



‘IS INDIAN PATRIARCHICAL SOCIETY READY FOR GENDER EQUALITY LAWS? - BOONS AND BANS OF GENDER NEUTRALITY IN INDIA.’

Dr. Annu Bahl (Assistant Professor), Noida International University and
Shruti Sharma (LLM, IIIrd Trimester, Noida International University)

INTRODUCTION

“A gender-equal society would be one where the word ‘gender’ does not exist: where everyone can be themselves.”¹

Even though the Constitution of India 1950 which is considered as supreme law of land confers “Right to Equality” to all persons irrespective of any form of discrimination under its Article 14², equality in terms of gender has always been a mirage image in the Indian patriarchal society. Women constitute almost 48.5% of the population in India i.e., almost half of the population of India, however is still considered as unequal when it comes to their comparison with men. From the very beginning women have been conferred with an inferior position to men in the Indian society and the infamous practice of Devadasi and Satipratha are significant examples of the same. It is not out of place to mention that women have always been considered as the “House Makers” while men are always considered as the “Bread Earners”. There has always been a long lost presumption against the women that- “women are weak and fragile, they are meant to serve household needs only while men are muscular, strong and responsible for the maintenance and welfare of women. Women’s role was restricted to being a daughter, wife, mother above all a Homemaker.

ISSN 2454-308X



Position of women in Ancient India:

1. **Satipratha:** Also known as Wife burning alive along with dead husband. Sati was introduced by the invasion of Aryans in India in 1500 B.C. Even the Rig Veda quotes to supports this horrific practice “*Let these women, whose husbands are worthy and are living, entre the house with ghee (applied) as corrylium (to their eyes). Let these wives first step into the pyre, tearless without any affliction and well adorned*”. This practice was however banned by the Indian reformist Raja Ram Mohan Roy in 1829 and eventually Sati Prevention Act 1920 was enacted to criminalise any type of aiding, abetting, and glorifying of sati.
2. **Davadas Pratha-** “Traditional form of Prostitution”. This practice essentially involved the girls between the age group of 18-36 years, who dedicated to the worship and service of a deity or temple for the rest of their life, they used to dance to please their deity, soon thereafter this act took a form of prostitution wherein these girls were dedicated to the life of sex work in the name of religion. However with the passage of time this practice was also forbidden. Despite that the practice of davadas is still prevalent in modern India in the form of Human Trafficking and prostitution.
3. **Female infanticide-** Vedas recommend that father of a daughter is obligated to give huge amount of dowry to her husband at the time of her marriage due to this reason the birth of a girl was a burden to a family. Moreover women who gave birth to a girl child were referred as cured and were ashamed for giving birth to a girl child. Therefore the practice of Female infanticide came into picture, wherein whenever a girl child was born, the same was killed instantly, Hence it was the most convenient way to get rid of a girl child. With passage of time it was understood that there is a need to curb this illegal practice of killing girl child, hence the female Infanticide Prevention Act 1870 was passed in British India. Subsequently abortion was made illegal except in certain circumstances under Medical Termination of pregnancy Act 1971 and in 1994 Pre-Conception and Pre Natal Diagnostic Techniques Act 1994 was passed to prohibit the sex determination of the foetus.

¹ Gloria Steinem

² Article 14. Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth