

Hindu Women's Right to Property at the Crossroads: the Tension between Human Rights and Cultural Relativism

Md. Al- Ifran Hossain Mollah*

Abstract

Property rights of women under Hindu religious system have fairly been considered an issue of conflicting discourse both from domestic as well as global perspective. Restrictions imposed by Religio-legal as well as socio-cultural norms and practices have embedded the discriminatory level of treatment in more deep rooted dimension for Hindu women as to property rights. This controversy has been excelled with the pressure of global community for establishing a fair and equal property rights while assessing the feasibility and implications of universal rights regime disregard of religious or cultural differences. In the course of time, intervention of legislative authority for improvising present situation and to make the whole rights regime at national level to synchronize with universal rights framework through the amendment of existing domestic laws has proved to be successful. Nevertheless, in the context of practical enforcement, bringing the equilibrium of justice in between religious command and secular authority has created double jeopardy for the legislative authority. In this backdrop, the theory of cultural relativism has been resorted to eliminate the standoff between religious norms & practices of a particular community and the demand of global community for fair and equal treatment of all. Cultural relativists have been heavily criticized for being too defensive as against the principle of universality and supporting discrimination and abuse of human rights in different circumstances. Hence, it is essential to revisit the role of Religio-legal, universal and socio-cultural theory and practices in establishing the domain of equal status of right to property for Hindu women.

* Lecturer, Faculty of Law, Eastern University, Dhaka, Bangladesh, Email: ifran@easternuni.edu.bd

Keywords: Right to property, Hindu women, legislative reformation, universal rights, cultural relativism.

Introduction

The conceptual framework of property rights has been embedded into the social structure from the very moment of human civilization when they first sowed seeds with a view to initiate agricultural regime. This has always been regarded as a matter of debatable discussion in every aspect of legal domain, be it in secular or religious division. The concept as to the property rights has been construed differently in each and every major religious community prevailing yet on earth due to the constant claiming of theological superiority over each other based on differences of constructional and ideological methodology. This continuous conflict led to serious deprivation of property rights based only on spiritual belief in certain cases. Global community started giving serious thinking about it after the rise of the machines i.e. in the post-industrial revolution era when social deconstruction started with the rising awareness of Economic, Social and Cultural (ESC) rights and Civil and Political (CP) rights. Religion gradually started losing its grip over the society and the common people started thinking about providing fair & equal share to each and everyone entitled to the property. Consequently, we see the emergence of Universal Declaration of Human Rights (UDHR) which defines the right to property as an essential human right and prohibits any sort of deprivation in that regard. Gender equality in property rights is a critical human rights issue in present socio-economic realities and this concept differs from one society to another. Cultural relativists argue to recognize this difference of rights and usages from theoretical as well as practical aspect. Nevertheless, equal distribution of property contributes towards the real empowerment of woman and considered as the key factor in socio-economic development process. The concept and infrastructure as to the acquisition, succession and management of property by woman under different religio-legal system has frequently been revisited by human authority in last few decades and it's an ongoing process. The status of property rights of woman under Hindu religio-legal system has always been considered as a debatable issue both from religious and secular approach in jurisprudential discourse. The scenario of Hindu women's property rights in Bangladesh differs with India in certain respect where the laws and statutes of the later one has been amended and modified time to time to bridge the gap between the traditional religious command and global community's demand of 21st

century. The laws of Bangladesh in that regard have significantly failed to show any improvement after 1947. Much has been discussed about the property rights of women in both Bangladesh and India under Hindu legal regime and the possible way out within the deep-rooted religious and social practices of Hindu community. The objective of this article is to analyze the classical religious texts and legal initiatives, be it national or international, relating to the status of property rights of Hindu women both from religious and secular context. In doing so, the article shall discuss the potentiality of applying the theory of cultural relativism in resolving the ethical crisis while balancing between divine and secular authority. This article particularly focuses on the legal discourse relating to the role and interaction of divinity, human authority and the applicability of cultural relativism in establishing the equal status of Hindu women's right to property.

