



An Empowering constitutional married status of Hindu women: An Introduction from past to present

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Abstract: India Society has been a Patriarchal Society. Social structure seems Gender biased. Enactment and codification of Hindu Law supports Hindu women. The status of Hindu women in family is better after reforms in Civil matters.

Keyword : Male domination, Gender inequality, personal law, Civil matters, codification, empower women.

India has been a land of many cultures, or we can say cultural diversity has been the great phenomenon of India from part. Hindu, Muslim, Christian, Parsi and Jews are the main ethnic groups in India. Among them Hindu has been considered as majority and other considered as minorities groups. In British era or before that all were governed by their respective personal law in their civil matters, Apart of this some other law had passed in various area. Women especially hindu women have been the main beneficiary person because Hindu personal law had codified after independence.

Hindu Marriage act 1955, was an important constitutional which was based on gender and caste equality in a patriarchal society we can understand condition of women. In Indian society women were living as a secondary citizens. Social norms had decided and were executed on religious books like Ramayan, Mahabharat, Arthshastra and Manusmriti some shalokas were described that women are a suspicious character and men should control women at every stage.

"Pita Rakshitey Komarya Bharta Rakshitey Yoveney/ Rakshasti Stativirey putra va stri swatantray arhati"

means women should not give freedom at any age, father should protect in childhood, in young age she should be controlled by husband and in old age she should be live under the shelter of son.

Though some shalokas explain other side of women anthem status but on the basis of reality is proclaims that society was moving only on patriarchal mode. The narration based on religious books turned into social early girl child marriage, Sati Pratha, widow women oppression, dowry, female feticide etc.

It is said that our colonial masters wanted to control every aspect of our system, Hence we cannot deny their contribution towards reforms. As we know that through collective efforts of Raja Ram Mohan Rai and Lord William bantink Sati abolition act was passed in 1829. Ishwarchand Vidhyasagar and Lord Dalhousie played important role for Hindi widow remarriage Act 1856. Some more constitutional steps had been taken for the social development and reform, abolition of polygamy under IPC 1860, Native convert Marriage Dissolution act 1866, special marriage act 1872. Indian Divorce Act 1869 act.

Hindu women property act 1937 was the first provision which tyred to uplift women condition in their family. In this act all women were considered as a successor (widow women too). Conservative groups of society were not happy with this reform, so to know the ground reality of this act we have to go in past. British Government formed Hindu Law Committee in 1941 to learn and codify Hindi Civil Law. In the first bill Hindi law committee presented two drafts related to marriage and succession and clarified that all branches of Hindi law should codify. In 1944 hindi law committee reconstructed and then they presented a complete draft named Hindi Code Bill, in which many provisions for gender and caste equality introduced.

This draft translated in many languages and distributed all over the India. Committee received mixed responses and reactions from the representative of different group of society. Progressive people liked the theme whereas conservatives were against the bills, so it had decided people representatives will take action on the bill, not constituent assembly. Dr. Bhimaro Ambedkar (Chairman of select committee) got hurt by this thought and he resigned from the law minister post. After the first general election, some law had passed in 1955-1956 based on Hindu Code bill, who helped hindu women to get equal status in

family. What was the condition of women before this enactments ? it becomes matter to know.

In the answer of this question, need to go to ancient Hindu, Law, which was based on religious texts. Vedas, Smrit, Shruti, Granth, Mahakavya and traditions had been the source of Ancient Hindu Law. In past social structure in the institution of marriage hindu men had vantage to exercise polygamy, but women had not. women could do marriage in the same caste but men could do in other caste too. In Hindu Law hindi marriage had been considered as religious sacramental process which should obey till death by the women. Only in some very special conditions like a contagious disease, have been lost from 7 years or for a baby boy man could do second marriage but wife could not. Women could take help of Niyog (can conceive with any other men), but she could not do marriage. In short it can be said that in past social structure was not in favour to women.

Invasation of British considered as blessing in disguise, though they exploited India badly but apart from that their contribution of concept of law (english law, IPC, CPC, CPRC of etc) became blessing for women. Enactment or codification of Hindu law were the result of thoes seeds which were shown by the british in the form of Hindi Law committee. This committee drafted Hindu code bill with these provisions – Hindu, Marriage, Adoption, minority and Guardianship, Joint family, women property, successions, Maintenance.

First provision of this bill was who is Hindu, necessity of this provision was to clarified that to whom it will applicable. In second part, provisions, of marriage and divorce were discussed. Traditional (classical) and civil marriage introduced as two types marriage. Provision of monogamy introduced, that before divorce no one will do second marriage. It was a remarkable to the promotion of gender equality. To get rid off feudal mindset, intercaste marriage introduced (means any hindu man or woman can many to any hindi women or men). Three new provisions were added by Dr. Bhimrao Ambedkar (Chairman of select committee).

- a) Restoration of Conjugal rights
- b) Judicial separation
- c) Guardianship of affected children and age of
- d) and age of marriage 18 & 14 for boys and girls.

Divorce was not mentioned separately, but it had kept in marriage part only, in which bases for divorce mentioned which would apply to husband wife both. Impotency, adultery, contagious disease, brutality and apostasy would be the (reason) ground of divorce.

Adoption, maintenance, succession and women property were drafted to create gender equality in society. As a result we can see that now hindu women have equal status in their married life. Prominent result of hindu code bill –

- 1) Hindu person can do marriage traditionally or civil.
- 2) Hindu can not do second marriage without divorce.
- 3) Monogamy should exercise by both, no hindu will do adultery as it will become the base of divorce.
- 4) Constitutional acceptance of Anulom as well as pratilom Vivah means intercaste marriage can exercise/

All these provisions were enacted in Hindu marriage act 1955, today's hindu women are enjoying a respectful life. They can do marry to their own choice, but in past they only could do with the consent of parents in the same caste. Now they can do divorce if they are facing any problem in marriage after judicial process. If we compare Hindu married women status to any other religion women, it can clearly be observed that hindu women's conditions are better than others, they do not have fear of immediate divorce or exile from the home or dilemma over maintenance and adoption, with this hindu succession amendment act 2005 also gives equal rights to daughters as co-parceeners in family property. Women are absolute masters of their own estates. Hindu widows can do remarry, can do adoption and can have equal share in family property. These all provisions are helping to empower hindu women.

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