

Rights Entwined with Duties: Widows' Property Rights and their Obligations in Early Indian Debt Laws

Dr Punit¹

¹Assistant Professor
Department of History
Goswami Ganesh Dutta SD College
Sector 32-C, Chandigarh (UT),India
Email:punit.res@gmail.com

Abstract: *This research paper emphasises the necessity of examining sub-groups of women, particularly widows, within the context of historical economic transformations. Around c. sixth century BCE, significant shifts in economic structures prompted alterations in property rights and debt settlement practices. As societal norms evolved, widows gained rights to their deceased husbands' property but simultaneously inheriting the duty to settle their debts. This duality underscores a critical nexus between gender, property rights, and financial responsibilities. Despite its importance, the subject has received limited scholarly attention, often overshadowed by broader narratives surrounding widowhood. Through an analysis of legal texts such as the dharmasūtras, dharmasāstras, and other early Indian scriptures, this study reveals the complexity of widows' financial obligations. It examines the conditions under which widows inherited property and the factors influencing their liability for debts, including their marital status, possession of property (such as strī-dhana), and remarriage decisions. The findings challenge conventional portrayals of widows as passive figures and illuminate their significant yet often overlooked roles in economic transactions. This research contributes to a nuanced understanding of gender dynamics in historical economic contexts and calls for further exploration into the interplay of law, economy, and gender in early Indian societies.*

Keywords: Gender,Economy, Financial obligations, Property rights, Women, Widows etc.

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Introduction

With the arrival of peoples' history, trends in research shifted towards exploring the hitherto unexplored groups. Among such groups, women are one. However, with time, it was argued that women do not form one homogenous group¹ as they consist of unmarried girls, married

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women, queens, courtesans, elders, and widows. Because of this diversity, Kumkum Roy argues that it is “therefore necessary to come at terms with heterogeneity, to ensure that we did not suppress differences in trying to retrieve our version of pasts.”² With the arrival of such arguments, the focus was shifted on exploring the state of different sub-groups of Indian women. Despite this, widows did not gain the required scholarly attention. It is so because research in this domain remained restricted to the issues such as remarriage, sati, levirate, their condition in society etc. while ignoring others like their social-familial functions, and financial status. Even while the collective efforts of the scholars are commendable, yet as far the true position of widows in early societies is concerned, we are yet to obtain a satisfactory picture. This paper is an attempt to fill this gap by analysing one of the several aspects of widows' financial condition i.e., their responsibilities in settling the debts incurred either by their husbands or by themselves. Its study is necessary because the introduction of coinage and subsequent rise of the money-based economy around c. sixth century BCE had profoundly influenced various aspects of human life, particularly the property and settlement of debts. As far as property is concerned, not only now wealth could be accumulated in the form of coins but these also introduced better clarity in terms of property assessment. Consequently, there emerged a need for laws that defined ownership and its transfer, inheritances, division, and dispute resolution. As lending and borrowing grew in economy, repayment of debts emerged as a significant aspect. A survey of early Indian texts reveals that the responsibility of settling the debt was closely related to property inheritance and its ownership. In other words, if the rights were bestowed upon individuals to inherit property, then it also came with the duty to pay the incurred debt, if any. In context of women, surmising the gradual evolution of their property rights, Günter-Dietz Sontheimer says, “In the *Dharmasūtras* the denial that a woman could own property was early modified by the admission of the institution of *strī-dhana*, which was in fact originally confined to personal assets of the wife kept separately from the property of the agnates, and maintenance. The right to inherit and to a share was, however of slow growth, and once it was admitted the question was not whether woman could own property, but whether she had *svātantrya*, an unrestricted power of disposition.”³ However, beyond the questions of women's power over the disposition of property, the early Indian legal-texts raised another prominent question: what are the responsibilities of that widow who inherited property, towards the settlement of debts? While insights into this question are provided in the legal texts, yet these have rarely

