

## HINDU WOMEN'S PROPERTY RIGHTS: BANGLADESH PERSPECTIVE

Mahua Zahur  
School of Law, BRAC University  
email: mahua@bracu.ac.bd

### ABSTRACT

In Bangladesh Hindu women are guaranteed meager property rights in comparison to their male relative as well as their other religious counterparts. Although Bangladesh is mandated through its constitution to prohibit all sorts of discrimination on the ground of sex and religion, no single piece of legislation has so far been enacted to reform the traditional laws that guarantee limited property rights to Hindu women. Moreover, as a member of international community and signatory to various international conventions, Bangladesh is bound to eradicate all sorts of discriminations. Therefore, by not addressing the property rights of Hindu women, Bangladesh is not only violating the constitutional mandate of non-discrimination but also its international obligation. This paper will critically analyze the present state of Hindu women's property rights in Bangladesh and will examine Bangladesh's national and international obligations towards the same.

**Key words:** Hindu women, property rights, Bangladesh.

### I. Introduction

Over the last few decades Bangladesh has been promoting the need for women's empowerment for the purpose of poverty alleviation. In spite of being a vulnerable section of the society, women are playing a significant role in the economic growth of the country. Their activities are no more limited to the household work only. They are actively taking part in the economic activities of the country even though they are deprived of their basic rights in almost every sphere of life only on the ground that they are women. The picture of discrimination is seen irrespective of their social, economical and religious status. If we consider the property rights of women in Bangladesh, they appear to be poor and insufficient. The condition of Hindu women is even worse since they are given very limited right of property under the personal law of Bangladesh. For any country it is a matter of regret that a large segment of the population is being discriminated against under the legal framework of the state mechanism only because they belong to a minority community.

### II. Evolution of Hindu Law and Its Codification During Colonial Period

The religion that the Hindus follow is called *Sanatan* which means ancient or eternal. According

to Hindu jurists, law is the enforceable part of *Dharma* or religion. In the field of jurisprudence Hindu law is marked for its comprehensiveness, loftiness of ideals and logical consistency and is regarded as one of the ancient systems of law known to the world. Traditionally Hindu law is believed to be of divine origin. It had been revealed by God himself to the great Hindu sages who by their prayer attained sublime religious states. According to ancient Hindu texts Hindu law is sacrosanct, inviolable and immutable. No human agency is allowed to challenge its validity as it has the sanction of supreme power (Agarwala 1998). Manu<sup>1</sup> says that:

The *Veda*, the *Smriti*, the approved usage and what is agreeable to one's soul (good conscience), the wise have declared to be the quadruple direct evidence of *Dharma* (Law) (Jhabvala 4).

*Srutis* are considered the primary and paramount sources of Hindu law. This is the original and material source of Hindu law. *Sruti* literally means

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<sup>1</sup> Manu was accepted as the first expositor of law and his institutes are, by common tradition, entitled to a place of precedence among all the *smritis*. Even though the actual identity of Manu was not known, the extant form of *Manusmriti* was compiled in about 200 B.C. (Mulla 1986).

that which was heard. The *Srutis* are believed to contain the very word of God comprehensible by sages and saints. They are supposed to be the very utterances to be found in the *Vedas*. Although the *Vedas* are the original and ultimate source of Hindu law, they are mostly religious in nature and one will find very little secular law in the *Srutis*. *Smritis* which literally mean that which was remembered and handed down by the *rishis* from generation to generation are the material source of Hindu law and came to be known as *Smritishastra* or *Dharmashastra*. Like *Srutis*, *Smritis* are high authorities on religious teachings, morals and ethics; they also contain a substantial body of positive laws and thus are considered to be the practical sources of Hindu law for day to day application. As all the *Smritis* do not agree with one another in all respects, conflicts came into being which led to several interpretations of *Smritis* by the commentators and these commentaries came to be known as *Nibhandhas*. While interpreting the law laid down in the *Smritis*, the commentators introduced modifications in order to bring them in line with the existing usages (Jhabvala 2009, Alam 2004 and Mulla 1986).

