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## ***ABOUT US***

WHITE BLACK LEGAL is an open access, peer-reviewed and refereed journal provided dedicated to express views on topical legal issues, thereby generating a cross current of ideas on emerging matters. This platform shall also ignite the initiative and desire of young law students to contribute in the field of law. The erudite response of legal luminaries shall be solicited to enable readers to explore challenges that lie before law makers, lawyers and the society at large, in the event of the ever changing social, economic and technological scenario.

With this thought, we hereby present to you

# **GENDER JUSTICE AND WOMEN'S RIGHTS – A CRITICAL STUDY**

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## **ABSTRACT**

*Gender equality is essential to achieve peaceful societies, with full human potential and sustainable development. Moreover, it has been shown that empowering women spurs productivity and economic growth. Women and girls represent half of the world's population and, therefore, also half of its potential. Unfortunately, there is still a long way to go to achieve full equality of rights and opportunities between men and women. Therefore, it is of paramount importance to end the multiple forms of gender violence and secure equal access to quality education and health, economic resources and participation in political life for both women and girls and men and boys. It is also essential to achieve equal opportunities in access to employment and to positions of leadership and decision-making at all levels. This research paper is highlighting the importance of attaining gender justice for achieving sustainable development.*

*Keywords: Gender, Justice, Personal Laws, Rights, Women.*

## **INTRODUCTION:**

The Convention on the Elimination of All Forms of Discrimination Against Women is commonly referred to as the international bill of rights for women. It defines what constitutes discrimination against women and girls and sets out a comprehensive framework for tackling gender inequality. Article 1 of the Convention defines discrimination against women in which it has been stated that irrespective of marital status, both men and women should be treated equally. Article 16 states about marriage and family life in which it has been stated that States shall ensure that women have equal rights with men in relation to marriage and as parents, as well as in respect of other aspects of family life. According to the United Nations, India ratified CEDAW in July 1993 with two declarations. But the ratification of CEDAW by India did not

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reduce violence and discrimination against women because the international agreement was not legally implemented and enforced throughout Indian society. The personal laws of India are very much evident to understand the position of India for not taking a step forward to remove discrimination against women.

Progress towards equal power and equal rights for women remain uncertain around the world. Globally, the laws and policies are discriminatory in nature and attitudes remain common and ingrained. In crisis settings, women often bear the brunt of violence, marginalization, and economic exclusion. Gender justice seeks to address historical and ongoing disparities and discrimination based on gender, striving for a more just and equal society where all individuals have equal rights, responsibilities, opportunities, and access to resources, regardless of their gender identity or expression.

### **Background of the Study:**

Gender justice means providing fair and equitable treatment to individuals of all genders in social, economic, political, and legal contexts. The gender ratio in the world in 2024 will be 101.115 males per 100 females. But there were more females than males till 1971. At the global level, the male-to-female ratio has increased from 99.183 in 1950 to at most 101.415 in 2016. It is now expected that females will outnumber males in 2088 and will further decline to 99.800 in 2100. As of 2024, there are 4.10 billion, males in the world, representing 50.28% of the world population. The population of females in the world is estimated at 4.06 billion, representing 49.72% of the world population. The majority of countries and regions in the world have more females than males. But, the top two most populous countries India and China, have a higher male population with a margin. Therefore, there are more males than females in the world. If the population of India and China is excluded, there are more females than males in the rest of the world<sup>2</sup>. Still, women continue to be under-represented in decision-making roles that directly impact their lives, safety, and well-being<sup>3</sup>.

India has had a patriarchal society for ages, and it is high time for women to stand up for themselves. Even in this modern time, inequality between males and females is seen on a wide spectrum. We could find these discriminations not only in workplaces but also at homes.

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<sup>2</sup> UN (World Population Prospects 2024), dated 9<sup>th</sup> August 2024.

<sup>3</sup> The UN Secretary-General, Mr. António Guterres highlights that gender equality is more important than ever if we are to create prosperous economies and a healthy planet.

Ancient traditions and customs have been so deeply embedded in Indian society for such a long time that they curb the free will, independence, and personal views of women. Women are denied opportunities; they are not allowed to have opinions of their own about their future which includes education, career, marriage etc., and are limited to their homes, thereby being completely dependent on men in all walks of her life. Till marriage, father is the deciding authority and in the absence of father brothers will take over the authority. After marriage, husband will be the deciding authority in all the family matters. After her husband's lifetime, she should be under the shadow of her son.

### **Review of Literature:**

Literature pertaining to the above subject matter has been reviewed. In the context of gender justice which can be achieved through gender equality, educating the reality, acceptability and awareness have become extremely significant across the world.

Rachel Sieder and John-Andrew McNeish edited a glasshouse Book titled "Gender Justice and Legal Pluralities: Latin American and African Perspectives" published in 2013, examines the relationship between legal pluralities and the prospects for greater gender justice in developing countries. Adopting a more anthropological approach to the issues of gender justice and women's rights, this book analyses how gendered rights claims are made and responded to within a range of different cultural, social, economic and political contexts.

Cyril-Marry P. Olatunji, (2013) addresses the gender inequality in Black African society and talks about the treatment of women and the topic of gender inequality in Africa. He suggests that the roots of women's oppression are to be sought in customs and traditions and so despite of a legal system that guarantees women rights in Africa.

Halima Akhtar & Md Ershadul Haque, (2014), in the research paper, the author tries to examine the relationship between son preference and contraceptive use at different parities of women in Bangladesh.

Dr. Sheetal J Tamakuwala, (2015) discusses that violence against women in India is an issue rooted in societal norms and economic dependence and discriminatory practices underlined by laws favouring men. The challenges Indian women faces are misogynistic society, outdated and sometime repressive governance structure, a weak rule of law, heavily male-centric social

and political structure. The research further details that although the laws have been amended and female participation in public life has increased, but still, have a long way to go to achieve gender justice and gender equality.