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been studied. As, widows' responsibilities were already fixed by the lawgivers, it is imperative to study these directions in order to gain insights into their true position in early societies. It is so because as far as the position of widows is concerned, it suffers from stereotypes that imagine them as passive women waiting for death in dark corners of their households. For example, Initiating the discussion on widows in the *Mahābhārata*, Johann Jakob Meyer states, "DREARY, on the other hand, is the lot of the widow in the Epic. First and foremost the husband is the food-giver to the wife (the bhartar of the bhāryā)." ⁴ Then, presenting evidence about the laments of widows, he again stresses his conclusion about their sad existence. Elsewhere, it has been argued that a widow "was faced with the choice of burning herself on the funeral pyre of her husband or becoming an impoverished beggar on the margins of family life." ⁵ It is true that under the patriarchal setup of the society, women suffered several disabilities. ⁶ However, it is also true that they played some role in certain aspect of life, at least this is what our survey of legal-text indicates in context of the debt-settlement reveals. With this background, this paper analyses the *dharmaśāstras* and *dharmaśāstras* that were composed in the early periods of Indian history to obtain glimpses into the position of widows.

When the repayment of debts emerged as an important aspect of the economy, the law-givers deliberated over easing out such transactions and consequently, certain basic principles for debt settlement appeared in different texts. One of such principles was, 'Those who inherit the property of someone have to pay his debts'. ⁷ The same has also been underlined by several later texts such as *Nārada Smṛiti* ⁸, *Viṣṇu Dharmaśāstra* ⁹. Thus, the settlement was dependent on the fact whether a widow inherited the property of her husband or not. Beyond this principle, there were other factors that also played an important role. First consideration was a man's position *vis a vis* his coparceners. Here, if a man was either a part of undivided family or reunited with his coparceners, then his widow had different obligations than the case when her husband stayed separated. Second consideration was related to a woman's role in contracting the debt. Next factor was in the form of a widow being with sons or being sonless. Last consideration was a woman's decision related to the remarriage. While the recommendations of various texts considered these factors, we must clarify here that in different text, different combinations of these factors were in operation. The subsequent discussion looks into the interplay of these towards settling the debts.

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In the *Arthaśāstra*, significant attention is paid on various debts and norms pertaining to their settlement. It also offers hints towards some role of women. It states that a woman could not be detained by the king's officers 'for a debt incurred by her husband to which she has not formally agreed.'¹⁰ What if she formally agreed? This text does not offer the answer. Even while this provision is too short to explain things satisfactorily, yet it indicates that by the time the text was being composed, women shared some responsibilities in debt settlement. A few of the subsequent texts, which are believed to be composed in the early centuries of the Common Era, offer more definitive insights into this domain.

As per the *Nārada Smṛti*, the responsibility of a widow to settle the debt was dependent on her role in securing it. To begin with, it was to be repaid by her if she and her husband had jointly contracted it.¹¹ Another situation was one when a woman was enjoined by her husband (on his death-bed) to pay it.¹² Beyond these two conditions, she had no obligations. However, as per the principle the debt was to be settled by those who inherited property¹³; hence it becomes essential that we explore the status of a widow in property inheritance. As per the first of the two cases mentioned in the text, if an individual died leaving behind his sons and widow, then, "The mother shall receive the same share as a son (when the sons divide the property) after her husband's death."¹⁴ The second case explains the manner in which the property of a sonless male, who was either unseparated from his brother or reunited with them at some stage, is explained. It says, "If among several brothers one should die or become a religious ascetic, the others shall divide his property, excepting the Stridhana."¹⁵ If we go by the *Nārada Smṛti* 1.17, then only in the first of the two cases, that is when she contracted the debt along with her husband, a widow had liabilities to settle it. So far, our discussion explained the obligations of only those widows who refrained from remarriage. If a widow performed remarriage, then the responsibilities were to be tackled in a different manner.

The *Nārada Smṛti* discusses three distinct cases of remarriage and the consequent manner of debt settlement. First is the case when a woman forsakes her son, remarries and takes her *strī-dhana* along with her.¹⁶ In the second one, a woman remarries and takes her son as well as her property to the house of her new husband.¹⁷ Third is the case of a woman who neither had son nor property.¹⁸ In the first case, as the son inherits the property, he was to pay the debts.¹⁹ In rest of the two cases, the new husband was to settle the debts.²⁰ However, here it is necessary to clarify the third case. The liability was fixed on the new husband as the

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widow whom he married was also considered as the property of the first husband.²¹ Hence, even if a widow had no property, even then the debt was to be settled by him.