By virtue of the specific provisions of the *Smritis* indicating that *Sadachara* (usage or custom) approved by the society as one of the sources of law, immemorial customs acquired the force of law. Consequently, customs and usages formed one of the dominating factors in the evolution of the Hindu legal system (Jois 1990). Prior to the British regime the laws of Hindus were scattered. There were different rules and practices in different parts of the country. It was difficult to find fixed principles of law in several areas (Agarwala 1998). The beginning of British rule in India marked a somewhat new phase in the development of Hindu law. However, the combined effect of the legislations accomplished during two centuries of British rule was rather meager to have any major impact on the traditional Hindu law. While enacting the civil and criminal laws in this subcontinent the British preferred to retain the personal laws of the Hindus and the Muslims intact so far as it was possible. Still need for codification was felt immensely in the field of personal laws. In the process of codification the existing customs were being transformed into statutory laws and the European ideas were much reflected in the personal laws of the Hindus. Many progressive changes especially those relating to women's rights brought during this period took place (Alam 2004). The

British Government passed certain acts which played an important part in the religious nature of Hindu law at several instances (Agarwala 1998). Some of the important legislations which have modified, altered and supplemented the textual Hindu personal law relating to the socio-economic conditions of Hindu women are:

1. The Sati Regulation, 1829.
2. The Hindu Widow's Remarriage Act, 1856.
3. The Hindu Law of Inheritance (Amendment) Act, 1919.
4. The Child Marriage Restraint Act, 1929.
5. The Hindu Women's Right to Property Act, 1937.
6. The Hindu Married Women's Right to Separate Residence and Maintenance Act, 1946. etc.

### III. POSITION OF WOMEN IN HINDU LAW:

Hindu men are ordained to respect and honor women. This divine ordination is reflected in the verses of Manu. He says:

Women must be honoured and adorned by their fathers, brothers, husbands and brother-in-law who desire their own welfare. Where women are honoured, there the Gods are pleased: but where they are not honoured, no sacred rite yields rewards (*Manusmriti* chapter III verse 55-56)

So it is obvious that Hindu women stand in place of respect and honor only according to the sacred texts of Hindu law but these texts are silent regarding the rights of women. Moreover Hinduism does not regard men and women equally. The dominant duty of a Hindu woman is submission to male (Wadley 1977). Manu says-

By a girl, by a young woman, or even by an aged one, nothing must be done independently, even in her own house. In childhood a female must be subject to her father, in youth to her husband, when her lord is dead to her sons; a woman must never be independent. (*Manusmriti* Chapter v verse 147-148).

During the *Vedic* period there were no significant differences between men and women. At that time they enjoyed equal social status with men and were allowed to participate in various religious rites with

men. At that time many Hindu women were well known for their intellectual devotion as mathematicians, philosophers and civil administrators. But women's position declined in the society in the days of Manu, the law giver who placed a taboo on women's participation in various religious rites. Since religion forms the basis of society, this religious disfranchisement brought a tremendous effect upon the overall position of women in society. Consequently women suffered most in their property and inheritance rights as these rights were based on religion. In this regard, the daughters were the worst sufferers because their rights to ancestral property were abolished.

During the nineteenth century the British enacted the Hindu Women's Right to Property Act that paved the way of a Hindu woman's right in her deceased husband's property. At the same time the concept of "the widow's limited estate" emerged that entitled a woman to hold property inherited from their deceased husband during their lifetime with limitation on disposal of the property so inherited (Ray 1952).

Regrettably, Bangladesh is still continuing the legacy of discrimination by allowing meager property rights to women. No reform in the field of Hindu women's property right has taken place since after the British rule.

#### IV. Present Condition of Hindu Law Relating to Property Rights of Hindu Women in Bangladesh

Hindu law is the personal law of the Hindu citizens and is applicable in the matter of marriage, adoption, inheritance, gift, will etc. The Hindu community of Bangladesh is mainly governed by the Dayabhaga or Bengal School of Hindu law. The property rights of Hindu women of Bangladesh are governed by the legislations which were enacted during the British colonial period and in case where the legislations in force are silent regarding the scope and extent of women's property right, the ancient Hindu law is applicable to settle any dispute. That is why it is often said that the present Hindu law of Bangladesh is Anglo-Hindu law. The Hindu woman's right to property may be discussed under two headings:

- Property of which she is the absolute owner; and
- Property of which she is the limited owner.

