

LAWS OF INTESTATE AND TESTAMENTARY SUCCESSION

LL.M/M.C.L. (2/3 Year) III Term Course [2026-2027]

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Note : 1. The following course content should not be treated as exhaustive. The questions may be set from any topic which the examiner feels relevant to the subject.

2. *There shall be one written examination of three hours' duration in each subject at the end of each Term. One question paper shall be set in each of the subjects prescribed for study and examination. Each paper shall carry 100 marks. The minimum pass marks in each subject shall be 50%.*

3. *Every student of this course is required to present a paper in the class for discussion on a topic assigned by the concerned teacher. No student shall be permitted to appear in the examination unless a certificate is issued by the teacher that the paper presented by the student was to his satisfaction.*

Laws Relating to Intestate and Testamentary Succession

India has a multiplicity of succession laws some of which are codified while others are uncoded. The diversified application of these is linked with religion, domicile, community, tribe, form of marriage and even the religion of the spouse of the deceased. The present course is intended to take a critical study of the statutory laws of intestate and testamentary succession in vogue in India. Under the intestate succession category, the study would include a critical examination of the provisions of the Hindu Succession Act, 1956 and the Indian Succession Act, 1925; that covers succession to the property of Christian and Jew intestates and all Indian (except two Hindus) who get married under the Special Marriage Act, 1954, and to the property of the issue of such marriage. Separate provisions within the Indian Succession Act, 1925 are provided for the Parsi Intestates. In addition the course will also cover a study of the rules governing devolution of agricultural property and testamentary succession under the Indian Succession Act, 1925. Need for a uniform law applicable to all irrespective of religion for bringing gender parity will also be covered.

I. General Introduction

Laws of intestate succession in vogue in India; different laws for different communities; legislative history of these laws; criterion for their applicability; religion, domicile, form of marriage; effect of conversion on applicability of laws of inheritance; the Caste Disability Removal Act, 1850 and general principles of inheritance.

Readings:

1. JND Anderson (ed.,) *Family Laws in Asia and Africa* (1972).
2. Jeremy Bentham, *Theory of Legislation* (1975)
3. Poonam Pradhan Saxena, *Family Law Lectures, Family Law II*, 4th ed., (2019).
4. Paras Diwan and Peeyushi Diwan, *Laws of Intestate and Testamentary Succession* 3rd ed., 2006.
5. L L Sardesai (ed.,) *Glimpses of Family Law of Goa, Daman and Diu*, 1982.
6. G D Sriveni (ed.,) *Family Laws of Goa, Daman and Diu*, 1979.
7. David Annouswamy, About the Right of Legitim among the Hindus in Pondicherry (1978) 20 JILI 535.

8. David Annouswamy, Pondicherry : Babel of Personal Laws (1972) JILI 420.

II. Multiplicity of Succession Laws and Uniform Civil code

Islamic Law of intestate succession, Concept of uniform civil Code: Art 25 and 44 of the Constitution of India: desirability and feasibility of a Uniform Civil Code.

Laws of intestate and testamentary succession under Uniform Civil Code of Uttarakhand, Uniform Civil Code of Assam, Uniform Civil Code of Gujarat

Readings:

1. Constituent Assembly Debates 1948-49, Vol VII.
2. David S. Powers – The Islamic Inheritance System: A Socio-Historical Approach
3. Lucy Carrol – The Ithna Ashari Law of Intestate Succession: An Introduction to Shia Law Applicable in Asia
4. Lucy Carrol – The Hanafi Law of Intestate Succession: A Simplified Approach
5. Law Commission of India, "Consultation Paper on Reform of Family Law" (August 31, 2018).
6. Leila Seth, A Uniform Civil Code: towards gender justice, India International Centre Quarterly, Vol. 31, No. 4 (SPRING 2005), pp. 40-54.
7. David Annoussamy, About the Right of Legitim Among Hindus in Pondicherry, 20(4) JILI 535-550 (1978).
8. Virendra Kumar, "Uniform Civil Code Revisited : A Juridical analysis of John Vallamattom 45 JILI (2003) 315.
9. Virendra Kumar, "Pragmatic Approach Towards a Uniform Civil Code, 4 Social Science Research Journal 134-42 (1995).
10. N R Madhav Menon (ed.,) National Convention on Uniform Civil Code for all Indians 1986.
11. Madhu Kishwar, "Breaking the statement: Uniform Civil Code v Personal Laws" Manushi No. 77 (1986).
12. Madhu Kishwar, Stimulating Reforms Not Forcing Uniform Civil Code v Optional Civil Code, Manushi No. 89 (1995).
13. B. R. Sharma – A Uniform Civil Code for India '21 Civil and Military Law Journal 1985.
14. John Vallamatton v Union of Indian AIR 2003 SC 2902.
15. Maneka Gandhi v. Indira Gandhi AIR1985DELHI114

