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STATUS OF WOMAN IN INDIAN SOCIETY : AN ANALYSIS

AUTHORED BY - SOFIA KAUSAR

Abstract

The man and women born with different and they play different roles in the society but it does not mean that the women always considered as weak, not having decision making power, do not have right to speak for their rights or say they have no right at all etc. The discrimination on the basis of gender is not only prevailing in our society but in the world also. Though our Constitution has given a lot of rights to woman and man, we have many human rights and legal rights even then no right is given to the women. We need to understand that though man and woman born differently but they both play an important role in the society. Still the woman are facing gender inequality, harassment, domestic violence etc. It all start from our houses only this is what we as a girl child face in our own houses. We need to educate ourselves and treat both male and female as equal because both are equal and have equal rights to live with dignity.

Keywords :- Inequality, Discrimination, Rights, Dignity

Introduction

*The gods favour the family where the females are respected ; unprofitable bend the showings (in the family) where they are dishonoured. Where ladies are given place of regard, divine creatures are fulfilled and live there in that family, anyway they purposely ignore each one of those verses that are overflowing with inclination, despise and victimization ladies.*²

India, a country where woman is considered similar to Goddess *laxmi* or called morph of deity. But at the same time woman is raped, forced to prostitute, people outraged her modesty, facing gender discrimination and gender injustice etc. A woman is created by God as same as that of man she has also rights as equal to man but she is not treated equally, why? The answer of this question lies inside us, inside our mind and heart. In spite of having good education, living in well society, well earnings etc. woman is still facing a lot of problems both in family and society. In India the condition of women is still worst.

She always go through the pain she always faces discrimination against her. The discrimination is done because this is what is taught to us in our family, what we perceived in our childhood is really matters, though we are living in 21st century and know each and everything from Universe to deep inside the ocean but by mind we are stereotype because this is what we got from our stereotype ancestors. People says that home is a first school and mother is a first teacher,

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still a woman is seems for sex pleasure and procreation of children. Boundaries are set for her and put lot of restrictions on her restrict her to go outside where she want, restrain her to take any decision in the family she cannot be a decision maker in her family, she cannot do job because the culture or the family is not allowing her, she is not treated equally as other male members of the family.

Historical Perspective

The condition of women in Vedic period is much better than today" world. She has equal right as that of man. They were respected and honoured. In vedic period the women is considered as half of man.

According to Manu (1:32) " Having divided his body into two parts, He, the Lord (Brahman) became male by means of the (one) half, and female by means of the other, and on the female he beget Viraj" . Lord Shiva consists of a body of two halves- one is of male and the other is of female and he is called "Ardhanareeshwar". Woman was considered more powerful than man and treated as goddess of „Shakhti". Thus, man and woman were inseparable. ³

In the Vedic period, the education of woman was very important. According Atharvaveda " the success of woman in her married life depends upon her proper training during the Brahmacharya". Not only this even the women has choice to marry the man of her choice which is called "swayamvar". Polyandry was also prevailing in the vedic period.

But gradually the position of women was declined in Indian society. During the British period the condition of women was worst. They only confined in the four wall of the house. The practice like Sati, Jauhar, child marriages, female infanticide was practiced in our country. This shows that the condition of women at the time of Britishers was very worst all her rights were violated. No doubt, steps were taken by the Raja Ram Mohan Roy to abolish sati system In 1823, Lord Amherst had imposed a legal ban on burning of widows on the funeral pyres of their dead husbands. But, Lord William Bentick passed the significant law against sati in 1829. Lord Dalhousie also put an end to the female infanticide which was prevailing in Punjab and human sacrifices in Orissa. ⁴

GENDER DISCRIMINATION

Discrimination means when one or more than one person is excluded from enjoying the rights, benefits, privileges etc. over other(s) person or persons. In India the women is discriminated on the ground of her sex. She always been the victim of the malpractices which are happening in our society. She is not enjoying the equal rights as compared to male members of the society. Her rights are always been violated, she is not even be able to raise her voice against the violation of her rights. In our country the women are unaware of her rights they do not know how many and how many kinds of rights are given to her. She is consider not equal but as second gender in the society as well as in family.

² Manusmriti shlok

³ Dr. S.R.Myneni, Indian history, third edition, 2015

Woman and Family

Home is a place where a person feels protective, understands true meaning of love and affection but at the same time the family teaches us discrimination, injustice etc. A woman is treated comparatively less as to other male members of the family. Though the society is changing but still in large number of families this practice is prevailing in our country. She cannot take the decision in the family, she cannot get admitted in school and colleges because people think what a woman will attain after education after all she will get married and maintain her family. Here the rights of woman are curtailed. A woman who saw her mother treated unequally as to her father and unequal treatment of hers as to her brother so what upbringing she will give to her children? This woman unknowingly treating her daughter and son unequally she thought that this is the way how a man and woman should be treated because this is what she learned in her family. The position of woman in her family is not elevated she is still treated as second gender.

