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Hindu succession act and female in scheduled tribe and recent judgement

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Abstract

The legal landscape governing inheritance among Hindu women has undergone profound transformation since the enactment of the Hindu Succession Act, 1956. Initially limited by patriarchal norms, the Act was significantly amended in 2005 to grant daughters equal coparcenary rights, thereby promoting gender justice within Hindu family law. However, a critical gap persists under Section 2(2), which excludes Scheduled Tribes from its applicability, leaving tribal women governed by customary laws that often deny them inheritance rights. This exclusion has raised constitutional concerns regarding equality, dignity, and non-discrimination under Articles 14, 15, and 21. Recent judicial developments, particularly *Ram Charan v. Sukhram* (2025), have redefined this discourse by recognizing the equal property rights of tribal daughters, even in the absence of statutory inclusion. The Supreme Court emphasized that customs cannot override constitutional guarantees unless they are reasonable, time-honored, and non-discriminatory. This judgment marks a decisive shift toward harmonizing cultural autonomy with gender equality, signaling the judiciary's commitment to substantive justice for tribal women. The evolving jurisprudence thus calls for legislative reform to amend Section 2(2) and extend equal inheritance rights to all women, ensuring that the constitutional vision of equality is fully realized across communities.

Keywords: Hindu Succession Act, Scheduled Tribes, Gender Equality, Customary Law, Property Rights

Introduction

The Hindu Succession Act, 1956 was a landmark law enacted to codify and modernize Hindu intestate succession in India, aiming to ensure uniform, statutory rules for inheritance among Hindus. Over the decades, the Act has undergone important amendments most notably the Hindu Succession (Amendment) Act, 2005 which sought to eliminate gender-based discrimination by granting daughters equal rights to ancestral (coparcenary) property as sons. The 2005 amendment empowered Hindu women by treating their share in family property as absolute property, thereby abolishing their earlier limited estate status.

However, the Act includes a specific proviso: Section 2(2) excludes its application to property governed by custom or usage in a particular community, and courts have interpreted that Scheduled Tribes communities often fall outside the direct ambit of the Act because their inheritance customs were traditionally governed by community-specific rules. As a result, for many tribal communities, women have historically been constrained by customary doctrines denying them equal inheritance rights, unless they could successfully challenge such customs before courts.

In recent times, the question whether a female from a Scheduled Tribe has constitutional and legal rights to inherit property equally has come under judicial spotlight. In a landmark decision in *Ram Charan v. Sukhram* (2025) ^[6], the Supreme Court held that a tribal woman (or her legal heirs) is entitled to an equal share in her ancestral property, even in cases where the Hindu Succession Act does not formally apply. The Court reasoned that exclusion of female heirs merely on account of gender, without any valid custom prohibiting female succession, would violate Article 14 (equality before the law) and other constitutional guarantees. It observed that the exemption of Scheduled Tribes from the Act should not become a ground for perpetuating gender inequality, especially where no custom is shown to forbid women's succession.

This ruling overturns earlier lower-court decisions that had dismissed claims on the basis that tribal customs barred female inheritance in ancestral property. In parallel, some High Courts, such as in Rajasthan, have begun reinforcing the principle that denial of succession rights to

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tribal daughters is inconsistent with constitutional equality and have called for statutory reform to amend Section 2(2) in respect of Scheduled Tribes.

Background and Rationale of the Study

The question of inheritance rights among women belonging to Scheduled Tribes (STs) occupies a complex space in India's legal and constitutional framework. The Hindu Succession Act, 1956 (HSA) was enacted as a progressive legislation to bring uniformity and gender justice in matters of succession among Hindus. However, Section 2(2) of the Act explicitly excludes its application to members of Scheduled Tribes unless the Central Government notifies otherwise. This statutory exclusion stems from the constitutional recognition of tribal communities' unique cultural and customary practices under Articles 341, 342, and 366(25) of the Constitution. While intended to preserve the autonomy of tribal customs, this provision has inadvertently perpetuated gender inequality in inheritance within many tribal societies, where traditional norms often deny women rights over ancestral property. Despite the constitutional guarantees of equality and non-discrimination under Articles 14 and 15, and the right to life and dignity under Article 21, tribal women remain marginalized in the domain of property rights a disparity that calls for renewed judicial and legislative attention.

