

MINUTES OF THE COMMISSION'S MEETING HELD ON 12TH
JANUARY, 2001.

Present in the meeting were:

1. Smt. Vibha Parthasarathi : Chairperson
2. Smt. K. Santha Reddy : Member
3. Kum. Anusuiya Uike : Member
4. Smt. Nafisa Hussain : Member
5. Smt. Reva Nayyar : Member Secretary
6. Smt. Leena Mehendale : Joint Secretary
7. Kum. R. Bhama : Deputy Secretary

Agenda Item No.1

Leave of Absence.

Leave of absence was granted to Member (V.Daksh), who was unwell and Member (P.Advani), who continues to be unwell.

Agenda Item No.2

Confirmation of Minutes of the preceding meeting held on 21st November, 2000.

Minutes of the preceding meeting were confirmed.



Agenda Item No.3

All India Campaign to review the status of Dalit Women and Women.

The matter was deferred for discussion for the next meeting. Member (V.Daksh), who had proposed the item was not present.

Agenda Item No.4

Foundation Day Celebration & Workshop – 31.1.2001.

The update was noted by the Commission. It was further informed that Vice President has accepted the invitation to inaugurate the programme. However, he will be able to spare only 50 minutes. The programme will have to be re-worked.

For the invocation song, Ms. Shubha Mudgal would be contacted by the Chairperson. Alternatively, the Maitreyi College group would be contacted. Regarding other invitations, it was intimated that MOS would be out of station on the day and the Secretary, WCD in New York and the would not be available. Office of the HRM has yet to confirm.

Regarding finalisation of names of women to be honoured for breaking new grounds, the tentative list was finalised as under:

- ✓ 1. Ms. Vijayalakshmi, India's first Chess Grandmaster.
2. Ms. Ranjini from Bangalore – a deaf woman, who received the National Award in Ball Badminton in the open category.
3. Women Entrepreneur running a Hotel with all women employees in Madurai.
- ✓ 4. Ms. Amita Bose, first National and International Lady Umpire in India.
- ✓ 5. One of the women army doctors posted at Siachen.

- ✓ 6. Mrs. Lele, who runs a training programme for women priests, at actually performing rites with her team members.
7. One woman coolie from coolies/porters at Bhavnagar and Rajkot Railway Stations.
- ✓ 8. Ms. Surekha Bhonsle, Locomotive Driver of suburban trains in Mumbai.
9. Girl, who performed last rites of her father (Pune).
10. Smt. Malleshwari Devi.
11. Women carrying out mining and quarrying after eliminating middle men (Chennai).
- ✓ 12. Woman truck driver/running training schools for women (Chennai).
Shamim Pathan,
13. Dr. P. Bhanumathi Ramakrishna, woman studio owner, also actress, singer etc.
14. Lijjat Papadwale.
15. Dalit woman from Rajasthan, who took on the entire village and succeeded in drawing water from the village well.
16. Head of Nagaland Mothers' Association – Mrs. Angami.
17. One of the eunuch Corporators from Madhya Pradesh.

It was decided that the concerned Members/officers would obtain the names/details/bio-data and a meeting would be held on 16th to finalise the final list of 12. It was also decided that AC two tier fare would be paid to the 12 persons. It was also felt that we had to hurry as we were running short of time.

Shamim

It was decided that the Commission should select a Logo from received on 12.1.2001. The meeting was attended by the following:

1. Smt. Vibha Parthasarathi, Chairperson
2. Smt. K. Santha Reddy, Member
3. Kum. Anusuiya Uike, Member
4. Smt. Nafisa Hussain, Member
5. Smt. Reva Nayyar, Member Secretary

Joint Secretary and Deputy Secretary were also present. The Commission made a selection of one entry for the Logo and 9 entries for consolation prizes. For the consolation prizes, a sum of Rs. 5,000/- per entry was awarded separately after permission is received from the entrants for their entries for posters to be issued by NCW on various subjects.

A note was also circulated in the course of the meeting informing the Commission that in the Commission's publication "A Decade of Endeavour", the last chapter titled "Looking Ahead" would give the aspirations of the Commission for achievements during the next decade. The points to be included were discussed in the meeting and the following were approved:

- 1) Displacement – due to wars, natural calamities, development projects etc.
- 2) "Missing Women" – female foeticide and infanticide.
- 3) Violence/Crime Against Women – especially of newer kinds : internet pornography, brutal forms of child sexual abuse.
- 4) Mental and Emotional Health of Women including break up of marriages for (a) Urban and Rural Women and (b) Working and Non-Working Women.
- 5) Women's Empowerment in Health Management.

Sharma

- 6) Globalization, its impact on women and challenges ahead.
- 7) Partnership with Media.
- 8) Empowerment of marginalised women (Minorities, SC, ST etc.).
- 9) Focussing on women leadership.
- 10) Strengthening women in Agriculture.

