Chapter – 2

EVOLUTION OF WOMEN RIGHTS IN INDIA

The status and rights of women in Indian society have undergone many changes and have always remained a matter of great concern for the socio-religious and political elites of India. The role played by a woman in her personal and family spheres has a great impact on society. Her affection, love, care and dedication for the family not only groom the personality of her children and help her family to develop, but also help in the all-round development of society at large. A study of the rights and roles of women in any society must be examined in relation to social organisations of society, which in turn is based upon socio-economic and political set-up of that society.

A comprehensive analysis of the development of women rights in India needs a systematic study of socio-economic and political set-up of Indian Society. In this chapter an attempt has been made to gauge the degree and level of the rights of women at different stages and periods of social evolution which are ancient, medieval and modern.

Women in Ancient India

The religious texts and the available literature on ancient India have assigned women a subordinate identity as these texts define the role of Aryan men in detail but women are ignored as the other subaltern classes. The holy Indian scripture Bhagwad Gita places Women, Vaisyas and Sudras in one category. According to another text, the punishment for killing either a women or a Sudra is the same. Woman was never recognised as an independent identity. The subordination of women to men is clearly depicted in the Manu Smriti. Manu stated that a woman should never be independent: as a daughter she should be

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under the surveillance of her father, as a wife of her husband and as a widow of her son.²

Some other historical evidences suggest that during the Vedic period women had an equal status to men. They were allowed to study the Vedas and participate in Philosophical discussions. Even some hymns of the Rig Veda were composed by women. After finishing their education, they could either enter married life or devote themselves to religious and metaphysical studies just like men.³

According to the Vedic rituals the bride should be a grown-up woman, mature in body and mind. She is called a Kanya, who chooses a husband for herself. Religious scriptures and epics not only consider the wife and husband of equal status but also lay emphasis on her dignity and respect in social and personal life.⁴

**Social Status of Women**

The creation of universe has been described by the Aryans as the union of Parkrti and Purusha. Woman is supposed to be Prakrti and man Purusha; the union of these two has created the home and made the world. According to ancient ideals, the wife is the other half of man and hence as long as he does not obtain her, he is incomplete. The epic literature also depicts that a man’s other half is his wife; therefore, she is called ardhangini.

A wife in ancient India was also known as Sahadharmini as she was held to be one with her husband not only physically but also spiritually. During the Vedic period, women enjoyed all the religious rights and privileges which men

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possessed. Her presence and co-operation were regarded necessary in performance of religious rites and ceremonies. The Rigveda refers to Ghosha and Lapamudra as well-versed in the vedic mantras. Man could not become a spiritual whole unless he was accompanied by his wife. Thus in the age of the Samhitas and Brahmanas, the religious status of women was as high as of men.\(^5\) In Manu Samriti a women is always important to her husband, since without a wife, a man is not considered a complete entity of society. Without her by his side as his partner in the performance of Religious rituals, he could not fulfill his religious obligations.

Though Manu did not have a high opinion of female intellect, he insisted that women should be honoured. Manu assigns them the highest position of respect and says that a mother should, in no case, be outlawed even if she has fallen from moral rectitude.\(^6\) The Mahabharata also says that one who desires prosperity must honour and respect a woman and consider her as the goddess of fortune.\(^7\)

Buddha emphasises the principle of reciprocity. Buddha expresses the view that the wife has duties towards her husband and vice versa. The equal burden of responsibility and duty is the hallmark of Buddha’s vision about the role of women in family life.\(^8\)

A Hindu Marriage in ancient India was to be indissoluble; it was supposed to continue even after death. The Rig Veda and Atharva Veda entertained very high ideals about the sanctity of marriage. The Sutra literature condemns the

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\(^5\) Ibid. p.118.


practice of divorce. The Apastamba says that if the marriage vow was transgressed, both husband and wife would certainly go to hell. Manu also did not cherish the idea of divorce. There is only one clear reference to remarriage of women, but there is enough literature in the Manu Smriti to prove that by and large it is against remarriage. However, Manu and Yajnavalkya both lay down that a man may abandon his wife if a serious disease of her was not disclosed by her parents before marriage or if there is a loss of integrity on her part. Women were not provided with the social security in case her husband abandoned her, she was not entitled to any compensation. We have the bitter example of the wife of King Rama, who abandoned his wife, just on the provocation of a washer man, who questioned the chastity of the Rama wife (Sita), even without giving any factual evidence. The great-great king Rama has abandoned his wife without giving any social security to her. Simultaneously, Manu allowed a woman to abandon her husband if he was insane (unmatta), impotent (kliba, abija) or suffering from an incurable or contagious disease (paparogi). According to the Manu Smriti, there were five cases of legal sanction. A wife is allowed to take a second husband if her husband is missing (nashta), or dead (mrta), or becomes an ascetic (pravrajita), or is impotent (kliba) or is degraded from the Caste (patita). Kautilya also spoke on divorce (moksha), which could be obtained only in case of mutual enmity and hatred between husband and wife. But he maintains that marriage of the Arsha and Prajapatya forms cannot be dissolved at all.

Women folk pass through many difficulties while abandoning their husbands. The religious scriptures and social norms imposed many restrictions on women.

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9 Singh, n.3, p.65.
12 Thomas, n.10, pp.141-149.
in case of the death of husband or abandonment by husband. She needs to wait for long time; she is deprived of the rights which the women of modern India enjoy. Yajur Veda says that a woman shall wait for five year for second marriage in the case if her husband left her without any reason and went to any undisclosed place or lost. Narade Smriti says “When the husband is lost or dead, or turned a recluse, or impotent, or fallen from caste, a woman can take a second husband. The Brahmin woman shall wait for eight years for her husband who is gone abroad; if she has no issue she shall wait for four years.\textsuperscript{13}

The position of widows has changed considerably from the time of the Rig Veda, confusion over the remarriage of widow prevailed during the period as it did not define the norms of widow remarriage and her rights over the husband’s property; however, the practice of Nagoya remained popular, with the choice of husband for remarriage. But marriage by the widow from outside of her late husband’s home remained debarred.\textsuperscript{14} One cannot put the Atharv Veda in line with Rig Veda as it has remained silent over the rights and remarriage of widow.

The period of Dharmasastras can be coded as the age of confusion and the stage from where the violation of the rights of women started. The Manu Smriti and other great epics of the time like Dharmasutra are not clear about the rights of women, as they approve them at one place and disapprove the same at another place.\textsuperscript{15}

The rules about remarriage in the Arthasastra closely follow those laid down in Dharmasutras. They permit remarriage of a woman whose husband is dead, has become an ascetic or has gone abroad, after a period of waiting which varies according to circumstances.\textsuperscript{16} The Dharmasastras, Manu and

\begin{itemize}
\item \textsuperscript{13} Anjali Kant, \textit{Women and Law}, APH Publication, New Delhi, 2003, pp. 25-26.
\item \textsuperscript{14} Dubey & Sharma, \textit{n. 6}, pp. 54-55.
\item \textsuperscript{15} Sangeeta Sharma, \textit{Women’s Liberation}, Rawat Publications, Delhi, 2010, p. 57.
\item \textsuperscript{16} Kaushik & Sharma, \textit{n.4}, pp. 36-40.
\end{itemize}
Yajnavalkya forbid the marriage of widows but Narada permits it; following it, even later like Parasara Smriti and Agni lay down that a woman can remarry even during the life time of her husband if he is lost, has become an ascetic, is impotent or is an outcaste. Such remarriage was called Punarbhу.

The post Vedic period, particularly of Dhamarsashtras, witnessed deterioration in the statutes of woman: her economic, social and political rights were badly negated by the established social customs and political establishments of the time. The birth of a daughter was regarded as a source of misery and that of a son as an object of desire.

Manu says it is against the norms and values of society to give economic benefits to a Kanya (Daughter). Although he was against dowry and hold that the evil practice of dowry is an economic transition, which converts woman into a commodity. According to Manu, a woman must be honoured and adorned by her father, brothers, husband and brothers-in-law. Where women are honoured the gods are pleased but where they are not honoured, no sacred rite yields any reward. The house in which women are not duly honoured is accursed and perishes completely.

Thus Manu lays emphasis on the worshipping of women. At the same time Manu was not in favor of women’s independence. In his words ‘Na Satri Swatyam Arhat’ – Women deserve no independence.

As a girl young woman or even as an aged woman (as a mother), nothing shall be done by her independently. In childhood she is subjected to her father, in youth to her husband and when her husband is dead, to her sons, women must never be independent. Manu viewed that women were ornaments of the house that were to be kept safe and looked after with utmost care and vigilance.

Manu imposes some duties on women.

- Woman should consider her marriage as a sacrament and should discharge the duties befitting her life.
- For a woman, her husband should be everything.
As a wife she should ever remain obedient to her husband, must never do anything that might displease him, be faithful to his memory after his death and never think of any other man.

Manu gives the circumstances under which a woman is likely to go astray, which are considered as the six causes of her ruin, drinking, associating with immoral people, separating from her husband, roaming around, sleeping late and dwelling with other men, in the company of such women no sacramental rites should be performed.

Manu has pictured the low status of women. As he has said woman must worship her husband as god and she has no freedom to move out of the four walls of her house; if she does so, she can be punished. According to Manu Smriti woman as a daughter, wife and widow is totally dependent on the male and an ideal women is one who is an ideal wife. The social, legal and religious status of woman was distinctively lower than that of a man.  

Regarding the practice of sati, or self-immolation, there is no direct reference to it in Vedic literature. It is contended by some that the practice of burning of widows was prevalent even in the early Vedic and Post Vedic age. But, as Altekar has maintained, the customs of niyoga and remarriage has become unpopular gradually from the beginning of the Christian era. A widow was considered as a burden and she did not receive any sympathy in society, if she continued to live in the family of her husband, she had to work as a drudge. If she lived separately, she was given a pittance as her maintenance.

**Economic Status of Women**

The right to property or inheritance was a matter of confusion in ancient India. The religious scriptures of the time do not give any clear reference to the rights of daughter, sister, wife and widow over the property of her father or husband.

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No reference of individual owning of property or commercial activity by women in ancient India are available.

