



FACULTY OF JURIDICAL SCIENCES

COURSE NAME : LLB

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Class IV category or cognates

The last category includes the rest of the heirs of the intestate who do not find a place in the above three classes. A cognate is an heir who was related to the heir through a mixed chain of relatives in the term of sex. Further, if a single female intervenes between an heir and the intestate then also it is a cognatic chain.

Cognates inherit when none of the class I or class II or the entire category of agnates are present. The rule pertaining to computation of degree and ascertainment of preferences is the same as in the case of agnates.

Doctrine of Escheat

If none of the class I or class II or agnate or cognate is present the property of the intestate will devolve into the government by the virtue of the doctrine of escheat.

Succession to the property of a Mitakshara Hindu;

One of the most significant ideas behind the evolution of family was to provide security to the members. The joint and undivided Hindu family is the normal condition of the Hindu society. An undivided Hindu family is ordinarily joint, not only in estate, but also in food and worship. The joint family system comes first and law of inheritance is of later growth. According to dharma sastra it is the duty of the house holder to provide that safety and security to children, the old and the infirm and the other such members of the family who cannot be independent. Normally the senior most male member is seen as the guardian figure who exercises control over all affairs of the family. Though under traditional Hindu law women were given very few rights and were considered to be subservient to the male members of the family.

Through various commentaries and digests, two principal schools of Hindu law, Mitakshara and Dayabhaga came into existence. These schools had their own operational areas and were recognised in different parts of India. The Mitakshara school owes its nomenclature to Vijnanesvara's commentary of that name on the yajnavalkya smritis. The Dayabhaga is a digest on the law of inheritance written by Jimutavahana. The Mitakshara school had a widespread existence and was popular in almost whole India except Bengal and its surrounding areas where Dayabhaga prevailed. These schools were born out of diverse and opposing doctrines and

marked a new stage in the evolution of Hindu law. The Mitakshara is subdivided into four minor schools:

Benares School

Mithila School

Maharashtra or Bombay School (Western India)

Dravida or Madras School (Southern India)

Of these two schools, Mitakshara was considered to be more biased against women and gave them the least of the right to inherit property. Though Dayabhaga was also biased but it still recognised more rights for the women and was thus considered to be a liberal school. Then, Britishers decided to overhaul the Hindu law and passed many more legislations to reform it and provide women with many more rights. Some of the legislations passed by Britishers are following:

The Hindu Widows' Remarriage Act, 1856

The Hindu Inheritance (Removal of Disabilities) Act, 1928

The Hindu Law of Inheritance (Amendment) Act, 1929

The Hindu Women's Right to Property Act, 1937

These laws proved to be the ones which improved the conditions of women and also recognised the rights of inheritance of women. They also proved to be the basis for the passing of various acts regarding Hindu law after independence such as Hindu Succession Act, 1956.

In this paper, the researcher will be discussing in detail about the position of women regarding inheritance under traditional Hindu law and the changes affected by Britishers with their laws.

MCQ

1.

In hindu coparcenary family who hold position

Only male

Only female

A and B is correct

None of the above

2.

Can the female members of the family claim partition?

yes

No

A and B is correct

Non of them

3.

After doing partition once, the parted hindu can not get _____ position.

Joint

Seprated

A and B are correct

A and B both are wrong

4.

In the joint property, the right of partition is _____.

Always there

Can not be there

Only B is correct

A and B both are wrong

5.

The property which cannot be divided by its form or type, its divion _____ done.

Can be

Cannot be

Depends on time and situation

None

6.

Is there any difference between the rights of other owners and adopted son?

yes

No

Only true

None of these