
SACRED INEQUITIES: THE EVOLUTION OF GENDER DYNAMICS IN RELIGIOUS PRACTICES

Utkarsh Pandey, Research Scholar, University of Lucknow

Dr. Mahendra Kumar Baishya, Assistant Professor, Faculty of Law Shri Jai Narayan Post
Graduate College, (KKC), Lucknow, Uttar Pradesh, India

ABSTRACT

The relation between religion and gender dynamics has been an important topic which has helped in making the society as it what we see today, and this interplay always had an important role to play throughout the development of any civilised society in the history of mankind. The present article titled – “Sacred Inequities: The Evolution of Gender Dynamics in Religious Practices” delves deep into the instances of gender disparities within the different religious contexts across the globe.

This article is a comparative examination of the major religions and their essential practices which are generally biased towards the women of that particular religion. There are some instances where there is a paradigm shift in the actual religious practice and the religious doctrines of that religion, which in turn leads to gender disparities. Societal beliefs and religious practices are often interchanged and yet are the most important elements that shape the development of the society.

An important aspect of the study is underscoring the autonomy of the women in religious environments, the study gives examples of defiance and change by the women of a particular religion have contested and altered conventional interpretation to promote more inclusive and fair customs and social equity. The article stresses upon the need to align gender equity with religion, urging a reassessment of current practices of various religions and consideration of the feasible solutions for the same.

Keywords: Religious reforms, Social Justice, Gender Equity, Marginalized Voices, Sacred Texts.

INTRODUCTION

The 1979 CEDAW considers discrimination against women as an affront to human dignity and outlines the responsibilities of state parties to ensure women's safety. Furthermore, the Sustainable Development Goal 5 seeks to establish gender equality and empower women and girls. It intends to implement reforms that will ensure that women have equal access to economic resources, ownership and control over land and other forms of assets, and inheritance rights in accordance with national laws.¹ Religious beliefs and societal practices are two powerful elements that shape human rights.² It is important to note that religious concepts about safeguarding human dignity gradually formed the philosophical foundation for IHR law. Rieffer³ argued in his study that early religious works established a moral code that included the duties and responsibilities of all peoples, as well as promoting the early discussions regarding rights. These early religious teachings and moral codes laid the groundwork for the idea and concept of human rights, which was later confirmed and incorporated into international law in the 20th century.⁴ Yet, numerous customs and traditions that depict distinct cultures globally have had a significant impact on the advancement and safeguarding of the concept of women's rights, by the means of justifying the violation of women's right in the name of culture.⁵

Inequalities based on caste, class, religion, ethnicity, and geography are intensified throughout the South Asian countries by serious gender-based discrimination that curtails development and growth of Nation as a whole. Patriarchal values and social norms tend to favour males and boys' access to opportunities and control over resources in all South Asian countries.

Although gender equality has been enshrined under art 14 of the Indian Constitution, there are various patriarchal interpretations of the ancient and religious practices followed which are

¹ Oluwakemi D Udoh, Sheriff F Folarin and Victor A Isumonah, "The Influence of Religion and Culture on Women's Rights to Property in Nigeria" *Cogent Arts & Humanities* 7, 1 (2020), doi:10.1080/23311983.2020.1750244.

² M Abdulla, "Culture, Religion, and Freedom of Religion or Belief" *The Review of Faith and International Affairs* 16, no. 4 (2018), doi:10.1080/15570274.2018.1535033.

³ BA Rieffer, "Religion, Politics and Human Rights: Understanding the Role of Christianity in the Promotion of Human Rights" *Ethnicities* 3, no. 2 (2006), doi:10.1177/1468796803003002003.

⁴ P. G. Lauren, *The Evolution of International Human Rights: Visions Seen* no.3 (University of Pennsylvania Press, 2011).