Women were provided with equal rights of property in their association with husband and were also provided with the right to share in property of her father with their brothers. But confusion could be created, when one thought about independent status or independent economic rights of women. The husband was required to take a solemn vow at the time of marriage that he would never transgress the rights and interest of his wife in economic matters. In vedic India wife was generally regarded as the co-owner of the family property along with her husband. *Taïttiriya Samhita* holds wife as the mistress of the household and *Jāmini* refers to it for establishing the contention that women could actually own property. They used to receive wedding gifts called *Purinahya* which later came to be known as *Stridhana*. However, Vedic texts do not confirmed any legal rights of wife over her husband property. The religious texts of Jainism hold the wife as a partner in all legal functions. In the matter of adoption, her powers were co-extensive with those of the husband whether he was alive or dead. She has full rights over her *stridhana* which was of five kinds. The confusion over the right to property of Hindu women is also found in Kautilya’s *Arthasastra*. Although he made a clear reference on women rights over the property of her deceased husband, however, he denied the very rights of women over her dowry and husband property if she disapproves the husband selected by her father-in law and choose husband of her choice. 19 A woman was subject to the control of her husband as regarded her *Stridhana*. Manu says that women should never hold property which is common to many, nor from their own property without their husband’s permission. 20 Yajnavalkya recognized the rights of wife on husband’s property. He held that irrespective of the *Stridhana* wife has legitimate claim and can have an equal share to her


20 Vishnoi, n.1, pp. 46-47.
son in the division of property if the property is divided during the life-time of her husband. But Yajnavalika was against the independent economic status of women and wrote that the wife can only claim the property of her husband if she carries out the command of her husband even after he has renounced the wife.\textsuperscript{21}

Further developments in the Smriti laws on Stridhana were made by Katyayana. He defines many type of Stridhana like given to women before the nuptial fire, given to her at the time of the bride procession and given by brothers, grandmother and grandfather.\textsuperscript{22}

Manu and Katyayana wrote that widows and sonless women do not deserve any rights of property.\textsuperscript{23} In the Vedic literature unmarried daughters have no right of inheritance. Daughters could normally get property only by way of gifts from their relations at or subsequent to their marriage. However, a brotherless daughter was recognised as the first heir. For all religious purpose, the vedic father could, thus, regard a daughter to be as good as a son.\textsuperscript{24} Smritis and Putrika also mention the rights of a daughter living in her father’s house; she or her son is deemed to be a son of the father for all purposes, secular as well as spiritual. The only exception we come across is a solitary reference in the text of the Rigvada of a brotherless daughter sometimes coming back and living with her parents. Some references are available in the Mahabharta where the daughters inherited kingdoms. The great Yudhishthira of Mahabharata epic was asked to place daughters of the deceased kings on their thrones. The Budha and Jain Agama literature is practically silent on the rights of inheritance of a

\textsuperscript{21} Clarisse Bader, \textit{Women in Ancient India: Moral and Literary Studies}, Anmol Publications, Delhi, 2000, pp. 60-68.
\textsuperscript{22} Sharma, n. 15, pp. 55-67.
\textsuperscript{23} Vishnoi, n. 1, p. 63,65.
daughter. Yajnavalkya also gives a share to the brotherless daughter in her father’s property.25

The analysis of the legal and religious scriptures of ancient India reveals that women were provided with very few rights in the economic sphere. Although women were considered to be the better half of her husband’s and also as the chief managers of the house, but in the law of inheritance they had no right over the property of their husbands in case a woman became a widow and in case her husband abandoned her. Women’s rights to property were in full control of the male members of their family; so their right to property was limited to the right to Stridhana only.

Political Status of Women

Only a casual reference is there on the role of women in the politics of ancient India as the established political order and the socio-religious customs did not accept the appearance of women in public life. The compulsion of male heir under the dynastic and monarchical set-up of the ancient Indian society limited the role of Indian women to that of the princess or the queen. The role of the woman was either limited to helping her male associate or for praying to God for the victory of her husband.

The political thinkers of ancient India like Narada, Kautilya and Sukra suggested the succession of the crown only to the male descendants. Hence ancient Indian history does not furnish any instances of female sovereigns and administrators. The Vedic age, however, presents a glimpse of women in political and administrative spheres and later in the Epic Age Kautilya was strict against trusting women for the state duty. Yajnavalkya and Vasistha did

not allow the women to appear as witnesses, only Manu granted women the right of giving evidence but that also in exceptional cases when male witnesses were not available.\textsuperscript{26}

As a general rule succession to the throne was confined to males.\textsuperscript{27} The Aryan society, being patriarchal, does not furnish many names of female rulers. However, the Kings and Princes were influenced by their mothers and queens. The first vedic reference comes as a simile in a hymn to Asvinau: Queen Visapala accompanied the King in a chariot to the forefront and lost her leg; nevertheless, her sag helped the king to win the war. The second detailed reference is of Mudgalani, also known as Indrasena’s wife Mudgala, helped her husband in hunting and fighting against the robbers. When her husband was put in a tight corner, she took up her husband’s bow and arrows giving a fierce battle to the robbers, defeating them and rescuing the state property. This shows women were trained in use of weapons and at times proved their skills.\textsuperscript{28}

In later Vedic literature, women were mostly confined to the household, however, in the royal household, Mahishi (Chief Queen) was considered as a limb of the state. She ranked among those who helped the king, along with the Purohita, the Rajanya, the Suta, the Gramini and Samgrahitri and together they sustained the kingship. From this, it becomes clear that the royal ladies, especially Mahishi, Vavata and Parivritti, continued exercising their powers as King’s councillos. Ratnins were in Hindu polity a council for advising the King and helping him in the composition of the Sabha (the assembly). At the King’s death, on the succession of the new ruler to the throne, the authority of ratnins was most felt.\textsuperscript{29}

\textsuperscript{26} Vishnoi, n. 1, p.13.
\textsuperscript{28} Tripal Sharma, *Women in Ancient India (From 320 AD to 1200 AD)*, ESS Publication, New Delhi, 1987, p.10.
In the Buddhist literature, it appears that religion was mingled with political rights. It is due to the mingling of religious and political life that a few Queens like Mahapraja Gautami, Kshema Bhadda, Kundalakesa etc, embracing the Buddhist order have their appearance in the sacred texts. Regarding the political status of women, the views of Lord Buddha remained very negative and he disliked the idea of women participating in politics.  

**Women in Medieval India**

The period of Medieval India (1206-1761 AD) has been depicted as a dark period of Indian history. India became a soft target to successive invaders, some of them assimilated into Hindu culture, but the Muslims, adhering to their rigidity could not interact with Hindism and remained a separate entity. The question of cultural supremacy between the Hindus and the Muslims created the sense of belongingness. While articulating their identity and creating the socio-religious boundaries, both the Hindus and the Muslims tried to create a concept of purity and pollution with a non-assimilating view of each other community. The sense of national purity and the nation making through the gender purity had been developed during this period.

The non-accommodative views of both the communities had a lot of effect on the status of women indirectly and directly along with the other social implications on Hindu society. The Mughal invaders created a sense of social insecurity as the invaders looted the women along with the property of the Hindus. The emotional set-backs which the Hindu families, particularly of north-India, faced due to the abduction and looting of their women folk by the Muslim invaders resulted in many problems. The evil practice of infanticide and purda (veil) was developed during the medieval period. The Muslim conquerors attempted to impose their coercive norms on the conquered Hindu

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30 Sharma, n. 28, p. 23.
population, which resulted into more rigidity and conservatism of the Hindu society.  

The status and rights of women in Medieval India can be grouped into four categories along with the socio-religious, economic and political set-up of medieval India. Among these categories one is of the upper caste and upper class Hindus and the second that of the lower caste and lower class Hindus. The third group is of the elite women from royal families in Muslim community and the fourth of the Muslim women from the commoners and poor families.

**Social Status of Women**

The social status of women in medieval India was largely castigated along the socio-religious divisions of the Indian society. The good and evil aspect of medieval Indian society had to do a lot with the caste and class of the women, if they were provided with some privileges due to their caste and class they were also deprived of many other privileges due the their caste and class. Although the economic and political role played by the women from the Muslim royalty had changed the perception of women in the Indian Society. But no new development occurred during this period as the role of women was restrained in comparision with the much larger than role in ancient India.

The ladies of royalty enjoyed an exalted position in the Mughal courts. These women were not only provided with the materialistic comforts but also the opportunities of mental and spiritual growth. Moreover, the avenues of business and commerce were also open to their excellence. Some of the women from the royalty were even trained in warfare and political administration. The women under the Hindu rulers were deprived of the rights which the elite

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women enjoyed during the Vedic and ancient period. In comparison to the women of Muslim royalty, the women from the elite Hindu families were more deprived of the social and economic rights, which were available even to the women from the low castes of Hindu society.

The respect of women as mothers continued and they enjoyed respect both among the Hindus and the Muslims in medieval India as it was in ancient India. In all the sections of Hindu society, mothers and other elderly ladies were given utmost respect and their commands were invariably carried out. The Rajputs particularly showed great regard to their mothers and never dared to go against their wishes. There are many instances which show that the Rajput rulers did not do anything without consulting their mothers. For example Rana Sangram Singh of Mewar always took his meals after paying respect to his mother. The Muslims also showed great respect to their mothers.33

Marriage and Divorce
The conservatism and the social insecurity which was created after the establishment of the Mughal empire resulted in restraints and encroachments upon women rights at large. One such heinous crime against the girl child and violation of the human rights of women was the child marriage. During the medieval ages child marriage became a popular feature of the Hindu society, although it had no religious sanction and had no mention in the Vedic age. The parents who were afraid of alien rulers married their daughters at a very early age. Girls were generally married before they reached the age of nine or ten years. Both Hindus and Muslims had fallen a prey to this evil practice. Among the Hindus sometimes daughters were married even before they had learned to walk and talk.34


Widow Remarriage was virtually non-existent among the Hindus. A Hindu widow had either to lead the life of celibacy for the rest of her life or to be burnt on the funeral pyre of dead husband. Widow marriage was permitted amongst the Muslims but the widows were given the status of a second wife.

The Hindus by and large practiced monogamy (one wife). However, a small section of Hindu population consisting of princes and wealthy persons married more than one woman. The Hindus of middle class married a second time only if their first wife proved to be barren or died. This was also done with the consent of the Brahmans. However, the Muslims who were permitted by Quran to have four wives at a time generally practiced monogamy. Only rich Muslims took to polygamy having (more than two wives) and maintained three or four wives at a time.

Divorce was rather uncommon among the Hindus, even though it was quite a regular feature amongst the Shias than among the Sunnis. In matters of divorce, the husband enjoyed absolute and unquestioned power. The wives were denied such a right. Irrespective of the above sufferings of women, there were many kinds of uncoded and unreported cases where women were not provided with any legal support and no defined legal text has been found in the history of medieval India, which prescribed the punishment to the male members of the family against exploitation of their female counterparts. The other reason was the silencing of the voice of women under the garb of family honour and women’s dignity etc.

The matter of social prestige and the lack of voice and support to the women resulted in the violation of human rights of women at large. The evil practices


Ibid., p. 251.

Upadhyay & Panday, n.33, pp. 17-18, also see, Rao and Patil, n.34, p. 212.