In the *Viṣṇu Dharmaśāstra*, the provisions regarding the settlement of the debt are not as elaborate as they are in the *Nārada Smṛti*. It begins by asserting that for a debt incurred by a male, a woman (wife in case of a husband and mother, in case of a son) could not be compelled to repay.²² Thus, if a man was survived by his sons who inherited his property, then settling it was also their duty. However, the situation was different if a male survived by no sons. In this case, the *Viṣṇu Dharmaśāstra* declares that a widow could inherit the entire wealth, movable as well as immovable assets, of her husband.²³ Because of this, now she was dutybound to tackle his liabilities as well.²⁴ But what if a person who had left-behind only his widow and neither a male issue nor an asset. As the debt was to be settled, in such a case, the *Viṣṇu Dharmaśāstra* fixes the responsibility on the person “who has the care of the widow left by one who had no assets.”²⁵ The phrase ‘care of the widow’ possibly denotes a man who married the widow or with whom she was living. The provisions of the *Yājñavalkya Dharmaśāstra* largely fix no responsibility towards repayment.²⁶ However, there were certain exceptions under which it was her duty. These exceptions were: when the debt was incurred for the benefit of the family;²⁷ when she consented to the debt; a debt which she incurred together with her husband; and a debt which she contracted herself.²⁸ Apart from these cases, a widow was not obliged to settle any debt.²⁹

Another early Indian prominent text, the *Kātyāyana Smṛti* also provides three cases. First, if the debt was incurred by the wife for the family-welfare without the consent of her husband because of his absence. In this case, she was not to repay.³⁰ In the second case, a debt was incurred by a woman along with her husband (or son or all by herself). And the third was the case when she was directed by her husband to pay the debt when he was about to die.³¹ As per the direction of the text, a widow as described in the second case had liabilities to pay off the debt only if she consented while securing it³² while in the third case, she was “made to pay even though she does not accept (or consent to the direction) if she had wealth in possession.”³³ Among these cases, the third one needs further investigation as we need to understand the meaning of the phrase ‘wealth in possession’. Does it refer to the share of a widow out of her husband’s property? Or does it refer to the *strī-dhana*? To find the answers of these questions, we will analyse the provisions regarding a widow’s position in inheriting husband’s property and the *strī-dhana*. As far as property inheritance of a person

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who was survived by a wife and sons, unlike other texts, the *Kātyāyana Smṛti* does not talk about the share of his widow. Rather, it settles the share of father and mother in the wealth acquired by a son. In its words, “The father gets two shares or half from the wealth acquired by the sons; when the father is dead the mother also gets a share equal to that of a son.”³⁴ Thus, when the husband was dead, a widow was eligible to receive half of the acquired wealth of her son, but there is no mention of a widow when her husband's property was to be divided among sons. On the other hand, if a couple had no male offspring, the text provides, “A sonless (widow) preserving the bed of her husband (unsullied) and residing with her elders and being self-controlled (or forbearing) should enjoy (her husband's property) till her death; after her the (other) heirs (of the husband) would get it (succeed to it).”³⁵ Thus, these provision does not aptly explain the phrase ‘wealth in possession’ in context of the debt settlement. Now, we need to turn our attention to another aspect related to the wealth, i.e. the *strī-dhana*. If we study the *Kātyāyana Smṛti* 571 and 574-75, we find that when the provisions use the phrase ‘considerable wealth,’ they refer to the *strī-dhana*. Reading all these provisions, we can safely deduce that if a husband on death-bed asked his wife to settle the debts and she happened to have considerable *strī-dhana*, she was to settle the dues.