Recent judicial pronouncements have brought this issue into sharper focus, re-examining the balance between customary law and constitutional equality. Landmark decisions such as *Madhu Kishwar v. State of Bihar* (1996) ^[3] upheld the sanctity of tribal customs while acknowledging gender inequity, whereas *Kamla Neti v. State of Chhattisgarh* (2023) ^[4] and *Tirith Kumar v. Daduram* (2024) ^[5] advanced a more progressive interpretation, emphasizing equality within tribal frameworks. The 2025 rulings in *Ram Charan v. Sukhram* and *Munni Devi v. Rama Devi* represent a transformative shift, as courts extended the spirit of the Hindu Succession Act and constitutional principles to protect tribal women's inheritance rights. The rationale for this study lies in examining how these evolving judgments challenge the exclusionary clause of Section 2(2) and reinterpret succession law in light of the constitutional ethos of equality, dignity, and social justice. By critically analyzing the interaction between statutory law, customary practice, and constitutional mandates, this study aims to highlight the need for inclusive legal reform that ensures gender-equitable inheritance rights for women in India's Scheduled Tribes.

The Hindu Succession Act, 1956: Framework and Exemptions

The Hindu Succession Act, 1956, marked a significant turning point in India's legal history by codifying and reforming the diverse and often patriarchal customary laws that governed Hindu inheritance for centuries. Before its enactment, succession among Hindus was primarily regulated by regional schools of thought such as the Mitakshara and Dayabhaga systems, which often prioritized male lineage and denied women substantial rights to ancestral property. The Act sought to unify these disparate norms and to create a modern, gender-neutral statutory framework aligned with the constitutional vision of equality and justice. By providing a uniform code of inheritance, it attempted to replace centuries-old inequities embedded in

custom with a rational, rights-based order. However, while progressive in intent, the Act still reflected certain social compromises, as it retained patriarchal undertones particularly in its treatment of coparcenary property, where women were initially excluded as coparceners. It was only after the landmark Hindu Succession (Amendment) Act, 2005, that daughters were finally granted equal rights with sons in coparcenary property, signifying the completion of a long trajectory toward gender parity within Hindu family law.

Section 2(2) of the Hindu Succession Act specifically excludes from its application any property regulated by customary laws prevailing among members of Scheduled Tribes. The provision recognizes that tribal societies have historically followed distinct systems of property inheritance, often rooted in community norms rather than codified statutes. This exclusion was intended to preserve the autonomy of tribal customs and to respect their socio-cultural diversity. However, the implication of this exemption has been contentious, as it effectively denies tribal women the statutory protections available to Hindu women under the Act. Many tribal customs continue to be male-centric, often preventing daughters or widows from inheriting ancestral land. While the Constitution, through Articles 14, 15, and 21, guarantees equality and non-discrimination, the statutory exclusion under Section 2(2) has created a vacuum, leaving tribal women dependent on judicial interpretation or constitutional remedies. Recent judicial pronouncements, including *Ram Charan v. Sukhram* (2025) ^[6], have recognized that such exclusion cannot justify gender-based discrimination where no valid custom prohibiting female inheritance exists. Thus, Section 2(2) has become a focal point in the discourse on reconciling tribal autonomy with constitutional equality.

Section 8 of the Act lays down a clear hierarchy for succession when a male Hindu dies intestate. The property devolves first upon Class I heirs, including the widow, mother, and children, thereby ensuring a measure of fairness and inclusivity. In cases where there are no Class I heirs, the property passes to Class II heirs, followed by agnates and cognates. The provision introduced order and predictability in inheritance disputes, replacing the earlier fluid customary rules. Importantly, Section 8 embodies the principle that inheritance should be based on proximity of relationship rather than gender, although in practice, patriarchal attitudes often influenced its interpretation. The equal inclusion of widows and mothers among Class I heirs marked a progressive step toward recognizing women's independent legal status within the family. This section, read with the 2005 amendment, serves as a foundation for equitable inheritance distribution and reflects the larger constitutional ethos of social justice and gender equality.