Rekha Misra, Women in Mugal India, Munsiram Manoharlal Publisher, Delhi, 1967, p.131-132.
of infanticide, Sati and Jauhar were connected with religion and family honour. Particularly the Rajputs killed their daughters due to the scarcity of suitable matches or due to wars with the tribes and outsiders etc. In case of the defeat of a Rajput King, the whole women folk of the royalty were supposed to perform a Jauhar. In many cases the male members of the family themselves pushed all the women of the family into fire in case of their defeat in war. 38

Parda

Parda was the symbol of the lower status of women which was religiously preserved by the Muslim women across all the sections of the Muslim society. Although the practice of Parda was not common among the Hindus, their women used it as a protective measure to save their honour and hide their beauty from the foreign invaders. The practice of Parda among the Hindu women started particularly after the advent of the Turks in India. It also appears as a tendency to imitate the ruling class; abundant references to the observance of Parda are found in the accounts of Contemporary foreign travelers. 39 Parda was mainly confined to the rich and well-to-do classes. 40

Sati

Another grave tragedy in the lives of Hindu women was the death of their husbands. Unlike the Muslims, widow-remarriage was not permitted among the Hindus during the Mughal period except among some lower castes. A widow had to burn herself with the dead body of her husband otherwise she had to lead a life of misery and was treated with contempt by the other members of the family. Widowhood was considered a great sin of the early life of a woman. The life of a widow was full of miseries; she was not only deprived of all the luxuries which she enjoyed with her husband, but also taunted by the

38 Ibid.
39 P.N.Chopra, Society and Culture in Mughal Age, Oxford University Press, New Delhi, 1955, p.104.
Hindu society as a burden on the earth. In these circumstances, the widows were forced to perform the sati\(^{41}\) and in case a widow refused to perform the sati and exempted from sati due to some reason. She was forced to live a pitiable life, was not allowed to grow her hair long or to put on ornaments or good dresses.\(^{42}\)

The practice of performing Sati voluntarily was an ancient practice, but gradually it became a forced custom and women were forced to commit sati after the death of their husbands even against their wishes. It was mostly performed by the women of the Brahmin, Kshatriya and Bania community. The evils of Sati even continued during the period of Mughal emperors, although they issued many verdicts against it and even many women refused to burn themselves along with the dead body of their husbands.\(^{43}\)

Akbar issued an order that a woman should not be forced to perform sati. Jahangir issued an order against the Sati under which he banned the performance of Sati by the young widow and made the permission of the king compulsory before performing of sati, especially in case of young widows. Aurangzeb also issued an order under which the widows who had children were banned to perform sati. The efforts of the Mughal emperors could not bear much fruit as they lacked a comprehensive strategy and strong will. Simultaneously, the religious differences between the rulers and ruled also became a major hurdle in the banning of sati during the medieval period.\(^{44}\)

**Dowry**

The marriage of the girls sometimes becomes difficult because of the custom of dowry (Dahej). It is given at the time of marriage of the girl by her parents. It

\(^{41}\) Mishra, n.37, p. 132.

\(^{42}\) Withington, *Early Travels*, Oxford University Press, Delhi, 1975 p- 219

\(^{43}\) Thomas, n. 10, pp. 262 – 265, also see, Dubey and Sharma, n.6, pp 53 – 54.

consisted of gifts given by the parents to the bride: like jewels, ornaments, furniture, elephants, horses, maids and other articles of luxury. It was an old custom and gradually it became rigorous. Dowry system was prevalent more among the commoners than the elite. The nature of dowry differed with the economic status of the parents. In opposition to the dowry was selling of girls to the grooms and it was prevalent mostly among the lower classes in the region now comprising of the states of Uttar Pradesh and Bihar. Under the system the aged and moneyed grooms could marry young girls by giving money to girl’s parents. There was also a curious custom of giving away a younger sister of the bride to the bridegroom as a part of dowry.\footnote{Misra, n.37, p.131.}

**Education of Women**

Women education was a distant dream both for the Hindu and the Muslims during the medieval India. The education of the girls was restrained to the learning of elementary reading and the reading of the Koran and the Hindu women even did not have this right.\footnote{Kant, n.17, p. 53.} But the women from the royal families were allowed to have literary activities in their harems and tutors were allowed to give tuitions in the harems of the rich Nobles. Reading and writing was an important activity of the ladies of royalty. They were occupied with reading, writing and composing verses. Due attention was paid to their education. Often the girls of the palaces gathered to receive education of the primary standard.\footnote{Meenakshi Poonia &Virender S. Poonia, *Women and Human Rights in India*, Sonali Publications, New Delhi, 2011, p. 37.}

Emperors and the royal families were very keen to make arrangements for the education of their women. During the reign of Akbar special arrangements were made to impart regular education to the ladies of imperial harem. Akbar paid great attention to the education of his daughters and other women of the royalty. They were taught to read and write and were even trained in other...
ways by matrons. He established a girl’s school in Fatehpur Sikri.\textsuperscript{48} Shahjahan and Aurangzab also took care of the education of their daughters and provided them with women tutors. The curriculum of women education included the study of Persian, Arabic, Theology, History etc. Some of the ladies learnt the Quran by heart while others took interest in reading books like Gulistan and Bostan written by Sheikh Sadi Shirazi.

In the Mughal harem, the first lady who engaged herself actively in literary pursuits was Gulbadan Begum, the daughter of Babar. She wrote \textit{Humayun Nama}, on the request of Akbar, giving an account of social and political activities of the time. She was a lover of books and thus had a library of her own. The second daughter of Babar, Gulrukh Begum, also had a taste for poetry and wrote a number of verses.\textsuperscript{49}

Jahanara Begum, the eldest daughter of Shahjahan, wrote many Risalas (Pamphlets). She wrote “Munis-ul-Arwah” a biography of Muslim saint Muinuddin Chishti and his descendants. Mir Muhammad Ali Mahir, entitled ‘Murid Khan’ wrote a Masavi (a long poem) in praise of Jahanara Begum in which he praised her generosity and patronage of literature.\textsuperscript{50} Zebunnisa Begum, the eldest daughter of Auranzab was a great Persian poet. She was also skilled in the art of calligraphy and could write Shikast, nastaliq and naskh perfectly.\textsuperscript{51} There are some works which are ascribed to Zebunnisa herself \textit{Zibul- Munshaat} is a collection of her letters. Another work attributed to her is \textit{Diwan-i-Makhfi}.\textsuperscript{52} It is to be noted that the education was limited to the

\textsuperscript{48} Misra, n.37,p. 87.


\textsuperscript{50} Misra, n.37, p. 90.


\textsuperscript{52} Yusuf Husain, \textit{Educational System in Medieval India}, Gyan Publishing House, Delhi, 1956, p. 121.
women of Muslims royalty and the women from other common Muslim and Hindu families were deprived of this right.

Simultaneously, the education of common women was not a popular concept and the opportunities were very few. As there were no regular and separate schools for girls, it is argued that boys and girls in the early years studied together, but it also seems doubtful due to the prevailing social evils. The condition of the girl child from the Hindu families seems to be more pathetic as they were deprived of learning the sacred language, Sanskrit, along with the dalits and other lower strata of Hindu Society.

**Economic Status of Women**

During the Medieval period, a Muslim woman had the right to property of her father as her brother had. Even after her marriage, she did not lose that right. In this respect, a Muslim woman was better placed than her Hindu counterpart. If she wanted, she could give this property to anyone she liked. Even her husband did not possess any right on her property. A Muslim woman also had the right to nullify her marriage, if she was married by her parents at a minor age. She had equal rights with her male counterpart to dissolve the marriage after attaining the age of legal maturity. The Hindu child brides and grooms, however, were deprived of this right.

**Allowances and Maintenance**

During the Mughal Period, the ladies in Mughal harem were given regular allowances and maintenance grants to meet their personal expenses. On occasions, they also received presents from the Emperor for the purchase of perfumes and other sundry articles. Usually one half of the amount of

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54 Ibid, p.155

allowance in that case, was paid from the royal exchequer and the other half was given to them in the form of assignment of land the revenue from which usually yielded more than the required amount. Sometimes, the jagirs assigned to them used to be fairly large.\textsuperscript{56} The practice of giving huge grants continued even during the reign of Jahangir and Aurangzeb, the last Mughal emperor also maintained the custom. Women were also the sole custodian of the presents which they received on special occasions like birthdays, wedding ceremonies and gifts from her husband, relatives and friends etc.\textsuperscript{57}

**Trade, Commerce and Muslim Women**

Some royal women from Muslims families took great interest in trade and commerce. But, there is no mention anywhere if Hindu and Muslim women from the middle and lower classes participated in trade and commerce during the medieval India.\textsuperscript{58}

**Employment**

The labour force in the Caliphate was employed from diverse ethnic and religious backgrounds. While both men and women were employed in a wide range of commercial activities and diverse occupations in the primary sector (as farmers for example), secondary sector (as construction workers, dyers, spinners, etc) and tertiary sector (as investors, doctors, nurses, presidents of guilds, brokers, peddlers, lenders, scholars etc.) Muslim women also held a monopoly over certain branches of the textile industry, the largest and most specialised and market-oriented industry, of the time, and engaged in occupations such as spinning, dyeing and embroidery. Poor women, especially in the villages, worked in this sector and earned handsome money.\textsuperscript{59}

\textsuperscript{56} Thomas, n.10, pp.254-256.


\textsuperscript{58} Misra, n.37, p.59.

\textsuperscript{59} Ibid, p.135.
Economically, the Hindu women were completely dependent on their men folk. They were not entitled to any share in the property even though they possessed a lot of property in the shape of ornaments and jewellary etc. However, the economic condition of the Muslim women was much better. They were entitled to a definite share in the inheritance and were free to dispose of their property.

**Political Status of Women**

Some of the royal women enjoyed high prestige and played an important role in politics. During the Sultanate period, the first instance of a royal lady interfering with the politics was of Shah Turkan, the wife of Iltumish and mother of Ruknuddin Firoz. She was a very ambitious lady and took the Sultanate in her hands immediately after the death of her husband; she manipulated the politics and put her Son Kukunuddin Firoz on the throne. Although Iltumish had declared his daughter Razia as his successor, she did not bother about Razia and the wishes of her husband and declared her son as the King with the help of some nobles. She started concentrating all the powers in her hands as she found her son pleasure loving and not a fit person to rule. To fulfill her ambitions she put to death many inmates of the harem and even conspired to kill Razia but she failed and finally got killed by Razia.\(^{60}\)

**Issue of Farman, Sanads, Nishans and Parwanas:**

The right of issuing imperial *farms* was the exclusive privilege of the Emperor. The only exception to the rule is found in case of Nurjahan who shared this privilege with Jahangir and exercised her right of issuing farmans, though very rarely. In addition to farmans, there were other important official documents, like *Hasbul-Hukm*, which were issued by the prime minister and Nishans which were issued by the princes of the royal blood. It was in very exceptional cases that official documents such as Hukums, Sanads, Nishans and parwans were issued by a Queen or a princess. This exceptional privilege

was allowed only to those who held the highest rank in the imperial harem such as Hamida Banu Begam, Mary-uz-zamani, \(^6^1\) Nurjahan and Jahanara. \(^6^2\) It was the privilege of the queens to seal the imperial Farmans. During the period of Shahjahan, after the death of his beloved queen Mumtaz Mahal, the seal was given to Begam Saheb Jahanara.\(^6^3\)

In addition to the Royal seal which was used for matters concerning the empire, a separate seal was used for all matters connected with the female issues. Thus the Muslim women have played a very important role in politics.