Classical Approach towards Women's Property Rights

Hindu women's legal right to inherit property has been restricted from the earliest times in Indian culture.¹ The texts of Vedic period or the classical religious texts are somewhat contradictory while dealing with the property rights of woman under traditional Hindu legal regime.² Incorporation and interpretation of those texts has raised serious point of contention between the supporters of liberal feminism and the traditional conservative school.

Vedas are the primary text of Hindu religion containing the very words of divine authority in the form of hymn and songs and they are considered as the most sacred texts in Hinduism.³ There's wide array of contradiction as to the appropriate translation of Vedic texts and this has also ignited the debate as to whether Vedas uphold the dignity of women or derogate their status in the society. Vedas, in practice, contains a handful provisions as to property rights of women. In one verse it has been stated that "*Women are powerless, have no inheritance, and speak more humbly than even a bad man*".⁴ In another verse of the inheritance

¹ Halder, Debarati and Jaishankar, K. 2009, "Property rights of Hindu women: a feminist review of succession laws of ancient, medieval, and modern India", *Journal of Law and Religion*, Vol. 24, No. 2 (2008-2009), at p.663, available online at <http://www.jstor.org/stable/25654333>, last visited May 02, 2015.

² Vedic period, roughly from 1500 to 600 BC, is an ancient period bearing the most significant development of *Sanatan Dharma* (Hereinbefore termed as Hindu religion)

³ There are 4 Vedas, namely Rig Veda, Sama Veda, Yajur Veda and Atharva Veda.

⁴ 6:5:8:1, Yajur Veda Taittiriya Samhita.

section of Baudhayana it says that *"The Veda declares, Therefore women are considered to be destitute of strength and of a portion"*.⁵ There's a wrong translation of a verse from Rig Veda which goes as *"The right is equal in the father's property for both son and daughter"*.⁶ But the correct meaning of that particular verse is *"Wise, teaching, following the thought of Order, the sonless gained a grandson from his daughter. Fain, as a sire, to see his child prolific, he sped to meet her with an eager spirit"* which shows the eagerness to get a son, this verse is about a man who was sonless and gained a grandson from her daughter. Further this verse in nowhere talks about equal share of property. Thus the interpretation of the Vedic texts proves that property rights of women were denied arbitrarily and they were given no right to inheritance in ancient Hindu society.

The Manusmriti has been considered as the most authoritative statement, containing the very words of Brahma and having the most influential impact on the present Hindu society.⁷ Nevertheless, the liberal feminists as well as the Dalits considers the texts of Manusmriti as derogatory and denial to the freedom and empowerment of woman. On the other hand, traditional school argues that women are treated well and respected by Manusmriti. They frequently cite the text in support of their view *"Where women are provided place of honor, gods are pleased and reside there in that household"*.⁸ The pro-feminist and Dalits alleges that there are hundreds of verses in the code of Manu which are full of discrimination, hatred and prejudice against woman.⁹ All those texts depict the conflicting general status of woman prevailing at different period of time in traditional Hindu society. While referring to the texts of Manu, one should always take the wholesome view as to the woman's property rights in different verses. The most important of them is that *"A daughter is equivalent to a son. In her presence, how can anyone snatch*

⁵ 2.2.3.46, Baudhayana Dharma Shastra.

⁶ 3:31:1, Rig Veda, Translated by Griffith, T.H. Ralph (1896)

⁷ Manusmriti, also called '*Manava Dharma Shastra*' traditionally the most authoritative of the books of the Hindu religion compiled and written from Circa 100 CE. It particularly deals with the relationships between social and ethnic groups, between men and women, the organization of the state, and the judicial system, reincarnation, the workings of karma, and all aspects of the law.

