



# MAJOR CHANGES IN FAMILY LAW OVER THE YEARS: A CASE STUDY OF INDIA

Ms. Nandini Agarwal; Student; LLB; Amity Law School, Noida  
Dr. Superna Venaik ; Assistant Professor; Amity Law School, Noida

## INTRODUCTION

Family Laws encompass the huge set of policies that are in exercise regarding circle of relatives topics, along with marriage, divorce, inheritance, and so on. When one criminalizes the reputation of interpersonal relationships, some legally enforceable rights and obligations are upheld. Ensuring the preservation of character rights and upholding good standards that are essential to human dignity is the rationale behind having laws that impact the most intimate aspects of our lives. Another reason is that laws serve as social retailers and have the power to improve people's standing in the community. There are five significant sets of Hindu family law recommendations in India that have been converted into regulations. These include:

1. The Hindu community, along with Buddhists, Jains, and Sikhs;
2. Islamic law for Muslims;
3. Christian law for Christians;
4. Parsi law for Parsis; and
5. Secular legislation, such as the Special Marriage Act, among others.

Spiritual literature are the source of the laws based on religion. The parliamentary process has been used to periodically modify the legislation. The extensive regulations implemented after independence have significantly changed Hindu law. In the last few decades, Christian and Parsee laws have been changed more recently through legislation. The majority of the content and interpretation of the cases from when its spiritual writings were produced are still present in Muslim law rules since they have also undergone the least modification.<sup>1</sup>

Muslim own family legal guidelines where how marriages have come about and if there were any home violence acted upon them what treatments to be furnished in India.

<sup>1</sup> Colomb, R. M., "Impact of Semantic Heterogeneity on Federating Databases", (1997)

Last accessed on- 26th March, 2024

The husband illegally pronounces that this marriage isn't met to be solemnized and publicizes triple talaq that's void and illegal beneath the Muslim women “(protection of rights on marriage) act”, 2019 because it's against the law and a criminal offence.

This act facilitates Muslim girls to pop out of discrimination and domestic violence which they're facing in day-to-day existence however this act gave them dignity and braveness to combat against their rights and contributed to women empowerment, boosted their self-belief, gave them respect, identity. Just bringing this act protected their democratic, constitutional yet fundamental rights In competition to the triple talaq in India.

This act also has imprisonment for a time period up to three years or a high-quality or each against the husband who practiced the concept of immediately triple talaq. They don't have the right to just dissolve the wedding in desire of their phrases and situations, there shall be mutual consent among the “husband and wife” that's proper judicial court cases related to divorce.

Banning of the triple talaq became upheld by the very apex court i.e., Supreme court when shayara Bano challenged this exercise of instant triple talaq that it is discriminatory and towards the respect of girls. And this form of talaq is violative of Article 14 of the Indian charter. This is how legislative reforms were made in India related to this.

The protection provided to Muslim women below the Muslim women “(protection of rights on marriage) act”, 2019 after the divorce underneath positive occasions and if there has been any other domestic violence acted upon them what treatments to be provided in India.

### **Mohd. Ahmed Khan v. Shah Bano Begum Case**

After this situation it changed into held that: There is not anything in regulation to support the placement that the talaq takes impact from when the wife comes to recognise of it. The iddat would begin to run straight away. Similarly, the duration of hindrance for restoration of her deferred dower will start jogging most compelling from the date when she knew talaq. The spouse also can declare maintenance from her husband until such time the communication of talaq reaches her.

Under sections 3, 4, and 5 of the Muslim women “(protection of rights on marriage) act”, 2019 subsistence allowance can be granted to the divorced Muslim ladies where pronouncement of triple talaq changed into declared either through words, spoken or written, or in an electronic mode or in any mode which is unlawful and void. The amount of allowance will be determined with the assistance of the magistrate.

### **MAINTENANCE UNDER HINDU LAW:**

- i. Under the Hindu Marriage Act, if in any intending under this Act, the Court concludes that both the spouse or the husband has no separate supply of income sufficient for their assist, it may order the fee of month-to-month preservation to the petitioner through the respondent.
- ii. A divorced woman has the privilege (right) to assert renovation under Hindu law.

