CHAPTER-1

STATUS OF WOMEN IN INDIA: HISTORICAL PERSPECTIVE

1.1 Introduction

One way to judge the state of nation is to study the status of its women. In reality, the status of women represents the standard of culture of any age. The social status of the women of a country symbolizes the social spirit of the age. However to draw a conclusion about the position of women is a difficult and complicated problem. It is therefore, necessary to trace this position in the historical perspective. In the course of Indian history from prehistoric to modern times, there were distinct stages of the rise and fall in the status and role of women.

The difficulty lies in the fact, that the recorded evidence found in the same period and in the same province have expressed opposite views about the worth, nature and importance of women. While one school considers women as the best gift of God to men, the other school considers that the best way to reach God is to avoid women. Some people thought that woman brings prosperity when she is properly treated and respected and is called Lakshmi, the goddess of wealth and prosperity. Sage Agastya says “women combine the fickleness of the lightning the sharpness of a weapon and the swiftness of the eagle. Altekar says that to ascertain the position of women in Hindu society, one should study their position, under different circumstances, like normal i.e. in peace time and abnormal i.e. in war time. Because during wars, the attitude of the society towards women was very unsympathetic, particularly, if the women had the misfortune of falling into the hands of the enemies. They found it impossible to get re-admitted into their family and society.

A study of ancient literature reveals that during peace time the position of women was not very satisfactory. The status of women was considered to be
equal to that of the Sudras and killing of women was also not considered as a disgraceful act. The information on the traditional status and role of women is derived from historical accounts and classic texts. For the purpose of depicting a brief history of the changing position and role of women in India, the following six broad categories are considered.

(a) 2500 B.C. to 1500 B.C. Vedic period
(b) 1500 B.C. to 500 B.C. Post Vedic period
(c) 500 B.C. to 500 A.D. Smriti period
(d) 500 A.D. to 1800 A.D. Muslim period
(e) 1880 A.D. to 1947 A.D. British period
(f) 1947 A.D. onwards Contemporary period

The literature on Indian history abounds with contradictory and conflicting views on the status of woman. It can properly be understood within the socio cultural condition of the society. The contradictory view about women’s status is a cause of the emergence of the ideals of womanhood at different times. The concept of “Ardhangini” suggests that there was equality between men and women, neither of the two being superior to the other. Later on, barbarous practices developed and women were relegated to a subordinate status.

The Status enjoyed by the Indian women cannot easily be assessed. While the ‘idol’ was worshipped the ‘real’ was neglected. Cormark asserts “Traditional Indian has always accorded women a high place and indeed equality” Gorwaney observes that “ideally women were accepted as a living force in society, the embodiment of ‘Skakti’ and a symbol of purity religiousness, spirituality and sacrifice.” In practice, however, they were subjected to suppression, many deprivations and were exploited by men. They were denied equal rights in family, marital, social, educational, economic and political spheres. They were assigned a subordinate status.
There are recorded evidences to show that for many centuries position of woman continued to be one in which she did not have either legal or social rights to make her independent of the family into which she was born or married. There are, however greater evidences to show that the contrary was equally true; i.e. woman was not always without rights nor was she constantly in subjection.9

Therefore, it may be concluded that the status of women is a complex question and has to be studied as an integral part of the socio-economic structure in which women live. It can not be dissociated from it. The changes that have taken place in their position are a part of the process of transformation of a traditional society. The various stages of this transformation may be briefly discussed in the following pages.

1.2 Vedic Period

Unfortunately, the position of women during the Vedic period was glorious on account of freedom and equality. During this period, the women participated in every walk of life. Altekar says that the position, which women occupied in Hindu society at the dawn of civilization during the Vedic age, is much better than what we ordinarily expect it to have been. He further says that even before the Aryans came to India in about 2000 B.C. there is evidence to believe that Indian women shared a responsible position with men and played an important role in evolving a definite culture and tradition. Their status excelled that of the contemporary civilizations of ancient Greece, Rome and even early Christianity. There is almost a consensus of opinion among great scholars of classical literature that during the age of Vedas (2500-1500 B.C.) a woman’s status was equivalent to that of man.10

The position of women in Vedic period can be judged by the way in which the birth of a girl was received. None of the hymns of Rigveda considered the birth of a daughter as inauspicious. But we find prayers for the birth of a son in Atharva Veda which says, "The birth of a girl, grant it elsewhere, have grant a boy."11 We do find a frequent longing for a male child in the Rigveda, while
during the Vedic Age, there were some parents who performed Kanyasraddhas on the second day of the moon, for the blessing of getting learned and capable daughters. The Rigveda praises the father of many daughters. Besides it was recommended that “Matrika-puja” should take place first, the ‘Kumaripuja’ was to be performed at the end of all Vedic rituals.