The former is spoken of as her *stridhana* and the latter her woman's estate. (Agarwala 1998) *Stridhana* means a woman's property, that is to say, properties over which a woman has got absolute power of disposal. Such properties are, therefore fundamentally different from the other kinds of property held by a woman which are known as her woman's estate. There are two principal differences between *stridhana* and woman's estate:

- 1) The female owner of an estate has a limited power of disposal, her right of alienation being circumscribed by legal necessity or benefit of the estate. In the case of *stridhana*, however it being her absolute property she can dispose it of at her will.
- 2) In the case of a woman's estate, on the death of the female owner, the property does not pass on to her heirs but to the heir of the last male-holder; but in the case of a *stridhana* the property passes to her own heirs as laid down by the Hindu law. (Agarwala 1998)

#### A. Women's absolute Property

##### (1) Concept of *Stridhana*:

The word *stridhana* is derived from 'stri'—woman, and 'dhana' - property. It means, literally, woman's property (Mulla 1986). In modern Hindu Law, the term *stridhana* denotes not only the specific kinds of property enumerated in the *Smritis*, but also other species of property acquired or owned by a woman over which she has absolute control; and she forms the stock of descent in respect of such property, which accordingly devolves on her own heirs (Agarwala 1998).

##### (2) Classifications of *Stridhana*:

According to Manu, *stridhana* means:

The property or wealth given to a girl before the nuptial fire or at the time of marriage procession, as a token of love and affection, by her brother, by her mother and by her father, constitutes the *stridhana* of that person. (*Manusmriti* chapter IX verse 194).

Broadly speaking, whether a particular kind of property could be called *stridhana* would depend on the following three factors:

- 1) the source from which the property is acquired;
- 2) the status of the woman at the time of acquisition (i. e., whether she is unmarried, married or a widow); and
- 3) the school of Hindu law to which she belongs. (Jhabvala 2009)

Dayabhaga divides *stridhana* for the purpose of succession into the three classes:

- 1) The *yautaka*— it consists of gifts “given in the presence of the nuptial fire”.
- 2) The *anvadhayaka* or gifts and bequests made by the father subsequent to marriage.
- 3) The *ayautaka*— it includes not only gifts and bequests made by relations including the father before the marriage but also gifts and bequests made by relations other than the father after marriage.

Property inherited by a woman, property obtained by her from partition gifts, from strangers, from property acquired by her by mechanical arts and from gifts of the immovable property made by the husband are not *stridhana* according to *Dayabhaga* (Agarwala 1998)

### (3) Rights of a woman over her *Stridhana*:

The right of woman over her *stridhana* differs according to her status— whether she is a maiden, a married woman or a widow.

- 1) *During maidenhood* – a Hindu female can dispose of her *stridhana* of every description at her pleasure.
- 2) *During coverture* – the power to dispose of her *stridhana* during coverture depends on the character of the *stridhana*. For this purpose *stridhana* is divided into two classes, namely: (a) *saudayika*<sup>2</sup> and (b) non- *saudayika*.<sup>3</sup> During coverture she can dispose only the *saudayika stridhana*. She has the absolute power of disposal over such *stridhana*. On the other hand, she cannot dispose of *non-saudayika stridhana* without husband’s consent. Such

<sup>2</sup> Whatever is obtained by a married or unmarried girl, from the husband or parents, at the husband’s or father’s place, is called *saudayika*. (Agarwala 1998)

<sup>3</sup> All other properties which are not *saudayika* are called non-*saudayika* (Agarwala 1998)

property is subject to her husband’s dominion and he is entitled to use it at his pleasure even if there is no distress.

- 3) *During widowhood* – a Hindu widow has absolute power of disposal over every kind of *stridhana* whether acquired before or after her husband’s death (Agarwala 1998).