## **MAINTENANCE UNDER MUSLIM LAW:**

- i. As per Islamic law, a husband is obligated to provide for his wife and family, and the word "renovation" refers to the amount he may not be able to pay for the same.
- ii. In Muslim law, maintenance is referred to as nafaqa and includes housing, food, and sustenance.
- iii. Even though she has the resources to support herself, a wife usually has the right to receive maintenance from her husband
- iv. The Muslim Women (Protection of Rights on Divorce) Act of 1986, which manages the protection of divorced girls.
- v. A wife has a claim against her ex-husband for a reasonable amount of maintenance during the allotted iddat term.
- vi. If the wife becomes pregnant after or during the divorce, she will be entitled to a reasonable amount of maintenance for a minimum of two years from the date of the baby's birth.
- vii. If the wife has an infant at the time of the divorce, she may still be able to claim protection for her child until she remarries or the child becomes dependent.
- viii. The marriage settlement may also specify the payment of special allowances through the husband, in which case the husband will be responsible for paying those to the wife. These reimbursements are known as kharch-e-pandan.

The own family has continually been an critical unit of analysis to enhance and recognize human improvement. Studying the modifications inside the organization of own family and families keeping in view the segment, social, and monetary transitions are also come to be vital. So, a long way, to our expertise, there are very less research based totally in India it has been have investigated the household length and circle of relative's formations and patterns, On the identical time as a few of them have regarded into its viable causes or institutions and demographic, monetary, and social repercussions. In particular, as in line with our know-how, there may be no evidence of who's losing and who's gaining among circle of relative's individuals due to the unprecedented transition in family paperwork in India. This work will serves a two-fold cause firstly it seeks to discover and enrich the sphere of family demography in India by means of studying the prevailing evidence within the subject in addition to allied fields to recognize how own family serves because the nuclear directing the individuals and communities towards its certain behaviour and selections which could therefore translated into large socially, monetary and demographic transitions. Second, it additionally discusses the lacking hyperlinks and scope inside the area of own family demographical in our own country India as compared to the evolved societies to offer future research potentialities in this region.

## **PROBLEMS OF DOWRY**

Let's now discuss the growing issue of dowries, which has emerged as one of the most serious social ills in Indian society in recent years.<sup>2</sup> The term "dowry," sometimes known as the "bridegroom rate," is a one-time payment made by the bride's family to her future spouse prior to the actual solemnization of marriage, which

<sup>2</sup>shodhganga.inflibnet.ac.in (Last accessed on- 26th March, 2024)

may or may not include a few tangible items that are essential to the terms of the arrangement. A daughter's wedding may occasionally be followed by or include dowry as well. The dowry and related issues have gotten so bad that, in recent years, daughters' weddings have often been accompanied by terrifying studies for parents' satisfaction ratings.

The Indian government was forced to pass the Dowry Prohibition Act in 1961, which was later revised in 1986, because to the growing threat posed by dowries. However, the legislative efforts to outlaw this practice have so far proven to be fruitless.<sup>3</sup> All social groupings and geographical areas have accepted the dowry as socially legitimate. If there is disagreement over the mode or quantity of dowry charge between the bride's and bridegroom's households, marriage talks can fail. As previously mentioned, dowry has become such a significant factor in marriage that almost no marriage can take place without it.

It might seem like a helpful necessity for starting a family in modern-day India. Only very seldom are dowry requirements waived. The bride's parents may not necessarily demand a dowry under the false pretense that it is a social ill in India, especially if the groom's parents, for instance, are able to benefit more financially or personally from the arrangement even though the bride receives the dowry in cash. The bride is sometimes oppressed, mistreated, and tortured when the amount of the dowry isn't always thought to be sufficient or when the predicted necessities aren't satisfied with ease.

<sup>4</sup>It may appear to be a useful requirement for establishing a family in contemporary India. The dowry requirements are rarely waived. If the groom's parents, for example, stand to gain more financially or personally from the marriage even though the bride receives the dowry in cash, then the bride's parents may not feel compelled to seek a dowry on the grounds that it is a societal evil in India. When the expected needs aren't easily provided or when the dowry isn't always seen to be sufficient, the bride may experience oppression, mistreatment, and torture.

The bride cannot take revenge for the forced actions or movements of others since she is physically and helplessly helpless in her new home.. Not many girls in a traditional and developing country like India have the guts to leave their husbands who are constantly abusing them mentally or physically because they have nothing to fall back on. The unsettling reality about dowry-related violence is that it does not specifically target any one group, socioeconomic class, geographic area, or even religion. Rather, because it has already been strained, it is believed to be a universal event that diminishes across a range of barriers. It is reportedly seeing an unstoppable boom throughout the nation. It has long been believed that, like clockwork every twelve hours, approximately 20,000 girls in the United States died as a result of dowry-related suicide between 1990 and 1993. Additionally, it has been reported that every day in the State of Karnataka, at least three women are burned in order to meet dowry-related needs. This may indicate a serious issue, as the dowry death rate is one of the common issues in Indian society (Singh, 2005: 199–220).