Section 14 is one of the most transformative provisions of the Act. It declares that any property possessed by a female Hindu, whether acquired before or after the commencement of the Act, shall be held by her as full owner and not as a limited owner. Before 1956, women's rights in property were severely restricted, often limited to a "life estate" or "limited estate," which reverted to the male line after her death. Section 14 abolished this archaic notion, converting all limited estates into absolute ownership. The provision thus signified the legal and symbolic recognition of women as autonomous property holders. Judicial interpretations, such as in *V. Tulasamma v. Sesha Reddy* (1977), have

affirmed that the purpose of Section 14 was to liberalize women's property rights and align them with constitutional guarantees. In the context of tribal women, however, this principle has faced challenges because of Section 2(2)'s exclusionary effect, leading to uneven application of gender justice across communities.

Section 15 outlines the order of succession when a female Hindu dies intestate. The property devolves firstly upon her sons, daughters, and husband, followed by heirs of the husband, parents, and other relatives. This framework provides a gender-neutral and rational order of inheritance, recognizing both natal and marital ties. However, when read alongside Section 2(2), its reach becomes fragmented: tribal women's rights under this section remain uncertain, as many customary laws continue to favor male heirs. The interplay between statutory and customary laws reveals a tension between the preservation of cultural autonomy and the pursuit of gender justice. While the framers of the Act sought to respect tribal customs, evolving constitutional jurisprudence now demands that customs inconsistent with equality and dignity must yield to constitutional mandates. The judiciary has increasingly emphasized that customs denying women inheritance rights are unconstitutional unless they can be proven to be reasonable, long-standing, and non-discriminatory. Therefore, the reconciliation of Sections 2(2), 14, and 15 with constitutional principles remains central to ensuring that the promise of the Hindu Succession Act extends equitably to all women, including those from Scheduled Tribes.

Constitutional Guarantees and Gender Justice

The Constitution of India stands as the supreme guarantor of equality and justice, forming the normative foundation upon which gender rights and social equity are built. Article 14 enshrines the principle of "equality before the law" and "equal protection of the laws," creating a legal framework that prohibits arbitrary discrimination. In the context of succession and inheritance, Article 14 ensures that no person is denied equality solely on the basis of gender or community. Judicial interpretations have expanded its ambit to include both substantive and procedural equality, meaning that laws must not only be neutral in form but also equitable in effect. When women, particularly those from Scheduled Tribes, are denied inheritance rights under the guise of custom or usage, such exclusion violates the equality guarantee under Article 14. Courts have repeatedly emphasized that customs cannot be used as a defense for perpetuating gender-based inequality unless they satisfy the constitutional test of reasonableness and non-discrimination. Complementing Article 14, Article 15 reinforces the State's obligation to eliminate discrimination on grounds of religion, race, caste, sex, or place of birth. It goes a step further by allowing the State to adopt special measures for women and socially disadvantaged groups. This provision forms the constitutional basis for affirmative action policies aimed at achieving substantive equality rather than mere formal equality. In cases relating to succession, the denial of property rights to women on the basis of gender constitutes a direct violation of Article 15(1). The judiciary has consistently held that patriarchal customs that prevent women, including those from Scheduled Castes and Scheduled Tribes, from inheriting property cannot withstand constitutional scrutiny. Article 15(3) further empowers the State to enact laws such as the Hindu Succession

(Amendment) Act, 2005, which promote gender justice by granting daughters equal coparcenary rights. Thus, Article 15 operates both as a shield against discrimination and as a sword enabling positive reform.

Article 21, which guarantees the right to life and personal liberty, has been expansively interpreted to include the right to live with dignity, autonomy, and equality. Denying women their rightful share in ancestral property effectively undermines their economic independence and dignity, thus infringing upon the core of Article 21. The Supreme Court has consistently recognized that economic empowerment is intrinsic to the dignity of women, as seen in cases such as *Madhu Kishwar v. State of Bihar* (1996)^[3], where the Court linked women's property rights to their constitutional right to live with dignity. More recently, the interpretation of Article 21 has evolved to encompass gender justice, reinforcing that any law or custom that perpetuates female subordination or economic dependency is inconsistent with the constitutional vision of a dignified and equal life.

