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A Study on the Difference in the Concept of Inter Vivos Gifts under Hindu and Muslim Personal Law

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ABSTRACT

Since there is no Uniform Civil Code in place in India, personal religious laws govern the tradition of giving gifts, and the meaning and implications of gift giving changes depending on the governing religious law, and also with what intention the gift is given. Due to difference in the time period during which Hindu and Muslim laws evolved, which is of hundreds of years, as well as due to difference in cultural background, customs and traditions followed by people, the motive of giving gifts and the consequences of property transfer are different under Hindu and Muslim laws (only one kind of transferrable gift in Hindu law but of various kinds in Muslim Law such as Ariya, Sadhakkh, Hiba bil Musha, Hiba bil Iwaz and Hiba ba Shart ul Iwaz). There is also difference in thinking, as some concepts may be deemed more progressive or more conservative when taken in context of current societal conditions, as well as difference in procedural requirements. Having so many laws governing gifting of property – The Transfer of Property Act, The Indian Succession act, personal laws of various religions and communities, the Indian Registration Act, The Indian Majority Act, The Guardianship Act as well as The Civil Procedure Code – conflicts can be expected and sometimes become unavoidable. The researcher, through this research paper, by analysing the provision set out in personal laws, as well as studying precedents and concepts explained in various case laws, aims to understand the existing differences between the concept of Gift under Hindu and Muslim laws, as well as possible clashes that could arise, and suggests certain recommendations to resolve these issues.

I. INTRODUCTION

A gift, in legal terms, is the relinquishment of one's right to property, and creation of the right of another. This is done in exchange for no consideration, and is complete when the other person accepts this gift. This giving without want for anything in return is gratuitous in nature. Gifts can be of many kinds:

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 [ISSN 2581-5369]

- Inter vivos gifts – given during the lifetime of the donee, transferring present or future interest
- Deathbed gifts – made when the donor is in terminal condition and anticipating death
- Onerous gifts – when there is some kind of obligation upon the donor which he owes to the done (such gifts are talked about in Section 127 of the Transfer of Property Act, 1882)
- Outright gifts – given in trust or out of love and affection, without any burdens
- Remunerative gifts – compensatory for past actions or services

The system of gift giving in English law is categorised on the basis of immovable and movable (real and personal) property, and the transferred rights in the land is termed as 'Estate'. This transfer does not always mean that of absolute ownership. It could also signify limited rights, which are restricted either by passage of time, duration of usage, or lifetime of the donee.

Under Hindu law, the concept of gift is defined as "the creation of another person's proprietary right after the extinction of one's own proprietary right in the subject matter of the gift." As per Jimutvahana, the donee's vested rights not created by his acceptance, but by relinquishment of these rights by the donor. However, the Mitakshara school of thought lays more importance on the element of acceptance, as interests can be devolved by the donor per his wish, but cannot be forced or imposed upon the done unless he gives his assent. Further, mere registration of transfer of title does not mean and equal to actual delivery of possession of the property, and is therefore not sufficient for a valid giving of gift. (this condition has been abrogated by Section 123 of the Transfer of Property Act, 1882.)

There is no segregation between real and personal kinds of property under Muslim law, and the law as such contains no clear authoritative mandate which recognizes and validates the division of ownership of land into estates. There is however an important distinction made under Muslim law, and the law insists it must be made, which is between Ayn – the corpus of property and Manafi – the usufruct in the property.

II. LEGAL PROVISIONS UNDER HINDU LAW

The Mitakshara school of thought states that a gift consists of renunciation of one's rights or interests in property to the creation of benefit for another, which is complete on the other's acceptance of this right. In the case of Padma Chand v. Lakshmi Devi[2], the Court upheld the definition of a gift as a voluntary parting with property by the owner for no consideration and

[2] 2010 (173) DLT 604.

 [ISSN 2581-5369]

without any pecuniary benefits. The practices under the Hindu system follow the guidelines and provisions under Chapter VII of the Transfer of Property Act, 1882, which deals specifically with Gifts.