⁵ Oluwakemi, Women's Rights to Property.

against the mandate of the Indian Constitution.⁶ Such practices are not specifically limited to a particular religion. Whilst women and their rights are largely perceived as being on the periphery of politics, discourse about women's rights undoubtedly become entangled in the most intricate political manoeuvrings. More perplexing fact is that while topics of women and sexuality are considered taboo in private and public discourses, flashpoints arise in public debates in which women's sexuality is the root problem. This demonstrates the complexities of rights struggles as well as the challenges to democracy and democratisation in not just India but other countries as well. This fragmentation has produced a vicious circle that threatens equality and unity at the very core of the family. Globally, majority of the family-related matters, like marriage, divorce, custody, and inheritance, include a religious component. The interplay of cultural heritage, social norms, and religious beliefs complicates dealing with this critical nexus of religion and human rights. Furthermore, the ideological divergence between faith groups and human rights campaigners on sexual and reproductive health issues magnifies conflicts between faith and rights. In this setting, a positive dialogue to reach a consensus should be maintained.⁷

1. RELIGIOUS PRACTICES

1. Christian Practices

In contemporary society, men's and women's roles have shifted dramatically. Still, in certain Christian communities today, the concept that men and women should play different roles persists. The Christian sects that have been pruned to promote patriarchy find various references in the Bible to back up their position.⁸ This is due to their belief that God created men and women differently.

“Wives, submit to your husbands as to the Lord. For the husband is the head of the wife as Christ is the head of the church, his body, of which he is the Saviour. Now as the church submits

⁶ Drishti IAS, “The Big Picture – Gender Equality versus Religious Practices”, 26 July 2018, <https://www.drishtiias.com/loksabha-rajyasabha-discussions/the-big-picture-gender-equality-versus-religious-practices>.

⁷ United Nations Office of the High Commissioner for Human Rights, “Module 5: Women, Girls and Gender Equality”, 24 July 2024, <https://www.ohchr.org/EN/Issues/FreedomReligion/faith4rights-toolkit/Pages/Module5.aspx>.

⁸ Anthonia M Essien, Donatus P Ukpog, “Patriarchy and Gender Inequality: The Persistence of Religious and Cultural Prejudice in the Contemporary Akwa Ibom State, Nigeria”, *International Journal of Social Science and Humanity* 2, no. 4 (2012).

to Christ, so also wives should submit to their husbands in everything”

St Paul’s letter to the Ephesians 5:21-22

Other Christians feel that men and women have been created in the image of God and must therefore be treated as equals, sharing responsibilities and privileges.

“There is neither Jew nor Gentile, neither slave nor free, nor is there male and female, for you are all one in Christ Jesus.”

St Paul’s letter to the Galatians 3:28

There 12 apostles in Christianity and the Church's continued barring of women from ministerial positions is exemplified by the appointment of exclusively men to the Apostolic College. Such a perspective and interpretation must be reconsidered in light of contemporary sensibilities. The Blessed John 2 once said: *“Jesus freely chose and established the apostles as priests; hence, Jesus’ exclusion of women from the Twelve determined their unsuitability for priesthood”*.⁹

With the changing dynamics, we have seen how in countries like Sweden, England and Denmark, women are serving as not only as head political figures, but they have assumed leadership roles in the Churches. Since 1900s, women have been ordained in the official Church of Sweden, the Church of England and the Lutheran State Church of Denmark likewise ordains and admits women as bishops. Nonetheless, if women are ordained within the boundaries of the current apostolic order, it is only a continuation of the same inequity that women face in religion.¹⁰ How can equal female participation in religions that propagate inequality to themselves be acceptable in the name of equality? Additionally, even in case such positions are being offered to women, women accounted for only 1/6th of the full-time stipendiary posts, whereas rest of the female position holders were serving either in a part-time post or as a volunteer.¹¹

⁹ D Halter, *The Papal “No”: A Comprehensive Guide to the Vatican’s Rejection of Women’s Ordination*’ (Crossroad Publishing Company, 2004), 76.

¹⁰ Vineeta Sharma, “Gender Inequality in Religion?” *Economic & Political Weekly* 53, no 50 (2018).

¹¹ Voas, “Ordained but Disdained: Women’s Work in the Church of England” *Modern Believing* 48, (2007).

2. Muslim Practices

Sharia law is used to discipline both private and public life in Islamic countries. Western commentators frequently associate Sharia with patriarchal regulations. It is however vital to distinguish between Sharia, which refers to God's revealed law, and *fiqh*, which is jurisprudence founded on the human interpretation of Sharia. The Sharia is an important source of justice for most Muslims, but its interpretation is a contentious issue in the Muslim world, as different traditions explain. Regardless of the school of law, Sharia-based family laws are based on the Quran, which characterises gender stereotypes based on the innate differences between men and women.