⁸ 3:56, Manusmriti

⁹ 2:213, 2:214, 2:215, 3:8, 3:9, 3:10, 3:11, 3:12, 3:14, 3:15, 3:17, 3:18, 3:240, 4:217, 5:157, 5:158, 5:160, 8:365, 8:370, 9:3, 9:6,9: 8, 9:13, 9:80, 9:93, 9:117, ibid

*away her right over the property”?*¹⁰ In another verse it has been stated that *“A daughter alone has the right over personal property of her mother”*.¹¹ This two verses has clearly proves that while daughter has equal share as her brother over her father’s property, she has exclusive rights over the property of her mother as well. Thus, Manusmriti expressly provide the Hindu women with the right to inheritance albeit within a narrow dimension. The exclusion of women from the right to inheritance is primarily based on Vedic texts and later on it has got a firm ground through patriarchal attitude and male chauvinistic approach towards interpreting, applying and enforcing Smriti texts, customary practice and usages while dealing with the changing socio-economic dynamism and the role of women as a homemaker and a wage earner as well. This circumstance was rightfully recognized by human authority and the secular authority put their effort through legislative enactment to rectify the situation in a manner while keeping a balance between common people’s religious sentiment and upholding the status of woman as to the right to property. The current codification of Hindu personal law stems from thousands of years of tradition enmeshed with religious and social understandings of gender, family construction, and spiritual merit.¹²

Comparative Analysis on Legislative Reformations

In primitive stage, Hindu law regards “woman is inherently incompetent to hold property”. The recognition of woman’s right of inheritance is of recent origin.¹³ Property owned by a Hindu woman can be classified under two major divisions, i.e.

1. Property over which she possesses only a limited power of Disposal. (Widow’s estate)¹⁴
2. Property over which she holds the absolute power of disposal. (Stridhana)

¹⁰ 9:130, *ibid*

¹¹ 9:131, *ibid*

¹² Sridhar, Archana, 2002, “The Conflict between Communal Religious Freedom and Women’s Equality: A Proposal for Reform of the Hindu Succession Act of 1956”, *Berkeley Journal of International Law*, Vol. 20, Issue 3, at p. 02.

¹³ Rakshit, Sreemridulalkanti, 1964, *The Principles of Hindu Law*, Kamrul Book House, Dhaka, 5th Edition, 2005, at p. 431.

¹⁴ It is otherwise known as ‘woman’s estate’ which was first coined by the British judicial administration in India.

What is called emphatically Stridhana, or "woman's property": the term being derived from *Sri*, female, and *Dhana*, wealth; not that it means necessarily money; it may consist of anything else of value, as of land; or a slave; as it more usually does of jewels, or other ornaments.¹⁵ Stridhana unless otherwise expressed or necessarily implied, means the property acquired by her otherwise than by inheritance or partition, over which she possesses full power of disposal and which on her death devolves upon her own heirs.¹⁶ On the other hand, widow's estate or women's estate refers to the right of property acquired through the process of inheritance either from their male counterpart or from any female relations. It refers to that property over which she generally takes limited interest and on her death, the property devolves on the line of the last male owner. So, widow's estate is the limited estate inherited by a Hindu widow, contra-distinguished from Stridhana which earns absolute estate to her according to Hindu law.¹⁷ The changing dynamics of socio-economic reformation in the early 19th century fueled by the British administrative policy and western scholarship ushered the way of modernizing the existing property rights regime and ignited a serious contradiction between the supporters of traditional and modern school of reformation. British administrative policy and official discourse legitimized religion as the core principle, and the implementation of law and its reform proved to be a predominant arena for these debates.¹⁸

The legislative reformation started with the Hindu Women's Right to Property Act of 1937 emphasizing on women's estate. The controversial debate over the concept of Stridhana was put into an end and the rights of the widows over the properties inherited from male owners were conferred by this enactment. Three classes of widows were recognized under this law, namely, the widow of the intestate, widow of a

¹⁵ Strange, Sir Thomas, 1875, "Hindu Law: principally with reference to such portions of it as concern the administration of justice in the king's courts in India", 5th Edition, Higgins Botham and Co, at p. 17.

¹⁶ The term 'Stridhana' has different connotation according to different schools and texts. Manu enumerates six kinds of Stridhana. Mitakshara School considers all the property obtained by woman as Stridhana. On the other hand, Jimutavahana rejects the definition of Stridhana given in Mitakshara and states "*that alone is Stridhana which she has power to give, sell or use independently of her husband's control*" (See, Desai, Sunderlal T, Mulla Principles of Hindu law, 16th edition, 1990, at p. 161)

¹⁷ *Supra* note 13, at p. 463.

