Chapter-II

Status of women: An Historical perspective
CHAPTER II
STATUS OF WOMEN
AN HISTORICAL PERSPECTIVE

"The history of mankind is a history of repeated injuries and usurpations on the part of man toward women, having indirect object the establishment of tyranny over her."\(^1\)

2.1 GENERAL

A chronologically critical account of research into past record of events is a revelation of repeated injuries and usurpations on the part of man toward women. This problem is as old as the history of mankind. Tyranny over the other is the negative bestial tendency and man's behaviour over women is worse than that of brutes. The dignity of women being paid as a heavy ransom at the altar of masculine arrogance is the blackest chapter in the historicity. Being governed by religious, traditional, cultural, and customary practices, and usages, man has contrived sinister designs to dominate his better-half by imposing excruciatingly cruel restrictions. Superstition founded on blind faith is the weakest point in human nature in all the tenants of world religions. The nature of man at anytime in the history of mankind is one and the same. Periodical codification of conduct of women in different periods of history reveals highhanded behaviour of male chauvinism. It is quite tragic that the authors of the codes of conduct in the history were all men who were sick of self-love, yearning for cosy comforts of women in all possible ways. In order to assess the real position of Indian women in family or society, it is essential to review India's social history. The status of women in India during different ages or periods of civilization has seen many ups and down. There is ample evidence in all Indian

Women's Rights Conventions, Manifesto, Seneca Falls
scriptures that gender bias relegated women as second-rate citizens bereft of fundamental right to dignity.

At the beginning of the Hindu civilisation this degradation was not to be found or not in the same measure, as today. It is not the discrepancy between social norm as fixed in writings and the actually practised morals alone that makes the analysis of the position of women in ancient India difficult. Since procreation of descendants, and in fact of male descendants, was the most important worldly and religious goal of the Aryan Hindu, the purpose of life of woman was determined only by this goal: Woman is created only to enable man to continue his species through sons and gods. In the olden texts, in the hymns of the *Rig Veda Samhita*, a marriage-prayer says that *Oh! You merciful Indra, make this bride here rich in sons, rich in happiness, lay ten sons into her, make the husband her eleventh.* It is also stated that women are fickle-minded and uncontrollable. They role as seducers of men was stressed time and again, and they were compared to the gateway to hell. *Pancacuda* condemned women with the greatest vice of coveting men other than their own husbands. It was inherent in their nature to be unfaithful and they always went in for handsome men and those who could sing and dance well. Women were accused of being lascivious, devoid of love for their husbands and of always tempting men. According to *Brahmanic* belief, man slips into the womb of the wife in the form of semen, and is born again as son. *Manu*, the lawgiver writes that the husband, after the conception of his wife, becomes an embryo and is born again of her; for that is the wifehood of a wife (*gaya*) that he is born (*gayate*) again by her.

It was considered that wife to be a friend, the daughter to be a misery, and the son is to be the light in the highest heaven to man. Since time immemorial a woman who gave birth only to daughters could be cast off.

*Rig Veda, X.95.15; VIII.33.17*

*SPB. III 2.4.6*

*Mahabharatha Anu. 38.17; MS IX 14-15; II 213-214*
According to the law of *Manu* in the eleventh year another wife could replace her. When a girl is born, no joyous ceremonies take place, although the necessary rites are performed on her. In *Veda* it is written that 'a newborn girl is put aside; a male child is held aloft. The childhood of a boy is accompanied by many sacraments and ceremonies, which are also always big family festivals; ceremonies for girls are held without much expenditure and festivity. A brother-less girl is despised. If the son dies, but the daughter continues to live, then she is considered the killer of her brothers.

The Then ruling lawmakers of the land designed male centric tenants to govern the nature of activities of women where women’s role was reduced to domestic chores and sacrificial prayers. Her submissive role is confined to act as a doll in the hands of husband for sex games and child bearing. It was in the interest of the *Brahmanical* lawgivers to keep the status of the wife as low as possible and to deprive her of all freedom and privileges. A woman was never to be independent and without male control in her life. According to *Manu* woman owes her male master for the time being, but especially the husband absolute obedience and is not permitted to do anything without his consent. Women are not created to be independent and must therefore always be watched, protected and controlled by a man. "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 duty of the wife is to worship her ‘master’ (*pati*) as her first god; for only thus only can she hope to make spiritual gains. Her prayers, fasts, ascetic exercises and pilgrimages are all for the salvation of the husband, she must always try to please and serve him. *Manu* regards woman as more emotional and less rational by nature than man. "When creating them, he allotted to women a love of their bed, of their seat and of ornaments, impure desires, wrath, dishonesty, malice and bad conduct."

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5 *Manu* V. 147-148
6 *Manu* IX.17.also IX. 14-15
He further states that "women are destitute of strength and given to falsehood."\(^7\)

The story of Anasuya from the *Markandeya-Purana*: Anasuya's husband who was a leper, ordered his wife to carry him on her back to a courtesan. On the way the husband kicked an angry *Rishi*, whereupon the later cursed him, he would die before sunrise. But the faithful wife, by means of her powers, which she had acquired as a *pativrata*, prohibited the sun from rising. The sun, naturally, had to obey the order of a *pativrata*. Darkness covered the earth until gods finally intervened and persuaded the *Rishi* to withdraw his curse. The ideal has found its classical expression in the character of *Sita* from the epic *the Ramayana*. *Sita* follows her husband *Rama* into exile, shares all the sufferings with him, then, after *Ravana*, the demon (*Rakshasa*), King of Lanka (*Ceylon*) has abducted her, resists firmly all promises, threats and torments and is finally, after her liberation by *Rama* she is cast away, because she has lived so long in the house of another man. She can prove her chastity only through an ordeal by fire. Further examples of the *pativrata* from the *Mahabharata* are *Savitri*, who wrested the life of her husband from the death-god *Yama*, and *Gandhari*, who blindfolded herself for her whole life, because she found at her wedding that her husband was blind.

The Widow Remarriage Act of 1856, which facilitates that widows can marry, has not yet become a socially accepted norm and a widow who wants to marry a second time must, in the upper strata, still fight against the old social prejudices. The development of discrimination against widows is closely connected with the tendency of *Brahmanical* lawgiver to firmly establish the norm of absolute monogamy for women of the Hindu elite. *The Vedic* tradition and the two great epics do not know the strict rule of monogamy. The five *Pandava* brothers of *the Mahabharata* led a polyandry-
married life with *Draupadi*. Polyandry was not only a custom among several *non-Aryan* tribes, but was practised by *Aryans*, at least in the form of brother polyandry.

The polyandric traditions, whether of *Aryan* or *non-Aryan* origin, led also to the development of levirate marriage (*niyoga*), for through the marriage a woman became the property of a family and after the death of her husband passed over to his brothers. Through the institution of *niyoga-marriage* it was ruled out that a widow remained childless and uncared for. One of the brothers of a *Brahmin* used to be called to procreate a son for the deceased with his wife.

Around 300 B.C the opposition began against *niyoga* as well as the remarriage of widows. In the period after Christ feelings against widow-marriage become stronger. From A.D 1000 onwards widow marriage as an institution disappeared from social life, however, only in the higher castes. Widow-marriage continued to be in practice in the lower strata up to the 19th century. A widow was viewed as an embodiment of impurity, who ritually polluted everything with which she came into contact, and the feelings of moral aversion and mistrust towards her arose, which continue till today even among educated people. A woman who thinks of a second marriage after the death of her husband is still considered immoral. One of the most used Indian abuses is ‘immoral widow’. Since she was thoroughly impure, she could purify herself only through strictest asceticism. Like Buddhist nuns she had to cut her hair, remove all ornaments, wear only white clothes and remain mostly in an inner room of the house, so that her sight or touch could not pollute the other members of the household. She was not permitted to visit the sanctum sanctorum of the temples, to attend the family rituals connected with sacred fire and to join the great *samskaras*, because the holy fire played a role there. It was considered a bad omen if one happened to meet or see a widow on the road.
The practice of sati i.e., burning alive of the widow with her deceased husband spread even more and was finally demanded by society as a rule. It is a phenomenon peculiar to an illiterate, conservative and tradition bound society. It is nothing but a manifestation of the barbaric attitude of man towards helpless woman who becomes a widow. The irony of fate is that instead of the poor woman getting solace, sympathy and shelter to bear the tragic loss of her husband, she is forced to become or encouraged to be sati. Not only a woman compelled to be sati, but also the practice of sati has been given social and religious sanctions. Temples are constructed and sati is worshipped. The members of the family of sati feel proud and are respected in the community. It is amazing to note that there are approximately 140 sati temples in India of which 30 are in the northern state of Rajasthan alone. Sati is not a consequence of discrimination against widows, as one could think, but originated in older practices between the princely Rajput and Kshatriya families. However, later this custom was connected with the pativrata-ideal and the attitudes against widows thus acquired their religious significance. A sati used to be venerated in the subsequent period as a holy woman. For a widow death on the pyre was, therefore, the highest fulfilment of the pativrata ideal, on the other hand it liberated her from a miserable, hated, unloved and lonely life in the house of her father-in-law. Although sati was always intended to be a voluntary sacrifice, all social compulsions worked together to drive the widow on to the pyre. Often they were physically forced to die this death against their will. Kapadia describes the procedure of such a death by fire. They were bound with ropes on their husband's pyre, bamboo poles held the victims down, preventing their escape from the pyre, and drums and shrill instruments silenced the shrieks. To one's utter surprise and dismay the practice of sati has the sanction and approval of some of the great religious leaders. For instance, one of the four Sankaracharyas—the Sankaracharya of Puri, has approved of the act of sati.

