

# New Perspectives on Commerce & Management

Volume-2

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## Contents

1. **Current Scenario of Investment Tendency among Women** 1-6  
.....  
*Adv.Anu Muthukumar, Ms.V. Gayathri*
2. **E-Commerce in India- Opportunities and Challenges** 7-16  
.....  
*Ankur Sharma*
3. **A Study on Green Banking and its Practices in India** 17-23  
.....  
*Bijay Das*
4. **Covid 19 – Impact of Indian Education System** 24-37  
.....  
*C. Boobalan, Dr. K. Jayaraman*
5. **A Study on Customer Perception towards Health Insurance Policies during Covid-19 in Madurai District** 38-45  
.....  
*C.M.Priyanka, R. Anu*
6. **A Study of Understanding the Variables of Quality of Work Life** 46-53  
.....  
*Dr. Farhana Jamal*
7. **Pros and Cons of Virtual Learning on Students during Covid-19** 54-57  
.....  
*Dr. K. Syamala Devi, V. Vijaya Lakshmi*
8. **Gender Discrimination and Social Inequalities in Women Empowerment in India** 58-62  
.....  
*Dr. K. Syamala Devi, Dr. M. Aparna*
9. **National Education Policy 2020 – A New Paradigm Shift in Education** 63-68  
.....  
*Dr. K. Syamala Devi, V. Vijaya Lakshmi*
10. **Distance Education - Pros and Cons of E- Learning and Virtual Classes** 69-74  
.....  
*Dr. K. Syamala Devi, Dr. M. Aparna*
11. **Right to Information Act, 2005** 75-80  
.....  
*Dr. Kritika, Shweta*

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Ghatkopar (W), Mumbai-400086.

12. **A Study on Service Quality of the Hotels with Special Reference to East Zone of Coimbatore City** 81-88  
.....  
*Dr. V. Nirmaladevi, Dr.S.Renugadevi*
13. **Role of ICT in Teacher Education.** 89-92  
.....  
*Dr. Anand A. Muley, Prof. Rupali Petkar*
14. **An Analysis : A Customer Awareness Towards Amazon Online Shopping** 93-99  
.....  
*Dr.C.Jestina Jeyakumari*
15. **A study the customer awareness towards Phonepe application in Madurai city** 100-107  
.....  
*Dr.N.Muthuselvi, Mrs. Dhanalakshmi*
16. **An Assessment of the role of Corporate Social Responsibility in Indian Business Environment** 108-121  
.....  
*Dr.Nazia Jamal, Dr. Farhana Jamal*
17. **A Study of the Role and Issues of GST on Indian Economy** 122-130  
.....  
*Dr.Nazia Jamal, Dr. Farhana Jamal*
18. **An Overview on Personality Development in Current Scenario** 131-138  
.....  
*Dr. R.Kala Ranjani, S.Kaleeswari*
19. **Framework on Individual Strategies for Better Work Life Balance** 139-144  
.....  
*Dr. S. Rajalakshmi, Dr. N. Saranya*
20. **A Study on Customer Preference and Service Quality towards the Hotels with Special Reference to East Zone of Coimbatore City** 145-153  
.....  
*Dr. S. Renugadevi, Dr. V. Nirmaladevi*
21. **Human Resources Management and Entrepreneurship Fit** 154-157  
.....  
*Dr. T. S. Poornachandrika*
22. **Entrepreneurship Management: Fostering Avenues and Addressing Opportunities** 158-165  
.....  
*Harshwardhan Chandrakant Pandita*

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**Ramniranjan Jhunhunwala College,  
Ghatkopar (W), Mumbai-400086.**