Women in India are still exploited and abused. They are still regarded as inferior to men. The birth of a female child is considered a curse in many parts of the country. Condition of women in villages is far worse. As they are not aware about their rights and privileges, they have to depend on men. Even some highly educated women in urban India cannot spend their earnings, as they like. Thus, in our traditional society, male dominance still prevails. A husband has a far superior position over his wife and all major decisions are taken by him without consulting her or taking into consideration her wishes and ambitions. This has created an imbalance and disharmony in many families⁵. This shows that still our society has not changed .

Women and Society

The women is considered lower in status than man. Though the Indian society has changed a lot from the vedic and medieval ages but still the dominance of man over woman is still prevailing. Society in which we live is not accepting a woman as equal to man. No matter whether the society is educated or not but the practice of discrimination between man and woman is still prevailing in our society. Yes, we can say that the educated people are not believing in the discrimination on the basis of gender but these people are very few if we look at large.

The practice like Dowry system, Child marriages, female foeticide etc. are still practiced in some parts of our country because people do not want to give up their barbaric practices. They follow the customs or traditions without knowing what is right and what is wrong. Society seems women lower in strata. Whenever wrong happens with the women all the members of the society pointing only women not male. Society seems women as weak ,incapable , helpless that is why she do not get opportunities.

⁴ Supra 2

LEGAL FRAMEWORK IN INDIA REGARDING RIGHTS OF WOMAN

Constitutional Law

Article 14 of Indian Constitution says “ No state shall deny to any person equality before law and equal protection of laws” it means that the women and man all are equal in the eyes of law . All the persons of same class and in same circumstances should be treated equally. No woman should be treated differently from other male members if they are in same footing.

Article 15 says “ There shall be no discrimination on the basis of religion, race, caste, sex or place of birth” this article clearly prohibited any discrimination on any of the basis. A woman cannot be discriminated on the basis that she is a woman in any circumstances.

In a case **Rajesh Kumar Gupta v. State of Uttar Pradesh** the court held that the reservation of 50% of posts in favour female candidates not arbitrary.⁶ Article 15 (3) says that state can make special provision for female and children and that is not violative of Article 14 and 15 of the Indian Constitution. It is because to upgrade the status of women in the society.

In another case “Sexual harassment of working women amounts to violation of the rights guaranteed by articles 14, 15 and 23.”⁷

Article 16 mainly create a constitutional right in equality of opportunity and employment in public offices. In **Government of Andhra Pradesh v. P.B. Vijay Kumar** case the court noted the purpose of Article 15(3) to be the recognition of the fact that for centuries women have been socially and economically handicapped. As a result, women were incapable to participate in the socio-economic activities of the nation on a footing of equality.⁸ That is why the Article 15(3) is added to eliminate all form of discrimination and to upgrade the status of woman in the society any legislation can be passed. If there is reservation for women then it cannot be said that it is the violation of Article 14 and 15 of Indian Constitution.

INDIAN PENAL CODE

There are many provisions for women in IPC like section 375 , 376A,376 B , 376 C, 376 D, 498A which protects the victim by punishing the culprit. After Nirbhaya case amendment Act, 2013 was passed in which lot of amendments were done relating to age of juvenile , other offences like Acid attack, stalking , Voyeurism etc. were added to give women more rights and protect the women from every kind of crime. But still the women in our country is facing many crimes day by day. The victim is targeted because of her sex. It is part of the whole syndrome of discrimination and exploitation that upholds unequal economic and social structures thriving in an atmosphere to such discrimination.⁹

Even after framing of laws for giving equal rights to woman as of man and framing laws for the protection of woman still there are violation of her rights , she is facing harassment in public places or in working place, rape is still on rampant , domestic violence is also there so the question arises how we can ensure the rights which is given to the woman for its working? The answer lies within us , we need to educate ourselves , we need to cease discrimination between man and woman. We cannot come over from this gender inequality until and unless we change ourself.

⁵ <https://www.absolutestudy.com>

PERSONAL LAWS

In personal laws also there is discrimination of women regarding their rights. Before Hindu Marriage Act, 1955 a woman has no right to take divorce, she had no right in the property also.

