



## PERSONAL LAWS, GENDER INEQUALITY AND EMPOWERMENT: A REVIEW

**Gurpinder Kumar**

Assistant Professor  
Centre for Women's Studies  
University of Allahabad  
Prayagraj, Uttar Pradesh (India)

### Abstract

Contemporary India is a multicultural society that is plural in terms of religious law. As there are many religions, there are many personal laws that govern many people from different religions. The term "personal law" includes Scriptural injunction and general customs associated with a particular religion. Personal religious laws refer to the standards governing marriage planning and their deterioration; various rights, obligations and marital restrictions; communication between caregivers and children. These laws describe anecdotes about lifestyle, habits, beliefs and qualities that help shape our perceptions about where we are, where we come from, and where we are going. Each religion has its own rules, for example, Hindus, Muslims, Parsis, Jains, Christians, and so on. There is no common public code in India. Women have fewer rights than men under the rules of religious religion. Personal religious laws present many reductions; for example man centric society, early marriage, assignment, aggressive behavior at home, and so on. The whole community has made its own decisions about women. The status of women is alarmingly alarming as these laws reflect women in lower positions than men. As a theory, "gender inequality" refers to the undeniable or hidden divisions among people as a result of sexual orientation. This paper aims to highlight the status of women in Hindu and Islamic religious laws and to provide an overview of the implications of such human laws on women's lives. To achieve the purpose of this paper, extensive research has been done and analysis has been documented. First, the origins of the concept of personal religious law and its Government-designated modification are covered and properly defined. The current status of women in religious laws is reflected in the fact that the formation of personal religious laws has the effect of the formation and breadth of other laws. The effects of such laws on the lives of women of all walks of life are enshrined. This paper further set out and analyzes the current state of personal laws regarding Indian women and the same has been discussed in light of existing laws and criminal laws.

**Keywords:** Gender, Religion, Personal laws, Women, Inequality.

## *Introduction*

India is a country famous for its diversity in various aspects; especially religiously. By the widely held religious diversity of the Indian population, including men and women; special religious rules are best known for paying due respect to the religious beliefs and practices of the individual. However, this multicultural, multicultural society comes with its own equitable share of gender-based inequalities that provide fewer rights for women compared to men. Succession, marriage, adoption or divorce. Each religion brings its own unique set of rules. However, the common denominator between diversity is obvious, namely that male domination opens the way to patriarchal society with the support of all Indian legal systems. It should be noted, however, that amendments to many of these surgeries were made in these personal laws, which seemed to completely undermine women's fundamental human rights because of the changing times. However, the same cannot be said of all religions, and even if it is a personal law where change has taken place; changes are not enough to begin with. A typical example of the two situations above can be seen by making a brief study of the comparisons between personal laws followed by Hindus and Muslims respectively. While Hindu humanitarian law has actually been subjected to change instead of changing times, there are many additional changes needed to build a better India that provides equality and fair practices for both men and women. On the contrary, the personal laws of Muslims have so far retained their traditional beliefs established long ago that they are firmly opposed to any form of change. A variety of personal and social variations according to their chosen beliefs and practices. Due to the lack of personal rules for Sikhs, Buddhists, and Jains, they follow the Hindu personal laws. Hindu Law on Pollution and Retention, 1956; Hindu Marriage Act, 1995; Hindu Recognition and Preservation Act, 1956; and the Hindu Succession Amendment Act, 2005 are just a few examples of the laws of Hinduism that are followed by the majority of people in the country. Repeal of the Islamic Marriage Act, 1986; Islamic Law on the Protection of Women and Divorce Rights and the Shariat Act are some of the laws that fall within the confines of Islamic personal law. The word gender describes the social and cultural perceptions of most people. Gender is not based on biological factors. Sociologists describe gender disparities as the division of status, power and prestige that women and men have in groups, collections and social order. Women need to hear about such a huge amount of inconsistencies that create such a huge number of

obstacles in their journey. Women feel inadequate and helpless in the light of the fact that the childhood of young girls is made so that they do not raise their voices against such divisions. Despite the fact that the legislature has made efforts in an effort to uplift the status of women, there is a need to change people's thinking in order to give women confidence in their abilities.

