



Unpacking Section 15 of the Hindu Succession Act, 1956: A Constitutional Scrutiny of Sex-Based Differentiation

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Abstract: Section 15 of the Hindu Succession Act, 1956 governs intestate succession to the property of a female Hindu, yet its structure departs significantly from the succession scheme applicable to a male Hindu under Section 8. The provision places the husband's heirs ahead of the woman's parents and thereby reflects a differentiated hierarchy of kinship that has attracted growing constitutional criticism. This article argues that Section 15 is not a neutral private-law rule but a sex-based classificatory framework that must be scrutinized under Articles 14, 15, and 21 of the Constitution of India. The section's ordering of heirs reveals patriarchal assumptions about marriage, family belonging, and the posthumous trajectory of women's property. Through doctrinal analysis, constitutional reasoning, and feminist critique, the article examines the statutory text, the historical context of codification, the relationship between intestate succession and substantive equality, and the limits of defenses based on lineage or source-oriented devolution. The article concludes that Section 15 is increasingly difficult to justify in a constitutional democracy committed to non-discrimination, dignity, and autonomy. It suggests that either legislative amendment or judicial reinterpretation is necessary to align Hindu succession law with the constitutional promise of equal citizenship.

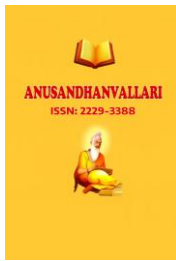
Keywords: Hindu Succession Act; Section 15; intestate succession; gender equality; constitutional law; property rights; women's rights

Introduction

Succession law is often described as a private domain concerned with the orderly distribution of property after death. Yet inheritance rules are also deeply constitutional because they determine who receives property, which family relationships the law privileges, and how the state imagines women's place within kinship structures. Section 15 of the Hindu Succession Act, 1956 is a striking example of this interplay between private law and constitutional principle. It governs intestate succession to the property of a female Hindu, but the order of succession differs materially from the scheme applicable to a male Hindu under Section 8.^[1]

The distinction is not merely technical. Section 15 places the husband's heirs ahead of the woman's parents, thereby suggesting that the marital line has priority over the natal line. In a constitutional order committed to equality and non-discrimination, this raises an obvious question: can a succession rule that differentiates on sex-based and gendered assumptions survive scrutiny under Articles 14, 15, and 21? The answer increasingly appears doubtful.^[2]

This article examines Section 15 as a constitutional problem. It argues that the provision cannot be insulated from constitutional review merely because it operates in the realm of family property. Private law is not constitution-free law. When a statutory rule embodies patriarchal assumptions, courts must test it against the equality guarantee. Section 15 therefore deserves close scrutiny not only as a succession provision, but as a normative statement about women's autonomy, dignity, and legal identity.



Statutory Scheme

Section 15(1) of the Hindu Succession Act sets out the general order of succession to the property of a female Hindu dying intestate. The property devolves first upon sons and daughters, including children of any pre-deceased son or daughter, and upon the husband; second upon the heirs of the husband; third upon the mother and father; fourth upon the heirs of the father; and fifth upon the heirs of the mother. Section 15(2) creates exceptions for property inherited by the woman from her parents or from her husband or father-in-law. In such cases, the legislature prefers the heirs of the source from which the property was inherited, subject to the presence or absence of sons and daughters.^{[3][4]}

The structure matters. Unlike Section 8, which applies to a male Hindu and follows a comparatively neutral order of heirs, Section 15 is expressly sex-specific. It does not simply adapt the general principles of intestacy to female property; it reorders the family itself. The husband's heirs are elevated above the woman's parents, even when the woman held the property in her own name. This is the core of the constitutional objection.^[5]

The problem is not solved by the fact that Section 15 also places sons and daughters before the husband's heirs. The real issue arises where the woman dies without lineal descendants. In such cases, the statute imagines the husband's family as the primary repository of her property, while her natal family is relegated to a lower position. That choice reflects a social assumption about marriage as a transfer of the woman into the husband's lineage, an assumption that sits uneasily with contemporary equality norms.