<sup>3</sup> J. P. Singh, "Problems of India's Changing Family and State Intervention", 6-7 (2010) (Last accessed on- 26<sup>th</sup> March, 2024)

<sup>4</sup> "The status of the Church in Africa by Atuahene" (2018) (Last accessed on- 20<sup>th</sup> March, 2024)

Due to the nation's persistent legislative failures, civil communities need to take the initiative to combat the dangers of dowries. The primary problem is that those who have more sons than females or who are male-biased generally have a stake in this project succeeding. The idea of a national civil code is opposed by the 12.4% of Indians who identify as Muslims. However, before attempting this, one should be quite aware of the issues that Indian culture has been dealing with.

Here, we want to shed some light on the fundamental issues that face Indian society as a whole and individual families in particular.

In order to ensure the well-being of one's own family as a social subsystem, it is important to recognize the challenges associated with fostering social safety and intergenerational harmony. India has 192.7 million households, dispersed over 0.59 million villages and over 5,000 towns, according to the 2001 census.<sup>5</sup> The Indian society is renowned for its wide differences in locations, between rural and urban areas, in training, and, lastly, between various caste, religious, and ethnic groups. In reality, Indian society is a jumble of small areas and distinct subcultures, the distinctions between which are significant from a sociological standpoint.

In addition, differences can also be observed in terms of women's level of competence, gender ratio, age at marriage, rate of marital dissolution, size of family, cost of interest for young women entering the labor force, conjugal customs, family orientation, and authority structure within the family. The majority of family types also exhibit characteristics inherent to Indian culture. If the traditional joint-owner family has virtually vanished from the urban landscape, the life expectancy of women has increased from 23 years in 1901–10 to 65 years in 2009 (more than that of men by 3 years), the proportion of households headed by women has increased, the average age of household heads has decreased, and the frequency of separation and divorce has increased, increased stress and tension between husband and wife, mother and father, sons, and brothers; enhanced autonomy in marriage; decline in kinship ties; constant discussions about family matters between sons and parents; increased participation of women in decision-making processes; and an increase in the average age of marriage for women from 1901 to 1918 of 13 years. A range of changes in the family system—its structure, functions, middle values, and regulative norms—have been clearly demonstrated by three years in 2001, an increase in the level of female education, and a drop in the overall fertility rate from 4.9 in 1971 to 2.76 in 2009. (Singh, 2004: 129-166).

Many new issues have emerged in response to these changes, while certain long-standing issues—such as dowries, divorce, the breakdown of intergenerational cohesiveness, sibling strife, and gender violence—have become much more severe.

## **CHANGES IN MARITAL PRACTICES**

Indian civilization, especially Hindu society, has long been based on a traditional set of beliefs that supported early marriage and traditional marriage for women. In India, pre-puberty or child marriage has long been associated with a certain group. Throughout the 19th century and even before, the age of marriage fell

<sup>5</sup> <https://www.un.org/en/get-involved> (Last accessed on- 12th March, 2024)

significantly lower. According to the data, the average age of marriage for females was roughly 13 (thirteen) years between the 1901 and 1931 censuses, and it did not significantly differ among other demographic categories. The "Child "Marriages Restraint Act" of 1929 (as well as its subsequent revisions in 1949, 1955, and 1978) passed off as being among the most potent legislative measures.

Throughout the post-independence era, that is, from some point around 1950, the rise in marriage ages has become noticeable. In 1978, the statute underwent a similar amendment, raising the marriage age for boys to 21 and for girls to 18 (eighteen). Overall, data from kingdom-level censuses over the past 100 years has shown a clear increased trend in women's marriageable age. In several areas of the United States, the marriage age increased by four to seven years between 1891 and 1991.

The viability of the high fertility program in the United States was seriously threatened by data from the NFHS-2 (1998–1999), which showed a similar nationwide increase in women's marriageable age from 18.5 to 21.5 years (the Census of India, 2001 has expected a somewhat lower age at marriage). In India, giving birth to an unmarried child is exceedingly rare because it is strongly socially taboo. A new regulation that forbade child marriage was overturned in December of 2006. The law offers great ways for courts to get involved in keeping young marriages intact by issuing living orders.