It is high time that concerted effort was made to educate the people of the evil consequences of sati—a barbaric act of burning or burying a human being alive. Religious preachers should come forward and tell the people that sati is a criminal act, that it has no religious sanction, or approval.

The oldest texts of the Rig Veda and in the epics, when one speaks of brides, one always means grown up virgins. From the fifth or third century B.C onwards, Brahmanical law books are already recommending the marriage of a girl before the attainment of sexual maturity. The marriage age for girls had been brought down to 6-8 years and even below. It was only during the 19th century laws are passed for limiting child-marriage. A Brahmin who married a Sudra woman was considered untouchable and was not allowed to eat in the same row with other Brahmins. According to Altekar, in the 17th century pre-pubertal marriage was not yet a custom among the Kshatriyas. The justification given to the child-marriage that the girl was to go to the family of the husband as early as possible and grow up there, in order to learn to adapt herself to the husband and the mother-in-law, the chastity of the girls had such a high value that the Brahmin teachers went to this extreme.

The institution of dowry is another tragic dimension of woman's marital life. It is a cancerous and cantankerous evil that has eroded the very vitals of the institution of marriage inflicting all conceivable violence upon bridal party even today. This is greed-based practice. Bridegroom has a price tag in the marital market in accordance with his social and economic status. Higher the dowry greater is the chances for a better bridegroom. Commoditisation of bridegroom has assumed dangerous dimensions and the holy sacrament of marriage has been reduced to economics of marriage. Despite the liberal provisions of the dowry prohibition laws and concomitant penal provisions the dowry system has further spread.
The position of women slumped during the periods of Islam and Mughal rule. It touched the lowest ebb during the British period. It was not until 19th century, however, that serious efforts were made by social reformers to give women an honourable position in the society. The herald of the 19th century and the leader of the Indian renaissance, Raja Rammohan Roy was one of the first protagonists of women cause. He carried a vigorous campaign against Sati, which was ultimately legally prohibited in 1829. Roy was opposed to polygamy and he stressed on the need of removing the property disabilities of women. Other social reformers like D.N. Tagore, Ishwar Chandra Vidyasagar, Swami Dayanand Saraswati fought hard for the betterment of women. They made persistent efforts for the introduction of female education, remarriage of Hindu widows, prevention of child marriage and removal of polygamy. The result of the constant effort of these reformers and thinkers came to fruition in 1856 when the Widow Remarriage Act was passed by the Government even in the face of bitter opposition and raging controversy from the orthodox people. The efforts of K.C. Sen against early marriages facilitated the enactment of Civil Marriage Act of 1872. Other social thinkers of the 19th century like M.G Ranade, D.K Karve, Rabindranath Tagore tried to inculcate in women the spirit and values of the society by disseminating knowledge with the help of educational institutions, a number of institutions were founded to impart education to girls like Mahila Vidyalay (Women educational institution) in 1907. D.K Karve laid the foundation of the Women's University in 1916.

Although men were the first to take up the cause of Indian women, women too did not lag behind. Some of the outstanding women of the nineteenth century struggled against the prevalent condition and pursued with all sincerity the object of women's emancipation. Pandita Ramabai, Ramabi Ranade, Anandibai Joshi and other were constantly engaged in their efforts to raise the social positions of women. They gave guidance and direction to a movement, which at that time was only in an embryonic stage.
Their dauntless struggle against orthodox society became a source of inspiration for many women.

The national movement under the leadership of Mahatma Gandhi provided further necessary impetus towards restoration of positions of women in Indian society. Mahatma Gandhi’s call to women to step out of the confines of their homes, to join the prabhat peris, satyagrahas (non-violent protest) and other related activities that had grown to be vehicles of political freedom, was one of the first attempts to draw Indian women out of the restricted circle of domestic life into equal roles with men. Writing in ‘Young India’ in 1918 Gandhi said, women is the companion of man, gifted with equal mental capacities, she has the right to participate in the minute details of the activities of man, and she has the same right of freedom and liberty as he. By sheer force of a vicious custom, even the most ignorant and worthless men have been enjoying superiority over women, which they do not deserve and ought not to have. Gandhi’s vision of freedom and equality for women heralded the inception of a movement in the early decade of the twentieth century. The women’s cause found able leaders in women like Sarojni Naidu, Raj Kumari Amrit Kaur, Kamaladevi Chattopadhyaya, Durgabai Deshmukh, Dhanavanti Rama Rau and many others. It also found organized expression in the formation of national bodies like the all India Women’s Conference in 1926, the Women’s Council in 1920, the state level bodies like the Joyti Sangha in 1934 in Gujarat and the Hindu Women’s Rescue Home Society in 1927 as well as the Sri Ratan Tata Industrial Institute in 1938 in Maharasastra and so on. The decades between 1917 and 1947 witnessed the emergence of a number of women’s organisations, which began viewing the cause of women with sensitivity and alertness. Their involvement in the struggle for political freedom had taken women’s long way from the position they had reached under the reformers. The women’s movement had made a bid for equality and though the substance
of this equality was yet to be realised, even when properly defined, they were no longer going to be satisfied at being the "second sex".

The low position of women in family and society goes hand in hand with their exclusion from the economic process and is confirmed by the Indian social history up to the present day. In lower castes, where they take active part in the economic life, women enjoy more freedom and more independence than that in the higher castes, where they were up to recent times excluded not only from the production process but also from the right to property and inheritance.

In contrast to the economic activities of women their right to property and inheritance occupies considerable space in the classical texts. The legal status of women with regard to property and inheritance is most closely connected with the kinship system. The discussion on the inheritance rights of daughters and widows reflects the conflict of the patriarchal Aryan immigrants with non-Aryan and partly matrilineally organised groups. The victory of the dominant patrilineal kinship system did not come without concessions to structural elements of the matrilineal system as we see in the development of property and inheritance rights of women.

"It is an essential characteristic of all nomadic warrior tribes that they are used to exploit cattle and human beings for economic gains. Thus they became the typical slave-owners, to the slaves belonged also the women, and in fact one's own women as well as the other, mainly of subjugated cultures of gatherers and hunters, horticulturists and primitive agriculturists, that women were part of the movable property of the Aryan immigrants is confirmed by the early the Vedic writings and the epics. This

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9 Gore M.S, "Urbanisation", p 13
10 Konig, die Stellung der Frau R., p. 10
concept has found expression in the much-quoted dictum: "women are chattel".

There were three types of ownership and property. The first type was property, which was so personal that it had to be destroyed or given away after the death of the owner—above all in the case of kings and princes. That category comprised clothes, weapons, conch shells, favourite horses, chariots etc. according to the *Veda* one could also count the wife among this kind of property, which had to be destroyed after the death of the husband. The second type comprised status symbols of a king or dignitary, to that belonged among others parasols and fans. The third type of property a man had unlimited property rights, to this belonged land, houses, cattle, all movable property, sons, wives, slaves. A man owned a wife as he owned a field, and the fruit that this field yielded belonged to the owner of the field, irrespective of who had sown the seed.

