

Visions of Gender Just Realities

FORUM AGAINST OPPRESSION OF WOMEN, Bombay.
(Draft for discussions only. Not to be quoted)

Introduction

As part of the women's movement we have always tried to work out laws or amendments to laws as part of our campaign strategy because we believe that in a democratic society the judiciary is the ultimate arbitrator of justice. But in our experiences and those of many women and men, we are confronted with the inaccessible and lengthy legal procedures. As women we are further marginalised as not only is the legal machinery inaccessible, but also because the laws, such as the family/personal laws, themselves are not based on any concept of gender justice.

To this is added the monetary cost as well as the price paid by the individual woman because of the humiliation and isolation that she undergoes. Most of the time even if we know that we are right and that our demand for justice is fair, such justice, if at all we get it, does not come without pain and anguish. We, as women, have been divided in many categories, and such fights and struggles with people with whom we share our lives and intimacies make us more alone. As a result the battle remains, to varying degrees, a lone battle.

In this process we are forced to take shelter and security of our near and dear ones, our kin, and religious or caste communities. Some of us also take resort in the almighty for justice, while some of us find that such faith is unwarranted and undue. We cannot express this loss of faith because the security and shelter offered by the kin and communities is also the outcome of that faith. It is a tight rope walk and also a very unnerving experience. We undergo it as individuals and also as groups of women coming from particular communities.

The questions, then, that come to mind are : What kind of laws will give us justice? Can there be any laws in this world which can give a fair deal to women? Can there be laws that while reflecting our reality also show the path ahead? Is it at all possible to dream beyond what exists and plan for the future where we would not only have more legal rights, but also where the machinery would be more approachable? Is it possible to mitigate the trauma by having a better deal in terms of the law?

These are the questions which have been disturbing us in Forum for the last few years. As an outcome of discussions for a long time amongst ourselves and with others we have come to some understanding about these questions. We are articulating our visions here. These are based on real life situations, and also the struggles undergone by various individuals and groups of people, especially with respect to issues related with our personal lives.

These visions or thought processes are being presented here as a basis for the beginning of a dialogue. This needs to be enriched and extended in its line of thinking. We, in FAOW, put forward our visions hoping to initiate a dialogue amongst us on the issues like personal lives and family that have been very crucial to our individual and collective struggle against patriarchy.

The basis on which we are putting forward our suggestions for the contents of the laws governing the family are as follows:

The laws governing personal lives should help in defining a coherent and equitable system in society within which intimate social interactions take place. In actuality this means defining the accepted norms of these interactions. In this process some social practices are given a legal sanction while at the same time some others are deemed illegal and thus invalidated. Since social interactions are dynamic, and the concepts of acceptable and unacceptable continuously changing, obviously these laws have to change, have to be reformed and updated from time to time. So we put forward the basis of the laws with the clear understanding that this is what we have to say in today's reality. It will change with time.

The thumb rule guiding the formulation of the law or in the reforms has to be to ensure the rights of individuals, especially those of the marginalised sections. Social interactions are not always fair and just

and neither have traditions always been beneficial to all those who adhere to them. Hence to see to it that rights of the marginalised are not infringed upon, safeguards have to be provided in the law.

In this role then the law has to provide more rights and equality than the society itself. We are also very clear that formulating and implementing a law does not change social attitudes, but we do believe that the existence of the law facilitates a process of social change. It is thus obvious that not only has the law to be changed from time to time to take into account the changes in a dynamic society, but the law also has to be forward looking and progressive.

Law used in dispute

The peculiarity of law is that it is invoked only when the persons rights are violated. The laws are referred to only in the situation of a dispute. It is also not as if all disputes are referred to the law and the law enforcing machinery. All people in this world grow up in a cultural milieu and have a whole social set-up determined by this cultural background which helps to resolve disputes. Generally whenever there are any differences and disputes in the intimate relationships, the involved persons first refer them to this set-up determined by their cultural, religious, and communal backgrounds. Usually when the disputes are not resolved within these existing structures, only then is the law resorted to.

