

Uniform Civil Code and Personal Laws

(With special reference on right of women and inheritance laws in India)

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Uniform civil code in India is the discussion to replace of each major religion in the country with common norms governing every citizen based on the scriptures and customs. These laws are distinguished from public law and cover marriage, divorce, inheritance, adoption, maintenance and women security. Article 44 of the Directive Principles in India states to set its implementation in favor of duty of the State.

Women right deals with issues commonly associated with the notions of women's rights. Although males seem to have dominated in many ancient cultures but now women's rights are the rights claimed for women and girls of many societies worldwide. They differ from broader notions of human rights through claims of an inherent historical and traditional bias against the exercise of rights by women and girls in favor of men and boys.¹ In some places, these rights are institutionalized or supported by law, local custom, and behavior, whereas in others they may be ignored or suppressed.

¹ Hosken, Fran P., 'Towards a Definition of Women's Rights' in Human Rights Quarterly, Vol. 3, No. 2. (May 1981), pp. 1–10.

In this male dominating world women during the 19th century some women began to ask for, demand, and then agitate and demonstrate for the right to vote , the right to participate in their government and its law making. During the 19th century the right to vote was gradually extended in many countries, and women started to campaign for their right to vote. In 1893 New Zealand became the first country to give women the right to vote on a national level. Australia gave women the right to vote in 1902 and gradually many countries accepted it the early 20th century – Finland (1906), Norway (1913), Denmark and Iceland (1915). With the end of the First World War many other countries followed – the Netherlands (1917), Austria, Azerbaijan Canada, Czechoslovakia, Georgia, Poland and Sweden (1918), Germany and Luxembourg (1919), and the United States (1920). Spain gave women the right to vote in 1931, France in 1944, Belgium, Italy, Romania and Yugoslavia in 1946. Switzerland gave women the right to vote in 1971 and Liechtenstein in 1984.²

During the 19th century some women in the United States and Britain began to challenge laws that denied them the right to their property once they married. Under the common law doctrine of covertures husbands gained control of their wives' real estate and wages. These laws were known as the Married Women's Property Acts.³

The Rome Statute Explanatory Memorandum, which defines the jurisdiction of the International Criminal Court, recognizes rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization, "or any other form of sexual violence of comparable gravity" as a crime against humanity if the action is part of a widespread or systematic practice.⁴

Courts in the 19th-century United States also continued to require privy examinations of married women who sold their property. In 26 September 2011 the issue of the Newsweek magazine a study was published on the rights and quality of life of women in countries around the world. The factors taken into account were legal justice, health and healthcare, education, economic opportunity, and political power.

² CNN 16 May 2005, Retrieved 30 August 2011.

³ Britannica.com. Retrieved 30 August 2011.

⁴ Dying Alive – A Legal Assessment of Human Rights Violations in Burma April 2005,

The rankings were determined by uniform criteria and available statistics.⁵

TOP FIVE

Rank	Country	Overall	Justice	Health	Education	Economics	Politics
1	Iceland	100.0	100.0	90.5	96.7	88.0	92.8
2	Sweden	99.2	90.8	94.8	95.5	90.3	93.1
3	Canada	96.6	100.0	92.7	92.0	91.0	66.9
4	Denmark	95.3	86.1	94.9	97.6	88.5	78.4
5	Finland	92.8	80.2	91.4	91.3	86.8	100.0

BOTTOM FIVE

Rank	Country	Overall	Justice	Health	Education	Economics	Politics
165	Chad	0.0	20.7	0.0	0.0	70.9	22.2
164	Afghanistan	2.0	8.4	2.0	41.1	55.3	16.6
163	Yemen	12.1	36.2	44.4	34.1	48.8	0.0
162	Congo	13.6	6.5	11.4	45.1	67.8	27.2
161	Mali	17.6	22.7	29.9	25.8	64.3	49.8

Women in India face a lot of social inequalities ranging from gender specific abortions, mistreatment by their spouses, to eve teasing. Most women aren't aware of women rights in

⁵ Lauren Streib-The Best and Worst Places for women Retrieved 20 February 2012.

India and other times their legal rights are not protected as they should be. Women empowerment plays a significant role in letting them know their rights.

Female foeticide is the cruel act of aborting female fetuses. This problem is linked to the dowry system whereby women are expected to pay dowry to the men in spite of the fact that it was prohibited in the year 1961. Unlike in western cultures, Indians have a strong inclination for sons over daughters. Pregnancies are planned using differential contraception. Foetal foeticide has led to social discrimination against women and they are treated as second-rate citizens. 80% of the districts in India have recorded a high male sex ratio with the state of Punjab recording the highest ratio.

An estimated ten million female fetuses have been aborted illegitimately in India. The social impact of these abortions is an increase in human trafficking. Trafficking is rampant in areas where the numbers of women are low due to female foeticide. To curb this problem, the Indian government should take strict actions against those who practice it.

