

**EDUCATIONAL
LEADERSHIP FOR GLOBAL
SOCIAL JUSTICE:
ISSUES & CHALLENGES**



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WOMEN AND PERSONAL LAW IN INDIA

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Any civilized state should envision an egalitarian society, ensuring equal participation of men and women in all aspects of life. Law contemplates men and women as equal. Enough constitutional provisions are there to guarantee equality for men and women. Women play an integral part in the production of food and goods by working in field, factories and home based business across the globe.

The inheritance rights of women in India is a matter retract to socio economic issues, based on culture and religion rather than on the spirit of law and tis implementations. Legal barriers to women's ability to inherit property often put women at a disadvantage and may be at the root of broader patterns of inequality.

Property Rights of Women

The response of the Indian judiciary has been ambivalent on one hand the supreme court of India has in a number of cases held that personal laws of parties are not susceptible to fundamental rights under the constitution and therefore they cannot be challenged on the ground that they are in violation under article 14, 15 and 21 of the constitution of India.

The basic object of the commitment to section 8 of the Hindu succession Act 1956, was to achieve equal inheritance for all in India, women's access and rights of ownership over family property in the absence of a will, is governed by succession laws, based on religion. Under Hindu Law, prior to 1937 a women did not have the right to own any property at all except what she received from her parents at the time of her wedding. The Hindu succession Act 1956 was a breakthrough in terms of giving Hindu women a full and equal share of their husband's property as the children, yet the male bias persisted. An amendment to this Act in 2005 took the progressive step of making daughters copartner, at par with sons, such that they receive an equal birth right to a share in the natal family's ancestral property.

Global Overview

Women play an integral part in the production of food and goods by working in field, factories and home based business across the globe. Other is a critical relationship in the role that women play and the sustenance provided for families, communities and nations.

The exclusion of women from access to ranks of increasing numbers of women headed households in slum areas. Through the process of globalization and industrialization, there has been a noted increase in the numbers of women entering in the waged labour sectors. Rural women are solely responsible for half of the world's food production and in developing countries, as much as for growth of 80% of food crops. This persistence of traditional division of labour in which women hold primary responsibility for producing food, as well as other labour intensive tasks such as gathering water and fuel, contribute to the large percentage of women informally working in rural areas.

Legal barriers to women's ability to inherit property often put women at a disadvantage and may at the root of broader patterns of inequality. Ironically, what unifies them is the fact that culting across all those divisions, the property rights of the Indian women are immune from constitutional protection, the various property rights could be as they idead are in several ways, discriminatory and arbitrary notwithstanding the constitutional guarantee of equality and fairness.

Women in employment

The discrimination of women in employment, on the basis of motherhood and the denial of maternity benefits is not a recent incident in India. In the army medical service, women had to quit on marriage and neither the doctors nor the nurses were entitled to maternity leave pay.

The maternity benefit, being a basic rights to every working women has been dragged to the court proceeding by employers to deny it by the loopholes in the maternity benefit Act 1961.

The judicial approach to discrimination on the basis of sex in India is tremendously influenced by protectionist approach to gender difference, which has operated to preclude any entitlement to equality, in judgment of maternity benefit legislations, there is evidence of protectionist approach articulated by law makers and interpreters.

The case laws give a picture of the vulnerable situation of women workers in our country. On the one side employers are not positive towards the women worker's rights and try their best, not to give the legal entitlements. On the other side the court, one of the important institutional to ensure the protection to the citizens by interpretation of law, mend the loopholes in the legal provisions and sometimes proceeds in favour of the employer, without the concern of women's legal rights, as in number of denied cases. If the cases are decided in this way, it point out that law has in fact often been used to reinforce the social subjugation of women.

Hindu Women under Personal Law

Hindu marriage Act 1955, the Hindu succession Act 1956, the Hindu adoption and Maintenance Act 1956 has brought about some very remarkable changes towards improving the status of Hindu women. The evil practice of child marriage is still prevalent with sanctions from the personal law child marriage is merely voidable and not void. As provided under section 8 of the Hindu marriage Act, such marriage is not compulsorily registered under Hindu law, the wife can claim maintenance from her husband. The amount of maintenance the court also takes into account if the wife is justified in living apart from husband reinforcing the conservative idea of a Hindu wife. However the act has improved the position of women with regard to adoption by providing capacity to a Hindu female to adopt a child on her own whether married or unmarried or widow.

Muslim Women Under Personal Law

The position of muslim women under muslim law again is not quite impressive. The muslim personal laws maintain the superiority of men. There are two major provisions of muslim personal law the dissolution of muslim marriage Act 1939 and the muslim women protection of right on divorce act 1986 in India. Muslim law are widely criticized for its discrimination against women with respect to inheritance as almost in all instances, a man's share is double than that of a women in the same degree of relationship to the deceased.

Marital Property Rights

Ironically none of the above community makes provision for providing equal share to wife in her husband's property. Women are frequently forced to give up their careers to look after their homes. Even when women take up jobs they are confined to relatively low-paid ones. The male control over property or wealth in society tends to concentrate power in the hands of men as decision makers and making women socially vulnerable. The low ownership of property by women in the world is because the society and law does not recognize marriage as an economic partnership and domestic work as productive work.

In India, section 27 of the Hindu marriage Act 1955 empowers the court to make such provisions as it deems just and proper in respect of my property, which is presented jointly to the spouse at or about the time of marriage.

Conclusion

A comparative analysis at all the major personal laws in India makes clear the discriminatory position of women. We can clearly conclude that century's old practices still persist, as is evident from the above legal

provisions. Constitutional mandates for equality and justice have been considerably diluted by a parallel regime of personal laws which continue discrimination against women in the field of marriage, divorce, custody, inheritance and succession. Since article 25 guarantees the fundamental right to profess practice and propagate one's religion, it is argued that personal laws must prevail even if detrimental to women. A number of amendments have taken place in the personal laws so as to improve the condition of girls but still lot can be done to remove the sex inequality and to empower women. There is support absorption in the collective thinking of society; equal status for women will remain elusive. The government, the legislature, the judiciary, the media and civil society has to perform their roles each in their own areas of competence and in a concerted manner for bringing about the change in the position of women.

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