Additional suggestions would be sent to Member Secretary latest 15.1.2001. A letter would be sent to Doordarshan/Star News/Aaj T requesting them to cover the Commission's Foundation Day. A separate press release would also be issued on 29th January, 2001 to ensure good coverage in the press.

Agenda Item No.5

Construction of office building of NCW.

The information was noted. The Commission agreed that the designing be given to HUDCO. MS informed that the additional budget would be asked for.

Agenda Item No.6

Refitting of NCW vehicles with CNG kit.

Was noted by the Commission.

Agenda Item No.7

List of Studies/Workshops/Conferences recommended by the Screening Committee and approved by CP.

List of studies/workshops/conferences recommended and approved were noted by the Commission.

Agenda Item No.8

Public Hearings of Tribal Women.

The proposal to hold public hearings of tribal women was approved in principle. However, the same would need to be organised at all India level although the first pilot programme may be in M.P. The detailed proposal would be examined by the Screening Committee.

Agenda Item No.9

Proposal suggesting lines of action for women in custody.

The proposed lines of action suggested in the Agenda note were approved in principle. However, a detailed proposal was needed. It was also noted that for Jail Adalats, separate guidelines/para would need to be prepared. Perhaps, Shri Sadiq Jilani, former Consultant, could be called for discussion. Since, Mumbai High Court had also taken notice of the problem, perhaps, they could be approached *also*.

Agenda Item No.10

Training for Empowerment of Tribal Women.

The idea of training tribal women for empowerment was found very welcome. However, modules needed to be designed and the trainers would need to be identified. A detailed proposal was requested from Member (A.Uike).

Agenda Item No.11

*** Proposal for conducting social awareness programme for Muslim Women.**

The proposal by Muslim Women's Forum was found good in principle. However, modules would need to be prepared. The pilot could be launched in Maharashtra.

Agenda Item No.12

Amendments suggested by NCW to:-
Factories Act, 1948, Employees State Insurance Act, 195
Minimum Wages Act, 1948.

The recommendations on the above Acts already sent to DWC
noted by the Commission.

Agenda Item No.13

Comments on the Cabinet Note sent by DWCD on the In
Representation of Women Act.

The recommendations sent on the Cabinet Note to DWCD wer
by the Commission.

Agenda Item No.14

Civil Writ Petition – Lily Thomas Vs. UOI – reference from DWC

The Commission decided to support the judgement. Reply to l
be sent accordingly.

Agenda Item No.15

Report of the Inquiry Committee constituted by NCW to inqu
the illegal custody of girl children – at Horamavu, Karnat
adoption of the Report & Recommendations.

The revised corrected version of the report were circulated
course of the meeting. The Commission approved the revised report
recommendations.



It was further decided that

1. The Commission could send letters to all the Magistrates/Collectors to inspect the orphanages in their jurisdiction and send the report on their functioning.
2. The copy of the reply of the Karnataka State Government would be obtained from Chief Secretary, Karnataka, thereafter could write to the Ministry of Home Affairs and the Central Government for necessary action.

Agenda Item No.16

Child Abuses in Rajasthan - Adoption of Recommendations.

The report and its recommendations were approved and adopted by the Commission.

Regarding the matter of Smt. Gigoo of Matoda Gavu I Police Station, would be referred to the Rajasthan State Commission for Women to look into the matter.

Agenda Item No.17

Third Biennial Conference on Child Victims of Crime - Prospects - organised by the Indian Society of Victimology - of the recommendations.

The report and recommendations were adopted.



Agenda Item No.18

Report on the Study on the Female/Male Ratio (Sex Ratio) conducted by Society for Social Development, Gwalior – Adoption of the report and recommendations.

The report and recommendations were adopted.

Agenda Item No.19

NCW's work on the Status of Minority Women – (Report “Voice of the Voiceless”) Phase II.

Notes on two proposals received from Dr. Syeda S. Hameed, former Member of the Commission, were circulated in the course of the meeting:

- a) “Voice of the Voiceless” : One proposal for film ‘Ujale ki Or’ of 30 minutes in Hindustani was approved with a cost of Rs. 3,48,500/-.
- b) The second proposal on the 5 workshops and a common expenditure was approved for a sum of Rs. 3,60,000/-.

It was also felt that the film and the outcome of the workshops could be utilised in the social social workshops for Muslim women under Item No.11.