23.	<b>Problems of Women Employees Working In Industrial Area of Thane District</b>	166-174
	..... <i>Ms. Laxmi Podoli, Dr. Vilasini Patkar</i>	
24.	<b>Understanding the Role of Emotional Intelligence (EI) During COVID-19: A Literature-Based Study.</b>	175-182
	..... <i>Mahanish Panda, Tannu Paswan</i>	
25.	<b>Impact of GST on E-Commerce – Overview</b>	183-188
	..... <i>Miss. S. Rajaselvi, Mrs. S. Sharmila Devi</i>	
26.	<b>E-Commerce &amp; Its Applications</b>	189-197
	..... <i>Mrs. Neelufar Farash</i>	
27.	<b>A Study on Analysis of the Consumer Preference for Plastic Alternatives.</b>	198-203
	..... <i>Mrs. S. Meenaroshini, Mrs. N. Arthy, M.com (CA)., M.phil</i>	
28.	<b>“Study on the Rise of Meme Marketing and the Consumer Perception towards It.”</b>	204-215
	..... <i>MS. Ananya Gon</i>	
29.	<b>Consumer Buying Behaviour towards Life Insurance Policy, Navi Mumbai</b>	216-227
	..... <i>MS. Jinal .A. Khetia</i>	
30.	<b>Gender Inequality in Entrepreneurship and Higher Education</b>	228-232
	..... <i>Ms. S.Sathya, Dr.P.Mary Thangam</i>	
31.	<b>The Challenges of Human Resource Manager in Today’s Scenario - a Conceptual Study</b>	233-239
	..... <i>Ms. Shabeena Shah W., Ms. Rumana Parveen. A.</i>	
32.	<b>Intentions towards Social Entrepreneurship among University Students in Telangana</b>	240-249
	..... <i>Parelli Sreenivas</i>	
33.	<b>Corporate Tax Plan at a Global Level</b>	250-257
	..... <i>Prasanta Mujrai</i>	

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Ghatkopar (W), Mumbai-400086.**

34. Merger in Banks  
.....  
*Prity Kumari* ..... 258-263
35. "A Critical Study on Various Property Rights of Women"  
.....  
*Prof. Laxmi Podoli* ..... 264-269
36. A Study on Customer Perception Level of JIO Network Users (With Special Reference to Madurai City)  
.....  
*Mrs. R. Veeramani, Ms. S. Reena Josephine* ..... 270-275
37. Information Technology and its Application in Different Areas of Indian Economy  
.....  
*Mr. Ramshankar Varma* ..... 276-282
38. Social Entrepreneurship in Kerala  
.....  
*Sabitha A* ..... 283-285
39. HR Strategies Related to Downsizing during Economic Downturn  
.....  
*Sayooj U.S* ..... 286-292
40. Growth of E - Tourist Visa Scheme in India  
.....  
*Sayooj.US* ..... 293-300
41. Challenges of Financial Decentralization in Indian Healthcare Systems  
.....  
*Shoeb Ahmed Ilyas* ..... 301-306
42. Influence of Impulsive Buying and Paradox of Choice on Long Term Investment Decision Making  
.....  
*Sojia Sebastian* ..... 307-315
43. A Study on Stress Experienced By Women Professionals In Madurai City  
.....  
*Susma, Divya* ..... 316-325
44. Globalization of Services Sector in India  
.....  
*Sweetlin D, Dr. P Mary Thangam* ..... 326-333

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Ramniranjan Jhunjhunwala College,  
Ghatkopar (W), Mumbai-400086.

45. A Study on Job Satisfaction of Women Nurses in Covid 19 Era 334-342  
(With Special Reference to Madurai District)  
.....  
*T. Mutthamil Selvi*
46. Impact of Goods and Service Tax on the Indian Economy 343-349  
.....  
*U. Nagarani, A. Akila*
47. A Study on Comparitive Analysis on Investment Pattern 350-358  
among Working Men and Women  
.....  
*V. Vinodhini, S. Mohana*
48. The Role of E-Commerce in International Trade and 359-367  
Employment  
.....  
*Vijayalakshmi S, Balananthini B*
49. 'Impact of COVID -19 on Commercial Banks of Navi Mumbai' 368-382  
.....  
*Dr. Neera Kumar*

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## **“A Critical Study on Various Property Rights of Women”**

**Prof. Laxmi Podoli**  
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### **Abstract**

The rights of women have always been taken granted since ancient times. There is no unified property rights for women in India despite of some recent acts passed. The main reason being Women's Property Rights in India are determined on the basis of the religion to which she belongs, whether she is married or not and to the community to which she belongs. The Hindu Succession Act 2005 governs the property rights for Hindu while Muslims have their own personal laws but still women are so far deprived of these rights being a part of a nation where half of the population is women. According to the Global Gender Gap Report 2020 published by World Economic Forum India ranks 112 out of 153 countries. This highlights the gap that Indian women still encounter in India. This paper highlights the various property rights of women and the problems attached with these rights.

Key Words: Women, Property Rights & Gender Gap.

### **I. Introduction**

Women in today's world are more informed as compared to the last decade. The main reason being the access to information which has happened due to Information technology Reformation and greater access to Social Media. But still when it comes to legal rights most of the women including educated women's are unaware of. Women in rural and semi urban areas are not even aware of their fundamental rights due to ignorance to some extent and second they don't want to challenge the patriarchal society.