The most famous example from epic literature for the fact that wives were considered as movable property is the episode from the *Mahabharata*, in which Draupadi, the wife of the five polyandric Pandava brothers, was staked and lost in a game of dice by her first husband Yudhishtira. Draupadi protested passionately against this disgraceful treatment, but characteristically she does not attack the absolute power of the husband over the wife; but says that Yudhistira was not a free man any more when he staked his wife. A slave cannot alienate any property. According to this conception that the wife is the property of the husband, adultery is considered to be the theft of another man's property. Even Bhisma and Yudhishthira, who were acclaimed for their sobriety, righteousness and impartiality, thought that women were the vilest creatures on earth and at the

11 I. Karve, *Kinship*, pp 357-58
12 *ibid* p 357
13 *ibid* p 358
14 *ibid* p 361
Yudhisthira further requested Bhishma to describe the conduct of virtuous women. Bhishma described this through the anecdote of Sandili and Sumana. When asked by Sumana how she had attained divinity and came to reside in heaven, Sandili answered that it was not through performance of any religious rites or penance but through fidelity and loyalty to her husband that she became a goddess. Never did she utter a cruel word to her husband or do anything dishonest. Any food or drink that her husband disliked was avoided by her and when he was away from home she gave up using cosmetics. Meanwhile, she kept herself busy with various auspicious activities and when he came back, she served him with all attention. She did not stand outside the house or hold long conversations with anyone. She got up early, did the household work with her own hands and made others do their respective jobs. She worshipped gods, forefathers and the brahmanas, and looked after her parents-in-law. By thus executing all her conjugal and familial responsibilities dutifully, she came to be what she was. Bhishma quoted the conversation between Narada and Pancacuda, a nymph, in order to describe the nature of women. At first she declined to comment on women because how could she speak ill of those belonging to her own sex? However, being encouraged by Narada that one should not be afraid to speak the truth, she told him: 'God created women with all kinds of vices and they were the worst possible sinners. They were so deadly that death, hell, snakes, all combined stood on one side and women on the other. They were falsehood incarnate, without the knowledge of the Sastras or control of their senses, and were obsessed with ornaments, dresses, food and drink. According to the Mahabharata, the vices and faults of women were so numerous that a man would find it inadequate to relate them all even if he had one hundred tongues, lived for one hundred years and did nothing else but narrate all of them.

15 Mahabharata Anu. 40.4; 38.1
16 Mahabharata Anu. Chapter 124
17 Ibid Chapter 38
The wife, according to Brahmanical teachings theoretically co-owner of the property with her husband, since she formed a union with him, but this right was only a juridical fiction, for the wife could by no means dispose of parts of the family property and not even of her stridhana (exclusive women's property) as she pleased. The theory of co-ownership merely gave her the right to sustenance in the family of her husband. She did not lose this right even as a widow or when the husband replaced her by concubines. However, the wife had no legal means to sue for this right, when the husband squandered or gave away the family property. Only Vijnanesvara, the writer of the Mitakshara-Digest (11-12th century A.D), who under the influence of Mohammedan law wanted to secularise the inheritance law, permitted the wife to fight for her right to sustenance even in a court of law.

It is interesting that none of the writers of the Dharma Sutras and the later scriptures, who condemn the taking of bride price as a most abominable sin, disputes the right of women to the stridhana. Most of them also recognise the principle of inheritance right for stridhana in the female line, although some try to advocate its retention for the husband's family and grant the women only its usufruct, but not the right to alienate it without the husband's permission. According to Kautilya, a man who sells the stridhana of his wife against her will must return it with interest. The ideal of inviolability of stridhana is diametrically opposed to the patriarchal concept of absolute dependence of the woman on her husband. In the taboo of touching the stridhana we still find some survival of the archaic fear of men of the magical consequence when they appropriated female property.
Purdah system is another perverted version of man's invention among various social evils, which the reformers of the 19th century attacked which to a great deal regulated the life of women in north India. Purdah means literally 'curtain', more precisely, the door curtain between two rooms. But as a system purdah means not only the veil that covers Muslim women or the upper sari-end that Hindu women draw over their face or their eyes, but purdah is also the symbol for a comprehensive system of rules, codes of conduct, folk-ways, the principle of which is the most radical form of sex segregation and seclusion of women. This seclusion can be achieved through walls, railings, curtain, veils, separate compartments in trains for men and women, separate seats in buses, through gestures like turning away of the head or looking down and also through silence. Purdah means above all that a woman should never appear in public, and if that cannot be avoided, must protect her from being looked at by men. Purdah also regulates the conduct of individual family members among themselves. An exact code of conduct lays down which women are allowed to speak with which men, at what time, at what places and in which matters and how this communication has to take place. Purdah is an innovation that came to India through the Mughal rule, as many Hindu authors would like to assert. Not the external forms of veiling, the many minute rules, but indeed the principle of sex-segregation and seclusion of women goes far back beyond the Mughal era and belongs to the same tradition as discrimination of widows, child-marriage and the pativrata ideal. Through the Mohammedan invasion these already existing social tendencies were merely strengthened and further developed. Up to 11th century only a small minority of the Hindu society practised purdah that the majority of the women moved freely and indeed that they could even go to theatre and music performances accompanied by their friends. These visits afforded convenient opportunities to young peoples, anxious to settle their matrimony.24 Seclusion of women is not a direct consequence of the original separation of the spheres of life of

24 Altekar. A.S., loc, cit, p 176
man and women, but is the result of that patriarchal ideology that considered women as 'chattel' i.e., as movable property and reduced her to her sex function only.

A thorough study of ancient religious scriptures in Indian history reveals a dismally sordid picture of womanhood in Indian social fabric, where women have been the neglected lot of the society for the genetic sin of being born as woman. Woman is the sacrificial goat and an object of exploitation in the institution of marriage and all other spheres of social activities. It is quite surprising the erudite scholars who authored the great scriptures and epics had condescendingly stooped down to the basest levels of treating woman as a slave and servant. It is irony of the fate of Indian woman that these religious scriptures have formed the basis of law of the land and general practice. These are the random reflections of historical survey of reported account of scriptures. This has been proved that the repeated injuries heaped on women in the garb of religiosity, committed women to perpetual humiliation and exploitation.

2.2 STATUS OF WOMEN BEFORE CHRIST

The Vedic Period B.C 4000-2500 BC

Aryans came to India at a time when we were entering into patriarchal society leaving behind matriarchal society. Today's village deities Gangamma, Poleramma, and Ankalamma are the leftovers of the tradition. There was less discrimination against women during the period of Rig Veda in respect of education or religious affairs. But to think that there is no discrimination is wrong. The woman derived her status through her husband. For example Indra's wife was called Indrani. Dependency of women was the order of the day. A woman could select her life-partner but the father should accept her choice and perform kanyadana. The unmarried daughter was the property of the father. Later the father could transfer his
right to the bridegroom by performing *kanyadan*. In the later *Vedic* age the birth of a daughter was not welcome. In *Itereya Brahmana* there is a story hinting that the birth of daughter is a disaster. In *Atharva Veda* there is a prayer for blessing the embryo to be male. During that time there were two types of wives: one the housewife and the other who participated in meetings and conferences as in Rome. The daughter had no share in property if there was a son living. A kind of dowry was prevalent. Generally women were housewives. Education was very little. Catering was women’s duty. Women’s role as a mother was held in esteem whereas women’s role as wife had scant respect and almost disrespect. *Devadasi* system, polygamy and polyandry were prevalent in the society. During *Atharva Vedic* period prayers were offered imploring gods not to give female children. During *Rig Vedic* period the woman was a life-partner. By the period of *Atharva Veda* the aim of a woman was to have husband and bear sons. Marriage was the compulsory duty of a woman. Woman was taught to be obedient. Many restrictions were imposed over women in order to enable the husband to possess her. Polygamy was widespread in the society. The man could marry again if he could not have male heirs through his wife.

The position of women reflects the cultural attainment of a society. In the *Vedic* age, women enjoyed freedom for spiritual progress and intellectual development. Although the *Aryans* were engaged in warfare for political expansion, they looked to their women for their co-operation. *Vedic* texts are replete with references to rituals recommended for ensuring the birth of a daughter. The position of women reflects the cultural attainment of a society in the *Vedic* age; women enjoyed relatively high position in Indian society. They enjoyed freedom for spiritual progress and intellectual development. Women initiated into *Vedic* studies, were married at mature age and had full freedom in the choice of their husbands. The position of women during the early civilisation in *Vedic* age was much better. Literacy and historical researches have established that women held a position of equality with men
during the Vedic period. Girls were educated like boys and had to pass through a period of Brahmacharaya. The marriage of girls used to take place at a fairly advanced age, normally at the age of sixteen to seventeen years. There was no purdha and seclusion of women. Ramesh Chandra Dutt is of the opinion that Hindu women, inherited and possessed property; they took shares in sacrifices and religious duties; they attended great assemblies or state occasions, they also distinguished themselves in science and learning; they were considered as intellectual companies of their husbands, as friends and loving helpers in the journey of life of their partners, in the religious duties and the centre of their domestic bliss. Hindu wives were honoured and respected in ancient times.

Samhitas and Brahamanas (2500 B.C to 1000 B.C)

Woman in her periods of menstruation and confinement was considered impure. Woman had a part to play along with the husband in religious rites but it was the husband who performed the rites. The birth of a female was not welcome. "Women should not attend gatherings. Woman is one of the evils of the society."25 "She is lower in status than a bad man."26 "The wife should eat only after her husband takes his meal."27 "An obedient wife is to be commanded."28

Sutras and Smritis (800 B.C to 400 B.C)

Polygamy was in vogue. The father transferred his authority on daughter to the husband through 'kanyadan'. The wife acquired the status from her husband. Women participated in cultural activities.

