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# Women Empowerment and it's Interplay with the Personal Laws in India

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## ABSTRACT

*Women's empowerment through legislation in personal laws is an essential component of achieving gender equality in societies around the world. Personal laws, which govern the rights and responsibilities of family structures, frequently reflect deeply ingrained cultural and religious norms that can be discriminatory to women. These laws are based on religious and cultural traditions, frequently reflect patriarchal norms that can empower or marginalize women.*

*This paper investigates the impact of personal laws, particularly in pluralistic societies such as India, on women's rights, freedoms, and social standing. The study identifies gaps in gender equality and legal protection by examining various religious legal frameworks such as Hindu, Islamic, Christian, and customary tribal laws. It also looks at how legal reforms in personal laws can help to empower women and promote gender equality.*

*The paper highlights the challenges women face in achieving equality in the familial and marital spheres by examining the development of personal laws in various countries, including the impact of landmark legislative changes. It also investigates the significance of progressive legislation in providing women with access to rights related to marriage, inheritance, divorce, and custody, while addressing the social and economic constraints that impede their empowerment. Finally, the paper contends that legislative intervention in personal laws is critical to ensuring women's autonomy, dignity, and full participation considering all aspects in both public and private life. The paper concludes with policy recommendations and reforms that would strengthen*

*women's rights within personal law systems, promoting greater social and legal equality.*

## **KEYWORDS**

*Women Empowerment, Personal Laws, Patriarchy, Gender Equality, Legislation, Religion.*

## **INTRODUCTION**

In terms of race, religion, customs, and culture, India is a multicultural nation. Every religion has its own set of laws (Jain, 2005)<sup>1</sup>. There are subgroups that have local customs and conventions and their own property rights, even within religious communities. Other terms for a woman include despaired, desolated, abandoned, discriminated against, poor, and deprived. She is treated with respect, loved, as well as idolized, she is given the highest social standing; on the other hand, she is brutalized, degraded, humiliated. The cause of all these difficulties is financial dependence and economic inequality. Many times, men and women are seen as two different social elements, and neither can reach their full creative potential without assistance from others. They have consistently suffered from obvious injustice. Women's status has not improved despite the turn of the millennium because of historical biases and prejudices against a group of people who have been exempted from general society for no fault of their own. The root cause of discrimination is not a lack of appropriate laws, but rather societal attitudinal biases. Periodically, significant and meaningful legal changes have been made, leading to radical changes. One example is the recent enactment of laws that define women's equality and dignity in accordance with international standards. Women still only own 1% property i.e. immovable in their own names, despite the fact that inequality in this and many other areas of life continues (Agarwal, 2003)<sup>2</sup>.

Gender inequality and women's dignity are two of the most important global issues at the start of the new millennium. It is both a fault and a disgrace that gender inequality persists in the contemporary welfare state. It is a disease that poses a threat to human survival, a social ill, and a source of shame for the entire human race.

Like women in other nations, Indian women's property rights have developed as a result of a protracted conflict among orthodox and liberals powers. Additionally, property right's of women's in India

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<sup>1</sup> Jain (2005), *Minority & gender rights*, Berkeley J. Int'l L., 23: 201.

<sup>2</sup> Agarwal (2003), *Gender & land rights*, J. Agrarian Change, 3(1-2): 184-224.

are unfair and unequal, similar to those of women worldwide: despite advancements over the past century, Indian women still have very few property rights compared to men, both in terms of quantity and quality, compared to the previous century.

In India, women's property rights are unique in that they are sharply divided among themselves, in addition to many other personal rights. India is home to many different religions, but it has not yet adopted a common civil code. As a result, each religious group continues to be governed by its own set of laws, including those pertaining to property rights.<sup>3</sup>

As a result, a single property rights law that was passed in 1956 governs Sikhs, Hindus, Jains, and Buddhists, while Christianity has its own code and neither Sunnis nor Shias have established their own property rights. All governments and religions are required to follow tribal norms and standards regarding the property rights of tribal women. The Indian Constitution gives the federal and state governments the authority to enact succession laws, which further complicates matters. States may therefore, and many have already done so, implement their own variants laws of property within each separate personal law.