So, in a sense the law is used only in the situations when the available methods and ways of resolving disputes have failed. This is very important for it further determines the nature of the law that has to be formulated.

Law alone not enough

A progressive law on paper is necessary but cannot be sufficient. It needs, along with it, some other changes without which the law would never get translated into reality. These changes have to be simultaneously initiated, otherwise the changes in the law would mean nothing.

Firstly there have to be changes and modifications in the procedures to ensure implementation of the various provisions in the law. Besides this there also has to be a change in the actual court procedures. The procedures involved in asking justice have to be more user conducive and have to be simplified in ways that would ensure quick dispensing of the matters. Therefore we believe that while putting forth our suggestions for the law, we should also incorporate procedural changes.

At another level, there have to be changes of a much wider ranging character. Any progressive stand in the law that goes beyond the social norms has to be necessarily accompanied with support structures and help to the individual. This is very important for if the law allows certain situations not widely accepted by society, then that individual would be forced to forgo her rights due to lack of any support to her in her special situation. It is hence important that we simultaneously talk of a system of social security without which the paper reforms have no meaning. Thinking of it and formulating some aspects of it is, according to us, hence a part of the deal for gender just laws governing personal lives.

Legal Education

The rights conferred on vulnerable sections in society, especially in case of women, will remain on paper unless there is a responsible effort by the State towards conscientisation of society. It is the duty of the State to educate the citizens of their legal rights and their responsibilities. The State may do so by means such as disseminating the information through mass media, providing the relevant legal education in schools and colleges, appointing legal aid centres in urban and rural areas, providing free legal aid services to the vulnerable sections, etc. The legal education should include preventive and procedural advice.

Violence within the family

In the existing laws, the only violence recognized within the family is that meted out to the wife by the husband and the in-laws, during the course of the marriage i.e section 498 A IPC. This fails to acknowledge the violence that single women face within the natal/ marital family. Since unequal power relations outside of marriage exist within family, we need civil remedies such as compensation, in addition to the criminal provisions.

Sexual Violence

Forced/coercive sexual assaults on children and adults are the realities of family life that are pushed under the carpet. Marital rape, needs to be legally recognized and addressed. Rape of minor children needs to be taken special cognizance of. These matters should not merely be considered as criminal issues, but be taken into account as violations of civil rights and gender rights. Therefore, the guilty not only should be punished under criminal law, but the victim should be adequately compensated at any juncture in her life.

Broadening the concept of the family

As far as the laws themselves go, society's understanding of the family presumes patrilineality and patrilocality. Both these concepts need to be challenged in every possible way. We feel that the meaning of family has to be recognized in the wider sense in which it is lived.

There are many relationships of people living together outside of marriage. There are instances of consenting homosexual and heterosexual adults staying together and working out close relationships. Such mutual contracts and partnerships need to be recognized, and the rights and social security granted to individuals in a marriage, extended to these partnerships too. In our suggestions for the law we include such contracts also.

We visualize a society where all partnerships would be accepted. Legal and social recognition of such arrangements would help in liberating marriage as an institution which is today controlled by conservative norms of society and does not have any concept of equality within it.

According to us, although the status accorded to homosexual and heterosexual contracts has to be equal, the laws governing these cannot be the same because we presume an inequality in all hetero-relational realities. The terms of settlements and the rights of each individual in these realities is hence different from those of the persons in homo-relational realities. Since gender is not the only factor that creates the power balance between two persons, these other differences are taken care of when referring to rights of the individuals in homo-relational realities.

Marriage

In today's context, generally marriage is looked upon as a sacrament and is reduced to sexual interaction for giving birth to a male child. Man is the taker and is also looked upon as the provider till some dispute arises. Our vision attempts to look at marriage differently. We not only question social institutionalization of marriage but also redefine it to include the various ways in which two people come into relationships. We look upon marriage as a space which allows individuals to grow and also assures commitment and security to men and women, and in particular to women.

We are trying to formulate the law to make this into a contract for companionship and commitment. Procreation and transfer of property along the prescribed familial lines is not the only reason for marriage and so with this formulation the basic nature of the institution itself changes.