The Girls were educated like boys. They wore the sacred thread (Upavita-Dhaaranaa) and used to pass through a period of Brahmacharya. After this Upavita ceremony, the vedic women carried on the study of the Vedas, recited Vedic Mantras, performed Vedic Rites and rituals; undertook Vedic vows and did whatever was necessary for the proper performance of Yagaayajna, just like a son. According to Sarvanukraamanika, there were as many as twenty women who are credited with having composed the hymns of the Rigveda. Many of them became distinguished poetesses and were honoured by having their poems included in Vedic literature. Some of the high class women were highly educated and they actively participated in intellectual and philosophical discussions. One comes across reference in lady sages like. Gosha, Apala, Lopamudra, Indrani, Maitreyi and Gargi. Gargi was one of the greatest Vedic Scholars of her time. She challenged Yaagnavalkya and put many subtle and intricate questions to him. Apart from a literary career women entered fields of teaching, medicine, business, military and administration. The marriage of girls used to take place at the age of understanding i.e. between 14 to 17 years that, too, with their consent. The educated girls had naturally an effective voice in the selection of their life partners. Pre-puberty marriages were unknown as there were Swayamvara marriages where women were given a chance of selecting their partners. There were also many instances of love marriages. It can be concluded that both men and women had considerable freedom in selecting their partners though parents often arranged a suitable match.

If for any reason a daughter remained unmarried, she was expected to live under the protection of her father, and after her father’s death under the control and protection of her brother. Perpetual tutelage of women is of a later origin.
The position of a daughter during the Vedic period did not suffer much from authoritative interference. She was socialized with a high degree of modesty. She was expected to have tolerance, patience, submission to and an identification of her personality with her husband. She, in turn, received affection, consideration and regard. Though marriage was of great social and religious significance it was not mandatory as some girls remained unmarried.

Ordinarily, a daughter did not have any right to hold acquire or dispose of property. This means that she did not enjoy any legal status in the Rigvedic times. But the unmarried daughter who stayed on in her father’s house got a share of his property. She could not claim a share in her brothers property as it is clearly laid down in the Rigveda that, “a son born of the body does not transfer wealth to sister” Married daughters could inherit their father’s property only in the absence of brothers. The social or family status of the daughter was fairly satisfactory in the Rigvedic period.

The vedic society was largely patriarchal and male-dominated. The household was ruled by a husselord, who exercised almost absolute control over all other members of the family and to him his wife was bound by a strict tie of life-long duty and obedience. Marriage, in fact, was a religious necessity for both men and women, and neither could reach heaven without being accompanied by his or her duly married spouse. The vedic women being Sahadharmini or Patni had the fullest right to participate in all the religious ceremonies with her husband. She could also perform sacrifices independently and was not regarded as an impediment in religious pursuits. Her position was an honoured one in the family. She was the joint owner of the household with her husband though in actual practice she was the subordinate partner. This was because of the prevalence of a patriarchal family system as it is today. Her social status was not only of a loving wife but also of a loving mother. She was described by the Vedic sages as an ornament of the home. Her social status was of an absolute equality with man in the ages of religion.
The Dharmashastra has raised a chaste wife to the rank of a Goddess. Out of love veneration, she has been placed above the father and teacher. The Panchatantra mentions that the maintenance of a home is known by the culture of the wife, without her, a home is like a dreary forest. Rigveda accords a high position to women. As a mother, the Vedic woman had held a far more venerable position than a man as the father. During this period asceticism was not of great prominence. Women had the right of free movement. Polygamy prevailed to some extent among the royal families but ordinarily monogamy was the rule. The main disadvantage from which the wife suffered in the Vedic age was that she could neither hold nor inherit property. The recognition of women’s property with absolute rights (Stridhan) was slow.22

Widows of this age were permitted to remarried. This practice seems to have been accepted as normal during the Vedic period. A number of references are found in the Vedas to show that widow remarriage was common, though the re-married widow could not aspire for the status of ‘Grihini’ (wife), where she could become the mistress of the house. The use of the word ‘Parapurva’ a woman, who has had a second husband, proves that widows were remarried. The word ‘Didhisha’ used in the Rigveda means the second husband of a woman. Atharva Veda refers to ‘Punarbha’ that is, re-married widow. This shows that marriage of widows was not opposed. The custom of a widow marrying the brother of her deceased husband seemed to be common.

The institution of Niyoga (Levirate) came into Aryan society from some non-Aryan source. Under the system of Niyoga, a widow or a woman whose husband was not virile was allowed to have conjugal relations with her brother-in-law, who was regarded as the most eligible person for this duty, or some other near relation, till she gave birth to an off-spring. A widow was allowed to have two sons through Niyoga. A son by levirate was always preferred to a son by adoption.23 The custom of widow remarriage, as we understand it today, did not exist. But even then we have some references of widow remarriage with the younger brother or with the next kinsmen of her deceased husband. It can only
be said that her life was not bound by so many restrictions and austerities as it was in the later days. She had not to ascend her husband's funeral pyre. In other words, Sati system was not in practice. We do not find any reference to Sati or burning of widows in Rigveda. On the other hand, Vedic hymns refer to remarriage of widows rather than their self immolation. But in the Rigvedic period the widow was made to lie by the side of her dead husband. She was, however, asked to come down and a prayer was offered that she be granted a prosperous life enjoying the bliss of children and wealth.

Attachment of importance to the birth of a male-child became responsible for the gradual decline in the status of women. The position of women during the Vedic age is clearly manifested from Suktas of revered Nari Rishi or women seers in the Rigveda. Women as daughters, sisters, wives and mother had equally honoured places in the family, society and state alike. Thus in all aspects they had equal rights with men and were their equal partners, friends, and helpers all through.

Decidedly, during Vedic period, the women could fight back with violence as in Mahabhaarata or with non-violence as Sita did in the Ramayana. But she never reconciled with evil.

