

Changing Status of Women in the Society in India

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Abstract

For long in India, the Position of women has been a matter of concern. Be it in education, health, safety, or other aspects of her life, women have been subject to untold discrimination down the ages. The status of women has improved through the instrumentality of law as the gender inequalities have been sought to be addressed. The dynamic role played by the Indian judiciary in ensuring that women's rights are recognized and realized warrants mention.

In this Article, the researcher has dealt with the changing position of women from earlier days till date. In this Article, the researcher has discussed the position of women beginning from early society in Part I of the Article. Part II deals with the various laws and other beneficial schemes of the State for the benefit of women. In Part III, the laws have been critically analyzed to ascertain if they have helped women to improve their status. In Part IV, the researcher has concluded the Article, mentioning the conditions of women and the conditions of women now, and mentioning the laws enacted to improve the conditions of women, with the hope that the empowerment of women would minimize the existing gender gap and the problem of gender inequality.

Key Words: Dowry, Domestic violence, Sexual harassment at workplace, female infanticide, sex determination, Mental cruelty, cybercriminal, cyber pornography, cybercrimes, Dowry deaths, Gender Discrimination.

INTRODUCTION:

The position of women in earlier days is characterized as: "Woman is a mother. A woman is a wife. Woman is a daughter; Woman is a sister." India is a democratic country and is powerful and famous worldwide. Women have been and often are victims of various crimes, including female infanticide, sex discrimination, Dowry Deaths, and Domestic Violence. In addition, they have to confront several Social issues, and have to function in spite of the stereotypes and restrictions that are created by society with respect to them. Women in India face many issues, and some of the issues are a Lack of proper education, sexual harassment at the workplace, rape, violence, and the denial and deprivation of their rights.

PART I

Ancient period:

Wherever the women are honored, there reside the gods, and this is said by the great law-giver many years back. No religious rite, as per ancient Hindu scriptures, can be performed with perfection by a man unless his wife participates with him. To perform a religious rite participation of the wife is essential. Sacred rites can be performed by the husband on the occasion of various important festivals, only along with his wife. The wives during the Ancient period were called Ardhangini. An equal position with men and importance was given to wives. The women during the Ancient period were adored and worshipped as goddesses.

Middle Ages:

To a great extent, in the Middle Ages, the position of women was lowered. It was considered that the only duties of women were to bring up children, care for every family member, and perform other household activities. The old and traditional belief of the people of middle age was that women are only for the home, whereas men are for the field. The men dominated the society, and Women were thus considered secondary to men. At the family level, the men were the sole charge of all decisions and women had no much say in the decision-making issues. A woman was considered a man's possession. Great heights of academic achievement and formal jobs were available for men, while women fulfilled the family responsibilities and bore the burden of housework. As there was a patriarchal and oppressive society with an inhumane class and caste system, there was a lot of suffering of women. There was no equal treatment given to women with men. They faced various issues and problems in their life. In the Middle Ages, people considered women to be incapable of doing outdoor work, so they never allowed women to go outside and participate in social activities like men.

Modern times:

There are families, even in the modern age, who still prefer a boy child and allow education to boys only. Still, many people consider women as a medium to keep the family happy and healthy. Earlier in India, there was absolutely no equal access to women, to autonomy, mobility outside the home, or social freedom than men.

Now the women are getting educated, moving around, and have been successful in many of the fields. Domestic responsibilities, cultural and social specified roles of women make them face problems. However, positive changes have occurred in the status as the number of educated people is increasing in the country.

It is clear from the foregoing discussion that the role of women, whether at home, in the workplace, or in society, is inextricably connected to the status or position they hold. The women are considered as caregivers and income-earners whenever the situation demands. This has resulted in women having to take care of children and the elderly.¹ This kind of situation commences even when the female is a child. She is not given an education like that given to her male siblings, and she is made to look after her smaller siblings, or to help her mother, or earn her livelihood to help support the income of her parents. Once she is given in marriage, she has, in certain situations, where she has been permitted to work to supplement the income of the family, been compelled to leave her job to take care of the members of her family. She has, in many situations, put her family first before herself. This scenario of households in Indian has brought on the exploitation and subjugation of women.