We define marriage as a registered companionship contract between two consenting adults of any sex above the age of 21 years without any prohibitory decrees. At the time of registration each individual should provide the following to the registering authority and the concerned partner:

1. Date of Birth Certificate
2. Declaration of non-existence of any valid marriage contract.
3. Medical Certificate giving health status especially regarding STDs and HIV.
4. Declaration of immovable and movable assets.
5. Declaration of annual Income.

Any two cohabiting persons may enter this registered contract at any point.

Cohabiting partners have the same rights as married partners as long as cohabitation can be proved for at least six months.

Instead of the registered marriage, two persons, whether married or cohabiting, can enter into a self-defined contract where they agree upon their respective rights and obligations within the contract and/or upon the dissolution or separation of the contract. These can be:

- I. Ownership or division of the property.
- II. Maintenance.
- III. The right to decide on the education and training of the children, but not the right to the custody of or access to their children; and
- IV. Any other matter in the settlement of their affairs.
- V. Any provision in such contracts which seeks to limit the rights of a partner in respect of matrimonial home or property is void.

A. Hetero-relational realities:

Matrimonial Property

Once we look at marriage as a contract for companionship and commitment, the issue of matrimonial property becomes a key issue. What is our vision of it? We are talking in the social reality of today's world where many men and women do not have means of survival and also do not have work. We are talking of a vision which is based on the social reality, and so we want to emphasize concepts like social security alongwith the matrimonial property and other related issues.

i. Matrimonial Home:

While married, and even after her spouse's death (until she enters any other marriage contract), a woman has the complete right of residence to the matrimonial home. Matrimonial home is the proven residence of the woman.

The rationale is the patrilocality in society whereby the woman is invariably displaced from her original home after marriage, and the fact that it is always difficult for a woman to find a house in this society, more so if she is a single woman.

Neither spouse shall have the right to sell off the matrimonial home without the prior written consent of the other spouse. If the husband is a tenant, he will not be entitled to surrender the tenancy to the landlord without the prior written consent of the wife. The written consent of the wife, in both the aforesaid cases shall be in the form of an Affidavit duly executed before a Public Notary or Judicial Magistrate and Registered with a registrar specially appointed for this purpose.

ii. Other property

As for other property -- whether movable or immovable assets -- both the wife and the husband own individually the property that they came with into the marriage. This includes the gifts given at the time of marriage. The gifts given after marriage individually to the wife or the husband are also their individual property over which only they have a right. In case the gifts are durable goods then due compensation should be given for the same.

Everything else that they acquire while in marriage is jointly owned by the wife and the husband.

If this acquired property; assets, the matrimonial home, and the household goods that are being shared, are to be disposed off or loans to be taken on these, the other person's consent is essential.

All expenses incurred during marriage should be equally borne and if not they should be compensated if disputed.

Maintenance

Women contribute to the household through income replacing work (fetching of fuel, fodder, water, etc.), domestic labour, looking after the various needs of the household members, especially the children and the elderly, value enhancing work put in land, business and human resources, and many times income generation as well. This double and triple load that they bear within a hetero-relational family has to be duly acknowledged in law.

Hence a woman has a right to maintenance while she is married. This has to come to her as her right and is not a dole.

For calculation of maintenance all the above mentioned tasks have to be taken into account. Along with these, the other factors that have to be taken into account are the size and nature of household, the living standard of the couple, the cost of living index for the area, the fact whether the woman is working or not, the professional betterment that the husband is gaining and the loss that the woman is incurring professionally.

Monthly installments have to be fixed and wherever possible salary or other income attachments have to be the norm for payment. Maintenance matters have to be always settled within a month of the application.

The husband would be obliged, within 15 days of filing of the application, to disclose his income and property, including shares, securities, bonds, units, fixed deposits, bank accounts, all whether held jointly or singly, and income tax returns, as well as any other property he may be investing in.