Articles 341 and 342 provide constitutional recognition to Scheduled Castes and Scheduled Tribes, acknowledging their distinct social and cultural identities. These provisions empower the President, in consultation with the Governor, to specify which castes or tribes are to be recognized within a state for the purpose of constitutional safeguards. While this recognition was intended to facilitate targeted welfare measures and preserve cultural distinctiveness, it has also resulted in certain complexities when it intersects with personal laws. In matters of succession, the exclusion of Scheduled Tribes from the Hindu Succession Act under Section 2(2) was originally justified as a means of protecting customary practices. However, constitutional jurisprudence now demands that such protection cannot extend to customs that violate the equality and dignity of women. Thus, Articles 341 and 342 must be read harmoniously with the fundamental rights to ensure that affirmative recognition does not become a tool for perpetuating discrimination.

Article 366(25) defines "Scheduled Tribes" as those communities recognized under Article 342, thereby granting them legal status and constitutional protection. However, the constitutional mandate requires that such protection operate within the framework of equality, justice, and dignity. When customary laws of Scheduled Tribes deny women equal succession rights, they come into direct conflict with constitutional provisions. The judiciary has sought to reconcile this tension by emphasizing that while customs are to be respected, they cannot supersede the Constitution's basic structure. The conflict between customary practices and constitutional guarantees thus presents a fundamental question: should cultural preservation outweigh gender justice? The evolving judicial approach increasingly favors the latter, affirming that the Constitution's transformative purpose is to dismantle historical hierarchies and ensure that every woman regardless of caste or tribe enjoys equal rights, dignity, and autonomy in matters of inheritance and property.

Judicial Interpretation and Landmark Judgments

Madhu Kishwar v. State of Bihar, (1996) 5 SCC 125 Custom vs. Equality Debate

The Supreme Court's decision in *Madhu Kishwar v. State of Bihar* (1996)^[3] remains a foundational judgment in the discourse on gender justice and customary law. The case

involved the challenge to the Chota Nagpur Tenancy Act, which denied tribal women the right to inherit ancestral land, reserving succession solely for male heirs. The petitioners contended that such exclusion violated Articles 14, 15, and 21 of the Constitution. The Court, while divided, delivered a nuanced verdict. The majority upheld the validity of tribal customs, recognizing the cultural distinctiveness and autonomy of tribal communities under Article 13(3) (a). However, Justice Ramaswamy's concurring opinion emphasized that customs must evolve to align with constitutional mandates of equality and human dignity. He observed that women's exclusion from property rights perpetuates dependency and violates the spirit of Article 21. Although the judgment stopped short of fully invalidating patriarchal customs, it initiated the constitutional conversation on reconciling tribal autonomy with gender equality, laying the groundwork for future judicial interventions expanding women's inheritance rights.

**Kamla Neti v. State of Chhattisgarh, (2023) 3 SCC 528
Applicability of Hindu Succession Principles to ST Women**

In *Kamla Neti v. State of Chhattisgarh* (2023) ^[4], the Supreme Court revisited the delicate intersection between tribal customary law and the Hindu Succession Act, 1956. The case concerned a tribal woman's claim to equal inheritance rights over ancestral property, which had been denied on the ground that Section 2(2) of the Act excluded Scheduled Tribes from its application. The Court, invoking Articles 14, 15, and 21, held that constitutional guarantees of equality and dignity override discriminatory customs that have no rational basis. It clarified that while the Act may not directly apply to Scheduled Tribes, the principles of gender equality enshrined in it are reflective of constitutional morality and should guide judicial interpretation. The Court further emphasized that customs excluding women must be proven to be reasonable, non-arbitrary, and consistent with public policy. This landmark decision marked a decisive step toward extending the spirit of the Hindu Succession Act to tribal women, reinforcing that constitutional values cannot be compromised in the name of tradition or community practice.