The National Family Health Survey-2 reports that 65% of Indian women marry before they turn eighteen. Child marriages are legally binding on some festivals, including Akha Teej, Ram Navami, Basant Panchami, and Karma Jayanti. 47% of Indian women aged 20 to 24 who were married before the legal age of 18 lived in rural regions, according to UNICEF's 'State of the World's Children-2009' report. <sup>6</sup>The Indian government was forced to pass the "Dowry Prohibition Act, 1961," which was later revised in 1986, because to the growing threat posed by dowries. However, the legal actions taken to end this practice have so far proven to be a useless exercise.<sup>7</sup>

It is a terrible fact that violence associated to dowries does not respect boundaries between groups, socioeconomic classes, regions, or even religious beliefs. Rather, because it has been burdened previously, it is often considered to be an ordinary phenomena that cuts through all kinds of obstacles. It is asserted to be seeing a constant upsurge in the United States. It has been suggested numerous times that, every twelve hours, a dowry-related death claims to have claimed the lives of over 20,000 women in the United States between 1990 and 1993 occurs like clockwork. Furthermore, it has been reported that in the State of Karnataka, at least three women are burned every day in order to satisfy demands linked to dowries.

This might be interpreted as a result of a serious difficulty, as one of the frequent issues in Indian society is the death dowry (Singh, 2005: 199–220)<sup>8</sup>.

In light of the nation's continued failure to achieve its goals through illegal means, civil organizations must take the initiative to counter the dowry threat. The main issue is that people who have sons or more males than

<sup>6</sup> Jejeebhoy, S.J. 2019. Ending Child Marriage in India, Drivers and Strategies. New Delhi: UNICEF (Last accessed on- 10th February, 2024)

<sup>7</sup> <https://www.un.org/en/get-involved> (Last accessed on- 26th March, 2024)

<sup>8</sup> Chen, M., (2000), "Perpetual Mourning: Widowhood in Rural India", Delhi: Oxford University Press. Ibid (Last accessed on- 26th March, 2024)

daughters typically have developed interests in the tolerance of this behavior. In one's own family, violence is primarily a masculine activity. Women and children are the main goals. As long as we have documented the truths of Indian society, the women have endured abuse and humiliation. Many women have continued to experience violence and discrimination in the United States of America despite a number of legislative measures taken in the last 150 years to address the lack of females, the continued expansion of modern education, and women's slow financial independence (Singh 2002: 168). According to data, 40% of Indian women report having been the victim of abuse by an intimate partner. These startling statistics highlight the reality that, although if the home and network are places where women provide care for one another, they may also be sites where millions of girls take pleasure in coercion and abuse. According to a study conducted in five areas of the state of Uttar Pradesh, thirty percent of married males are known to physically abuse their partners (UNC 1997). In a similar vein, a multi-sectoral survey conducted by the International Clinical Epidemiologists Network (INCLIN) revealed that one in five married women reported having been struck, kicked, overpowered, or slapped by their husbands. Approximately 50% of the girls who reported physical abuse also reported having experienced physical abuse at some point throughout their pregnancy. The anti-home violence act of 2005, as it stands, may undoubtedly address the issue of gender-based violence against Indian girls to a great degree.

There is yet more to the story of domestic abuse that has not yet been fully explored, particularly by feminist authors. It is estimated that over 58,000 educated women ruin their husbands' lives every year by abusing the Domestic Violence Act and the Antidowry Regulation. As a result of these laws, criminal terrorism continues to openly demand money from the husbands and their families. Over 52,000 married men are dying their lives as a result of various forms of domestic violence and harassment they experienced from their better halves. This included verbal, financial, intellectual, sexual, and courtship/cheating abuse, among other forms.

### **PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005:**

This act protects the wife or female live-in partner from domestic abuse committed by her husband, male live-in partner, or his family members. This law also safeguards other female family members, such as sisters, widows, or mothers. The Function of Women in the Establishment of Family Courts: The Family Courts Act grants national governments the required authority to establish circle of relatives courts in cities and towns with a population of one million or more, and discretionary authority for areas with a population of "less than one million." Nevertheless, a number of governments have chosen not to establish their own family courts for a variety of reasons, including geographical and financial limitations as well as legal opposition.

Family courts have come about mostly via the efforts of women's organizations and corporations. During the 1980s, organizations advocating for girls' rights were outspoken in their calls for legislative changes. Among these changes were the establishment of special tribunals to handle family law disputes and reduce violence

against women, including rape, dowry harassment, and wife killing. The issues surrounding gender justice have played a significant role in spurring the establishment of private family courts. As a result, the goal of family courts was to develop more girl-friendly judicial procedures that were less formal and more accessible to girls, particularly those from underrepresented groups.

In order to enable the parties to the conflict reach mutually agreeable resolutions, the family courts meant to depend less on traditional attorneys and more on counselors. The conciliators' job was to give women more negotiating power when it came to reconciliations and agreements regarding things like post-divorce maintenance, child custody and access, protection from domestic abuse, and the ability to live in the married home.

