

WOMEN'S IDENTIFICATION AFTER MARRIAGE:

Introduction:

In all the identity documents and forms that are issued by government it still feature a "Father's/Husband's Name" section. The issue with such a mention is only a woman is treated as a "wife of" somebody after marriage but nowhere in the documents it is mentioned as "husband of" somebody. This is a violation of equality based on gender. A man doesn't change any of his identities even after the marriage and a woman is always supposed to do so. Women right from their birth were identified with their father's surname and later after marriage their identity is based on their husband's surname. This idea of changing the maiden names and replacing it with husband's surname emanates from age old patriarchal society where wives had no recognition except as a "wife of X". (1) The wife was considered to be the husband's possession and right up to the late 19th-century.

Surname Change:

The surname change of a woman had been a social norm since times immemorial but Indian law had never mandated the change of woman's maiden name after her marriage. (2) The commonly misunderstood concept amongst many of the Indians is that they feel woman's name automatically changes after her marriage which is not true. There are some steps of legal procedure that needs to be gone through for this change. Though it is completely optional many women chose to change their surname after marriage due to various reasons i.e. to show society this is a "good family" (3), to avoid the later confusion for the kids to chose their surname and to avoid ambiguity in the documents. Apart from India even in the nations with highest gender equality rate such as Norway women add their husband's surname as their last names.

History:

The famous English jurist William Blackstone in his Commentaries on English Law explained that by marriage, the husband and wife are one person in the eyes of law which means that the very being or legal existence of the woman is suspended during the marriage. (4) According to historical law doctrine "coverture" - upon marriage, a woman's legal rights and obligations were subsumed by those of her husband. (5) In 1340 a British court had held that, "when a woman took a husband, she lost every surname except 'wife of'. From these we can come to a conclusion that the individuality of a woman was never taken into consideration after her marriage. Due to which she had to embrace their husband's surname and are regarded as their

responsibility. This was because women those days were not educated and had no say in any of the matters within or outside the family. But with the time change women started studying and being independent financially and has say in all the matters.

Indian Laws:

The laws of India don't deprive women from their rights because of them getting married and not taking their husband's surname. It is in fact a matter of choice for the women and they need to go through a series of legal steps to change their surname which includes filing an affidavit for the change in their name, making an official announcement of it by getting it published in a Newspaper, and by getting it published in the official gazette of India.

Documents identifying woman as w/o:

The ID proofs such as Aadhaar card and PAN card identifies women alone but the other ID proofs such as driving licence and various bank accounts identify her with her husband's name where she will be categorized as wife of someone. This identification of women with their spouse's name has been followed from very ancient times and even the authorities mandate the mentioning of the spouse name in the documents for the registration process and different other processes because women themselves like them to be mentioned as daughter of their fathers or/and wife of their husbands.

The mention of w/o in all the documents without mentioning h/o is clear gender bias which is normalised in our society. A woman is always recognized as w/o somebody because it is deep rooted within us but husbands rarely add their wife's surname to theirs. In most of the documents, the authorities fail to use the gender neutral terms such as Birth name of applicant or the spouse name of the applicant.

My Opinion:

According to me the practice of women being categorised under the tag of w/o somebody and being recognised by their husband though she is an educated and independent individual somewhere gives rise to the men feeling superior to women and this has to be disaffirmed as soon as possible. This system takes the development of women back again by showing them that they are identified based on their husband's identity. This is also against the fundamental rights guaranteed by the constitution of India i.e., gender equality under article 15 which states

that “The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them”. (6)

Conclusion:

The woman being recognised by her spouse’s surname has its roots from ancient times. A married woman or feme covert was a dependent, like an underage child or a slave, and could not own property in her own name or control her own earnings, except under very specific circumstances (7) according to law back then. Though the times have changed and women became independent in all possible ways yet this recognition based on their husband haven’t changed.

Many women feel it is a compulsory thing to change their recognition after marriage which in reality isn’t true. Many women just change their names without even knowing the purpose of such. The change is required in the documents; the authorities need to use the gender neutral terms such as Birth name of applicant or the spouse name of the applicant. This can promote gender equality in a way.

1. <https://clsnuo.com/2020/10/30/identification-of-women-via-husbands-a-mockery-of-article-15/>
1. <https://www.myadvo.in/blog/changing-name-after-marriage-not-mandatory/>
2. <https://theconversation.com/why-so-many-women-still-take-their-husbands-last-name-140038>
3. <https://ap.gilderlehrman.org/essay/legal-status-women-1776%C3%A2%E2%82%AC%E2%80%9C1830>
4. <https://en.wikipedia.org/wiki/Coverture>
5. <https://indiankanoon.org/doc/609295/>
6. https://www.library.hbs.edu/hc/wes/collections/women_law/