Conclusion

The findings of the research paper highlight a significant and often overlooked aspect of women's roles in historical economic contexts. With this study, we can certainly say that there was more to widowhood than what is conventionally recognised. These findings go beyond the image of widows doing nothing but simply waiting for their death. It is not to say that their life was not full of hardships. However, this enquiry highlights that despite hardships, they were ascribed some important obligations, and settling debts was one among them. As per the common convention, those who inherited the property were also liable to settle any debt incurred by those to whom they succeeded. As with time, widows were also recognised as successors, though with varying degrees, they also inherited the obligations to settle the debts. Here, we must highlight that the final repayment was determined by an interplay of several factors; a few of which included the objective for the debt and her role in securing it, presence or absence of instructions given to her by the husband for settling, whether the couple was with sons or bereft of them, a widow's decision related to remarriage, and amount as well as the nature of wealth in her possession. Thus, if someone died leaving

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behind an unsettled debt and a widow in the possession of wealth, then she had to tackle the matter whether she liked it or not. One limitation of this enquiry is that we are not able to ascertain the extent to which these legal-provisions converted to real transactions. However, our findings encourage a more nuanced understanding of women's agency in historical contexts and suggest that future research should continue to explore the intersections of gender, economy, and law to fully appreciate the complexities of women's experiences in early societies.

Notes & References

1 Kumkum Roy, *The Power of Gender and the Gender of Power: Explorations in the Early Indian History*, New Delhi: Oxford University Press, 2010, p.2.

2 Ibid.

3 Günter-Dietz Sontheimer, *The Joint Hindu Family: Its Evolution as a Legal Institution*, New Delhi: Munshiram Manoharlal, 1977, p. 45.

4 Johann Jakob Meyer, *Sexual Life in Ancient India: A Study in The Comparative History of Indian Culture*, New York: Barnes & Noble, 1953, p.406.

5 Rosemary Radford Ruether, 'Women in World Religions: Discrimination, Liberation, and Backlash', in Arvind Sharma (ed.), *Part of the Problem, Part of the Solution: Religion Today and Tomorrow*, Westport: Praeger, 2008, p.34.

6 Sarah B. Pomeroy, *Goddesses, Whores, Wives, and Slaves: Women in Classical Antiquity*, rev. ed., New York: Schocken Books, 1995, p. 28.

7 Gautama Dharmasutra, 12.40. Patrick Olivelle, trans., *Dharmasūtras: The Law Codes of Āpastamba, Gautama, Baudhāyana and Vasiṣṭha*, New York: Oxford University Press, 1999.

8 Nārada Smṛti, 1.17. Julius Jolly, trans., *The Minor Law-Books: Narada and Brihaspati*, The Sacred Books of the East 33, pt. 1, Oxford: Clarendon, 1889.

9 Viṣṇu Dharmasātra, 6.31. Julius Jolly, trans., *The Institutes of Vishnu*, Delhi: Motilal Banarsidass, 1965.

10 Arthashastra, 3.11.24. Patrick Olivelle, trans., *King, Governance, and Law in Ancient India: Kauṭilya's Arthśāstra*, New Delhi: Oxford University Press, 2013.

11 Nārada Smṛti, 1.16.

12 Ibid, 1.17.

13 Ibid.

14 Ibid, 13.12.

15 Ibid, 13.25. At various places, the text has recognised a widow's right to succeed her sonless husband. However, when the brothers were unseparated (or reunited after initial separation), the property rights of widows were entirely different. Julius Jolly gives reference to a commentator Madana who opines that these provisions must be held applicable only to the widows of an undivided or reunited coparcener.

16 Ibid, 1.20.

17 Ibid, 1.21.

18 Ibid, 1.22.

19 See notes for Nārada Smṛti, 1.20.

20 Ibid, 1.21-22.

21 Ibid, 1.22.

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22 *Viṣṇu Dharmaśāstra*, 6.31.

23 Ibid, 17.4-5.

24 Ibid, 6.29.

25 Ibid.

26 *Yājñavalkya Dharmaśāstra*, 2.49 and 2.51. Patrick Olivelle, ed. and trans., *Yājñavalkya: A Treatise on Dharma*, Murty Classical Library of India, vol. 20, Cambridge: Harvard University Press, 2019.

27 Ibid, 2.49.

28 Ibid, 2.51.

29 Ibid.

30 *Kātyāyana Smṛti*, 545. P. V. Kane, trans., *Kātyāyanasmṛti on Vyavahāra*, Poona: Aryasanskriti Press, 1933.

31 Ibid, 545-47.

32 Ibid, 546.

33 Ibid, 547.

34 Ibid, 851.

35 Ibid, 921.