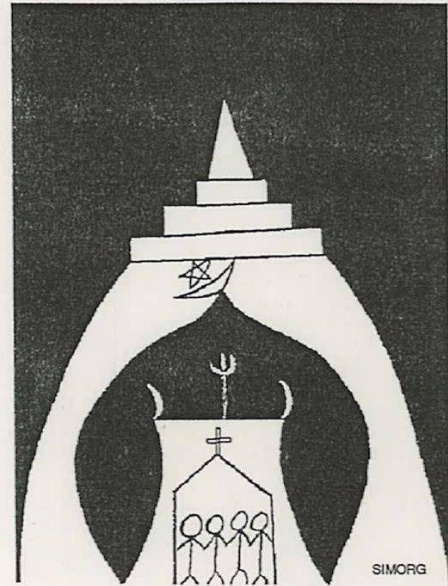


Report of Proceedings

WOMEN  
RELIGION



APWLD Task Force Meeting  
16-17 October 1991  
New Delhi, India

Asia Pacific Forum on  
Women, Law and Development



## PREFACE

The interface of law with religion and culture is one of the major themes identified by APWLD that epitomise the challenges to women's rights in Asia and the Pacific. Aspects of religion, cultural practices, and customary norms continue to impede social changes and the transformation of women's social roles in Asia. Within the diversity of religious, cultural, and customary norms in our societies, women have been victims of legal/political systems that resist change in the areas that directly affect them and their families and communities.

During the past decade women involved in the forefront of change have been divided over approaches to rectify problems related to law and religion — some favouring secularism others preferring religious re-interpretation and cultural reformism. But they are united by the necessity to confront manipulative religious and cultural discrimination against women.

As an important step in developing alternative strategies and institutions to transform women's social roles it is important to establish a common agenda and forge a sustainable analysis of the impact of religion and culture on state and personal laws. In this regard, APWLD moved to establish a TASK FORCE ON WOMEN AND RELIGION to help us draw guidelines and working documents that would initiate a lively dialogue in the region and be an impetus for action at the national, sub-regional and regional level.

We publish the reflections of the TASK FORCE and hope this will help us to continue our attempts in the region. I wish to thank Shangun Das Gupta and Radhika Coomaraswamy for helping me to finalise this document. Further, I wish to express my sincere appreciation to Angela M. Kuga Thas for helping us with the layout and publication.

23 July 1992

Nimalka Fernando  
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# WOMEN AND RELIGION TASK FORCE MEETING

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## INTRODUCTION

The issue of religion, the political trends emerging, namely fundamentalism, secularism and obscurantism need to be looked into as these trends have affected the lives of women. The experiences of women in this regard compels us to address the issue of religion as a factor creating and nurturing customs, practices and beliefs oppressive to women.

Furthermore, there is an ongoing discussion within the women's movement regarding the basis for legal reform in the area of Personal/Family laws. This debate is directly linked to the issue of women's rights and the basis for alternate jurisprudence. It is important to begin to grapple these issues based on our experiences to be able to establish a common framework and forge a sustainable analysis of the impact of religion and culture on state and personal laws.

## Empowerment

The role of the state and religion in promoting inequality and denying women the autonomy of action and individuality of belief is a crucial issue to be dealt with in relation to our involvement in empowering women. In this regard the following issues emerge.

- (1) The need is to identify the obstacles. Is it religion the social environment or economic environment that obstructs women's rights of gender equality and justice?
- (2) What should the basis of law be? How is this specially relevant in multi-religious societies?
- (3) Do laws need reform or do the religious basis of law need new interpretations, new forms of creative application?
- (4) Is the objective to reformulate laws with a women's perspective only or should there be a cultural diminution.
- (5) If law is to be based on religion then women must have the right to interpret religion as well to counter the male perspective of law.