Five essential ingredients of gift under Hindu Law:

1. Donor: The donor is the one who makes the gift of property, and can be any Hindu male or female, but must be of majority as per Section 3 of the Indian Majority Act and of sound mind in order to do so lawfully. Further, in order to transfer the property, he should have complete and lawful ownership on the corpus of the gift.
2. Donee: The donee is the one receiving the gift, and completes the transfer by way of his acceptance. He may be incapacitated due to minority, idiocy, or being incapable of inheritance, in which case someone else must accept the gift on his behalf, such as a family member, next friend or care taker. With regards to gifts made to unborn child, under Hindu law, a gift cannot be made to a person not in existence at the time of making the gift, and to remove this disability, the acts are relied upon are The Hindu Transfers and Bequests Act, 1914 and The Hindu Disposition of Property Act, 1916.
3. Subject matter of the gift: This could be any of the following things:
    i) Separate or self-acquired property (governed by mitakshara or dayabhaga rules) (Sections 18 to 22 of the Hindu Adoptions and Maintenance Act, 1956)
    ii) Coparcenary property (under daybhaga school of thought)
    iii) Whole ancestral property of the father (under dayabhaga system)
    iv) Impartible or indivisible estate unless prohibited by custom
    v) Movable properties inherited by a widow under Mayukavidhi
    vi) Stridhan (after 1956, under Section 14 of the Hindu Succession Act, she may dispose all of her property)
    vii) Part of the property by a widow which she received in inheritance, given to her son-in-law or daughter at the time of marriage.
4. Acceptance of the gift: Acceptance is an essential condition for completion of gift making under Hindu Law, and is also mandated by Section 122 of the Transfer of Property Act, 1882. Such acceptance must be voluntary and not under any force or pressure. It must also not be obtained by fraudulent or deceptive ways, and can be revoked by the aggrieved if the gift was given fraudulently. This was held in the case of Ganga Bakash vs. Jagat

 [ISSN 2581-5369]

Bahadar. The acceptor cannot be forced to take upon himself any obligations, or ownership of any property which he cannot or does not wish to enjoy or maintain. In Deo kura vs. Man kura (1894), a gift was set aside in a suit brought eight years after the date of the gift on the ground that the document of the gift was not explained to the donee. Mitakshara and Dayabhaga systems differ in opinion when it comes to the requirement of acceptance to complete a transfer of gift – the former says it is mandatory, whereas the latter does not require acceptance compulsorily. This acceptance can be made in three ways –

i) Mental acceptance

ii) Verbal acceptance

iii) Corporeal acceptance

5. Formalitites: As per Hindu customary practices in the past, transfer of possession of property to the donee, and not just the title, was required to complete the giving of the gift. For immovable property, there were some other activities conducted, such as the presence of all villagers, relatives and heirs, and the giving of gold and water for gifting the property. In case anyone had any objection, they could approach the appropriate court to resolve the same.

Gifts given under Hindu Law made effective under the Transfer of Property Act, 1882:

A gift can be validly made effective in the following manner:

i) In the case of movable property, either by way of physical delivery, or by way of a registered document signed by the donor

ii) In the case of immovable property, the signed document by or on behalf of the donor must be attested by at least two witnesses. Mandatory registration of gifts of immovable property was firmly laid down in the case of Sahadev v. Shekh Papa[3]. Mere delivery of possession would not be sufficient, as was held in D.D. Dawar v. Ganga Ram Saran Dhama.[4]

iii) Where a gift is given, subject to an absolute restriction on the donee from alienating it in the future, then such a restriction would be void, but the gift itself would remain good.

[3] (1905) Bom. P.119.
[4] AIR 1993 Del P.19.

 [ISSN 2581-5369]

iv) In case the property to be transferred is already in possession of the donee, then giving of such a gift is complete when the donor declares it to be so, and the donee expresses his acceptance of the same.

When the making of the gift is complete: Traditional Hindu Law was drastically modified when the Transfer of Property Act, 1882 was enacted. This act made it clear that physical delivery of possession of property is not mandatory, and a registered document to that effect is sufficient. However, in places like certain areas of Punjab, where the Act is not applicable, traditional Hindu rules are still followed, which state that gifts in writing and even oral gifts are valid, but only as long as there is actual transfer in possession form donor to done.

Sometimes, the gift may be of such a nature that it is not physically possible to gift actual possession, and to validate the giving of the gift in such cases, the donor must do all that he could so that the donee is entitled to obtain possession of the gift, and this the transfer would be held complete. This was established in the case of Kalidas v. Kanhaya Lal. 11 Cal. 121) Therefore, if the gift is in adverse possession by a third person, then the gift deed can be executed in the favour of the donee, and the giving of the gift would be complete. For example, if tenants have been occupying a property or land that is to be gifted, then the tenants can be made to take the donee as their landlord instead of the donor, and would pay their rent to him instead.