Right from the beginning of their life till the end, women have to undertake a lot of responsibilities. In various parts of Indian society, the women taking birth of a woman is still considered a curse on account of their poverty, and many women in India do not get proper food. During their childhood, they do not get proper nutrition due to poverty, and inadequate nutrition affects women in their later life. The general belief of the people is that women are a burden for their parents and husbands. Equal treatment is not given to women in parity with men.²

PART II

There are many beneficial provisions for women in the India Constitution for the welfare and protection of women.³ Discrimination on the basis of gender is forbidden under the Indian Constitution. In the economic, political, and social spheres, the Constitution envisages equal rights and opportunities for men and women. There cannot be discrimination by the State against women based on religion, sex, or place of birth, race, or caste.⁴ Every State has the power to enact Special provisions for the benefit of women and children⁵. Every citizen of India is duty-bound to refrain from practices that express a lack of respect for women and where the dignity of women. Duty is cast on the State to provide maternity relief and to provide safe and humane conditions of work for all women.⁶ Every citizen which including women, has the right to seek a constitutional remedy from the Supreme Court if their fundamental rights are violated.⁷ To safeguard the rights of women from sexual offence, sections such as 376-A, 376-B, 376-C, and 376-D are incorporated in the Indian Penal Code. To protect women from outraging their modesty, Sections 354-A to 354-D of the IPC are enacted. Sections 354-A to 354-D of the IPC are enacted to punish a person who indulges in outraging the modesty of women. For protecting the modesty of women provides the provision section 509 of IPC which punishes insulting the modesty of a woman. Procuring and importation of a minor girl for sexual abuse is punishable under sections 366-A and 366-B under this Act.

PART III

The Indian Constitution provides economic, social, and political equality for both women and men; however, this is only on paper, and in reality, their positions are different. Women have to face various challenges in life. Even in contemporary times, there is discrimination against women to a large extent. As per the Statistics of Violence against Women, day by day, there is an increase in crimes against women. She has to face domestic violence in the house from her husband and in-laws for dowry, and there is mental and physical harassment of the woman. When a girl gets married and goes to the husband's house with great hope to have a happy family life, but from the day of the marriage, if she is tortured for not bringing dowry, then it can be said it is mental cruelty. Cruelty is defined in the Explanation of Section 498-A IPC. Traditional practices are followed in society, to which the women are victims, and most of which violate their human rights. The preference for the male child in Indian society has resulted in several wrongs being committed against women.

Sex Discrimination is a problem faced by women: The discrimination

that is very common in India is gender discrimination or discrimination based on sex. More importance is given to males than the women. The notion in society is that women are weaker than men. The real victims of the discrimination are the Girl children. When a boy is born in Indian society, there is a celebration, and one can say this is Gender Inequality. When a girl is born, there are no celebrations. In Indian society, if a boy is born, Pedas are distributed, and if a girl is born, Jalebis are distributed in most parts of India, especially in Goa. Here again, the gender discrimination is seen. Love for a boy is more than for a girl from time immemorial. People in India are killing the girls before or after the birth or and if fortunately, she is not killed, then she is discriminated against in various ways throughout her life. Though, as per religion, the women is considered goddesses, but people fail to recognize them as humans first. People worship goddesses, but people exploit girls. Even before a child is born, there is discrimination based on gender. Major causes for Discrimination in India based on gender are Poverty, Illiteracy, Unemployment, Social customs, and anti-female attitude. Determining the sex of the fetus and terminating it in case it's female is horrifying. Female feticide is still practiced in many parts of our country in India. The reason behind it is the mindset of people who believe that the male child will earn and bring income into the house and carry on the family lineage, and the female child will get married and go to her husband's house. In India, Major causes for discrimination based on gender are Unemployment, Social customs, Poverty, anti-female attitude, and Illiteracy. Education for women in rural areas is low because women are discouraged from higher education, like technical education and professional education. Many times, the children from rural areas have to travel far to receive their education. The parents under such circumstances will let only the sons in the family go far away and pursue education. The parents will not send the girl to take education to go outside the village for financial reasons, or also because, according to them, the education of girls is not required, as finally the girls have to maintain and manage the house and take care of all the family members and household work. Women's education is key to reducing discrimination against girls. Discriminating against the daughters is seen to be practiced more by educated mothers than by uneducated mothers. In India, female literacy is high and has shown less discrimination towards girls in states like Karnataka, Goa, Andhra Pradesh, Tamil Nadu, and Kerala. However, though there is high literacy, in Delhi, Gujarat, and Rajasthan still there is still increased discrimination against girls.