Although Literacy Rate among women has increased from 53.67 in 2001 to 65.46 % in 2011, this marginal increase is more among urban females as compared to females residing in Rural Area. Moreover, the dropout rate is very high among females as a result they are literate but not educated regarding the legal matters. As a result when it comes to legal matters women depends on their male counterparts to make decisions which include father, brother, husband, son, close relatives etc. this often result in injustice to the women the second reason for non awareness could be the jargons used in legal language which a lay man would find it difficult to understand.

### **II. Literature Review**

(Rishi & Saxena, 2017) the researchers in the article studies the various problems faced by women in India. The researchers highlights the various constitutional and

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fundamental rights of women. The study also highlights although the problems of rich and influential people has been highlighted in recent years but cases related to poor and middle class people are highly ignored.

(Kounsar, 2017) in her research paper highlights the Economic Rights of Muslim Women. The study reveals the equality in rights is provided to women in the very holy Quran but the only problem is that these women's are not aware of their rights.

### III. Objectives of the Study

- To study the various laws relating to property rights of women in India
- To identify the reason for lack of awareness among Indian Women about their rights.

**Property Rights:** The term property is not a new term has since ancient times the word has been used and has been a reason for disputes for many. Legally the term was first used in India in the Transfer of Property Act, 1882, then in Partition Act 1893, Indian Succession Act, 1925, and so on.

Encyclopedia Britannica defines property as "an object of legal rights, which embraces possessions or wealth collectively, frequently with strong connotations of individual ownership"

Property includes both tangible and intangible goods. Tangible property includes actual property that can be touched and can be possessed whether moveable or immovable while intangible property includes property which is not actual property which has some value and it includes stocks, negotiable instruments and intellectual properties. The term property is very vast and it may include anything that has a value.

### IV. Some Laws Related to Women in India

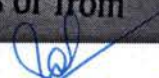
1. Constitution of India provides equal status to men and Women under Article 14. Special provisions for women have been made in Article 15 while Article 16 provides equal rights to employment irrespective of gender. Article 42 provides for human conditions for work and also makes provision for maternity reliefs. Article 243 provides for reservation for women.

2. Dowry Prohibition Act, 1961: the act was passed to protect the women from the people who directly or indirectly demands dowry.

3. Indecent Representation of Women (prohibition) Act, 1986 which aims to prohibits the depiction of women as an object or any indecent representation in any media.

4. Protection of Women from Domestic Violence Act, 2005 provides protection to women and female live in partner from the abuse of husband or his relatives or from

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male lives in partner. This act also provides protection to sisters, daughters, mothers, etc.

In India the property rights of women varies from religion to religion as different religion and beliefs exist in India. Moreover within the same religion due to sub caste and in geographical distance property rights of women differs. In most of the cases women property rights are governed by their respective personal laws. The Property Rights can be classified into Rights given to Hindu women, Muslim Women and Christian Women as they have separate law governing them. To study the Women Rights on property women can be classified into Mother, Wives, Sister and Daughter.

### **V. Muslim Women Property Rights**

Muslim Personal Law (Shariat) Application Act, 1937 governs the property rights of Muslim in India although this is not the comprehensive act which includes all Muslim as Indian Muslim don't follow a codified law and they are governed by Sunni and Sia Laws. A Muslim woman has a complete right over her property which she has acquired through inheritance or through a gift in the form of Mahr, or gift at the time of her marriage. The rights of Muslim Women can be further studies as women's right over property as a daughter, mother and wife.

**Property Right of Women as Mother:** As per Muslim Law a Mother has a right over her children property if they are earning and have independent source of Income. These right amounts to one sixth share in Deceased Son's Property if her son is married and have kids and she can claim one third in deceased son property if he has no kids.

**Property Right of Women as Daughter:** The personal law of Muslim states that a Muslim daughter has right over her ancestral property but this right varies according to the other descendents in the family. i. If the only child of the Deceased Muslim Person is daughter then she acquired one half property of the father and the rest is shared with the other descendants. ii. If the deceased has two girls child and no son than the two-third of the property will be shared by them and iii. In Case there are male descendants then the share of daughters reduces to the half of the share of the male child.

**Property Right of Women as Wife:** A Muslim women after marriage has control over the gifts (Mahr) from her husband which she receives at the time of marriage and also over other gifts she received from her parents, relatives and friends at the time of marriage.