Agenda Item No.20

- (1) **Extending the Commission's ongoing project “Preparing the Women for tomorrow” to working women's hostels.**

A note on the above was circulated in the course of the meeting. The proposal to extend the project to 4 working women's hostels was approved with the following proposed budget :



1. Resource people @ Rs. 1,000/- per session
(10 modules and 4 hostels; one module requires 3 sessions; other modules 1 session) Rs. 50,000/-
2. Documentation Reports
Videography @ Rs. 2,000/- for a Session – as and when necessary.
2. Miscellaneous/Contingency Rs. 50,000/-

(2) Proposal for a Play in the Women's Empowerment Year

Chairperson proposed that in the Year of Empowerment, one play, centered on women's issues and their universal concerns, sponsored by the Commission to be followed by a panel discussion. The play suggested was "Covenant With Death" by Marguerite Yourcenar. It is set in ancient Sumeria, where tradition demanded that hand maidens be buried along with her – and women were conditioned to accept this as an honour, until one of them stood up against this practice.

The Commission approved the proposal. The play would be held in the first week of February (before 10th February 2001) preferably at the Habitat Centre or IIC.

(3) Film on issues to be taken up by NCW during the year 2001

It was proposed that the Commission may request the National Film Institute, Pune/National Institute of Design, Ahmedabad to produce a film for NCW each on 5 to 6 subjects of about 2 to 3 minutes. Five or six topics would be selected, on which a film would be made of still visuals, which could be flashed one after the other. Shri Mohan Agashe, Director, National Film Institute, Mumbai, was contacted.

l. sharma

The subjects suggested were:

- (a) Child abuse
- (b) Female foeticide/infanticide
- (c) Dowry
- (d) Rape
- (e) Bride burning
- (f) Wife beating
- (g) Ill-effects of liquor
- (h) Child marriage
- (i) Plight of widows
- (j) Trafficking in children
- (k) Prostitution
- (l) Anemia in women
- (m) Positive traditions regarding the importance/superior status of women.

The meeting ended with a Vote of Thanks to the Chair.

ENCLOSED: ANNEXURES A, B & C - TO THE MINUTE

Blk

THE HINDU ADOPTIONS AND MAINTENANCE ACT, 1956

as standing in the Act	Amendment proposed by the Commission <i>& Approved by the Commission</i>	Justification
part title and extent Application of Act Definitions Overriding effect of Act Options to be regulated by this		
quisites of a valid adoption Capacity of a male Hindu to take in Hindu who is of sound mind and minor has the capacity to take a son after in adoption: Provided that, if he has a wife living, he adopt except with the consent of unless the wife has completely and renounced the world or has ceased to do or has been declared by a court competent jurisdiction to be of unsound	For Section 7 following section should be substituted: Sec.7. Capacity of a Hindu to take in adoption Any person who is a Hindu of sound mind and is not a minor has the capacity to take a son or a daughter in adoption: Provided that, if he/she has a spouse living, he/she shall not adopt except with the consent of his/her spouse unless the spouse has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent	These changes would ensure a safer home for the child to be adopted. A female Hindu who is married and whose husband becomes incapacitated, if chooses, not to remarry, should remain a member of the family of her husband. If she desires to make an adoptive the adopted child must be ensured full relationship in the family of his adoptive and such a child must be related to the husband of the female making the adoption. This would be in consonance to the words and spirit of the Act.

<p>he wives is necessary unless of any one of them is or any of the reasons preceding proviso.</p>	<p>The Explanation of this section shall be deleted</p>	<p>As practice of bigamy is prohibited under The Hindu Marriage Act, hence this section has no meaning in present situation.</p>
<p>of a female Hindu to take</p> <p>Hindu - sound mind, not a minor, and not married, or if married, husband is dead or has finally and finally renounced the - has ceased to be a Hindu or in declared by a court of ant jurisdiction to be of mind, acity to take a son or daughter</p>	<p>This section shall be deleted.</p>	<p>While a Hindu husband can adopt a child to himself and to his wife, if the latter has consented, a Hindu wife cannot adopt to herself but the adoption must be by the husband alone and her only role is to give or decline a consent. To make the father alone entitled to adopt without any such similar right to and in favour of the mother cannot satisfy the requirements of Article 14 and 15 of the Constitution. Whosoever would adopt, the father or the mother the other would become the adoptive father or the adoptive mother as the case may be, and the adopted child shall stand transplanted as the child of and in the adoptive family for all purposes, as provided in section 12 of the Act.</p>
<p>sons capable of giving in</p>		<p>Amendment to Section 7 will satisfy the requirement and consequently this section will not have any meaning.</p>
<p>sons who may be adopted</p>		

