

**LEGAL RIGHTS & REMARRIAGE OF WIDOW IN 19<sup>TH</sup> & 21<sup>ST</sup> CENTURY**

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**Abstracts**

*Woman plays a significant role in the life of every individual human being. Securing her better birth rights would mean giving future of our society also as well every family. Prior to commencement of the act 1956 property held by a Hindu female was classified under two heads*

*1) Streedhan*

*2) Hindu women's estate.*

*But after abolition of this classification through section 14 it is conferred as absolute ownership on her with respect to every property acquired by her lawful means. We are discussing here with the various rights of Hindu widow regarding her right on husband's property. This research is limited to the rights of Hindu widow regarding her property rights.*

**Key Words:** *Property, Widow, Rights.*

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**Introduction**

India is having different religions and the customs of each religion are also varied. But here we are only discussing the "Rights of a widow". In India women are taken for granted and they are regarded as the most disadvantaged section of the society. Women are not given their due status, dignity as they deserve. She Faces various problems but one problem that remain the same is the problem of widowhood. We have to discuss here on the same area but regarding her property rights.

**Review of Literature**

widow remarriage act 1856. All rights and interest which any widow may have in her deceased husband's property shall upon her marriage ceases, and the next heirs of the deceased husband or other person entitled to the property on her death, shall thereupon succeed to the same. Hindu Succession act 1956, widows who choose to remarry do have a right on their deceased husband's property. Legal necessity was held by the Hindu law as a condition where the widow had to sale her deceased husband's property and she has to have her own right on that property.

### Objectives

This research aims to study the legal rights of a widow. And the remarriage of widow in 19th and 20th century. So also, socio economic changes and its impact on Widow in 21st century. The purpose of this study is to analyse how women can claim their rights as a widow, limitation and current situation. This study wants to focus on the problem of widows. Research Methodology- through the information which is gathered by the book Hindu law. And also, discussion which some widows who are having their cases in the courts of law.

### Discussion

#### Rights of Hindu widow

Being a widow is never in the hands of women, or a woman does not want to be a widow. But this time comes in the life of some women and this time comes with many difficulties and responsibilities. And they face many problems in their lives. The widowhood makes the biggest and saddest change in women's life. The death of her husband is the beginning of many problems in the life of widow. The woman struggles to bring herself into a new role by facing grief and sorrow in a situation that is suddenly in front of her.

Suddenly this situation affects the life of the widow financially and economically, when the financial and mental support of the family, the head dies, the whole family is in crisis and all the burden now falls on the widow. Our conservative Indian society associates widows with superstitious and unreliable rules. Widows facing many problems in society and family because of the traditional norms, superstitious, cultural practices, and wrong beliefs. In typical Hindu society women derive their status from their husband only... So, widows are regard as misfortune and their presence was thought to be inauspicious on happy occasions. They are victims ok search superstitions and such backward social attitudes.

There are many parts of India where widows have no roof over their heads, no food to eat, no relationship to say, no place to go, no one willing to keep them. So, they are helpless. They are likely to suffer extreme and systematic physical, psychological, sexual and economic violence within their families and in the outside community. The widow remarriage act 1856 does not offer any right to a widow in her husband's property as a separate legal entity. However, this act was repealed. And under the provisions of Hindu Succession Act 1956 widow s who choose to remarry do have right on their deceased husband's property. And that Bombay High Court ruled that widow who remarries does not need to give up for right over her deceased husband's property. High court also noted that she comes under class 1 here of her deceased husband and should inherit.

The most important question is whether a Hindu widow can claim right in her husband's property? Widow is having full right in her diseased husband's property; she has every right to dispose of the property during her lifetime. She is at liberty to do what she pleased the property of her portion.

