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The Changing Role and Legal Status of Women in India

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Abstract: As women is the pillar of our society who plays a vital role to built the nation. This paper shows the importance of woman. The article is an attempt to describe the changing role and her legal rights in India. The study also analyze the status of women in various area like freedom movements, political participation etc. The study also reveals that Indian women have somewhat lower status then that of men in spite of many efforts undertaken by the government and constitution of India. She also has to suffer various crimes that are describes here. The article provides various legal and constitutional remedies to improve her position. Thus article concludes by an observation that access to education and employment are only the tool that enable them to achieve their goals , however it depends largely on the attitude of the people towards gender equality

Keywords: Legal Status, Women Education.

I. Introduction

The status of Women in India has been subject to many great changes over the past few millennia. From equal status with men in ancient times through the low points of the medieval period, to the promotion of equal rights by many reformers, the history of women in India has been eventful. In modern India, women have adorned high offices in India including that of the President, Prime minister, Speaker of the Lok Sabha and Leader of the Opposition. As of 2011, the Speaker of the Lok Sabha and the Leader of the Opposition in Lok Sabha (Lower House of the parliament) both are women. However, women in India continue to face discrimination and other social challenges and are often victims of abuse and violent crimes and, according to a global poll conducted by Thomson Reuters, India is the "fourth most dangerous country" in the world for women, and the worst country for women among the G20 countries .

II. History-Ancient India

According to studies, women enjoyed equal status and rights during the early Vedic period. However, later (approximately 500 B.C.), the status of women began to decline with the *Smritis* (esp. *Manusmriti*) and with the Islamic invasion of Babar and the Mughal empire and later Christianity curtailing women's freedom and right. Although reformatory movements such as Jainism allowed women to be admitted to the religious order, by and large, the women in India faced confinement and restrictions. The practice of child marriages is believed to have started from around sixth century.

Medieval period

The Indian woman's position in the society further deteriorated during the medieval period when *Sati* among some communities, *child marriages* and a ban on *widow remarriages* became part of social life among some communities in India. The Muslim conquest in the Indian subcontinent brought the *Pardah practice* in the Indian society. Among the Rajputs of Rajasthan, the *Jauhar* was practiced. In some parts of India, the *Devadasis* or the temple women were sexually exploited. *Polygamy* was widely practiced especially among *Hindu Kshatriya rulers*. In many Muslim families, women were restricted to *Zanana* areas. In spite of these conditions, some women excelled in the fields of politics, literature, education and religion like- Razia Sultana, Chand Bibi , Nur Jehan ,Jahanara ,Zebunnissa ,the ruling administration Shivaji's mother, Jijabai etc. .

British Rule

European scholars observed in the 19th century that Hindu women are "naturally chaste" and "more virtuous" than other women. During the British Raj, many reformers such as Ram Mohan Roy, Ishwar Chandra Vidyasagar, Jyotirao Phule etc. fought for the up liftment of women. Peary Charan Sarkar, a former student of Hindu College, Calcutta and a member of "Young Bengal" set up the first free school for girls in India in 1847 in Barasat, a suburb of Calcutta (later the school was named Kalikrishna Girls' High School). Raja Rammohan Roy's efforts led to the abolition of the Sati practice under Governor-General William Cavendish-Bentinck in 1829. Ishwar Chandra Vidhyasagar's crusade for the improvement in condition of widows led to the Widow Remarriage Act of 1856. Many women reformers such as Pandita Ramabai also helped the cause of women up liftment. Rani

Lakshmi Bai, the Queen of Jhansi, led the Indian Rebellion of 1857 against the British. She is now widely considered as a nationalist hero. Begum Hazrat Mahal, the co-ruler of Awadh, was another ruler who led the revolt of 1857. In 1917, the first women's delegation met the Secretary of State to demand women's political rights, supported by the Indian National Congress. The All India Women's Education Conference was held in Pune in 1927. In 1929, the Child Marriage Restraint Act was passed, stipulating fourteen as the minimum age of marriage for a girl through the efforts of Mohammad Ali Jinnah. Though Mahatma Gandhi himself married at the age of thirteen, he later urged people to boycott child marriages and called upon the young men to marry the child widows. Women played an important part in India's independence struggle. Some of the famous freedom fighters include Bhikaji Cama, Dr. Annie Besant, Pritilata Waddadar, Vijayalakshmi Pandit, Rajkumari Amrit Kaur, Aruna Asaf Ali, Sucheta Kriplani and Kasturba Gandhi. Other notable names include Muthulakshmi Reddy, Durgabai Deshmukh etc. The Rani of Jhansi Regiment of Subhas Chandra Bose's Indian National Army consisted entirely of women including Captain Lakshmi Sahgal. Sarojini Naidu, a poet and a freedom fighter, was the first Indian woman to become the President of the Indian National Congress and the first woman to become the governor of a state in India.