**WOMEN IN MODERN INDIA**

The history of modern India starts with the advent of the Europeans, particularly the British and East India Company rule over some provinces at the early stage. The arrival of the British is also taken as the starting point of the new age in Indian thinking as the connection with the British Empire provided them an exposure to the outside world and to rational and scientific education. The debate over the place and role of a woman in Indian society has been initiated with demand for change of the old social norms and conservatism by the new educated elite class of India along with the efforts of the British Bureaucracy and Christian missionaries. The rights of women became matter of great concern for the social reformers of India and the very dawn of India’s renaissance started with the advocacy of women education and liberation.\(^6^4\)

The effort to restore a woman to the rights as a person may be traced across the social and political events which are attached with the destiny of the great land of India from the 18\(^{th}\) century onwards. Thus one may follow the stages of


\(^6^2\) Misra, n.37, p. 67.


\(^6^4\) Kant, n.13, pp.56-57.
development in the status of women through the pre-independence and post-independence periods.

The pre-Independence period may be taken as extending from the latter half of the 18th century to the middle of the 20th century. During this period many movements had taken place in every sphere of life in India and women as part of Indian society could not remain untouched by these movements. These movements were basically concerned with aspirations of liberation of a woman as a human being and liberation of the nation. The quest for liberty, equality and freedom drew inspiration from the ideological renaissance blowing in from the Western values, with its emphasis on reason, rationality and humanism. The spreading of new ideas not only resulted in the questioning of irrational values and conservatism of Indian society but it also resulted in the questioning of the legitimacy of colonial rule imbued with the desirability of self government.

Secondly, the introduction of market economy, modern educational system and the new values of equality, rationality, secularism and respect for individual generated a new social environment pressing for a change in the old feudal structure of Indian society.

The initiatives which were led by British Bureaucracy and the Christian missionaries against the social evils were further followed by the Indian reformers. The support of the India’s educated elite to the British bureaucracy against the social evils like Sati, Infanticide, Child Marriage and Women education proved to be the backbone of the British initiatives. However, the vested interests of the British Christian Missionaries and the indigenous reformers, who were advocating the supremacy of Indian culture, mysticism and Indian values over the West and the liberation of Indian women through the values of this land of great –heritage led to a clash of interests, which further led to the different reform movements with different leanings, ideologies, techniques and methods. The lack of secular approach to the upliftment of women led to the criticism and the questioning of the efforts of the socio-religious institutions and government efforts which were initiated
during the colonial India for the upliftment of women. However, the efforts which were either made by the Indian social reformers or by the British bureaucracy have had a deep impact on the Indian society, which largely benefited Indian women.

**Infanticide and Social Reforms in Colonial India**

Infanticide was practiced in most parts of Northern India particularly in the Jat and Rajput heartlands, i.e., of north-western parts of Uttar Pradesh, Rajasthan, Madhya Pradesh, Modern Haryana and Punjab of the present day India. The people of these regions preferred a son in place of a daughter due to socio-religious and economic reasons.

Female infanticide was in 1780, brought to light by Janathan Duncan, the then Resident Commissioner at Banares who was later appointed as Governor of Bombay. He was the first English bureaucrat to lead the campaign against infanticide. It deserves a mention that infanticide was first detected by Emperor Jahangir in the early part of the seventeenth century and he disapproved of this custom. The second person to raise his voice against this crime was Raja Jai Singh of Jaipur State of Rajasthan who acceded to the throne in 1755.

The English tried to dissuade the people from this heinous crime and they even obtained undertaking to stop infanticide from some of the Rajas and chiefs. Two regulations were also passed by the Government, to suppress infanticide, i.e. Regulation XXI of 1795 and Regulation III of 1804. However, these resolutions could not be proved effective and the crime against the girl child continued. Determined to stop this crime, the British Government passed an official declaration prohibiting infanticide through an act in 1870. According to

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66 Altekar, n.18, p. 4.
67 Kaur, n. 65, p.9.
this act, it was compulsory for parents to get the birth of their children both boys and girls registered.68

**Child Marriage**

Child marriage was as rampant as infanticide, it was a continuing phenomena for many centuries and it was imbedded to the fabrics of the all sections of Indian society. Child marriage became a matter of great concern not only to the Indian social reformers but also to the British bureaucracy, as it was a greater social evil than any other social evils which affected the society at large. First it resulted in the physical, mental and moral degradation of a child bride and then furthers in a society an increase in the number of sick mothers and the sick child brides and high rate of mother and child deaths.69

The Brahmo Samaj, the Arya Samaj and all other such socio-religious reform movements worked against this social evil. It was felt that a law should be passed to prevent child marriage. Ishwar Chandra Vidyasagar did pioneering work on the issue of child marriage and his efforts met with success when in 1860 Indian Penal Code included the child marriage as a punishable offence. Early marriage, however, remained unchecked despite the earnest efforts of the reformers who continued to oppose it.70 The movement against child marriage took a long period and could get some success only when the Government of India passed the Child Marriage Act, popularly known as the Sarda Act of 1929.

The Sarda Act too could not become very effective as people living in villages were not aware of it. The lack of adequate resources and attitude of the

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68 Devendra, n.24,p.4.


government machinery in the enforcement of Sarda Act remained one of the major problems in the proper implementation of this act.\textsuperscript{71}

**Sati**

Sati was another social evil which became prevalent in the upper caste Hindus, particularly among the Brahmin, Bania and Rajput Castes. The voice against the Sati was first raised by the British officers and it was followed by enlightened Indians like Dwarkanath Tagore and Raja Ram Mohan Roy. Ram Mohan Roy had seen his brother's wife committing Sati in 1811 and he fought since then for its abolition.\textsuperscript{72} Raja Ram Mohan Roy continued his campaign against Sati with the zeal of a national reformer. Undoubtedly the ground for this social reform had been first prepared by Ram Mohan Roy. The first major step against the sati was taken by Lord William Bentinck, the then Governor-General of India (1829-1832), who decided to abolish the evil practice of sati by passing a law against it. Lord William Bentinck got the sati abolished legally in 1829 and it was declared "illegal and punishable by criminal courts" by regulation XVII. It provided that anybody who abetted a widow to commit Sati was to be punished for culpable homicide.\textsuperscript{73} The law was first applied to Bengal, but the Madras Government also passed a similar regulation on 2 February 1830.\textsuperscript{74}

**Widow Remarriage**

After the abolition of Sati, another social evil which attracted the attention of a majority of the social reformers was the miserable plight of Hindu widows and restrictions on their remarriage. When Sati was abolished, a widow was permitted to exist, but her life was miserable. She was treated badly by her in-laws. To end this social evil, social reformers like Raja Ram Mohan Roy and


\textsuperscript{74} Thomas, n. 10, p. 30.
Ishwar Chandra Vidyasagar in Bengal, Malabari, Narmad, Ranaday and K. Natarajan in Bombay and Dayananda Saraswati took an initiative to improve the condition of widows advocating the right of a widow to remarry. This was in the first quarter of the 19th century when remarriage became the centre of their reform activities concerning women. In October 1855 Vidyasager came out in print with the argument that it had the sanction of the Shastras and a petition was signed by more than 900 Bengalis along with Vidyasagar, and it was sent to the British government, demanding that remarriage be given legal sanction. But Bengali Hindus particularly the priestly class was against such reform and protested against Vidyasagar. The bitter opposition of the Bengali Hindus was negated by the British bureaucracy and a bill for widow remarriage was introduced in the Governor- General’s council by J.P. Grant in 1856 and this bill became an act.

Polygamy
Polygamy was the result of extreme sexuality and it reduced the woman’s status to a sexual commodity. Simultaneously Polygamy deteriorated the position of women at large and converted the moral institution of marriage into a sexual one. The position of women under the polygamy system can be judged from the orders of the Raja of Darbhanga which he issued in 1805 to prohibit polygamy. In his order the Raja prohibited the people of his state from taking more than five wives. It means that a man could enjoy luxury of having five wives even after the prohibitionary orders of the King. Muslims were also allowed to have four wives with religious sanction.

Maharaja of Burdwan and Rani Shurnomoyee of Cassim Bazar presented petitions in 1856 to the Bengal Government to pass a legislation banning polygamy. In the petitions they narrated the pitiable plight of women who were


76 Devendra, n.73, pp.11-18.

77 Kaur, n. 65, p.19.
victims of this system. Ishwar Chandra Vidyasagar also raised his voice against 
this custom and drafted a Bill. However, nothing substantial could be done to 
curb this evil. In 1938, three private Bills on the subject came before the 
Central Legislature. One of the bills allowed the taking of a second wife with 
the permission of the District Judge under exceptional circumstances. The other 
two bills were for the total prohibition of a second marriage unless the first 
marrige was dissolved. None of these bills were passed.
The Baroda state Government was first to pass an Act in 1942, declaring the 
second marriage illegal if the first spouse was alive or if the first marriage had 
not been dissolved. Bombay followed the Baroda and in 1946 passed the 
Prevention of Hindu Bigamous Marriage Act, but this could not become 
effective as the intending parties could go to the neighbouring areas and 
contract second marriages. The Hindu Marriage Act, 1955, was passed after 
independence when bigamy was declared an offence.

**Purda System**

Purda was a practice which made the women to suffer due to many reasons one 
of which was seclusion and segregation of women from society. It was very 
common in north India. The evil custom of Purda was started with the arrival 
of Muslims and soon became stronger as the upper castes and upper classes 
from the Hindus also started adopting this system.

Amongst the Muslim, a woman was not supposed to appear before a man to 
whom she was to be married. The women who observed purda went out in 
covered palanquins. Those who could not afford this luxury had to go in burqa 
which is a sheet covering them from top to bottom.

Almost all the socio-religious reform movements of the Hindus and Sikhs like 
Brahma Samaj, Arya Samaj and Singh Sabha had worked to create public 
opinion against this evil practice. A large number of articles were written by 
reformers in various magazines of such movements. To name a few, *Punjabi 
Bhain, Azad Bhain, Istri Sudhar* etc. The mass condemnation of such irrational

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78 Devendra, n. 24, p.18
socio-religious customs and practices certainly gained momentum under the leadership of Mahatma Gandhi. Under his influence appeals were signed by men and women of Bihar demanding the total abolition of Purdah.  

**Dowry**
The custom of giving dowry in the marriage of a daughter was generally unknown in ancient India but it started in the medieval India and this evil practice continued till today, however, it has increased to an unbelievable level.  

Unsuccessful attempts have, however, been made to end the evil of dowry. The Anti-Dowry League was started in the first session of the Madras Students’ Convention. All unmarried members had to pledge that they would not accept dowry. Similar leagues were started in northern India (1914).

There was no Government enactment to check this growing evil under the British Raj. The Government of India passed an Anti-Dowry Act in 1961 to check this evil. This act, however, could not become affective as the evil practice of dowry is not only continuing, but the dowry deaths are also a matter of routine in our day today life.

**Education and Women**
The new thinking and the competitiveness which was created by the Christian Missionaries for emancipation of women led many social reformers to advocate the same under their reform movements. It forced them to make a strong arrangement for the education of their women, which was a necessary effort to control influence of Christianity and western values over their women folk.