Wife after the death of her husband can claim one-eighth share in husband's property if she has children and one-fourth share in property if she has no children and

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if there is more than one wife it will keep on dividing among them in equal ratio. In case of Divorce she has right to claim maintenance from husband.

### VI. Christian Women Property Rights

Indian Succession Act, 1925 governs Christians Property rights and it is stated in section 31 to 49. The Christians don't discriminate on the basis of gender in terms of inheritance of property. All the children get the equal share in their parent's property. Christian mothers are entitled for maintenance from her children who are independent. In case of death of child she may claim one fourth share in the assets of the deceased children. Christian daughters have equal share in her father's estate along with her siblings irrespective of their gender. She is entitled for maintenance only upto her marriage. Christian wife has right to maintenance after divorce. She can claim upto one third shares in husband's property after his death and the remaining will be divided among his children.

### VII. Hindu Women Property Rights

Hindu Succession Act 1956 and Hindu Succession Amendment Act, 2005 is applicable to all Hindus, Sikhs, Jains and Buddhists. Property of Hindu Women in India is classified into two types of Properties – 'Stridhan' and 'Hindu Women Estates'. Stridhan refers to the gifts received by women before, during or after the marriage or during a child birth and she has a complete control over these gifts.

**Property Rights of Hindu Mother:** As per Hindu Law Mother is considered as a part of Class I heirs and she is entitled for maintenance from her independent children.

**Property Rights of Hindu Wives:** Hindu married women have exclusive right over her Stridhan and all other gifts she received. She is entitled for maintenance from her husband and in laws if she is a part of joint family ( Bharat Heavy Plates and Vessies Ltd., AIR 1985 Andhra Pradesh 207, the high court gave a judgement in favour of a wife and her three kids who were deserted by her husband and directed the company in which husband was working to allow them to reside at company's quarter and deduct the rent from husband's salary.) In case of divorce she has a right to claim alimony from her husband which can amount upto 25 percent of his income. She can claim for child maintenance from husband on separation if she is not independent. On the death of her husband she has right to have equal share along with her children and her mother in law in her deceased husband's property.

**Property Rights of Hindu Daughters:** After the Amendment in Hindu Succession Act, 2005 daughters have equal rights in the property of their fathers. She also has a right to claim for share in Mother's Property. But along with property daughters will also have to share parent's liability as of son would have shared. A daughter after marriage has no right over her parents property unless she is divorced or deserted or widowed.

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### VIII. Problems in Respect of Implementation of these Rights

- Being a part of patriarchal society, women themselves has a passive attitude as a result property succession is not welcomed by them. This approach can be seen more in North and East India due to lack of education.
- Women especially from lower socio-economic background relies on their male counterparts whenever any matter related to property arises as they feel these are tedious work and they won't be able to understand the legal aspects properly.
- In many cases Parents are also reluctant to give share in the properties to their daughter as they feel once they are married they will leave them and they will not take any responsibility of them. And if they have male child it may create enmity among them as their share will reduce and they will not look after them in their old age.
- Another main reason is lack of legal awareness among women as on an average woman in India receives only 4.3 years of education which includes only basic education.

### IX. Suggestions

- The government must make efforts to educate all the sections of the society about the human rights with special focus on gender equity and economic, social and property rights of women.
- Legal awareness camp must be organized in educational institutions and college and also by panchayats for rural women.
- The government needs to implement Hindu Succession Amendment Act, 2005 more effectively.
- Women should be made aware of their rights though proper advocacy. Women especially from poor households give away her right to inheritance for sake of her brothers but then she should be informed that if that land can be divided among her poor brothers as their right then it can be shared with her as well
- Education is the only tool through which women can be informed about their rights. Government need to review its curriculum and must include gender education and human rights.
- Media in today's world has far wider reach as a result it can play an effective role in creating awareness about various legal rights of women.
- Women need to come forward and help each other in identifying their needs as legislation cannot be useful until women seek help of it.

### X. Conclusion

The Indian Women still lag the basic knowledge about their basic rights and their condition has not improved much while in the other part of the world especially in West women are more informed and aware of. The reason for this lack of knowledge is Patriarchal society in India, Education do covers Fundamental Rights but these rights are there in the syllabus of higher secondary or at degree level where the number of enrollment of women is very low. The other reason is no advocacy by



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the government about these laws. Women in our country will fly and will stand for their rights only when they are made aware of it.

“We cannot change what we are not aware of, and once we are aware, we cannot help but change”- Sheryl Sandberg (COO of Facebook)

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