<p>Other conditions for a valid adoption.</p>		
<p>Effects of adoption.</p>		
<p>Right of adoptive parents to their properties.</p> <p>Determination of adoptive parent in certain cases.</p> <p>Where a Hindu who has a wife living adopts a child, she shall be deemed to be the adoptive mother.</p> <p>Where an adoption has been made with the consent of more than one wife, the seniormost in marriage among them shall be deemed to be the adoptive mother and the others to be step-mothers.</p>	<p>For Sec.14 following section shall be substituted.</p> <p>Sec.14. Determination of Adoptive mother/father in certain cases.</p> <p>(1) Where a Hindu who has a spouse living adopts a child, she/he shall be deemed to be the adoptive mother/father.</p> <p>Sub-Sec.(2) of Sec.14 shall be deleted.</p>	<p>When an adoption is made by an unmarried widow Hindu female or a male bachelor or a widower, the Act provides the husband with whom such a female marries shall be deemed to be the <i>step</i> mother of the child adopted before marriage. Likewise male who is bachelor or widower after making an adoption marries, his wife shall be deemed to be the <i>step</i> mother of the adopted child.</p> <p>This provision is valid only in the case of polygamy which is already prohibited under the Hindu Law.</p>
<p>Where a widower or a bachelor adopts a child, any wife whom he subsequently marries shall be deemed to be the <i>step-mother</i> of the adopted child.</p>	<p>For sub-section (3) of Sec.14 The word 'mother' should be substituted for the word 'step mother'.</p>	<p>These provisions are onerous and the law is not in the interest of the adopted child because the adopted child if adopted by a female will not have paternal relation.</p>

<p>When a widow or an unmarried person adopts a child, any husband or wife she marries subsequently shall be deemed to be the <i>step-father</i> of the adopted child.</p>	<p>For Sub-section 4 of Sec.14 The word 'father' should be substituted for the word 'step father'.</p>	<p>That the adopted children may have relationships on the marriage of adopters, in the paternal and the maternal lines.</p>
<p>Void adoption not to be cancelled Presumption as to registered adoptions relating to adoption Prohibition of certain payments Maintenance of wife.-</p>		
<p>Subject to the provisions of this section, a Hindu wife, whether married before or after the commencement of this Act, shall be entitled to be maintained by her husband during her life time. A Hindu wife shall be entitled to live separately from her husband without forfeiting her claim to maintenance -</p>		
<p>a) If he is guilty of desertion, that is to say, of abandoning her without reasonable cause and without her consent or against her wish, or wilfully neglecting her; b) If he has treated her with such cruelty as to cause a reasonable</p>		

		or a self-employed person, the arrears of maintenance should be recovered as 'arrears of land revenue or by distress'.
Maintenance of widowed w.		
Maintenance of children and aged dependants defined.		
Maintenance of dependants.		
Extent of maintenance		
Amount to maintenance should		
Amount of maintenance may be charge of circumstances		
Priority to have		
Priority when to be a charge		
Effect of transfer of property on maintenance		
Specials		
Others		

Hindu Adoptions and Maintenance Act, 1956 should have a bold step so that the illegitimate child's concept is altogether. An illegitimate child should be treated equal in all respects with the child born in wedlock, and he/she should also claim the his/her parents alongwith the legitimate child. It is therefore, suggested that the illegitimate child should be deemed to be the father also.

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Change of circumstances		
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Priority when to be a charge		
Priority of transfer of property on		
Maintenance		
Assets		
Liabilities		

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apprehension in her mind that it will be harmful or injurious to live with her husband;
if he is suffering from a virulent form of leprosy;
if he has any other wife living;
if he keeps a concubine in the same house in which his wife is living or habitually resides with a concubine elsewhere;
if he has ceased to be a Hindu by conversion to another religion;
if there is any other cause justifying living separately.

Hindu wife shall not be entitled to separate residence and maintenance if her husband if she is unchaste ceases to be a Hindu by conversion to another religion.

In sub-section (3) of Section 18 :
The words " is unchaste or" shall be deleted.

Conversion should not be the criteria to deprive a woman from her rights.

Depriving a Hindu wife of her right to separate residence and maintenance solely on the ground of her ceasing to be Hindu as provided in section 18(3) of the Act is equally unreasonable and violative of the provision of the Constitution.(Article 15).

Note: In order to minimise the hardship caused by non-payment of maintenance, and to ensure certainty of payment, it has been recommended that "all maintenance orders should be deducted at the source by the employer (as done in the case of income-tax). Where it is not possible to deduct at the source, as in the case of a business man

Hindu Adoption and Maintenance Act the following suggestions have also been made to bring amendment in **Hindu Succession Act.**

Amendment should be made in the Section 16 of THE HINDU MARRIAGE ACT, 1955 so the full legitimate status and inheritance to the children of marriages which are void or voidable. Such an amendment will go a long way in the direction of as it would enhance the status of such children by equating them with other legitimate children on the one hand and this in all likelihood operate as a check on such marriages on the other hand.

Hindu Marriage Act must be amended as to include a provision which may contain the specific law that regarding the defective ceremony the children of such a union shall be treated as legitimate children of their parents.