If the husband is a salaried employee, the employer must be directed by the Court to directly deduct the maintenance from the salary and pay it directly to the wife. Failure of the employer to do so will render the employer personally liable for contempt. For this purpose, if the employer is a professional or sole proprietary concern then the concerned person will personally be liable. If the employer is a partnership firm, each of the partners will be personally liable. If the concerned employer is a trust, each of the trustees will be personally liable. If the employer is a Society, each of the office bearers will be personally liable. If the employer is a company, each of the Directors will be personally liable. No person mentioned above will be able to avoid liability on the ground of lack of knowledge or similar reasons and the liability will be absolute.

If an order of maintenance is violated, it will be treated as a cognisable and non-bailable offence with an obligation on the police to arrest the husband. Once the proceedings for maintenance are initiated, the husband cannot be allowed to move out of the jurisdiction of the Indian nation. His passport should be impounded.

The Government will also set up a Maintenance Fund to be operated from the Family Court. In all cases where the husband is not a salaried employee working within India, or in case he ceases to be a salaried employee, the wife, ex-wife, or cohabitee, as the case may be, will be entitled to draw the maintenance awarded directly from the maintenance fund, and it will be the responsibility of the State to recover the same from the husband. The maintenance will be paid to the woman concerned irrespective of whether the State is able to recover the same from the husband, ex-husband, or the cohabitee, or not.

Guardianship

Both the partners are the natural guardians of the children (whether biological or adopted) and are jointly responsible for the welfare of the child. If the wife is not working, the husband has to pay for the children's maintenance as well. If the woman is working then each of them contribute in proportion of their earnings.

B. Homorelational Realities

Since the contracts are to be considered on par with each other, the partners in such contracts have similar rights. The difference is that here we are considering it to be a contract between two persons from the same sex and so there is no clear cut power relation as in the case of a man and a woman.

- I. Each partner has an equal right to the matrimonial home.
- II. Each person has the complete right over the property that she/he individually owns at the time that the contract is made. Both partners have an equal share and jointly own all property that is subsequently acquired.
- III. Each partner is responsible for the well being of the other with the greater responsibility on the one who is earning to meet the material needs of the other.
- IV. Both partners are guardians of the children jointly adopted and are responsible for their welfare. If the children are the biological or adopted children of one partner then only she or he responsible for them.

Breakdown of contract

Since marriage or cohabitation is strictly between consenting adults, we do not feel that the breakdown of such contracts requires proving of certain legally defined reasons. The two adults are in a position to determine the breakdown of the partnership. The legal machinery should help a fair settlement rather than opine and judge on the validity of the breakdown.

If any one of the partners in the marriage believes that the marriage has broken down beyond conciliation then it has to be accepted that that person's consent to the contract does not exist. In such a situation the person should not be forced to continue with the marriage. Hence we believe that there has to be a provision for either partner to go in for irretrievable breakdown of marriage.

Our recommendations for breakdown hence are as follows:

Divorce proceedings can be initiated only after a minimum period of six months after signing of the marriage contract.

No fault divorce has to be the norm.

Mutual consent divorce would be available. A six month period of separation after the filing of application for divorce (as exists today) should be there.

The economic settlement has nothing to do with who initiates the divorce proceedings.

Irretrievable breakdown of marriage is a clause available for both the partners.

A. Hetero-relational Reality

In today's reality we understand that men could misuse this above mentioned provision to harass women. Hence we feel that there is a necessity to have more stringent conditions for men as compared to women. It has to be ensured that they fulfill all their financial commitments and obligations. The period of separation for them to claim IBM also has to be longer than that for women.

Hence, a woman can claim IBM and get a divorce six months after filing for divorce. For a man to avail of IBM, however, a three year period of separation is necessary before filing of divorce. After the filing for divorce the man will be granted divorce only after six months or on fulfillment of the economic liabilities, whichever is longer.

Settlement on divorce

We do not look at marriage only as a means to procreate and fulfill sexual desires. We also do not want to have any notion of ownership which is at present associated with marriage in the form of the man owning the woman. But we do believe that women do not have the same opportunities as men. This

discrimination has been faced by women for generations. Today marriage is looked upon as an occupation and status symbol by society and by women themselves.