The results show that there is no single body in India that is in charge of women's property rights. Tribal or non-tribal status, marital status, birthplace in the nation, faith or religious school, and other factors all affect Indian women's property rights.

All political, cultural, and social identities are rooted in gender inequality, as according sociological and anthropological research<sup>6</sup>. Religious literature elevates women's roles and status in Indian society to a "moral" and "ideological" level. The foundation of Hinduism's structure of caste is the idea of pure and tainted ideas.

### **CHALLENGES: PERSONAL LAWS AND GENDER EQUALITY**

Constitutional frameworks in contemporary democracies uphold the basis of gender equality, guaranteeing that every person, regardless of gender, has the same freedoms and rights. But in nations like India, where the population is religiously diverse, the existence of personal laws rooted in religious traditions and customs poses a serious obstacle to attaining gender justice. Personal laws often contain provisions that discriminate against women and regulate significant facets of life, including adoption custody, marriage, divorce, and inheritance. The fight for equality of gender and the defence of religious freedom are seriously called

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<sup>3</sup> Mazumdar & Gupta (2011), *Land rights under Hindu law*, CSJ, Ahmedabad.

into question by this. The tension between constitutional rights and religious freedom is the root cause of the challenges at the nexus of gender equality and personal laws. Personal laws, which regulate inheritance, custody, divorce, and marriage in different religious communities, often mirror patriarchal customs that are detrimental to women. Polygamy, unequal inheritance rights, and discriminatory divorce procedures, for example, are still prevalent in various religions' personal law. This legal pluralism results in unequal protection of religious rights, which leads to systemic gender injustice.

Reform efforts, while necessary, frequently face strong opposition from religious and political groups who see them as threats to cultural identity. Furthermore, the judiciary, though progressive in some landmark judgments for example, Muslim personal law in India traditionally permitted polygamy for men but not for women and permitted a unilateral divorce by means of In the 2017 Shayara Bano case, the Supreme Court ruled that triple talaq was unconstitutional, Hindu women, The 2005 Amendment to Hindu Succession Act was one of the legislative reforms that established equal rights to ancestral property. Historically, Christian women faced more stringent divorce laws than their male counterparts. The discussion surrounding the adoption of a Uniform Civil Code (UCC), that seeks to standardize laws which are personal and to guarantee gender equality, is still fueled by worries about religious diversity. Furthermore, many women, particularly those from marginalized communities, are unable to obtain justice or are ignorant of their legal rights, which makes attempts at equality more difficult. These challenges highlight the importance of balanced and inclusive reforms that promote both gender justice and cultural diversity.

### **KEY LEGISLATIVE REFORMS PROMOTING WOMEN'S EMPOWERMENT**

An important turning point in Indian history, the 2005 (Amendment) to Hindu Succession Act greatly increased women's empowerment, especially with regard to property rights. Hindu women did not have equal access to ancestral property prior to the amendment, especially joint family property that was controlled by Hindu Law school of Mitakshara.

- **Economic Empowerment:** By safeguarding the portion of right in family property, the amendment provides financial security and a stronger bargaining position within the family structure.

- **Social Justice and Equality:** It challenges the deep-rooted patriarchal mindset and recognizes women as equal stakeholders in family assets.
- **Legal Empowerment:** The law provides a clear legal framework that women can rely on to assert their rights in courts, thereby promoting confidence and autonomy.
- **Symbolic Significance:** Beyond the material benefits, the law symbolizes a shift in societal values towards gender justice and equality.