Independent India

Women in India now participate in all activities such as education, sports, politics, media, art and culture, service sectors, science and technology, etc. India Gandhi, who served as Prime Minister of India for an aggregate period of fifteen years is the world's longest serving woman Prime Minister. The Constitution of India guarantees to all Indian women equality (Article 14), no discrimination by the State (Article 15(1)), equality of opportunity (Article 16), equal pay for equal work (Article 39(d)). In addition, it allows special provisions to be made by the State in favour of women and children (Article 15(3)), renounces practices derogatory to the dignity of women (Article 51(A) (e)), and also allows for provisions to be made by the State for securing just and humane conditions of work and for maternity relief. (Article 42). The feminist activism in India picked up momentum during later 1970s. One of the first national level issues that brought the women's groups together was the Mathura rape case. The acquittal of policemen accused of raping a young girl Mathura in a police station, led to a wide-scale protests in 1979–1980. The protests were widely covered in the national media, and forced the Government to amend the Evidence Act, the Criminal Procedure Code and the Indian Penal Code and introduce the category of custodial rape. Female activists united over issues such as female infanticide, gender bias, women health, and female literacy. Since alcoholism is often associated with violence against women in India, many women groups launched anti-liquor campaigns in Andhra Pradesh, Himachal Pradesh, Haryana, Orissa, Madhya Pradesh and other states. Many Indian Muslim women have questioned the fundamental leaders' interpretation of women's rights under the *Shariat law* and have criticized the *triple talaq* system. In 1990s, grants from foreign donor agencies enabled the formation of new women-oriented NGOs. Self-help groups and NGOs such as Self Employed Women's Association (SEWA) have played a major role in women's rights in India. Many women have emerged as leaders of local movements. For example, Medha Patkar of the *Narmada Bachao Andolan*. The Government of India declared 2001 as the Year of Women's Empowerment (*Swashakti*). The National Policy for the Empowerment of Women came into force in 2001. In 2010 March 9, one day after International Women's day, Rajyasabha passed Women's Reservation Bill, ensuring 33% reservation to women in Parliament and state legislative bodies.

III. Education

Though it is gradually rising, the female literacy rate in India is lower than the male literacy rate. Compared to boys, far fewer girls are enrolled in the schools, and many of them drop out. According to the National Sample Survey Data of 1997, only the states of Kerala and Mizoram have approached universal female literacy rates. According to majority of the scholars, the major factor behind the improved social and economic status of women in Kerala is literacy.

In 21st Century the Changing Position Of Women Legal Provision

Social change is an inevitable phenomenon of every society because social conditions never remain static. Social change whether it comes through legislation or through judicial interpretation. The changing pattern does have an impact on the laws and the life of a given society and law must keep pace with the changing socio-economic trends and political movements of the society, while at same time preserving necessary balance between individual rights and duties. Thus law and justice provide a potential force for the attainment of a progressive social change.

The exalted status of Indian women in ancient days suffered a setback in the medieval period. Social economic and political factors played a major role in their suppression. Social inhibitions and discriminatory practices against them continued to exist during the enlightened and civilized imperial rule. The leadership of independent movement was, however, committed to accord an equal status to women and give them a place of honor, and dignity in the society. Accordingly the constitution - the fundamental laws - as emerged out of the constituent assembly, treated both men and women equally and also provided for protective discrimination for women in view of their peculiar position in the human society. Though the constitution has provided equality of both the sexes man and women but biological condition of the female and developed sense of subordination demand extra protection for them. The reason is that women's physical structure and the performance of certain functions place her at a disadvantage in the struggle for subsistence and her physical well-being becomes an object of public interest and care in order to preserve the strength and vigor of the race. Thus the law and justice demands additional privileges and safeguards for maintaining proper socio-legal status of women in the society.