So any breakdown of marriage has to be compensated and the settlement and other matters have to be speedily undertaken by the legal authorities. The emotional and other losses incurred at the breakdown of a marriage can be compensated by the legal machinery only in terms of the material settlements. Over the years the legal struggles of women have revolved around the disputes of material settlements. Irrespective of the class, creed, and religion, this has also been the area in which women have faced maximum discrimination from the legal machinery. So we want to be very clear about the material settlements at the time of dispute.

Matrimonial home

The woman has a right to stay in the matrimonial home. If that is not possible, for example, when it is a joint family or it is a rented house that has to be vacated, it is the responsibility of the husband and his parents to see to it that the woman has a matrimonial home of the same status and standard to live in.

If the woman has no children then she can stay in the house or has a right to the house from her husband for a period equal to the period for which she was married/cohabiting. In case the marriage has broken down in less than three years then she has the right to residence for a minimum period of three years or double the period of marriage whichever is more.

If she has children and has custody of the children then they all have the right to housing or the matrimonial home until the children are 18 or a period equal to the period of marriage/cohabitation -- whichever is longer. In case she does not get custody, the children have a greater right over the house that they were all residing in but the husband has to provide for an equivalent housing arrangement for the wife/partner.

Other property

All other property that is jointly owned and which is all that they have acquired after marriage would be equally divided between the wife and the husband.

If there are any debts incurred for acquisition of property or consumption in household to which both partners have consented then these have also to be shared.

Maintenance

Maintenance settlement at divorce should be a lumpsum settlement and would be for the period that the couple has been married or cohabiting. The minimum period here again has to be taken to be three years or double the number of years of the contract, whichever is longer, if the marriage breaks down in three years.

Over and above the factors that have to be taken into account for calculation of maintenance within marriage, there has to be compensation at breakdown taking into account the following factors : the changed status in society for the woman, whether the woman is working or not, the professional betterment that the husband has made in the period of the marriage and the loss that the woman has incurred in the same period, age of the woman at the time of breakdown, and so on.

Although at the time of breakdown the class status of the family has to be taken into account, care has to be taken that as far as possible no woman is rendered destitute because of breakdown. Care should be taken to see to it that she does not become economically worse off. Hence there has to be a minimum amount fixed which is dependent on the income of the household.

Whether the woman wants to be paid in a lumpsum or in monthly installments, should be left to her discretion. Also if the lumpsum cannot be paid then the monthly installments have to be fixed. For payment of the monthly installments wherever possible salary or other income attachments have to be the norm for payment. Maintenance matters have to be always settled within a month of the application.

All other conditions valid for maintenance settlement within marriage/cohabitation such as violation of the order, punishment on violation, etc. are also applicable in case of breakdown settlements.

Custody of children

The parent who has been predominantly committed to caring and rearing the child should get the custody. The overall welfare of the child should be the primary concern. No preference should be given to the person who provides the material necessities. Over and above this, custody of children above seven years should be determined on the basis of the wishes of the child. To take into account the fact that there might be instances when the children are forced to state that they want to stay with one parent, there should be provision for revision of the custody matters.

After divorce also, irrespective of the custody of the child, it is the responsibility of both the parents to look after the material needs of the children till they are 18 years of age. The sharing will be in proportion to their respective earnings.

B. Homo-relational realities:

At the time of dispute/breakdown of such marriages/partnerships certain different laws will be applicable. These are:

- I. Either partner can ask for a divorce claiming irretrievable breakdown of the marriage. Such a divorce would get finalized six months after filing of the divorce petition.
- II. The property acquired during the relationship would be divided equally.
- III. Either of the partners can have a right to maintain or residence only if destitution is proved. The right to residence is maximum for a period of one year.
- IV. If the child is adopted then the responsibility for providing maintenance and residence to the child is with both partners.

Inheritance

Marriage is a contract between two persons who may or may not expand it into a larger unit through having biological or adopted children. This then becomes the family -- the two persons in the contract and their children. Looking after the needs of each of its members to the best of its ability is the basis of the family. The laws governing personal lives, hence, also govern the rights of these children within the family. Sharing of material goods while living together and passing on or transferring of property from the parent to the child at the death of the former are the basic material interests in the family that are looked after and protected through the law.