¹⁸ Patel, Reena, 2006, "Hindu Women's Property Rights in India: A Critical Appraisal", Third World Quarterly, Vol. 27, No. 7, The Politics of Rights: Dilemmas for Feminist Praxis, at p. 1258.

predeceased son and widow of a predeceased grandson.¹⁹ Though the 1937 Act established limited right of Hindu women in their intestate husband's property, its biggest flaw was that it could never guarantee any rights to women successors when the deceased had disposed of his property by will. Neither did the Act mention anything about the shares of women in agricultural lands.²⁰ This law is still applicable in Bangladesh whereon India has advanced forward with The Hindu Succession Act of 1956 and the subsequent amendments. The Hindu succession Act of 1956 was a major blow to the traditional approach towards woman's right to property. The greatest merit of the act is that it lays down a uniform and comprehensive system of inheritance applicable to all Hindus.²¹ This act abrogates all the rules of law of succession whether by virtue of any text or rule of Hindu law or any custom or usage having the force of law. Thus, the modern Hindu law of succession is essentially a secular law. Religious or spiritual considerations are absent.²² The most significant effect of this law is it has abolished Hindu women's limited estate and made her absolute owner of the property however acquired and has conferred the unfettered power to disposal at her own discretion.²³ The division between married and unmarried daughter has also been abolished.²⁴ This enactment has also eliminated the division between Stridhana and Widows estate and thus declaring all the interest to property held by a Hindu woman to be absolute.²⁵ It has provided the right to certain female heirs, to succeed to the interest of the deceased in the coparcenary property.²⁶ This act is a clear break with the past effecting momentous and far reaching changes in the law of intestate succession among Hindus.²⁷ It has undergone certain significant changes again in 2005.²⁸ The Hindu Succession (amendment) Act of 2005 is an

¹⁹ Section 3, The Hindu women's right to property act, 1937, available online http://bdlaws.minlaw.gov.bd/print_sections_all.php?id=171, last visited May 30, 2015.

²⁰ *Supra* note 01, at p. 674

²¹ Jhabvala, Noshirvan H. 2008, Principle of Hindu Law, C. Jamnadas & Co. at p. 223.

²² Diwan, Paras and Diwan, Peeyushi, 1993, Modern Hindu law, codified and uncodified, 9th edition, Allahabad law agency, at p. 371

²³ Section 14, The Hindu Succession Act, 1956

²⁴ Schedule to The Hindu Succession Act, 1956

²⁵ *Supra* note 22

²⁶ Section 6, The Hindu Succession Act, 1956

²⁷ Gandhi, B.M, 2008, Hindu law, Eastern Book Company, 3rd edition, at p. 368

²⁸ This amendment was brought in pursuance to the Report titled "Property Rights of Women: Proposed Reform under the Hindu Law" prepared by Indian Law Commission in May 2000, available online <http://www.lawcommissionofindia.nic.in/kerala.htm>, last visited May 31, 2015

attempt to remove the discrimination as contained in the amended section 6 of the Hindu Succession Act, 1956 by giving equal rights to daughters in the Hindu Mitakshara coparcenary property as to sons have.²⁹ Simultaneously section 23 of the Act as disentitles the female heir to ask for partition in respect of dwelling house wholly occupied by a Joint Family until male heirs choose to divide their respective shares therein, was omitted by this Amending Act.³⁰ The amending act of 2005 not only conferred equal rights of property to the daughter, it also has reaffirmed the equal liability of daughter along with the son to provide maintenance to their aged parents.³¹ Later on, with a view to further amendment on Hindu Succession Act of 1956 a bill has been prepared and yet to be submitted to the Indian legislative apex body i.e. Lok Sabha.³²

The Hindu Succession Act of 1956 and its subsequent amendments does not apply in Bangladesh and Bangladesh still follows the Hindu Woman's Right to Property Act of 1937, although it has been recommended to facilitate absolute interest for hindu women through repealing limited interest.³³ In addition, many women's rights groups in Bangladesh have persistently demanded the enactment of a uniform family code or law which would apply to all, irrespective of religious affiliation, with the purpose of reforming existing family laws and removing discriminatory provisions related to women.³⁴ Nevertheless, the property rights regime of Hindu woman prevalent in Bangladesh has still been stuck into the aforesaid law of 1937.