CONSTITUTION OF INDIA AND WOMEN

With the birth of republic came a grand document vibrant with new ideas, new philosophies and new rights namely the Constitution. It brought about a sweep change and a social revolution beyond imagination. Justice Krishna Iyer in his book "Social Justice - sunset or Dawn expressed

Following words:-

"The Constitution was to foster the achievement of many goals, transcendent among them was that of social revolution. Through this revolution would be full filled the basic need of the common man, and it was hoped, this revolution would bring about fundamental changes in the structure of Indian society and glorious cultural traditions, but greatly in need, Assembly members believed, of a powerful infusion of energy and nationalism. The scheme of social revolution runs throughout the proceedings and documents of the Assembly."

Indian Constitution is prominently a social document. It is goal oriented. This document provides women equality in matters of civil, political and economic rights. The political rights of franchise have also been given to Indian women under the provisions of the constitution. Besides, they have been given right to vote and stand in election for any post. Article 14 guarantees to all persons the equal protection of the laws. Article 15 prohibits sex based discrimination and Article 16 confers economic equality by ensuring equal opportunity. Under Article 15 (3) the State has been empowered to make special provisions for women. The Constitutional mandate of equality of sexes and special protection provided under Article 15(3) was enforced by the Supreme Court in the cases of *Air India vs. Nargis Mirza*, *C.B. Muthamma vs. Union of India*, *Maya Devi vs. The State*, *Yusuf Abdul Aziz vs. State of Bombay* and *Smt. Wmithri Vishnu vs. Union of India* where unequal provisions were quashed against women and in some cases favored for protection to women.

Crimes against women

Police records shows high incidence of crimes against women in India. The National Crime Records Bureau reported in 1998 that the growth rate of crimes against women would be higher than the population growth rate by 2010. Earlier, many cases were not registered with the police due to the social stigma attached to rape and molestation cases. Official statistics show that there has been a dramatic increase in the number of reported crimes against women.

Acid Throwing

The Thomas Reuters Foundation survey says that India is the fourth most dangerous place in the world for women to live in as women belonging to any class, caste or creed and religion can be victims of this cruel form of violence and disfigurement, a premeditated crime intended to kill. In India, acid attacks on women who dared to refuse a man's proposal of marriage or asked for a divorce are a form of revenge. Acid is cheap and easily available and is the quickest way to destroy a woman's life. The number of acid attacks has been rising.

Sexual harassment

Half of the total number of crimes against women reported in 1990 related to molestation and harassment at the workplace.

Eve teasing

Eve teasing is a euphemism used for sexual harassment or molestation of women by men. Many activists blame the rising incidents of sexual harassment against women on the influence of "Western culture". In 1987, The Indecent Representation of Women (Prohibition) Act was passed to prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner. In 1997, in a landmark judgment, the Supreme Court of India took a strong stand against sexual harassment of women in the workplace. The Court also laid down detailed guidelines for prevention and redressal of grievances. The National Commission for Women subsequently elaborated these guidelines into a Code of Conduct for employers.

Dowry

In 1961, the Government of India passed the Dowry Prohibition Act, making the dowry demands in wedding arrangements illegal. However, many cases of dowry-related domestic violence, suicides and murders have been reported. In the 1980s, numerous such cases were reported. In 1985, the Dowry Prohibition (maintenance of lists of presents to the bride and bridegroom) rules were framed. According to these rules, a signed list of presents given at the time of the marriage to the bride and the bridegroom should be maintained. The list should contain a brief description of each present, its approximate value, the name of whoever has given the present and his/her relationship to the person. However, such rules are hardly enforced. A 1997 report claimed that at least 5,000 women die each year because of dowry deaths, and at least a dozen die each day in 'kitchen fires' thought to be intentional. The term for this is "bride burning" and is criticized within India itself.

Child Marriage

Child marriage has been traditionally prevalent in India and continues to this day. In the past, the child widows were condemned to a life of great agony, shaving heads, living in isolation, and shunned by the society. Although child marriage was outlawed in 1860, it is still a common practice. According to UNICEF's "State of the World's Children-2009" report, 47% of India's women aged 20-24 were married before the legal age of 18, with 56% in rural areas. The report also showed that 40% of the world's child marriages occur in India.

