

POSITION OF WOMEN IN INDIA

By DR KULDEEP KAUR

FROM CITY LAW COLLEGE

INTRODUCTION

- The position of women in India has been 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, the promotion of equal rights by many reformers, the history of women in India has been eventful.
- India is majority country of Hinduism and under religion of Hindus they all are treated women in position of “DEVI” because they believe on their gods like “DURGA MAA”. But only treatment like Devi to each woman does not mean they are enjoying all rights and freedoms in society that they want so for determining the actual position of women we have to consider all nominal instruments of each era of human civilization

The position of women emerging with origin of civilization of human beings which are as follows -

➤ RIGVEDIC PERIOD

- Women enjoyed equal status with men.
- They had an honourable place in the society,
- They were not differentiated and freely participated in public life.
- They take part in sabha and vidar.
- They studied the Vedas and other scriptures. Ex - Gargi and Matri.
- There was love marriage in practice known as Gandharva vivah.
- Marriages were recognized on religious bonds.
- Child marriage was not introduced at that time.
- Monogamy was general rule at that time.
- Polygamy was not introduced at that time.
- Women enjoyed complete freedom in household matters.
- Women participated in all religious ceremonies, in fact the performance of religious

ceremonies was considered invalid without wife joining her husband as she was regarded **Ardhangini**.

- Widow Remarriage was permitted.
- Neo – pratha (where a childless widow have right to make relationship with the brother of deceased husband) was in practice.
- Divorce was also in practice and women have same right as men.
- Sati pratha was not in practice.
- Husband and wife was joint honour of the property but the rights of women were limited.

➤ **POST VEDIC PERIOD**

- A daughter began to regard as curse.
- They were denied the rights of inheritance of honourship of property.
- Child marriage was in practice.
- Prohibition of Niyog pratha.
- Polygamy was in practice.
- Prohibition of widow remarriage.
- Marriages become irrevocable union as for the wife was concerned.
- Sati pratha has become popular.
- Parda pratha was also in practice but especially in higher classes.

➤ **Medieval Period:**

- The ‘Purdah’ system was followed which resulted in seclusion of women.
- Education of women in whatever form came to be stopped.
- Child marriage was started
- During this period the inhuman practice of ‘Sati Pratha was in vogue.
- Purdah Pratha, Sati Pratha, child marriage, girl killing, polygamy etc. were the main social evils of this period.
- The saints like Chaitanya, Nanak, Kabir, Meera, Ramdas and Tulsi stood for the right of women to religious worship. Hence, this movement, atleast, provided religious freedom to women.

➤ **Status of Women in the Smritis:**

Manu says:-

- “Women must always be honoured and respected by the father, brother, husband and brother-in-law who desire their own welfare, and where women are honoured, there the very Gods are pleased, but where they are not honoured, no sacred rite even could yield rewards”.
- He also observes that if a woman is chaste, it is because she has not found a proper man, place and opportunity. He, therefore, calls her a ‘Pramada a temptress. So, he wants woman to be under the surveillance of father in her childhood
- He declares in unequivocal terms that no woman deserves independence.

POSITION OF WOMEN IN INDIA AT PRESENT TIME

In India position of women is very well because they enjoying equal status as well as men in society and there are some very important roles of Indian laws which are as follows -

➤ **ROLE OF SUPREME COURT’S JUDGEMENTS IN MAKING BETTER STATUS OF A WOMEN**

➤ **Position of women in work places.**

- In case of **Vishaka & Ors. V. State of Rajasthan & Ors. (1997) 6 SCC 241** court issued Guidelines to prevent sexual harassment against women in work place.

➤ **Hindu Women’s right to maintenance**

- In case of **Vaddeboyina Tulasamma v. Vaddeboyina Shesha Reddi, 1977 SCR (3) 261** Court held that the Hindu female’s right to maintenance as a tangible right against property which flows from the spiritual relationship between the husband and wife.

Vishaka & Ors. V. State of Rajasthan & Ors. (1997) 6 SCC 241

Vaddeboyina Tulasamma v. Vaddeboyina Shesha Reddi, 1977 SCR (3) 261

➤ **Christian Women's right to maintenance**

- In case of **Mrs. Mary Roy Etc. v. State Of Kerala & Ors, 1986 AIR SC 1011** Court held that Christian women are entitled to have an equal share in their father's property.

➤ **Muslim Women's right to maintenance**

- In case of **Mohd. Ahmed Khan v. Shah Bano Begum, (1985 SCR (3) 844** ruled in favour of Shah Bano and ordered maintenance from her ex-husband under Section 125 of the Criminal Procedure Code like any other Indian woman.
- **Daniel Latifi v. Union of India , 2001 (7) SCC 740** Court held that a divorced Muslim woman who has not remarried and who is not able to maintain herself after iddat period can proceed against her relatives who are liable to maintain.

➤ **Muslim Women's right to valid talaq**

- In case of **Shamim Ara v. State of U.P. , 2002 (7) SCC 518** Court held that the requirements of a valid talaq are: That the talaq must be for a reasonable cause.

➤ **Right to Marriage**

- in case of **Lata Singh v. State of Uttar Pradesh, 2006 (6) SCALE 583** Court held that Nothing that there was no bar to inter-caste marriage under the Hindu Marriage Act

➤ **Right to Live-in relationships**

- In case of **D. Velusamy v. D. Patchaiammal, (2010) 10 SCC 469** Court held that Live-in relationships will also come under Domestic Violence Act 2005.