Universal Rights Regime in Context

Equal right to property has been ensured under the Universal Declaration of Human Rights which expresses that no one shall be deprived of property rights arbitrarily.³⁵ Article 17 is considered as the cornerstone for establishing the very concept of equality in property rights long

²⁹ Section 6(3) (a), The Hindu Succession (amendment) Act, 2005

³⁰ <http://www.legalserviceindia.com/articles/gehsa.htm>, last visited May 31, 2015

³¹ Section 20, Hindu Adoption and Maintenance Act, 1956

³² The Hindu Succession (amendment) Bill, 2013, Bill No. 17 of 2013, Introduced by Shri Anurag Singh Thakur, M.P. and it aims at making changes to Section 3 and 15 of the Hindu Succession Act, 1956.

³³ Bangladesh Law Commission's final report on "Recommendations for reforming Hindu Family Laws" (in Bengali), 2012, available online <http://lc.gov.bd/reports/119-%20Hindu%20Law-%20Final.pdf>, last visited June 01, 2015

³⁴ Huda, Shahnaz, 2011, "Combating Gender injustice Hindu law in Bangladesh", The South Asian Institute of Advanced Legal and Human Rights Studies (SAILS), at p. 38

³⁵ Article 17, Universal Declaration for Human Rights, available online <http://www.un.org/en/documents/udhr/>, last visited June 01, 2015.

before the emergence of various international instruments redressing this issue as a matter of common interest for global community. Even though, the ICCPR (International Covenant on Civil and Political Rights) and ICESCR (International Covenant on Economic, Social and Cultural Rights) does not contain any expressed provisions relating to right to property, they both aims at establishing fair and equal treatment of men and women in every sphere of the rights regime based on the principle of equality enshrined in their respective provision.³⁶ The absence of any expressed provisions relating to property rights does not restrain the ICCPR and ICESCR from being invoked for establishing equal rights of Hindu women both in Bangladesh and India. Bangladesh has ratified ICCPR in the 6th September, 2000 and ICESCR in the year of 5th October, 1998.³⁷ But the principle of equality and non-discrimination has long before recognized under the Constitution of Bangladesh. Article 27 of the Constitution says that all citizens are equal before the law and are entitled to equal protection of the law. Article 28 spells out the principle of non-discrimination in the following words: “[...] the State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, or place of birth.” These provisions in the Constitution reflects Article 2 of the ICCPR that provides that State parties undertake to respect and ensure to all individuals within its territory the rights recognized in the Covenant without discrimination on the grounds of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status.³⁸ On the other hand, India also ratified to ICCPR and ICESCR in the year of 1979 and the principle of equality and non-discrimination has also been recognized by the Constitution of India through its respective provisions.³⁹ The domain of equality and non-discrimination, although expressed in reference to the particular rights mentioned in both the covenants, bears significant

³⁶ Article 3 and 26, International Covenant on Civil and Political Rights (ICCPR), 1976 and Article 3, International Covenant on Economic Social and Cultural Rights (ICESCR), 1976

³⁷ <http://indicators.ohchr.org/>, last visited June 04, 2015

³⁸ “The International Covenant on Civil and Political Rights: A Study on Bangladesh Compliance” (2013), National Human Rights Commission Bangladesh, p. 48, available online <http://www.nhrc.org.bd/PDF/Study%20reports/Study%20Report%20ICCPR.pdf>, last visited June 05, 2015

³⁹ Article 14 and 15, Indian Constitution, available online <http://lawmin.nic.in/olwing/coi/coi-english/coi-indexenglish.htm>, last visited June 04, 2015.

impact upon ensuring equal rights of women in property from national context.