25 Mytrayeni Samhita
26 Taittareya Samhita
27 Satapadha Brahmana
28 Aitareya Brahmana
**Apasthambha Sutra (800 B.C TO 400 B.C)**

The right to property to women is denied. Woman was declared to be unfit to offer oblations (pinda) to the ancestors. Inter-dining or inter-marriage with Sudras was tabooed. Nobody should recite mantras before a Sudra woman. Niyoga system was banned. Women were not debarred from participating in religious rites and programmes.

**Vasista Dharma Sutra (800 B.C to 400 B.C)**

Women were considered impure during certain periods of their lives. The men were to be the masters of households. Widows could remarry. He accorded due recognition to the Niyoga system. In certain situations, say for example, when the husband did not return from a foreign land, the wife was given permission to choose another man as her husband. Killing the husband, murdering a Brahmin and doing away with foetus were considered as the three most heinous sins.

**Ghrihya Sutras (600 B.C)**

Ghrihya Sutras were in force till the advent of Buddhism in 6th century B.C. Family became the unit of the society. Caste system became strongly rooted. Anuloma system of marriage (man belonging to high caste marrying a woman in a low caste) was customary. There were six types of marriages—Brahma, Daiva, Prajapatiya, Arsha, Gandhrva and Asura. The bride should not see the bridegroom before the marriage. The method of holding a curtain between the parties to the marriage came into vogue in the period of Atharva Veda. A woman was said to be in ‘brahmacharya’ till she reached 12 years of age.25 “The husband should not leave the wife when she can give

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25 Katyayana Grihya Sutra
children."\textsuperscript{30} Apastamba gave some protection to women. Marriage system became strengthened. According to Bhargava the widow should worship the sacred fire. But according to Vishnudharma she should do 'Satisahasramana'. During the course of time these rules were changed. Vasista did not permit remarriage of the widow if her marriage was consummated.

\textbf{Gauthama Buddha 600 B.C}

The position accorded to women is the measure of a religion's worth. The Hindu woman had no right to study Vedas nor did she have freedom to follow Dharmic course by performing religious rites. She could undertake pious fasts and sacred worship only with the permission of her husband. Husband's Dharma was to be her Dharma. She was bound to follow it. Service to the husband was her sacred duty. She was to be protected throughout her life. Bodhisattva granted women status equal to that of men. Budha's path liberated women from this bondage. There was no difference between men and women in Buddhist thought and way. Women had equal right to attain salvation. Buddhism recognised the right of women to strive for 'Nirvana' and become sanyasins. He noted the worth of women as mother and moulders of children and admitted them into monastic life. The way to divorce was made easy. Both the wife and the husband had rights to property. Women gained the right to adopt. It was only in Buddhist society that women became famous as religious preachers. In this way Buddha enabled women to gain respect to some extent. There were laws prohibiting use of force and violence against the unmarried and the married women. With the fall of Buddhism, Brahmin domination and caste system made a re-entry into the social fabric. Freedom, independence and equality of women were at stake during the Brahmanic Hindu order. The lawgivers might have

\textsuperscript{30} Apastambha Sutra
been afraid that woman had the capacity to enchant man thereby causing his downfall. Therefore they forged the order of *Varna Ashma Dharma* and pushed the women down to an inferior position. Many restrictions, harsh rules and orders were imposed on women. It was preached that it was a sin not to follow them. It was stated that women would go to hell in the event of transgressions. They were even threatened with excommunication from society. They were thus reduced to objects of pleasure.

**Srauta Sutras (600 B.C to 300 B.C)**

According to *Gautama Dharmasutra* marriage was accepted as social contract. Woman was not entitled to perform any religious rite without her husband's permission. The woman should be faithful and dutiful to her husband. Her entire world moved round her husband. Freedom to women was denied. The woman could be discarded by the husband in case she was sterile or begetting only daughters or quarrelsome. The husband had the right to remarry under those circumstances. The wife was not permitted to divorce her husband. It was the sacred duty of a woman to become a mother. She should not know the sacred texts. *Niyoga* system was accepted. Right of inheritance to woman is denied. Woman lost her individuality and identity during this period.

**Kautilya's Artha Sastra 300 B.C to 100 B.C (Kane)**

The great scholar and erudite master of political science *Kautilya* was also known as *Chanakya*. He pleaded for more freedom to women as wives. He prescribed monogamy for all. A man guilty of sedition or a migrant to foreign land or a eunuch or a depraved individual could be divorced. The husband was accorded the right to punish his wife by administering three blows with a cane or a rope or hand. A woman could marry her husband's
brother if her husband did not return from a foreign county. He set apart certain positions in the society to women.

**Manu Dharma Sastra (100 B.C)**

According to *Manu*, father in her infancy and maidenhood, the husband during coverture and the son in her old age were to be her protectors and providers. She was not to claim independence at any time. She was never expected to live separate from her father, her husband or son. She should be adept in discharging her household duties. She should be obedient to her husband. Having laid own duties for her he counselled men to be considerate towards women. He opined that bonded women could never be protected. The daughter was debarred from inheriting her father's property. He disregarded the wife. He accorded supreme importance and dominance to men in the society. *Manu* allotted to women a love of (their) bed, (of their) seat and (of) ornaments, impure desires, wrath, dishonesty, malice and bad conduct. He further listed six causes of women's ruin: the habit of drinking alcohol, keeping company with bad people, separation from husband, roaming abroad, sleeping at day time, and living in another's house. A popular saying enumerates falsehood, thoughtless action, trickery, folly, great greed, impurity and cruelty as the faults of women.

According to *Manu Smriti*:

- To spoil the man is the woman's nature
- Women can seduce not only fools but also learned men

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31 *Manu Smriti. IX. 17; Buehler 1888:330
32 Ibid. IX. 13
33 *Kane 1941: II.1.578
34 *Manu Smriti XI-213
35 Ibid --214
Man should not sit all alone with even his sisters, daughters or mother\textsuperscript{36}

- Women do not set much store by age or beauty. It is suffice for them if the other person is a man\textsuperscript{37}
- Women are generally not faithful\textsuperscript{38}
- Man should be wary in protecting a woman\textsuperscript{39}
- Under no circumstances a woman should exercise her independence. She shall be dependent\textsuperscript{40}
- Woman should always be under the protection of father in childhood, husband in married state and sons in old age\textsuperscript{41}
- Woman should never have the right to divorce\textsuperscript{42}
- In Manu's view marriage tie should not be broken not because that man should be in bondage of women but with a view to keep the woman in bondage of men. The husband has a right to sell his wife and also to abandon her. These circumstances will not put an end to the sovereign rights of the husband\textsuperscript{43}
- The woman, the slave and the son have no right to the property. The property acquired by them devolves upon the husband, owner or father as the case may be as they belong to him\textsuperscript{44}
- The wife, son, slave, disciple and the youngest brother can be beaten with a rope or a spilt bamboo\textsuperscript{45}
- She is not entitled to perform, on her own, day to day religious rites and sacrificial rites\textsuperscript{46}

\textsuperscript{36} Supra 21 -215
\textsuperscript{37} Ibid IX-14
\textsuperscript{38} Ibid-15
\textsuperscript{39} Ibid-16
\textsuperscript{40} Ibid-2
\textsuperscript{41} Ibid-3
\textsuperscript{42} Ibid V-149
\textsuperscript{43} Ibid IX-46
\textsuperscript{44} Ibid-416
\textsuperscript{45} Ibid-VII-299
\textsuperscript{46} Ibid-XI-38, 37
The woman shall be obedient throughout her life to the man to whom she is married by the father. After his demise she should cherish his memory. Even though the husband is bereft of good qualities and seeks his own comforts and pleasures elsewhere a faithful wife shall worship him as God incarnate.

The woman shall always present to her husband a pleasant face. She shall

Carry on the household duties intelligently. She shall clean the vessels properly. She shall practice thrift in her expenditure.

Murder of women, Kshatriyas, Vysyas, and the Sudras (those belonging to castes ‘inferior’ to Brahmins) and atheists are minor crimes.