This sex discrimination starts from birth and continues till their death. Medical Professionals, including Doctors, are determining the sex for money. Once the sex is determined as female, then parents opt for abortion of the female fetus. The status and position of women are changing and are improving slowly, as there is an increase in the percentage of educated people, with a change in the mindset of a person. To tackle and curb sex determination practice, the Parliament has introduced the law, namely "The Pre-Conception and Pre-Natal Diagnostic Techniques Act, 1994". There is an amendment in this Act to prohibit sex determination.

Dowry Deaths is another problem faced by women in India: Many of the Brides are Burnt and killed for not bringing sufficient dowry.⁸ Many bride burnings are taking place because of the demand for dowries. The husband and his Parents demand a lot of money from the bride's family. If the bride fails to bring sufficient dowry, the groom and her in-laws burn the bride. As per the National Crime Bureau Reports, the cases registered for the Dowry death in India in the year 2005 were around 6787.⁹ In the report of 2011, dowry death cases were 8618. The parliament enacted the Dowry Prohibition Act, 1961, to tackle the issues of Dowry deaths of females. It was enacted in India to punish the person who demands dowry and who gives dowry. This Act applies to persons of all religions in India¹⁰. Though there are punitive and preventive provisions in the Act, it has failed to meet its objectives. Dowry-related crimes continue in India, as the people are still giving and taking dowry is firmly entrenched among the cross sections of Indian society, which ultimately leads to atrocities against women. To tackle the issue of Dowry Deaths, Section 304B, 498-A of the IPC were introduced. In IPC the sec 354 (a), (b), (c), (d) deals with offences against women. Amendments have also brought several safeguards for women in acid attacks and sexual offence cases.

To tackle the problem of Domestic violence against women in the house to safeguard the constitutional rights of women, the law, namely "The Protection of Women from Domestic Violence Act 2005," was enacted. Gradually practice of child marriage and Sati and restrictions on widows have been disappearing to a great extent. Domestic violence is on the rise against women by their husbands and their in-laws. This Act is enacted to give protection to women facing domestic violence in the matrimonial house after marriage. Under this Act, the Magistrate can pass any order of protection in favor of the woman, if prima facie satisfied that Domestic Violence is taking place or is likely to take place.¹¹

Decades ago, in Indian families, marriages were performed at a very early age. They used to perform child marriage. Child marriage was more found in Rajasthan. The Child Marriage Restraint Act of 1929 was enacted to take care of the issue of child marriage. Under the 1929 Act, a male could marry only if he was 21 years old, and a female could get married only if she was 18 years old. The solemnization was restrained as far as child marriage is concerned, but the marriage could not be declared void or invalid under this act. There was demand from the public to make this Act of 1929 more effective and the punishment more stringent to eradicate the practice of child marriage. The National Commission for Women, in its annual report for the year 1995-96, made recommendations to the government to make the marriages performed in contravention of the Act void and the make the offences cognizable.

In 2001-2002, the National Rights Commission undertook a comprehensive review of the existing Act and made recommendations for comprehensive amendment to the Child Marriage Restraint Act, 1929. Many of the recommendations of this Commission were accepted and given effect to by repealing and re-enacting the 1929 Act.

