



An Analysis of the Social Stature of Women and Their Hardships in The Present Legal Environment

Hari Krishna Rajput, Assistant Professor of Law
Parul Institute of Law, Faculty of Law, Parul University, Vadodara

Abstract:

India is a multicultural society where no generalization could apply to the nation's various regional, religious, social and economic groups. Throughout history, women have generally been restricted to the role of a home-maker; that of a mother and wife. Despite major changes that have occurred in the status of women in some parts of the world in recent decades, norms that restrict women to the home are still powerful in India. In spite of India's reputation for respecting women, including treating her as a Goddess, history tells us that women were also ill-treated. There was no equality between men and women. This is true of ancient, medieval and early modern times reform movements in the 19th and 20th centuries led by great social reformers provided boost to women's legal status in India. Independence of India heralded the introduction of laws relating to women. The Indian Constitution provided equality to men and women and also gave special protection to women to realise their interests effectively. Special laws were enacted to prevent indecent representation of women in the media and sexual harassment at workplaces. The aim of this study is to understand the social status of women during various phases and effectiveness of various laws related to women. The methodology used is purely descriptive and analytical in nature. Secondary and electronic resources have been largely used to gather information and data about the topic. The research depicts that the women empowerment is not essentially political alone; it is a process having personal, economic, social and political dimensions with personal empowerment being the core of the empowerment process. In spite of equality guaranteed by the constitution, gender-just laws are still to be realized.

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1. Introduction

Though women is regarded as “the unsung heroine who works from dawn to dusk”, yet it is unfortunate that even the ignorant and worthless men had been enjoying superiority over women which they do not deserve and ought not to have. So, since Independence, Government has made concerted efforts towards removing various biases. Rural women play a significant role in the domestic and socio-economic life of the society and therefore, holistic national development is not possible without developing this segment of the society.

Empowerment is not essentially political alone; it is a process having personal, economic, social and political dimensions with personal empowerment being the core of the empowerment process. In fact political empowerment will not succeed in the absence of economic empowerment. At the international level, the UN Charter, the Universal Declaration of Human Rights and Convention on Elimination of All Forms of Discrimination against Women (CEDAW) sought to guarantee better legal status to women. However, certain contentious issues like the Jammu and Kashmir Permanent Resident (Disqualification) Bill 2004 (which



deprived a woman of the status of permanent residency of the State if she married an outsider) and the Supreme Court judgment in Christian Community Welfare Council of India (in an appeal over the Judgment of the High Court, Mumbai). The latter has permitted, under certain circumstances, the arrest of a woman even in the absence of lady police and at any time in the day or night. These instances have once again brought to the forefront the traditional male domination.

2. GENDER, DEVELOPMENT AND WOMEN’S MOVEMENT

What would an assessment of half a century of development thinking and planning look like from the perspective of women? In the 1991 World Bank Report on Gender and Poverty in India, Lynn Bennett announces: “Now, researchers, women’s activities, and government departments are reaching a new consensus: women must be seen as economic actors –actors with a particular important role to play in efforts to reduce poverty”. But, the *Shramshakti* report on self-employed women and women in the informal sector published in 1988 deplored women’s extremely vulnerable working conditions across diverse occupations under high levels of discrimination, as well as the range of health hazards women are exposed to on an everyday basis. If the World Bank report concluded that poor women are clearly more efficient economic actors, with greater managerial and entrepreneurial skills than men, the *Shramshakti* report recommended that women require greater access to resources, especially credit and social services. Wider disparities exist among various women’s groups culturally and socially. The victims of exploitation and oppression have been largely women of the third world countries in general and lower sections among them in particular.

CULTURALLY	ECONOMICALLY
<ul style="list-style-type: none"> • Gender specific specialization (work) • Cultural definition of appropriate sex roles • Expectation of role within relationship • Belief in the inherent superiority of males • Customs of marriage (Bride price/Dowry) • Notion of the family as the private sphere and under male control • Value that give proprietary right over women and girls. 	<ul style="list-style-type: none"> • Limited access to cash and credit • Limited access to employment in formal and informal sector. • Limited access to education

Sources: Author’s Study

As a result of the cultural and economic factors, women face discrimination right from the childhood. It is held that both in childhood and adulthood males are fed first and better. According to one estimate, even as adults women consume approximately 1000 calories less per day than men. The sex ratio in India stood at 933 females per 1000males at the 2001 census and out of the total population, 120million women lived in abject poverty. Lack of healthcare facilities and poverty has been resulting in India accounting for 27%of all maternal deaths worldwide. Death of young girls in India exceeds that of young boys by over 300,000 each year and every 6th infant death is especially due to gender discrimination.



