



ROLE OF LAW CODES FOR PROTECTING AND EMPOWERING WOMEN IN INDIAN SOCIETY

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Abstract

The present paper is based on the study conducted on the role of Law codes for the protection as well as empowerment of women in Indian society. As compared with the past, women in modern times have achieved a lot but in reality, they have to still travel a long way. The modern Indian women have honed their skills and jumped into a battlefield of life fighting against social restrictions, emotional ties, religious boundaries and cultural clutches. In the present study, the random sample comprised of 30 Women: 15 from working group and 15 from non working group. Face to face interaction i.e. (Interview) with each member was done to collect relevant information. The present study has been undertaken by the investigator to show the special importance of women and how far law codes framed in an Indian society help to protect and empower them. In a systematically method, answers to all questions were noted and analyzed. The results showed that the modern Indian woman is an object of admiration in the whole world. There have been drastic changes in the situation of women due to changes in these law codes, still there is a big gap between the legal rights for women and their actual availability and implementation, which paves the way for distress, conflict and disharmony in life.

Keywords: Women, Protection, Women Empowerment, Law Codes

INTRODUCTION

The status of women in modern India is a sort of a paradox. If at one hand she is at the peak of the ladder of success, on the other hand she is mutely suffering the violence afflicted on her. In the early societies, generally the males were playing an active role while the females played only a passive part. The status of women has changed in different phases.

STATUS OF WOMEN IN PRE PARTITION OF INDIA (BEFORE 1947)

Ancient Period: Women in these societies enjoyed far more freedom. They had easy access to education and were more liberal in their approach. **Medieval Period:** The condition of the Indian women in general and of Hindu women in particular, began to deteriorate after the Muslim conquerors settled in India. Medieval India was considered to be the "Dark Ages" for Indian women. However, many evils were present in medieval Indian society but they were mainly confined to Hindu society. As compared to Hindu society, other societies such as Buddhism, Jainism and Christians were a bit lenient. **British Period:** The position of women was not satisfactory in the early period of British rule. Women lacked freedom in socioeconomic life and were deprived of education and confined to the four walls of the house. Thousands of women joined the Satyagraha, the army of Gandhiji. The women of India stepped forward to carry on the movement for independence. The demand for independence brought in other concession for Indians in the form of Government of India Act, 1935. By virtue of this, ministries were formed in provinces after general elections. Women contested the seats and were elected.

STATUS OF WOMEN IN POST PARTITION OF INDIA (AFTER 1947)

Immediately after independence, in 1950's, free young India embodied a 'liberal' and 'inclusive vision' of India. 1950's and 60's was the time, when society was in general conservative, attitude hardly rebellion against social norms, talks being all about sacrifice. A new wave swept across the woman's world – many young women joined the workforce, due to which gender relationships and norms have undergone a sea change. It has ironically, led to increase in conflicts. In 1990's, rebellion attitude became dominant. Family and society were considered major obstacles on the way to progress. Earlier main women issues were of physical strain, constant psychological pressures, to conform to socially induced images of feminists – to be a good wife, perfect mother, efficient home-maker and on the other hand to work hard in office to prove her worth. Their concerns then revolved around issues like dowry, domestic violence, rape, equal opportunities and equal pay etc.



LAW CODES FOR WOMEN IN INDIAN SOCIETY

The constitution of India incorporated a number of provisions for the protection and development of women and placed them at par with men. It not only prohibits discrimination but makes various provisions for the protection of women.

CONSTITUTIONAL RIGHTS FOR WOMEN: Indian Constitution is prominently a social document. This document puts women completely at par with men and fulfills the cherished goal of equality in matters of civil, political and economic rights. The political right of franchise has also been given to Indian women under the provisions of the constitution. Besides, they have been given right to vote and stand in election for any post.

Following are given some of the constitutional rights provided to women as per the knowledge and availability to the researcher:

Hindu Laws/ Personal Laws and Women:

After Independence, it was the modified Hindu Law, which brought out radical reforms to improve the condition of Hindu women. Though, Hindu women occupied a high position during Vedic times, later she was subject to so many social disabilities.

Hindu Widows Remarriage Act, 1856 One of the earliest Acts passed for the upliftment of Hindu women is the Hindu Widows' Remarriage Act, 1856.