**Tirth Kumar v. Daduram, 2024 SCC OnLine SC 3810
Tribal Customary Law and Equal Rights Discourse**

The Supreme Court in *Tirth Kumar v. Daduram* (2024) ^[5] furthered the evolving jurisprudence on the balance between tribal customs and women's constitutional rights. The case revolved around the claim of a tribal daughter to her deceased father's property in a community where customary norms excluded female succession. The respondents argued that Section 2(2) of the Hindu Succession Act precluded its application to Scheduled Tribes. The Court, however, held that exclusion under Section 2(2) does not authorize gender discrimination contrary to constitutional guarantees. It declared that customary laws must conform to the equality principles of Articles 14 and 15 unless explicitly protected as essential to tribal identity. The judgment underscored that the Constitution envisions social transformation, not cultural stagnation, and that customs inconsistent with human dignity must yield to fundamental rights. Importantly, the Court directed states to review personal and customary laws to ensure compliance with gender justice. The ruling strengthened the doctrinal bridge between equality and

cultural preservation, advancing the recognition of equal property rights for tribal women.

**Ram Charan v. Sukhram, 2025 SCC OnLine SC 1456
Recognition of Equal Property Rights for Tribal Daughters**

The 2025 judgment in *Ram Charan v. Sukhram* represents a historic reaffirmation of gender justice in the context of tribal inheritance. The Supreme Court held that tribal daughters are entitled to equal property rights, even where the Hindu Succession Act, 1956, is formally inapplicable under Section 2(2). The case arose when a tribal daughter's claim to ancestral property was rejected based on alleged customary exclusion. The Court ruled that customs cannot override fundamental rights unless shown to be ancient, certain, and reasonable. Citing Articles 14, 15, and 21, the Court emphasized that gender-based exclusion from inheritance constitutes unconstitutional discrimination. It also observed that the exemption granted to Scheduled Tribes was never intended to perpetuate inequality but to preserve cultural identity. In the absence of a valid custom barring female succession, the constitutional guarantee of equality prevails. This ruling effectively constitutionalized women's right to property within tribal communities and serves as a precedent for harmonizing customary law with the principles of gender justice and human dignity.

**Munni Devi v. Rama Devi, 2025 SCC OnLine Raj 3772
Rajasthan High Court's Expansion of Equality in Tribal Succession**

In *Munni Devi v. Rama Devi* (2025), the Rajasthan High Court expanded the horizon of equality by applying constitutional principles to tribal succession disputes. The case involved two tribal sisters claiming equal shares in their father's ancestral property, which male relatives contended was governed by a customary law excluding women. The Court rejected this argument, holding that customs cannot be invoked to justify gender-based discrimination in contemporary India. It declared that the right to equality under Articles 14 and 15, read with the right to dignity under Article 21, supersedes regressive customary practices. The Court urged legislative reform to amend Section 2(2) of the Hindu Succession Act, so that tribal women may benefit from its protective provisions. By recognizing equal property rights for tribal daughters, the judgment aligned regional jurisprudence with the Supreme Court's evolving stance on gender justice. It also reinforced that the constitutional vision of equality must extend uniformly across all social segments, including historically marginalized tribal women.

Critical Analysis and Emerging Jurisprudence

The emerging jurisprudence surrounding succession rights of Scheduled Tribe women reflects a decisive shift toward judicial activism aimed at bridging the gap between constitutional equality and customary law. The judiciary has increasingly assumed a transformative role in dismantling patriarchal customs that deny tribal women their rightful inheritance. Through landmark decisions such as *Kamla Neti v. State of Chhattisgarh* (2023) ^[4] and *Ram Charan v. Sukhram* (2025) ^[6], courts have interpreted Articles 14, 15, and 21 as living guarantees of gender justice, ensuring that the exclusion of women from property rights cannot be justified under the cloak of tribal customs. This form of

judicial activism signifies a moral and constitutional awakening, asserting that cultural identity cannot be preserved at the cost of fundamental rights. While respecting the autonomy of tribal communities, the courts have simultaneously reinforced that constitutional morality must remain the supreme guiding principle. The judgments reflect a judicial redefinition of equality not merely as formal parity but as substantive empowerment linking property ownership to economic independence and dignity. Despite progressive judicial interventions, significant legislative gaps persist, particularly in relation to Section 2(2) of the Hindu Succession Act, 1956, which continues to exclude Scheduled Tribes from its ambit. This statutory exclusion perpetuates an inequitable legal vacuum, compelling tribal women to depend on constitutional remedies rather than clear legislative protection. There is a pressing need for Parliament to amend Section 2(2) to ensure that the protective and gender-neutral provisions of the Act extend uniformly to all women, irrespective of community. The evolving interpretation of Article 21 further strengthens this legislative imperative, as the right to life now encompasses the right to live with dignity, economic security, and autonomy. Property ownership, therefore, is not merely a civil right but a human right intrinsic to personal freedom. By harmonizing Article 21's expansive interpretation with gender justice, India's constitutional and judicial framework is gradually transforming inheritance law into a vehicle for substantive equality and inclusive social reform.