The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) is considered as one of the most significant instrument concentrating only to the rights of women and is often described as the international bill of rights for women. Consisting of a preamble and 30 articles, it defines what constitutes discrimination against women and sets up an agenda for national action to end such discrimination.⁴⁰ This convention expressly affirmed its position and imposed obligations on the state parties to take all appropriate measures to ensure same rights for both women and men in respect of the ownership, acquisition, management, administration, enjoyment and disposition of property,⁴¹ India has ratified the whole convention in 1993 and Bangladesh ratified the convention in the year of 1984 with certain reservation.⁴²

Thus appropriate conformity and compliance of national legislation following international covenants redressing property rights, be it expressed or implied, may lead towards the way to establishing equal right to property of Hindu women in succession. Nevertheless, contemporary socio-religious practice, traditions and pressure from communal interest groups imposes a heavy burden on the shoulder of domestic legislative authority when it comes to the compliance with the demand of global community which creates a double jeopardy on the side of national governments leading to a moral crisis of enforcing law through bypassing religious sentiments of common people. Should nations or individuals have authority to use culture as a basis for justification of human rights abuses?⁴³

The later part of this writing shall examine the relevancy and feasibility of applying the Theory of Cultural Relativism in resolving the

⁴⁰ <http://www.un.org/womenwatch/daw/cedaw/cedaw.htm>, Last visited June 04, 2015

⁴¹ Article 16(1)(h), Convention on the Elimination of all forms of Discrimination against Women (CEDAW), available online <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm#article16>, last visited June 05, 2015

⁴² Bangladesh has kept reservation as to Article 2 & 16(1)(C) of the CEDAW, <http://www.un.org/womenwatch/daw/cedaw/reservations-country.htm#N19>, last visited June 05, 2015

⁴³ Polisi, Catherine E. 2004, "Universal Rights and Cultural Relativism: Hinduism and Islam Deconstructed", *World Affairs*, summer 2004, Vol. 167 Issue 1, at p. 41, accessed via <http://www.jstor.org/stable/20672704>, on June 19, 2015

standoff between contemporary religio-social practices and global normative framework as to the concept of property.

Applying the Theory of Cultural Relativism

The concept of property rights under Hindu Religio-legal regime is in obvious contradistinction with universal perception of equal property rights for both man and woman. But that should not arbitrarily rule out the applicability of classical religious texts for Hindu community with the aim of applying the concept of universality in the entire rights regime. The concept of women's limited right to property in Hindu civilization must not be construed from ethnocentric approach.

As it's not possible to figure out a universal standard for defining right and wrong, it's always the same as to the notion of 'universal morality' which is considered as a 'misnomer' by modern anthropologists. What is moral in one society may be regarded as immoral in another society. For example, Darius, a king of ancient Persia, was intrigued by the variety of cultures he encountered in his travels. He had found, for example, that the Callatians (a tribe of Indians) customarily ate the bodies of their dead fathers. The Greeks, of course, did not do that—the Greeks practiced cremation and regarded the funeral pyre as the natural and fitting way to dispose of the dead.⁴⁴

To many thinkers, this observation—"Different cultures have different moral codes"—has seemed to be the key to understanding morality. The idea of universal truth in ethics, they say, is a myth.⁴⁵ And as there's no concept of universal morality exists, no society has the right to determine whether another society's customs and practices are right or wrong. Moreover, Universalism does not tell us how to identify universally valid moral judgments.⁴⁶ So, according to the cultural relativists, principle of universality should not be exercised when it comes to practice or usage of any particular society, community or groups. They believe that all cultures are worthy in their own right and are of equal value. Relativists don't see any right or wrong within the expression of any society. What

⁴⁴ Rachels, James, 1999, "The Challenges of Cultural Relativism", Adapted from *The Elements of Moral Philosophy* by James Rachels, McGraw-Hill, Inc, 1999, Chapter 2, at pp. 15-29, available online <http://faculty.uca.edu/movv/Rachels--Cultural%20Relativism.htm>, last visited June 20, 2015