III. The Hindu Succession Act, 1956 as amended in 2005

General introduction and applicability of the Act: Devolution of the property of a male and female intestate; devolution of an interest in the Mitakshara coparcenary and the concept of notional partition; abolition of limited estate for a Hindu female, general rules of inheritance, disqualifications; Introduction of females as coparceners, State amendments and the Hindu Succession (Amendment) Act, 2005, devolution of agricultural property.

Readings

1. Ranganath Mishra (Rev.,) Mayne's Treatise on Hindu Law and Usage (15th ed., 2006).

2. Satyajeet A Desai (Rev.,) Mulla's Principles of Hindu Law, Vol 1 and II) (20th ed., 2007).
3. Duncan M Derrett, A critique of Modern Hindu Law (1970).
4. S A Kader, The Hindu Succession Act, 1956 (2004).
5. Report of the Hindu Law Committee 1948.
6. Law Commission of India, 174th Report, 208th Report, 207th Report, 208th Report
7. Lok Sabha Debates, 1955, Vol V.
8. G. R. Rajagopaul – The Story of the Hindu Code
9. Debrati Halder and K. Jaishankar – Property Rights of Hindu Women: A Feminist Review of Succession Laws of Ancient, Medieval and Modern India
10. Reena Patel – Hindu Women's Property Rights in India: A Critical Appraisal

References:

1. Prakash Chand Jain, "Women's Property Rights under Traditional Hindu Law and the Hindu Succession Act, 1956: Some Observations" 45 Journal of Indian Law Institute 509-536 (2003).
2. Archana Mishra, Devolution of Property of the Hindu Female: Autonomy, Relationality and the Law, International Journal of Law, Policy and the Family 1-18 (2015)
3. John Duncan M Derrett, "Law and the Predicament of the Hindu Joint Family" 12(7) Economic and Political Weekly 305-311 (Feb.13, 1960).
4. S. G. Vesey-FitzGerald, "The Succession of Cognate Collaterals in Hindu Law" 12(3) Bulletin of the School of Oriental and African Studies, 677-687 (1948).
5. Archana Parashar – Hindu Law Reform: The Goal of Uniformity and Sex equality
6. Archana Sridhar, "The Conflict between Communal Religious Freedom and Women's Equality: A Proposal for Reform of the Hindu Succession Act of 1956" 20(3) Berkeley Journal of International Law 555-574 (2002)
7. Karine Bates, The Hindu Succession Act: One Law, Plural Identities, 50 J. Legal Pluralism & Unofficial L. 119 (2004)
8. Landesa Report on "The Formal and Informal Barriers in the Implementation of the Hindu Succession (Amendment) Act 2005"
9. Sanchari Roy, Female Empowerment through Inheritance Rights: Evidence from India
10. LAWYERS COLLECTIVE WOMEN'S RIGHTS INITIATIVE, MAPPING WOMEN'S GAINS IN INHERITANCE AND PROPERTY RIGHTS UNDER THE HINDU SUCCESSION ACT, 1956

Cases:

1. Kamal Neti v. Special Land Acquisition Officer (2023) 3 SCC 528
2. Tirith Kumar v. Daduram (2024) 12 SCR 665
3. Ram Charan v. Sukhram AIR 2025 SC 3356
4. L. Gowramma v. Sunanda (2016) 3 SCC 356
5. Lucas v Jerome Pascal AIR 1977 Mad 270.
6. Gowri v. Subbu Mudaliar, 2017-2 L.W.715