### (4) Succession to *Stridhana*:

*Stridhana* heirs are either males such as sons, daughter’s son, son’s son etc., or they are females, such as daughter, daughter’s daughters, etc. (Mulla 1986). A male inheriting *stridhana* takes it absolutely, and on his death it passes to his heirs; but a female inheriting *stridhana* takes a limited interest in it, and on her death it passes not to her heirs, but to the next *stridhana* heir of the female from whom she inherited it (Mulla 1986).

### B. Woman’s estate:

A Hindu woman can inherit property from both males and females.

#### (1) Female heirs:

Under the *Dayabhaga* School, there are only five females who can succeed as heirs to a male, namely, the widow, daughter, mother, father’s mother and father’s father’s mother. To this list three more were added by The Hindu Law of Inheritance (Amendment) Act, 1929, namely, the son’s daughter, daughter’s daughter and sister and they are entitled to rank in the order of succession next after a father’s father and before a father’s brother (*The Hindu Law of Inheritance (Amendment) Act, 1929, s 2*). This law was enacted during British period and Bangladesh adopted it after independence. This law is applicable to the whole of Bangladesh but it is applicable to the Hindus governed by *Mitakshara* law, if any (*The Hindu Law of Inheritance (Amendment) Act, 1929, s 1(2)*). As Hindus of Bangladesh are mainly governed by *Dayabhaga* School of Hindu law, as has been said earlier, this Act has very limited application in our country.

#### (2) Widow’s right over the property of her husband:

Under the ancient laws a widow cannot herself demand a partition; but if a partition takes place

between her sons she is entitled to a share equal to that of a son after deducting the value of *stridhana*, if any, which she may have received from her husband or her father-in-law (Mullah 1986). But after The Hindu Women's Right to Property Act, 1937 was passed a Hindu widow got the right of claiming partition in her husband's property like a male owner (*The Hindu Women's Right to Property Act, 1937 s 3(3)*). Under this Act if a Hindu man dies intestate leaving a widow or widows, the widow and the widows together, as the case may be, will get a share equal to that of a son (*The Hindu Women's Right to Property Act, 1937 s 3(1)*). The widow of a pre-deceased son will get the same share which is equal to that of a son if that pre-deceased son leaves behind no son. But she will get a share equal to that of a son's son if any son or son's son of a predeceased son is living (*The Hindu Women's Right to Property Act, 1937 s 3(1)*). But in all cases the women will get limited interest in her husband's property which is known as a Hindu woman's estate (*The Hindu Women's Right to Property Act, 1937 s 3(3)*). This limited interest entitles a widow to hold the property during her lifetime with bar on alienation of the same. A Hindu widow cannot alienate property without legal necessity. In the case of *Nurunnabi v. Jaynal Abedin* the court described the extent of a Hindu woman's right upon her deceased husband's property in the following words-

The sole reason of giving her right of inheritance to her husband's property, according to the Texts of Hindu Law is the spiritual benefit she may render to the departed soul as his wife. Acts of unchastity by a woman, which may be of different grades, may not amount to disavowal of her marital relationship and de facto abandonment of her character as the widow of the deceased husband.

Unchastity of the widow is a ground to render her incapable to confer spiritual benefit on her late husband thereby barring her right to inherit husband's property. Remarriage of widow disentitles her from inheriting her late husband's property.

A widow's right to her husband's property is subject to certain restrictions i.e., she has the right to alienate the property absolutely for what is known "legal necessity" namely for payment of husband's debts, for performance of acts which

conduce to the spiritual welfare of the husband, for discharging obligation of her husband for her own maintenance and for the preservation of the estate. A widow has got life interest and after her death, the property shall go to the heirs of her husband and not her own heirs.