1. Marriage and Divorce

Although marriage is a contractual relationship as per the Muslim Laws, inclination of marriage is towards the males. Marriages exist to provide man with satisfaction and pleasure, to prevent debauchery and rapes, and to raise offspring. Women are clearly seen as things to be utilised at the whims and fancies of men. In fact, women are thought to have no rights, not even in choosing her husband or determining her own fate. She is not even allowed to express her wish to marry a certain person because she is deemed inferior to a male. Whatever her family decides for her is of the utmost importance.¹²

The challenge in the Shayara Bano case¹³ was against Section 2 of the Muslim Personal Law Application Act¹⁴. This provision says that personal law shall apply to the adjudication of disputes between Muslims involving “dissolution of marriage, including talaq”. The petitioner's main argument was that the provision infringed her fundamental rights to equality under Arts 14 and 15, as well as her life and liberty under Art 21 of the Constitution. The SC considered whether the petitioner's right to equality had been infringed by determining if the practise of triple talaq was vital to Islamic religion and protected by the FR to freedom of religion contained in Arts 25 and 26 of the Constitution. In 3:2 ratio, the SC had set aside the practice of triple talaq. This judgment was celebrated globally as a victory for women's right and gender justice.

¹² Nishtha Jain, “Gender Inequality in Hindu and Muslim Personal Laws in India” *IJLMH* 1, no. 2 (2018).

¹³ Shayara Bano v UoI, (2017) 9 SCC 1.

¹⁴ Muslim Personal Law (Shariat) Application Act, 1937, sec. 2.

2. Right to enter the sanctum sanctorum

A Bombay HC bench had opened the sanctum sanctorum part of the Haji Ali Dargah to women in 2016¹⁵, which had previously been forbidden on the grounds of religious freedom under Art 26. The court ruled that Arts 14 and 15 rights were superior.

3. Zoroastrian Practices

1. Right to attend father's burial

In 2017, SC had decided in favour of women's rights. Despite the fact that both were married to non-Parsi men, two Parsi sisters were allowed permission to attend their father's funeral at the Tower of Silence. In this instance, the Court decided against the Mumbai Parsi trust, which had barred both ladies from entering the country.¹⁶

2. Right to enter the holy fire place at an Agiary

Prior to December 2017, if a Parsi woman marries a non-Parsi man, she was immediately regarded to have converted to her husband's faith. She was compelled to give up her Parsi identity and no longer had access to the legal safeguards and religious spaces overseen by the Parsi trusts. It included holy burial sites as well as places of worship known as Agiaris or fire temples. In December 2017, the Supreme Court overturned a Guj HC decision that barred a Parsi lady from entering the fire temple. A Parsi lady who marries a non-Parsi is now permitted to enter the fire temple and the Tower of Silence, as well as engage in other religious activities.¹⁷

4. Hindu Practices

1. Women's right to enter the temple premises

Whenever the question of women entering the temple comes up, the instant reaction is that this

¹⁵ Dr Noorjehan Safia Niaz and anr v State of Maharashtra and ors (2017) 7 ALLMR 408 (BOM).

¹⁶ Samanwaya Rautray, "Parsi Women Married to Non-Parsis Can Visit Its Places of Worship: Supreme Court," *The Economic Times*, 2017, <https://economictimes.indiatimes.com/news/politics-and-nation/parsi-women-married-to-non-parsis-can-visit-its-places-of-worship-supreme-court/articleshow/62075990.cms?from=mdr>.

¹⁷ "Parsi Woman Who Married Outside Religion Can Enter Fire Temple, Says Supreme Court in Major Ruling," *India Today* (New Delhi, December 14, 2017), <https://www.indiatoday.in/india/story/in-major-ruling-supreme-court-allows-parsi-woman-who-married-outside-religion-to-enter-fire-temple-1107112-2017-12-14>.

