

“STATUS OF WOMEN AND RAPE LAWS` IN INDIA”

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Status of Women :- The status of women in India has been subject to many great changes over the past few millennia. From equal status with men in ancient time-through the low points of the medieval period, to the promotion of equal rights by many reformers, the history of women in India has been eventful[1].

In ancient India, though patriarchal system was highly prevalent - all male domination -women enjoyed a position of respect and reverence. Several inscriptions make references to the status of women in that they enjoyed the freedom to make liberal gifts to religious institutions like temples, dharmasalas not merely for the welfare of heads of the families but for their parents as well. The women occupied a very important position, in the ancient India, in fact far superior position to the men of the that time. "Shakti" a feminine term means "power" and "strength". According to scholars, women in ancient India enjoyed equal status with men in all aspects of life. In Ancient India, women were

considered an essential part of the community, the family unit and religion. Women were integral parts of daily religious rituals and were employed as religious philosophers alongside their male counterparts. They are described in the scriptures as "equal partners" to their husbands and were educated in the religious texts when these religions first began.[2]

In India, the Vedic period was the golden period for women when they, like men participated in all the social fields and took active part in each and every sphere of human life.[3] In Vedic times women and men were equal in many aspects. Women participated in the public sacrifices alongside men. Hindu religion has been occasionally criticized as encouraging inequality between men and women, towards the detriment of Hindu women.[4] In religious matters, Hindus have elevated women to the level of divinity. One of the things most misconstrued about India and Hinduism is that it's a male dominated society and religion and the truth is that it is not so.

Women were held in higher respect in India than in other ancient countries, and the Epics and old literature of India assign a higher position to them than the epics and literature of other religions. Hindu women enjoyed rights of property from the Vedic Age, took a share in social and religious rites, and were sometimes distinguished by their learning. There was no seclusion of women in India in ancient times. But in the medieval period, the status of women went down considerably. She was considered to be inferior to man. Decline in the status of women in Indian society begins with the Muslim rule in India: customs of

pardha, sati, child marriage, restrictions on widow marriage and prevalence of joint family system have been the factors responsible for the injustice meted out to women.

The position of women in modern India has changed considerably. Her position in modern India is equal to that of men, socially, economically, educationally, politically and legally. Her sufferings from Sati, Child Marriage, Institution of temple prostitution do not longer exist. Today women have the right to receive education, inherit and own property and participate in public life. She has become economically independent. She can seek employment anywhere and remains a free individual. She enjoys the equal status with man in all. Even in modern India, women have held high offices in India including that of the President, Prime Minister, Speaker of the Lok Sabha and Leader of the Opposition.

As of 2011, the Speaker of the Lok Sabha and the Leader of the Opposition in the Lok Sabha (Lower House of the parliament) were women. In this way, as the time passed the position of women underwent changes in all spheres of life. However, there is also a darker side to this rosy picture. Women in India has to continue to face atrocities such as rape, acid throwing, dowry killings, and the forced prostitution of young girls.[5] According to a global poll conducted by Thomson Reuters, India is the "fourth most dangerous country" in the world for women, and the worst country for women among the G20 countries.[6]

Rape Laws in India :- The problem of rape is in part the problem of a highly unequal society where women are low status and often somewhat segregated and

disadvantaged. Feminist activism in India gained momentum in the late 1970s. One of the first national-level issues that brought women's groups together was the Mathura rape case. The acquittal of policemen accused of raping a young girl Mathura in a police station led to country-wide protests in 1979-1980. The protests, widely covered by the national media, forced the Government to amend the Evidence Act, the Criminal Procedure Code, and the Indian Penal Code; and created a new offence, custodial rape.

In the 1980s, women's rights groups lobbied for marital rape to be declared unlawful, as until 1983, the criminal law (amendment) act stated that "sexual intercourse by a man with his own wife, the wife not being under fifteen years of age is not rape". Marital rape is still not a criminal offence. While per-capita reported incidents are quite low compared to other countries, even developed countries, a new case is reported every 20 minutes.

In 2006, the case of Imrana, a Muslim rape victim, was highlighted by the media. Imrana was raped by her father-in-law. The pronouncement of some Muslim clerics that Imrana should marry her father-in-law led to widespread protests, and finally Imrana's father-in-law was sentenced to 10 years in prison. The verdict was welcomed by many women's groups and the All India Muslim Personal Law Board.

An increasing trend in cases of rape has been observed during 2007-08. A mixed trend in the incidence of rape has been observed during the periods 2008-11. These cases

have reported an increase of 3.5% in the year 2008 over the year 2007, a decline of 0.3% in the year 2009 over 2008 and an increase of 3.6% in the year 2010 over 2009 and further an increase of 9.2% in the year 2011 over the year 2010.^[7] Undeniably, increasing number of rape cases has become a serious social problem.

One case involved a 23-year-old medical student who died after being tortured and beaten with an iron rod and gang-raped by six men on a bus in New Delhi. In 2012 there was "Delhi gang rape case" involved a rape and fatal assault that occurred on 16 December 2012. On 29th December, 2012 she died at Mount Elizabeth Hospital, Singapore. The woman died from her injuries thirteen days later while undergoing emergency treatment in Singapore. The Incident generated widespread National and International coverage and was widely condemned, both in India and abroad. Subsequently, public protests against the state and central governments for failing to provide adequate security for women took place in New Delhi. As a result of the protests, On 22 December 2012, a judicial committee headed by J. S. Verma, a former Chief Justice of India and one of India's most highly regarded Chief Justices and eminent jurists, was appointed by the Central government to suggest amendments to criminal law to sternly deal with sexual assault cases. The Justice Verma Committee submitted their Report.

The report indicated that failures on the part of the government and police were the root cause behind crimes against women. Suggestions in the report included the need to

review the Armed Forces (Special Powers) Act, 1958 (AFSPA) in conflict areas, and setting the maximum punishment for rape as life imprisonment rather than the death penalty. The committee did not favour lowering the age of a juvenile from 18 to 16. On 3 February 2013, the Criminal Law (Amendment) Ordinance, 2013 was promulgated and came in force from the very same day, i.e. w.e.f. 3 February 2013. It provides for amendment of the Indian Penal Code, Indian Evidence Act, and Code of Criminal Procedure, 1973, on laws related to sexual offences. The ordinance provides for the death penalty in cases of rape, several new laws were passed, and six new fast-track courts were created to hear rape cases. Critics argue that the legal system remains slow to hear and prosecute rape cases, but most agree that the case has resulted in a tremendous increase in the public discussion of crimes against women and statistics show that there has been an improvement in the number of women willing to file a crime report.[8]

Certain changes has been introduced in the Crininal Procedure Code and Evidence Act, like the process of recording the statement of the victim has been made more victim friendly and easy but the two critical changes are:

1. The 'character of the victim' is now rendered totally irrelevant, and
2. There is now a presumption of 'no consent' in a case where sexual intercourse is proved and the victim states in the court that she did not consent.

Conclusion- Rape is always about power, not sex. It is elementary that the criminal law is the chief legal instrument for preventing this type of anti-social acts of a serious character. This object is sought to be achieved by the legislative command embodying that aspect of punishment and importantly by elevating the status of women. But this is the larger challenge for a rising India, which will be one of the great powers of the 21st century.

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