### **(3) Widow Remarriage and its effect on inheritance:**

The passing of Hindu Widow's Remarriage Act 1856 ended the age long ban on widow remarriage practiced throughout British India. As this law is applicable now to Hindus of Bangladesh, Hindu women in Bangladesh can validly remarry after their husbands' death. But by contracting such a marriage a woman ceases her claim over her deceased husband's property (*Hindu Widows' Remarriage Act, 1856, s 2*). The application of this Act is somewhat mystified for judicial interpretation of the preamble of the Act given on different occasions. Widow remarriage was only prohibited among the upper class Hindus but was widely in practice among the so called lower class Hindus of India. Consequently, the lower caste Hindu widows could validly hold the property of their deceased husbands even after their remarriage by custom. When on different occasions judicial interpretation was called upon on the application of the said Act, the Judiciary pronounced diverse judgments. The High court of Bengal, Bombay and Madras, for example, took the view that the provision of section 2 — i.e., forfeiture of the deceased husband's estate upon remarriage — applied equally to all Hindus after the Act came into being irrespective of whether they belonged to the upper castes among whom such a marriage was previously prohibited or they belonged to so called lower castes among whom such a marriage was in practice and was valid through custom. But the High court of Allahabad in a number of cases consistently took a dissenting view and said that the Act of 1856 was inapplicable to individuals who were permitted to remarry by customary law, prior to the passing of the Act (Lucy Carroll 1983). In Bangladesh too, the judicial interpretation of the application of the said Act is still perplexing. In the case of *Soudamini Ray Malakar v. Narendra Chandra Barman and Another*, the Court held that—

Both under the Hindu Widow's Remarriage Act and the principle of Hindu law a widow by her remarriage forfeits her right to her deceased husband's property, even if

remarriage is allowed by the custom of her caste.

But later in the case of *Jaynal Abedin Khandakar and Others v. Badiuzzaman Mondal and Others*, the court held that-

....section 2 of the *Hindu Widow's Remarriage Act, 1856* does not apply to a case where the marriage had taken place in accordance with the custom of the caste to which she belonged.... If remarriage is permitted by the custom, then no forfeiture of property is valid unless the plaintiff further proves that there is also a prevalent custom of forfeiture of the property which the widow had inherited from her former husband.

So, it is still not decided whether on remarriage widows, irrespective of their customs, will suffer from forfeiture of property of their deceased husbands.

#### **(4) Rights of a daughter over ancestral property:**

A daughter is fifth in line to her father's property. In the absence of a son, son's son, son's son's son and widows the daughter inherits the property (Akter and Abdullah 2007). Daughters do not inherit until all the widows are dead (Mulla 1986). The Hindu Women's Right to Property Act, 1937, has placed the daughter after the pre-deceased son's widow and the widow of a pre-deceased son of a pre-deceased son. If a man dies leaving no son or widow but a pre-deceased son's widow or a widow of a pre-deceased son of a pre-deceased son, the daughter, whether maiden or married, gets nothing (Rakshit 2008).

The unmarried daughters have the right to have their fathers' properties first; then the married daughter who has or likely to have male issue. Daughters who are barren or widows without male issue or are mothers of daughters only are excluded from inheritance (Mulla 1986). A married daughter having a son and even a daughter's son excludes a childless widowed daughter. But where, during the lifetime of the father the son-in-law was willing and competent to adopt and has actually adopted after the father's death, the daughter is entitled to inherit (Mulla 1986). Two or more daughters of a class take the estate jointly with rights of survivorship. Any daughter may alienate her life

interest in the property, but not so as to affect the rights of survivorship of the other daughters (Mulla 1986). Under the *Dayabhaga* law an unchaste daughter is not entitled to inherit her father's property. But once the estate is vested in her, it cannot be divested by subsequent unchastity (Mulla 1986).

The daughter takes a limited interest in the estate of her father. On her death the estate passes not to her heirs, but to the next heir of her father (Mulla 1986). On the death of a daughter, who had succeeded before her marriage to her father's estate to the exclusion of her married sister, the estate so inherited by her devolves upon her married sister who has or likely to have male issue and upon her own son (Rakshit 2008).

#### **(5) Rights of other female heirs:**

According to Hindu succession law, a mother is also included in the list of heirs. She takes the position after the father and steps in to succession only in the absence of the heirs listed in preference to her. An unchaste mother is excluded from succeeding to her son. But once the estate has been vested in her, it cannot be divested by subsequent unchastity. Remarriage also does not deprive her of the right of inheritance from the son (Rakshit 2008). A mother can also inherit the *stridhana* of her daughter. Paternal grandmother and paternal great grandmother can also inherit the property of their grandsons and great grandsons (Mulla 1986).