The Ramayana and The Mahabharatha

There was no progress in the status and position of women during the Epic period. All the epics were not of the same time. The writers created characters of Sita, Gandhari and Draupadi as models of the ideal woman of their conception. When Rama questioned Sita about her chastity she went through the ordeal by jumping into fire to establish her purity and chastity not intending to counter-question him. Gandhari blindfolded herself as her husband was born blind just to prove her regard for her husband. Even though Kunti displayed an independent bent of mind by begetting children through ‘Niyoga’ she could not own her son born in her unwed state and became a victim to the social strangle and suffered immensely. Draupadi could exhibit semblance of courage; still the very fact that in those times the

47 Supra 22, -V-151
48 Ibid-155
49 Ibid-150
50 Ibid XI-67
idea was prevalent that the woman was tantamount to a thing. Even the little respect that the woman had commanded during the period of Vedas and Upanishads she had lost it by the age of 'ithihasas' (epics) socially, politically and educationally. Reform became an imaginary entity. In the Ramayana, Agastyah as observed that women loved their husbands in prosperity but left them in adversity, their nature was as fickle as lightning, as swift as the wind, and as sharp and deadly as a weapon. Laksmana, when unjustly rebuked by Sita for not paying attention to the false alarm raised by Marica imitating the voice of Rama, declared distressfully that women were impious, inconsistent, cruel by nature and that they alienated people by their very nature.\textsuperscript{51}

2.3 STATUS OF WOMEN AFTER CHRIST

\textit{Yagnavalkya Smriti} (100 A.D TO 300 A.D)

Girls of marriageable age could choose their husbands. Yagnavalkya accepted the system of 'Niyoga'. The daughter was recognised as a successor to her father's estate, of course after her mother, in the event of the father dying without a male issue. The wife was assigned to a prior place when compared to the daughter in the order of succession to a male. Like wise he preferred the father to the mother of the deceased in the order of heirs. He had stated that if a girl attains puberty before her marriage her parents and her brother would go to hell. While Manu had ordained that a girl should be married at a suitable age, Yagnavalkya went to the extent of declaring that a girl of twelve years should be married to a man of thirty years of age.

\textsuperscript{51} Ram. Aranya. 13, 5-6; 45.30
Narada Smrĳti (100 A.D. to 400 A.D)

According to Narada women like slaves, should not have right to freedom. He was good enough to concede to widows the right to remarry. Alas! He did not approve of the Gandharve type of marriage.

Varahamihara (500 A.D to 587 A.D)

Varahamihara was the most prominent among these who denounced discrimination against women and injustice to them. He was an astronomer and scientist of a high order. His writings in his book 'Brihat Samhita' run thus. "Women add lustre to diamonds, precious stones do not bring brightness to women. The woman gives happiness to man by her looks, words, touch and concept of hers. God has not created any diamond surpassing her. Only through her Dharma, Artha (wealth) and kama (sexual gratification) are attainable. She gives birth to progeny. That is why woman should be respected as the backbone of society and harbinger of happiness. Those are the talk of the evil-minded, which do not appreciate the good qualities of women and who detest them, has no value. Varahamihira categorically declared that it was unpardonable to ignore the good qualities of women.

Parasara Smrĳti (600 A.D to 900 A.D)

Parasara had determined the periods of impurity of woman. He had assured that a "sati", a woman dying on the funeral pyre of her husband would find her abode in the heaven. He permitted women to remarry under certain circumstances. According to him, when the husband's whereabouts are not known when he had migrated to foreign lands, or his death, or his renouncing the world, or his being a eunuch or a depraved person happened are occasions, where women can remarry.
Vatsyayana Kama Sutra (First and Second Century A.D)

Vatsyayana belonged to the Gupta period. He delineated the wife of a 'Nagarika' (a cultured individual). She should abide by his orders. She should live for his happiness. The 'nagarika' had to seek happiness and bliss not through his wife but with a woman given to pleasantry. A woman had the right in these days to choose her mate. Polygamy was not uncommon. Widow marriages were performed often. Sati was in vogue. The husband was a living god to a wife. She had to conduct herself in accordance with his wishes in all facets of life. Women had to cultivate the sixty-four arts. During that period of time 'moksha' (spiritual liberation) was removed from the list of objects of the life of woman.

Period of Puranas (300 A.D. to 600 A.D)

Child marriage had come to stay. Girls were married even at the age of five or six years. Marriage became a must for a woman. Dowry system was the order of the day. Sati was on the increase. Girls had no education. Devadasi system prevailed.

Institution of Devadasi and Courtesans (778 A.D)

The Devadasi phenomenon is not of recent origin but an ancient system that underwent gradual transformation with time. 'Devadasi' means woman servant of god, who is reserved mainly for the service of god to perform dances and sing songs in temples. Some historians, who have made in-depth studies of the women's movement in India, have affirmed that the Vedic period was a golden age for women. In Karnataka state this system of Devadasi has been said to be in practice since 778 A.D. An inscription at Virupaksha Temple at Pattadakal mentions the donation

52 Indian Antiquary XI p. 124, 778-9 A.D
given by one of the *Devadasis*. The study of the inscription reveals that the *Devadasis* were held in respect by the society though they were prostitutes. Even now they are found in some of the temples in Karnataka like *Madhukeshwara* temple of Banavasi. In the beginning of the British administration the position of women deteriorated. Women went back imperceptibly in social status by following *Manu’s* code. The system deteriorated showing moral bankruptcy at its worst and the people began to look on the *Devadasis* as prostitutes. The leisurely class of *Namboodtri Brahmins*, who also emerged as the influential land-owning class, were attracted to these women and they exercised an undesirable influence on them and on the society in general. They were joined by the *Nanduvazhis* or local feudal chieftains. It almost became a fashion for both these privileged classes to patronise the courtesans for the sake of female companionships and sexual gratification. The *Devadasis* as a class took advantage of the situation to amass wealth and acquire added influence in socio-political circles. They neglected the worship of gods and became preoccupied with the job of pleasing their new patrons with their feminine charms and pursuits, unmindful of all considerations of ethics and morality. The institution also became hereditary. The Karnataka Decades (Prohibition of Dedication) Act, 1982 clearly states that ‘dedication’ means the performance of any act or ceremony, by whatever name it is called by which a woman, dedicated to the service of any deity, idol, object of worship, temple and other religious institutions, is called a ‘*Devadasi*’. The Act further clarifies that notwithstanding any custom or law to the country, the dedication of a woman as a *Devadasi* whether before or after the commencement of Act and whether she had consented to such a dedication or not is unlawful. In spite of The Karnataka *Devadasi* (Prohibition of Dedication) Act, 1982 there are hardly any cases registered under it. This explains the ineffectiveness of mere legislation in a situation where the problem needs to be tackled from many angles.
The institution of 'women of the people' (ganikas) goes back to pre-Vedic times; temple-prostitution probably originated and was developed only in the time of the Puranas, i.e., the era after Buddhism. The term 'Devadasi' (servant of God) can be euphemistic, Sanskritised name for an older form of ritual prostitutes, but that is not certain. In the Vedic texts, of course one finds references to ganikas (later called prostitutes), but no mention of temple-prostitutes. However, most of the big Hindu temples also came up only in the post-Vedic epoch.

The Devadasis belong to the lowest strata of society.53 Courtesans, who belonged mostly to the class of 'singing and dancing girls' i.e., to castes with a long artistic tradition, were ranked above the Devadasis. Devadasis were consecrated to the gods already as children and were not allowed to marry. When they grew up, they served as temple-dancers, servants of the deity and as prostitutes. The sun temples were particularly famous for their religious eroticism. During 7th century, the Chinese traveller Husien Tsang reports that he has seen many Devadasis in the sun-temple of Somnath.64 Devadasi system was particularly developed in South India. In Mysore great numbers of girls were consecrated to the temples of the Goddess Yellamma, which means mother of all. Many stone inscriptions speak of big hand donations to temples and temple-girls.55

Many Devadasis even insisted that they have a right to prostitution. One can hardly imagine a greater contrast than the one between the morals of the Devadasis with their great contempt for the 'man called husband' and the morals of the orthodox Hindu woman at the upper end of the caste-pyramid with the worship of the husband as her first god. In the course of the reform movements for the improvements of the social position of women efforts were also made to do away with the Devadasi system. Gandhi spoke

54 Thomas P., Indian Women through the Ages, Bombay, 1964 p. 237
with passionate indignation of the beastliness of men, who had brought women to such a low position and exhorted the Devadasis to give up their dishonourable profession. He was however, deeply shocked, when a group of Devadasis, who did not understand his puritan views, made the offer to him to place their services at the disposal of Congress members. He tried in vain to explain to them that their life was a life of shame and that they should earn their livelihood through spinning and weaving. The Devadasis replied that they would like to do that if they could earn that way exactly as much as in their actual profession. The struggle against the Devadasi system in the name of a puritan morality, claiming to be progressive, has led to the prohibition of consecration of girls for temple-service. But thereby the Devadasis were merely deprived of their religious prestige; they became ordinary prostitutes, who live a miserable life in the brothels and slums of the big cities.

The invasion of the country by the Muslims in the late 12th century brought about further deterioration in the position of Indian women. Polygamy and Purdah were two of the most important social institutions of the Muslim conquerors of India. Women were kept away from education. Restrictions on her rights and freedom and her resultant hardships were aggravated. The steady deterioration of their status continued till the 19th century when the Indian women were probably among the most backward in the world.