#### Hindu widow remarriage act 1856

At this stage only remarriage of window was legalised in India under East India Company rule. Which was drafted by Lord Dalhousie and passed by Lord Canning. In 19th century women married at younger age. So, Windows marriage was out of question. After death of husband women was forced jump into their husband's funeral Pyres. Custom was called Sati. Women has to burn alive. That act was social reform to improve condition of widow in India. Before this law custom of Sati was abolished by Lord William Benetton in 1829. First widow remarriage-

I was at Calcutta in 1856. Ishwar Chandra Vidyasagar married with a widow. He worked to uplift the status of women in India, especially in Bengal. He was social reformer and wanted to change orthodox people. Before this remarriage was considered to be a sin and against the religion or caste. Despite legal sanction it was much difficult for widows to remarry. Maharshi Karve founded an educational institution. Hindu widow home in 1896 in Pune to help widow, support themselves in case they were unable to remarry.

In 1916 Karve ji setup India's first University for women named SNDT women University with five students.

Dhondo Keshav Karve- the man who pioneered women empowerment in India. He was a social reformer and educator who established the widow marriage Association in 1896, advocated widow remarriage is and himself married women who was widow named Guddu bhai in the same year, he was awarded Padma Vibhushan in 1955 and the Bharat Ratna in 1958. The second marriage will have legal sanction and the second wife will have every right in her husband's ancestral and self-acquired property, (fall under class 1 heir of husband) In her second marriage the second wife has the same rights on property of her husband as the first one, provided the marriage is legal. The children Born out of a second marriage whether valid or invalid have the same rights in their father's property as the children of the first wife, as children from the second marriage are acknowledged to be legitimate under section 16 of Hindu Marriage Act, they will belong to the class 1 legal heirs of their father and in the event of his death they will inherit property according to the provisions of Hindu Succession Act 1956.

Widow remarriage was allowed and it was sanctioned in Vedas. It was called as Niyog.. In Niyog an issue less widow was allowed to marry dead husband's brother. Can widow remarry in Islam? The answer is yes. She can marry again. A Divorced or widowed women most observed period of iddat before remarrying. As per Puranas widow is not considered holy to perform auspicious rituals of Kanya dan. Sharda Sadan was a school for Indian widows. Started in Bombay in the year 1889... By Pandita Ramabai. It was a house of learning for the widow community-Sharda Sadan. It was open in Bombay and Anandibai bai Karve was first female student of Sharda Sadan. Widow- under Hindu Succession act, a widow is a limited heir, acquires the property for the life but she is the owner of the property does inherit as a tenant. But her rights of alienation are limited, and after her death property does not pass to her heirs rather to heirs of the last full owner thereof.

To protect what it considered family honour and family property, Hindu society had long disallowed the remarriage of widows, even child and adolescence, all of whom were expected to leave a life of austerity and abnegation. The Hindu women's remarriage act of 1856, provided legal safeguards against loss of certain forms of inheritance for remarrying a Hindu widow, though under the act, the widow forsook any inheritance due her from her deceased husband. Specially in the Act were child widows whose husbands had died before consummation of marriage. It is known that, by the law as administered in the Civil courts established in the territories in the possession and under the government of East India Company, Hindu widows with certain exceptions are held to be, by reason of their having been once married, incapable of contracting second valid marriage and the offspring of such widows by any second marriage due held to be legitimate and unacceptable of inheriting property.

Thus, for the public welfare and for betterment of widows it was enacted as follows no marriage contracted between Hindus shall be invalid and the issue of no such marriage shall be illegitimate, by reason of the women having been previously married or betrothed to another person who was dead at the time of such marriage, any custom

and any interpretation of Hindu law to the contrary notwithstanding. All rights and interest which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successors or by virtue of any will or testamentary disposition conferring upon her, without Express permission to remarry,

only a limited interest in such property, with no power of alienating the same, shall upon her be marriage cease and determine as if she had then died, and the next heirs of her deceased husband or other persons entitled to the property on her death, shall thereupon succeed to the same.

A widow shall not by reason of her remarriage forfeit any property or any right to which she would otherwise be entitled and any widow who has remarried shall have the same rights of inheritance as she would have had, had such man been her first marriage. According to Law dictionary and also legal term speaks about widow who is woman who has lost her spouse.

### **Today's position**

There are approximately 55 million widows in India that is 10% of the country's population. Vrindavan has its darker, less loving side it is known as "the city of widows". India's widows abused at home, have sought refuge in this holy City for centuries. Hindu brides are often expected to live with their husbands' families. This weakness ties with their own, and widowhood can spell disaster. Without a husband, a small portion of India's approximate 55 million widows are violently purged from their homes each year.