Legislative History and Context

The Hindu Succession Act was enacted in 1956 as part of a broader legislative project to codify and modernize Hindu personal law. The reform was significant for its time. It recognized women as legal holders of property and departed from older doctrines that restricted women's proprietary power. Yet the Act remains a product of its historical moment. It was drafted within a legal culture that still treated family life through patriarchal lenses, and Section 15 is one of its clearest remnants.^[6]

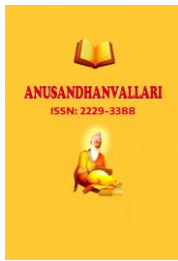
The statute's reformist intent should not obscure its limits. Inheritance law in mid-twentieth-century India was still shaped by assumptions of male lineage, marital absorption, and women's derivative social status. Section 15 appears to carry those assumptions forward. The legislature may have sought to provide a practical rule for distributing women's estates, but practicality is not a constitutional defense when the rule itself reproduces inequality. A reform statute may be progressive in relation to its predecessor while still falling short of constitutional standards.^[7]

This historical context matters because constitutional interpretation does not ask whether a rule was understandable in 1956. It asks whether it is justifiable now. The Constitution has evolved significantly since the enactment of the Hindu Succession Act, especially in its treatment of equality, gender justice, and dignity. A provision that may once have seemed unremarkable can become constitutionally suspect when read against contemporary norms of substantive equality.

Equality and Article 14

Article 14 prohibits arbitrary state action and unreasonable classification. A succession rule that treats male and female intestates differently must therefore satisfy the usual requirements of intelligible differentia and rational nexus. But modern equality doctrine goes beyond that formal test. It also asks whether the classification rests on stereotypes, perpetuates disadvantage, or produces unjustified burdens on a vulnerable class. Section 15 invites all three questions.^[8]

At the formal level, Section 15 creates a sex-based classification. The devolution order for a woman's property differs from the order for a man's property. That alone does not make it unconstitutional, but it requires



justification. What legitimate objective is served by placing the husband's heirs above the woman's parents? If the goal is to reflect social expectations about family property, that is too weak a basis to justify gendered preference. Constitutional equality does not permit the state to freeze patriarchal assumptions into law merely because those assumptions are familiar.

At the substantive level, the provision produces asymmetric outcomes. A Hindu man's property generally follows a hierarchy that gives priority to his children, widow, and parents. A Hindu woman's property, by contrast, may pass to the husband's heirs before her own parents. This means that two similarly situated intestates—one male and one female—are not treated as legal equals. The difference cannot be explained by any neutral principle inherent in property law. It reflects a social judgment that the woman's tie to her husband's family is more legally consequential than her tie to her natal family.^[9]

That judgment is constitutionally problematic because it rests on a gendered view of family membership. In effect, the law privileges the woman's marital affiliation over her independent identity. Article 14 does not permit such an arrangement unless the distinction is carefully and convincingly justified. Section 15 does not meet that standard.

Sex Discrimination and Article 15

Article 15 prohibits discrimination on grounds only of sex, among other protected characteristics. Although Section 15 is a statutory provision governing inheritance rather than a direct denial of a public benefit, its structure is plainly sex-linked. The law does not merely distinguish between widows, wives, and unmarried women; it differentiates the order of heirs on the basis of the deceased's sex. That is enough to bring it within the constitutional conversation.^[10]

The deeper issue is not just classification but stereotyping. Section 15 assumes that a woman's estate should, in the absence of children, move first toward the husband's family. This assumes that marriage constitutes the woman's primary and enduring family affiliation. Yet contemporary constitutionalism rejects precisely this kind of default stereotyping. Women are not legally or socially defined by absorption into the husband's lineage. They retain their own kinship ties, and the Constitution increasingly recognizes their right to do so on equal terms.