III. EVOLUTION OF VARIOUS ASPECTS OF GIFT UNDER HINDU LAW THROUGH PRECEDENTS

- **Vimala v. Narayanaswamy[5]:** The Court pointed out an important distinction in characterization of gifts and wills, by laying down that when a deed takes immediate effect and the property is to be transferred during the executant's lifetime, it would not be a will but a gift deed.
- **Commissioner of Income Tax v. Mayawati[6]:** The Court clearly spelled out the required elements to constitute a gift:
    1. A gift is not a contract as consideration is absent.
    2. Consent should be free and voluntary.
    3. If the gift deed is transferred, even before registration, it becomes irrevocable.

[5] 1996 AIHC 4170 Kar.
[6] 2011 (183) 617.

4. Must be registered in accordance with the Indian Registration Act.
5. If the deed is executed and accepted during the lifetime of the executant, it may be registered even after his death.
6. Unregistered deeds cannot be enforced under the doctrine of past performance.

- **Ram Niwas Awasthy v. Narayan Prasad[7]:** In order to determine whether or not a document is a gift deed, reliance must be laid on the language used throughout the document, and if it is a gift, then Section 122 and 123 of the Transfer of Property Act, 1882 would apply.
- **Deo Saran v. Deoki Bharthi[8]:** This case held two key requirements for gift, whether of movable or immovable property, as Sankalpa and Samarpan, which means the property is completely given away, and the owner fully divests himself of ownership of and claim over that propretry.
- **Srinivasa Padyachi v. Parvathiammal[9]:** In this case, it was established that a gift of a person's undivided interest in coparcenary property is void, and binds neither the donor nor the donee. However, this is contrary to the practice prevailing in Madras under Mitakshara law, where a person has power to alienate his undivided share in property without other coparceners' consent.
- **Ammathayi Perumalakkal v. Kumaresan Balakrishnan[10]:** This case stated that Hindu law on ancestral property is well settled. In case of movable ancestral property, a gift may be made to a wife, daughter or son out of love and affection, but this must be within reasonable limits – for example, the whole property cannot be gifted out of love.[11] With regards to immovable ancestral property, the power of gifting is more limited, such as for religious purposes, charitable purposes, or even promises made by a father to a daughter, for example, and by the mother when the father is dead, as given in the case of Kamala Devi v. Bachu Lal Gupta.[12]
- **Thamma Venkata Subbamma (Dead) v. Thamma Rattamma[13]:** It was held in this case that a gift made by an individual to his brother would mean relinquishment of his undivided interest in coparcenary in favour of the brother. This would be a valid gift and the consent

[7] 2007 (2) MPLJ 332 (335) (MP).
[8] (1924) 3 Pat. 842.
[9] AIR 1970 Md 113.
[10] AIR 1967 SC 569.
[11] Mulla's Hindu Law, 13th Edn. p 252, para 225.
[12] 1957 SCR 452.
[13] 1987 SCR (3) 236.

 [ISSN 2581-5369]

of others would be immaterial.[14] However, Mitaksha personal Law of the Hindus is that a coparcener can give away his undivided share in coparcenary by a will nut not through a gift. The Court also made it clear that when the law has been prevailing in a particular manner and state in a certain region, and the people of that area have adjusted themselves to those rules and practices in their daily lives, the Courts should not interfere with such laws unless under compelling circumstances or urgency, and it is for the legislature to consider and deliberate upon whether such laws must be changed or not. The Legislature has not, except permitting the coparcener to make a will in respect of his undivided interest by section 30 of the Hindu Succession Act, altered the law against making of gift by a coparcener of his undivided interest.

- **Bai Gulab vs Thakorlal Pranjivandas[15]:** In this case, the question was whether a Hindu minor is competent to make a will. The right of a Hindu to make a will is based upon the principle that he is competent to make a disposition of his property to take effect after his death, to the same extent to which he can make a disposition of it in his own life-time as a gift. In this case, it was held that it is clear in law that a Hindu minor cannot make a gift of his property in his life-time. If that is so, it follows that he cannot make a will in respect of that property.