also occurs in mosques and dargahs. Everytime these relative freedoms are compared, the issue shifts from gender equality within one religion to a rivalry over which faith provides the most freedoms to its women.¹⁸ The Sabarimala issue arose from a complaint of young ladies trekking in the Sabarimala hills and praying at the Sabarimala shrine. Certain people are prohibited from accessing the temple or performing devotion under Rule 3(b) of the Kerala Hindu Places of Public Worship (Authorisation of Entry) Rules, 1965. These include women “at such time during which they are not by custom and usage allowed to enter a place of public worship”¹⁹. The Kerala HC ruled that the restriction didn't discriminate against women as a whole. The restriction only extended to a certain category of women: those aged 10 to 50.²⁰ It agreed with the temple board that because the god is celibate, “young women should not offer worship in the temple so that even the slightest deviation from celibacy and austerity observed by the deity is not caused by the presence of such women”. In 2006, a PIL led by 6 female lawyers and supported by various feminist and civil society organizations challenged the constitutionality of the prohibition, claiming that it infringed women's equality rights. They also asked the Court to establish standards “in matters of general inequality related to religious practices in places of worship”. The board regarded the practise as a continuation of an age-old important tradition, and that Ayyappa worshippers constituted a separate religious denomination and so had the right to conduct their own religious affairs and decide their own rules and regulations under Art 26 of the Constitution. The Constitutional Bench struck down regulation 3(b) in a 4:1 majority ruling on various reasons, including that it infringed women's equality rights and hindered Hindu women's rights to pray at the shrine, which breached their FRs to freedom of religion under Art 25. The majority of people believed that Ayyappa worshippers were not a different religious sect, but rather “just Hindus”. For this reason, the majority declared that any religious activity based on discrimination lost its standing as an important religious practise. It was also opined that - *“Patriarchy in religion cannot be permitted to trump over the element of pure devotion borne out of faith and the freedom to practise and profess one’s religion... Any rule based on discrimination or segregation of women pertaining to biological characteristics is not only unfounded, indefensible and implausible but can also never pass the muster of constitutionality”*²¹

¹⁸ Vineeta Sharma, "Gender Inequality in Religion?" *Economic & Political Weekly* 53, no. 50 (2018)..

¹⁹ Kerala Hindu Places of Public Worship (Authorization of Entry) Rules, 1965, r. 3(b).

²⁰ S Mahendran v Secretary, Travancore Devaswom Board, AIR 1993 Ker 3.

²¹ Indian Young Lawyers Association v State of Kerala, (2019) 11 SCC 1.

J Chandrachud took a substantive approach to equality, taking into account the historical and systemic discrimination that results in exclusion and disadvantage, stating, “Substantive notions of equality require the recognition of and remedies for historical discrimination which has pervaded certain identities. Such a notion focuses on not only distributive questions, but on the structures of oppression and domination which exclude these identities from participation in an equal life. An indispensable facet of an equal life, is the equal participation of women in all spheres of social activity”.

In her lone dissent, J Indu Malhotra, the bench’s only female justice, argued that the legitimacy of religious activities could not be judged only on the basis of the right to equality or logic. It was up to worshipers, not judges, in her opinion, to establish the essential practises of a religion. She believed that a compromise between religious beliefs and non-discrimination had to be reached. According to J Malhotra, the Ayyappa followers formed a separate denomination and so had the right to conduct their own religious affairs and establish their own norms and practises under Art 26 of the Constitution. She argued that the restriction did not violate the equality principle since it did not apply to all women, but only to those aged 10 to 50.

2. Women as “pujari”

The SC had acknowledged in a 1955 decision²² that women had hereditary rights to succeed to the priestly position of a pujari at a Hindu place of worship, but that decision didn't recognise her equal ability to execute holy rites as a pujari. Few months ago, The TN Hindu Religious and Charitable Endowments Minister PK Sekar Babu had expressed that, women can be appointed as priests as there are no legal obstacles to do so.

There have been various marriages highlighted in the news recently because these marriages were officiated by a woman priest. However, it is not the first time that a woman priest is officiating the marriage; in the 80s and 90s, a Kolkata- based priest had officiated a lot of weddings. However, the biggest issue lies in the question – “whether the society is changing?”. Almost all of these marriages which took place where the marriages of rich and influential people. This reflects that it is more of a style statement and does not reflect the mindset of the society.

²² Raj Kali Kuer v Ram Rattan Pandey, 1955 AIR 493.

Conclusion

“Half of the Indian population too is woman. Women have always been discriminated against and have suffered and are suffering discrimination in silence. Self-sacrifice and self-denial are their nobility and fortitude and yet they have been subjected to all equities indignities, inequality and discrimination.”