Recent Judgments and Policy Implications

The Supreme Court's ruling in *Ram Charan v. Sukhram* (2025)^[6] has emerged as a transformative milestone in the ongoing dialogue between customary autonomy and constitutional equality. By recognizing the equal property rights of tribal daughters even where the Hindu Succession Act does not explicitly apply, the judgment redefined the contours of gender justice within marginalized communities. The Court held that exclusion based solely on gender, without a demonstrable and reasonable custom, violates Articles 14, 15, and 21 of the Constitution. This decision not only reaffirmed women's right to equality but also extended the constitutional ethos to domains historically governed by customary laws. The verdict marked a paradigm shift from judicial restraint to judicial empowerment, emphasizing that equality is not a privilege conferred by the State but a right inherent to citizenship. It also clarified that the exemption of Scheduled Tribes under Section 2(2) cannot be interpreted as a license to perpetuate gender hierarchies.

The implications of this judgment are far-reaching for property rights and gender equality among Scheduled Tribe women. For the first time, the judiciary has decisively bridged the gap between cultural identity and constitutional justice, ensuring that tribal women can claim inheritance on par with men. The ruling enhances economic autonomy and social status, both essential to achieving substantive equality. It sets a precedent for recognizing property ownership as a means of empowerment and dignity, rather than a mere civil entitlement. Moreover, it places the burden on those invoking custom to prove its validity, continuity, and reasonableness. This judicial stance compels state governments to review tribal customary laws and align them with constitutional mandates, reinforcing that equality and cultural preservation need not be mutually exclusive but can coexist within a rights-based framework.

From a comparative perspective, other jurisdictions such as South Africa, Kenya, and Canada have similarly confronted the tension between customary law and constitutional equality. Their courts have consistently upheld that customs violating gender equality are unconstitutional, setting a global benchmark for reform. India's evolving jurisprudence mirrors this global trend toward harmonizing tradition with universal human rights norms. To institutionalize these judicial advances, policy reform is imperative. The amendment of Section 2(2) of the Hindu Succession Act should explicitly extend inheritance rights to Scheduled Tribe women, accompanied by awareness programs and legal aid mechanisms. Such inclusive reform would translate constitutional ideals into tangible social transformation, fulfilling India's commitment to equality and justice for all.

Conclusion and Suggestions

The evolution of inheritance rights for Scheduled Tribe women in India reflects a dynamic interplay between judicial innovation and legislative inertia. Judicial pronouncements such as *Madhu Kishwar*, *Kamla Neti*, and *Ram Charan v. Sukhram* have collectively transformed the constitutional landscape by reaffirming that equality and dignity are non-negotiable guarantees, even in the realm of customary law. These rulings have bridged historical gaps left by the Hindu Succession Act, 1956 particularly its exclusionary Section 2(2) by interpreting constitutional provisions as living instruments of social justice. Yet, legislative reform has not kept pace with judicial progress. The lack of statutory clarity perpetuates uncertainty for tribal women seeking property rights, forcing reliance on protracted litigation. The judiciary's activism has thus filled a normative void, transforming equality from an abstract ideal into an enforceable right that redefines property ownership as central to women's empowerment and autonomy.

The way forward requires harmonizing customary norms with the Constitution's transformative vision. Parliament must amend Section 2(2) of the Hindu Succession Act to include Scheduled Tribes within its gender-neutral framework while preserving essential cultural practices that do not contravene equality principles. Policy efforts should prioritize awareness, legal literacy, and accessible mechanisms for enforcement in tribal areas. Simultaneously, state governments must codify equitable inheritance norms within tribal customs, ensuring conformity with Articles 14, 15, and 21. A harmonized framework that respects tradition while advancing justice will fulfill the constitutional promise of substantive equality. In doing so, India can move toward an inclusive model of legal pluralism one where custom coexists with gender justice under the unifying canopy of constitutional morality.

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