Despite its progressive intent, the amendment faces several practical hurdles:

- **Dearth of Knowledge:** A large number of women, particularly those living in rural areas, are still ignorant of the rights granted by the amended law.
- **Social Pressure:** Even when women are aware of their rights, social norms often discourage them from claiming their share in family property.
- **Legal Complexities:** Property disputes can be lengthy and expensive, deterring women from pursuing their claims.
- **Family Resistance:** There is often resistance from male family members, leading to emotional and legal conflict

### **MUSLIM WOMEN (PROTECTION OF RIGHTS ON MARRIAGE) ACT, 2019**

In order to combat and outlaw the practice of "triple talaq," which permitted Muslim men to immediately divorce their wives by saying "talaq" (divorce) three times, either orally or in writing, without the wife's knowledge or consent, the Triple Talaq Act, further recognized as the Triple Talaq Act, was passed in India.

By saying the word "talaq" three times, Muslim men could immediately divorce their wives, a discriminatory practice that was addressed by the 2019 (Protection of Rights on Marriage) of Muslim Women. In order to safeguard the rights of Muslim women, this law declares triple talaq to be unlawful and null and void. The husband faces incarceration upto three years and a fine for the offense, which is made illegal. According to the Act, women who are divorced under triple talaq are guaranteed financial support for their children as well as during the iddat (waiting period) she has a right to claim maintenance. It also gives women the authority to approach a magistrate for judicial relief, such as

child custody. The legislation is a significant step toward gender justice because it gives women legal recourse and protection while also encouraging reconciliation efforts. However, it has been chastised for infringing on personal religious rights, as well as concerns about the potential abuse of arrest provisions. Lastly, the Act aims to give Muslim women equal rights and more legal protection during divorce and marriage. By outlawing triple talaq, offering legal recourse, and guaranteeing maintenance and support for women impacted by the practice, the 2019 act of (Protection of Rights on Marriage) of Women which are Muslim essentially safeguards the rights of Muslim women. Consequently, it upholds constitutional values and strengthens women's empowerment within the Islamic community by advancing gender justice, dignity and equality while also offering impacted women legal recourse and support.

### **PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005**

It offers protection from various types of domestic abuse through the law, which is critical to women's empowerment. Domestic violence was frequently considered a private matter before this law was enacted, leaving women vulnerable and without recourse. The Act creates a thorough legal framework for classifying economic, verbal, sexual, emotional, and physical abuse as forms of abuse. It empowers women by giving them the right to seek protection, financial support, and living in a shared household, regardless of ownership. Furthermore, the Act provides access to legal aid, protection orders, and counseling services, making justice more accessible and equipping women with the tools they need to leave abusive situations. The Act promotes a shift in societal attitudes by legally recognizing domestic violence as a violation of human rights, encouraging women to speak out and seek help without fear of judgment or repercussions. In essence, the law not only provides women with the means to protect themselves, but also promotes a culture of equality, dignity, and safety, which is crucial for their empowerment and social standing.

One innovative step in the fight against domestic abuse was the 2005 Act of Women's protection from Domestic Violence (PWDVA).

### **UNIFORM CIVIL CODE: EMPOWERMENT THROUGH UNIFORMITY**

It has been suggested that India adopt a Uniform Civil Code (UCC) throughout all enabling women throughout all societies and advance gender justice. A compilation of regulations pertaining to marriage, divorce, inheritance, and adoption is what the UCC plans to supplant religiously based personal laws with. By

outlawing discriminatory practices like unilateral divorce polygamy, rights of inheritance that are unequal, and unilateral divorce, these reforms could have a major positive impact on women.

A proposed reform known as the UCC aims to give the citizen's of India, despite of their religious beliefs, a single uniform set of personal laws. Promoting gender equality and empowering women through the removal of discriminatory practices from various religious personal laws is one of the main objectives of the UCC. In many communities, women are treated unfairly when it comes to inheritance, custody, divorce, and marriage. Polygamy, triple talaq, and unequal inheritance rights have historically disadvantaged women.