⁴⁵ *ibid*

⁴⁶ Tilley, John T, 2000, "Cultural relativism", *Human Rights Quarterly*, Vol. 22, No. 2 (May, 2000), The John Hopkins University Press, accessed via <http://www.jstor.org/stable/4489287> last visited June 18, 2015

they expect is the contrast and respect between each other's customs and practice of rights. Cultural relativism is closely related to ethical relativism, which views truth as variable and not absolute. What constitutes right and wrong is determined solely by the individual or by society. Since truth is not objective, there can be no objective standard which applies to all cultures. Judgments are based on experience, and experience is interpreted by each individual in terms of his own enculturation.⁴⁷ So following the arguments of relativists, neither it's plausible nor expected to put forward the principle of universality as against the traditional approach of Hindu community regarding equal status of women's property rights. But as we know, Bangladesh and India are having secular constitution and other legal instruments confirming women's equal right to property. They both have ratified the international bill of rights which aims at establishing an equal rights regime devoid of race, religion, sex or color. The ratification of those international instruments led to a culture-neutral standard of right and wrong as regards the rights regime. Moreover, cultural relativism is based on a static conception of culture. By emphasizing stability and cultural continuity of customs or traditions, relativism disregards or minimizes the importance of social change.⁴⁸ Apparently, the arguments being put forward by the traditional community can be considered feasible through following the arguments of cultural relativists. But when it comes to the enforcement of rights from secular contexts following the global norms and practices, cultural relativism seems to fail in providing any satisfactory answer. The abandonment of universalism in favor of cultural relativism would have profound implications for those brutalized in the name of culture or religion.⁴⁹ The principle may be rightfully applied when it's a state based on full scale religious tenets like the Saudi Arabia or Iran, where the arguments can be strongly placed in favor of the discriminatory treatment of women in property rights in terms of religio-legal practices. In terms of a secular country, despite experiencing the rise of religious extremism, theory of cultural relativism is of no avail as the discriminatory treatment of women when it comes to establish equal status for both genders. Hence, Cultural relativism has seriously baffled

⁴⁷ Herskovits, Melville J. 1949, "Man and His works: The science of Cultural anthropology", Alfred A. Knopf, New York, at p.63

⁴⁸ Zechenter, Elizabeth M, "In the name of Culture: Cultural relativism and the abuse of the Individual", *Journal of Anthropological Research*, Vol. 53, No. 3, *Universal Human Rights versus Cultural Relativity* (Autumn, 1997), at p. 332, accessed via <http://www.jstor.org/stable/3630957> last visited June 22, 2015

⁴⁹ *ibid*, at p.341

the whole situation without referring to any viable solution in the context of universality as to establishing rights. Nevertheless, in terms of rights enforcement, we need to keep the balance between religious and traditional values and sentiment of common people and universal approach towards rights regime.

Conclusion

The status of Hindu women as to property rights has been regarded as one of the highly controversial issues creating a standoff between the orthodox and the reformist school. Despite having serious objection from religious pressure and interest groups, India has proved to advance forward with the agendas of reformation into legislative enactment so as to afford and govern equal status for both sexes in property rights with flying colors. Nevertheless, its implementation is being considered a serious challenge one due to the very traditional nature of the Hindu community in India as governed strictly under the tenets of Manu Smriti. Bangladesh, on the other hand, has failed to bring any such reformation agenda in the legislative discussion board, let alone any reformations having legislative implications for the existing Hindu community. This has vitiated the basic spirit of our constitutionalism and playing like a stumbling block over the minimum standard of rights established by the global community so as to eliminate discrimination gradually from every society. The arguments of relativists ought not to be placed in the supreme position of logic as this shall not bring any good except igniting the flame of rights abuse and discrimination regime in much wider and established array. On the other hand, the expectation of the universal rights regime exceeds the certain tolerance limits of the traditional society in certain respect. Thus, the situation requires a balance among the religious stakeholders, pro-reformists and the universalism. Gradual adjustment and settlement of universal rights practices with the orthodox school via domestic legislative reformation process may confer advantage in establishing equal status for Hindu women in property rights. Implementation of those legislative initiatives has always pointed to a big question mark as to who shall take the responsibility to settle down the equilibrium of rights for women in such society where religion puts that particular portion into the domain of constant abnegation and abhorrence, sometimes supported by the texts of Holy Scriptures. This circumstance may require another well balanced interaction among existing socio-religious, religio-legal and other stereotypes so as to confer equal property rights for women in traditional Hindu society.