- Justice K Rama Swamy

The women themselves believe that it is their fate to depend on males. Women believe that it is their fate to be dependent on males. In India, women are raised in such a way that they believe males are superior and women are inferior.

Pursuing equality via religion appears to be unproductive, as religion continues to be ingrained in patriarchal structures and inequality. It can't bring to equality. Religion and its artefacts can never guarantee equality for women since they repeat patriarchy. While there is a fight to go beyond religion's allowed limitations, this fight has the potential to strengthen the existing injustices that one tries to combat. Women being barred from religious gatherings or from becoming clergy reveals a superficial level of gender inequality that can be associated with religion.

To conclude, we must look into Dr Ambedkar's last speech in the constituent assembly: *“The third thing we must do is not to be content with mere political democracy. We must make our political democracy a social democracy as well. Political democracy cannot last unless there lies at the base of it social democracy. What does social democracy mean? It means a way of life which recognises liberty, equality and fraternity as the principles of life. These principles of liberty, equality and fraternity are not to be treated as separate items in a trinity. They form a union of trinity in the sense that to divorce one from the other is to defeat the very purpose of democracy. Liberty cannot be divorced from equality; equality cannot be divorced from liberty. Nor can liberty and equality be divorced from fraternity. Without equality, liberty would produce the supremacy of the few over the many. Equality without liberty would kill individual initiative. Without fraternity, liberty and equality could not become a natural course of things. It would require a constable to enforce them. We must begin by acknowledging the fact that there is complete absence of two things in Indian Society. One of these is equality. On the social plane, we have in India a society based on the principle of graded inequality which*

means elevation for some and degradation for others.” A woman’s struggle for right to equality is inherently linked with the struggle for democracy in a country. Even as women walk forth each day into a new dawn, the women's movement remains a critical component of the effort to sustain and establish a robust democratic democracy that will allow for more vigorous debates. What forces working for fundamental social change must recognise is that the presence of women is as important for their own rights as it is for the survival of democracy.

Suggestions

- To appropriately resolve these issues of patriarchy, a strategy and goal-oriented actions must be implemented. The conventional technique of dealing with these issues via seminars, symposiums, and discussions can be replaced with the following dynamic choices: formal education and assertiveness training for women to be able to question the patriarchal framework of society is essential, and after assertiveness training, women will be confident to take their lives into their own hands and pose questions in the community about gender inequality as well as other demeaning practises.
- Entry of more and more women in clerical position so that there is a contemporary interpretation of customs and religious beliefs.
- Religion, the most difficult hurdle for women to overcome on the path to gender equality, must be addressed by enacting progressive laws that overrule inherent inequalities.

REFERENCES

1. Lauren, PG. 2011 *The Evolution of International Human Rights: Visions Seen*. 3rd ed. University of Pennsylvania Press.
2. Halter, D. 2004. *The Papal "No" A Comprehensive Guide to the Vatican's Rejection of Women's Ordination*. Crossroad Publishing Company.
3. Udoh, OD. Folarin, SF, and Isumonah, VA. 2020. The Influence of Religion and Culture on Women's Rights to Property in Nigeria. *Cogent Arts & Humanities*. 7(1).
4. Abdulla, M. 2018. Culture, Religion, and Freedom of Religion or Belief. *The Review of Faith and International Affairs*, 16(4).
5. Rieffer, BA. 2006. Religion, Politics and Human Rights: Understanding the Role of Christianity in the Promotion of Human Rights, *Ethnicities*, 3 (2).
6. Essien, AM. and Ukpong, DP. 2012 Patriarchy and Gender Inequality: The Persistence of Religious and Cultural Prejudice in the Contemporary Akwa Ibom State, Nigeria. *International Journal of Social Science and Humanity*, 2 (4).
7. Sharma, V. 2018 Gender Inequality in Religion?. *Economic & Political Weekly*, 53 (50)
8. Voas. 2007. Ordained but Disdained: Women's Work in the Church of England. *Modern Believing*, 48.
9. Jain, N. 2018. Gender Inequality in Hindu and Muslim Personal Laws in India. *International Journal of Law Management & Humanities*, 1 (2).