The UCC suggests standardized legislation that guarantees women's equality in all spheres of their private lives. It would guarantee women's equality in inheriting property, obtaining custody of their children without discrimination, and seeking divorce or maintenance on equitable terms. These changes would not only provide legal protection, but would also advance social justice by preserving equality as a constitutional value. UCC has the potential to eliminate gender inequality and empower women to take charge of their lives and decisions.

However, its implementation requires sensitivity and inclusive dialogue to respect cultural diversity while protecting women's rights. A balanced and well-drafted UCC could be a significant step toward true gender parity in India.

## **JUDICIAL INTERVENTION AND INTERPRETATIONS**

The Indian judicial system is a prominent player in elucidating personal laws to benefit and strengthen women's rights. The personal laws in India are largely based on religion followed by customs (Hindu, Muslim, Christian, etc.), which can be patriarchal at times, courts have frequently intervened to balance these traditions with constitutional values, particularly impartiality, integrity, and non-marginalization.

### ***Shah Bano Case (1985)***

The Shah Bano case (Mohd. Ahmed Khan v. Shah Bano Begum, 1985) is a benchmark that Supreme Court of India decision that influenced the discourse on the autonomy and liberation of women particularly regarding to personal laws of Muslim and secularism in democratic and secular country like India. The Court's verdict in Shah Bano's favor, the court has stated that Section 125 CrPC applies to all citizens, irrespective of the religion



or community they belong, and thus she will have the right to maintenance even after the iddat period. The Court emphasized the importance of a uniformity in religion specific laws i.e, Uniform Civil Code (UCC) in promoting incorporation of national laws and equality for marginalized section of society. The case of Shah Bano has marked a epitome in the nation's quest for gender equality. While the legal upshot was partially reversed, the public realization it raised about women's rights, particularly in minority communities, was significant and long-lasting.

### ***Daniel Latifi v. U.O.I (2001)***

The case of Daniel Latifi in the year 2001 acted as guiding light provided by the apex court that upheld the constitutionality of the 1986 act that was enacted to protect Muslim women rights on divorce, which was enacted following the contentious Shah Bano case. Daniel Latifi, a women's rights activist and an advocate herself, filed a challenge to the Act, claiming that it infringes Muslim women's rights granted by the constitution by limiting their right to maintenance. The Apex Court, on the other hand, interpreted the Act progressively, ruling that a woman who is practicing Muslim separated from her husband is entitled to justifiable and equitable assistance and subsistence during the iddat period, but this payment must also cover her future needs after the iddat period expires. This interpretation struck a balance between religious sensitivities also the grund norm of India ensures of equality and dignity, thereby protecting Muslim women's maintenance rights without directly contradicting personal law. The judgement was a stepping stone for Muslim women's empowerment because it reaffirmed their right to financial security while also upholding their constitutional rights pertaining to religious laws.

### ***Shayra Bano v. Union of India (2017)***

The case of Shayra Bano (2017) is a corner Supreme Court case that redounded in the invalidation of pronouncing talaq thrice promptly (talaq-e-biddat) among Muslims in India. Shayara Bano, a woman who followed Islamic customs, protest against the constitutionality of triadic talaq after she was disassociated using this practice, which allowed a person who practice Islam divorce his wife by saying" talaq" three times in one sitting. The contention of the displeased women was that this practice was whimsical, discriminative, and violated her introductory rights to equivalency, quality, and coequality under the Indian framework of Bill of rights. By the majority of 3:2 decision, the Court held that the practice of instant triadic talaq is against the indigenous vittles and void, a significant palm for women's rights and gender justice. The decision was extensively regarded as a step forward

in capacitate Muslim women by asserting their right to equivalency and protection from unjust religious practices. It also laid the root for the 2019 Act on that criminalized Triple Talaq, which was held to be criminal offence if practiced and strengthened legal protections for Muslim women in India.