The basic issue that needs to be addressed is should laws especially family laws be based on religious codes or on modern secular thought. There is a need to generate a discussion and dialogue in the region to give direction to the women's movement in the next decade. The experiences of the last two decades need to be reflected upon and we should work toward the transformation of the social order so that it gives women their rights and autonomy.

## FRAMEWORK USED FOR THE DISCUSSION

The framework involved four major areas:

### A. WOMEN'S LIVES AND RELIGION

- The sociological dimension as it related to the practice of religion in our region and how it impacted on women's daily lives.

### B. RELIGION AS A POLITICAL EXPERIENCE

- Patriarchal domination and issue of ideology of power.
- Fundamentalism as a political movement capable of galvanising women.
- Secularism — the political institution which ensures separation of state and religious structures. *not Indian utop.*
- Obscurantism — practices and rituals which have no social function in society except to ideologically perpetuate the subordination of women.

### C. RELIGION AS A FRAMEWORK FOR MOBILISATION

- Positive and negative in the quest for justice, equality for women.
- Issues to consider.



#### D. RELIGION AS EMBODIED IN THE LAW

- The personal law systems in our region relating to family relations and how they impact on women.
- Criminal law and criminal law precepts influenced by religious values and norms and which subordinate women.

#### E. WHAT IS THE BASIS OF A CAMPAIGN FOR LAW REFORMS?

### WOMEN'S LIVES AND RELIGION

#### Experiences and sociological dimensions

Some of the ideas emerging from a study presently being carried out in the South-Asian sub-continent under the auspices of the International Centre for Ethnic Studies (ICES), Sri Lanka, were shared in relation to this discussion.

This study on 'Women, Religion and Social Change' reveals that religious festivals and practices are viewed differently by men and women.

Two constructions emerge:

- (1) Men see religious occasions in terms of festivity, enjoyment and community gatherings as a more collective experience. Women relate to religion as a personal experience and not as a public function.
- (2) Religion is also centred around the home, and home activities, the shrine room, domestic rituals. However when women want to go public, engagement in religious activity is the one most acceptable to the community i.e. to become members of church, temple, religious organisations.

Interestingly, the same study also revealed that the time spent by women in religion was the only time of the day that they were undisturbed and felt autonomous. The experience of women is a smaller participation/involvement as they do not get involved in the elaborate rituals. This is symbolised by the lighting of the lamp — a minute experience compared to the involvement of men in the religious ceremonies. The issue of authority in relation to the participation is crucial.

This is also related to the question of space — space for women to have access to vantage points from where critiques on the religious aspects of women's lives can be mounted. An illustration of the Madhubani painters of North India was used where women used the medium of art to give release to their 'being' in a creative manner in an otherwise oppressive family environment.

The same was seen in the case of women singers from another part of India who found powerful expression through the formation of new ragas in a restrictive environs. Furthermore, an annual 'jatra' (pilgrimage) away from home was seen as a time for festivity and was awaited with enthusiasm. The notion of time as provided through religious practices is an important aspect in trying to understand lives of women.

### THE POLITICAL DIMENSION

The use of fundamentalism and ethnic assertions of identity has led to a revival of medieval systems of law and practices which are extremely oppressive to women's position. The women's movement is experiencing a situation of controversy regarding the rights of women in a society dominated by religious values. Religion as an element of oppression needs to be addressed. Broadly the issue rests on the argument whether religion be used as the base for the interpretation of women's rights or should the basis be on a commonly accepted framework of human rights.

At the outset there is a need for an analysis in relation to strategies used by women's groups in relation to issue of gender equality using religious interpretations. All political groups recognised the role of the Women's movement in the projection of their mandate. Women's groups are often mobilised into a political struggle on a religious platform as seen in the case of the recent Ram Janam Bhoomi issue in Northern India. The fact that it is the religious structure itself which perpetuates the dominance of women is not realised by the women themselves. As such, while establishing their association with political groups on lines of religious appeal, the women's groups are in reality collaborating and reinforcing the very structures that lay the basis for their oppression.