7. Bahadur v. Bratiya, AIR 2016 HP 58
8. Ashnoor Singh v. Harpal Kaur, AIR 2009 (NOC) 2367 (SC).
9. Manu Gupta v. Sujata Sharma, Del HC 4 Dec 2023
10. Shreya Vidyarthi v. Ashok Vidyarthi, AIR 2016 SC 139
11. Eramma v Veerupana, AIR 1966 SC 1879.
12. Commissioner of Wealth Tax, Kanpur v. Chander Sen, (1986) 3 SCC 567
13. Govindbhai Chhotabhai Patel v. Patel Ramanbhai Mathurbhai, 2019 SCC OnLine SC 1245.
14. Gurupad Khandappa Magdum v. Hirabai Khandappa Magdum, AIR 1978 SC 1239
15. Santosh Popat Chavan v. Sulochana Rajiv, AIR 2016 Bom 29
16. M. Arumugam v. Ammaniammal, MANU/SC/0015/2020
17. Ganduri Koteshwaramma v. Chakiri Yanadi, (2011) 9 SCC 788
18. Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1
19. Uttam v. Saubhag Singh, AIR 2016 SC 1169
20. Radha Bai v. Ram Narayan, 2020 (1) RCR (Civil) 326
21. Arunachala Gounder v. Ponnusamy, Supreme Court, Civil Appeal No. 6659 of 2011 decided on January 20, 2022.
22. Kalpita Deb v. Kajori Deb, High Court of Gauhati, RFA 11/2017 decided on February 28, 2019
23. Partap Singh v. Union of India, AIR 1985 SC 1695
24. V. Tulasamma. v. Sesha Reddy, (1977) 3 SCC 99
25. Jayalakshmi Ammal v. Kaliaperumal, AIR 2014 Mad 185
26. Jupudy Pardha Sarathy v. Pentapati Rama Krishna, MANU/SC/1292/2015
27. Sonubai Yeshwant Jadhav v Bala Govinda Yadav, AIR 1983 Bom. 156
28. Mamta Dinesh Vakil v. Bansi S. Wadhwa, High Court of Bombay, TS.86/2000-TP.917/2000 decided on November 6, 2012.
29. Bhagat Ram v. Teja Singh, (2002) 1 SCC 210
30. Umrao Devi v. Hulas Mal, MANU/RH/1775/2014
31. Om Prakash v. Radha Charan 2009 (7) SCALE 51.
32. Narashimaha Murthy v. Susheelabai, AIR 1996 SC 1826
33. G. Sekar v. Geetha, (2009) 6 SCC 99.
34. Vellikannu v. R. Singaperumal, AIR 2005 SC 2587
35. Cherotte Suganthan v. Cherotte Bharathi, 2008 (2) LW 102
36. Radhamma v. H.N. Muddukrishna, (2019) 3 SCC 611
37. C Kanna Gounder vAnjana Gounder
38. State of Maharastra v Narayan Rao Sham Rao Deshmukh AIR 1985 SC 476

39. Ramchandra v Arunachalammal (1971) 3 SCC 847
40. Revanasiddappa v. Mallikarjun SC 2023

IV. The Indian Succession Act, 1925

Applicability, historical developments, provisions relating to consanguinity, recognition of relationship by adoption; general principles of succession.

Readings

1. E L Devadasan, *Christain Law in India*, 1974.
2. S S Subramani & Kannan (Rev.), Paruck's *The Indian Succession Act*, 1925 (9th ed., 2002).
3. Sanjiva Rao, *The Indian Succesion Act*, 1925 (7th ed., 2000).
4. Law Commission of India: 110 Report on the Indian Succession Act, 1925.
5. "Family Law and Succession" in Annual Survey of Indian Law" pub: Indian Law Institute.
6. Poonam Pradhan, Scheme of inheritance under the Indian Succession Act, 1925, a comparison with Islamic and Hindu Laws, *Islamic and Comparative Law Quarterly* 1982 p. 101.
7. Sebastian Champappilly, "Christian Law of Succession and Mary Roy's case (1994) 4 SCC (Jour) 9.
8. Thomas John, —Succession Law in India and Obstacles in the Road to Gender Equality: The Experience of Mary Roy v. State of Keralal, 18(2) *Student Bar Review* 38-58 (2006).
9. Flavia Agnes – "Political Reformulation of Christian Personal Law", *Law and Gender Equality* (Oxford University Press)
10. Law Commission of India, "247th Report - Sections 41-48 of the Indian Succession Act, 1925 - Proposed Reforms" (September 2014)
11. M. J. Joseph – Gendered Justice
12. Mary Roy v State of Kerela 1986(2) SCC 209.

