation pressures while ensuring equal rights.

### Reference

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