1.3 Post-Vedic Period

After the Vedic period there were perceptible changes in the women’s status due to various reasons, among which the most important was the denial of education. Traces of deterioration are found in all periods following 1500 BC, but it became much more marked after the beginning of the Christian era and reached its peak after the Mongol invasion in the tenth century.

With the lapse of time the position of the daughter also changed. During this period there was a gradual decline in women’s education. Girls were not allowed to go to the houses of the preceptor or centres of education but were taught only by near relatives like father, brother or the uncle. Therefore, only the girls of rich and cultured families received religious and other training. As a
result, there appeared a tendency to curtail the religious rights and privileges of women in general. The desire to get a son to secure future became quite intense and daughters came to be looked upon as encumbrances. Marriage age of the girls continued to be around sixteen. They had some voice in the selection of their life partners. Love marriages were also common. Among the Kshatriyas, Swaymvara was fairly common in practice. The social and family status of the daughter deteriorated in the post Vedic period. Her proprietary right was also the same as it was in the Vedic age. So far as her right in the separate property of the father was concerned, she was not altogether ignored.\(^28\) The following line aptly depicts the position of the daughter; “A wife as a comrade, a daughter is a misery and a son a light in the highest heaven”\(^29\)

According to Gautam Saamhita, a girl should be given in marriage before she attains puberty. He who neglects it, commits sin. Some declare that a girl should be given in marriage before she wears clothes.\(^30\) Vasistha Samhita also says the same thing.\(^31\) There was a slight improvement with respect to her property right in her father’s separate property.\(^32\) Brahaspati said, ‘the wife is declared to be the inheritor of the husband’s wealth and, in default of her, the daughter, like a son springs from the limb of a man, how can any other man inherit her father’s property while she lives? The daughter could only get the property if she were a widow or in default of the son, grandson, great grandson. but in the normal circumstances, she could get one fourth share of the property. As Manu said, ‘but to the maiden (sister) the brother shall severally give (portions) out of their share, one fourth part, those who refuse to give (it) will become outcastes. Yajnakaalkya also said, but sisters should be disposed of in marriage giving them as an allotment the forth share.\(^33\) The intention of the Smiriti writers was not to make her a shareholder in the son’s property but just to reserve some wealth necessary for her marriage. But the daughter’s right of succession in her father’s property cannot be said to be established.

There were gradual changes in the position of women in this period. Women were not allowed to participate in the performance of sacrificial
ceremonies. They eventually began to lose touch with the Vedas and were pushed back to domestic duties. The study of Vedas became the monopoly of men. Women also ceased to attend public meetings. Having lost their importance as comrades of men in public activities, they came to be honoured merely as mothers. The reason for the deterioration of their status was the inter-marriage between the Aryans and the Dravidians. The non-Aryan wife, with her ignorance of the Sanskrit language and Hindu religion, obviously could not enjoy the same religious privileges as the Aryan consort. The black non-Aryan wife could be her husband's associate in pleasure but not in religious rituals, say several authorities.

The discontinuance of Upanayana, the neglect of education and lowering of the marriage age produced disastrous consequences regarding the position and status of women. Early marriage became a hindrance in the education of girls. Women came to be regarded as being of the same status as the Sudra. During this period on the one hand woman was being idealized and on the other she was given a very degraded status.

Over the property of her husband it was generally considered that a woman had no right during his lifetime beyond the right of maintenance and resistance. According to the Mitakshara law, in the matter of partition, a wife was allowed to get an equal share with her own son or sons when the division took place in the lifetime of her husband. But she could not herself demand a partition. She could get a share only if the husband himself separated from his sons during his life time or if the sons claimed partition during the father's life time. Though a woman had her own property called Stridhana she was given only limited ownership. It seems the spirit of the Hindu law not to allow women independence as regards the disposing of property, but she had possession and right of enjoyment. It can be said that in general, the social status of the wife was not satisfactory.

The deterioration in the status of widows commenced from the epic period. Widowhood was considered both undesirable as well as inauspicious.
The position of widows became more pitiable because the Sutras ordered a widow to avoid, for the duration of a year, the use of honey, meat, spirits and liquor as well as salt and to sleep on the ground. At the expiry of six months, she could, with the permission of her Guru, bear a son by her brother-in-law in case she had no son. The custom of Niyoga came into existence during this period. Remarriages are not found among the Aryan widows but there are instances of non-Aryan widows marrying Aryans. The children by the second marriage of a widow were given a social as well as religious status. Child widows, therefore, married without fear of social ostracism. During this period Niyoga was preferred to widow re-marriage.

The customs of widow burning came into existence around 400 A.D. Though there are instances of widow surviving their husbands and offering them funeral oblations, on the whole the position of widows was not satisfactory. The rise of Brahmanism became detrimental to the status of women. The Hindu lawgivers of this period imposed certain duties on widows, who did not ascent the Funeral pyre and chose instead to survive the husband. All the sages prescribed a life of strict discipline to such widows during their whole life.

The custom of Niyoga was condemned when chastity became the main qualification of marriage. Many disapproved of the custom of ‘Niyoga’ and declared that it was fit for cattle only. Although it is still practiced in some communities in India, the custom appears very strange and unacceptable to the modern mind.