In the year 2006, another Act was enacted, and that is "The Prohibition of Child Marriage Act, 2006." There is a provision under the Prohibition of Child Marriage Act 2006 to give maintenance to the male spouse of the marriage if he is a minor by the parents or guardian, and has to pay the maintenance to his wife, i.e. female child of the marriage. The 2006 Act provides punishment to the adult male if he solemnizes a marriage with a minor girl. If the parent or guardian or organization, or Association promotes child Marriage, including attending or participating in the Marriage of a child can be punished. Under the 2006 Act, there is no punishment with imprisonment for women who promote or permit child marriage. Under certain circumstances, the marriage of a minor child is void. Under the 2006 Act, the power to issue an injunction stopping child marriage, either on complaint by any person or NGO or Suo moto to take cognizance and stop the marriages, is entrusted to the Judicial Magistrate First Class or a Metropolitan Magistrate. The petitions are to be filed before the District Court under the 2006 Act.¹² In the Courts of Goa, the Civil Judge Senior Division has jurisdiction to entertain the petitions under the 2006 Act.

Here, it will be worth bringing to the notice of the readers that the initiative to stop child marriage was taken by the State of Jharkhand. District Legal Services Authority Jharkhand.

Women have difficulties in searching for suitable work for them. In some workplaces, women are exploited and harassed, and are intentionally given extra work and difficult work by their boss. Uneducated women are given divorce and deserted by their husbands at any stage of life. For whole lives, women have to live with the fear that their husbands may give a divorce. In some cases, the women have finished their lives because of unbearable conditions/harassment. Women are exploited in workplace and to tackle this issue the Indian parliament has passed the Act, namely the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

In India, in the digital space the women are also harassed. India has moved toward digitization and has brought technological power, where People are exploring the internet and digitization, due to which life has become easy and comfortable. People explore with unknown persons and communicate with everyone, including a stranger, across the world. In the digital space Cyber cybercrime is increasing, and woman are their main target. Cybercrime is a big issue among educated women in India. The massive use of information technology tools like mobile phones, laptops, etc., has put women in India into a lot of problems, including cybersex. Digitalization has enhanced the system of India as far as the economy, education, and Governance are concerned, but it has also brought cyber-crimes to a large number. In India cybercriminals are misusing cyber platforms to harass and abuse women for voyeuristic pleasures. Cyber criminals and stalkers can be booked for breaching privacy under the Information Technology Act, 2000. Boys and girls should be made aware by their parents, teachers, as well as police authorities, etc., to prevent cyber crimes

Various causes for discrimination against women:

(i) The first and foremost cause that leads to discrimination in India is the mental makeup. It is generally said and believed that "Women are the best fitted for homes, to give birth and take care of the family" this statement is enough to show that even with so much of technological and educational advancement the mental status of people in India hasn't changed much, may be because of the belief of the people that the responsibility of the women is only to give birth and take care of the family.

(ii) The second cause may be that it being a male-dominated society, men make all the decisions and women just have to accept everything silently. From bread earning to managing the house, the man is the sole decision maker.

In the 21st century, women also have no decision-making powers even for themselves. From marriage to starting a family, the man dictates, and the woman just follows.

(iii) Lack of education is also the root cause of all evils. Being illiterate, many of the women in India are unaware of their rights. The woman first has to know her rights to properly exercise them. She first needs to know about it. Education is the first step in that direction.¹³ Women's education is increasing gradually, at least in urban areas, and thus, there are changes in the field of education.

PART IV

The Condition of women in Indian society has changed and is changing. Women were not allowed to join the military services, as women were treated as inferior to men. But things are now changing. Today, even if a female wants to take military services, they can do so. Earlier, the wife had to jump into the pyre of her husband after his death, and it is called the sati system. This system of Sati is now stopped. The woman had to wear a white dress/ Saree only once her husband died. This practice is to a great extent stopped, and now the widows are seen wearing colored sober clothes. Thus, while in ancient society women were adored and worshipped as goddesses in the Middle Ages, the position of women fell to a great extent. In contemporary times, the position is different. Women are coming out of the social barriers and problems that existed in the Middle Ages and ancient times. In every field, women are making improvements. Women are now stepping out of their houses and are working. Women are taking Higher and Higher Education and have thus become less dependent on males financially and are sound economically.¹⁴ Today, Indian women have exceeded expectations in every single field, from social work to going to space. No field has remained unconquered by Indian women. We hear adulation of women in the political field.