IV. LEGAL PROVISIONS UNDER MUSLIM LAW

Gift in Muslim law is called 'Hiba'. Under Hanafi law, Hiba is defined as "an act of bounty by which a right of property is conferred in something specific without an exchange", whereas the Shias claim that "Hiba is an obligation by which property in a specific object is transferred immediately and unconditionally without any exchange and free from any pious or religious purpose on the part of the donor". As per Hedaya, Hiba is defined technically as "Unconditional transfer of existing property made immediately and without any exchange or consideration, by one person to another and accepted by or on behalf of the latter." This gift is gratuitous in nature and given inter vivos (death-bed gifts are covered separately under marz-ul-maut). Muslim personal law permits a Muslim, whether married or unmarried, of majority (18 years or 21 years if under the care of a lawful guardian) and sound mind, to gift any or even all of their properties, even if the consequence of this is disinheritance of the lawful heirs. Since this personal law fully governs the concept of gifting, Chapter VII of the Transfer of Property Act is not applicable to Muslims. This is because, although Muslims are permitted to make gifts to

[14] Mulla's Hindu Law, 15th Edn. p 357, art. 264.
[15] (1912) 14 BOMLR 748.

 [ISSN 2581-5369]

non-muslims, the formalities for gifting under Muslim law are different than that laid down in law.

Characteristics of Hiba:

- The transfer of the gift of Hiba takes place between parties and not by operation of law, which means that transfers mandate by courts of law or under compulsion of laws of inheritance cannot be considered as Hiba.
- These gifts cannot entail any restrictions, conditions, or partial deletion of rights.
- The gift is valid with immediate effect, and therefore gifts made for properties which will exist in the future are void. As soon as the gifting is complete, the donor is fully divested of his interest in and control over the property gifted.
- These gifts are given without want of consideration, and if anything of value is taken in return by the donor, or in exchange, such a transfer would not be in the nature of Hiba.
- The most essential element of Hiba is the declaration, "I have given".

Subject Matter of Gift under Islamic Law: With regards to the concept of Hiba, Muslim law does not differentiate between self-acquired or separate property and ancestral property, or even movable and immovable property, and therefore any property upon which the donor has whole and lawful ownership can be the subject matter of Hiba. Both corporeal and incorporeal property can be gifted. These properties include those given on lease, properties of attachment, as well as actionable claims. Under wasiyat concept of Islamic law, only one-third of the total property can be handed down through a will, but under Hiba, even the entire property can be gifted. Therefore, the following kinds of property can be gifted under Muslim law:

1. anything over which a right of or interest in property can exist.
2. anything over which possession may be exercised.
3. anything which exists either as an enforceable right or as a specific entity.

Variations of Hiba:

- Hiba bil Iwaz: it is a gift in for which a consideration is exchanged, for example in the nature of a gift being given by a husband to his wife in pursuance of her claim to dower.
- Hiba ba Shart ul Iwaz: means "a gift made with a stipulation for return" but contrary to Hiba bil Iwaz, the payment of consideration not immediately on delivery of possession, but is postponed. Since it is not immediate, transfer of possession is mandatory, and only on its happening the gift making is complete.

 [ISSN 2581-5369]

- Sadqah (charity): it is voluntary offering for an amount as desired by the benefactor, usually granted to poor for their upliftment in the form of almsgiving.
- Ariyat: permits enjoyment of property without inhibition of title of the donor (like a licensor-licensee agreement).

Capacity to make Hiba:

1. Mental capacity: This is an essential as the person making the gift must be capable of understanding the legal repercussions of his act of gifting. Gift may be made by a person of sound mind, or even a person of unsound mind during intervals of soundness and lucidity. There should also be no coercion on the donor to make the gift.
2. Financial Capacity: As per the Hanafi School of thought, an indebted person may make a gift, subject to the power of the Qazi to invalidate gifts made under fraudulence. Indian Courts have accepted the Hanafi view that insolvency or weak financial conditions cannot equate to fraudulent intentions of the donor.
3. Bonafide intention: This is a must from the side of the donor. Gifts made with malafide intentions are unlawful and invalid. A gift of pretence made without pure intentions or to defraud includes Benami and colourable transactions.

Right to make a Hiba: It is not sufficient for the donor to solely have capacity to make a gift, but he must also possess the right to do so. This right of the donor to gift exists only on properties under his ownership. For example, a tenant cannot gift away a house in which he resides on rent. Such gifts would be considered invalid. A Muslim may even give away the entire dominion of properties under his ownership in one declaration. This transfer must be warranted by full interest of the donee, and the donor must have a good title to the property intended to be passed on to the donee for his benefit.

Competency of the Donee: The person receiving the gift must be competent to have a deed registered in his favour, and the sole essential for this is the donee's existence. The gender, religion, marital status or mental condition of the donee is irrelevant.