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The opening of the separate schools for girls by the Christian Missionaries was immediately followed by similar efforts of the Indian reformers. The opening of Hindu College in 1816 in Calcutta to promote women education was a major step in that direction. The Christian Missionaries under the guidance of Miss Cooke made arrangements for the education of women in 1812. She opened thirty schools and made efforts to attract the girls from the upper caste Hindu families, her schools also enjoyed the patronage of Hindu gentlemen and staffed by Brahmin Pundits, however, she failed to attract girls from the higher castes.  

One of the most important schools for girls was Hindu Balika Vidyalaya opened in 1849 in Calcutta by J.E. Drinkwater Bethune, legal member of the Governor - General’s Council and President of the council of Education.  

The matter of women’s education remained an important issue for the British Government also. Lord Dalhousie, Governor – General and of India from 1848 to 1856 declared that no single change was likely to produce more important and beneficial consequences than female education. Sir Charles Wood, president of the Board of Central Education from 1853 to 1855, issued an education dispatch in 1854 that detailed a shift in Government Policy, from providing higher education for the elites to support for mass education in the vernacular. This new focus on a total system of education was aimed to include both sexes. With the opening of Bethune School in 1849 the efforts of British government for the education of Indian women had been initiated.

The Education Commission of 1882 further recommended the expansion of girls education with the result that the post of Inspectors of Girls Schools were created and a few training schools for women teachers were also established. By the end of the nineteenth century there were 12 colleges, 467 secondary

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schools and 5,628 primary schools for girls with a total enrolment of 4,44,470 students. Miss Mary Carpenter, who visited India twice between 1866 and 1869, was able to secure a grant of £12,000 per annum, for five years on matching basis, for the establishment of normal schools. It was in 1868 that the Madras, Bombay and Uttar Pradesh Governments recommended to the Government of India, to open normal Schools, a step necessary for the promotion of female education. 84

The breakthrough came with the establishment of government schools, such as Bethune's and schools sponsored by reformist religious institutions. First the Brahmo Samaj, then the Prarthana Samaj, the Arya Samaj and the Theosophical Society all supported women education. Annie Besant focused on specific problems and by 1901 had written an article for the Indian Ladies Magazine on the "Education of Women". 85

In North India women education was encouraged by the Arya Samaj under the teachings of Swami Dayanand Saraswati. By the end of the nineteenth century, progressive Arya Samajists recognised the importance of involving women in their reform efforts. The Jullundhar Samaj opened the Arya Kanya Pathshala (Girls School) in 1890 with a lady principal in charge.

In 1854 there were approximately 626 girls’ schools. In 1872 Carpenter Keshub Sen, and another English woman, Annette Akroyd, set up a normal school. Later Akroyd broke with Keshub and worked with another group of Brahmos to establish the Hindu Mahila Vidyalaya (Hindu Girl's School). By 1878 this school had merged with the older Bethune school to become Bethune College, an affiliated college of Calcutta University, By 1900 the Sharada


Sadan had trained eighty women who were able to earn their own living through teaching or nursing.\(^{86}\)

Modern India witnessed many campaigns and movements launched by the social reformers, educated elites, socio-religious organization and British bureaucracy. These resulted not only in the legislative provisions to protect the women against structural violence of Indian society but also resulted in the social awakening of Indian people.

**Economic Status of Women**

Under the new political set-up and the written laws a debate over the rights of women to property had also become a matter of serious concern for the colonial bureaucracy as well as for the Indians. The most important was the entrance of Indian women in the commercial sector under the organised economy. In ancient period women had property rights like *Stridhana*. But the colonial judiciary changed this concept and lay down that inherited property is not *Stridhana*. A new legal principle was gradually introduced through court decisions that whether the property is inherited by a woman through her male relatives (Father, Son, Husband) or through her female relatives (Mother, Mother's Mother, Daughter), it is not her stridhana and that it would devolve on the heirs of her husband or father. The women lost the right to will or gift away their stridhana and it acquired the character of a limited estate. Any transaction by a widow in respect of the property inherited by her had to be justified on two grounds: legal necessity or religious or charitable purpose. Upon the widow's death, the property reverted back to the husband's male relatives. The introduction of this concept of 'reversionary' which is basically a legal principal under the English law, bestowed upon the male relatives the right to challenge all property dealings by Hindu widows.

To provide concrete examples of this trend, some decisions of the newly evolving legal machinery of British India are discussed below. These judgments have several commonalities. The litigations against the widows were initiated by the husband's heirs. In significant number of cases, following local customs, the lower courts upheld the women's rights over the property. The lower court decisions, however, were reversed by the higher judiciary and then became binding principles of law. Some cases which determined the economic status of women under the new colonial set-up are discussed below. These decisions were from property disputes within the Bengal presidency but under the considerable scheme of the hierarchy of courts, they became the binding principles of law for other presidencies.

In another landmark case around this time, the Privy Council held that the property inherited by the widow from her husband cannot be her stridhana. The Privy Council reversed the judgment of the lower court and proclaimed:

Under the law of the Benares school, notwithstanding the ambiguous passage in the Mitakshara, no part of her husband's estate whether movable or immovable to which a Hindu women succeeds by inheritance, forms part of her stridhana.

The legal precedents set by the Privy Council became the binding blocks of the rule of law and it proved as a lethal blow to the property rights of Hindu widows, as the decisions of the various High Courts in the subsequent decade reveal.

The period between 1850 and 1930 witnessed the elimination of a wide range of customs which diverged from the Anglo- Hindu law as the level of proof required was very high. The local customs had very bleak chances to survive. Derrett comments that in this manner the Anglo-Hindu law with its Dharmashastra background was spread more widely than it had been ever before. The customs which were the only customs of the agricultural classes in the Punjab and matrilineal practices of the Malabar region were also interpreted
on the lines of Anglo-Hindu Law. The tendency of both the British courts and of the urban Hindu middle class was to ignore the diversities and to impose Hinduism legally upon the local communities.  

Until the twentieth century women did not have the right of disposal over their separate property. The husband could transact all property dealings on her behalf; therefore, married women did not have a legal existence. As soon as a woman got married, she lost her legal identity. Her identity merged with that of her husband.

The decade 1920-30 witnessed some developments of far-reaching importance. The most important question that was raised during this period was women's property right to provide a degree of economic security to a near female relation. And the partial success was achieved in the form of Hindu law inheritance (Amendment Bill) of 1929 which recognized son's daughter, daughter's daughter, sister and sister's daughter as heirs "if it is not contrary to special local custom sharing the force of law." The women's right to property got further momentum when the Hindu women's right to property act of 1937 was passed under which a widow had the same interest in the property as her husband had.

More importantly, the colonial set-up provided women an entry into the modern economic sector and also in the organized sector of the economy. Women were trained and employed in the new professions like teaching and medicines, factories, mines, and plantations.

Medicine was one of the new careers opened to Indian women in late Nineteenth century and demand for women medical professionals grew very fast: there were 68,000, medical women professionals, 30,000 women

87 “Bhugwandeen Doobey VS. Myna Bae (1867) 11 Moore's Indian Appeals, Vekayyanma Garu vs Venkataramanayyamma Bahadur…on18...,” IndianKanoon.org/doc/86124, Accessed: 22-4-2012, 10:00am.

88 Anjali Kant, n.13, pp. 70-71.
employed in educational and scientific fields and 6000 women in law and business. But the largest employer of women was the manufacturing sector, both in established mills and factories and in minor manufacturing units such as vegetable oil production and tailoring. Domestic workers numbered 7, 37,000. In 1928 about 2,50,000 women worked in factories, about 58,000 of them in cotton mills and 55,000 in jute mills. Another 2, 50,000 women worked in tea gardens, where they were 27 percent of the workforce.89

During the last quarter of the nineteenth century factory legislation, designed to improve working conditions for women, receive attention from many quarters. A seven member government committee was established to analyse the condition of working women by the British government in the last quarter of 1870’s. This commission recommended the first factory act and by 1881 this act became legislation, despite all local hostility.90 Another progressive step for the working women came in 1891, when the factory act of 1881 was amended and new factory act 1891 was enacted and this act limited the working hours of women to an eleven hour day and also prohibited women from working at night.91

Political Status of Women
The politicisation of the women and the demand for the political rights by the women came with the politicisation of the masses and other weaker sections of the Indian society. Broadly, the demand for the political rights of the Indian women during the colonial rule can be divided into two streams. One was by the mainstream politicians and social reformers, who recognized the equal rights of women along with the other weaker sections of the Indian society and

89 “Modern Era”, www.indohistory.com ,Accessed: 12-12-2012,10:00am

90 “The First Factories Act-Indian History”, www.indhistory.com/factory-act.html Accessed: 12-12-2012, 10:00 am

91 “The Factory Act” www.indhistory.com/factory-act.html. Accessed: 12-12-2012, 10:00 am
second is by the educated elite women and women organisation which directly
concentrated on women rights and demanded the same rights for the Indian
women as were available to women in west at that time.

The saga of Indian struggle and sacrifices to get the liberation from the colonial
yoke would be incomplete if the role, struggle and sacrifices of the Indian
women are not mentioned. Women not only participated in the freedom
movement but also proved to be the winning power against the atrocities of the
British forces, when the men were brutally torched and laid down in the field of
freedom struggle. Then women took the challenge of standing peacefully
against the might of imperial power.

The peaceful protest of Mahatma Gandhi not only trained a large number of
women in Satyagraha and Ahimsa but also made them so committed that the
participation became a necessity for the success of every struggle against
British might. Swedeshi movement could not have succeeded without the help
of women. They joined the Satyagraha struggle in large numbers under the
leadership of Gandhi. Indian women in South Africa had set the example by
exhibiting the strength of the Passive Resistance Movement. They took training
in Satyagraha from Mahatma Gandhi.

The year of 1914 witnessed the beginning of the First World War. During this
period women had started taking interest in civil and political matters
concerning India. Annie Besant and Sarojini Naidu started taking interest in the
political affairs of the country. The period of Home League agitation (1914-
1915) started "Annie Besant prepared a ground for the Gandhian Freedom
Movement in which women have played a prominent part."

The participation and support of women which the national leaders received
during the Baroda Satyagraha of 1923-24 and the Bardoli Satyagraha of 1928
are memorable. Women commitment for the ‘no tax campaign’ which was

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New Delhi, 1979, pp. 34-35.
launched under the leadership of Sardar Patel was so high that they did not bother about the confiscation of their land and cattle by the government.

Dandi March is a saga of women heroic participation in the freedom of their mother land. When the male satyagrahies and their leaders were arrested and succumbed to the might of British forces, the woman folks were out in the streets to answer the wrongs of British Empire, to complete the work of their men folk which was left due to their arrests by the British forces. The protest led by Smt. Swarrop Rani against the salt law in Allahabad can be considered as a historic one as the women did not bow against the most hideous act of lathi charge and other atrocities. 93

**The Demand for Women's Franchise**

The demand for right to vote by the Indian women during the freedom struggle is evident in the fact that the Indian women were fully conscious of their rights and despite being good partners of their male counterparts in the struggle for Independence and the recognition of their identity in the political sphere. Indian women did not lose any chance to demand their rights from the colonial rulers. It is to note that the efforts to demand equal rights for franchise for the Indian women similar to the women in the West was due to the initiatives of the educated women of India, even though the Indian leadership did not support it whole heartedly.