Earlier, the male dominated the wife, and so the women could not come ahead and develop. The condition and position of women in Indian society have changed and are changing. In recent times in Indian, in various spheres of life, such as politics, oratory, many women have become lawyers, doctors, administrators, and diplomats, and have proved themselves to be successful. The woman has taken part in every field, and there are hardly any fields in which women have not taken part and shown their talent. Women candidates are contesting for the Assembly elections and the Parliament elections.

They have the right to vote. They are appointed to public offices and are competing in every field with men. Today, the women in India enjoy more liberty to participate in the affairs of the country. Men and women play equal roles and share equal responsibilities in shaping the future of their family and their country. The women put their heart and soul together in whatever task they undertake, as the women are hard-working, intelligent, and efficient in work.

Despite various measures for amelioration, women face various challenges in ensuring their empowerment. Women's education is a Key problem. Many families still do not give importance to the education of a girl child, and thus, such an uneducated girl has to suffer in all respects. There are many more laws introduced by the parliament, which are dealt with in this paper. There is sexual exploitation of women in work workplace. To tackle this issue, also parliament has enacted a law, namely "The sexual harassment of women at workplace (Prevention, Prohibition and Redressal) Act, 2013." The study of this topic is important as it creates awareness in the reader of the rights and benefits available to women. The awareness will thus change and improve the conditions of the women.

In the year 1997, women were not considered to be equal with the man due to patriarchal thinking about women that was prevalent. There was no legislation to safeguard the rights of women or to protect women from sexual harassment in work workplace, and that is why many of the women were not going to work. There is an international convention for women that works for the elimination of discrimination for women (CEDAW) as per "Article 111" of the Convention on the Elimination of all forms of Discrimination against women (CEDAW). Article 24 of the Convention CEDAW states, "parties undertake to adopt all necessary measures at the national level aimed at achieving the full realization of the rights recognized.

In *VISHAKA v. STATE OF RAJASTHAN & ORS*,¹⁵ a woman who was a social worker was mercilessly gang raped. The social worker belonged to a small town in Rajasthan. While she was at the workplace place her gang rape took place. The victim, who belonged to the upper class, was gang raped by five men in the presence of her

husband. The victim was working with families in her village to stop child marriage, on a particular day, while at work. She was working with her family to stop the marriage of an infant girl, and so she was raped brutally by five men. The victim and her husband went to the police station to lodge an FIR, but the police refused to conduct any thorough investigation. Further, they went to the hospital, where the doctors refused to mention that it was a case of rape in her medical report and only mentioned her age in the report. The victim approached the Trial Court in Rajasthan, but all the accused were acquitted in this case as the court concluded that there was no strong evidence, and it was difficult to believe that while the victim was being raped, the husband couldn't do anything to save his wife from being raped. The petitioner in the Vishaka's case supra prayed that certain guidelines should be framed which would govern and eradicate harassment of women in work workplace and ensure gender equality. The Apex Court observed that human rights provided under Articles 14, 19, and 21 of the Constitution are violated. Incidents of sexual harassment at work workplace violate gender equality and also violate the rights of women that are guaranteed to women under the Indian Constitution. The guidelines in favor of women were framed in Vishaka's case. The guidelines are (1) to have a friendly environment at work workplace for women, (2) the duty is cast on the employer to frame appropriate safety measures for the women, (3) every workplace is required to form a special Committee to deal with complaints of sexual harassment at work workplace. The work of this Committee was to tackle the offences against women in work workplace.