Widow marriage was prohibited. The practice of ‘Sati’ was recommended by many of the later authorities and was well established by the end of the 6th century A.D. The practice prevailed as early as Alexander’s invasion about 325 B.C. Travelers like Strabo, Megasthenese and Diodarus who accompanied Alexander, allude to this practice. The law-givers forced the widows to lead a life of austerities, fasting and abstinence from pleasure. Manu, the Hindu law-giver, says:
1. Until her death, let her the patience of hardships, self control and chaste and strive to fulfill that most excellent duty which is prescribed for wives who have one husband only.

2. At her pleasure let her emaciate her body by living on pure flowers, roots and fruits but she must never mention the name of another man after the husband has died.

3. A virtuous wife, Manu says again, is one, 'who after death of her husband constantly remains chaste, reaches heaven though she has no son just like those chaste men.\textsuperscript{40}

The codes of the Hindu law recommended that a widow should lead a chaste life. Loss of chastity of the widow affected not only her social status but also her proprietary position. But the injunctions to emaciate her body and to live on a frugal and abstemious diet were in the nature of a religious or moral injunction.

Unjust, archaic social customs like child marriage, 'Sati' and polygamy reduced the status of women to the level of goods and chattel. They were regarded as 'nari-sudras' The status of widows was still more inferior.

1.4. Smriti Period

Altekar says that the period between 500 B.C. to 500 A.D. was one of the progressive deterioration in the position of women. In the history of India, these dark and depressing days of total injustice, intolerance and inequality will remain as the darkest spot forever. There were varied and many reasons for the deterioration or fall in the position of women. The only good thing that developed during this period was the recognition of certain proprietary rights for women.\textsuperscript{41}

It is Manu’s code that has had the most negative impact on Indian Women for countless succeeding generations. Even today, it is his laws which keep millions helpless in the prison of Hindu orthodoxy. Manu for the first time
legally assigned to woman her definite place in the scale of society. But his laws reflect a conflict between his valuation of woman as a spiritual entity on the one side and as a unit in society on the other. He averred that a mother is more to be revered than a thousand fathers, yet his laws place women socially on a level with the lowest of all groups in Aryan society, the Sudra.  

Manu enumerates many laws directing a wife’s conduct. He says that a wife must show to her husband such devotion that he must be treated like ‘God’, even when he is conspicuously lacking in virtue. No sacrifice, no vow, no fast must be performed by woman part (from their husbands). If a wife obeys her husband, she will for that (reason) be exalted in heaven. In childhood, a female must be subject to her father, in youth to her husband, when her lord is dead to her sons. A woman must never be independent. The laws of Manu state that women were created to be mothers and that they may perform religious rites along with their husbands. Yet there are some passages which deny to women the privilege of offering sacrifices.

In the period of later Smrities women were deprived of any right to justice, freedom, education, equality and were degraded domestically, socially, legally, economically, politically and in every other way. They came to be called Abala (the powerless) or ‘Grihapinjarakokila’ (Cuckoo of the cage of the house) and subject to the most derogatory maxim; ‘Putrartha Kriyate Bharya’ (women has to be taken in marriage for procreation only).  

There are contradictory views regarding the position and status of women. While some of the earlier authorities have described women as abodes of more evil than good, the progressive and liberal thinkers are in favour of women. They have gone to the length of worshipping her as a living image of the Divine Mother. In Manu Smriti we find two contradictory statements:

1. Where women are honoured, there Gods dwell.
2. A women is to be protected and sheltered all through her life by her male relatives – by the father during her childhood, the husband when a house wife and the son during her widowhood.\textsuperscript{44}

The age of marriage was fixed at eight. The Upanayana Samskar of girl was completely discontinued. The commentators were of the opinion that the parents would be committing sin, if the girl’s age exceeded eight years. Only in Kshtriya families girls were married at the age of 14 or 15. Girls of rich families, however, still received education and a few of them distinguished themselves as poetesses and critics. The ignorance of most girls created tendency among men to treat them lightly and pass cynical remarks about their weakness and worthlessness.\textsuperscript{45}

Gradually, the practice of marriage of child-widows was stopped. Permission to the marriage of child widows was withdrawn during this period. In the beginning of 1000 A.D. only widows from the higher strata of society were not allowed to marry, but in course of time the custom got extended to their lower sections also in the hope of attaining respectability. Widows were ordained to lead a strict ascetic life. An ascetic generally removes the hair on the head and the custom of disfiguring the Hindu widow appears to have originated from this. During 11th century the cruel custom of ‘Sati’ was widely practiced. Most of the widows voluntarily ascended the funeral pyres of their husband because of the cruel and tiresome life they would be required to lead as widows. Sometimes, the cruel relatives of the widows burnt them forcibly became they were either afraid that the widows might misbehave and tiring disgrace to the family or wanted to misappropriate their share in the family property.\textsuperscript{46} Consequently the practice of ‘Sati’ or ‘Jauhar’ became quite common and popular particularly in North India.\textsuperscript{47}

By 1200 AD the widow’s right to inherit the share of her husband’s property came to be recognized all over the country. The recognition of the right of inheritance was thus a blessing to the poor widows. The daughter comes as the next heir to the widow.
Manu’s social codes and sanctions left their marks permanently on the future status of the Indian women. Manu clamped down women’s freedom in certain spheres in order to safeguard their position and to preserve the family structure. Manu’s famous dictums “a woman must be her father’s shadow in childhood, her husband’s in her youth, her son’s in old age” is too well known. The tenets of Manu have fostered a deep rooted belief in the intellectual and otherwise inferiority of women. He says that women should never be given independence. He equated women with slave and his laws epitomize complete submission of women to men and there are still the sanctioned codes of conduct ascribed for and by and large accepted by women.