The position of Indian women had reached the maximum degree of deterioration during the British Raj. Foreign concepts such as restitution of conjugal rights and church law came to be administered in India. The patriarchal joint family, the custom of polygamy and its concomitant with the Purdah, the property structure, early marriage, self immolation of widows

57 ibid. p 124-146 and 161
58 J.D.M Derrett, loc cit, p. 71
(Sati) or a state of permanent widowhood all these contributed to the lower social position of woman. Not only social institutions and customs thwarted the free growth of her personality, but the prevailing ideology also assigned the Indian woman as inferior status. She was denied independent personality. The prevailing conception of a woman, whether Hindu or Muslim was basically feudal in character.

The British established a modern capitalist economic system and modern state in India which generated a new climate for bringing about a change in the old, traditional feudal and in egalitarian social structure prevailing in the Indian society. No doubt the British rulers enunciated these new principles and tried to bring about changes in Indian society only to the extent, which suited to their own needs. The reform movements of the nineteenth century addressed themselves to the position of women within the family. The reformers attacked the social practice of Sati, child marriage and the harsh treatment meted out to widows.

To provide concrete examples of denial of property right, some decisions of the newly evolving legal machinery of British India are discussed below. These judgments have several commonalities. The husband's heirs initiated the litigations against the widows. In a significant number of cases, following local customs, the lower courts upheld the women's rights. The lower court decisions were reversed by the higher judiciary and then became binding principles of law. Significantly, in all the cases discussed below, the decisions were from property disputes within the Bengal Presidency but under the consolidated scheme of the hierarchy of courts, they became the binding principles of law for other Presidencies.

In 1868, in Srinath Gangopadhyya v. Sarbamangala Debi the Calcutta High Court held, that as per the Benaras School, once a stridhana

59 (1868) 10 WR 488
property devolves upon an heir, it loses its character as *stridhana* and devolves as per ordinary rules of Hindu law. In another landmark case around this time, the Privy Council held that the property inherited by the widow from her husband was not her *stridhana*. The Privy Council reversed the judgment of the lower court and proclaimed that "under the law of the Benaras School, notwithstanding the ambiguous passage in the *Mithakshara*, no part of her husband's estate whether movable or immovable to which a Hindu woman succeeds by inheritance, form part of her *Stridhana*.

The legal precedents set by the Privy Council became the binding rule of law and dealt a lethal blow to the property rights of Hindu widows, as the decisions of the various High Courts in the subsequent decade reveal. The Calcutta High Court followed this principle in 1874 in *Gonda Kover v. Kover Gody Singh*. The widow had purchased property out of the accumulated income from her *stridhana* and pleaded that it should be considered as her *stridhana*. But following the rule laid down by the Privy Council, the Calcutta High Court held that the property was not *stridhana* and hence she does not have the right to dispose it off by will and upon her death it would devolve on her husband's heirs. The courts also ruled that the property inherited by a daughter from her father is not *stridhana*. This principle was then extended to the property inherited by an unmarried daughter from her mother and later stretched to include the property inherited from all female relatives, thus sealing all avenues for the continuation of property devolution in the female line. In *Mussammat Thakoor Deyhee v. Rai Baluk Ram*, a childless widow *Choteh Babee*, gifted the property she inherited from her husband to her niece. It is reported in the judgment that *Choteh Babee* despite being a

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60 *Bhugwandeen Doobey v. Myna Baee* (1867) 11 MIA 487
61 (1874) 14 BLR 159
62 *Deo Parshad v. Lujoo Roy* (1873) 20 WR 102
63 *Dowlut Kover v. Burma Deo Shahoy* (1874) 22 WR 54
64 (1886) 11 MIA 139.
purdah nishin, was an excellent businesswoman who managed her property well. The husband's heirs challenged the deed, *inter alia*, on the ground that it was fraudulent and that she had no power of alienation over immovable property inherited from her husband. *Sudder Ameen* of Benares held that the widow was competent to gift the property. *Sudder Dewaney Adawlut* of Agra reversed the decision on the ground that the deed of gift was a forged document. At this point the right of the widow to gift her property was not a disputed issue before the court. The court only examined whether the gift deed was an authentic or a forged document. In appeal, the Privy Council ruled: "The widow has no power to dispose immovable property inherited from her husband, whether ancestral or acquired"

The second case decided by the Privy Council in 1903, *Sheo Shankar v. Debi Sahai*, provides yet another illustration of the judicial trend. The woman had inherited the property from her mother. After her death, her sons claimed the property as heirs of the mother and grandmother and deprived their sister. The subordinate judge of Gorakhpur, on 7 December 1897 held that the property inherited through the female line was the woman's *stridhana* and hence her sons had no right over it. On appeal, the Allahabad High Court reversed the decision. This resulted in and appeal to the Privy Council. In February 1903, the Privy Council upheld the decision of the High Court and laid down that the property inherited by a woman from her mother is not her *stridhana* and hence it will not devolve on her daughter who is her *stridhana* heir, but will devolve upon her son.

2.4 STATUS OF WOMEN IN DIFFERENT RELIGIONS

India has a multi religious culture. Hindus, Muslims, Sikhs, Christians, Parsis, Jains, and Buddhists, etc, constitute different communities based on different religious ideologies and faith. It is therefore, useful to see whether

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65 (1903) 30 IA 202
the discriminatory treatment meted out to women in India has roots in religions.

India is a mosaic of different religious faiths. The secular character of the Indian Constitution granting certain privileges to those who hold personal laws *sacro sanct* but the absence of uniform civil code creates certain problems of inequality among citizens.

The dignity of women began diminishing in the post-Vedic period where a Hindu woman was described in a multitude of derogatory attributes. She is called fickle-minded, sensual, seducer of men, given to falsehood, trickery, folly, greed, impurity, thoughtless in action, the root of all evil, inconsistent, and cruel. She must not study the *Vedas* or perform any sacrifices; knowledge of the *Shastras* is forbidden to her. A woman is grouped with the *Shudra* (person of lower caste), and along with them is called *Papayoni* i.e., of sinful birth or one preordained to a low station in life. There are exhortations that a woman would be kept under control. In childhood a woman must be subject to her father, in youth to her husband, and when her lord is dead to her sons. A woman must never be independent. The Hindu widow is no longer operative in its most restrictive and oppressive aspects, as there are certain disabilities associated with widowhood. She is debarred from active participation in auspicious occasions. Besides the items of decoration associated with the married state, she is expected also to discard colourful clothes, glass bangles, wearing of flowers, and attractive jewellery.

*Vratas* are observed for ensuring long life and welfare of the husband, for the realisation of the culturally coveted goal of getting married and of getting a suitable partner for life, and for securing special protection of sons. *Vratas* are observed even now by many educated and sophisticated women. A Hindu male has no fasts to observe for the wife's long life and
welfare. The husband wears no distinctive marks signifying the married state and does not incur any inauspiciousness at the death of his wife. Religion, as a system of beliefs and rituals, undoubtedly accords an inferior and dependent status to Hindu women. The common way of blessing women by saying 'deergha sumangaleebhava' which means 'may your husband live long' is a blessing to the husband indirectly but not to the woman.

Grave impurity is associated with menstruation and childbirth. Severe restrictions over menstruating women in respect of association and participation in domestic, extra-domestic, and religious activities found in the texts have been strong in the Brahmin and upper caste groups, but have been also operative among other Sections especially in the sphere of religious ceremonials. The notion of periodical impurity of women is one of the important bases for the conception of inferiority of the female sex as compared to the male.

In Islam communities a woman cannot be a priest, nor can she lead the prayers. She has no place in the formal religious organisation and legal affairs of the community. She cannot be appointed a Kazi. With regard to witnesses, it is said that if a second man is not available, two women should be called so that if one errs, the other will remember. Modesty, decorum and chastity are emphasised in the Quran, and the women are advised not to display their ornaments and beauty. This led to conflicting viewpoints about the veiling and seclusion of women. It was thought proper to keep the women away from the gaze of outsiders. Among Indian Muslims, burqa (garment covering entire body) and use of covered vehicles have been common devices for keeping women away from the gaze of outsiders. Professor M. Mujeeb in his book entitled "The Indian Muslim", records the status of Muslim women in India in medieval times, stating that 'there were no formal changes in the law regarding the rights and duties of women;
marriage was considered final and binding on the woman, Mehr while always accepted in theory could not be realised except by exerting moral pressure on the man through his family. The *Purdah* (curtain) system was creeping in. Now *Purdah* was observed not only with outsiders but also within the family. It also lent an extra support to a series of restrictions that women should not converse with other men, they should not talk loudly, letting their voices be heard by other men, they should not receive guests without the permission of the husband, and so on. Polygamy is permitted in Islam. A wife, therefore, has a deplorably inferior status. Only the girls of the elite class have had access to some private instruction. The two practices that have been most detrimental to the status of women in Islam have been *Talaq* or unilateral divorce and seclusion of women. The Muslim Law still validates polygamy, unilateral *talaq* and women's unequal share in inheritance. This is the appalling state of dignity of Muslim women in India where blind obedience to the canons of religious sanctions are expected.