The first initiative for the political rights and right to franchise for the Indian women was taken by Women's Indian Association (WIA). It was in 1917 when the first delegation of Indian women led by WIA met the Montague-Chelmsford Committee on Constitutional Reforms. Montagu-Chelmsford Committee suggested increasing the representation of Indians in the legislative council and widening the electorate, however, it did not make any reference to the women franchise in India.

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93 Suguna, n. 44, p.40.
The hopes of Indian women were further dashed by the Southborough Committee which was appointed by the British government to investigate the suggestions made by the Montagu – Chelmsford Committee. Without wasting any time, the 40 branches of WIA showed the numerical support for their demands. The committee was presented with a petition signed by 800 educated women and statements supporting women's suffrage from the all – India Women's delegation. The Southborough Committee's report, however, stated that extension of the right to vote to women would be premature in a society which continued to enforce Purda and prohibition against female education.94

The decision of Southborough Committee was met with strong protests from women across India and created an environment favourable to recognition of the equal rights of women by all the political parties across the country. Provincial Congress Committees passed a resolution in favour of women's suffrage, while both the Home Rule League and the Muslim League recognised that women should be given the right to vote on the same basis as men. A special deputation, compromising Sarojini Naidu, Annie Besant, Mrs. Herabai Tata, and Mithan Tata, went to London in 1919 to give evidence before the Joint Parliamentary Committee on the Government of India Bill. They were able to get the support of British women's organizations, particularly from the Women's Freedom League and the women's International League, who began to lobby on their behalf; the politicization had its impact and the Joint Select Committee recommended that sex disqualification be removed. However, the initiative for this would have to come from the individual legislative councils, a provision which would allow the more conservative areas to retain an all-male electorate.

Madras led the way and granted women the right to vote in 1920 and Bombay followed suit in 1921. Bihar retained the sex disability for the council of the state and the legislative council until 1929. Muthulakshmi Reddy, the first

94 Thomas, n.10, p. 334.
women legislator, was appointed to Madras legislative council in 1927, Kamaladevi Chattopachyay and Mrs. Hannen Angela contested the election for the council.\textsuperscript{95} They were enthusiastically supported by the WIA, not because of their political views, for which the association was not responsible, but because of the necessity of the presence of women in the council.

The WIA list of women in public life (1927) included five members of legislative councils (all nominated), 32 members of municipal committees (six elected), four members of Taluk Boards (all nominated), 32 Honourary Magistrates, Justices of the Peace (all nominated), and four members of the university senate (all elected). Women were proud of their achievements, and there were no complaints because so many women had been nominated. \textsuperscript{96}

**Post- Independence Period**

A saga of new dreams for the Indian women has started with the dawn of Independence. A time of fulfilling the promises which the Indian leadership made and the potential of the women development was now in those hands with whom the Indian women had stood for years in the socio-political and economic fields against the might of British Empire. The first emphasis was to design a Constitution under which not only the broader goals of the freedom struggle were to be fulfilled but also the smooth growth of the very Indian society should come in a harmonistic way.

Promulgation of the Constitution of India on January 26, 1950 was a defining moment in the history of human rights in India. The Preamble, Fundamental Rights and Directive Principles of the State combined together provided the basic human rights for the people of India. Democratic socialism spelt out in the Preamble and the Directive Principles meant to provide the context in which the fulfillment of Fundamental Rights had to be achieved. While

\textsuperscript{95} Ibid, p.103.

Fundamental Rights stressed on the existing rights, Directive Principles provided the dynamic movement towards the goal of providing human rights for all. To enable the citizens to enjoy human rights, many pieces of social legislation have been enacted over the last 60 years. In addition to these, the Supreme Court of India through judicial interpretation has widened the horizons of human rights in India.

All provisions of the Indian Constitution are applicable in equal measure to men and women, and can, therefore, be invoked by women for the assertion of their rights in Article 14 of the Constitution of India enunciates the general principle of right of equality and prohibits the state from denying to any person, "equality before the law".

The word ‘status’ refers to women's position and rights in different fields of Hindu law, namely property, succession, matrimonial relief, guardianship, will making power and choice in adoption, which has now been the natural outcome of Article 14 and other allied provisions of the Indian constitution. In the past, a woman was frequently deprived of this status but new laws granted her better position in domestic as well as property matters. The underlying principle of Article 14 of the constitution of India is reflected in the statement: "Like should be treated alike". Therefore, amongst equals, law should be equal, and should be equally administered.

Article 14 of the constitution, firstly, confers on women the equality of status and, secondly, protects them against any violation of this principle. Article 14 recognises "women" as a class and declares this "class" to be different from men as a class. By this, the legislature was empowered to pass the Hindu Succession Act, 1956 and remove the traditional disadvantages attached to women.
Favourable Discrimination

Section 354 of the India Penal Code which makes assault or use of criminal force with intent to outrage the modesty of women (and does not include “woman”, within the provision of the section), is not valid as being a violation of the equal protection of law.97

Article 15 (3) simultaneously provides that nothing in this Article shall prevent the state from making any special provision for women and children.

For example, in pursuance of this, the Parliament has enacted the 73rd and 74th Constitutional (Amendment) Act, providing 33% reservation of seats in Gram Panchayats, Block Samitis and at the level of Zila Parishads.

Article 16 Equality of opportunity in matter of public employment Clause (1) of Article 16 provides equality of opportunity in matters to employment or appointment to any office under the state. Discrimination on the basis of sex has been specifically prohibited under the constitution so as to bring women at par with men. Sex shall not be the sole ground of intelligibility for any post.

Article 21: of the Constitution states “No person shall be deprived of his life or personal liberty except according to the procedure established by law”

Article 21 proved to be the back bone for the protection and promotion of women rights. For example, the Court in a series of cases held that right to life enshrined in Article 21 meaning something more than survival or animal existence.98 It would include the right to live with human dignity. This Article has been interpreted over the years to provide speedy trial, especially in cases of rape99, free legal aid100, health care101, education102, protection of insane

persons. In this case the court held the imprisonment of a person is unconstitutional after that person declared insane.\textsuperscript{103}

Article 21A: Right to Free and Compulsory Education, although the right to free education is provided to the children of both the sexes, looking into the socio-economic set up of the Indian society it can be said that the girl child will be more benefited from this act in comparison to the boy child.\textsuperscript{104}

Furthermore, Article 23 of the constitution of India provides for prohibition of trafficking in human beings and forced labour.

The state in pursuance of the above provision has enacted the Suppression of Immoral Traffic in Women and Girls Act, 1956, which has been recently amended, is known as the PITA. Bounded labour system (Abolition) Act, 1976, the indecent representation of women (prohibition) act, 1986 are the milestone in ensuring the dignity of Indian women.

**Directive Principles of State Policy**

Although the Directive Principles of State Policy are not enforceable by the Courts, they are the fundamental principles for guidance to the various organs of the State. However, in recent times judiciary has broadened the concept of directive principles and given a wider definition to them.

Article 39, provides: (a) that the citizens, men and women, equally have the right to an adequate means of livelihood; (b) that there is equal pay for equal work for both men and women; (c) that the health and strength of workers, men and women are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age and strength. The principle underlying this provision is "equal wages for equal work" ,irrespective of "sex".


\textsuperscript{104} Nomita Aggarwal, \textit{Women and Law in India}, Women’s Studies and Development Centre, University of Delhi, 2002, pp. 27-28.
In furtherance of these principles, suitable provisions have been included in various labour laws passed from time to time e.g. the Equal Remuneration Act, 1976, the factories Act 1948, the Mines Act 1952 and several others statutes. In this regard various international labour conventions and recommendations of the international labour organisations have been kept in view. For example, The Equal Remuneration Convention 1951 was followed by the Equal Remuneration Act, 1976.

Article 42 and 43 specially addresses the States responsibility to make provisions for securing just and human conditions of work and maternity relief." Article 43: "The state shall endeavor to secure, by suitable legislation or economic organization or in any other way, to all workers, agricultural, industrial or otherwise, work, a living wage and conditions of work ensuring a decent standard of life.”

The cumulative effect of these articles is that "the state is under an obligation to provide the suitable legislation to ensure just and human conditions in various industries and maternity benefits to women".

Article 51-A: stipulates the Fundamental Duties to be followed by citizens. Among others, it states: “it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women”.

**Other Legislations protecting women**

Besides the Constitutional provisions, The Indian Penal Code, 1860, the Code of Criminal Procedure, 1973 and the Indian Evidence Act 1872 along with other 54 major legislations are there to protect and promote women rights.

**Penal laws:** Looking at the social conditions and norms prevailing in Indian society, the penal code has offered special provisions for the protection of a woman who might become a victim of offences relating to her sexual identity. These special provisions relating to women are not exceptions but are to guard against special offences as a woman faces many problems in her public and private life because of her womanhood and her social position.
There are some special provisions for women in the criminal procedure code regarding search, seizure, arrest and imprisonment etc.

Some sections which give special protection to women or deal with the offences which either specially refer to women or protect women are enumerated in the chart below:-