Annexure B

HINDU SUCCESSION ACT, 1956
(30 of 1956)

Provisions as standing in the Act	Amendment proposed by the Commission <i>Approved</i>	Justification
<p>Sec.3(1)(j) "related" means related by legitimate kinship:</p> <p>Provided that illegitimate children shall be deemed to be related to their mother and to one another, and their legitimate descendants shall be deemed to be related to them and to one another, and any word expressing relationship or denoting a relative shall be construed accordingly.</p>	<p>For the proviso of this Section following proviso shall be substituted:</p> <p>Provided that illegitimate children whose paternity is known or can be established shall be deemed to be related to their mother and father, and their legitimate descendants shall be deemed to be related to them, and any word expressing relationship or denoting a relative shall be construed accordingly.</p>	<p>The provision has a gender bias discriminates against a mother of a who is not legitimate. The man w equally, if not more, responsible fo birth of the child is absolved of relationship and duty towards such The child has no property rights of putative father. Where a child legitimate because he is born c marriage but paternity is not challeng where the marital status of the p suffers from a legal flaw there is no why the mother alone should be cons to be 'related' to such child and the should have no responsibilities.</p>
<p>Sec. 3(2) In this Act, unless the context otherwise requires, words importing the masculine gender shall not be taken to include females.</p>	<p>This Section shall be deleted.</p>	<p>This clause gives primacy to a male, female is expressly excluded, <i>unlike context otherwise requires</i>. It is pointed out that under the General Act, 1897 "..... unless there is a repugnant in the subject or context- (1) words importing the masculine shall be taken to include female</p>

<p>For the removal of doubts it is declared that nothing contained in shall be deemed to affect the of any law for the time being in providing for the prevention of tion of agricultural holdings or for n of ceiling or for the devolution y rights in respect of such</p>	<p>This Section shall be deleted.</p>	<p>The retention of the section would mean that under section 30 of the Act, only a Hindu male can dispose of his property by will. The word used in section 30 is "him" alone. Once females are also given absolute property rights, it seems to be anomalous that the law makers intended that female property owner should not have any right to dispose of their property by will. Once section 3(2) is dropped such like anomalies will not arise as male and females will have an equal right.</p>
<p>Devolution of interest of ary property</p> <p>a male Hindu dies after the</p>	<p>This section shall be amended as</p>	<p>The provision needs to be reviewed in the interest of uniformity as also for achieving gender equality.</p> <p>Bulk of the property in India is agricultural property governed by state legislation which are heavily tilted in favour of male exempting such property under the Act would dilute the beneficial effect of the legislation.</p> <p>There should be equal distribution of property not only with respect to separate self-acquired properties of deceased male but also in respect of his undivided interest</p>
<p>Section 6: Devolution of interest of</p>		

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<p>... after the</p>	<p>Section 6: Devolution of interest of</p>	<p>There should be equal distribution of property not only with respect to separate self-acquired properties of deceased male but also in respect of his undivided interest</p>

ry property, his interest in the shall devolve by survivorship upon the surviving members of the coparcenary in accordance with this Act.

ed that, if the deceased has left a female relative specified in class schedule or a male relative specified in class who claims through such relative, the interest of the deceased Mitakshara, coparcenary property shall devolve by testamentary or intestate succession, as the case may be, under this Act, not by survivorship.

(a) In a joint Hindu family governed by Mitakshara law, the daughter of a coparcener shall by birth become coparcener in her own right in the same manner as the son and have the same rights in the coparcenary property as she would have had if she had been a son inclusive of the right to claim by survivorship and shall be subjected to the same liabilities and disabilities in respect thereto as the son;

(b) At a partition in such a Joint Hindu family the coparcenary property shall be so divided as to allot to each child the same share.

Provided that the Share which a predeceased son or a predeceased daughter would have got at the partition if he or she had been alive at the time of the partition, shall be allotted to the surviving child of such predeceased son or such predeceased daughter;

Provided further that the share allotable to the predeceased child of a

Membership of coparcenary is confined only to males who have a right in properties by birth. Thus, whereas a son's son, and son's son's son on becoming a joint owner of the coparcenary properties, females are completely excluded.

**Andhra Pradesh, Tamil Nadu
Maharashtra, Karnataka**

(a) A daughter of a coparcener, by becoming a coparcener in her own right;

(b) She will have the same rights as a son including the right to claim survivorship;

(c) She will have the same liabilities and disabilities as a son;

(d) The amendments will operate prospectively and daughters may claim prior to the coming into force of the law have been excluded.