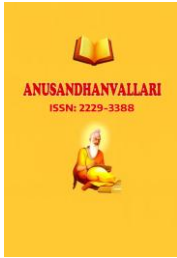
The anti-stereotyping principle is particularly important in family law, where rules often appear neutral but in practice reflect deeply embedded assumptions about gender roles. Section 15 is a classic example. It is not merely different; it is different in a way that mirrors patriarchal social organization. That makes it vulnerable under Article 15's equality logic, especially when read alongside Article 14.

Dignity and Article 21

Article 21 protects life and personal liberty, but its modern interpretation extends to dignity, autonomy, and decisional freedom. Succession rules implicate all three. Property is a source of economic security and social independence. A woman's property rights do not cease to matter at death; how the law distributes her property is itself a statement about how the legal order values her life and relationships.

Section 15 may be defended as a posthumous distribution rule, but posthumous rules still affect living persons. They influence how women think about ownership, family, and testamentary planning. They also shape the symbolic recognition of a woman's ties to her natal family. When the law places the husband's heirs before the woman's parents, it sends a message that her marriage has redefined her legal identity in favor of the husband's line. That message is difficult to reconcile with dignity.^[11]

The dignity interest becomes even stronger where a woman dies intestate because she lacked the means, knowledge, or freedom to make a will. In such cases, the law's default rule becomes decisive. It is not enough to say that women can escape Section 15 through testamentary planning. Constitutional equality cannot depend



entirely on private legal sophistication. A regime that burdens those least able to protect themselves is precisely the kind of structure substantive equality seeks to correct.

Constitutional Scrutiny of Section 15(1)

Section 15(1) is the core provision under challenge. It establishes the general rule of succession to a female Hindu's property. The most controversial feature is the second tier: the heirs of the husband inherit before the woman's parents. This prioritization cannot easily be justified by functional considerations. The woman's property is her property, not a trust for the husband's family. Nor is there any universal reason to presume that her husband's heirs have a stronger moral claim than her own parents.^[12]

From a constitutional standpoint, this ranking is difficult to defend because it treats women as relationally detachable from their natal families after marriage. A man's property does not undergo a symmetrical redirection toward his wife's family. The asymmetry is therefore not only formal but ideological. It is built upon a familiar patriarchal assumption: marriage changes the woman's family in a way it does not change the man's.

This is exactly the kind of assumption that constitutional equality rejects. Equality is not satisfied by saying that women are treated differently because they are differently situated. The relevant question is whether the difference in treatment is necessary, proportionate, and free from stereotypes. Section 15 falls short on all three counts. It is neither necessary, because a neutral order could be devised; nor proportionate, because it burdens women's natal family ties; nor stereotype-free, because it presumes marital absorption.

Section 15(2) and Source-Based Devolution

Section 15(2) is often presented as a corrective to the general rule. It provides that where property devolves upon a female Hindu from her father or mother, it should, in certain circumstances, go to the heirs of the father; similarly, property inherited from the husband or father-in-law may go to the heirs of the husband. The stated aim appears to be preservation of the source line.^[13]

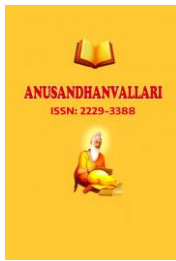
This provision is less constitutionally offensive than Section 15(1), but it still forms part of the same larger architecture. It reflects a lineage-based understanding of women's property, as though the woman is a temporary holder of inherited assets rather than an autonomous owner. The source-based logic may look neutral, but it is embedded in a broader regime that already privileges the husband's line over the woman's own family. In that sense, Section 15(2) cannot be isolated from the discriminatory structure of the section as a whole.

There is, however, an argument that Section 15(2) operates to protect donor intentions or lineage expectations. That argument has some force where the property is clearly inherited and the source family has a plausible claim. Yet even if the sub-section can be defended in narrow contexts, it does not justify the entirety of Section 15. A constitutional analysis must separate limited source-based exceptions from the general, sexed hierarchy of heirs. The latter remains the principal constitutional problem.