INDIA'S FEMALE POPULATION At the 2001 census, India had a female population of 496million. India accounts 15% of World's women characterized by vast regional differences and a variety of cultures. But, social discrimination and economic deprivation on the basis of gender is common to all, irrespective of religion, cast, community, and State. Empowerment of women, gender discrimination, and violence against women, which have become serious subjects of socio-legal research in contemporary times, was neglected. The Constitution does not regard sex as a permitted classification and prohibits sex as a basis of differential treatment in all areas of legal rights. Modernity has resulted in a growing flexibility and changes in the gender roles of men and women. The earlier conception that man was the provider of basic necessities for family and women the child bearer and care taker of home, is no longer valid in the changing social structure and economic compulsions.

In spite of the progress made, rural women and those belonging to the Dalit, Tribal, and nomadic communities remain unaffected. So is the case with Muslim women among the minorities. The latter are far from realizing their basic rights. Since women in India have little place in the public arena they also express less faith in the political process. In spite of the UN Charter of Human Rights and the provisions of the Indian Constitution, women continue to be victims of exploitation. The view that the future generation of a family is carried on and preserved by boys-only has degraded the position of women in society. Similarly, it is noticed that majority of the women are lacking in the spirit of rebellion. If careful attention is not paid and major steps are not taken, the situation will become extremely critical.

Therefore, any attempt to assess the status and problem of women in a society should start from the social framework. Social structure, cultural norms, and value systems are crucial determinants of women's role and their position in society. In respect of the status there is a gap between the theoretical possibilities and their actual realisation.

A HISTORICAL BACKGROUND

It is very important to know the historical background, if we are to make a study of status of women in India. It is not easy to find answers for questions like when did women start losing their status or who was responsible for this situation. The position that women occupied in the medieval and later the colonial period is of utmost importance. Women were never put on high pedestal in the Shastras.

WOMEN IN ANCIENT INDIA

It cannot be clearly stated whether equal rights between men and women prevailed or not during the Vedic period. But available sources show that liberal attitudes and practices pertaining to women did exist. Women were actively involved in religious and social matters. They had some freedom to choose their partner in marriage and a widow was permitted to remarry. As India started taking steps towards civilization, social discrimination increased. Jainism and Buddhism emerged as potent religious reform movements. According to Buddha, women's spiritual capacities were equal to men's. "Buddhism began as a religion that treated women as equal to men in their capacity for personal spiritual development." The high status that women enjoyed during early Vedic period gradually started deteriorating in the late Vedic period. As the economic and social status of sons began to rise, the position of women saw a



step decline. The position of women reached an all-time low during the age of the Dharmashastras. This period saw the exclusion of women from both economic and religious sphere. During the period of Dharmashastra, child marriage was encouraged and widow marriage was looked down upon. The practice of Sati became quite wide spread because of the ill treatment meted out to widows.

WOMEN IN MEDIEVAL INDIA

The system of Purdah which was prevalent among royal families, nobles and merchant prince classes prior to the advent of Muslims spread to other classes also. During the medieval period, practices such as polygamy, sati, child marriage, ill treatment of widows already prevalent during the *Dharmashastra* age gained further momentum. The priestly class misinterpreted the sacred texts and created an impression that all these evil practices had religious sanction.

STATUS OF WOMEN IN MODERN INDIA

With the advent of the British, the status of women saw many changes. The East India Company (EIC) was mainly a trading company involved in trade in India. To expand their trade network, they started acquiring territories. As they were a trading company, the question of law and order in the acquired territories posed a great challenge before EIC. Therefore, the company acquired the rights to make laws related to the criminal area. For dealing with civil matters, most importantly, dealing with matters which involved the personal laws, the EIC consulted Moulavis and Pundits. Women were not given equal matrimonial rights to property, rights to widows to remarriage, adoption and divorce rights. This situation was severely criticized by the colonial authorities. In return, Indian cultural nationalism argued in favour of Indian tradition. Therefore, the 19th century is often termed as the century of social reform. The criticism angered the people of India and caused a serious threat to the longevity of colonial rule in India. Hence, the Queen's Proclamation of 1859 declared that British authorities will not interfere in religious matters of the people. To bring reforms smoothly in India, legislations transforming the family structure were introduced in Princely States without much opposition. Baroda was the first to introduce divorce provision. The Princely state of Mysore enacted the Infant Marriage Prevention Act of 1894. Keeping pace with these princely states, Malabar part of Madras Presidency and Travancore introduced reforms. But the major drawback was that the Princely States could not stop violation of these laws across their borders.

