

“SHOULD CUSTOMARY LAWS PREVAIL OVER FUNDAMENTAL RIGHTS”: A CRITICAL ANALYSIS OF PROPERTY RIGHTS OF TRIBAL WOMEN OF LAHAUL REGION OF HIMACHAL PRADESH

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ABSTRACT

The women rights are at the centre stage of discussion in different platforms. The Constitutional provisions limit its applicability to such tribal pockets that are governed by the local customs. Tribes represent one of the pluralistic traits of culturally diverse nation wherein customs are one of the primary sources of governance. In the light of constitutional provisions, these customs highlight a discriminatory practice of succession in the favor of women. An attempt has been made by the researchers to critically analyze the succession (Riwaz-e-aam) amongst tribes in Lahaul region of district Lahaul Spiti in Himachal Pradesh.

KEYWORDS: *Succession, Customs, Tribal Women, Riwaz-E-Aam, Property Right.*

REFERENCES:

1. Women's Inheritance Rights to Land and Property in South Asia: A Study of Afghanistan, Bangladesh, India, Nepal, Pakistan, and Sri Lanka: A Report by the Rural Development Institute (RDI) for the World Justice Project December 2009,p.3
2. Shruti Pandey, Property Rights of Indian Women, <https://www.womenslinkworldwide.org>.
3. Constitution of India, Article 13 (3) (a)
4. Madhu Kishwar & Ors. Etc vs State Of Bihar & Ors, 1996 SCC (5) 125
5. State/Union Territory-wise list of Scheduled Tribes in India Ministry of Tribal Affairs, 7 available at Latest List of Schedule tribes.pdf (tribal.nic.in) (Last visited on 12/07/2022)
6. Constitution of India, Scheduled V
7. Hindu Succession Act, 1956, s. 2 (2).
8. Hindu Marriage Act, 1955, s. 2 (2).
9. Constitution of India, Art.14
10. Sujata Kumari Muni, rights, <https://www.thestatesman.com>.
11. Hindu Women's Right to Property Act, 1937, Section 3

12. Hindu Succession Act, 1956, Section 6
13. Hindu Succession (Amendment) Act 2005, Section 6.
14. Hindu Succession Act 1956, Section 2(2).
15. AIR 1960 SC 1118.
16. Walter Fernandes, Melville Pereira and Vizalenu Khatso, Customary laws of North East: Impact on Women, (National Commission for Women Delhi) available at: Customary Law.p65 (ncwapps.nic.in) last visited on 12/07/2022
17. <https://vidhilegalpolicy.in/blog/rights-of-a-scheduled-tribal-woman-a-lost-cause/> last visited on 13/07/2022
18. Haradhan Murmu v. State of Jharkhand, 2018 SCC online Jhar 1903; also available at www.casemine.com/judgement
19. Narsu Appa Mali v. State of Bombay, AIR 1952 Bom 84 also available in Indiakanoon.com
20. Madhu Kishwar and other v. State of Bihar and other, AIR 1996 5SCC 125.
21. Smt. Shakuntala and others v. Surinder Chand and others, AIR 1991 HP 13.
22. Bahadur v. Bratiya and Others, 2015 SCC OnLine HP 1555.
23. Riwaz e aam available online at [Riwaz-E-Aam - mylahoul \(google.com\)](http://Riwaz-E-Aam - mylahoul (google.com))
24. This list of questions and answers was revised by Mr Bachittar Singh Assistant settlement officer Kullu after holding two big meetings in which one was held in Kullu while the other one was in Banjar
25. Alienation available online at [Alienation - mylahoul \(google.com\)](http://Alienation - mylahoul (google.com)) last visited on 15/07/2022.
26. Ibid.