Female infanticides and sex selective abortions

India has a highly masculine sex ratio, the chief reason being that many women die before reaching adulthood. Tribal societies in India have a less masculine sex ratio than all other caste groups. This in spite of the fact that tribal communities have far lower levels of income, literacy and health facilities. It is therefore suggested by many experts, that the highly masculine sex ratio in India can be attributed to female infanticides and sex-selective abortions. Ultrasound scans have been a major leap forward in the care of mother and baby, and with them becoming portable; these advantages have spread to rural populations. However, ultrasound scans can often reveal the sex of the baby, allowing pregnant women to decide to abort female fetuses and try again for a male child. This practice is usually considered to be the main reason for the change in the ratio of male to female children being born. In 1994 the Indian government passed a law forbidding women or their families from asking about the sex of the baby after an ultrasound scan and also expressly forbade doctors or any other staff from giving that information. However, in practice this law (like the one forbidding dowries) is widely ignored, and levels of the abortion on female fetuses remain high and the sex ratio at birth keeps getting worse. Female infanticide (killing of girl infants) is still prevalent in some rural areas. Sometimes this is infanticide by neglect, for example families may not spend money on critical medicines or even just by withholding care from a sick girl. The abuse of the dowry tradition has been one of the main reasons for sex-selective abortions and female infanticides in India.

Domestic violence

The incidents of domestic violence are higher among the lower Socio-Economic Classes (SECs). The Protection of Women from Domestic Violence Act, 2005 came into force on 26 October 2006.

Trafficking

The Immoral Traffic (Prevention) Act was passed in 1956. However many cases of trafficking of young girls and women have been reported. These women are either forced into prostitution, domestic work or child labor.

LABOUR WELFARE LEGISLATION AND WOMEN

The Indian constitution guarantees equal rights to both the sexes and does not discriminate on the basis of caste, colour and creed. The concept of social security is essentially related to the high deals of human dignity and social justice. The social security and welfare Acts passed by the Government the Factories Act, 1948: This Act does not allow women from clearing or lubricating or adjusting any part of a prime mover or transmission machinery when it is in motion because there is a risk of injury. And also every factory should provide in it where 50 or more women workers are employed a suitable room for the use of children. The Employees State Insurance Act, 1948 this Act provides for the periodical payment to insured women in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage. Act an insured woman shall be qualified to claim maternity benefit for confinement, if the confinement occurred during the corresponding contribution period, week contributions in respect of her were payable for not less than thirteen weeks.

The Plantation Labour Act, 1951. The Act provides for crèches where fifty or more women are employed for the use of children below six years. The same facilities are there that are provided under section 48 of the factories Act, 1948. Night work for women should be prohibited. The Maternity Benefit Act, 1961

Maternity benefit schemes are primarily meant to provide security of wages and employment to women workers immediately before and after confinement. This Act was enacted to regulate the employment of women in certain establishments for certain periods before and after child birth and to provide for maternity benefit and certain other benefits. This Act is intended to achieve the object of doing social and economic justice to women workers The maternity benefit Act, 1961 was further amended by the maternity benefit (Amendment) Act, 1988 which provides that women workers who have put in not less than 80 days of work can claim.

HINDU LAW/ PERSONAL LAWS AND WOMEN

After Independence, it was the codified Hindu Law which brought out radical reforms to improve the condition of Hindu women. Though Hindu women occupied a high position during Vedic times, later she was subject to so many social disabilities. She was always considered to be a mere object of pleasure keeping at home. She had to be subservient. She was never considered an equal partner in life. Now we would consider about some acts which were enacted for up lifting the condition of women on the humanitarian ground. Hindu Widows Remarriage Act, 1856 one of the earliest Acts passed for the up liftment of Hindu women is the Hindu Widows' Remarriage Act, 1856. Thanks to the efforts of Shri Ishwar Chandra Vidhya Sagar. The Hindu Marriage Act, 1955: Prior to 1955 polygamous marriages were recognized as valid. But certain states like, the erstwhile Bombay and Madras States passed laws preventing bigamous marriages. As on today, it is no longer so; law enforces monogamy. Section 5 (I) of the Hindu Marriage Act, 1955 while laying down the condition for a valid marriage states sec.-5. Conditions for a Hindu Marriage: A Marriage may be solemnized between any two Hindus if the following conditions are fulfilled namely. Neither party has a spouse living at the time of marriage. The Hindu Marriage Act, 1955 has also made provision regarding divorce. Under the provisions of this Act the wife may obtain a decree of divorce by the Court of law on more grounds than man. The Hindu Succession Act, 1956: Turning to law of succession prior to 1956, a Hindu woman had no right to succeed to the property except what was called a widow's estate which conferred nothing more than a right of enjoyment during her life time. Now the law has empowered the women by conferring property rights and other entitlements to them through various statutes. The Hindu Succession Act, 1956

altered the position of women though it did not provide for equality. The 1956 Act gave absolute share to the widow as well as to the daughters in the self acquired property of the husband and the father respectively. The Law of Adoption and Maintenance Act, 1956: The Act Provides for the maintenance of wife, widows, minor children and the poor parents. It pays special attention to women, besides, under this Act, the Hindu women have got the right to adopt a child. A woman, who is unmarried, is widowed or her husband has renounced worldly life or adopted another religion or has been declared insane by a court of law, may adopt a child.