Smt. Durga Bai Deshmukh first brought attention to the necessity for the creation of courts, particularly Family Courts, in 1953 when she visited China and saw firsthand how the "Family Courts" operated. She talked about the circumstances surrounding the court's judge at the time, Hon'ble Mr. Justice P.B. Gajendragadkar, and Hon'ble Mr. Justice M.C. Chagla of the Bombay High Court. She also brought up the fact that "Prime Minister Pandit Jawahar Lal Nehru" was unable to create the Family Courts at the time. A multitude of women's groups, social service agencies, and private individuals support the creation of Family Courts as a way to offer a quick and effective venue for settling domestic disputes.

### **CRIMINAL PROCEDURE CODE: MAINTENANCE PROVISION**

A portion of section 488 of the previous law, CrPC 1898, was resurrected as section 125 CrPC, which also expanded the provision's scope by raising the number of dependents who may be eligible for maintenance payments. It was presented as a welfare degree to protect the vulnerable groups, such as women and children. Relevant provisions of CrPC 1973 can be found in Chapter IX (Section 125- 128). Parents of minor children, whether biological or adopted, and wives, both divorced and not, are covered by Section 125 of the Criminal Procedure Code.

A Justice of the Peace of the primary elegance may, among other things, "upon evidence of such forget or refusal, order such man or woman to make a monthly allowance for" the protection of the child if any man or woman "having enough approach, neglects or refuses to hold his infant "unable to keep itself." This clause also applies to children who are male or female, married or single, and to children who are legitimate as well as illegitimate.

Sections 125 to 128 provide a quick and easy way to make someone hold their spouse, kids, parents, and mother. A statutory right established by the Act, the right of a wife and children to be maintained with the help of the husband and through the father is independent of personal law. The definition of "infant" in the CrPC has been removed. With the help of the Indian Majority Act of 1875, it addresses an individual who has not reached the legal age of majority, which is 18 years, and who is unable to enter into a contract or assert any legal claims.

According to subsection (1)'s clause (c), a baby need not be a juvenile, but he must be incapable of sustaining himself due to a physical or mental impairment.

The paternity of the child is the basis for software for maintenance; however, the Supreme Court ruled in



Sumitra Devi v. Bhaaikan Choudhary that the child's validity or illegitimacy would no longer be taken into consideration while identifying the software. As a result, maintenance is due to an illegitimate minor toddler. The Supreme Court decided in **Ramesh Chandra Kausal v. Mrs. Veena Kausal**, based on Section 125, that:

It is a social justice provision that was specifically passed to safeguard young women and girls. It is covered by Article 15(3) of the Constitution, which is further strengthened by Article 39. Sections of statutes requiring courts to develop them are undoubtedly colorful terms with social features to meet rather than intimidating print.

Notably, the CrPC may not contain any provisions pertaining to a widowed daughter who is not a juvenile. This seems to be a gap in the Code: if a daughter of this type cannot support herself, neither her parents nor her in-laws can be forced to do so by utilizing the crook courts to keep her under the CrPC's provisions.

However, Section 125 (one hundred twenty-five) CrPC also provides for "destitution," which is distinct from maintenance in that it does not need one to be indigent in order to seek out or declare renovation. The chapter on marriage has addressed the issue of divorced wives' maintenance under various private laws. On the other hand, the phrase still applies to the upkeep of children and parents.

## **RIGHTS OF WOMEN UNDER HINDU LAW**

### **DEFINITION OF INHERITANCE**

Only in reference to succession is the term "inheritance" employed. An individual's property, title, debts, and responsibilities may pass to their heir following death. Tangible and immovable property are frequently recognized as inheritance, despite the fact that different communities see inheritance differently. The "Hindu succession Act," which was revised in 2005, granted daughters the same property rights. Sons had rights over their deceased father's property before the "Hindu Succession Amendment Act of 2005," whereas girls should have this privilege up until the point at which they became single.

It was discovered that a girl receives privileges within another Hindu Undivided Family (HUF) when she marries and becomes a member of her husband's family. Married or single daughters now have the same rights as their brothers over their father's property. They share their brothers' responsibilities and rights. It was also decided in 2005 that, as long as both parents were still alive on September 9, 2005, a girl would have the same rights as her father. Whether or not the father was living on this date, the Supreme Court decided in 2018 that a daughter can inherit her deceased father's belongings. Here, women also performed the everyday task of coparcening. They can ask for a part of it.