*Purdah* and *Shairiat* in Muslim law make the Muslim women suffer adversely. For the majority of the Indian Muslim women *purdaha*, which is a basic source of seclusion and isolation, is more strictly observed than in other countries. Polygamy is permissible and divorce law is more favourable to men than to women. Traditional sex roles are adhered to rather rigidly under Islamic provisions. Muslim women are not permitted to offer prayers in public or mosques along with men, nor they are permitted to participate in many sports and other services under the Islamic rules.

Eve, the first woman was created by Lord Jehovah as 'helper' and gave her to the man to be his life long companion. "But for Adam, no suitable helper was found. So the Lord God caused the man to fall into deep sleep; and while he was sleeping he took one of the man's ribs and closed up the

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place with flesh. Then the Lord God made a woman from the rib he had taken out of the man, and he brought her to the man.⁶⁷ Women's role as wife is subservient to husband, as it is obvious from the Scriptures. "Wives, submit to your husbands as to the Lord. For the husband is the head of the wife as Christ is the head of the church, his body, of which he is the Saviour. Now as the church submits to Christ, so also wives should submit to their husbands in everything."⁶⁸

The freedom of speech and expression has been trussed and gagged as it is observed in the Holy Bible "A woman should learn in quietness and full submission. I do not permit a woman to teach or to have authority over a man; she must be silent. For Adam was formed first, then Eve. And Adam was not the one deceived; it was the woman who was deceived and became a sinner. But women will be saved through childbearing if they continue in faith, love and holiness with propriety."⁶⁹ Also women's activities are restricted as it is evident from the Scriptures of New Testament "In the same way, their wives are to be women worthy of respect, not malicious talkers but temperate and trustworthy in everything."⁷⁰ Syrian Christian and some other groups among Christianity do not permit women to hold any office in the Church. Certain features of Christianity place women in a relatively better position than in other religions. The Christian law still contains very strict divorce provisions for women.

Christianity imposed relatively less social restrictions and allowed more freedom to women as compared to many other world religions. There is no Purdaha for them and it does not prohibit widow marriage and the family regulations are not very harsh for the girls. Girls enjoy freedom in respect of education and selection of life partner. Divorce is permissible and

⁶⁷ The Holy Bible, New International Version, Old Testament, Genesis 2:21-22, p.4
⁶⁸ Ibid, Ephesians 5:22-24 p.1823
⁶⁹ Supra, I Timothy 2:11-15 p.1847
⁷⁰ Supra, I Timothy 3:11-24 p.1847
both male and female enjoy the right of property. However, Bible says if Eve had not shown the frailty of going astray, if she had not tempted Adam, sin would not have become inherent in human nature. Tertullian defined woman as 'the devil's gateway, the trespasser of the forbidden tree, the destroyer of the God's image man'. "The ancient Judo-Christian society regarded woman as 'a scorpion ever ready to sting' and the pagan Arab saw in her the devil's whip."71 "The Indian society regarded women a social evil to be burnt at pyre of her husband."72

Jainism is also not an exception in degrading the status and dignity of women. Except in Kerala and certain parts of Karnataka, the Jains are patrilineal and are governed by the Hindu personal law. In the religious context it cannot be ignored that in ascetic manuals and sermons there is severe condemnation of woman who is looked upon as a tempter and seducer and is called tricky, deceptive, hypocritical, fickle, untrustworthy, and treacherous. In the patrilineal setting, however, boys have been claiming superiority over girls in respect of the right to inheritance and succession. Jain women also use diacritical marks to denote their marital status. Polygamy is not forbidden. There is no sanction for widow remarriage. A widow is obliged to lead a simple life. Therefore the impact of Hinduism on Jainism is one of the reasons for similarity in customs and traditions relating to woman and her dignity.

As a way of life Jainism lays great stress on self-denial, restraint of passion and a life of renunciation for both men and women. A woman has a legitimate position in the conjugal life. She can occupy a position of leadership. In the patrilineal setting, however, boys have been claiming superiority over girls in respect of the right to inheritance or succession. For a daughter it has been customary to get Kanya-Shulka or some kind of

71 Tahir Mahmood; Uniform Civil Code: Fictions and Facts (New Delhi Edition First, 1995) p. 72
72 Safia Iqbal, Women and Islamic Law (New Delhi, Revised edition, 1991) p. 2
compensation. Polygamy is not forbidden. There is no sanction for widow remarriage, because a life of self-restraint is greatly valued. But a widow does not easily lose her position. She can lead a pious life of shravika within the family setting. A widow could also become a nun. Thus widowhood is not exactly a curse in Jainism.

Degrad ing the dignity of woman prevails in Buddhism too, despite her intellectual parity; woman is definitely considered as inferior to man in the monastery as well as in society. Buddhism recognized broad parity between man and woman in the matter of religion, both the sexes being charged alike with the duty of upholding dharma. Woman is physically weak and dependent, but mentally as good as man. A girl can remain unmarried by becoming a Bhikkuni. From widowhood also there is a respite in renunciation. However, the ideal propounded for women in society is not materially different from the one upheld by the orthodox Hindu view. She has to serve the man. Mother as a self-sacrificing and benevolent figure is very much present in Buddhist thought. Buddhists practice polyandry and girls are often forced to become nuns. Since the communities in these regions practice the customs of bride price as well as divorce and remarriage. The position of women appears to be better and leaves most of the areas of worldly life to be managed by the people according to their customs and traditions. In the newly emerging areas of activity life education, medical service, and political participation men are coming forward more than women.

In Buddhism women are allowed to become nuns. Nirvana is possible for both men and women. Buddhism does not consider women as evil or as one solely responsible for sensuality in the world. However, the ideal propounded for women in society is not materially different from the one upheld by the orthodox Hindu view. She has to serve the man. Mother as a self-sacrificing and benevolent figure is very much present in Buddhist
thought. Despite her intellectual parity, woman is considered inferior to man in the monastery as well as in society.

Customs, traditions, and practices govern the life of a woman more than the religious sanctions of Sikhism, as there is a vast gulf between preaching and practice. Sikhism condemns formal ritual, idolatry, and superstition, and emphasizes simple devotion to God. Sikhism does not look upon woman as an agent of sin and evil, nor does it regard her as an object of pleasure. Guru Nanak asks women to have a pure way of life and not to indulge in extravagances of wealth. Association of impurity with the cosmic natural processes like birth is condemned. Man is exhorted not to condemn woman who is his companion and of whom are born great men and all men. In social life, however, Sikhism did not concede equality to women. Her kinship and domestic roles are emphasized. She has important roles to play as wife, mother, sister and daughter. The qualities that women are asked to develop are love, obedience, contentment, and sweet temper. A woman should be in harmony of temper with her husband. Mother's role and wife's role are brought into relief in the tales of the wives of the Gurus (Teachers). In matter of such as divorce, separation, remarriage, widow's position, women's rights of ownership and inheritance and seclusion of women, people generally tend to follow the customs and practices of their original culture.

Both men and women have place as individuals. Sikhism emphasises the householder's ideal and demands respect for woman as man's helpmate and sharer in his domestic life. It does not look upon women as an agent of sin and evil, nor does it regard her as an exclusive object of pleasure. Guru Nanak asks women to have a pure way of life and not indulge in extravagance of wealth. Man is exhorted not to condemn woman who is like a companion and of whom are born great men.
Zoroastrian women constitute minor representation in the social stream when compared to the other religions. The dignity of Zoroastrian women is not upheld on account of customs and traditions followed by and large in consonance with changes of time although a few concessions are granted in the name of gender parity. They enjoy a position of honour in the family and in the society. Women are entitled to both religious and secular education. Women can preach but they cannot become priests. This bears ample testimony to the harsh reality that woman's role is secondary where her priesthood is denied and concession to woman's preaching cannot be taken for granted as equal treatment meted out to her. Only since 1935, the Parsee Panchayat has started admitting women into it as members. A Parsee boy's marriage with a non-Parsee girl is accepted with greater grace, although the non-Parsee wife is never accepted in Zoroastrianism, which is not a proselytizing religion. This is a blatant violation of dignity of women based on religious faith when inter-caste and religious marriages are not acceptable.

Zoroastrianism is one of the oldest religions of the world. Zoroastrian women enjoy a position of honour in the family and society. The evils of polygamy and child marriage, which had crept in under Hindu and Muslim influences, were fought and removed by the Parsee Panchayat in the 19th century. Women can preach but they cannot become priests. Only since 1935 the Parsee Panchayat has started admitting women into it as members.

