

GENDER INEQUALITY & RELIGION

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Abstract

In terms of religious law, modern India is a cosmopolitan nation with a pluralistic legal system. Separate religious personal laws (RPLs) exist in India for different communities, which the secular state is unwilling to modify. However, these laws have sparked discussion over what gender equality in India actually means because all RPLs, to varying degrees, grant women fewer rights than males, despite the fact that Indian women have been guaranteed equality as a constitutional right.¹ Though RPLs provide for religious inclusion, the history of these laws in India demonstrates that they have been employed selectively as an instrument of government, frequently to the detriment of women. Feminists have previously claimed that numerous identity variations, such as race, ethnicity, and sexuality, should be acknowledged and taken into account by the law. However, the cultural diversity of India puts female equality at odds with religious diversity. I make the case for family laws that are gender-neutral in place of the personal laws of religion. Though this may appear to be an exclusionary argument, cultural identification and gender justice do not have to be completely contradictory values. One strategy for achieving these objectives is to make historical and social context the focal point of all conversations. By reconsidering the feminist aim as one of developing an inclusive legal theory that is attentive to demands of diversity but also those of justice, it is feasible to make the case for common rights for all women.

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INTRODUCTION

In India, gender discrimination is not a particularly new phenomena in the contemporary day; it was also prevalent in ancient time. In this society, women are subject to all forms of discrimination. The most fundamental services, including education, are denied to them. Our everlasting traditions have a significant influence on the lives of women. They also had a lot of boundaries. As stated by the Manu in 200 BC, “by a young girl, by a young woman, or even by an elderly one, nothing must be done autonomously, even within her own home. Women must never be autonomous; they must always be subservient to their father in childhood, their spouse in their youth, and their sons after their lord has passed away”. Therefore, by reading Manu's comments, we are able to comprehend how critical the situation was for women at the period.

Even now, after so many centuries, things have changed, we have created new technology, we have discussed changes, globalization, we have seen many changes, but one thing has remained consistent, and that is the status of women in our Indian culture. They are nevertheless seen as a female rather than a person. They are still not safe in our culture and are not treated with dignity. Gender discrimination also includes the denial of equality, rights, and opportunities as well as any form of repression based on gender. Half of the world's population now is made up of women, and of those women, two thirds are illiterate. A patrilineal society, often known as a society dominated by men, exists in many nations, including India, where the father continues to be the family's head of household. The matrilineal system, in which the mother is the head of the family and makes all decisions, is mostly found in northern nations, but there are some households in the south that practice it. To put it another way, she is the family's leader.

The treatment of women differently from men is customary. Gender discrimination has a negative influence on development goals because it decreases economic growth. It is not the answer to anything to practice gender discrimination. It makes it difficult for women to participate in social, political, and economic activities. It has the potential to have a negative

impact on our society. In reality, even now, at a time when we are talking about equality, there is still a lot of gender discrimination and inequality in many developing nations, including India, in areas such as caste, employment, social norms, and customs, as well as in the accepted practice of sexual harassment. Discrimination may take on a variety of shapes and has many faces. Even today, persons who had received an education had the incorrect belief that women had no responsibilities beyond caring for the household and serving the entire family, including the husband, kids, and other members. How can we eradicate discrimination against women or gender inequity if males don't respect women?

Due to its social, economic, and religious traditions, which led to a significant disparity in the status of men and women in society, India has been a country that has experienced gender inequality throughout its early history. It is amazing how easily we forget that men and women are like the two wheels of a cart, and that for a country to advance, all genders must participate equally. Without the growth of one, it is impossible to envision the development of another. Humanity's two elements, men and women, require equal support and collaboration from each other in order for each to succeed. Without one, the other cannot perform at their best. Women experience discrimination from a young age. They face discrimination in every aspect of their lives. Parental discrimination towards their female offspring is a major issue. This evil is primarily committed by uneducated individuals.²

The removal of gender prejudice from society is mostly the result of education. In India, there are many individuals who celebrate the birth of a male but are upset when a girl is born. They didn't think their daughter needed an education. Women's education is the most important component in combating gender discrimination and advancing women's rights. Our people in Indian society favor boys over females in all situations. For example, if they don't have a son, who would care after their family, who will feed them in their old age, who will advance their family hierarchy, and so on. In contrast, the birth of a daughter is regretted and regarded as a burden in the family, whereas the birth of a son is widely celebrated in families with great joy. Sons are always in demand for these things, which causes women to be given a lesser standing in Indian culture and further contributes to the practice of gender discrimination.