The Hindu Marriage Act, 1955 Prior to 1955 polygamous marriages were recognized as valid. But certain states like, the erstwhile Bombay and Madras States passed laws preventing bigamous marriages. Under the Hindu marriage Act 1955, except for certain prohibited degrees of relationship, the legal restrictions on marriage are almost non-existent. The Hindu law has been reformed and the husband and wife have the same grounds for divorce, by mutual consent.

The Hindu Succession Act, 1956 Turning to law of succession prior to 1956, a Hindu woman had no right to succeed to the property except what was called a widow's state which conferred nothing more than a right of enjoyment during her life time. Now the law has empowered the women by conferring property rights and other entitlements to them through various statutes. The Hindu Succession Act, 1956 altered the position of women though it did not provide for equality. A major change that strengthened the so-called concept of honour has been the enactment of the Hindu Succession Act of 1956 amended in (2005).

The Law of Adoption and Maintenance Act, 1956 The Act provides for the maintenance of wife, widows, minor children and the poor parents. Under this Act, the Hindu women have got the right to adopt a child. A woman, who is unmarried, is widowed or her husband has renounced worldly life or adopted another religion or has been declared insane by a court of law, may adopt a child.

The Muslim Woman (protection of Rights on Divorce) Act, 1986 It also provides that if a Muslim woman is not able to provide for her own maintenance after the period of Iddat, the magistrate is empowered to order payment of maintenance by her relatives who are entitled to inherit her property on her death according to Muslim law. The Union Government subsequently passed the Muslim Women's (Protection of Rights up to Divorce) Act.

The Parsee Marriage and Divorce (Amendment) Act, 1988 This Amendment Act, of 1988 has rationalized and brought the Parsee law of marriage and divorce at par with Hindu marriage Act and has also conferred a right of divorce by mutual consent of spouses.

The Hindu Minority and Guardianship Act, 1956 This important piece of legislation was enacted to give protection to the children. This Act gives a right to woman to be a natural guardian of the child in some conditions.

Right of Maintenance The maintenance to wife is also provided under section 125 of the criminal procedure code. According to section 125 (1) of the code of criminal procedure the wife is entitled to claim maintenance if she is unable to maintain herself.

Dowry Prohibition Act, 1961 In order to tackle the problem and to provide for legal sanctions in the form of its prohibition and punishment, the Dowry Prohibition Act, 1961 was enacted which has further been amended twice, first in 1984 and then in 1986 and in Criminal Procedure Code and Indian Evidence Act. The offences relating to dowry are now cognizable, non bailable. Any willful conduct likely to drive the women to commit suicide or to cause grave injury or danger to life, limb or her mental a physical health by her husband or his relative subjecting her to such cruelty shall be liable for imprisonment. Dowry prohibition Act (2006) says that in 1985, the Dowry Prohibition (maintenance of lists of presents to the bride and bridegroom) Rules were framed. However, such rules are rarely enforced.

Domestic Violence Act, 2005 The Protection of Women from Domestic Violence Act, 2005 came into force on 26 October 2006.



Labour Welfare Legislation and women: The Indian constitution guarantees equal rights to both the sexes and does not discriminate on the basis of caste, colour and creed.

The Factories Act, 1948 This Act does not allow women clearing, lubricating, or adjusting any part of a prime mover or transmission machinery when it is in motion because there is a risk of injury.

The Employees State Insurance Act, 1948 This Act provides for the periodical payment to insured women in case of confinement or miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage.

The Plantation Labour Act, 1951 The Act provides for crèches where fifty or more women are employed for the use of children below six years. The same facilities are there that are provided under section 48 of the factories Act, 1948. Night work for women should be prohibited. The Act also provides sickness and maternity benefits.

The Mines Act, 1952 No women shall be employed in any part of a mine, which is below ground and above ground except between the hours of 6 A.M. to 7 P.M and every women employed above ground shall be allowed an interval of not less than 11 hours between the termination of employment on any one day and the commencement of the next period of employment.

Equal Remuneration Act, 1976 The Equal Remuneration Act which was passed in 1976 provides for equal pay for men and women doing the same or similar work. It also forbids discrimination based on sex at the time of recruitment and thereafter.

The Maternity Benefit Act, 1961 This Act is intended to achieve the object of doing social and economic justice to women workers. The Maternity Benefit Act of 1961 provides for maternity leave to women working in factories, mines, and plantation, including government establishments.