### *The Origin of the Concept of Religious Personal Laws*

India's legal system is influenced by a common legal system—the remnants of British colonialism. Within the colony, the normal environmental communication between the legal entity and its general public was severely disrupted by this study. The Indians formed a legal framework based on the needs of a completely different society, England. However, while the laws in England have provided or amended most of these legitimate ideas, India is continuing the “assembly” of pioneer laws. The concept of religious law is one of those ideas. Gradually, legal reforms were introduced, but despite these changes, the idea that religious law does not change is still valid. The practice of applying the rules of religious communities in personal matters was considered to be the preservation of religious law, in part because of the language used. Surprisingly, British policies determined what should be placed as a personal matter. One thing that has been noted of many religious laws is that women have fewer rights than men. The state has specifically used a conflict of religious sanctity with these laws but at various times introduced radical changes. Most of the progress has been made in the Hindu Laws but changes in the rules of small networks have been very stagnant. For example, in 2005, in the Hindu Succession Act, it was proposed to keep in mind the ultimate goal of making girls equal to police officers; in any case, suspension by still leaves women less privileged than men. In these particular cases where the gender inequality of Indian women is likely to be achieved by introducing a common family law rule that will lead to the acquisition of gender equality law as a rule of law.

### *Women in Different Religious Personal Laws*

There are various religions such as Hinduism, Islam, Sikhs, Christians, Persians, Buddhists, Jews, and Jains who follow various religious and social laws. There is no common law in India. Sikhs, Buddhists and Jains follow the rules of the Hindu man. There are different laws such as the Hindu Marriage Act, 1955, The Hindu Succession Amendment

Act, 2005, The Hindu Minority and Guardianship Act, 1956 and the Hindu Adoption and Maintenance Act, 1956 governing the laws of the Hindu people. Similarly, the personal rules of Islam are also based on the proclamation of the Holy Quran governing Muslims. The Shariat Act, 1937, The Dissolution of Muslim Marriages Act, 1986, The Muslim Women (Protection and Rights on Divorce) Act, 1986 etc. are personal Islamic law. Depending on these rules one can see the difference in personal rules. The status of women is not good in personal laws as there is bias against the patriarchal society.

### *Women in Hindu Law*

'Dharamshastra' is the basis of Hindu law and other sources such as the Vedas, Smritis, Shrutis, etc. The integration of Hindu law began in 1995, however women were not considered equal to men. These principles of discrimination still exist, some of which are as follows

- Child custody: A woman gives birth to a child but in the case of adoption a Hindu married woman was not entitled to adopt a child on her own, even with her husband's consent. In *Malti Ray Chowdhury v. Sudhindranath Majumdar* (AIR, 2007), the deceased woman had given birth to a woman's child while she (the deceased) was married. The physical delivery of the child and the adoption event were made in the presence of the deceased's husband, without any objection, however, the court held that the adoption was invalid. The court noted: "Adoption should be taken literally or legally by a man in the event of your marriage, not a wife. In other words, the wife does not have the power to take even the husband's permission..." (AIR, 2007).
- Women's right to housing: Female heirs of Hindu male property cannot apply for the separation of the intestinal tract where the intestinal family resides until male heirs choose to separate their shares. A female heir has the right to remain in the house only if she is unmarried, divorced or widowed. A widow's daughter loses her right to remain with her when she remarries. In *Hira Dei vs Bodhi Sahu and Others* (AIR, 1954), Hiradevi became the victim of such a law as she was denied her residency when she remarried. Therefore, local law repeats traditional patriarchal ideas towards women. (AIR, 1954),
- Sequence of male and female intestinal property: In the archives, the son, grandson and son receive the property right by birth.

No woman can be a member of a coparcenary, so this promotes inequality between men and women. Under the Hindu Succession Act, the intestate tract of a man and a woman defines it differently. In the absence of children, the inheritance inherited from the parents of the female child passes to the heirs of the father. If the woman did not have children then the property acquired by her husband or father-in-law would go to the husband's estate. In the case of personal property of a girl, the gift, or property acquired under a valid will will go to her children and her husband. In the absence of children and the husband, the property focuses on her husband's heirs and then on her parents. Once again, the notions of gender equality can be seen. The Hindu Succession (Amendment) Act, 2005, amended Section 6 of the Hindu Succession Act, 1956, which allows daughters of the deceased equal rights and sons. In the case of copyrighted property, or where two persons inherit equally between themselves, the daughter and son face the same debts and disabilities. To Krishan Gupta and Anr. V. Rajinder Nath & Co HUF & Ors., "The Court held that in the event of a man's death in the bowels, the daughter becomes a coparcener and receives an equal share of the sons. Inherited from her husband's estate, but her husband may transfer the property to a third party and he will not be able to dispute it. It was held in Vimalben Ajitbhai Patel. and if the woman is unable to feed herself. By his parents, children, or places. If a woman marries someone else in that situation she cannot get maintenance from the law. If the widow's parents are unable to support their daughter only then she gets legal maintenance. The law places an obligation on the heirs of the husband (third party) to support the widow."