**Table- A (1)**

*Protection under the Indian Penal Code*

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Name of offence</th>
<th>Section</th>
<th>Minimum punishment</th>
<th>Maximum punishment</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Obscene acts and song in public place</td>
<td>294</td>
<td>-</td>
<td>3 months or fine or both</td>
</tr>
<tr>
<td>2.</td>
<td>Dowry</td>
<td>304-B</td>
<td>7 years</td>
<td>Life imprisonment</td>
</tr>
<tr>
<td>3.</td>
<td>Causing miscarriage without women's consent</td>
<td>313</td>
<td>-</td>
<td>Life imprisonment or ten years and fine</td>
</tr>
<tr>
<td>4.</td>
<td>Death caused by act done with intent to cause miscarriage</td>
<td>314</td>
<td>-</td>
<td>10 years and fine as above if without, women's consent.</td>
</tr>
<tr>
<td>5.</td>
<td>Simple hurt wife beating</td>
<td>323</td>
<td>-</td>
<td>One year and also fine up to Rs. 10,000/ or both</td>
</tr>
<tr>
<td>6.</td>
<td>Grievous hurt or wife beating</td>
<td>325</td>
<td>-</td>
<td>7 years and also fine</td>
</tr>
<tr>
<td>7.</td>
<td>Assault or criminally force to women with intent to outrage her modesty</td>
<td>354</td>
<td>-</td>
<td>2 years or fine or both</td>
</tr>
<tr>
<td>8.</td>
<td>Kidnapping, abducting or inducing women to compel her marriage</td>
<td>366</td>
<td>-</td>
<td>10 years and also fine</td>
</tr>
<tr>
<td>9.</td>
<td>Procuration of minor girls</td>
<td>366-A</td>
<td>-</td>
<td>10 years and also fine</td>
</tr>
<tr>
<td>10.</td>
<td>Importation of girls from foreign country.</td>
<td>366-B</td>
<td>-</td>
<td>10 years and also fine</td>
</tr>
<tr>
<td>11.</td>
<td>Selling minor for purpose of prostitution.</td>
<td>372</td>
<td>-</td>
<td>10 years and also fine</td>
</tr>
<tr>
<td>12.</td>
<td>Buying minor for purpose of prostitution</td>
<td>373</td>
<td>-</td>
<td>10 years and also fine</td>
</tr>
<tr>
<td>13.</td>
<td>Rape</td>
<td>376</td>
<td>7/10 years</td>
<td>10 years and also fine</td>
</tr>
<tr>
<td>14.</td>
<td>Sexual intercourse with one's wife living separately</td>
<td>376-A</td>
<td>-</td>
<td>2 years and also fine</td>
</tr>
<tr>
<td>15.</td>
<td>Intercourse by public servant with women in</td>
<td>376-B</td>
<td>-</td>
<td>5 years and also fine</td>
</tr>
<tr>
<td></td>
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<tr>
<td>16.</td>
<td>Intercourse by superintendent in jail remand home etc.</td>
<td>376-C</td>
<td>-</td>
<td>5 years and also fine</td>
</tr>
<tr>
<td>17.</td>
<td>Intercourse by any member of the management of a hospital with any woman in that hospital.</td>
<td>376-D</td>
<td>-</td>
<td>5 years and also fine</td>
</tr>
<tr>
<td>18.</td>
<td>Cohabitation caused by a man deceitfully inducing a belief of lawful marriage.</td>
<td>493</td>
<td>-</td>
<td>10 years and also fine</td>
</tr>
<tr>
<td>19.</td>
<td>Bigamy</td>
<td>494</td>
<td>-</td>
<td>7 years and also fine</td>
</tr>
<tr>
<td>20.</td>
<td>Bigamy with concealment of former marriage</td>
<td>495</td>
<td>-</td>
<td>10 years and also fine</td>
</tr>
<tr>
<td>21.</td>
<td>Marriage ceremony fraudulently gone through without lawful marriage</td>
<td>496</td>
<td>-</td>
<td>7 years and also fine</td>
</tr>
<tr>
<td>22.</td>
<td>Adultery</td>
<td>497</td>
<td>-</td>
<td>5 years or fine or both</td>
</tr>
<tr>
<td>23.</td>
<td>Enticing or taking away or detaining with criminal intent a married woman</td>
<td>498</td>
<td>-</td>
<td>2 years or fine or both</td>
</tr>
<tr>
<td>24.</td>
<td>Subjecting a women to cruelty</td>
<td>498-A</td>
<td>-</td>
<td>3 years and also fine</td>
</tr>
<tr>
<td>25.</td>
<td>Word, gesture or act intended to insult the modesty of a woman.</td>
<td>509</td>
<td>-</td>
<td>1 years , or fine or both</td>
</tr>
</tbody>
</table>


**Provisions under the Criminal Procedure Code**

Like the Indian Penal Code, the criminal procedure code has also recommended some provisions in favour of women. Section 47 (2) provides that if any person or police officer has reason to believe that the person to be arrested has entered into or is residing in the house, he can enter into the house and arrest him. But section 47 (2) provides that if such place is in the actual occupancy of a female (not being the person to be arrested) and who, according to custom, does not appear in public, the police officer shall, before entering into the apartment, give notice to the woman that she is at liberty to withdraw and shall afford her a reasonable opportunity to withdraw section 51 (2) provides that where a female is arrested by the police officer, she can be
searched only by another female with strict regard to decency. Section 53 (2) provides that if a female is arrested and medical examination is necessary so as to get evidence of commission of crime, such examination shall be made only by or under the supervision of a female registered medical practitioner. Such examination for obtaining evidence is not violative of article 20 (3) of the constitution of India which grants protection against self incrimination.

Section 64 provides that when the summons can not be served to the person summoned, it can be served to an adult male member of the family residing with him. However, it cannot be served to any adult, female member of the family. Section 160 (T) requires the witnesses to attend the place or thane as required by the investigating police officer, but clause (2) provides an exemption from such requisition for women and male person under the age of fifteen years.

The Criminal Law (Second Amendment) Act of 1983 has introduced a sub section of 174 of the code. This provides that the post mortem in all cases is necessary where a married woman has died within seven years of her marriage and a relative of such a woman has made a request in this regard.

Section 415 of the code empowers the High Court to postpone the execution of death sentence in case the convicted woman is pregnant. Section 437 provides an exception to this rule that a woman may be released on bail even if the offence charged is punishable with death or imprisonment for life. It is a special provision in favour of women.

The Indian Penal Code takes care of the girl child for that purpose, feticides (section 315), infanticide, seduction (section 366) procuration of minor girls (section 366-A), importation of girls from a foreign country 366-B, selling minor girls for prostitution (Section 372), buying minor girls for the purpose of prostitution (section 373) and cohabitation caused by a man deceitfully inducing a belief of lawful marriage are punishable offences. Thus, Indian
Penal code allows for special provisions and lays down guidelines for meeting out special treatment to women in varied situations.  

**Marital Rights**

Hindu women under Hindu law have acquired new status and position in society. The Hindu Marriage Act was passed in 1955 and it has brought the following changes: Hindu cannot have more than one wife. A marriage performed in violation of age requirements is still valid; it is neither void nor voidable under section 13 (2) (IV). The marriage was to be solemnized before the age of 15 years and the woman has repudiated the marriage after attaining that age but before attaining the age of 18 years." Section 13 of the Hindu marriage Act provides grounds for divorce, which are available to both the parties. Adultery and cruelty are both sufficient grounds for obtaining a divorce. Daughters have equal right as sons to their parent's property. They have a share in the ancestral property under section 6 of the Hindu succession Act, when unmarried; they have right to shelter in the parental home, right to maintenance according to the income and status of their family and the right to have their marriage expenses paid out of the assets of the joint family.

A married woman has exclusive right over her individual property. Unless she gifts it in part or whole to anyone, she is the sole owner of her assets whether earned, inherited or gifted to her. Regardless of her income, the wife is entitled to maintenance, support and shelter from her husband, or if her husband is living in a joint family it has to be suitable according to the share of her husband in the joint property of the family.

A mother is entitled to maintenance from her children. She is also a class 1 heir of her husband property. All property owned by her may be disposed of by her solely, she can gift it to any one as per her will because she is a full owner of her property under section 14 (1) of the Hindu Succession Act, 1956. In case she dies intestate, her children inherit equally, regardless of their sex under section 15 (1) and 16 of the Hindu succession Act, 1956.

The Hindu succession act came into force on June 17, 1956, with a view to conferring absolute ownership on Hindu a woman in the property which was in her possession when the act came into force. The limited estate of Hindu females is enlarged and the reversionary rights have now been abolished to a great extent. The theme section (1) of the Act provides women with some proprietary status.

**The Dowry Prohibition Act, 1961**

The dowry prohibition act was first legislated in 1961; the act was amended in 1984 to make the offence of "dowry" cognizable. The act provides for a minimum punishment of imprisonment up to 6 months for the offence by way of demanding, giving and taking dowry. The maximum punishment for these offences has been increased to two years imprisonment and punishment by way of fine for these offences has also been increased substantially.\(^{108}\) The amendment to other laws has also been made to strengthen the process of prosecution against dowry offence. Section 498-A has been introduced in the Indian penal code to deal with dowry.\(^{109}\) The criminal law (second amendment) act, 1983 has amended the code of criminal procedure, to secure post-mortem in case of suicide or death of a woman under suspicious circumstances within seven years of her marriage.

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\(^{109}\) Aggarwal, n. 104, p.32.
The punishment for committing such dowry deaths shall be imprisonment for not less than 7 years; it may also extend to imprisonment for life. It is to mention that Indian penal code was amended in 1986 specially to make the proper provision to deal with the dowry deaths under section of 304-B.\textsuperscript{110}

**Labour Laws and Women**

Economic empowerment of women is central to considerations of personal independence and self-esteem. To this end employment and entrepreneur opportunities would go in a long way in making a woman, self-reliant. To end discrimination against women in the field of employment and to realise their right to work, women should be given the right to employment opportunities, the free choice of profession, job security, equal remuneration, the right to compensation in respect of domestic work, the right to protection of health and safe conditions, specially in safeguarding the function of reproduction and special protection, in times of pregnancy, from work that may be harmful.

The working women have been provided with various benefits, concessions, protection and safeguards under different labour legislations in order to provide security against various risks peculiar to their nature. The women workers not only enjoy better rights but they also have better remedies in factories, mines, plantations and other industries.

**Equal Remuneration Act, 1976**

The equal remuneration act, 1976 provides for the prevention of discrimination on the ground of sex against women and also in the matter of employment and for matters connected therewith or incidental thereto. The act also prohibits discrimination while recruiting men and women workers for the same or similar nature of work except where the employment of women in such work is restricted or prohibited by or under any law for the time being.\textsuperscript{111}

\textsuperscript{110} *Ibid*, p.54.

\textsuperscript{111} *Ibid*, pp. 119-130.
The act places duty on the employer to pay equal remuneration to men and women workers employed by him in an establishment or employment for performing same or similar nature of work. It also forbids discrimination against women workers either at the time of recruitment or in any condition of service subsequent to recruitment such as promotion, training or transfer. This protection does not extend to places where the employment of women is prohibited or restricted by any other law in force.\textsuperscript{112}

**Maternity Benefits Act, 1961**

Performance of the biological role of child bearing necessarily involves withdrawal of a woman from the workforce for some period. During this period she is not only forced to stop her work but also needs extra income for her medical expenses. In order to enable the women worker to subsist during this period and to preserve her health, the law makes a provision for maternity benefits so that the women can play her productive and as well as reproductive role efficiently.

One of the earliest conventions adopted by ILO was on the Maternity Protection Convention, 1919. All the member countries of ILO were directed to pass suitable legislation to extend certain benefits to women during pregnancy and after childbirth.\textsuperscript{113} The Royal Commission on Labour was appointed in the year 1929 to study the conditions in the country. In the report submitted by the commission, it was strongly recommended that the women workers should be provided leave with wages before and after confinement. However, the government of India did not act on the recommendations.

It was the government of the state of Bombay that enacted the first maternity benefits legislation in the year of 1929. The act provided for a leave of seven

\textsuperscript{112} “Equal Remuneration Act 1976”,
www.excelconsultancyservices.co.in/EqualRemuneration.htm, Accessed, 09-4-2013, 11:20 am.

\textsuperscript{113} “International labour organization, 1919” en.wikipedia.org/wiki/international-labour-organisation-, Accessed:11-4-2013, 2:00 pm.
weeks and an allowance of 50 paisa per day during the leave period, for any women worker who was due to deliver. To be eligible to receive this benefit, the women should have worked in that factory or establishment for at least a period of six months.