It was observed by the Apex Court that the Committee should be headed by a woman and also should have an NGO as an adviser dealing with such issues. The cases with respect to the sexual harassment of women at workplace are to be dealt with by this Committee after a detailed investigation, and appropriate action is required to be initiated by the employer. Further, in Vishaka's case, it is observed that sexual harassment of women at workplace and any gender inequality would amount to a violation of basic human rights, and these guidelines were formulated in consonance with the Protection of Human Rights Act 1993. The Sexual harassment at Workplace Prevention and Prohibition and Redressal Act 2013 was enacted in the year 2013, and the object of this Act was to prevent sexual harassment at work workplace to women and help to create a safe and conducive environment at work workplace, wherein the women employees are comfortably working. It was observed that every employer should promote gender equality and ensure that a woman employee under his or her watch works with dignity in an environment that accepts her and gives her a sense of belonging.¹⁶

In Jagdish Singh and others v. Ashish Mishra alias Manu and another.¹⁷ It was held that in the criminal proceedings at various stages, including at the stage of bail, the victim of a crime has the right to participate. For the victim to participate in the criminal proceeding, the victim cannot be asked to wait till the commencement of the trial because at every stage post the occurrence of an offence, she or he has legally vested right to be heard.

The victims of the Offence of rape many a times file applications for intervention even at the stage of bail, and such applications are mostly allowed, and the victim also participates at the stage of bail. The victim gets the opportunity to assist the prosecution and can also file written arguments through the prosecution.

Redacting the name, address, photographs, and other credentials of the victim in offences such as rape is Mandatory as per the Supreme Court guideline. This was done in the interest of the women victims.

In Appellants x v. State of Maharashtra and ors.¹⁸ In this case, FIR was filed under Sections 354, 354(b), 506 of the Indian Penal Code, and subsequently, on the supplementary statement of the prosecutrix, the offence under Section 375 of the Indian Penal Code was added. The prosecutrix was a Model by profession; she had complained. She complained that she was sexually harassed by the accused. She complained that the accused no.2 is a businessman who assured her a job of modeling assignment and forced himself on her and raped her in the hotel room where she was staying. An application for anticipatory bail was filed by accused no.2 on 17.09.2022, and the Court rejected it on the ground that the applicant had not disputed his presence at the scene of the offence. The Court observed while rejecting the anticipatory bail application that a prima facie case was made out for the offence punishable under Section 376 of the Indian Penal Code and rejected the anticipatory bail application. On 21.09.2022, respondent no.2, the accused, approached the High Court, where by interim protection order was passed in favor of the accused.

The matter had reached to Apex Court and the Apex Court quashed and set aside the order of granting the anticipatory bail and cancelled the bail bonds. In this case, directions were also given to the Registry to take steps

to redact the credentials of the Prosecutrix from the records. Further direction was given to the Registry to ensure that if any such petitions are to be placed before the Registry where such sensitive matters like the present one are concerned, i.e., offence against the women under section 376 of the Indian Penal Code, and if the credentials of the Prosecutrix are revealed in the petition, the Registry should return it to the Ld. Counsel for redacting the details of the victim girl before placing the matter for the orders of the Court.

CONCLUSION: The position of women is now, to a great extent, better than the position of women that prevailed in the Middle Ages. The position of women can further be improved if there is a hundred percent of education. Education for women in villages should be encouraged and increased. The government should take measures to provide more facilities to girls in villages to avail higher and higher education. Educating women about various beneficial legislations, schemes is necessary so that they can avail the schemes and improve their condition. In India, the Legal Services Authorities have taken the initiative to create awareness of various beneficial Legislation and schemes available to women. There are many schemes for women in India, and many women have also availed the scheme, which has improved and changed the position of women. "If you educate a man, you will educate an individual, but if you educate a woman, you educate an entire family," was said by the great leader Mahatma Gandhi. So, education for women is a must for the development and empowerment of women in society. The unawareness of women of their inner space and women's self-ignorance of capacity building beyond the walls of house affairs has kept them behind. If they rise, they have a beautiful world outside to explore and to share with their counterparts. They have to shed social insecurity. Gender inequality that exists in every nation on the planet has to be removed. Unless women are given the same opportunities as are given to men, entire societies will be destined to perform below their true potential. The social attitude towards women needs to be changed. Women's empowerment has become a major concern of globalization, as women constitute almost half of the world's total population, and it is very necessary for the prosperity of any country to include women in the social and economic structure by empowering them. Recognition of the Human rights of women is essential for the all-around development of society.

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