Children under the age of 18, before they become adults, have to be looked after by the parents. Within the natal family as everywhere in society there exists overt and obvious discrimination against women. So there is differential treatment between the son and the daughter. The woman's rights as a daughter also need to be protected in a society such as ours where in the mindset of the people she is not even considered to be belonging to her parental family. Hence the rights as children also differ slightly for a son and a daughter. There is more explicit responsibility that the parents will have to legally fulfill vis a vis their daughters today.

1. Only children and dependent parents are to be considered as legal heirs. If there are any dependent minor siblings who would be rendered destitute, then they will be also considered as legal heirs. If none of these exist and a person dies intestate then the property should be given to the social security.
2. There would be no concept of ancestral property and coparcenary rights. All the property is either inherited or self acquired.
3. The inherited property cannot be willed away but has to be shared equally between the legal heirs.

4. Children inherit from the adoptive parents or biological parents.
5. All the children below 18 have right to reside in their parent's home or in grandparent's home.
6. Women have right to reside in their parent's home irrespective of age and marital status. This needs to be emphasized because today it is a well established practice that the sons continue to stay in their parent's home whereas the woman is assumed to move out to husband's house.
7. If the property value is above certain level then 10 percent of the property has to be given towards social security.
8. percent of the self acquired property cannot willed away and has to be shared equally amongst the heirs.
9. Gifting away property: For gifting away more than 10% of the property the heir's permission is required if they are above 18. (This is applicable for properties above certain level). If a daughter has reasonable ground to believe that the gift is given with the intention of depriving her of her inheritance right then she has the right to raise dispute.
10. Dependent and old parents have right to reside and maintenance in their children' home.
11. Upon death of the spouse the property acquired jointly by both partners after the contract/cohabitation will be divided into two and only one half will be considered as the property of the deceased person which will be considered for inheritance. No one partner can will away the half portion of the other partner, as that portion is not part of his/her self-acquired property.
12. If a woman is dependent and rendered destitute then she has right to claim maintenance from her parents.

Draft on Social Security Bill

Need for Social Security Bill:

Today the forces of liberalization and globalisation are unleashing economic processes which are changing the socio-economic situation, whereby the capital to labour ratio is changing drastically. In all areas, urban as well as rural, the intensification of capital is rendering people unemployed or underemployed. In urban areas hitherto employed women are facing voluntary retirement schemes and lack of training to fit into the changing technical scenario is forcing women out of employment. In this context the State has to take responsibility for providing some social security so that people can at least survive and find breathing space to rebuild their lives.

Besides the changing socio-economic situation, it has been the experience of women that reforms in any law cannot really help them due to lack of infrastructure. If women have to use the reforms in the law to get justice then some basic facilities need to be provided so women can carry on their legal battle.

Any laws including the one like 498A cannot be fruitfully utilized if women do not have safe shelters and basic minimum facilities to hold their lives together. When the perpetrator of violence and crime is the basic breadearner of the family, by booking the criminal all the dependents suffer, even though by no means they are party to the crime. Thereby many criminals are never brought before the courts.

Hence even if we succeed in getting the secular gender just set of laws, we women can never hope to really gain from it unless the society and the State provides some social security measures.

Particularly, when women have to go against the prevailing norms in society and exercise their legal rights they are rendered more vulnerable. Women are vulnerable at various levels and in different aspects of their lives. Which aspects are the 'root cause' and which follow upon those is a matter of debate. However several studies all over the world as well as comparative studies of different states in India have shown that the existence and implementation of women's economic rights make a radical difference to the situation of women, to their ability to assert themselves, and articulate their interests.

What we women need first of all is a commitment from the Government that our economic vulnerability be addressed and this concretely means that all women be able to claim an independent sustainable livelihood.

Housing:

1. Short stay homes
2. Working women's hostels
3. Hostels for women with children
4. Preferential allotment in housing schemes for single women at subsidized rates.
5. Hostels for students.
6. Short stay housing for migrant women.

These have to be established at each district level and special funds should be made available so that even women who are unable to pay for the facilities can use them.