- Maintenance law: There is no way to guarantee that the husband will always pay. Since it is not the police or that authority that will not help the abandoned wife. In such cases he will have to go to court again, which is not an easy way out for a woman. In India, most women do not receive maintenance in order to continue living a better life.

### *Women in Islamic Law*

Islam means calm, and obedient. According to Agnes, Islam means peace and humility. "Shari'ah is an Arabic word meaning" Path to be followed, "which refers to the many legal penalties known as Islamic law. The main source of Islamic law is the Quran, which Muslims

believe to be the word of God. Therefore, the Quran is supported by other sources to form the basis of Sharia. Shariah is the result of what people understand through those sacred proclamations. The cardinal view is different from what we have brought in the way of Shari'ah.

- Age for marriage: Islam has not set the age limits for marriage. The age of marriage depends on maturity, which can vary. In *YunusbhaiUsmanbhai Shaikh v. State of Gujarat*(SCC, 2015), Justice JB Padriwala said, bili, able to marry. "So marriage is more dependent on the biological aspects of girls than on the most astonishing age.
- Witnesses at the time of marriage: Among the Sunnis, a proposal and acceptance must be made before the hearing of two adult male or one male and two female witnesses. In *Abdullah v. Beepathu* on April (ILR, 1921), the Court ruled, "Marriage was illegal as there were only two women witnesses. That means that according to the above law one man is equal to two women. A woman is part of a man who is nothing without total discrimination" (ILR, 1921).
- Purpose of marriage: The tendency of marriage to men. The purpose of marriage is to provide comfort and happiness to the person, to prevent pornography and to rape and produce children. It is clear that women are treated as objects that are used to the liking and liking of men.
- The right to consent to marriage: A woman has no rights, even when her husband is chosen and in her determination. She cannot even express her desire to marry someone as she is considered inferior to a man. Whatever his family decides for him is considered very important.
- Mahr: Marriage is like an agreement in personal Islamic law. During marriage mahr (considered a gift) is given on the girl's side and there is no such law on the boy's side. There is no doubt that there are gender differences here.
- Polygamy: In Islam, polygamy is a contentious issue. A Muslim man can marry no. of wives but not more than 4 but a Muslim woman can marry only one man and if she marries another man, she is obliged to obtain polygamy under Section 494 of IPC and the interest in that marriage is illegal. Article 494 states: "Remarriage in the lifetime of a husband or wife.–Anyone, if they have a living husband or wife, marries in any state where the marriage is void because it occurred during the lifetime of that man or woman, may

be liable to imprisonment for any term of up to seven years, and shall be liable to a fine. the person whose marriage was declared to be absent from the Court of competent jurisdiction, or to any other person who entered into a marriage contract during the lifetime of the ex-husband or wife, if that spouse, at that he is alive during that time as long as the person entering into the next marriage, before the marriage is solemnized, inform the person to whom the marriage has been made of the actual state of facts as he or she knows." In *State of Bombay v. Narasu Appa Mali* (AIR, 1952), Chagla, CJ seen—"There is no doubt that Muslims have been excluded from the application of the Act in question. Even section 494, the Penal Code, which makes the lump a crime, applies to Parsis, to Christians and others, but not to Muslim men because polygamy is known as a legal institution where a Muslim man marries more than one wife." (AIR, 1952) The idea of polygamy is that during pregnancy or menstruation it is better for a man to have another legally married woman than for other women. The one-man effect of increasing the institution of prostitution. This idea is extremely shameful and disrespectful to women and the general public as well.