SOCIAL REFORM LEGISLATION AND WOMEN

Empowerment of women is also an important step to provide social and economic justice to them. After independence the Indian Government took a bold step, by enacting several social welfare legislations to improve the condition of women. These legislations provided penal sanction of both types as imprisonment and fine. Generally these Acts relate to child marriage, dowry, dowry death, cruelty with women and rape offences e.g.

The Dowry Prohibition Act, 1961: Among all social evils that we have, dowry system is the most serious evil. To prohibit this evil Parliament enacted the Dowry Prohibition Act, 1961. To curb the dowry menace more effectively, the Dowry Prohibition Act, 1961 was amended in 1984 and 1986~for making its provisions more stringent and effective. By the Dowry Prohibition (Amendment) Act, 1986 a new offence of "Dowry Death" was included Indian Penal Code and the necessary consequential amendment have been made in Criminal Procedure Code and Indian Evidence Act. The offences relating to dowry are now cognizable, nonbailable and not compoundable. The burden of proof of innocence rests on the accused. However, despite stringent provisions the evil is not restricted and it is increasing day by day. The Indian Penal Code 1860: Due to the rising trend of dowry killings and cruelty to the wives by their husband and in-laws, a new chapter has been added to the Indian Penal Code in 1983. According to section 498-A, A husband or his relatives who subject women to cruelty shall be sentenced to imprisonment up to 3 years and shall also be liable fine. Sec.-497 of I.P.C. is also important which makes a provision for punishment to adulterous man but exempts adulterous wife. In the case of Public Prosecutor, A.P. vs. T High Court rejecting the contention made by accused held that even if she had committed suicide by hanging, the death would still fall under section 304-B, if it was shown that she was subjected to cruelty or harassment for dowry. In State of Panjab v. Iqbal Singh,³⁶ the Supreme Court, while convicting the husband observed that the legislative intent behind incorporation of section 113-A of the Indian Evidence Act and section 304-B of the Indian Penal Code was to strengthen the hands of the prosecution in a crime generally committed within the privacy of residential houses.

The Criminal Law (Amendment) Act, 1983: The law of rape was altered by the Criminal Law (Amendment) Act, 1983 after a decision of Supreme Court in the Mathura rape case. A new concept 'custodial Rape' was also defined in clause (2) of section 376 of Indian Penal Code by this Act. The Criminal Procedure Code 1973: Section 437 of Cr. P.C. is also an important provision for safeguarding the condition of women. This section of Cr. P.C. gives special protection for granting bails to women while in a similar situation it cannot be granted to male. Besides, there are other safeguards in the Code such as women will be searched only by a women officer, her medical examination should be conducted only by a lady Doctor, she cannot be arrested during night time etc. In the case of Sheela Barse Supreme Court directed the Jail authorities to provide separate place for detention for female suspects and they should be interrogated only in the presence of female officers. Now amended section 174 and 176 of the Cr. P.C. make a provision for "inquest" by executive magistrate if within 7 years of marriage, a woman commits suicide or dies in circumstances giving rise to a reasonable suspicion of foul play. Death of married woman within 7 years of marriage also gives any relative of hers the right to request for a post mortem. The Consumer Protection Act, 1986:---The Consumer Protection Act, 1986 also provides that a lady social worker is to be one of the three members of the District Forum and one woman of ability and integrity with special knowledge of industry, law, economics etc. has to be on the State Commission as well as the National Commission. The National Commission for Women Act, 1990: For the purpose of setting up of an agency to fulfill the surveillance functions as well as to facilitate redressal of grievances of women the National Commission for women Act, 1990 was enacted. The main Function of the Commission is to look into the matters relating to the Constitutional and legal safeguards provided for women and review the existing laws and suggest amendment.

Conclusion

The aforesaid study reveals that after the independence many Acts have been passed for empowering and improving the conditions of women but these Acts remain only on the paper. As the several policies and approaches are made to reduce inequalities between men and women and to empower the women but the above article concludes that there is a great need of change to improving their status.

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