- Unborn Child: An unborn baby in the womb of the mother can be a valid recipient of hiba, but on the condition that he is born within six months of the date of making of the gift. If the child is stillborn or aborted post declaration of the gift, then the gift becomes void. If the conception of the child happens after the declaration of the gift, then it is void ab initio.
- Juristic Person: Also known as artificial person, this category includes firms, associations, companies, unions, corporations, universities and other such organizations, including

 [ISSN 2581-5369]

mosques, schools and temples. These are competent donees as they are presumed to be adults with sound mind in the eyes of law.

- Two or more Donees: A donee may be an individual or a class of persons. In case the donee is a group of people, all the people in that particular group must be ascertainable.

Doctrine of Mushaa: "Mushaa" is a word of Arabic origins, literally meaning 'confusion'. It denotes an undivided share in joint propery, which makes it a co-owned property, and the confusion arises when one of the many owners makes a gift of his own undemarcated share in the interest in property, as to which part may be severed and gifted, and how this division is determined. It is impractical to physically gift possession of a part of joint property without partition. In order to solve such issues, Hanafi school of thought formulated the doctrine of Mushaa, which states that such delivery is invalid without proper partition, and the severed part must be actually delivered to the donor to complete the making of the gift. Shia law does not recognize this doctrine. It states that certain parts of a property, such as staircase, bath, hall, etc. cannot be severed, as the original essence will be lost.

V. EVOLUTION OF VARIOUS ASPECTS OF GIFT UNDER MUSLIM LAW THROUGH PRECEDENTS

- **Hussaina Bai v. Zohara Bai[16]:** In this case, such a woman was brought to Burhanpur from Nagpur due to alleged serious illness of her brother in law. After arriving, in a fit of hysteria, she signed a gift deed without being informed of its contents, and without giving her a chance to form a decision of her own. The court observed that in case of gifts made by pardanashin women, it is compulsory to establish her free consent given without any influence or advice, and the burden of proving this would lie on the donee. In the present case, the deed was forcefully executed and the act was not done voluntarily, which rendered it invalid.
- **Rahim Bux vs Mohd. Hasen[17]:** It was held that gift of services is invalid, since these services are not in existence at the time when the gift is made.
- **Md. Hesabuddin v. Md. Hesaruddin[18]:** In this case, a gift made by a Muslim woman to her son giving away certain immovable properties was written down on ordinary paper and not made as a registered gift deed. The court upheld the validity of this gift by stating that

[16] AIR 1960 MP 60.
[17] AIR 1883.
[18] AIR 1984 Gau. 41.

 [ISSN 2581-5369]

the Muslim law does not require writing and registration as mandatory ingredients of a lawfully valid gift.

- **Maimuna Bibi v. Rasool Mian[19]:** This case made it compulsory for the donor to devolve complete ownership and fully divest himself of any interest in the dominion of the property to be gifted. He must explicitly express his intention to clearly and unequivocally transfer his rights and ownership to the donee.
- **In Humera Bibi v. Najmunnissa[20]:** In this case, a Muslim woman had executed a gift deed to her nephew, giving away her house as a gift, who was living with her in that very house. The property had been transferred in his name while they both continued to live in the same house as before. The gift was observed to be valid although there was no physical departure from the property by the donor, or the physical transfer of the ownership to the donee.
- **Fatmabibi v. Abdul Rehman[21]:** In this case, a Muslim husband had orally gifted a house to his wife, which was also registered subsequently. The stepson, who lived in this gifted house with the wife, questioned the validity of the gift, as the wife was already residing and there was therefore no explicit delivery or transfer of possession. It was observed that "oral gift in presence of two persons amounts to the declaration, mentioning the name of the wife in the registration deed amounts acceptance and mutation in the name of the wife at the instance of the wife amounts sufficient delivery of possession keeping in view the relationship between the parties."
- **Katheessa Ummand v. Naravanath Kumhamuand[22]:** The court held that it would be valid for a husband to make a gift in favour of his minor wife through a registered deed and by way of transferring possession to the mother of the minor. In this case, since the minor had no father or grandfather or executor alive, the transfer of deed to the mother instead of the minor did not invalidate it, as there was well established intention.
- **Nawazish Ali Khan v. Ali Raza Khan[23]:** This case upheld the validity of gifting usufructs under Muslim law. It clarified that the gift of corpus of property may be affected by or subject to the gift of usufructs to that property in someone else's name. It also ruled that a

[19] AIR 1992 Pat. 203.
[20] 1905 28 All. 17.
[21] AIR 2001 Guj. 175.
[22] AIR 1964 SC 275.
[23] 30 AIR 1943 Oudh.

 [ISSN 2581-5369]

gift of life interests does not in itself mean and expand into a gift of corpus. All decisions made in this case were held applicable to both Sunni as well as Shia.