Manu brought down the age of marriage for a girl and advocated child marriage, though he warned fathers not to give away their daughters to men devoid of good qualities. Though polygamy was practiced, he strongly advocated monogamy and attached the greatest importance to sexual restraint and fidelity to one’s spouse. He laid down different rules even for a man contemplating separation. A woman deserted by her husband was given the right to marry after the lapse of a certain number of years. Thus, Manu was the principal law maker of the conservative Hindu period. His prime objective was to safeguard the interests of the family and society at the expense of individual liberty. Thus, the laws of Manu, as do all the earlier documents of Hinduism show various attitudes, both appreciative and depreciative, towards women.

1.5. Muslim Period

In the Muslim period, i.e. in the 11th century onwards, the position of women further deteriorated. Women faced a number of hardships and cruelties due to evil practices like child marriages, Sati, widowhood, prostitution and the devadasi system. As Hate mentions, the advent of the Muslims arrested the progress of Hindu civilization and an era of blind faith and perpetuation of old customs followed. Life became insecure. Restrictions on her rights and freedom and her resultant hardships were aggravated. Women were forcibly
taken away to be slaves or to marry into Muslim homes. The consequent insecurity and instability further narrowed down women’s social liberties.

On the one hand, the Muslim conquerors attempted to impose their norms on the conquered Hindu population; on the other hand, the Hindu society itself became more and more rigid curtailing thereby the rights and freedom of the lower castes and women. Due to this two-fold reason, this period is one of the darkest periods for women in Indian history. The steady deterioration of her status continued till the 19th century.

Hindu women, like their Muslim counterparts, adopted the purdah. In Northern India this practice was vary rigorously enforced. As Sridavi has stated, ‘Most women, being subject to purdah, had no opportunity for education. They remained somewhere in between the two portals, with no education, no special privileges.’ Polygamy and purdah were two of the most important social institutions of the Muslim conquerors of India. Under the Purdah system, not only were women required to live in a secluded apartment in the house but also they had to dress in an apparel which completely covered their body excepting the eyes. Along with the insecurity and uncertainty which prevailed in the Mughal period, the practice of purdah became rigid and women were forbidden even to visit the holy shrines. They lost all their liberal activities and became the property of their male masters. The practice of Purdah, invented to protect women, had a restrictive effect. As a result, the social life of women narrowed down.

During this period the role of women conformed to the dictum laid down by Manu, the great law giver of second century that, ‘a woman does not deserve freedom’ and that she should, throughout her life, be dependent on man. Another similar dictum laid down by him was that a woman should be subservient in all stages of her life – “in childhood to the father, in youth to the husband and his elderly kins and to the sons when widowed.” Among the traditional Hindu families the fate of a woman, especially of the daughter-in-law, was always of subordination to all other members.
The position of the daughter in Hindu society reached its peak. As child marriage was a popular practice of the social life of the Mughal period. Hindu daughter, too, were married before the age of nine or ten and in some cases were married even before they had learnt to talk. The legal position of Hindu women with regard to inheritance was again unsatisfactory. Women were excluded from succession to property which made them dependent on men. Due to early marriage, girls were deprived of education. All these social circumstances led to the further deterioration in the position of daughters.

Widow re-marriage was prohibited in general. Altekar says that the prohibition of widow re-marriage began to be imposed from about 1000 AD even on the child widows. It was totally prohibited in Hindu society from about 1100 AD. Initially, society upper caste widows were prohibited from remarrying whereas lower caste widows were allowed to do so but due to Sanskritisation and the desire to increase their respectability, began to impose upon themselves the prohibition of widow re-marriage.

Once widow marriage was prohibited, society desired to make the widow as unattractive as possible so that no man could ever want to marry her. With this idea in mind, the widow was tonnired and made to wear white clothes only. The idea might probably have been borrowed from the Buddhist or Jain nuns who wore white clothes, when they renounced the worldly life, since the widow too was supposed to have renounced the world. She was forbidden to wear any jewel. She had to sleep on the bare floor and partake a fugal meal cooked by herself only once a day. This deprived her of good health and good looks, so that even if she wanted to remarry, no man came forward to do so. Vedvyasa opined that if a widow does not become a Sati, she should shave her head. Widows had to follow strict rules and restrictions and so they frequently preferred ‘Sati’ to the tiresome life prescribed for them. Most widows voluntarily ascended the funeral pyres of their husbands. This cruel custom of Sati was widely practiced during this period. The Hindu widows who did not observe ‘Sati’ were held in great dishonour. The practice of Sati was also extended to the southern parts of India.
The practice of the living women consuming her body in fire was so gruesome that ‘Ibn Batuta’ actually fainted when he witnessed one such instance. The widow in the case was persuaded to believe that her act of self immolation was even more auspicious than the nuptial ceremony since it guaranteed the continual association with her husband in life after death.\(^8\)

Due to lustful proposal of Alauddin Khilzi, Rani Padmavati with about 700 Rajput committed themselves to flames which came to be known as ‘Jauhar Vrata’. Gradually child marriages were preferred in the society and the death of a widow was welcome news as she would not fall into evil hands. A woman in Hindu society has always been considered an appendage to her husband. She had no life apart from him. Consequently on her husband’s death there was no reason for her to live on. Also the husband was her sole protector. Once he was gone, who would protect her? During foreign invasions by the Turks, Muslims and others when their men folk were killed, the widows were very naturally expected to commit ‘Sati’.

