

Law and Women

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ABSTRACT

The following phrase of Manusmriti, 'na stree swathantryam arhati' means 'a woman is undeserving for freedom' reflects our whole attitude towards women in our country. A woman suffers discrimination and injustice in all stages of life. In theory they are respectable but in practice they are the subjects of cruelty, ill-treatment and all sorts of misbehavior by males. The vulnerability of the women as a class has nothing to do with her economic independence. The women have been a victim irrespective of her economic background. The following article aims to evaluate the status of women in contemporary India.

Keywords: Women, Law

Introduction:

Social change is an inevitable phenomenon of every society because social conditions never remain static. Social change whether it comes through legislation or through judicial interpretation indicates the change in accepted modes of life.

The empowerment of women is an input which is intended to eliminate their subordination and establish equality. Empowerment is a positive concept. It requires affirmative action in support of those who are to be empowered. The Constitution of India doubtless envisages state intervention on behalf of the disadvantaged section of the society. The law can create such empowerment by way of conferring rights directly on the person whom it intends to empower or by imposing liability on other persons towards the persons to be empowered.

The Constitution mandates of equality of sexes and special protection provided under Art. 15(3) was enforced by the Supreme Court in the Case of *air India vs. Nargesh Mirza*, *C.B. Muthamma vs. UOI*, *Maya Davi vs. The State*, *Yusuf Abdul Aziz vs. State of Bombay* and *Smt. Wmithri vs. Union of India*, where unequal provisions were quashed against women and in some cases favored for protection to women.

Law and Women:

The Hindu Law brought out a radical reform to improve the condition of Hindu women. Though Hindu women occupied a high position during Vedic period times, later she was subjected to so many social disabilities. Following are some of the legal provisions enacted to protect and uplift the condition of women on the humanitarian ground.

Dowry-

The dowry evil is essentially a social one having relation with property rights of women. It has been a matter of serious concern to everyone in view of its

ever-increasing and disturbing proportions. Dowry death has become common news today. There has been a persistent demand for such a law that prohibits dowry both in and outside parliament. Mere legislation cannot by itself solve this deep-rooted social problem. It has to be tackled by the conferment of improved property rights on women. But legislation of prohibition of the evil practice of giving and taking of dowry is necessary and essential. Thus the Parliament has passed the Dowry Prohibition Act, 1961.

The Act penalizes various types of offences in relation to dowry. Example- giving or taking of dowry; demand of dowry; advertisement offering dowry as a consideration for marriage; and reinstatement of Stridhan or dowry taken, if any, in favor of married women

Female Foeticide-

In olden days, it was impossible to determine the sex of the baby in the womb of mother until it was delivered. As medicine advanced, new techniques new techniques were devised for preventing the genetic, chromosomal disorders of the child in the womb. With these modern techniques and machineries it became possible to ascertain the sex of the child in the womb even in the early stage of pregnancy. The technique used to diagnose the condition and sex of the foetus is called '*Amniocentesis*'. This advancement turned to be a curse towards the female child. After knowing that the foetus was female many parents in the society dominated by male chauvanistic sections prefer to miscarry deliberately so as to prevent the birth of a female child. India is becoming famous for the high rate of female foeticide or infanticide.

The Legislature has enacted two important Acts to prevent illegal female foeticide. They are: (1) The Prenatal Diagnostic Techniques (Regulations and Misuse) Act, 1994 which prohibits misuse of Pre-natal Diagnostic Techniques for determination of sex of foetus, leading to female foeticide & (2) The Medical termina-

tion of Pregnancy Act, 1971 which proposes termination of pregnancy by registered medical practitioner where its continuity involves the risk to life or grave injury to her physical or mental health.

Property Inheritance and Succession Rights

Religion plays an important role in succession of property by women as the personal laws of religious communities are mostly dominated by the scriptures of those religions. In earlier period laws of succession was mostly uncodified and followed according to the tradition of those communities. The present codification mostly depends on existing traditional practices. Hence, there is no uniformity in the succession laws. In India, the succession of property is based on religion of Hindus, Muslims, Christians and Parsis.

The statutes dealing with specific religion and women's rights are as under:

- The Hindu Succession Act, 1956- contains provisions for Hindu women.

- The Indian Succession Act, 1925 contains provision for Christian women.

- Hanafi Law and Shia Law of Inheritance- deals with Muslim women's rights to inheritance.

Conclusion:

The proper implementation of existing statutes is absolutely necessary. The lack of implementation due to absence of commitment of policy of the constitution has led to either non-implementation or to watering down by the judiciary and the executive of the beneficial effects. Thus until there is empowerment of women, dissemination of legal awareness amongst them, economic status raised with the family and in the society, law will remain ineffective. Jawaharlal Nehru once said, 'You can tell the condition of the nation by looking at the status of women.'

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