V. Law governing intestate succession among the Parsis

Legislative history; special rules applicable to Paris intestates under the Indian Succession Act, 1925.

Readings

1. Phiroze K Irani, Personal Law of Parsis in India, in *Family Law in Asia and Africa* J N D Anderson (ed.,) (1972) p. 274,
2. Mancherji v Mithibai I Bom 349.
3. Erasha v Jerbai 4 Bom 537.
4. Jehangir v Perozbai 11 Bom 1.

Reference

Flavia Agnes – "Legal Significance of the Parsi Community", *Law and Gender Equality* (Oxford University Press)

VI. Devolution of agricultural property in India

A general overview of the devolution of agricultural property in India; State enactments, Constitutional validity of the Laws governing agricultural property. Effect of deletion of Sec. 4(2) of the Hindu Succession Act, 1956 in 2005, via the Hindu Succession (Amendment) Act, 2005.

Readings

1. Bina Agarwal, *A Field of one's own: Women and Land Rights in India* (1994).
2. Bina Agarwal – Gender and Legal Rights in Agricultural Land in India
3. Ambika Mishra v State of UP 1980 (3) SCC 719.
4. Mahdu Kishwar v Union of India 1996 (5) SCC 125.
5. Nirmala v. Govt. of NCT of Delhi, 4 June 2010, Delhi High Court
6. Archana v. Dy. Director of Consolidation, 2015 (4) ADJ 90
7. Babu Ram v. Santokh Singh, AIR 2019 SC 1506
8. Mahinder Singh v. Puran Singh SC 2026

Reference:

Swasti Pachauri, "Defeminisation of Indian Agriculture", Down To Earth (March 7, 2018) available at: <http://www.downtoearth.org.in/news/defeminisation-of-indian-agriculture-59834>

VII. Succession Laws and Gender Justice

Historical perspective, Constitutional Guarantee of gender parity and succession laws, sex discrimination and its socio-economic effects, judicial response to the challenge of discriminatory provisions with respect to ownership of material assets and land rights, legislative efforts to inculcate gender justice in succession laws, their impact and adequacy.

Readings

1. Report of Committee on Status of women in India, 1974.
2. Gita Gopal – Gender and Economic Inequality In India: The Legal Connection
3. Sona Khan – Inheritance Of Indian Women: A Perspective
4. Shipra Deo and Akansha Dubey – Gender Inequality in Inheritance Laws
5. Poonam Pradhan Saxena, “Women’s Right to Dwelling House under the Hindu Succession Act, 1956 : Narasimha Murthy v Sushila Bai, AIR 1996 SC 1826- A Comment, Vol II National Capital Law Journal 1997 p. 121.
6. Prakash Chand Jain: “Women’s Property Rights under Traditional Hindu Law and the Hindu Succession Act, 1956: Some Observations 45 JILI (2003) p. 509.
7. Kanakalatha Mukund, Women's Property Rights in South India, Economic and Political Weekly, Vol. 34, No. 22 (May 29 - Jun. 4, 1999), pp. 1352-1358
8. Lotika Sarkar, Law and the Status of Women in India, 8 Colum. Hum. Rts. L. Rev. 95, 122 (1976)
9. J. N. Saxena Widow's Right of Succession in India, The American Journal of Comparative Law, Vol. 11, No. 4 (Autumn, 1962), pp. 574-585
10. Narasimhamoorthy v Sushila Bai AIR 1996 SC 1826.

11. Nanjamma v State of Karnataka 1999 AIHC 3003 (Kant).
12. Ambika Mishra v State of UP 1980 (3) SCC 719.
13. Madhu Kishwar v Union of India 1996 (5) SCC 125.

VII. Testamentary Succession

Law of Testamentary Succession in India, Applicability, Testamentary capacity, Definition of a Will, Codicil, Executor, Administration, Probate and Letters of Administration, Distinction between a Will, Deed and Donation Mortis Causa, execution of Unprivileged and Privileged Wills, Attestation, Revocation, Alteration and Revival of Wills, Bequest of limited and absolute estates, Mutual Wills, Construction of Will and technical words, Lapse of legacies, General, Specific and Demonstrative legacies, Representative title to the Property of a deceased and Succession Certificates, Bequest for Charitable and Religious purposes.