In India, discrimination against women is prevalent on many levels, including social, economic, and political. They were often of lower social standing. Inequality between men and women is prevalent in the workplace, in education, in food distribution, in health care, and in decisions about fertility. India is one of several developing nations that has gender imbalance in

² (Sivakumar Marimuthu, Gender Discrimination and Women's Development in India, MPRA Paper 10901,2008)

the workplace, in health care, and in education. News regarding gender inequality in schools and society throughout the world is something we learn about daily through a variety of media. In Northern and Western India, there is a lot of gender inequality that affects how women are treated when it comes to getting health care, food, and education. Girls are more likely than boys to be malnourished from a health and nutrition perspective, and this is true in both northern and southern states. This is an illustration of gender discrimination in the health care system. Morbidity and mortality are affected by the exclusion of girls from receiving preventative and curative health care, as well as proper nutrition. As a result of the preceding analysis, it is evident that women face discrimination on a variety of grounds.

Indian law is a common law system that is both a holdover from British empire and substantially unlike to the original British common law. Many English developments in India were influenced by innovative concepts such as utilitarianism and legal positivism during colonialism. This experiment dramatically destroyed the normal organic link between a judicial system and its society. A legal system for Indians was eventually formed in response to the demands of a quite different civilization, that of England. However, India still follows the "tradition" of the colonial laws, although most of these legal principles have been abandoned or changed by English law. One of these concepts is the concept of religious personal laws. In the past, personal (often religious) laws and the region's overall legal codes were distinguished by the law in Europe.

But before to the arrival of the British, Hindus and Muslims in India were controlled by separate sets of rules, with very few exceptions. Colonization in India occurred in a complicated and geographically diverse manner. According to various legal agreements, several regions of the nation fell under colonial rule. "Personal affairs" were to continue to be handled by the religious norms of these groups, and British laws were implemented gradually and carefully. The subject of personal laws, on the other hand, was defined essentially arbitrarily in subsequent charters and regulations. Furthermore, the substantive nature of these rules has been altered by judicial and legislative acts. Even if it wasn't intended, the judiciary had a crucial part in this situation. Legislative amendments were gradually made as well, but despite these changes, the notion that the RPLs are unchangeable has lasted. Due in part to the rhetoric employed, the practice of applying religious regulations to private concerns was seen as the "saving" of religious laws.

The faiths practiced by different populations in India were used to identify them, and the personal laws that the English governors had chosen to preserve were also perceived as having a

religious basis, even if in reality they could have been more like local traditions than Scriptural regulations. Thus, personal laws and religious laws started to be used interchangeably, and in the process, it was forgotten that all components of Hindu and Muslim law were religious before the British governors arrived. Furthermore, British policies dictated what should be classified as a personal problem, and it goes without saying that the ultimate form of the laws controlling such personal matters, whether they were governed by English courts or passed by colonial parliaments, impacted the people's religious laws. The fact that women having less rights than males is a defining characteristic of the majority of RPLs. The history of RPL legislative reforms in the independent Indian state demonstrates how frequently the ideal of gender equality is put on the back burner in favor of other political factors. The state has only seldom utilized the justification of these laws' religious purity, but some other times it has amended the legislation.

The majority of the modifications have been made to Hindu law, however the minority community's rules have taken precedence over gender equality. Despite this, Hindu women haven't yet achieved total equality with males in terms of their rights. The Hindu Succession Act had its most recent revision in 2005, which sought to equalize the status of daughters as co-heirs. Despite this, women's rights continue to be less favorable than those of males under the law. In these particular conditions, it is more possible that gender equality for Indian women will be accomplished by establishing a common family law regime that would construct regulations so as to acknowledge the idea of gender equality as the defining element of the law.