Females succeeding as heirs, whether to a male or a female take a limited estate in the property inherited by them (Mulla 1986).

#### **V. Discrimination as to gender as well as to religion:**

The Constitution of the People's Republic of Bangladesh has ensured non-discrimination among the people of Bangladesh under various Articles.

Article 27 incorporates equal protection of law to all citizens as fundamental right.

Article 28 and 29 declares principles of non discrimination on the ground of religion, sex, race, caste etc.

Article 28 of the Constitution reads as follows:

“(1) The State shall not discriminate against any citizen on grounds only of religion, race caste, sex or place of birth.

(2) Women shall have equal rights with men in all spheres of the State and of public life.

(3) No citizen shall, on grounds only of religion, race, caste, sex or place of birth be subjected to any disability, liability, restriction or condition with regard to access to any place of public entertainment or resort, or admission to any educational institution.

(4) Nothing in this article shall prevent the State from making special provision in favor of women or children or for the advancement of any backward section of citizens.”

So it is obvious that Bangladesh is under an obligation to enact law or to frame such policies that will eradicate all sorts of discrimination on any ground, as it is guaranteed by the supreme law of the land. But if we consider the property rights of Hindu women it is not only discriminatory on the ground of sex, it is a clear discrimination on the ground of religion also, since in comparison to a Muslim or Christian woman of Bangladesh a Hindu woman's property right is discriminatory. A Muslim woman can inherit the property of her husband, father, children etc. The fraction may differ in different circumstances but she can inherit with males and she is not excluded from inheritance for the presence of any male member of the same class (Rashid 1996). A Christian woman's property right in Bangladesh is regulated by *The Succession Act, 1925*. A Christian widow can inherit property with her children and there is no discrimination between a son and a daughter regarding inheritance and the same right is granted to the heirs of same degree without making any discrimination only on the ground of sex (*The Succession Act, 1925 ss 33-40*). In case of both a Muslim or a Christian woman while inheriting the property get the absolute right over the property having full freedom of disposal and on their death the property will pass on to their heirs and not to the heirs of the person from whom they had inherited the property. So it can be easily said that a Hindu woman's property right is discriminatory not only on the ground of sex but also on the ground of religion.

#### **VI. International obligations of Bangladesh towards non-discrimination**

Bangladesh owes some responsibilities towards the world community as well to ensure equal property rights to women as it has signed and ratified many

international treaties which guarantee women's equal economic rights irrespective of sex and religion.

Bangladesh like any other member of UDHR<sup>4</sup> is bound to ensure all rights enumerated therein to its citizens irrespective of sex and religion which is spelled out in Article 7. One of the rights guaranteed in UDHR is to own property which is enshrined in Article 17.

Bangladesh is one of the 160 countries which signed their commitments to CEDAW<sup>5</sup> for the purpose of eradicating all sorts of discrimination against women all over the world. Bangladesh ratified the convention on 6 November 1984. Initially Bangladesh imposed reservations on Articles 2, 13.1[a], 16.1[c] and [f], on the basis of religious sentiments. But afterward it lifted the reservations from Articles 13.1[a], 16.1[c] and [f]. But reservation on Article 2 is still in force which is considered to be the parent article of all the rest.

Again Bangladesh is one of the signatories of ICESCR<sup>6</sup> which imposes on each state party to take steps to eliminate discrimination against women. According to Article 2(2) the state parties to the covenant undertake to guarantee that all the rights enunciated in the Covenant will be exercised without discrimination of any kind as to race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status.

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<sup>4</sup> The Universal Declaration of Human Rights is a declaration adopted by United Nations General Assembly on 10 December 1948. <[http://en.wikipedia.org/wiki/Universal\\_Declaration\\_of\\_Human\\_Rights](http://en.wikipedia.org/wiki/Universal_Declaration_of_Human_Rights)> last accessed 23 March 2013.