Hence, immolation of widows and killing of girl child infanticide started in a large number. Such willful violence came to be called as a curse of the Hindu society. Child marriage, girl killing, widow burning, all came to stay with the dignity of the conventions in Hindu society because the Hindus were destined to remain slaves for about thirteen centuries. Even the Muslims could not prevent this fate till they became subjugated by the white rulers of England.\(^9\)

During this darkest period when the black cloud of social reaction completely submerged the freedom of woman, a silver lining was visible. Some of the Moghul emperors through social reforms tried to relieve the hardships of women. They discouraged ‘Sati’ and adopted measures to prevent it as far as possible, but did not succeed. For instance, Akbar did not permit it in cases where there was the slightest disinclination on the part of the widow or when a young widow’s marriage was not consummated. During this period, two schools of law emerged viz. Mitakshara and Dayabhaga, the exponents of these schools being Vijnaneshwara and Jimutavahana respectively, these commentators
attempted to improve the position of women. They strove to give a definite share of property to women. However, in the total setting of complete subordination those meager rights hardly brought any benefits to women. The Hindus did not assimilate the customs like divorce, widow remarriage and a larger share of property for women, which governed the Muslim society. The Hindu society had become so static and rigidified that their contact with the Muslims, whose social relations were relatively democratic, did not prompt them to adopt the democratic elements of the Muslim society. The Hindu society continued its old pattern of life based on the principles and directions of Manu.

In the history of India, the 10th century was a period of all around decline. It was the darkest period so far as women were concerned. Political decay following the disruption of the Mughal empire and disorder due to the advent of various European powers, combined with fossilized customs, traditions, superstition and irrational bigotry, ruined the nation. Under the new conditions, women lost their independent identity. They did not enjoy a separate world of their own. Until quite recently their very existence was almost merely a bare necessity and taken to be an indispensable appendage to the male population. They were totally and forcefully subjugated to male superiority physically and intellectually.⁶⁰

1.6. British Period

In the latter half of the 18th century, when the British came to India, women’s status had dropped to the lowest level. It was the worst period in the history of the country because of child marriage and Sati system etc. A.L. De’Souza says, “Women were denied equal rights in marital, familial, social, educational, economic and political fields. They were assigned a subordinate status. The marriage ideals, power and authority exercised by the joint-family and caste system combined with illiteracy, age-old traditions, seclusion within the four walls of the house, made it difficult for them to seek full personality development. They had scant personal identity and few rights”⁶⁸.
Cousin, referring to the status of women at the end of the 19th century, states that the condition of woman was at its lowest point of literacy, of individuality, of health, of social status, of freedom of movement, or initiative of economic status of power. This deterioration in the status of women brought about a number of consequences. The uneducated were considered on a level with Shudras, married before their characters were fully developed, transferred from the loving and sympathetic atmosphere of the parent’s house to the house of the parents in law. Where an atmosphere of awe prevailed apprehensive of suppression, frequently forced to drag on a miserable existence in an interminable widowhood, their character suffered from forced repression in some direction and unnatural stimulation in others. They had no status in society none in their own estimation. They were more like puppets which move when someone else pulls the strings than individual human being with minds of their own.

The reasons that are responsible for the deterioration of the status of women in India were: (1) patriarchal joint family system (2) polygamy (3) Sati system (4) Forced widowhood i.e. denial of the right to remarry after widowhood (5) denial of the right to divorce (6) child marriage and (7) the purdah system. Because of child marriages with old men, there was an increase in the number of widows. Both child marriage and the purdah custom led to low literacy rate among women. Their entry to social, political and religious functions was prohibited. They were depressed to such an extent that they could not comprehend their own freedom and independent personality. Although we find during this period some exceptional women like, Chand Bibi, Ranii Laxmibai, Kittur Rani Channamma and Rani Abbakkar who made the remarkable impact in the field of administration.

The British were the first rulers who unified the country as a whole and were liberal in their thinking. They believed that rational thinking had to be the basis for all customs and institutions and all customs and institutions not so based on reason had to be done away with. Hence, during the British rule Indian
society faced significant modifications. The British Government worked slowly and succeeded in providing an alternative way of life for those who wanted change, by introducing a new type of economy, state structure, educational system and also by passing new social legislations.

For the upliftment of women in India several factors were responsible. The first one was the direct influence of the British noted for their courtesy towards women; the general awakening of Asians in the twentieth century and the political struggle for India’s independence also gained considerable force to the feminist movement in India.64

The position of girls, women and widows was improved during the British period. They introduced female education in India. But the system of child marriage came in the way of the spread of female education. Hence in 1929 they passed the child-marriage Restraint Act. This Act restricted the evils of early marriages and increase in the number of girl widows. The Act not only prohibited the solemnization of child-marriages but also raised the minimum age for marriage of girls to 14 and of boys 18 years. This Act of 1929 was also known as the Sarda Act. Besides removing the evils of child marriage, it promoted female education. This led to the improvement in the position of the daughter.

