
A STUDY OF THE STATUS OF WOMEN IN RELIGIOUS LAWS OF THE SAARC NATIONS

ABSTRACT

Equality for women has been a dynamic topic for centuries. Gender inequality is rooted in the societal practices, culture and custom of personal laws of all the SAARC nations. All the major religions of the SAARC countries are influenced by the patriarchal set up. The underlying basis of all personal laws, regardless of religion is, 'Men and Women are not equal'. There exists discrimination in the personal laws relating to marriage, divorce, maintenance, inheritance, adoption and guardianship in the SAARC nations. All major religions have deep influences upon the people that follow them and, in the countries, where they are dominant or where they are proclaimed as state religion.

In the recent past, personal laws have witnessed advances with the constantly changing nature of human relations. In such a scenario, it is an impediment to hold onto the age-old beliefs and traditions of the personal laws, which were adhered to during those times but are a hindrance to today's growth and betterment. Therefore, there is a duty on the legislature of every SAARC nation to reform the conservative personal laws that are biased against the women. The Judiciary has also through its pragmatic judicial pronouncements and judicial creativity developed and reformed the draconian gender unjust personal laws to meet the dynamisms of the society.

Therefore, the need of the hour is to legislate progressive laws to mitigate every inequality that exists in the personal laws of the various religions. This mitigation shall gradually lead to the equality of personal laws for men and women in every religion. Every SAARC nation has a multi-cultural and multi-religious population. In this backdrop, to have a universal secular law for all the SAARC nations is presently a distant dream. However, every SAARC nation may obliterate the gender unjust personal laws by framing progressive laws for the women of each religion. Thus, a parity will inevitably be achieved for the women of every SAARC nation. The title of this thesis is A STUDY OF THE STATUS OF WOMEN IN RELIGIOUS LAWS OF THE SAARC NATIONS.

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The title of Chapter I is 'Theoretical and Conceptual Framework of Religious Laws'. The chapter states the interpretation of the religious laws to be synonyms to the personal laws. It examines the nature of personal laws such as private laws, public laws, group rights or individual rights. The chapter also discusses the evolution of personal laws and the views of legal philosophers in context to the personal laws.

The title of Chapter 2 is 'Politics of Personal Laws'. The chapter explains the politics of personal laws in the British era. The chapter further elaborates on the democratic politics behind enacting the laws to regulate the personal laws in India during the 1950s and 1980s. The discussion on the recent politics involved in the Triple Talaq Case and the Sabrimala Case also finds place in the chapter. The two prime jurisprudential theories, centrist and pluralist, relating to the topic has also been examined in the chapter. The chapter also discusses the unpleasant politics behind the righteous policies framed in India.

The title of Chapter 3 is 'Personal Laws and the issues of Gender Inequality'. The chapter examines the personal laws prevailing in India and highlights the issues of gender inequality in them. The laws on marriage, nullity of marriage, maintenance, restitution of conjugal rights, divorce, judicial separation, inheritance, guardianship and adoption applicable to the Hindus, Christians, Parsis and Muslims in India have been critically examined on the basis of gender inequality.

The title of Chapter 4 is 'Judicial Opinion whether Personal Law is a 'Law' Under Article 13 of the Constitution of India'. The chapter has recorded the evolution of 'Personal Laws' in India starting from the neutrality of British towards the Hindu and Muslim law and then the gradual legislations passed by the Britishers. The chapter discusses the debates held in the Constitution Assembly in relation to the personal laws. The chapter analyses the interpretation of various judicial pronouncements on whether the Personal Laws are 'Laws' under Article 13 of the Constitution of India.

The title of Chapter 5 is 'Comparative Study of the Personal Laws of the SAARC nations'. The chapter provides with the interface of law and life lived by the women of the SAARC nations while being governed by the personal laws applicable to them. It

examines the status of personal laws in the Constitution of every SAARC nation. The chapter critically examines the laws governing the aspects of marriage, maintenance, divorce, inheritance and guardianship of the SAARC nations on the basis of its application to the women.

The title of Chapter 6 is 'International Instruments relating to Gender Equality'. The universally accepted concept and meaning of 'gender', 'sex' 'gender equality' and 'stereotypes' has been discussed in the chapter. The chapter extensively elaborates on the gender inequality issues dealt by the various international instruments of the United Nations. The chapter also incorporates the agendas relating to the rights of the women discussed in the various SAARC summit. The Beijing Declaration and the follow-up action across the world, the UNDP Gender Equality Strategy 2018-2021 and the Sustainable Development Goals also finds the place of discussion in the chapter.

The title of Chapter 7 is 'Scope, Ambit and Applicability of Secular laws in the SAARC Nations'. The chapter elaborates on the concept of secularism imbibed in the Constitution of all the SAARC nations. The chapter also provides with the gap in the metanarratives of secularism and the real time experiences of people belonging to the different religions in the same nation. The chapter also examines the shift in the conceptual meaning of secular laws as explained in different countries and the politics behind it. It studies the government and the societal respect for religious freedom in every SAARC nation. To substantiate, the recent occurrences relating to religious affairs have been incorporated in the chapter.

In Chapter 8 the researcher has concluded the entire research work by providing a detailed description of each chapter. The chapter also incorporates suggestions and recommendations to ensure gender just personal laws.

Therefore, this research work is carried out with an objective to study the status of the women in the SAARC nations and examine the major religions of the SAARC countries namely: Hinduism, Islam, Christianity, Buddhism and Zoroastrianism. The researcher has drawn out the understandings and inferences of the teachings of these religion to bring out the correct and favourable conditions for the women of the SAARC nations.

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