SATI SYSTEM IN INDIA

The first serious challenge for the reformers was the problem of 'widow immolation' or 'Sati', where Hindu widows climbed the funeral pyres of their husbands; an ancient tradition, prevalent in Bengal, Rajasthan and the South Indian kingdom of Vijayanagar. Sati was never a religious obligation, but it was believed that by burning herself on the funeral pyre, a widow sanctified her ancestors and removed the sins of her husband. She was believed to ascend to the heaven on committing Sati. Strong social pressures on the widow and the status of widows among the Hindus were also factors which helped the growth of this custom. Sati was first abolished in Calcutta in 1798; a territory that fell under the British jurisdiction. Raja Ram



Mohan Roy fought bravely for abolition of sati and with assistance from Lord William Bentinck, and a ban on sati was imposed in 1829 in the British territories in India.

WIDOW REMARRIAGE

The status of widows in India was deplorable in that they were not allowed participate in any religious and social functions. Their lives were worse than death; one of the reasons as to why many widows opted for Sati. The upper caste widows were most affected by the then prevailing customs. Prohibition against remarriage of widows was strictly observed only amongst upper caste Hindus. Attempts to make laws to facilitate remarriage of widows by the British were vehemently opposed by the conservative Hindus, who held that remarriage of widows “involved guilt and disgrace on earth and exclusion from heaven.” Reformers like Mahadev Govind Ranade and Dayananda Saraswati actively participated in the reform movement, resulting in the enactment of the Hindu Widows Remarriage Act XV of 1856. The major drawback of the Act was that it was only applicable to the Hindus.

RIGHT TO PROPERTY

There was a lot of ambiguity on the question of the rights of a widow to property which made it difficult for a widow to remarry. Before the ‘Hindu Women’s Right to Property Act XVIII of 1937’ and the ‘Hindu Succession Act XXX of 1956’ came into effect, the *Dayabhaga* and *Mitakshara* Laws laid down that a widow could become a successor to her husband’s estate in the absence of a son, son’s son, son’s son’s son of the deceased and the estate which she took by succession to her husband was an estate which she held only during her lifetime. At her death, the estate reverted to the nearest living heir of her dead husband.

CHILD MARRIAGE

Another serious problem that women faced was that of child marriage. Small kids and in some cases even infants in the cradle were married off. Early marriage affected the growth and development of the children. Fixing the minimum age of marriage of men and women by law was voiced as early as the mid-19th century by Ishwar Chandra Vidyasagar and Keshab Chandra Sen. Vidyasagar argued that early marriage was detrimental to the health of women, their efforts, coupled with that of Mahatma Gandhi, resulted in the passing of the Child Marriage Restraint Act, 1929.

FEMALE INFANTICIDE

A girl is considered a burden by parents. Again the demand for large dowry and the huge wedding expenses caused a lot of hardship to the parents. This led to the practice of killing the girl child once she was born. The practice of female infanticide was common among certain castes and tribes in India, especially in the north and north-western states. The earliest efforts to stop female infanticide were made in Kathiawar and Kutch. In 1795, infanticide was declared to be murder by Bengal Regulation XXI. Through the efforts of Keshab Chandra Sen, the Native Marriage Act of 1872 was passed, which abolished early marriages, made polygamy an offence, sanctioned widow remarriages and inter-caste marriages. In 1901, the Government of Baroda passed the Infant Marriage Prevention Act. This Act fixed the minimum age for marriage for



girls at 12 and for boys at 16. In 1930 the Sarda Act was passed, to prevent the solemnization of marriages between boys under the age of 18 years and girls under the age 14 years.

POLITICAL PARTICIPATION OF WOMEN

Indians wanted a nation state after independence in which women had a right to vote. Unlike the British and American women, Indian women did not face great difficulty in securing franchise. Gandhiji stressed on the need for active participation of masses during the freedom movement, including women. Such participation helped women to voice the need for women's participation in the legislation process. But, women still constitute a mere 10% of the legislators in the Parliament and State Assemblies. Reservations for women convinced women's organizations that it is the correct time to extend these reservations to the higher levels. Karnataka and West Bengal are good examples where women have exceeded the reserved 33% with 42% and 39% respectively.

2. GENDER ISSUES IN INDIA

Sociologically the word gender refers to the socio-cultural definition of man and woman, the way societies distinguish men and women and assign them social roles. Gender differences and they are created by the society. Gender inequity has adverse impact on development goals as reduces economic growth. It hampers the overall wellbeing because blocking women from participation in social, political and economic activities can adversely affect the whole society.