The familial social status of the wife also improved during the British period because of rise in female education and the rise in the age of marriage. The Hindu Women’s Right of separate Residence and Maintenance Act of 1946 enabled Hindu wives to claim maintenance even without having judicial separation under certain circumstances. Women acquired a new social status because of social legislation called the Civil Indian Marriage Act, 1872.

The cruel practice of ‘Sati’ was on increase throughout the 17th and 18th centuries, because at this time religion had become corrupt and people were governed by the priests. Hindus at this time were unenlightened and had become strict followers of customs and conventions. People firmly believed that man’s
sins were completely washed out if his widow was burnt alive with his dead body.

The pitiful and pitiable plight of the widows who were forced to commit ‘Sati’ attracted the attention of a good number of enlightened Indians and the British under the leadership of Raja Ram Mohan Roy and Lord William Bentinck. Inspite of the strong opposition, a historic resolution of great importance was passed in December, 14, 1829, by which Sati was made a crime of culpable homicide punishable with fine or imprisonment or both. However, the widow was ill treated by her in-laws and kinsmen as the virtual destroyer of her husband. She was never allowed to appear cheerful or wear bright clothes or ornaments. She had to drudge along day and night and was the victim of all kinds of insolence by other women of the household including servants. The tragedy became all the more poignant if the widow happened to be the child. Therefore, in order to improve her lot, the British passed the Hindu Widows Remarriage Act, 1856. This Act was enacted to remove all the legal barriers to re-marriage of Hindu widows.

Later, the British realized that they could stop ‘Sati’ by police force but that they could not arrange the remarriage of widows. These widows had to suffer because they had no property of their own. To improve the economic condition of the women the Hindu Women’s Right to property Act 1937 was passed. According to Section 3 of the Act, on the death of a Hindu male, not only his son would succeed but also his widow and the widow of the pre-deceased son. By this Act, a widow got the right to claim partition and a right of enjoyment of that property during her life-time. Though she was made a limited owner of her husband’s property, she was freed from depending on other members of her husband’s family for food and other necessary requirements.

Besides these governmental activities, Mrs. Annie Besant, in 1917, tried to promote women’s education through the Indian Association. In 1920 the Federation of University of Women was established and in 1925 National Council of Women started. Great personalities like Raja Ram Mohan Roy, the
founder of Brahma Samaj Ishwarchand Vidyasagar, as the founder of Arya Samaj, Dayanand Saraswati, Keshub Chandra Sen, Gopal Krishna Gokhale Ramkrishna Paramhansa, Swami Vivekanand, Byraamajai Malabari, Pandita Ramabai and others tried to bring about unprecedented awakening among women who were down-trodden and had been oppressed for centuries.

The familial, social and legal position of the Hindu women greatly improved during the British period, as compared to the Muslim period. Although a small section of women took advantage of these measures and privileges given, their initiation was indeed significant. During India’s struggle for independence, thousands of women took part under the leadership of Mahatma Gandhi, Sarojini Naidu, Vijayalaxmi Pandit and Kasturba Gandhi. Gill has rightly observed about the achievements with regard to the status of women during the British period that if a person who died a hundred years ago comes to life today, the first and most important change which would strike him is the revolution in the position of women.65

1.7. Contemporary Period

Due to the principles of democracy based on liberty, the role of a woman began to change towards greater emancipation from man’s domination. In India, due to efforts of social reformers and social legislations, women were brought out of the confines of their home.66 The process of industrialization and urbanization had their share in the changes which followed.67 It was the twentieth century that brought about dynamic changes and new concepts which improved the status of women giving them fresh dignity and importance.

The Constitution of the Indian Republic has incorporated in its objectives, the principle of equality and has ushered the Indian women folk into a new era. It has also proclaimed the equality of men and women in all domains of life. In Article 15 of the constitution it is mentioned that, “the state shall not discriminate against any citizen only on the ground of race, religion, caste, sex, place of birth or any of them. Article 16 provides, “there shall be equality of opportunity for all
citizens in matters relating to employment or appointment to any office under the state. Under Articles 325 and 326 women are not only given voting rights but also the right to contest elections. They can take part in the political life of the country and hold any office from the highest to the lowest. Even the Directive Principles of State Policy contain directives towards the emancipation of women. Article 39 provides ‘equal pay for equal work irrespective of sex’. Education is also made free and compulsory for all the children of 5-14 age group. Accessibility of education and availability of increasing opportunities for acquiring education has brought about tremendous changes in the role of women.

Apart from the Indian Constitution, many other modern Indian legislations have improved the position of women by offering her the same rights, opportunities and openings which a man already had. For example, the Hindu succession Act, 1956 has recognized the right to property of the Hindu daughter. This Act has placed the daughter at par with the son. Now she can succeed to the undivided interest of her father in the joint property and to the separate property of the father along with other heirs specified in clause I of the schedule. Dowry system, an abominable social evil, which makes young woman’s life miserable, has been curbed by the enactment of the Dowry Prohibition Act of 1961. After the Hindu Adoption and Maintenance Act 1956, a wife enjoys a respectable position. She can even live separately under Section 18 and can claim maintenance under certain circumstances. The husband can not adopt a child without the consent of his wife under section 7 and the wife under Section 8 can adopt a child when her husband has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind. Under the Hindu Marriage Act 1955 both husband and wife can claim divorce.