Feminist Critique

Feminist legal theory offers the most compelling account of why Section 15 is problematic. Inheritance law is not simply about distribution; it is about power. It determines who controls property, how family membership is recognized, and whether women are treated as independent subjects or derivative members of a male-centered lineage. Section 15 reflects an older patriarchal world in which a woman's legal identity was thought to migrate upon marriage.

The feminist critique does not deny the importance of family as a social institution. Rather, it insists that family law must not reproduce inequality under the guise of preserving tradition. If women are equal citizens, then their property should not be routed through assumptions about the husband's family as the primary successor line. The



law should recognize women's own kinship ties, marital autonomy, and capacity to make equal claims within family structure.

This critique is especially strong in India, where property rights remain central to women's economic security. Even today, women often face social pressure to relinquish inheritance claims in favor of brothers or marital relatives. A statutory rule that symbolically privileges the husband's family can reinforce those pressures. The law should instead counteract them by affirming women's equal property identity.

Pending Constitutional Challenge

The constitutional challenge to Section 15 has not arisen in the abstract. Litigation has specifically questioned whether the provision discriminates against women by creating a different and less favorable succession scheme. The significance of this challenge lies not only in the legal question presented, but also in the fact that the issue has moved from academic critique into constitutional adjudication.

Pending litigation often reveals the fault lines between statutory inheritance rules and constitutional values. Where a provision has been criticized repeatedly for its gendered structure, the judiciary is invited to decide whether deference to legislative history should outweigh the contemporary equality guarantee. The challenge to Section 15 raises precisely that issue. If the Court treats the provision as a mere technical rule, it risks missing its symbolic and material dimensions. If, on the other hand, it recognizes the provision as a constitutional problem, it may have to confront the fact that private law can reproduce public inequality.

Reformation

The most direct reform would be legislative amendment. Parliament could redesign Section 15 to mirror the sex-neutral logic of Section 8, or at least to eliminate the priority accorded to the husband's heirs over the woman's parents. A genuinely equal succession order would prioritize spouse and children, followed by parents, regardless of the sex of the deceased.

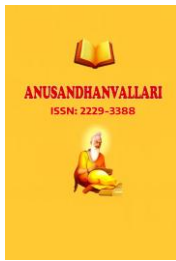
A second possibility is judicial reinterpretation. Courts could interpret Section 15 in a manner that minimizes discriminatory impact, particularly where the woman's property was self-acquired and there are no descendants. But interpretive limits matter. The statutory text is explicit, and judicial creativity cannot fully rewrite legislative hierarchy without crossing into amendment. That makes legislative intervention the more stable and democratic solution.

A third option is partial severance or reading down of the offending priority. Yet this may create doctrinal uncertainty and administrative complexity. Where a provision is structurally gendered, piecemeal fixes may not be sufficient. The better approach is comprehensive reform that aligns succession law with constitutional equality.

Conclusion

Section 15 of the Hindu Succession Act, 1956 is no longer defensible as a neutral rule of family property distribution. Its order of succession reveals a gendered hierarchy that privileges the husband's heirs over the woman's parents and thereby reflects assumptions that are inconsistent with the Constitution's equality code. Read through Articles 14, 15, and 21, the provision appears difficult to justify in a modern constitutional democracy committed to substantive equality and dignity.

The broader lesson is that private law is never merely private. Succession rules shape family power, gender identity, and social recognition. Section 15 encodes an older vision of women as legally transferred from natal to marital families. That vision cannot easily survive constitutional scrutiny today. The law should instead recognize women as autonomous owners whose property and kinship ties deserve equal respect.



A reform of Section 15 would not merely correct a doctrinal anomaly. It would affirm a constitutional principle: inheritance law must not reproduce patriarchal hierarchy. In a legal order committed to equal citizenship, that principle should be decisive.

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