Smita Paul, (2016) in her research on Vijay Tendulkar's the most controversial work, 'Kanyadaan' which is a naturalistic play based on the obnoxious man-woman relationship in a domestic cultural world and describes the play as a glaring example of vindication of women, explores the problems of casteism and shows that it is almost an incurable malady even in a progressive modern society. The play illustrates dramatically that inter-caste marriage can never be a solution for a casteless society and obliquely hints at the suffering predicament of the women in a patriarchal society.

Reviews were collected based on the objectives to substantiate the study. The existing reviews have limited focus on gender justice based upon the limitations of their respective objectives. This study will help in understanding the gender justice and women's rights in general and the position of women in personal laws of India in particular.

### **Research Methodology:**

This is purely doctrinal research in which analytical, historical and comparative methods have been used. As part of the doctrinal work, the data have been collected from various primary and secondary sources. Analytical method is used to analyse the position of women in various personal laws of India. Historical method is used to understand the origin and development and comparative method is to compare the position of women in the global scenario.

### **Limitation:**

Gender Justice and problems relating to women's rights, discrimination, violence against women are global issues. It is not possible to analyse this gigantic issue in this single research paper. Hence, this paper is restricted to the position and the rights of women in the personal laws of India.

### **Data Interpretations:**

Population statistics shows that the female population in the world is almost equal to that of male population. But even in this modern scenario, their representation in all the fields is not

noteworthy. Women in politics as well as in any other higher positions are facing lot of criticisms and problems and they have to face lot of challenges in day-to-day life. No doubt struggle in life is common for all human beings. But gender should not play a crucial role for suppressing the rights of female population. Gender justice emphasizes gender equality, which means that individuals of all genders should have equal rights and opportunities. This includes equal access to education, employment, healthcare, and participation in decision-making processes.

### **Women's Rights and the Personal Laws of India:**

Hindu, Muslim and Christian are the three major religious groups of India. The personal matters of each religious groups are governed by their respective family laws. The Hindus, who are the majority community in India have their separate family law. The Muslims, biggest minority community in India also have their separate family law. The Christians, whose population is not very significant, also have their separate family law. At the time of inception of codified laws, the personal laws of all religious groups had more discriminatory provisions with the influence of age-old patriarchal system. But slowly through the amendments made from time to time some discriminatory provisions have been removed from almost all the personal laws. But still there are many discriminatory provisions with respect to marriage, matrimonial reliefs, adoption, guardianship and property rights. As we compare the position of women in personal laws of India, it is very obvious that the Hindu and Christian women are in a better position than the Muslim women.

The personal matters of various religious groups are more fully governed by the ancient texts and customary practices. The Muslims are still not having proper codified laws for governing the matters relating to marriage, divorce and property rights. Gender justice recognizes that individuals experience multiple forms of discrimination and disadvantage based on factors such as race, class, disability, and sexual orientation. It aims to address these intersecting forms of discrimination. This is especially true for women, who suffer from a range of social issues like infanticide, foeticide, child marriage, and gender bias regarding the ownership of coparcenary property, among others.

Even in the 21st century, when the entire world has become aware of the attraction of feminism, India has been unable to break free from the constraints of antiquated social practices and

customs in various regions. India continues to be the most significant country in the patriarchal belt of the world, where women are still viewed as less important than males, in a kin-ordered social structure. Indian women should be treated equally, and the state should protect them, as per the directions of the Indian Constitution.

### **Landmark Judgments on Gender Justice and Women's Rights:**

The Indian judiciary is playing a pivotal role in delivering numerous landmark judgments that have advanced gender justice, including judgments related to gender-based violence, workplace harassment, and property rights for women<sup>4</sup> etc., Being custodian of the Indian Constitution, the Apex Court is playing crucial role in providing various observations and landmark judgements.

### **CONCLUSION:**

Male and Female, the two basic components of our human society, depend upon each other and each one of them constitutes about half of the population. Over years sociologists and other scholars have tried to assess the problems faced by women and to study changes in their status around the globe in general and in Indian society in particular. We find that man and woman have been established as the two wheels of a chariot. The status represents the position of individual in the group. The status of women refers to her position in the network of social role structure, privileges, rights and duties. It refers to her rights and duties in family and social life. The status of a woman is generally measured in the comparative amount of prestige and respect accorded to her with that of man. In India, the customary practice is given more preference than the individual values. That is the reason why, India is having personal laws for various religious groups which in turn leads to discrimination. Gender equality can be achieved only when the female population can achieve individual status.

### **Suggestions:**

- The fundamental aspect of gender justice is to ensure that individuals have access to legal remedies and protection against gender-based discrimination and violence.

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<sup>4</sup> Vishakha v State of Rajasthan AIR 1997 SC 3011; Shayara Bano v Union of India AIR 2017 SC 4609; Sarla Mudgal v Union of India AIR 1995 SC 1531; Vineeta Sharma v Rakesh Sharma AIR 2020 SC 3717; Independent Thought v Union of India AIR 2017 SC 4904.

- Stringent efforts need to be taken to strengthen the legal framework, provide support services, and raise awareness about legal rights.
- Achieving gender justice requires the collaboration of governments, civil society organizations, businesses, and individuals to challenge gender-based discrimination and work toward a world where all individuals can live free from gender-related inequalities and injustices.
- Paper level commitments, fake promises during elections and namesake Women's Day celebrations should be avoided. Fruitful actions with good intention should play a vital role for achieving gender justice.
- Social, political, and economic equality for women is integral to the achievement of all Millennium Development Goals.

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