*The right of daughters to inherit their parents' self-obtained assets and any other assets in which they may be absolute proprietors was established by the Supreme Court in 2022. The court went on to say that even in cases where a daughter's parents died intestate prior to the codification of the Hindu Succession Act, 1956, this rule might be applicable.*

## **SHARE OF MARRIED DAUGHTERS IN FATHER'S ASSETS**

What portion of their father's assets can married daughters declare? A daughter receives the same rights as her brothers in her father's ancestral property, according to the ruling of the "Supreme Court." But this doesn't mean that if the father passes away, the possessions could be split evenly between a brother and a sister. The split of the assets can be based entirely on the share of each inheritor in accordance with the applicable inheritance laws, since inheritance laws also grant property rights to other deceased heirs. If a married daughter receives the same portion of her father's assets as her brother does, she will undoubtedly be entitled to an equal proportion as well.

## **PROPERTY RIGHTS AND INHERITANCE OF MOM ON SON'S PROPERTY**

A mother inherits her deceased son's possessions with a criminal record. As a result, if a person passes away, his mother, wife, and children will all inherit the same rights over his possessions. Please take note that in the event that the mother dies without creating a will, her portion of her son's estate will transfer to her heirs, which may include her other children.

## **INHERITANCE OF AN ADOPTED TODDLER**

Adopted children have all the rights accorded to organic toddlers and are also Class-I heirs. Adopted children, however, are not entitled to inherit their adoptive father's possessions should he be banned from doing so because of any criminal offenses he may have committed. Even in the following scenario, the adopted child cannot inherit the ancestral assets if the father changed to a different religion and the adopted child also practices that religion.

## **PROPERTY RIGHTS AND INHERITANCE OF AN DESERTED FIRST SPOUSE**

Let's say a Hindu man marries again after divorcing his wife without filing for divorce. In this instance, the primary spouse and their children are legitimate heirs, and his prior marriage hasn't been revoked by law. In the event of a divorce, the first spouse will own all of the assets and cannot claim any part in them. It is imperative to possess recorded proof of the percentage of each spouse's economic contribution in the event of a divorce, even in situations when the husband and wife have jointly contributed to the acquisition of assets. This is especially important if you have to file a report on a suit for possession or eviction.

## **INHERITANCE OF THE SECOND SPOUSE**

The second wife would have full legal rights over her husband's property if her husband's first spouse passed away or divorced before the husband remarried. Her kids have equal rights according to their father's share, just as the kids from the previous marriage. In the event that the second marriage is lawful, the children of the first wife are not entitled to inherit the husband's family assets while they are in prison.

## WOMEN'S ASSETS UNDER HINDU LAW

A number of social reformers worked to have the Hindu Women's Right to Property Act passed in 1937. The aforementioned Act changed the curriculum of all Hindu schools, granting more privileges to Hindu girls. This Act led to contemporary changes in the rules governing alienation, inheritance, partition, and adoption in addition to the regulation of coparceners. It prevented a widow from becoming a coparcener, but it did permit her to take an identical component with her son. Consequently, widows were limited to a portion of their late husband's possessions, which they may ask to be divided.

The "Hindu Women's Right to Property Act, 1937" was intended to provide all Hindu women more property rights, but in the end, it was only concerned with improving the rights of widows—not women in general. The aforementioned Act of Legislature preserved the reputation of a daughter's right to inherit. The Hindu Women's Right to Property Act of 1937 drew a lot of criticism, therefore the Parliament resolved to make a stronger law to protect women's property rights. This resulted in the Hindu Succession Act of 1956.

### STRIDHAN

According to the Smritikars, a "Stridhan" is a dwelling that a woman obtains through family members, primarily consisting of moveable property. It is also said that Stridhan includes gifts given with help from her wedding guests during the bridal procession and the wedding ceremony. In the case of "**Bhagwandeem Doobey v. Maya Bae (1869)**," the Privy Council decided that estates inherited by a Hindu girl from men would no longer fall under the purview of Stridhan. Alternatively, the residences may be categorized as "women's estate."

The ruling in the case of "**Kasserbai v. Hunsraj (1906)**" by the Bombay High Court established the Bombay School's tenet, which states that property inherited by a woman from several women may be regarded as Stridhan. In the well-known **Debi Mangal Prasad Singh v. Mahadeo Prasad Singh (1912)** case, the Allahabad High Court noted that in the Mitakshara and Dayabhaga institutions, there is a well-established rule stating that any portion a woman receives after division is her property rather than a Stridhan. Following the passage of the "Hindu Succession Act of 1956," the shared property obtained during the division became absolute property, or Stridhan.

As the owner of absolute property, a woman has full alienation rights, meaning she can use the ownership for presentation, promotion, rental income, trade, loans, and other purposes.