- **Noorjahan v. Muftakhar[24]:** The donor in this case gifted some property to the donee, but continued to reap profits from it, and managed it himself, and there was no mutation in the name of the donee throughout the donor's lifetime. It was ruled in this particular case that since the possession had not been transferred, the gift would be deemed incomplete and therefore lawfully invalid
- **Y. S. Chen v. Batulbai[25]:** In this case, a Muslim lady had gifted a part of her house to her daughter, and that portion was already occupied by a tenant who paid regular rent to the daughter, the donee, whom he recognized as his landlady. This changed after some time, on the ground that since there was no delivery of possession, the gift would be invalid, and therefore the daughter would not be the donee. The court held that such an objection cannot be raised by a tenant, as he is a stranger to the transaction of the gift.
- **Katheessa Ummand v. Naravanath Kumhamuand[26]:** In this case, a Muslim husband registered a gift deed in favour of his minor wife, which was accepted by her mother. In two years, the donor passed away, which was followed by the donee's death soon after. The donor's elder brother challenged the validity of the gift stating that there was no delivery of possession, because the transfer of property was made to the mother of the donee, and a mother is not a legal guardian under Islamic law. It was held that, although the contention of the brother was true and valid, the benefit of the minor was of utmost importance. Therefore, the judges held the gift made to be valid in these circumstances.
- **Gulam Abbas vs Razia[27]:** In this case, a gift was made in lieu of dower debt. The court held that an oral transfer of immovable property having value of more than hundred rupees cannot be made by a Muslim man towards his wife by way of gift in lieu of dower debt, whose value was also more than hundred rupees. A gift of such nature was held to be neither Hiba nor Hiba bil Iwaz. It was in the real sense an actual sale, and therefore had to be done by way of a registered instrument.

VI. CONCLUSION AND SUGGESTIONS

As it can be inferred from the in-depth analysis of the varying and contrasting aspects prevalent

[24] AIR 1970 All 170.
[25] AIR 1991 MP 90.
[26] AIR 1964 SC 275.
[27] AIR 1951 All 86.

 [ISSN 2581-5369]

in the concept of gifting under various personal laws, the need for resolution of these conflicts also can be felt. Since India is a secular country, hosting a diverse population coming from different faiths and religions, there is a mutual respect for every person's beliefs, and this respect manifests in Indian laws in the form of separate codes and provisions to cater to every religion's needs and beliefs. However, a large segment of India's people believes that there is a dire need to enact a Uniform Civil Code, not to negate any particular religion's customs, but to resolve certain incongruities which exist in the legal framework governing each religion. Pertaining to gifting, from this study, the researcher feels that the Muslim personal laws have a vast number of provisions governing various possibilities and situations that may arise while making a gift. When it comes to Hindu law, its scope is narrower, and generally coincides with all rules given under the Transfer of Property Act, 1882. The researcher finds it important to make the following recommendations to resolve some of the differences existing between Hindu and Muslim laws, to bring in more uniformity in the law while also maintaining the essence of the respective laws:

1) The scope of Hindu personal laws governing the concept of gifting must be widened, so as to provide a clear and defined answer on confusions that could arise while making a gift, and not leave it for the Judges to decide on a case by case basis. It could be codified and made as a part of the Hindu Succession Act.

2) The Muslim personal laws are very detailed, and provide for procedure to be followed in every situation that may arise while making a gift. However, these principles should be codified in a simpler manner, so that the people coming from weaker socio-economic backgrounds can be made aware of their rights, especially in cases of oral gift making, gifts made of indivisible property in which others have a share, and gifts made by a donor who may be insolvent or may have a weak financial background. Care must also be taken to provide protection to donors from exploitation or exertion of force by the donees.

3) Hindu rules for gifting have been modified in favour of women by way of the Hindu Succession Act. However, these laws need to be made more progressive, to permit gifting to minors and unborn children in clear defined words, and also permit economically weaker people to make gifts.

4) Hindu personal law can take reference from Muslim personal laws to provide for conditional gifts in cases of dire necessity, and also gift of charitable nature to uplift the needy. The kinds of gifts can be segregated so as to bring more clarity.

Due to different personal customs of different sects, as well as presence of different schools of

 [ISSN 2581-5369]

thought under both Hindu and Muslim systems respectively, the law should homogenize the differences in practice and principles which arise due to these differences by adopting the most progressive elements from each sect and school of thought, so as to preserve cultural values while also bringing about unifrormity.

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 [ISSN 2581-5369]