<sup>5</sup> The Convention on the Elimination of all Forms of Discrimination against Women was adopted by United Nations General Assembly on 18 December 1979. The Convention emphasizes that discrimination against women violates the principle of equality of rights and respects for human dignity. <<http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm>> last accessed 23 March 2013.

<sup>6</sup> International Covenant on Economic, Social and Cultural Rights is a multilateral treaty adopted by United Nations General Assembly on 16 December 1966. The Covenant aims to ensure the protection of economic, social and cultural rights. <[http://www.who.int/hhr/Economic\\_social\\_cultural.pdf](http://www.who.int/hhr/Economic_social_cultural.pdf)> last accessed 23 March 2013.

Again under Article 3 of the Covenant Bangladesh undertakes the responsibility to ensure equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the Covenant.

Considering the present condition of the property rights of the Hindu women it can be easily said that Bangladesh is violating its international obligations. As it has been said earlier, Bangladesh has given reservation on one of the most important Articles of CEDAW on the basis of religious sentiment according to which every state party to the convention is under obligation to frame such laws and policies that will eliminate discriminations against women. It shows the state mechanism that it is reluctant to take any steps to frame such laws that will ensure equal property rights among the Hindu Women.

#### **VII. Reforms introduced in India regarding property rights of Hindu women by the Act of 1956**

During the postcolonial period revolutionary and fundamental changes have been introduced in the property right of women under the Hindu personal law in India through the enactment of The Hindu Succession Act, 1956. It has amended and codified the law relating to intestate succession among the Hindus. This Act lays down uniform and comprehensive system of inheritance and is applicable to all who are considered Hindu by religion. Again this law is also made applicable to the Buddhists, Jains and Sikhs living within the territory of India (*The Hindu Succession Act, 1956, s 2*). The Act is given over-riding effect on all other rules of the law of succession which existed prior to the Act's coming into force (*The Hindu Succession Act, 1956, s 4*). The son, daughter, widow and mother of the deceased are placed on equal footing and they all are given equal share in the property of deceased (*The Hindu Succession Act, 1956, s 10*). The Hindu women's limited estate is abolished and she is made absolute owner of her property however acquired by giving her full right of disposal (*The Hindu Succession Act, 1956, s 14*). The property of a Hindu female dying intestate shall devolve on her son, daughter, husband, father and mother (*The Hindu Succession Act, 1956, s 15*). Disease, defects and deformity do not remain as grounds of disqualification to succeed to any property. Unchastity of certain female heirs, change of religion and loss of caste as grounds of

exclusion from inheritance has been discarded by the present scheme of the Act (*The Hindu Succession Act, 1956, s 28*). As India is a Hindu dominated country, it had to face criticism because of the fundamental and drastic changes brought about by the Act in the family law relating to the ownership of property of Hindus (Mulla 1986). So it is easily conceivable that if any initiative is taken to ameliorate the present condition of Hindu women there may be lots of obstacles in the way of reforms as Hindus form the minority community in Bangladesh.

#### **VIII. Concluding Remarks**

After the British colonial era no changes have been brought in Hindu personal law. So the property right of Hindu women in Bangladesh is still regulated by the age old laws which are not sufficient to meet the need of the modern times. Every state is under some obligations to ensure gender equality as it is one of the standards of human rights. When the question of reforms in overall Hindu law including women's property right is raised, it is always ignored only on the ground of religious sentiments. It is not always the political disinterest which is responsible for the situation, the patriarchal approach of the Hindu community is equally responsible for the same. The plea raised by the orthodox Hindu community is that, since the Hindu religion is of divine origin it cannot be changed by any state mechanism. But the modern segment of Hindu community along with all conscious citizens of the country is looking forward to the legislation for the changes to be introduced. So it is easily conceivable that it is not an easy task to strike a balance between the opposing claims. No doubt, objections and criticisms from various avenues will come when initiatives will be taken to make progressive changes in Hindu law. But it should be kept in mind that reforms should be in line with the Hindu culture, tradition and ideology.

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