<p>7: Devolution of interest in the property of a <i>Tarwad, tavazhi, kutumba, or illom</i>. When a Hindu to whom the <i>marumakkattayam</i> or <i>nambudri</i> law would have applied if this Act had not been passed dies after the commencement of this Act, having</p>	<p>predeceased son or of a predeceased daughter, if such child had been alive at the time of the partition, shall be allotted to the child of such predeceased child of the predeceased son or of such predeceased daughter, as the case may be:- (c) any property to which a female Hindu becomes entitled by virtue of the provisions of clause (a) shall be held by her with the incidents of coparcenary ownership and shall be regarded, notwithstanding anything contained in this Act or any other law for the time being in force, as property capable of being disposed of by her by will or other testamentary disposition;</p>	<p>Amendment suggested in section 6 neutralise the effect of this section.</p>
<p>When a Hindu to whom the <i>marumakkattayam</i> or <i>nambudri</i> law would have applied if this Act had not been passed dies after the commencement of this Act, having</p>	<p>This Section shall be deleted.</p>	<p>Under the law prevailing amongst Marumakkattayam and the Aliyasant communities women were equivalent full coparcener. The Act now apply uniformly in respect of these communities as well with the result that rights of femi</p>

be, his or her interest in the property shall devolve by testamentary or intestate succession, as the case may be, under this Act and not according to the *marumakkattayam* or *nambudri law*.

Explanation. - For the purposes of this sub-section, the interest of a Hindu in the property of a *tarwad*, *tavazhi* or *illom* shall be deemed to be the share in the property of the *tarwad*, *tavazhi* or *illom*, as the case may be, that would have fallen to him or her if a partition of that property *per capita* had been made immediately before his or her death among all the members of *tarwad*, *tavazhi* or *illom*, as the case may be, then living, whether he or she was entitled to claim such partition or not under the *marumakkattayam* or *nambudri law* applicable to him or her, and such share shall be deemed to have been allotted to him or her absolutely.

coparceners under the Act.

This is a retrograde provision so far as communities which gave equal coparcenary rights to women, are concerned. Hindu if equal coparcenary rights by birth a generally to both males and females mischief caused by this section to those particular communities will al

<p>then a Hindu to whom the <i>asantana</i> law would have applied if this Act had not been in force at the commencement of this Act, having died at the time of his or her death and no interest in the property of <i>utumba</i> or <i>kavaru</i> as the case may be, his or her interest in the property shall devolve by <i>asantana</i> law or intestate succession, as the case may be, in accordance with this Act, and not according to <i>aliyasantana</i> law.</p>		
<p>General rules of succession in males</p> <p>The property of a male Hindu dying intestate shall devolve according to the provisions of this chapter -</p> <p>(a) upon the heirs, being the relatives specified in class I of the schedule;</p> <p>(b) if there is no heir of class I, then upon the heirs, being the relatives</p>	<p>Sec. 8 shall be amended as follows:</p> <p>Section 8: General rules of succession</p> <p>The property of a Hindu dying intestate shall devolve according to the provisions of this chapter -</p> <p>(a) Firstly, upon the heirs, being the relatives specified in class I of the schedule;</p> <p>(b) Secondly, if there is no heir of class I, then upon the heirs, being the relatives</p>	<p>The degrees of descent in representation in the case of males and females should be equal. As it is, there is a bias against the females both in class I as well as class II entries. Thus, while a son's son and son's son's daughter are class I heirs, a daughter's daughter's son and a daughter's daughter's daughter are not. Likewise, whereas son's <i>son's</i> son and son's <i>son's</i> daughter are class I heirs, a son's <i>daughters</i> son and a son's <i>daughters</i> daughter come</p>

<p>agnates of the deceased; and d) Lastly, if there is no agnate, then upon the cognates of the deceased.</p>	<p>of the deceased; and (d) Lastly, if there is no agnate, then upon the cognates of the deceased.</p>	
<p>tion 15: General rules of succession in case of female Hindus -</p> <p>) The property of a female Hindu dying intestate shall devolve</p> <p>(a) firstly, upon the sons and daughters (including the children of any pre-deceased son or daughter) and the husband;</p> <p>(b) <i>secondly, upon the heirs of the husband;</i></p> <p>(c) thirdly, upon the mother and father</p> <p>(d) fourthly, upon the heirs of the father; and</p> <p>(e) lastly, upon the heirs of the mother;</p>	<p>This Section shall be deleted.</p>	<p>Consequential Amendment in Section 8.</p> <p>The property of a female dying should devolve, after her husband, not upon the heirs of the as provided under section 15(1)(her own heirs.</p>
<p>) Notwithstanding anything contained in sub-section (1), -</p> <p>(a) any property inherited by a female Hindu from her father or mother shall devolve, in the</p>		<p>There is no justification in the father inheriting in preference to mother;</p>