An examination of sociological aspects in historical background as analysed by the proponents of different schools of thought gives a clear narration of the status of women. The Biological School headed by Havelock Ellis, Sigmund Freud, Schienfield and others maintained the view of equality of status for women to that of men. Unlike the proponents of Biological School, the views of Margaret Mead, Helen B. Thompson, C.C. North and
others who belonged to another school of thinking emphasised the role of environmental or cultural and psychological factors in the status dynamics of women. Thus even though both the schools of thought agreed on the significance of equal status for men and women in the actual pursuit of status, they could not come to a compromise, in regard to the more practical areas of dynamism in the actual status of women. At a time historical approaches were very common while dealing with the problems of women in society; Bernhard J. Stern and William J. Goode had concentrated on the historical overview of the position and the changing customary and legal rights of women in the west. Whily Ivy Pinchbeck assessed the impact of industrial revolution on the status of women; Elizabeth Waldmean studied the changing aspects of women’s career in the labour market. Helen Mayer Hacker and Juliet Mitchell in this field made integrative approaches. Hacker applied the minority group theory emphasising the concepts of sexism and racism under social, psychological and economic experiences in the United States. The applications contained an apparent contradiction in the behaviour of women with respect to their inability to cope with the ‘opportunities’ in changing over to new positions as that of men. Juliet Michael found the position of women as a derivative of the economic system. In this context economy and the family are the only two structures in which women are located. Mitchell has brought forward more intricate differentiation of the phenomena into production, reproduction, sexuality and socialisation to illustrate her argument. “Age, sex, birth, genealogy and other biological and Constitutional characteristics are the very common basis of status. Nevertheless status is a phenomenon, not of the intrinsic characteristics of man, but of social organisation.”

In modern times the concept of status has been broadened to encompass all culturally prescribed rights and duties inherent in social

positions, whatever their origin. The individual is now viewed as having a total status, which generally combines a large number of subsidiary statuses. 

"Usually the term 'social status' connotes the place that a woman occupies and the dignity as well as privileges they enjoys in society." It is also true that all social positions that vary by gradation rather than constituting nominal categories are defined as status. Some of the criteria by which status is judged are leadership, dominance, ability, accomplishment, occupation or other means of recognition designated by title, degree, membership, dress, behaviour or other devices or securing attention. Maclver is of the opinion that for an individual the status determines the extent of "respect, prestige and influence" in society.

Many sociologists are of the view that there are certain irreducible bases for the determination of one's status in society. Among them, as mentioned by Linton age, sex and occupation are the most important. Status, whether the by-product of effort or the result of birth, carries with it an image of exemplary behaviour, a model of collective expectations. Social status is ordinarily acquired and consolidated or diminished and lost over a considerable length of time, and it is during this period that life styles are elaborated as the symbolic tokens of material achievement. As Vance Packard points out, women are more status conscious and more susceptible to status symbols than men. Hence instances of status mobility may be

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76 Peter M. Balu, Inequality and Heterogeneity-A Primitive theory of Social Structure, The Free Press, New York, 1977, p 46
more among women than men. It is true that the progress of a country can be judged, to a great extent by the advancement in the status of its women. As a matter of fact, the position of woman is the index of social progress in any community. Giving due weight to precedence of culture in any set-up, women were always evaluated in terms of men. Their role and function in society depended largely on that of men in relativistic terms in majority of cultures. One is not just describing but actually comparing, as it is the sum of differences between the status of men and of women, which leads one to the ideal that women have a distinctive position in society and vice-versa.

Education may improve the status but very often dignity is denied to the educated in the hierarchy of offices held in different spheres of activity. Less educated officers wield undue authority over highly educated incumbents for the simple reason of the seniority in the hierarchy. Therefore education promoting the status is far from truth. According to Parsons, there is a very high and probably increasing correlation between one's status level in the society and one's level of educational attainments. Stefan Nowak also maintained the feeling that "it would be reasonable to expect that the assessment of one's position in society with education. A rise in literacy and educational attainment of a class of people is a reliable indicator of change in their status. The better a woman's education is the greater the availability of social opportunities.
David Popence asserts that a person's occupation is the most significant factor in determining his overall social standing. To him, occupational status generally determines income and prestige levels. While age and sex continue to be the relevant factors in status ascription, the occupational determination of status and occupational definition of role assumed unprecedented importance. This sweeping generalisation in the socio-cultural context of India is not true because communal disharmony and concomitant fissiparous tendencies bring down the dignity of human being to the baser levels of bestiality. Both social status and educational level are obviously related to occupational status, which is attained by women in society. Thus the possession of a job or occupation whether ascribed or achieved becomes very much related to the enjoyment of status among members, male or female. There is a clear-cut and consistent relationship between caste, occupation, ritual and social status. Status is not always attained through elevated occupations in life. This is not wholly true. There are instances of 'lower castes people' occupying high stations in life but their dignity is at stake as it is evident from the lives of great men like Gandhi and Ambedkar. Founding father of the Constitution, Dr. B.R. Ambedkar was put to humiliations many a time in course of his long and protracted mission against untouchability.

The Mithakhara and Dayabhaga schools of thoughts relating to inheritance laws in India have denied right to equal share of property inherited. This has rendered grave injustice to women by no other reason except gender discrimination on the pretext that the dowry is prepaid to the women. The Hindu Succession Act, 1956 is an uneasy compromise between the conservatives who wanted to retain the Mitakshara coparcenary

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83 Popence David, op.cit.,p223
89 Coser and Rosenberg, op. cit., p. 185
91 Sudey, S.N. and Ratna Murdia, Administration of Policy and Programmes for Backward Classes in India, Somaiya Publications Pvt., Bombay, 1976, p. 117
and its discrimination against daughter’s and the progressives who wanted to abolish the Mithakshara coparcenary altogether. In essence, the Act retained the Mithakshara coparcenary.

One of the important differences between these two schools is that under the Dayabhaga, the father is regarded as the absolute owner of his property whether it is self-acquired or inherited from his ancestors. Mitakshara law draws a distinction between ancestral property, which is referred to as joint family property or coparcenary property, and separate and self-acquired property, which includes property inherited from mother. In the case of ancestral properties, a son has a right to that property equal to that of his father by the very fact of his birth. The term son includes paternal grandsons and paternal great-grandsons who are referred to as coparceners. The point that deserves attention is that under traditional Hindu law, a daughter is not entitled to property rights by birth in such ancestral properties. The crux of discrimination and inequality in the law lies in the retention of the Mitakshara coparcenary and it’s right by birth. While a son retains his interest by virtue of right by birth, and takes a share in the father’s interest, the daughter is enabled to take a share in her father’s interest only. Further the Supreme Court in Commissioner of Income Tax v. G.S Mills approved the statement that ‘coparcenership is a necessary qualification for managership of a joint Hindu Family’ and held that a female member therefore cannot be a karta. The amending Acts remove the bar as regards daughter coparceners becoming managers of joint Hindu families, but a widow or mother cannot be a karta even if her children are minors as she is not a coparcener, but can only be a guardian.

An important reason for the limited appeal of the women’s movement in India among women themselves is its narrow focus on the rights of women as wives, with little appreciation of their rights as daughters, or as sisters, mothers or grandmothers. This is partly due to the fact that most
women's organizations are flooded with complaints of harassed wives and have thus come to focus on women's problems in their role as daughters-in-law or wives. A new offshoot of this narrow concern is the demand that the existing property laws of all communities be amended to create joint matrimonial property. In deference to pressure from women's rights activists, the Maharashtra government has declared a new policy for women which provides that as soon as a marriage is solemnized, the wife become a joint owner of the properties and assets craned by the husband. Efforts are being made to pass all-India legislation along the same lines. The assumption is that a wife would be able to claim half of the joint matrimonial property in case of divorce.

"Those societies which have given equal access to women and men in economic and political opportunities have progressed much faster than those which denied such access. Gender equality is a necessary condition for sound human development."\(^2\) Max Weber and F.G. Bailey are of the opinion that social status has a bearing on economic status. This analysis is based on Western conditions, which are antithetical to Indian ethos. In most instances of social life income and political power are important dimensions of status in society. Income and material possession, cultural acquisitions, and social participations of individuals in community affairs are compositely the economic and social evidence of position to which the attitude of subordination or domination are conditioned.\(^3\) Max Weber asserts that the structure of every legal order directly influences the distribution of power, economic or otherwise within its respective community\(^4\) and any modification in this structure may invite new position for its members. F.G. Bailey in his attempt to establish a casual connection between the status

\(^2\) Human Development in South Asia 2000, Mahbub ul Haq Human Development Centre, OXFORD 2000 p.135
and economic factor could conclude that the social status of a group is dependent upon its economic condition. These Western based sweeping generalisations do not match Indian conditions. Indian social fabric is entirely different from that of West.

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