GENDER BIAS IN HEALTH CONCERNS IN INDIA

Government of India's National Rural Health Mission aims at correcting rural inequities in the matter of health. It seeks to integrate health with sanitation, hygiene, safe drinking water and nutrition. Like most of the schemes and programmes initiated by Government, even the NRHM also has failed to achieve the goals at the implementation level, with the primary health centres and sub-centres crumbling.

REPRODUCTIVE HEALTH STATUS OF WOMEN IN INDIA

Reports show that India's maternal mortality ratio (MMR) is highest in South Asia. An estimated 1, 36,000 women die in India every year due to pregnancy related setbacks. However the measures taken by the government have not proved effective despite the fact that high fatalities occur among women every year due to poor reproductive health practices. Experts estimate that 70% of the maternal-related deaths are preventable. Good sanitation and nutrition and avoiding overwork and stress will improve the health of Indian women.

India still ranks first among the 12 countries that account for 2/3 of under-five and maternal deaths in the world. One of the major problems is the shortage of trained healthcare personnel.

UNICEF REPORT ON WOMEN AND CHILDREN, 2009

In its State of World's Children Report-2009, the UNICEF makes some shocking revelations regarding maternal mortality status in India. According to the report, avoidable complications during child birth results in the death of 78,000 women in India every year. The maternal



mortality rate of India stands at 301 per 100,000 births. The main medical causes of maternal deaths are:

- Haemorrhage: 30%
- Anaemia: 19%
- Sepsis: 16%
- Obstructed labour: 10%
- Abortion: 8%
- Toxaemia: 8%
- Others 9%

WOMEN AND DOMESTIC VIOLENCE

Globally, one out of every three women faces violence at the hands of their husbands, fathers, or brothers and uncles in their homes. In every country where reliable, large-scale studies have been conducted, results indicate that between 16 and 52% of women have been assaulted by their husbands/partners. Such violence may also include rape and sexual abuse. Official statistics show a steady rise in crimes related to dowry. More than 9, 5000 women are killed every year in India over dowry. Cases of torture of women over dowry are the highest, accounting for 32.4% of all crimes against women in the country. The Dowry Prohibition Act, in force since 1st July 1961, was passed with the purpose of prohibiting the demanding, giving and taking of dowry. Later the Act was amended in 1983 and 1984. Section 498-A was added to the Indian Penal Code and Section 198-A to the Criminal Procedure Code in the year 1983. In 1986, the Act was amended empowering State governments to appoint Dowry Prohibition Officers, who not only had a preventive role but also had powers to collect evidence against people who took dowry.

WOMEN SPECIFIC LEGISLATIONS

1. The Immoral Traffic (Prevention) Act, 1956
2. The Dowry Prohibition Act, 1961 (28 of 1961) (Amended in 1986)
3. The Indecent Representation of Women (Prohibition) Act, 1986
4. The Commission of Sati (Prevention) Act, 1987 (3 of 1988)
5. Protection of Women from Domestic Violence Act, 2005
6. The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013.

3. RESEARCH OBJECTIVE

Present study is an attempt to focus on the prevailing social status of women during the past and at present in Indian society irrespective of enormous laws related to women and to understand the degree of effectiveness of various laws which are women specific.

4. RESEARCH METHODOLOGY

The methodology used is purely descriptive and analytical in nature. Secondary and electronic resources have been largely used to gather information and data about the topic.

5. THE FINDINGS



In spite of enormous women specific laws and the provision in the Indian Constitution for equality of men and women and also special protection to women to realise their interests effectively, the Indian women face the following challenges:

1. Gender Discrimination
2. Domestic Violence against Women
3. Problem of widow remarriage in rural areas
4. Dowry Deaths
5. Sexual Harassment of Women at Workplace
6. Gender Bias in Health Concerns
7. Rape Victims
8. Marginal Political Participation of Women
9. Female Infanticide
10. Illiteracy in women

6. SUGGESTIVE MEASURES:

The Government must take certain measures for empowering women such as developing various programs to create legal awareness, reviewing education policy, special schemes to literate women, health policies, self-reliance, and women's participation in financial and legal sectors and to try for creating safe and conducive environment for further empowerment.

7. CONCLUSION:

The legislations, which take care of rights and privileges of women, are numerous in number. But due to ignorance and illiteracy those legislations cannot be properly enforced. The plethora of Indian Legislations aims at women empowerment. The judicial decisions rendered by the Indian Courts depict the active role played by the judiciary to protect women from exploitation at a stage where legislations are uniformed due to lack of adequacy of enforcement machinery. The legislative and judicial initiatives have placed the women in a better place in the society. Yet the woman in India has to go for miles to achieve cent per cent empowerment.

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