- Maintenance: In the case of maintenance the divorced Muslim woman does not need to be cared for beyond the 'Iddat' period. A divorced woman has a legal right only to her mahr and to the maintenance period for days. In *Khurshid Khan v. Husnabanu Mahimood Shaikh* (1976), was found by the Court that—"the divorced wife is entitled to the mahr and that it is in accordance with the law for the period of payment of iddat days. A widow is also not responsible for the loss of her in-laws. A woman, who is divorced from her husband, cannot remarry, is not yet married to another person and has sex with him and after that divorces him." (1976).
- Women's share of the estate: In both schools, the male usually receives twice as much as his female counterpart. When a son and daughter inherit together, the son receives twice as much as his daughter. Husband receives 1/4 share and wife 1/8 shares where there is a child and if there is no child 1 / 2th and 1/4 respectively.

### ***Religious discrimination against women***

2018 has been a historic year for women entering the traditional male regions. In February, the IAF pilot became the first Indian woman to

fly alone and three months later, in May, a group of six Indian Navy members became the first Indian women to travel around the world. Their unique success landed in a world-famous hall that already has more female pilots than any other, and where successful female politicians, sports celebrities and senior executives are now less attractive for a second look. But there is one glass roof that prevents women from outside—religion. The doors of a large number of saints are still closed to women. This castle is now a challenge. On September 28, the Supreme Court opened the way for women of all ages to enter the Ayyappa temple in Sabarimala, Kerala. Four out of five judges on the constitutional bench have ruled that the temple ban violates the fundamental rights of Hindu women. These barriers to entry are a metaphor for what is organized by the patriarchal religion, which has been unchallenged for centuries. The patriarchs, or masculine power over women, continue in the religious sphere when it denies the independence or independence of women. In Hinduism, male gods are not perfect except for their females. However, women were considered unclean during menstruation and, therefore, were forbidden to go outside in kitchens and temples such as Sabarimala. In various ways, the practices of all the world's major religions reflect the natural order of things. The clergy are mainly men's groups. That is why the decision of the Supreme Court on September 28 is absurd, because it highlights the tense relationship between women and religion. The judgment of the four justices of the Supreme Court commended the end of 'religious unity by glorifying and honoring women as goddesses on the one hand and imposing strict sanctions on one another in matters of devotion'. This is one of a series of Supreme Court decisions upholding women's rights. Last August, a court ruled that three-fold talaq was illegal. Earlier this year, it was decided that the legitimacy of an older woman of her choice would not be questioned. In one landmark case, it upheld the right of daughters to claim an equal share in the property of their ancestors. Our cover story, 'Sexist Gods', looks at why men still call guns to all Indian religions and why religion discriminates against women. Our library of guest writers who have explored this unique religious patriarch—authors Pavan K Varma and Devdutt Pattanaik, historian Uma Chakravarti, historian Rakhambela Jalil, lawyer Flavia Agnes and women's rights activist Syeda Hameed—explain why. We also have profiles of women who have swum against religious radio. Mahant Devyagiri of the Lucknow temple in Mahakameshwar, the chief priest of the Hindu temple. Noorjehan Safia Niaz of Baratiya

Muslim Mahila Andolan, who obtained a court order to allow women to visit the inner sanctuary of Haji Ali dargah of Mumbai, and Gulrukh Contractor Gupta, a Zoroastrian women's rights activist. I believe that if religion is to remain valid, it must be up-to-date. Different religions must show the community where they are made while adhering to their core beliefs. The emancipation of women and gender equality has been more than a century and still continues. Women make up half of the population and will not be denied their basic freedom in these modern years. Most important, they must have the freedom to choose. After all, if women could fly fighter jets, they would certainly not be allowed to have the same access to places of worship as men, or to become priests. The world will be a better place for it.

### ***Religious Personal Laws: obstacles in the way of women***

We have seen that there are gender inequalities in our religious laws. In one way or another the religious laws of man promote a society governed by man for example in Islamic law marriages occur due to the consent of the guardians and there is no certain age of marriage. In the event that the first marriage takes place then there will no doubt be a lack of proper education. In our nation, it is considered that if a girl is not educated enough she needs to be given more bribe money. In addition, this also increases domestic violence. Greed has taken place in personal religious rules and is now a way of participating in our society. Thousands of women die each year as a result of domestic violence. The reported mortality rate has risen since the last decade. Thousands more are injured and disabled because the husband, or the husband's family, is not satisfied with the dowry brought by the wife. In India, women are sometimes burned when their parents do not pay enough dowries when a girl gets married. This is often referred to as a "kitchen accident"; in 99% of these "kitchen accidents" a woman is killed. When women get divorced, women go into a state of loneliness. Loneliness continues to lead to psychological abuse. Divorce creates maintenance problems because there is no such maintenance law. Young marriage also leads to young children creating a negative motherhood and the death of the mother. Often, most social issues come from personal religious rules and gender inequality.