In societies dominated by religious and patriarchal values, the situation has been even more disastrous for women. The intrusion of patriarchal religious forces into public life further confirms women's inferior position both in private and public spheres as well as at personal and political levels.



Four major issues with regard to political dimension, mobilisation and women's relationship to religion;

- 7 plus
- Are the women's groups strong enough to take a position and challenge fundamentalism? NO
  - If the women's movement promotes religion as a focal point, will it be also promoting several peripheral dimensions of religion — fundamentalism, communalism, revivalism etc. In other words can women promote religious humanism without at the same time strengthening religion and its negative aspects? YES
  - Can women across Asia agree on a common framework on law reform to minimise the negative impact of religious law, religious values on our lives especially as they relate to the status of women? YES
  - Since in our societies, religion and culture are intertwined, can women mobilise for rights without recourse to positive cultural symbols which empower women but which also have their bases in religious humanism? ✓

In all the institutions and practices that dominate the life of women, there is no form that recognises the 'being' of women as important. 'Being' can be understood as an abstraction of the presence, existence and sexuality of women. It is this quality, the essence of which needs to be projected in the process of developing a women's perspective based on religion.

The main sociological issues which emerge:

- How does religion effect women's lives; does the critique of religion lead to a major transformation of life-style?
- What are the positive aspects of religious experience and how do they relate to a secular perspective?
- Does the law depict the reality of the women's lives? Should the law attempt to reflect or transform women's experience to religion?
- Is the presence, existence and autonomy of the women, as seen the 'being' given any recognition by religion? — i.e. if women's autonomy, women's individuality are denied, is it not important to rely on other sources of empowerment?

## RELIGION AND LEGAL REFORMS

The guidelines for reformulation of the law based on the above discussion requires us to

- recognise the role religion plays in women's lives;
- recognise the controlling mechanism of religion in women's lives; and
- attempt to empower women with that full understanding.

APWLD can help formulate a set of guidelines of the minimum acceptable standard code regarding family law — an annotated code based on experiences of women using the international convention as the legal base. The guidelines need to be based on the reality of the women's lives but also within the framework of a transformative project to ensure women's empowerment and participation.

## CASE-STUDY

A critique of the state laws on the issue of divorce was carried out to understand the laws and analyse the same in the context of empowerment of women.

The case study revealed that all personal codes were universally discriminatory towards women. Women are denied autonomy, equality and participation — the central tenets of human rights. All personal laws were directed to protect the male prerogative which often rests on the desire to protect male control over family and family property.

Many Divorce Laws in the region show:

- Adultery is a criminal offence.
- Body of the woman is not her own.
- The female right to privacy is non-existent.
- All personal codes show discrimination towards female in the divorce proceedings.
- Marriage to a family is viewed as a personal possession of the rights of women by the family.

In some cases the law does not deny women rights. But law must also ensure. The new framework for change should be dualistic in nature to ensure empowerment of women as well as the realisation of women's rights. Some important issues for change are:

1. Empower women through changes in the law relating to ownership and economic property.
2. Give women the right to inherit property in marriage.
3. Empower women through community action — to fight their divorce cases.
4. Property created by joint labour should be shared.
5. Discriminatory right to gift by male should be altered.
6. Right to own should be ensured along with the right to inherit for women.
7. Right to challenge the will or gift made by an elder in his lifetime.
8. Regulate situation where women are not considered capable to own property.
9. Laws of evidence as they relate to family proceedings need restructuring.

In this regard the Convention on Elimination of Discrimination Against Women (CEDAW) is very explicit. APWLD should use the framework of the Convention as the standard for mobilisation and action in this area of family relations.

In addition, further research is also needed to establish a framework to critique the personal law, to analyse and evaluate women's issue within the existing framework. The points of change need to be identified and strategies to create these changes discussed. In each case, it would be necessary to document the existing legal aspect and formulate a women's perspective for change. Again, the Convention can provide the guidelines.