Readings:

1. Madhukar D Shende v Tarabai Aba Shegade AIR 2002 SC 637.
2. Raja Ram Singh v Arjun Singh AIR 2002 Del 338.
3. Hirda Devi v Deolakhani Devi AIR 2002 Jhar 55.
4. Muninanjappa v R Manual AIR 2001 SC 1754.
5. Balwant Kaur v Chanan Singh AIR 2000 SC 1908.
6. Arun Kumar v Shrinivas AIR 2003 SC 2528.
7. Ramabai Padmakar Paul v Rukinibai Vishnu Vekhande AIR 2003 SC 3109.
8. P M Mani v P S Mohankumar AIR 2002 Mad 402.
9. Ganeshammal v Arunachalam AIR 2002 Mad 417.
10. Krishna Kunjulakshmi v Narzan AIR 2003 Ker 98.
11. Meera Diwan v Shakuntala Diwan AIR 2002 Del 321.
12. Mauleshwari Mani v Jagdish Prasad AIR 2002 SC 727.
13. Somwati Tiwari v People in General AIR 2003 MP 278.
14. Hari Prashad Singh v Prakash Singh AIR 2002 Jhar 97.
15. John Vallamattom v Union of India AIR 2003 SC 2902.
16. Preman v Union of India 1998 (2) KLT 1004.

Question Paper 2007

Attempt any FOUR questions. All questions carry EQUAL marks.

1. (i) Discuss the changes introduced by the Hindu Succession (Amendment) Act, 2005 relating to Mitakshara Hindu Male's property.

A, a Hindu male died leaving behind his mother, widow, two daughters and a son of a predeceased daughter. Allocate the shares among the heirs both in obstructed and unobstructed properties.

- (ii) The Hindu Succession Act, 1956 upholds the Constitutional dictum; 'No discrimination on the basis of sex'. Discuss

2. Discuss the general rules relating to intestate succession under the Indian Succession Act, 1925. How much are they different from the general rules of succession of intestate succession under Hindu Succession Act, 1956. Also discuss the effect of conversion on the applicability of laws of inheritance under both Acts.

3. Distinguish between :

- (i) Will and Codicil;
- (ii) Unprivileged and Privileged Wills;
- (iii) General and Specific Legacies.

4. What are the general rules of intestate succession applicable to Parsis as laid down in the Indian Succession Act, 1925?

5. Discuss under what circumstances and to what extent can a Hindu make testamentary disposition of his property? Are Hindus governed by the I.S. Act, 1925, if so, discuss the procedure to execute a will after the death of a testator.

6. Discuss the general rules of succession as laid down in H.S. Act 1956. What are the disqualifications recognized by the H.S. Act, 1956 which prevent an heir from inheriting property.

There was a family fight among three brothers ABC and sister D. Father sided one of the brother. In that fight, father was accidentally killed by a blow from B. Is B entitled to succeed property of a father along with A, C and D. Discuss in the light of the provisions of H.S. Act, 1956.

Question Paper 2008

Attempt any FOUR questions. All questions carry EQUAL marks.

1. What do you understand by the obstructed and unobstructed property under Hindu Law? Has this two-fold classification of property retained any relevance after the Hindu succession (Amendment) Act 2005?

A, a Hindu male died leaving behind both obstructed and unobstructed properties. A is survived by his mother, widow, a son and a daughter. Allocate respective shares among the legal heirs.

2. (i) Discuss the rules relating to succession of the property of a Hindu female. Under what circumstances the sources of property of a Hindu female becomes important.
 (ii) Hindu Succession Act, 1956 disqualifies two seats of murderers. Discuss each with the help of illustrations.
3. Write short notes on the following:
 - (i) Probate and Centers of Administration
 - (ii) Privileged and Unprivileged wills
4. Discuss the rules of inheritance applicable to Parsis intestate under the Indian Succession Act, 1925.
5. A, a Christian male married with a Hindu female in 2006. A died in 2008 leaving behind some movable and immovable property. A is survived by his mother, father, sister and a son. Allocate the shares among the legal heirs.
6. (i) Is conversion of an heir a bar to succession under HS Act, 1956?
 Discuss with the help of illustrations.
 (ii) How far the concept of son's privity obligation to pay father's debt has been changed after the H.S. (Amendment) Act 2005? Comment.