### ***Conclusion***

"Half of the people in India are also women. Women have always been discriminated against and suffer in silence. Self-sacrifice and self-denial

are their positions and strengths and yet they have been subjected to injustice, inequality and discrimination," said Justice K. Rama Swamy. There are different religions and different laws, defined by the need for a particular religion. Personal religious laws have been shown to discriminate against women. There are notices of many similar discriminatory laws. For Muslims, the status of women is alarming, as Muslims adopt the rules of religion itself. It can be attributed to the establishment of patriarchy and the culture of feminism in India. Women themselves consider it their destiny to rely on men. Women feel that it is their destiny to rely on men. In India, women are growing up to think that men are superior and that women are inferior. In India, we have various social laws that address gender equality but those laws do not work, they are only in the papers. It has rightly been said that religion is a matter of belief; belief is a matter of conscience, and freedom of conscience is at the heart of modern civilization. In a multi-religious country such as India which has elected a State, it is the right of every citizen to choose to be governed by the laws of the land in matters pertaining to them and it is the duty of the State to provide a family code. However, the Indian Parliament accepted the ambiguity due to political coercion. Personal religious rules oppress women. There is no doubt that men are superior to women. So there should be the same rules for all religions, so that the position of women is improved. Education is a way for women to achieve equality, because whenever any placement puts the community in her lap education always plays a very important role in removing it from the ground. The need for the hour is to spread awareness and make people realize that men and women are equal.

#### REFERENCES

- Agnes, Flavia. (2004): *Constitutional Challenges, Communal Hues and Reforms within Personal Laws*. Mumbai: Combat Law.
- Asay, S. M., Defrain, J. & Moyer, B. (Eds.). (2014): *Family Violence from the Global Perspective*. New York: Sage Publication.
- A.I.R. 1952 Bom. 84.
- A.I.R. 1954 Ori. 172
- A.I.R. 2007 Cal. 4 : (2007): 1 Cal. L.T. 323 HC
- Bindra, A. (2007): *Women and Human Rights*. Delhi: Manglam Publishers and Distributors.
- Chawla, M. (2006). *Gender Justice: Women and Law in India*. New Delhi: Deep and Deep Publications.

- Das, P. K. (2007): *Handbook on Hindu Succession* (Property Rights of Women and Daughters). Delhi: Universal Law Publishing Co. Pvt. Ltd.
- Giddens, Anthony. (2006). *Sociology*. UK: Polity Press.
- Gill, Kulwant. (1986): *Hindu Women's Right to Property in India*. New Delhi: Deep & Deep Publications.
- Gopal, G. (1993): *Gender and Economic Inequality in India: The Legal Connection*. Boston College Third World Law Journal.
- I.L.R. (1921) 1 Ker. 361.
- Kader, S. A. (1998): *Muslim Law of Marriage and Succession in India*. New Delhi: Easter Law House.
- Mukherjee, R. (1998): *Women, Law and Free Legal Aid in India*. New Delhi: Deep and Deep Publications.
- Purie, Aroon (2018): Why religions in India discriminate against women are sent back to <https://www.dailyo.in/politics/sabrimala-triple-talaq-why-religions-in-india-discriminate-against-women/story/1/27052.html>
- Singh, Alka. (1992): *Women in Muslim Personal Law*. Delhi: Rawat Publications.
- Sinha, R. K. (2010): *Women across Generation*. New Delhi: Mohit Publications.
- The Dissolution of Muslim Marriages Act, 25 of 1986, 1986.
- The Hindu Marriage Act, 25 of 1955, 1955.
- The Hindu Succession Act, 30 of 1956, 1956.
- The Hindu Succession Amendment Act, 39 of 2005, 2005.
- The Hindu Adoption and Maintenance Act, 78 of 1956, 1956.
- The Hindu Minority and Guardianship Act, 32 of 1956, 1956.
- The Indian Penal Code, 45 of 1860, 1860, Section 494
- The Muslim Personal Law (Shariat) Application Act, 26 of 1937, 1937.
- The Muslim Women (Protection and Rights on Divorce) Act, 25 of 1986, 1986.

\* \* \*

*Received on 8.2.2025 and accepted on 27.2.2025*