In the 1985 case of "**Pratibha Rani v. Suraj Kumar & Anr**," the "Supreme Court of India" made the following observation: according to Mitakshara and Dayabhaga Schools, Stridhan is comprised of the following devices held in the fingers of a woman (married, widowed, or maiden):

- i. Presents given prior to the wedding fireplace.
- ii. Presents offered during the bridal procession.
- iii. Presents from her father-in-law or mother-in-law as a token of appreciation when she got married.
- iv. Presents made by the mothers, dads, and brothers of the women.

In the 1996 case of Smt. **Rashmi Kumar vs. Mahesh Kumar Bhada**, the Supreme Court held that if a spouse entrusts her Stridhan property to her husband or another family member who has control over it, and the husband or other family member deceitfully takes or converts the property for his or her own use, or willfully allows another person to do so, they are guilty of a criminal breach of trust. Sections 15 and 16 of the Hindu Succession Act, 1956, respectively, provide forth the established principles of succession in the case of female Hindus, as well as the order of succession and method of distribution among a lady Hindu's heirs.

In the **Sundari and Ors v. Laxmi and Ors** case from the 1980s, the "Supreme Court of India" ruled that Sections 15 and 16 of the Act of 1956 provide for a woman Hindu's intestate succession. The word "inherited" in Section 15(2) refers to "to get hold of as heir," which is "succession with the assistance of descent," and it excludes devolution under the terms of the dead owner's Will. In the 1990 case of **Komalavalli Ammal & Others v. T.A.S Krishnamachari & Others**, the Madras High Court made this determination.

## CHANGES IN MARITAL PRACTICES

Indian society, and Hindu society in particular, has long been based on a traditional set of beliefs that supported early marriage and regular marriage for women. In India, child marriage, often known as pre-puberty marriage, has long been associated with stereotypes. It was once believed that the average age at marriage was relatively low, both in the 19th and previous centuries. Between the 1901 and 1931 censuses, the mean age of marriage for women increased by around 13 years, and it did not significantly differ among various localities. The Child Marriages Restriction Act of 1929, together with its subsequent revisions in 1949, 1955, and 1978, proved to be one of the most effective crime legislation in history.<sup>9</sup>

Beginning in the submit-independence era and continuing until 1950, there was a noticeable increase in the age of marriage. In 1978, the statute underwent additional amendments, raising the marriage age for boys to 21 and for women to 18. All things considered, the national census data over the past 100 years has shown a clear increase in the age at which women marry. In certain limited U.S. regions, the marriage age rose by four to seven years between 1891 and 1991. The NFHS-2 (1998–1999) data show that women's marriageable age has increased from 18.5 to 21 years old.

The country's excessive fertility regime was severely destabilized for five years at the national level (the Census of India, 2001 estimated a genuinely lower age at marriage). In India, having an unmarried child considered utterly abhorrent and, as a result, very unusual. In December 2006, a new law outlawing toddler marriage was overturned. The law provides a number of excellent ideas for the court's action to prevent toddler marriages by granting stay orders. According to the National Family Health Survey-2, sixty-five percent of Indian women get married before they turn eighteen.

<sup>9</sup> United Nations, Department of Economic and Social Affairs, Population Division (2013). World Fertility Report 2012 (United Nations publication) [https://www.un.org/en/development/desa/population/publications/dataset/fertility/wfr2012/Metadata/Metadata\\_MAFM-SMAM-EVER-MARRIED.pdf](https://www.un.org/en/development/desa/population/publications/dataset/fertility/wfr2012/Metadata/Metadata_MAFM-SMAM-EVER-MARRIED.pdf) (Last accessed on- 26th February, 2024)

At some point, child marriages are legally recognized through celebrations of holidays like Akshaya Tritiya, Akha Teej, Ram Navami, Basant Panchami, and Karma Jayanti. Based on UNICEF's 'State of the World's Children-2009' report, 47 percent of Indian women aged 20 to 24 had married before reaching the legal age of 18. Of them, 56 percent lived in rural areas. Throughout human history, child marriage has been common in many societies. However, as some countries have begun to urbanize and see changes in their citizens' lifestyles, child marriage has become less common. Child marriage customs have drastically decreased as a result of an increase in the advocacy of human rights, whether they pertain to females' or children's rights.<sup>10</sup>

Child marriage is still common in nations where toddler marriage customs and cultural practices still have a strong hold. Despite the fact that child marriage was once illegal, South Asia today has the highest rate of infant marriage worldwide (UNICEF, 2009: 34)<sup>11</sup>. India appears to be a leader in this area, as previously said. Consanguineous marriage is another essential marital practice that has long played a significant role in the lives of many members of the Indian society. In South India, the pattern of go-cousin and cross-uncle niece marriages has long been the most popular kind of union.