Education:

Basic formal education at school and college level has to be made freely available for women. The age limits at such various institutions should be relaxed for women.

Skill based training:

Special technical training should be made available in government recognized classes, shelter homes, and all polytechnic institutions for such technical skills as required in the job market. Even today, the technical training women get is in traditional areas like stitching, sewing, candle or chalk making. But now looking at the various technical requirements of the job market the training must be focused on non-traditional areas which have been dominated by men only.

Training should include areas of automation, instrumentation, computerization as well as plumbing, electricians courses, carpentry etc.

Also where in-house training is provided in the industry government should implement industrywise minimum basic stipend structures. In particular women who are facing crisis situation need to be given such technical training which would enable them to be economically independent and financial assistance during this training period has to be provided.

Control and Management of resources:

Resource management is another crucial area where women today do not have access or control. More emphasis needs to be given on developing and encouraging women to participate in such activity. It would include water management, land management and other natural resource management.

Credit facilities:

Credit facilities at no or very low interest rate should be made available to women who would like to enter into some entrepreneurship.

Health

Today the health care for women is focused on areas related to their reproductive functions only. A more generalized health where free and subsidized medical facilities are made available, particularly for economically weaker section.

Occupational Health Hazard Compensation

Women are employed and self-employed in many sectors, which over a period create various health hazards, like weakening of vision, body ache, other chemical effects. There should be general scheme by which women can be compensated for these health hazards, particularly when responsibility cannot be fixed on any employer. The funds for this scheme should be generated through contributions from all registered entrepreneurs and the government.

Maternity Fund

There should be contribution from all the sectors of industries and employers, including the agricultural sector, towards the formation of the Maternity Fund. The maternity leave compensation should be made available to every working woman irrespective of the kind of employment she is in. Many informal sectors and agricultural sector do not provide for maternity benefits, and child rearing is seen as the primary responsibility of women, whereas in fact it is the responsibility of the society and the industry which thrives on the labour reproduced by women. On the other hand, women are discriminated against because of these responsibilities.

There should be basic allowance made available for each woman during the maternity leave period. The industries where women already get maternity benefits, those industries should be appropriately compensated. (i.e. the maternity allowance should be granted to those enterprises, since they would be paying the leave period salary to the employed women.)

Unemployment Compensation:

Any person who is in search of gainful employment (i.e. registered in employment exchange) has right to unemployment compensation.

Old age pension and security for children:

Any old person and children below age of 18, who do not have any financial support should be given pension and reasonable residential accommodation.

The process of changing the law

Opposition to the notion of an uniform civil code comes from many. While one group feels that the cultural diversity is a reality of Indian society and so creating a uniform code itself is considered violating the basic constitutional rights, the other group feels that a large number of people are against any change in the law because there is a feeling that the people and the communities are not ready for such changes and we cannot impose such a major change as an uniform civil code on all people. To an extent it is true and necessary that large sections of society participate in the process of formulation of the law because the law has to and is determined by the direction in which society moves. The discussion also becomes a way of widening the debates on related issues.

Women, as those who bear the brunt of traditions and cultural practices, have to definitely be widely consulted in this process. In our opinion, however, it should be those women in particular who have approached the legal system for some disputed matter of their own. Women litigants representing as vast and varied a population as possible must be the key persons who would help formulate the law. This we feel is important because they having used the law and its machinery, and having lived their lives trying to resolve disputes would be in a better position to opine through their own very personal and involving experience.

Large discussions with these sections of women and amongst all people would help in arriving at a law that could be more representative of both the direction in which we wish that this society would move and also help in the process of social reform.

Vision to reality

Finally we do believe that disparity between social norms and such kind of legal reforms does not allow a just law to come forth and get implemented. The predominant value system in society guides as well as moulds persons and their beliefs. Very different radical laws, ideas, and concepts are difficult to accept. For each of us brought up in these value systems thinking differently is not easy. Asserting women's rights is a hard battle and we have to begin it in the right spirit as soon as possible. The battle is for a just and secular law for all irrespective of their religion, caste, and creed. It cannot be for the benefit of the heterosexual male population alone.

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