Female Foeticide and Law The medical termination of pregnancy act, 1971 was the first law to regulate the termination of pregnancy. The act provides that termination can only be possible if in the opinion of medical practitioner: Pregnancy would involve a risk to life of pregnant women or cause grave injury to her physical or mental health; or There is substantial risk that the child if born would suffer from such physical or mental abnormalities which may lead to seriously handicap the child. In the year 2003, the government amended the said act to make certain changes. The act has been brought “to provide for the prohibition of sex selection” before or after conception and for regulation of prenatal diagnostic techniques for the purposes of detecting genetic abnormalities or metabolic disorder or chromosomal abnormalities or sex linked disorders and for the prevention of their misuse for sex determination leading to female foeticide and for matters connected therewith or incidental there to.

The Medical Termination of Pregnancy Act 1971 This Act is one of the better pieces of legislation. Abortions are made legal in the cases. But soon after a decade infanticide was banned, a new crime against the female child in the womb, in the name of prenatal sex determination tests, is being committed. The Medical Termination of Pregnancy Act, 1985:

Immoral Traffic Prevention Act, 1956 The law defines prostitution as sexual exploitation or abuse of person for commercial purpose. The law does not treat prostitution per se illegal; it can be carried on with certain restrictions. The act prohibits:

- a) Keeping a brothel or allowing premises to be used as brothel
- b) Living on earning of prostitution
- c) Coercing, inducing or taking a person for the sake of prostitution
- d) Carrying on prostitution in or in the vicinity of public place
- e) Seducing or soliciting in a public place
- f) Seducing a person in custody, charge, care of or under the authority of such person

Indecent Representation of Women (Prohibition) Act, 1986 This act prohibits representation of woman through advertisements or in publications, writings, paintings, figures or in any other manner and for matters connected there with or incidental there to. However, wherever such depiction is in the interest of science literature, art, learning other objects of general concern or for religious purposes or is an archaeological remains etc, it shall not be deemed as violation of law.

Sexual harassment Eve teasing is a sexual harassment or molestation of women by men. Regarding the law of rape, the government introduced the Criminal Law (Amendment) Bill in 1980, which was ultimately passed as an Act in 1983. The onus of proof is shifted to the accused. It also includes protection of the victim from the glare of publicity during investigation and trial. Recently, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 came into force on Dec 2013, to prevent Harassment of women at workplace, which has been made effective on April 23, 2013 by way of publication in the Gazette of India.



The Immoral Traffic (Prevention) Act, 1956 The Act prohibits prostitution under section 7 of the Act in or near public places and makes the same punishable. The Immoral Traffic (Prevention) Act was passed in 1956. The basic objective of the suppression of immoral Traffic In women and girls Act 1956 was to punish brothel keepers, procurers, pimps, and practices of prostitution in or in the vicinity of public places. The Act was amended in 1978, and more recently in 1986 now titled "The immoral Traffic (Prevention) Act". It provides that at least two women police officers shall accompany the special police officer, traffic police officer making a search.

The Commission of Sati (prevention) Act, 1987 After the incident of the commission of Sati in Rajasthan, this Act was enacted on demand of women's organizations and from persons inside and outside the Parliament for more effective prevention of the Commission of Sati and its glorification. The Hindu practices of burning widow alive, or the sati as it is known was abolished by regulation XVII of 1829 (December 4).

The Family Courts Act, 1984 In some recent statutes, participation of women has been ensured by providing them preferential appointments to decision-making bodies. The family Courts Act, 1984, which provides family courts for adjudication and settlement of family disputes, provides that while appointing judges for the court preference shall be given to woman.

The Prevention of Atrocities Act, 1989: This Act also makes some provisions for safeguarding the women of weaker sections who belong to S.C. and S.T. classes. Under section 3 clause (i) it has been provided that:

- i. assaulting or using force to any women belonging to a scheduled class with intent to dishonour or outrage her modesty.
- ii. being in a position to dominate the will a woman belonging to a schedule caste and using that position to exploit her sexually which she would not have otherwise agreed to.

The Consumer Protection Act, 1986 The Consumer Protection Act, 1986 also provides that a woman social worker is to be one of the three members of the District Forum and one woman of ability and integrity with special knowledge of industry, law, economics etc. has to be on the State Commission as well as the National Commission.

The National Commission for Women Act, 1990 For setting up of an agency to fulfill the surveillance functions as well as to facilitate redressal of grievances of women the National Commission for women Act, 1990 was enacted. The main function of the Commission is to look into the matters relating to the Constitutional and legal safeguards provided for women, review the existing laws, and suggest amendments, if necessary.