The government and rights groups have invested tens of millions of dollars into lifting the conditions of abandoned women. Homelessness was common among widows. Some lived in doorways, while widows often felt that they had no place else to go, the shift herself to Vrindavan.

The widows' conditions become so dire that India's Supreme Court took notice of this. In 2012 ruling that the government must provide them food, medical help and a sanitary place to live. Since then, a number of government projects have been introduced, including building Krishna Kutir, or Krishna house. Many widows arrived at ashram from villages hundreds of miles away and some came with serious injuries.

### **Psychological aspects of widowhood**

Despite advances in standard of living of the population, the condition of widow remains deplorable in society. The situation is worse in developing nation. There Unique social cultural and economic milieu which at times ignore the basic human rights of this society. This is fact that widowed suffer from varying psychological stresses is often ignored. It has been concluded in various studies that, such stresses could be harbingers of psychiatric illness. (i.e., Depression, anxiety, substance dependence) and hence should be taken into account by treating physicians, social workers and others who come to the aid of such women.

Death of spouse or separation (legal or otherwise) appears to affect both the sexes in different ways and the psychological effect of these event is immense. In many developing countries the exact numbers of widows, their ages, and others social and economic aspects of their lives are unknown. Many studies have concluded that a higher rate of mental illness exist among the widows then their married counterparts. Even a Study concludes that widows had higher mean levels of traumatic grief, depression and anxiety symptoms. Another problem associated with widowhood is loneliness. Decipher the fear of being alone and loss of self-esteem as women in addition to

many practical problems related to living alone. They Feel the loss of personal contact and human Association therefore they tend to withdraw and become unresponsive.

The greatest problem in widowhood is still emotional. The most difficult time for new Windows is after the funeral. Young widows often have no peer groups. One survey state, that widows' remarriage maybe forbidden in the higher caste, and remarriage where permitted may be restricted to a family member. Further a widow, upon remarriage maybe required to relinquish custody of her children, as well as any property rights she may have. If she keeps her children with her, she may fear\_ that they would be ill-treated in a second marriage. Indian widows are off on regarded as " evil eyes" having ill fortune and unwanted burdens on poor families.

Thousands of widows are disowned by their relatives and thrown out of their homes in the context of land and inheritance disputes. Sexual and economic exploitation of widows, abandoned by their families to the temple sites such as Mathura, Vrindavan, Tirupati are in hell. Thousands of India widows live in an abject poverty and degradation in these centres. Younger widows are forced into prostitution and older ones are left to beg and chant for alms from pilgrims and tourists.

The working widows have better quality of life than the others and another finding which is important that those are literate they also have a better quality of life than the illiterate widows. As per customs widows must ware only white sarees and fully cover her face. They must also stay aloof and alone from the society and should not show their face to public. There are also families who blame the widow for the death of her husband, saying that her bad luck has killed the husband and made the children orphans.

### Conclusion

There are many problems of widows in India and whether society takes notice of it or not, the government takes note of it and work hard for it. The widow pension scheme has been implemented under the national social assistance programme, from where financial assistance is provided to Windows. The government has also implemented various schemes for widows so that widows can get more help and they get their due amount. Even in Modern Times widows are restricted for certain things, she cannot wear whatever she likes.

I think the condition of women will improve only when women help themselves and other women also and give up their wrong thoughts, and superstitions. One of the major reasons widows suffer financially is because they are illiterate. Such less educated women suffer more financial problems. Because they don't understand the government plans and I can't do anything to get the necessary evidence and paper work done because they don't understand the process. One of the reason many women do not reach out to the schemes is that they lack literacy and cannot take advantage of such schemes.

Now we have to take initiative for the betterment of society. We have to raise voice about such superstitions and rigid customs and rules. We have to give up such a mentality. India is a country where women is worshipped as a goddess on the other hand widow is treated badly. We have to take the initiative to change the society and come forward to help such women and always be ready to get their rights help and every individual in India must always help such women. The windows position will definitely improve.

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