<p>absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the <i>father</i>;</p>		<p>The property inherited by a female Hindu from her father or mother should not devolve, in the absence of her children, on the heirs of the father alone. The mother and father having distinct heirs is not an improbability.</p>
<p>23: Special provision respecting houses Where a Hindu intestate has left surviving heirs both male and female heirs in class I of the schedule and his property includes a dwelling house occupied by members of his or her family, then, notwithstanding anything in this Act, <i>the right of any such heir to claim partition of the dwelling house shall not arise until the male heirs have a right to residence therein.</i></p> <p>And that where such female heir is a widow she shall be entitled to a right of residence in the dwelling house only if she is widowed or has been deserted by or has</p>	<p>For Section 23 following Section shall be substituted: Section 23: Special provision respecting dwelling houses Where a Hindu intestate has left surviving his or her heirs specified in class I of the schedule and his or her property includes a dwelling house wholly occupied by members of his or her family, then, notwithstanding anything contained in this Act, <i>the right of any such heir to claim partition of the dwelling house shall not arise until the widowed mother's rights (in case the deceased is a male intestate) have been settled.</i></p>	<p>This section discriminates against a female on two accounts - (a) her right to claim partition (b) her right of residence. She has an equal right over the property but her right to seek her share is dependant on her brothers first dividing their own respective shares. Thus if the brothers choose not to divide their shares the female heirs specific as class I heirs cannot ask for it.</p> <p>As regards the right of female heirs to <u>reside</u> in the dwelling house this right is available only to a daughter who is unmarried, separated from husband or widow. Thus a daughter who is married has no right even to reside in the parent's dwelling house. Even if she is being harassed.</p>

<p>absence of any son or daughter of the deceased (including the children of any pre-deceased son or daughter) not upon other heirs referred to in sub-section (1) in the order specified therein, but upon the heirs of the <i>father</i>;</p>		<p>The property inherited by a female Hindu from her father or mother should not devolve, in the absence of her children, on the heirs of the father alone. The mother and father having distinct heirs is not an improbability.</p>
<p>23: Special provision respecting houses Where a Hindu intestate has left surviving both male and female heirs in class I of the schedule and his property includes a dwelling house occupied by members of his or her family, then, notwithstanding anything in this Act, <i>the right of any such heir to claim partition of the house shall not arise until the male heir to divide their respective shares therein; but the female heir shall be entitled to a right to residence therein.</i> And that where such female heir is a widow she shall be entitled to a right of residence in the dwelling house only if she is widowed or has been deserted by or has</p>	<p>For Section 23 following Section shall be substituted: Section 23: Special provision respecting dwelling houses Where a Hindu intestate has left surviving his or her heirs specified in class I of the schedule and his or her property includes a dwelling house wholly occupied by members of his or her family, then, notwithstanding anything contained in this Act, <i>the right of any such heir to claim partition of the dwelling house shall not arise until the widowed mother's rights (in case the deceased is a male intestate) have been settled.</i></p>	<p>This section discriminates against a female on two accounts - (a) her right to claim partition (b) her right of residence. She has an equal right over the property but her right to seek her share is dependant on her brothers first dividing their own respective shares. Thus if the brothers choose not to divide their shares the female heirs specific as class I heirs cannot ask for it. As regards the right of female heirs to <u>reside</u> in the dwelling house this right is available only to a daughter who is unmarried, separated from husband or widow. Thus a daughter who is married has no right even to reside in the parent's dwelling house. Even if she is being harassed.</p>

		<p>either on gender, or marital status of daughters. The widow's right in dwelling house, however, needs to specially protected. The other heirs should not be allowed to sell, partition or alienate the house without the consent of the widow and without making adequate alternate arrangements for her. Even assuming females will get equal rights in the property by birth, the widow and the mother of deceased will be out of the category of females as it can only be daughters/sisters who can get a right by birth. It is therefore very essential that special provisions be made for a widow in the dwelling house.</p>
<p>30: Testamentary Succession Hindu may dispose of by will or testamentary disposition any property which is capable of being so disposed of by him, in accordance with the provisions of the Indian Succession Act, 1925 and any other law for the time being in force which is applicable to Hindus.</p>	<p>In Section 30 after the words <i>testamentary disposition of any property</i>" the words "<i>to the extent of one third with consultation of either spouse</i>" shall be added.</p> <p>This Section will read as: Any Hindu may dispose of by will or other testamentary disposition any property, to the extent of one third, which is capable of being so disposed of by him, in accordance with the provisions of the Indian Succession Act, 1925 and any other law for the time being in force which is applicable to Hindus.</p>	<p>Gives an unbridled right of testamentary disposition of properties. Since the idea of giving property rights to females and married daughters in particular, is socially and culturally unacceptable, even the law concedes equal rights to females and there is no limit on the extent of property which can be bequeathed.</p>