Now comes another deposal thing which is Eve teasing. It is a euphemism for sexual harassment of females by males in public areas. This aggression differs in severity from mild brushing and taunts to the more serious groping in public areas. Some human rights organizations have been at the forefront lobbying against the use of this term. They argue that the term makes a serious infringement on women rights to appear innocuous. The challenge that faces victims of eve teasing is how to prove that a total stranger has sexually harassed them. It is becoming increasingly difficult to prove such crimes because offenders have found clever ways of harassing women.

There are many tourist guide books that warn foreign women to avoid attracting attention from perpetrators of these crimes by dressing conservatively. However, both tourists and Indian women are harassed regardless of what they are wearing. The number of women's organizations working for women rights in India has gone up. Victims of this crime can seek recourse in court. Perpetrators of these crimes are punished by imprisonment, fines or both.

Now moving towards inheritance rights in India we can easily segregate the laws of non-testamentary or intestate succession and inheritance as would be applicable to Hindus, Sikhs, Jains and Buddhist and with Parsis, Christians and Jews with that of Muslims and with persons of inter faith marriages. The general law relating to the inheritance and succession can easily be referred to The Indian Succession Act, 1925. Under this Act every Indian is entitled to equal shares on inheriting the property on the death of a person. The exceptions are Hindus, Sikhs, Jains, Buddhists and Muslims as they are governed under separate laws of succession.⁶ Under Hindu Succession Act, 1956, the properties of a Hindu male dying intestate devolves, in the first instance, equally on his sons, daughters, widow and mother and include the specified heirs of predeceased sons or daughters. The widow of the deceased is entitled to inherit equally with sons and daughters. The provisions of section 30 of the Act raise issues which are questionable in nature whereby the deceased husband, if he so desires, may write a Will and exclude his wife. The Will may contain bequeath of all his properties and no means of support to the widow. If there be a meticulous reasoning, the rights of the Women and Daughters under the Hindu Succession Act can be resolved; the Gender inequalities in succession law proliferate extensively. Another aspect which is equally complicated is The Streedhan — Streedhan is the property held by a woman in India and treating the Streedhan on the death of the husband is also to be redressed by making suitable changes by the Parliament and address these and many other issues in the biased inheritance law under the Hindu Succession.⁷

Now inheritance in property the main criteria is the loss of a parent or a loved elder is a painful incident in our lives. But along with it comes the complications of inheritance, of which, the most cumbersome is the process of inheriting immovable property. Where a clear will is absent issues regarding actual ownership and rights lead to conflict among brothers and sisters. Even when a clear will exists, several legal issues could crop up. It is in such circumstances that a good understanding of the rules and regulations governing inheritance of properties comes in handy, especially if one is likely to face the challenge of placating multiple claimants.

⁶ Author Javed Advocates

⁷ Lax orates law speaking people

Before making a claim to any property left by the deceased, one need to make sure that there are no debts outstanding, in which case they would need to be cleared before any division of the property can be thought of. All the heirs would have to first agree to chalk out a strategy to clear the debt. In case there is ambiguity in the will, and it does not match accurately with the total existing assets mentioned in it, legal advice must be sought while arriving at any kind of settlement. Lack of clarity in the will can lead to serious legal complications at a later stage, which can be avoided by working in the right direction in the beginning itself.

The registrar will open the sealed will in front of all the heirs and then hand over a copy to each applicant. In case the deceased has nominated only a single heir then only one copy would be provided. In case there is no will then as per the Hindu Succession Act the property will pass on to Class 1 heirs who include spouse, children and mother of the deceased. In case of absence of Class 1 heirs, it would pass on to the Class 2 heirs comprising of father, grandchildren and siblings.⁸

The Quran introduced a number of different rights and restrictions on matters of inheritance, including general improvements to the treatment of women and family life compared to the pre-Islamic societies that existed in the Arabian Peninsula at the time.⁹ The Quran also presented efforts to fix the laws of inheritance, and thus forming a complete legal system. This development was in contrast to pre-Islamic societies where rules of inheritance varied considerably. Furthermore, the Quran introduced additional heirs that were not entitled inheritance in pre-Islamic times, mentioning nine relatives specifically of which six were female and three were male. In addition to the above changes, the Quran imposed restrictions on testamentary powers of a Muslim in disposing his or her property. In their will, a Muslim can only give out a maximum of one third of their property.

The Quran contains only three verses that give specific details of inheritance and shares, in addition to few other verses dealing with testamentary. But this information was used as a starting point by Muslim jurists who expounded the laws of inheritance even further using

⁸ Journalism of coverage Archive

⁹ C.E. Bosworth et al, ed. (1993) "Mīrāth". Encyclopedia of Islam 7 (second Ed.).

Hadith, as well as methods of juristic reasoning like Qiyas. Nowadays, inheritance is considered an integral part of Shariah Law and its application for Muslims is mandatory, though many people's, despite being Muslim, have other inheritance customs.
