

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](#)