Mrs. Mary Roy Etc. v. State Of Kerala & Ors, 1986 AIR SC 1011

Mohd. Ahmed Khan v. Shah Bano Begum, (1985 SCR (3) 844

Daniel Latifi v. Union of India, 2001 (7) SCC 740

Shamim Ara v. State of U.P. , 2002 (7) SCC 518

Lata Singh v. State of Uttar Pradesh, 2006 (6) SCALE 583

D. Velusamy v. D. Patchaiammal, (2010) 10 SCC 469

➤ **Right to custody of minor child**

- In case of Roxann **Sharma v. Arun Sharma, Civil Appeal No. 1967 OF 2015** Court held that in a battle between estranged parents, for the custody of minor child, who has not completed five years of age, shall be allowed to remain with the mother

➤ **Right to register marriages**

- In case of **Seema v. Ashwani Kumar , AIR 2006 S.C 1158** Court held compulsorily registerable in their respective States where such marriages are solemnized.

➤ **Right to Development of children who are in jail with their mothers**

- In case of **R.D. Upadhyay v. State of Andhra Pradesh, AIR 2006 SC 19** Court held the issue of development of children who are in jail with their mothers, either as undertrial prisoners or convicts.

➤ **Right to be informed**

- **Delhi Domestic Working Women's Forum v. Union of India, 1995 SCC (1) 14** Court held that The Police should be under a duty to inform the victim of her right to representation before any questions were asked.

Laws that protect women and their rights

➤ **CONSTITUTIONAL RIGHTS OF WOMEN**

1. [Article 15(1)]- The state shall not discriminate against any citizen of India on the ground of sex.
2. [Article 15(3)]- The state is empowered to make any special provision for women. In other words, this provision enables the state to make affirmative discrimination in favour of women.

Sharma v. Arun Sharma, Civil Appeal No. 1967 OF 2015

Seema v. Ashwani Kumar , AIR 2006 S.C

R.D. Upadhyay v. State of Andhra Pradesh, AIR 2006 SC 19

Delhi Domestic Working Women's Forum v. Union of India, 1995 SCC

3. [Article 16(2)]- No citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex.
4. [Article 23(1)]- Traffic in human beings and forced labour are prohibited.
5. [Article 39(a)]- The state to secure for men and women equally the right to an adequate means of livelihood.
6. [Article 39(d)]- The state to secure equal pay for equal work for both Indian men and women.
7. [Article 39(e)]- The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength.
8. [Article 42]- The state shall make provision for securing just and humane conditions of work and maternity relief.
9. [Article 51-A(e)]- It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women.
10. [Article 243-D(3)]- One-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women.
11. [Article 243-D(4)]- One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women.
12. [Article 243-T(3)]- One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women.
13. [Article 243-T(4)]- The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide.

➤ **LEGAL RIGHTS OF WOMEN PROVIDED BY ACTS**

1. Protection of women from domestic violence Act 2005
2. Immoral traffic(Prevention) Act 1956
3. Indecent Representation of Women (prohibition) Act 1986
4. Sati Pratha Prohibition Act 1987
5. Dowry Prohibition Act 1961
6. Maternity Benefit Act (1961)
7. Medical Termination of Pregnancy Act (1971)
8. Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection)

Act (1994)

9. Equal Remuneration Act (1976)
10. Dissolution of Muslim Marriages Act (1939)
11. Muslim Women (Protection of Rights on Divorce) Act (1986)
12. Family Courts Act (1984)
13. Indian Penal Code (1860)
14. Code of Criminal Procedure (1973)
15. Indian Christian Marriage Act (1872)
16. Legal Services Authorities Act (1987)
17. Hindu Marriage Act (1955)
18. Hindu Succession Act (1956)
19. Minimum Wages Act (1948)
20. Mines Act (1952) and Factories Act (1948)
21. The following other legislations also contain certain rights and safeguards for women:
 1. Employees' State Insurance Act (1948)
 2. Plantation Labour Act (1951)
 3. Bonded Labour System (Abolition) Act (1976)
 4. Legal Practitioners (Women) Act (1923)
 5. Indian Succession Act (1925)
 6. Indian Divorce Act (1869)
 7. Parsi Marriage and Divorce Act (1936)
 8. Special Marriage Act (1954)
 9. Foreign Marriage Act (1969)
 10. Indian Evidence Act (1872)
 11. Hindu Adoptions and Maintenance Act (1956).
22. National Commission for Women Act (1990)
23. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013)

➤ **welfare schemes for Indian women**

1. Rajiv Gandhi Scheme for Empowerment of Adolescent Girl (SABLA)
2. Indira Gandhi Matritva Sahyog Yojana (IGMSY)
3. Support to Training & Employment Programme for Women (STEP)
4. Hostel for Working Women (WWH)
5. Women Empowerment and Livelihood Programme in Mid-Gangetic Plains (Priyadarshini)
7. Swadhar (Scheme for Women in Difficult Circumstances)
8. Scheme for Combating Trafficking
9. Family Counselling Centers (FCCs)
10. Short Stay Home Programme
11. Awareness Generation Programme (AGP)
12. Condensed Courses of Education for Adult Women (CCE)
13. Integrated Scheme for Women's Empowerment (ISWE)
14. Gender Budgeting Scheme (GBS)

CONCLUSION

After considering the above statements it can be concluded that the Position of women at present India is much modified from previous era and now women are enjoying their rights freely because there are punitive provisions are available in form of remedy on the violation of their right or in situation of non – exercising of their legal and constitutional rights.