But after 1955 a woman got the right to divorce, she has also right in the property of her father and husband also.

In Muslim law there was the concept of triple talaq which means talaq in one pronouncement which is purely discriminated in nature where a woman left by her husband without taking into consideration her wish, her choice she left unheard.

This shows that even the personal laws are doing discrimination with women in many aspects. Women are facing many barbaric practices done by the males over them from centuries.

INTERNATIONAL CONVENTION ON DISCRIMINATION AGAINST WOMEN

Convention on the Elimination of All Forms of Discrimination Against Women-¹⁰

This optional Protocol provides machinery for the implementation of the Convention. In the Convention the main thing focused is to give equality to the women. There are 6 parts in the Convention and in all parts women rights are focused. These parts are as follows:-

Part I – (Article 1-6) focuses on non-discrimination, sex stereotypes and sex trafficking.

Part II – (Articles 7-9) outlines women's rights in the public sphere with an emphasis on political life, representation and rights to nationality

Part III – (10-14) describes the economic and social rights of women, particularly focusing on education, employment and health. It also includes special protections for rural women and the problems they face.

Part IV (Article 15-16) outlines women's rights to equality in marriage and family life along with right to equality before the law.

Part V (Article 17-22) establishes the Committee on the Elimination of Discrimination against women as well as the states parties reporting procedure.

Part VI (Articles 23-30) describes the effects of the Convention on other treaties, the commitment of the states parties and the administration of the Convention.

There are many works done to upgrade the status of women in the society both nationally and internationally but still we need a lot of awareness programmes for women.

⁶ AIR 2005 SC 2540

⁷ Vishakha v. State of Rajasthan, AIR 1997 SC 3011

⁸ Ritu Gupta, "Sexual Harassment at work place", lexis Nexis, 2014 edition, pg 75

⁹ Ritu Gupta, "Sexual Harassment at work place", lexis Nexis, 2014 edition, pg 10

NATIONAL CRIME RECORDS BUREAU REPORT

According to the report, 3,78,277 cases of crime against women were reported in the country, up from 3,59,849 in 2017. NCRB data 2018: 1 rape reported every 15 minutes in India. It shows how Indian society is lacking behind to upgrade the status of women. The crimes against women is rising from year to year. Uttar Pradesh is the top most state in list of crime against women . As per report 3,59,849 cases of crime against women were reported in the country.

Cruelty by husband – 27.9%, Assault on women with intent to Outrage her Modesty -21.7%, Kidnapping & Abduction 20.5% and Rape -7.0%.¹¹

It is said that the law without the public opinion is nothing but a bundle of papers. The gap between the men and women cannot be bridged by just enacting laws without any public support and opinion as social engineering laws are different from penal laws which are just related to injuries and punishment and are deterrent in nature but social engineering laws enacted to uplift the norms of the society and are progressive in nature and therefore it should be backed by the will of the people for whom it is enacted. It is also clear that centuries old practice can not be eliminated in one or two days it take much time. And when laws are enacted to bring radical change in society and are not backed by the will of the people or laws are ahead of public opinion then it has to face great resistance and opposition from the conservative thinking of the society and they are like dead law, which have no effect on society. To improve the status of the women in the society the need of the hour is that laws should be enacted but they should be backed by strong public . As it rightly said, by Wendell Phillips: Law is nothing unless close behind it stands a warm living public opinion.¹²

CONCLUSION

Though the Indian Government has done a lot to upgrade the status of women in the society there are so many laws for the women , there are many schemes for the girl child and the women other than this there are human rights, legal rights , constitutional rights are there but still the women is facing discrimination in the family and society. Still women is suffering from domestic violence, gender discrimination, molestation etc. because the society is not following the laws they are more much concerned about the traditions and the teachings of their ancestors. They do not want to give up that what they are following from ages.

Illiteracy is the main cause for the discrimination against women but it is not wholly the only cause because there are people who are illiterate but they send their daughters to the schools and want them not to become like them and on other side there are people who are well educated and do discrimination against female members of their family. There are cases registered for domestic violence by the women of well off family. In this way we cannot say that illiteracy is the main cause of discrimination. The Environment in which we are living is also the cause of what we are thinking because we behave more like what others are following. So it may be one of the causes.

Lastly, that in India social engineering is needed to remove the discrimination on the basis of gender. Laws are not much effective if we are not educated by mind. It is a high time to change the mindset regarding the women.

¹⁰ En.m.wikipedia.org

¹¹ The Hindu, 22 October, 2019

¹² http://www.legalserviceindia.com/articles/gen_j.htm