RELIGIOUS PERSONAL LAWS: HURDLES IN THE PATH OF WOMEN

We have observed that there is gender inequality in our religion personal laws. Religion-based personal rules in some manner contribute to the advancement of a society ruled by men. For instance, under Muslim law, weddings take place with the consent of guardians and there is no set age for getting married. In the unlikely event that early marriage occurs, there will undoubtedly be a lack of sufficient schooling. In our country, it is believed that more dowry should be paid to a girl if her education is not sufficiently provided for her. Consequently, this then also contributes to domestic violence. The origins of dowry may be traced back to religious personal laws, and it is now frowned upon in contemporary culture. Every year, arguments over dowry result in the murder of thousands of women by their husbands. Since the last ten years, there have been more reported dowry fatalities. Because the husband, the husband's family, or both are unhappy with the dowry the bride provided, thousands more people suffer injuries and maiming. Women experience state of loneliness if women get divorced. Loneliness is also associated with psychological harassment. Divorce complicates maintenance since there is no

such thing as maintenance legislation. Early marriage also results in early births, which damage mothers' health and increase their mortality.

Overall, gender inequality and religion personal law are two societal problems that are brought on by one another. "Women make up half of the population of India as well. Women have always faced prejudice, have endured it in quiet, and continue to do so. "Their dignity and fortitude are self-sacrifice and self-denial, and yet they have been exposed to all equities, indignities, inequality, and discrimination," stated Justice K. Rama Swamy. There are several faiths as well as distinct rules that have been specified according to the needs of the respective religion. Religious laws that are particular to an individual have been shown to discriminate against women. For the same, there exist notices of several adverse legislation.

Muslims strongly adhere to Islamic personal restrictions, which has led to a dreadful condition for women in their religion. The patriarchal structure and culture of India's dependence on males for gender roles may be to blame. The women believe that depending on males is part of their fate. The women believe that depending on males is part of their destiny. Women in India are socialized to believe that males are in a higher position and that women are in a submissive one. While there are several civil laws in India that address gender equality, these laws are just on paper and not in actual use. Religion, as it is accurately said, is a matter of belief; belief is a matter of conscience, and conscience freedom is the backbone of contemporary civilization. The freedom to choose to be governed by secular laws in private issues is guaranteed to every citizen in a multireligious nation like India that has chosen to establish a secular state, and the state is required to offer an optional secular code of family laws. However, political pressures have forced the Indian Parliament to adopt a conflicted stance. Women are oppressed by religious personal laws. The males are undoubtedly superior to the females in every way.

CONCLUSION

We have several civil laws in India that cater to gender equality, but such laws are not in effect; they are only found on paper. It is correct to assert that religion is a matter of belief; believe is a concern of conscience, and conscience freedom is the core of contemporary society. In a multi-religious country like India that has chosen a secular State, it is the right of every citizen to choose to be governed by secular laws in issues personal, and it is the obligation of the State to establish an optional secular code of family laws. However, due to political constraints, the Indian Parliament has taken an ambiguous stance. Women are oppressed by religious personal laws. Males are unquestionably superior to females in every way. To ensure that the

status of women may be improved, there should be universal rules that apply to all religions. Education is a road that can lead to women's equality because anytime a taboo takes the society into its lap; education always plays a very essential part in pulling it out from the bottom. The need of the hour is to raise awareness and educate people on the fact that men and women have equal rights.

We also feature profiles of women who have resisted the pressure of religion. The only female chief priest of a significant Hindu temple is Mahant Devyagiri of Lucknow's Mahakameshwar temple. Noorjehan Safia Niaz of the Bharatiya Muslim Mahila Andolan, who convinced the court to let women to enter the Haji Ali dargah in Mumbai's inner sanctum, and Gulrukh Contractor Gupta, a Zoroastrian woman who is fighting for equal rights.

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