Widow remarriage has been legalized. Section 14 of the Hindu Succession Act 1956, has made her the absolute owner of the property. She is not diverted of the property, which she has inherited from her first husband even
after her remarriage. Under Section 6 of the Act, she inherits the coparcenary interest of her husband along with the son and daughter. Section 6 of the Hindu Minority and Guardianship Act, 1956 recognizes her as the natural and legal guardian of her minor children after their father.

The above stated legislations have promoted emancipation of women to a very large extent. Besides these legislations, under the provisions of the Directive Principles of State policy each state has undertaken women’s welfare programmes. The Central and State Governments have shown keen interest in betterment of the legal, social, educational and cultural status of women. There is hardly any field today wherein women have not entered. In a nutshell, it can be said that education and women’s participation in all fields of economy, science and culture is helping them in achieving the real equality.

On the basis of above discussion, it may be concluded that the present status of women in India is pleasing and satisfying. But it is only one side of the coin. The actual position is somewhat different. With rapid urbanization and industrialization of the country, exploitation of women in recent years has been a serious menace to our society. Notwithstanding the multiplication of legislation in various fields with a view to improve the social, political and economic conditions of women, even the ancient forms of victimization, child marriage and premature consummation resulting in early and dangerous pregnancies, female infanticide, illegal abortions, dowry deaths, rape, eve-teasing and various other forms of molestation of women still continue. In fact, since the passing of the Dowry Prohibition Act and even after several amendments to the I.P.C., Cr.P.C. and the Evidence Act, dowry deaths are on the increase. Under the Hindu succession Act, parents make will depriving daughters. Though bigamy is an offence, the rate of desertion by husbands and illegal second marriage is on the increase.

The advancement of reproduction technology has brought in the new phenomenon of female foeticide. One study revealed that nearly hundred percent of the aborted fetuses were females. The condition of elderly women is also not
satisfactory especially those of widows. She has to earn to run the house and raise her children. If she does not earn, her condition is even worse. If the widow has no issues, she has to work hard as a maid servant in her husband’s family or relations who might have taken her in and is totally dependent, for all her needs, on others. She has neither economic security nor a say in decisions concerning her. Families still believe that once a daughter is given away in marriage, she cannot be given away again to another person. Hence, widow remarriage, tough sanctioned by Hindu Widows Remarriage Act of 1856, seldom takes place and is discouraged.

Thus we see that the condition of Indian woman is still shocking. The life of woman in India is surrounded by violence, neglect and exploitation. The incidence of Bride burning is happening everywhere in our country these days and the number is increasing alarmingly. Even the educated urban and well informed women are exposed to such events.

The Committee on the Status of Women in India rightly concludes that, “the entire exercise of our committees has indicated that in certain important areas and for certain sections of the female population, there has been repression from the normative attitudes developed during the freedom movement. Even after the promulgation of the laws legal measures, the protection enjoyed by the large masses from exploitation and injustice is negligible. Though, women don’t numerically constitute a minority, they are beginning to acquire the features of a minority community by the recognized dimensions of inequality of class, economic status, social position and political power…The chasm between the values of a new social order proclaimed by the constitution and the realities of contemporary Indian society as far as women’s rights are concerned remains as great as at the time of independence.

1.8. Concluding Remarks

It appears that the Ancient Hindu society had a flexible social structure. There was equality between men and women. Women were given freedom to
move freely in the society and to take part in public life. This gives us an idea as to how they had realized the truth that women too have their own contribution in the development process and progress of the society.

Later on, many barbarous practices developed and women were confined to a subordinate status. The Shastras directed women to be in the state of dependence and submission. The deterioration of the status of women started with Manu, who equated woman with slave and said, “a woman should never be independent”. He led society to consider a woman to be a perpetual minor and as such should always be looked after by others. Education was denied to her and she was confined to the shadows of ignorance. She used to be behind purdah and living in the seclusion. Woman was known as ‘abala’, a weak helpless and powerless person, incapable of managing and preserving the family property. A wife was treated as a property of her husband. She was made to immolate herself on her husband’s funeral pyre. The subordinate position of woman was deep rooted in the Indian society of that period.

Woman’s role began to change towards greater emancipation from the domination of man with the advent of the British rule, democracy and liberalism all over the world in the eighteenth century. This new freedom brought about new changes in the role of women. In addition to this the processes of industrialization and urbanization also brought forth a lot of changes in the life of the people. With the efforts a number of social reformers of the 19th century and the legislations passed after independence, women were brought out of their homes and helped in achieving equality with men. These changes have caused profound influence on different dimensions of the family system and women’s status in the society.

But the law alone is not enough to bring about a radical change. Notwithstanding the multiplication of legislation in various fields, with a view to improve the social, political and economic conditions and status of women, exploitation of women in recent years has been a serious menace to our society. Even the ancient forms of victimization, such as child marriage and premature
consummation resulting in early and dangerous pregnancies, female infanticide, illegal abortion, female foeticide dowry deaths, rape, eve teasing and various other forms of molestation of women still continue.
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19. Rigveda, III, 31-32
20. Supra note 15 at 45.
22. Supra note 1 at 23.
23. Supra note 3 at 144-145.
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27. V.V.Praksh Rao and Nandini Rao.
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32. Manu IX. 100.
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56. *Supra* note 3 at 156.
57. *Id* at 160.
59. *Supra* note 26 at 47-8.
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64. *Supra* note 1 at 35.
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