



Date: 10th October 2019

To,
Ministry of Women & Child Development,
Government of India,
Shastri Bhawan, New Delhi

SUBJECT: STRONG OBJECTIONS TO NCW PROPOSED AMENDMENTS IN HINDU MINORITY & GUARDIANSHIP ACT, 1956

Hon'ble Minister,

Save Family Foundation (Regd. NGO), part of Save Indian Family (SIF) Movement which is the Boy's & Men's Rights Movement of India. SIF is a conglomerate of over 40 NGOs across India and has been tirelessly working for bringing Family and Marital Harmony since 2005. We today run various online help groups (Email, Social Media, whatsapp), weekly help meetings (32+ locations), Android Apps & 8882498498 SIF One Helpline for Men. Over and above 6000+ monthly calls on our Helplines, our other Online and Offline help groups help several thousand fathers who are suffering at the hands of misuse of various Gender Based Laws. We have been sending various representations through peaceful protests. SFF also keeps sending its submissions, memorandums to various government authorities informing about the issues the men, children and their families are facing in today's India.

We have checked the amendments that National Commission for Women has proposed on Hindu Minority and Guardianship Act, 1956. We submit out this 3 page response to the same.

First and foremost, we need to look into the intent behind the recommendations. Can a body, which has no intention or duty towards the welfare of children of the country be allowed to recommend changes to the very act which safeguards the welfare of the children? The answer is a big NO.

We wish to bring to your notice, the mission of the National Commission for Women, as mentioned on their website. It reads, *"To strive towards enabling women to achieve equality and equal participation in all spheres of life by securing her due rights and entitlements through suitable policy formulation, legislative measures, effective enforcement of laws, implementation of schemes/policies and devising strategies for solution of specific problems/situations arising out of discrimination and atrocities against women."* It is pertinent to note here that welfare of child or children does not figure out in the very mission of this constitutional body. By suggesting of any amendments to an act which deals with the welfare of the child, NCW has overshoot its jurisdiction and expertise. Hence, it is our humble submission to reject any suggestions from a body, which inherently has a bias towards a particular gender and no interest towards welfare of child.

Before making any amendments in a law, we should see if the change shall bring out the desired outcome. Further, in the quest for individuality and freedom influenced by western commercial monoculture, family as a binding, nurturing and protection tool is diminishing. It's as if we longer care where we are headed as a society. We are running a trackless ideology that has only resulted in destruction of families. The Supreme Court has termed the misuse of laws by the females as Legal Terrorism. Even after their crime is exposed the laws refuse to punish albeit reward the females. This has led to overstepping of boundaries and pushing the envelope to the extent that now the deceased is termed as his own murderer.



- Suggestions of Amendment by NCW in Section 4 are strongly opposed and vehemently denied – Definition – already states both father and mother. No real consequential change shall be made by replacing with the word parent.
- Suggestions of Amendment by NCW in Section 6 are strongly opposed and vehemently denied except a strong need of removing section 6(a) as age, well-being of the child was never a mother specific right:
Natural guardians of a Hindu Minor - Today it is settled law that father is natural guardian to the case of the person as well as of the property of the minor. The mother is given the custody of the minor, normally, till age 5 except in certain circumstances where welfare of child is held with father by the courts. After the demise of the father, the mother becomes the natural guardian of both the case of the person and property of the minor. Though, this provision itself is discriminatory as it devoid a child's right to meet it's father, just because the law is drafted with a bias against fathers. Mothers using such provisions as another tool to coerce a father to accept her unlawful demands, is not an unknown scenario now a days. The social fabric has changed. Now a days, most children in India are not even getting breast feed of mothers as most women think that breast feeding effects their physical appearance negatively. With breast feeding gone, and infants growing to become kids feeding on formula milk or renting out the breast milk (it is true that India has flourishing business of buying/selling of breast milk for infants), there is effectively no need to stick to old provisions and the way country is becoming modern, having archaic laws doesn't serve the purpose now and hence are often abused, misused.

The real question to ask here is that is the custodianship of the property of the minor more important than his/her welfare. With spouses warring on several fronts already including custody of the person of the minor itself, the minor is already faced with parental alienation and other psychological and emotional stress. By making the suggested changes, it will affectively open up new avenues of litigation between the parents and further strain the relationship and family ambience. It is in the welfare of the minor that there be a peaceful environment and ambience.

The current law does not only give right to the child to the father but also the responsibility of the property of the minor. There are more and enough safeguards to take interest of the child not being misappropriated, as covered in Section 8 of this act. Once the same is shared / disputed, it will make the spouses less inclined towards creation of property for the minor, leading to ultimate loss of the minor. It's not like the current law is stopping the parents from individually creating and exercising control over such property of the minor.

Any organization / body known for it's bias towards a gender is expected to give such suggestions only. It is important to understand that drafting of most of the family laws are as such that they give all the RIGHTS to the wife/mother/daughter and give all the RESPONSIBILITIES to the husband/father/son. Any amendments to be done cannot be viewed with myopic view of 1 act/law. Amendments, if needed, are required across the laws. All the laws including sections in GWA, CrPC 125, PWDVA2005, Hindu Adoption and Maintenance Act etc need to be relooked to bring in the equality in terms of the rights AND RESPONSIBILITIES.

Before the law is amended to reflect both parents as natural guardians then the custody of the asset must remain with the one who created the asset and can be transferred to child at majority.



There must not be any scope of dispute over a minor's property. By not doing so we putting our own interest before the minor's and infringing over the minor's rights.

- Suggestions of Amendment by NCW in Section 7 are strongly opposed and vehemently denied: The essence of the law needs to remain as it also resonates with the essence of other laws where a father is given responsibility while a mother is only given rights otherwise. Hence, the guardianship of an adopted child too must remain first with the father, then with the mother, as it is today.
- Suggestions of Amendment by NCW in Section 8 are strongly opposed and vehemently denied: It is always more efficient for a court to access and assess an immovable property within its local limits. Suggested jurisdictional changes would mean that if the spouse who has custody of child is residing in different state/city, the spouse responsible for creation of the property/in current possession of same will have to travel at the behest of the other to fight for his/her right. Further, adding to agony of the spouse, the relationship and ultimately the welfare of the minor.
- Suggestions of Amendment by NCW in Section 9 are strongly opposed and vehemently denied: The present law serves well the roles, rights and responsibilities of both father and mother. No changes are required. Again, the rights and welfare of the minor are paramount. Not of the spouses.
- Suggestions of Amendment by NCW in Section 13 are strongly opposed and vehemently denied: Wishes and welfare generally don't go hand in hand. Instant section lays down the very foundation of the having this act i.e. about welfare of the child being paramount. Under no circumstance, welfare of the minor should become conditional or based on the whims and fancies of a custodian/guardian. The law stands on the pure, ethical, moral pedestal of a welfare of a minor and not on somebody wishes which includes wishes of a guardian or a custodian or even the court. The welfare of any state is dependent on the welfare of their children and in no consequence, it can ever be played with.

We wish to request an in-person representation to this amendment process to present the most ignored side of a child's rights and father's rights.

Awaiting your kind and positive response and considering our above submissions.

Yours Truly,
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Save Family Foundation