### ***Vineeta Sharma v. Rakesh Sharma (2020)***

The case of Vineeta Sharma (2020) is a corner Supreme Court of India decision that clarified and corroborated the rights of daughters in Hindu concentrated Families (HUFs) under the Amendment Act of Hindu Succession in the year 2005. According to the judgement where the Court held that the daughters have similar coparcenary rights as sons (common heirs at law) in HUF property by birth, just like sons, anyhow of whether the father was there living at the time of the 2005 correction. The verdict resolved negative interpretations from former cases and verified that the 2005 correction is applicable to daughters born before the correction. The decision has been significant step towards equality between men and women matters of property rights, emphasizing that a son remains a coparcener throughout her life, indeed after marriage

### **NEED FOR AMENDMENT IN PERSONAL LAWS FOR EMPOWERMENT OF WOMEN**

Personal laws in India, which exercise control over marriage, separation, ownership of property, guardianship and adoption, frequently reflect centuries-old customs and patriarchal values that can jeopardize women's rights. Despite constitutional protections for equality, many personal laws have discriminatory and biased outlook toward the women, limiting their autonomy and access to justice. Unequal inheritance rights, biased divorce procedures, and a lack of agency in marriage decisions are still common in various religious laws. These inequalities undermine women's social and economic empowerment, reinforcing their reliance on male family members.

Personal law reform is critical for promoting gender justice and aligning legal frameworks with constitutional equality principles. Uniform and gender-just personal laws can ensure that women also enjoy similar rights and protections. Amendments and changes should seek to eradicate differential practices, ensure equal rights to property and guardianship, and provide fairgrounds for divorce and maintenance. Legal reforms, combined with awareness and education, can come to aid and establish a more equitable humankind in which women can make their own choices and live dignified lives. Ensuring that personal laws support the postulate of fairness, parity, and rights of human

kind is both for legal as well as moral requirement for a progressive and inclusive society.

A Uniform Civil Code (UCC), if drafted with sensitivity to diverse cultures and a strong emphasis on gender equality, can be a positive step. Even without a UCC, each set of personal laws must be reviewed and reformed to reflect contemporary values of justice, dignity, and equality. Empowering women is not only a legal issue, but also a societal goal, and all laws—personal or civil—must support that vision.

## **CONCLUSION**

Personal laws in India have had mixed effects on women's empowerment. While they are based on religious and cultural traditions that provide communities with identity and continuity, they frequently fail to uphold gender equality and justice principles. Personal laws have often served as a barrier rather than a bridge to women's empowerment. They still reflect outdated patriarchal norms, specifically in motifs of inheritance, annulment, custody, and subsistence. For example, women in several communities continue to face discrimination in property rights or have limited say in marital matters, affecting their economic independence and social standing.

However, it is also true that personal laws are not always negative in nature. They have emotional and cultural significance for many people and serve as a framework for dealing with personal relationships. In some cases, reform within personal laws, likewise the Hindu Succession (Amendment) Act of 2005, that gave daughters equal rights to ancestral and joint family property, has demonstrated that these laws can evolve positively.

The issue is not necessarily the existence of personal laws, but rather their lack of uniformity, gender sensitivity, and flexibility. When laws are not updated to reflect women's changing needs and rights, they perpetuate inequality. Furthermore, the simultaneous existence of multiple personal laws in a secular country frequently results in unequal protection and treatment of women based on religion, which contradicts the provision in constitution that state everyone is equal in eyes of law.

To be truly empowering for women, personal laws must undergo comprehensive reform, centered on gender justice. This includes ensuring similar rights to all religions in matters of marriage and divorce, repealing discriminatory inheritance laws, and fortifying women from exploitation and violence. Legislative action alone is insufficient; social awareness, legal literacy, and active implementation are also necessary.

Finally, personal laws can either empower or oppress. It depends on how they are shaped, interpreted, and implemented. To ensure women's full empowerment, personal laws must be aligned with constitutional values that promote equality, justice, and human dignity—because no tradition or belief should stand in the way of a woman as they deserve to have life of dignity and freedom.