



Gender Discrimination and Women's Right to Property : An Analysis in Indian Context

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TOPIC:- GENDER DISCRIMINATION AND WOMEN'S RIGHT TO PROPERTY: AN ANALYSIS IN INDIAN CINTEXT Gender Discrimination is an age old practice prevalent in Indian Society. It has not born by self rather it has been created concept by society that is patriarchal in attitude as well as conduct. In order to make a society to be progressive, it needs to give weightage to principles of equity and non-discrimination.

Abstract

Gender Discrimination is an age old practice prevalent in Indian Society. It has not born by self rather it has been created concept by society that is patriarchal in attitude as well as conduct. In order to make a society to be progressive, it needs to give weightage to principles of equity and non-discrimination.

The word 'Discrimination' is defined in the convention on the elimination of all forms of discrimination against women (CEDAW) in Article 1 as - any distinction, exclusion or restriction made on the basis of Sex which has the effect in impairing or nullifying the recognition, enjoyment or experience by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.

Key Words

Gender discrimination, Patriarchal, Liberal, Properly rights, Radical changes, Economic independence.

In Indian society, discriminatory behavior towards women is visible as a set standard. It is seed in the sub-conscious mind and habit of the people. Though women do not feel discriminated in themselves, they admit it as their fate and destiny. As the time progresses but the fact regarding in equality and discrimination regarding women remains the same without any radical change. The various documents pertaining to human rights do not make any discrimination in the name of Men and Women rather it takes about 'Persons in their provisions. As much opinion have

been expressed on this topic yet the basic question still remains unanswered as to why does this happen and why should it not happen ?

In India status of women has been through many changes, from being treated as equal in the vedic times, where women used to enjoy complete freedom and liberty to take their own decision and hold rights equal to that of men. They had complete access to education. Some female scholars like Gosha, Lopamudra, Apala to a name a few have expressed their view that women were having right to participate in social, educational and political life in those times.

Women used to enjoy legal rights, too in respect of inheritance and preference to son over daughter was not practiced. Marriage was considered as sacred union of two routs and the concept of divorce was not appreciated or practiced. The concept of 'Swambara' practice even gave right to a girl to choose her own husband by choice. There depictions and discussions narrate us that women were treated equally as men in vedic period.

During medieval period and invasion of mugal rules in India, the practice of slavery, purdah system, sati practice, child marriage, ban on widow re-marriage, dowry system etc. were ulitnessed in society and women were subject to discrimination in many front. There was caste system being practiced and the Multi religion was also accepted by the society along with it. Thus the position of women in social, economic and political life started deteriorating by this time. Due to the patriarchal mind-set of the rulers and kings and acceptability of same in the society, made the women as secondary and their rights got backseat.

During British period, initially the Britishers adopted the policy of non-interference in religion based laws which had negative impact on the status of women in society. Gradually, the British Government in India started taking reformatory steps to improve the status of women by granting them some rights which would raise their position in society. The social refromoss like Raja Ram Mohan Roy, Swami Vivekanand, Swami Dayanand Saraswati, Ishwar Chandra Vidya Sagar, Jyotirao Govindrao Phule and many others brought about some relief to the disturbed such of women of that period. These eminent reformers fought against discrimination, religious beliefs and social evils prevalent in society and tried to rationalize with the understanding among people that all human are equal and so are their rights.

Women in independent India is more liberal and enjoyed more freedom in comparison to women few years back in same county. Today they are well aware of their rights and stand for it. The people in Indian society have now become more accepting and adoptable to new vision and approach of 21st Century in respect of non-discrimination and equality of status of women. But to give equal status to women in all respect, they need to have equal access to resources; economic access to land and properly in society but still personal laws vary according to religion and consequently inequality and discrimination is found against women. The law of the country has to be based on the principle of equality and non-discrimination and not religion where economic resources are fully attached for women and it's viewed as major reason of discrimination. This along with others in the reason why are the women socially not allowed equal rights like men in those days.

The constitutions of India is considered as Magna Carta to India guarantying some fundamental rights which are basic for human being to give with dignity and honor and are available to all citizens without any discrimination as to men and women. To ameliorate the position of women, few other classes of right to equality are enshrined in the most important and fundamental document of the country but this right is just 'dejure' and not 'defector' as women are still considered as secondary despite constitutional guarantee of rights and freedom to them. They are discriminated in inheritance, not treated as equal to son, though legally the rights are available but infect and practice, it is not the same.

Property rights of women are treated differently in varied personal laws, but the common essence is discrimination towards woman, through laws of many religious groups have tried to protect women from any inequalities but in practice it is just the opposite. The patriarchal mindset of people will always want to have control and access to economic resources, discrimination is bound to occur due to man's greed and power hunger. The economic importance of property is always given priority not the person.

Abundance of women, related legislations and increase in literacy rate have not even changed the status of women in society due to social unacceptability and varied personal laws. The objective of legislation seems defeated owing to subdivision in the category of woman. As per the Hindu Succession (Amendment) Act, 2005, daughters are made coparcener in the property of father and are given birth right which was given to son alone earlier. The position of woman has been improved as daughter but as married woman, the answer to a question as to what type of assurance she has in her matrimonial property is still in negative as she has only right to maintenance and nothing more. Husband can even leave nothing if he chooses as per his will which is discriminatory in nature, just because of category of woman as married wife.

Similarly in Christian personal law, mother's right is discriminated and she is left with no share in case of a deceased son during intestate and having no children or lineal descendent and excluding the share of widow, the remaining property goes to father and mother takes nothing out of it. Such laws not only discriminate on the basis of gender alone but also on the category on role of woman has in the family chain.

Muslim law because of having two different sects have two set of rules in respect of right women applying on the follow namely Shia Muslims and Sunni Muslims. While Sunnis follow the order set of rules of agents over cognates, Shia have mixed old rules with newer ones. Though women have been given equal rights but the customary law differentiates on the basis of sect or religious belief of woman.

Despite of radical changes brought in laws and the fact that literary rate has been increased, the actual story remains same in respect of discrimination faced by woman in property rights in parental and marital property as per different personal laws in India. Thus, though women are aware of their property rights, yet they do not want to claim for the same as they always believe that it is the choice of their parent to give or not to give. It is quite interesting to mention that many Urban women quit their right of paternal property in favour of their brothers due to social norms and self earning capacity while their rural counterpart because of their backwardness, poverty and illiteracy claim right of property in order to have financial stability or pursuing higher education.

Conclusion

Thus it may be concluded that the personal laws and customary laws do not protect the property rights of woman, may be Hindu, Christian or Muslims except right to maintenance. There is no protection of rights of woman living voluntarily with a man as wife without legal recognition and the children out of such relationship are also not given protection, but it is to be kept in mind that the children themselves are not illegitimate rather, they are born out of illegitimate relationship of husband and wife. Further, rights of property for a divorced woman are also not recognized, only it is limited to right of maintenance. Thus it is hoped that economic independence, if given to women in the front of property rights will bring all-round development of society in general and families in particular and they will have a feeling of security as owner of land or property.

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