Soon some other states followed the example of Bombay state and enacted similar laws with some minor variations. It was in the year 1961 when the Central government, with a view to bring some uniformity in the provisions of various maternity benefits, enacted the Maternity Benefits Act 1961.

Initially, the act was provided to Industries at large but in 1988 its provisions were extended to all shops and establishment in which ten or more persons were employed on any day in the preceding twelve months.

The act provides for payment of cash maternity benefits for certain periods before or after confinement, grant of leave and other medical facilities. This benefit is available in case of confinement, miscarriage, sickness arising out of pregnancy and premature birth of the child. In 1995 the Act was amended to extend the benefits to women undergoing tubectomy, Medical Termination of Pregnancy (MTP) and for any illness arising out of tubectomy or MTP.

The maximum period for which any woman is entitled to maternity benefits is 12 weeks i.e., six weeks up to and including the day of her delivery and 6 weeks immediately following that day. The Act provides for payment of maternity benefits to the women employees at the rate of average daily wage for the period of their actual absence immediately preceding and including the day of their delivery and for 6 weeks immediately following that day.

**Factories Act, 1948**

Factories Act, 1948 is an important legislation as it contains certain provisions regarding the nature of work to be given to women workers and hours of work

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for them, etc. The Act prohibits the employment of women from 7pm to 6am. No exemption can be granted from provisions related to daily hours. This Act states that no woman shall be required or allowed to work except between the hours of 6am to 7pm. This Act mentions that these limits may be varied by the State Government but no variation shall be authorised for exemption of women between 5am to 10pm; there shall be no change of shifts except after a weekly holiday or any other holiday.

The Factories Act 1948 does not allow women workers to handle excessively heavy weights. Both the Factories Act and the Mines Act 1952 authorised the State Governments to fix the maximum weights which can be lifted, carried by men, women and children. The Act prohibits the employment of women in any part of a factory for pressing cotton in which cotton opener is at work.115

**The Mines Act 1952 and Plantation Labour Act, 1951**

In these acts, apart from the usual sections regarding the licensing of mines, inspection, penalties etc., the following provisions are specially meant for women. No woman and child are to work under ground. They must be given work only on surface. No night work is allowed for women. Under mines act, the Central Government is authorised to make rules requiring the mines to maintain crèches if a certain number of women workers are employed in the proceeding 12 months.116

**Beedi & Cigar Workers (Conditions of Employment) Act, 1966**

This Act also contains some special provisions for women workers. The important provisions are for a crèche for the infants and babies of women workers and restriction on night work of women.117

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**Political Status of Women**

Empowerment of women is the key issue in the women movement. Empowerment contains the word ‘power’ which is exercised in economic, social and political relationship between individuals and groups. Power may be over defined as control over resources and control over ideology. As per this view women are considered to be relatively powerless because they do not have control over resources. Hence it leads to no decision making power for women, yet numerous decision are made which affect women every day.

After independence, the task before the government was to create a situation for actual and meaningful participation of women in political and economic decision making. The political identity and the equal role of the women have been recognised by the constitution of India. Special provisions are also made not only under the Constitution but also by the political actors and political parties to encourage women’s role in political affairs. Article 325 and 326 of the constitution of India guarantees political equality, equal right to participation in political activities and right to vote respectively. While the latter has been exercised and enjoyed by a large number of women, the former i.e., right to equal political participation is still a distant dream. The participation of women in the politics and their number in elected bodies of the state has shown the reverse. A glance over the percentage of women in the Lok Sabah and Rajya Sabha from 1952-1990 along with the analysis of the percentage of women members in different political parties can reveal the real political position of women under the Indian Democracy.
Table-A (2)

Participation of Women in the Lok-Sabha and Rajya Sabha till 1990

<table>
<thead>
<tr>
<th>Sr. No.</th>
<th>1952-1957</th>
<th>No. of Seats in Lok Sabha</th>
<th>Women Members</th>
<th>Percentage</th>
<th>No. of Seats in Rajya Sabha</th>
<th>Women</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1957-62</td>
<td>499</td>
<td>22</td>
<td>4.4</td>
<td>219</td>
<td>16</td>
<td>7.3</td>
</tr>
<tr>
<td>2</td>
<td>1962-67</td>
<td>500</td>
<td>27</td>
<td>5.4</td>
<td>237</td>
<td>18</td>
<td>7.6</td>
</tr>
<tr>
<td>3</td>
<td>1967-71</td>
<td>503</td>
<td>34</td>
<td>6.7</td>
<td>238</td>
<td>18</td>
<td>7.6</td>
</tr>
<tr>
<td>4</td>
<td>1971-76</td>
<td>523</td>
<td>31</td>
<td>5.9</td>
<td>240</td>
<td>20</td>
<td>8.3</td>
</tr>
<tr>
<td>5</td>
<td>1980-84</td>
<td>521</td>
<td>22</td>
<td>4.2</td>
<td>243</td>
<td>17</td>
<td>7.0</td>
</tr>
<tr>
<td>6</td>
<td>1985-90</td>
<td>544</td>
<td>28</td>
<td>5.1</td>
<td>244</td>
<td>25</td>
<td>10.2</td>
</tr>
<tr>
<td>7</td>
<td>1991-95</td>
<td>544</td>
<td>44</td>
<td>8.1</td>
<td>244</td>
<td>24</td>
<td>9.2</td>
</tr>
</tbody>
</table>

Source: Government of India, Statistical Reports of Lok Sabha and Rajya Sabha, Elections, Election Commission of India.

The percentage of winning candidates has been below ten percent in the Parliament, in all the past elections, as shown in this table. No variation whatsoever has occurred in half-a-century. During the same period, Indian women have achieved commendable progress in literacy, education, and employment. They have achieved rights equal to that of men for parental assets. The above statistics suggests that it is not the law and constitution which control and regulate the Indian politics. But there are other factors which dominate the politics and political participation of women in India.

With a view to tackle the problem of apathy, indifference and non-participation of the women in rural development programmes, the Government of India appointed B.R Mehta Committee (1957), which wanted that women should not only become beneficiaries of development, but also contribute to the development process.118

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The next major landmark regarding the role of women was the Committee on the Status of Women in India (CSWI, 1975), which highlighted that the majority of the Indian women are facing a situation of subordination and deprivation, which has increased the gender inequality in society. The Committee revealed that although women are participating in increasing numbers in economic and political activities and in the process of change, they are not necessarily the actual beneficiaries, nor are they able to control the process of change to meet their needs or aspirations. They are increasingly becoming victims along with other weaker sections. In the units of local governance, rural women rarely get elected directly. Instead they are nominated or co-opted. Often, they are ignorant of the purpose and procedure of the panchayat institution and are also discouraged by their family members from participating effectively. With the publication of CSWI Report 1975, a demand for the representation of women in the Panchayats by reservation rather than by nomination was voiced and reiterated. This was followed by the Ashok Mehta Committee Report (1977), which laid emphasis on the need to reorganize and strengthen women’s constructive decision-making and managerial roles.

The National Perspective Plan for Women (1988) recommended that thirty per cent of the executive head positions from the villages should be reserved for women. Thus, the debate on political representation concerning women, from 1957 to 1989, has been on how to encourage women to participate actively and in large numbers in the Panchayats at various levels.

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The United Nations Organisation gave special attention to the empowerment of women. Its Decade of Women's Development (1975-1985) generated a lot of interest throughout the world. India also took special interest towards the problems of women. At this juncture, a number of women organisations came into being and started fighting for women's cause. They took a positive approach that they should be perceived as dignified human beings instead of being treated as objects of pity. However, there was no meaningful effort to provide satisfactory representation for women in the legislative, executive and other similar bodies.

It was in this background that in September 1991, the Congress Government under the leadership of P.V. Narasimha Rao introduced the 73rd (Panchayats) and 74th (Nagar Palikas) constitutional amendment bills in the parliament. They were referred to a joint select committee, the Lok Sabha passed the bills on 22nd December, 1992 and the Rajya Sabha, the following day. Following the ratification by more than half of the State Assemblies, the President gave his assent on 20th April 1993, and the acts were brought into force by a government notification on 24th April 1993 as the 1992 Constitution (Seventy Third and Seventy Fourth) Amendments. These amendments provide for one-third reservation of seats and offices of chairperson to women in the local self-government institutions throughout the country.

The reservation of 33% seats for women in the local self government could not help the women to represent their interest as a collective political voice against the established ethos of patriarchy. The studies conducted into the different states on the role of women in the local self governments, hold some common features across the majority of the states. These features are; (1) They display a lower level of political awareness, (ii) they owe their primary loyalty to their families,(iii) their role of an elected representative is merely an extension of their role as a house wife, (iv) they enter the political arena for protecting the constituency of their male relatives and are prepared to vacate the same, once

de-reserved (v) Illiteracy is considered as a major cause for women to be used as sheer proxies. (vi) It is also observed that the male members in the family often dominate the women panches, they train women to speak at meetings, or actually do the necessary paper work when women are illiterate. The more shocking is the women representation in national politics and in the political parties. Although the political parties are claiming to be gender sensitive and want to recruit more and more women members to their parties, even after the passing of 60 years of independence no political party can cross the data of 5% for women membership into their party in India. The scenario is grimmer if one looks at the key posts. Hence if one wants to have a fair knowledge of women and politics in India, one definitely needs to study women participation in party politics.

Analysis of the electoral processes in India reveals that mobilization of women by political parties has been opportunistic with short –term goal of winning the elections and not for long term goals of bringing about a social change for women. Further, they have approached women for their quantitative votes as a supportive group of citizens for general purposes rather than acknowledging their special interest and perspective for an improved quality of life. The election manifestos of parties indicate that women constitute a backward section of society to whom special privileges should be granted to bring them at par with men.

The more surprising is the dual role of political parties on the women reservation bill, i.e., the reservation of 33% seats in the Parliament and state legislatures. On the one hand, all the political parties, irrespective of their

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ideological lines, are claiming to be the supporters of the women reservation bill, on the other hand the male chauvinism across the party lines have been opposing the bill on one or the other excuse, since 1996.\textsuperscript{124}

Notwithstanding the horific position granted to women in the pre and post Aryan period and in the Vedic times, that too in a substantive and mandatory manner, made binding on society by the tenets of religion and observance, women of later periods spanning between the middle and modern ages have been denied their rightful place of honour owing to a variety of reasons both religious and mundane. Indian society, a vortex of innumerable castes and communal combinations, has paid scant regards to the education and welfare of women culminating in child marriage, sati, ban on widow remarriage, and divorce, to name a few atrocities committed on them. It is a pity that the rulers never tried to defy the orthodox religious beliefs by initiating reforms, which would have enhanced the prestige and status of women. Even the few women who hobnobbed with Mahatma Gandhi and the frontline leaders of the freedom movement were from rich and educated milieu and did not represent the backward and downtrodden womenfolk of India subjected to all kinds of exploitation and torture.

The leaders of both pre and post independence India paid nothing but lip service to the upliftment of women in various walks of life including rightful representation in the legislatures, both at the centre and in the states, with the result that even now women do not enjoy a place of pride in the power centers of legislation, administration and party leadership.