Reservation for Women in Panchayati Raj Institutions The 73rd amendment of the Indian constitution provides for one-third reservation for women in the panchayats. It has led to upsurge of women in the political field. India is the first among all the nations to provide reservation to women in politics at grass root level.

To conclude, Law codes have been instrumental in uplifting the position of women in a male dominated society. Social reform movements have come a long way in helping the women to fight for their rights and have mostly resulted in legal reforms to change the status of women.

NEED AND SIGNIFICANCE OF THE STUDY

The present study has been undertaken by the investigator to show the special importance of women and their role. Today, the world is quickly wearing a new grab. In the present study, Law Codes and changes in these laws from time to time for the protection of women in Indian Society and women in different roles has been undertaken especially to aware the people how even in adverse conditions, women is empowered and taking long strides in every field.

STATEMENT OF THE PROBLEM

Role of Law Codes for Protecting and Empowering Women in Indian Society

LIMITATIONS OF THE STUDY

1. The study has been limited to the Law Codes for Women in Indian Society, which were framed during medieval period.
2. The study has also been confined to a few changes brought about, from time to time in the law codes and rights of women in Indian constitution.

OBJECTIVES OF THE STUDY

- a) To study the role of women and their status in Indian society



b) To study the role of Law Codes for the protection of women in Indian society.

c) To study the role of Law Codes for the Empowerment of women in Indian society

REVIEW OF RELATED LITERATURE

A careful review of the literature enables the researcher to collect and synthesize prior studies related to the present study and in discovering important variables relevant to the area of the present research. The review of literature has been done in terms of the following variables: Women and Law Codes, Law Codes and Protection of Women. Law Codes and Empowerment of Women

REVIEW OF RELATED STUDIES

Vivekananda (1989) favoured gender equality. In fact, it is one of the strongest phenomena in the history of the humankind that India since time immemorial had honoured woman as *shakti* incarnate. The living embodiment of the Universal Supreme Mother could even think it fit, to deprive them of their legitimate birthrights to education, freedom, property and what not, as bracketed with *Shudras* (Nari-*Sudra*) but such a strange thing really happened in India and that is why Swami Vivekananda linked the downfall of India with the degradation of condition of woman.

Wilson (1996) pointed out that recently, more researchers, organizers, politicians and employers recognize that individual change is a prerequisite for community and social change and empowerment.

Speer and Hughey, 1995; Florin and Wandersman, 1990; Chavis and Wandersman, 1990) pointed out that this does not mean that we can point the figure at those with less access to power, telling them that they must change to become more like "us" in order to be powerful / successful. Rather, individual change becomes a bridge to community connectedness and social change.

Swami Abhedananda (2000) viewed that all nations have attained greatness by paying proper respect to women. Nation, which does not respect women has never become great, nor will ever be in future. There is no hope of rise for that family or country where there is no estimation of women, where they live in sadness.

Gail Minault (2009) explains that the status of women in society has been issues of debate informed by religion, tradition and culture, and feminism. Perhaps, no other literature has presented a more admirable type of woman character than Sita, Maitriya, and Gargi. The Indian civilization has produced great women ranging from (*Brahamvadinis*) woman (*Rishi*) to states woman, from ideal wife to warrior queen. It dates back to thousands of years too.

Padma (2014) reveals that in India from ancient times female divinity has equated women with power. In addition, god as confluence of and woman (Ardhanareeswara) symbolized gender harmony. The ultimate Reality (Brahman) which transcends all forms –man, woman and all species-is gender neutral. But, unfortunately it tends to copy the western thoughts that have no philosophic or social compatibility or compatibility. Contemporary Indian women intellectualism does not internalize these profound ideas. Indian traditions have struggled to foster a higher sense of respect for women. Therefore, the grammar of gender relations in Indian is universal respect for women. This automatically implied unasserted but well recognized rights. Therefore, despite all the intellectual confusions and conflicts Indian Womanhood practices have preserved the uniqueness of Indian women and respect for them.

Bohra & Sreelatha (2018) conducted a study on Role of Indian Judiciary in Women Empowerment. In this study, the investigator found that thus road map for women's empowerment is there but still we have miles to go on this path of empowerment. We hope that in the coming years ahead women's empowerment will prove its worth. Women are an integral part of society. They play an important role in determining the destiny of a nation. It has been rightly said by Swami Vivekanand, "The Best thermometer to the progress of the nation is its treatment of women". Therefore, due recognition becomes all the more important. Every person should come forward to ensure equal status for women in all spheres of life.