A person's very own sister's daughter or mother's brother's daughter has historically been their ideal partner (Driver and Driver 1988; Nair 1978: 121, 131). In recent times, consanguineous marriages in South India have significantly decreased due to the growing dowry customs in the United States. However, for a significant portion of North Indian Hindus, such weddings have remained forbidden. The "Divorce Act of 1955" and the "Hindu Marriage Act, 1955" forbid "sapinda marriages," or unions of close relatives.

As far as the third technology in the mother's line and the fifth in the father's line, sapinda courtship extends. Simple Muslims, some scheduled castes, and some scheduled tribes in North India are more likely to engage in consanguineous marriages. It has been reported that the majority of tribal corporations engage in consanguinity of both kinds, which includes marriages with the daughters of the mother's brother, the father's sister, and the elder sister.

True endogamy has always been a part of Indian society. Marriages in the corresponding subcaste have been closely observed. In addition, the intended clans practice endogamy; yet, a significant number of ancestral offices engage in faction exogamy (Singh 1997: 8). Especially polygyny, polygamy has been one of the great assets of Indian households. Muslims have been more aware of it than Hindus have.

It is not typically recommended that polygyny be more common than monogamy in this situation. The age-old sacred literature and fantastic tales were oftentimes a source of assistance for the polygamous adult males. In any event, these kinds of partnerships were practiced, especially by those who had no problems with their significant other. Even among Muslims, polygyny has decreased as proficiency levels have increased, despite the fact that these relationships have received full social and legal acceptance. Although monogamy is the most common form of marriage, there are many different clans that practice both sororal and non-sororal polygyny

<sup>10</sup> Saini, Debi S., 1994, 'Children of a lesser God, child labour law and compulsory primary education', Social Action, July-September, Vol.44. No.3. <https://www.un.org/esa/socdev/family/docs/egm09/Singh.pdf> (Last accessed on- 26th March, 2024)

<sup>11</sup> <https://www.un.org/en/get-involved>

(Singh 1997: 08).

The act of arranging for someone to be a determined person who isn't constantly in reality or controlling his child is known as adoption.

This is the method used to establish up a criminal relationship between a newborn and discern who are not really biologically related. It can also mean the process by which people raise a toddler who is no longer biologically their own and include her or him in their family tree. The primary purpose of the pre-adoption item is to facilitate the execution of the burial rites and maintain one's genealogy. The Hindu Adoption and Maintenance Act, 1956 is the only law in India that regulates adoption. Its scope is limited to Hindus alone. Adoption laws do not apply to Muslims, Parsis, or Christians.

A man or woman who falls into one of these categories is required under the Guardians and Wads Act of 1890 to appoint themselves as guardians. All castes and communities are covered by this Act. However, the court docket will consider the minor's private law concurrently with designating or designating a parent under this Act. When someone is designated as a parent or guardian, they must follow the guidelines set forth in the Guardians and Wards Act of 1890.

## **INTERCOUNTRY ADOPTION**

The Supreme Court provided an extensive ruling in **Lakshmi Kant Pandey v. Union of India**, outlining the procedural and normative precautions that must be followed when making an international adoption. It aims to hold every birthday party involved in the adoption process accountable. The Central Adoption Resource Agency, the Scrutinizing Agency, the Voluntary Coordinating Agency, and the Diagnosed Child Welfare Agency (Placement Agency) are among the regulatory organizations that the ruling recommends. In order for the child to be legally released for adoption, the Child Welfare Agency handling the foreign program must present sufficient evidence in court.

## **CONCLUSION**

Indian society is still working to eradicate all forms of discrimination and adapt to contemporary lifestyles. The conventional standards are shifting as a result of shifting dynamics, and as a result, family-related laws have also evolved. By granting equal rights to all genders, this primarily aims to promote equality and eradicate discrimination. Even with the addition of new provisions, the growing concerns are not met.

Because of a lack of education, women are unaware of their fundamental rights and there are still those in society who treat them like slaves. Legislation should be passed with the intention of totally eliminating the discriminatory issue.

The societal mindset and institutional framework surrounding gender justice remain inflexible in spite of numerous legal remedies and provisions. This shows that the current laws are insufficient and that significant revisions are required to influence people's beliefs. There is no denying that the judiciary has advanced, made an effort to combat prejudice, and maintained the status of Indian women in society. The holes can be filled by educating people, arranging camps at the local level, giving legal assistance, and raising awareness.