<p>The interest of a male in a coparcenary property or the interest of a member of a <i>tarwad, tavazhi, kutumba or kavaru</i> in the property of a male shall notwithstanding anything in this Act or in any other law for the time being in force, be deemed to be capable of being disposed of by him or her within the meaning of this</p>	<p>Act, 1925 or any other law for the time being in force and applicable to Hindus provided that bequests beyond <i>one half of the property shall not be valid.</i></p> <p><i>Explanation</i> - The interest of a male in a <i>Mitakshara</i> coparcenary property or the interest of a member of a <i>tarwad, tavazhi, kutumba or kavaru</i> in the property of a male shall notwithstanding anything contained in this Act or in any other law for the time being in force, be deemed to be capable of being disposed of by him or her within the meaning of this (section).</p>	<p>Thus, even though under the proviso to section 6 surviving class I female heirs of deceased coparcener are entitled to succeed to his share, it becomes meaningless if the male coparcener decides to make a testamentary disposition denying any right to the female heirs including his widow. While it is true that by a will, a testator can deprive even his male heirs of any property but the likelihood of depriving females is much higher in view of the social cultural attitudes and the reluctance to give them equal share in property.</p> <p>There should be a restraint on the right of testamentary disposition. Thus under this section a bequest beyond one half property should not be allowed.</p>
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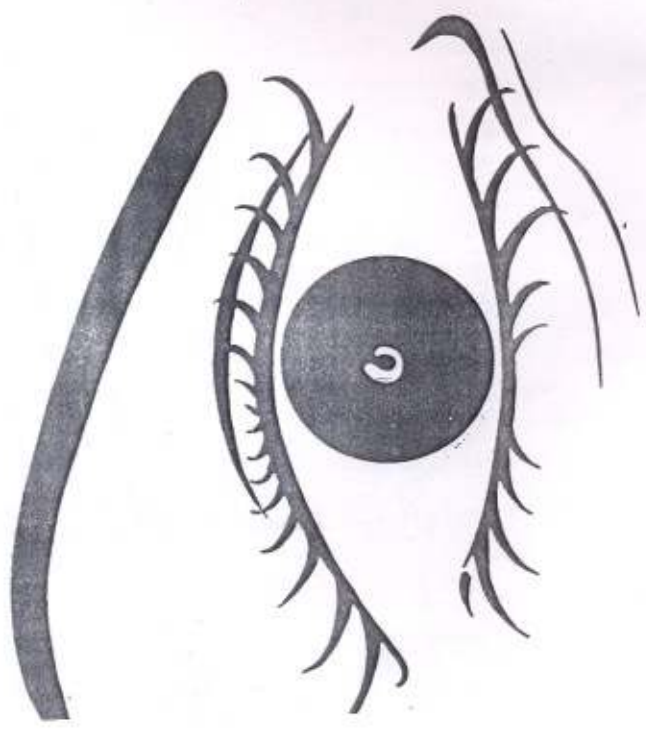
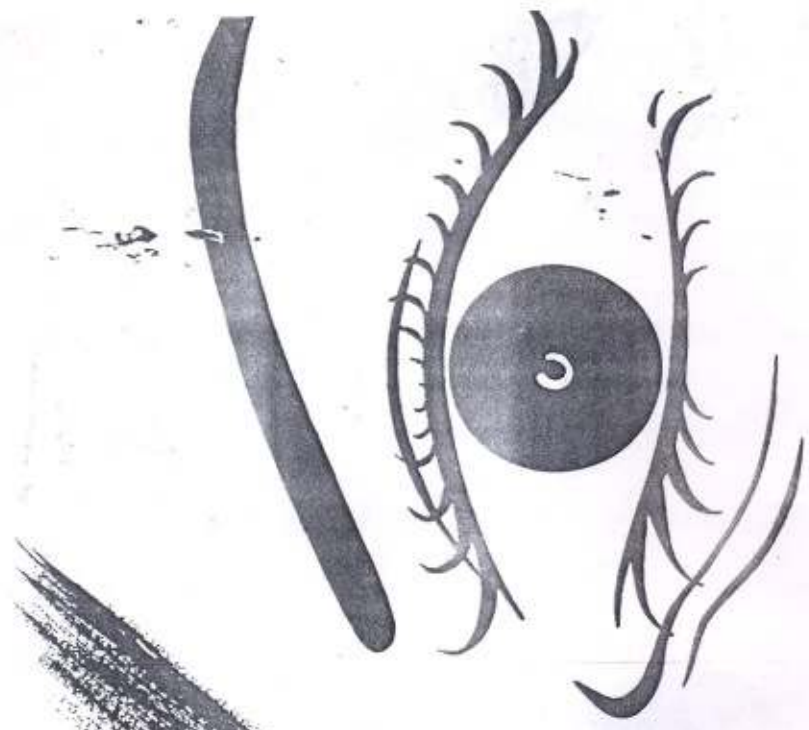


National
Commission
for Women

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- Circle/c represents : Protection/organisation
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