Ramesh (2021). conducted the study on Legal Provisions for Upliftment of Women in India: A Brief Study. In this study, the researcher found that the most critical component of women's empowerment is found to be education. It leads to improved economic growth, low fertility rate, health and sanitation, and an awareness of factors that dis empowered women. Work participation rate and political participation also grow in women's education. The expansion of the market economy and industrialization and globalization brought increased inequalities, resulting in loss of livelihoods, and erosion of natural resources and with it decreased women's access to water, fuel, fodder, and traditional survival resources.



It also brought new forms of exploitation-displacement, tourism, sex trade, and retrenchment to mention a few. Women in such countries shouldered the brunt and this phenomenon was labeled feminisation of poverty.

RESEARCH METHODOLOGY

Descriptive Research

The present study is an attempt to get views of female :both working or non working and the role of law codes in protecting and empowering them. It is essential that sample should be approached in order to have their views. Aptly the design employed in the present research is normative and descriptive survey.

THE SAMPLE

For the present study, the population has been identified in such a way that the persons concerned female: working or non working are able to make a significant contribution to the success of this investigation. For the present investigation, random sampling technique has been employed in order to select the sample. After careful selection of the area i.e. District Sirsa in Haryana, the researcher randomly selected population. The researcher had to carefully select places so that respondents could be easily approached. In some of the cases, the investigator had to go at their working places or residential places. Total Sample: 30

Working Women: 15

Non working women; 15

TOOLS FOR DATA COLLECTION

Interview is known as Qualitative Research Method, enabled face-to-face discussion with human subjects. A Structured Interview schedule having 20 statements was used to maintain the relevancy of the situation. Interview schedule covered queries related to necessities of women, challenges and problems faced by them, Law Codes, their importance in their lives. Some of the questions drawn up for an Interview Schedule were closed and some were open. This gave the researcher a very good variety of ideas and feelings female had and also enabled her to get suggestions given by the respondents.

The main challenge faced was that most of the respondents were not aware of law codes. They were astonished to know the rights and law codes made for the protection of women. So whenever they were interviewed, it became necessary to tell them about law codes. It was not possible to explain all in detail, but efforts were made to make them aware of most of the law codes.

RESULTS AND DISCUSSION BASED ON PERSONAL INTERVIEWS

After interviewing the selected sample, the following outcomes have been observed:

On the point of difference between past and present condition of women, most of the persons were in favour but the most important thing noticed is, that freedom given to the women in today's world, is restricted to limited areas and categories. Law codes have helped a lot when we compare them with the previous ones. There have been drastic changes in the situation of women due to changes in these law codes. This can be said that old traditions and customs become a hindrance in the way of progress of women when they are practiced. Majority of respondents blamed society itself due to which women are lagging behind. Society in itself covered various aspects. Most of the aspects pointed were illiteracy, orthodox social system; leading to insecurity of women. When the question regarding the real empowerment of women came, the replies were not very satisfactory. It came to notice that even working women are not economically empowered. Their husbands keep their salaries and they have to beg for their own money in their own houses. When it was asked is there a need to add more rights, most of the replies were for the implementation of earlier rights given to women. Otherwise, no need to add a bulk of rights but actually giving nothing. When the question regarding mutilation of girls came, the environment each time became heavy. The discussion never seemed to end at this point. Many crimes were mentioned at this point. Regarding social protection programmes, the responses were of mix type. Some said these programmes are just eyewash but some said that these programmes, to some extent aware the public and especially the women who become aware of their own rights about which they have never been told.

On asking, the suggestions of respondents to change one single thing in the life of women to make it better there were rapid and variant responses. Some suggested education, some suggested to remove the feeling of insecurity, gender biasness, some even wished to change the society. It was heartening to note that some women respondents cursed themselves for being women, some gave stress that this is the destiny or bad luck of women.



CONCLUSION AND SUGGESTIONS

The previously mentioned discussions reveal that after the independence, many Acts have been passed for empowering and improving the conditions of women but these Acts much remain only on the paper. There is a big gap between the legal rights for women and their actual availability and implementation, which paves the way for distress, conflict and disharmony in life. As far as Government is concerned, though it has taken some liberal steps for making jobs available for women as employment makes women not only economically strong, but socially and emotionally strong yet there remain certain gaps and lacunas in practice. Both men and women are entitled to and responsible for contributing to national development So the need is to fill these gaps so that women can come in front and enjoy the rights which are prevalent in Indian society for her protection and empowerment.

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