

their personal attendance is required, and also attend the Court as a witness, the moment they received summons, and they should be made accountable, in case if the prosecution loses its case. similarly, advocacy is a noble profession, instead of seeking adjournments on flimsy grounds, they have to keep up the dignity of their profession, by cooperating with the Court, in disposal of matters, on priority basis, namely, oldest matters, jail matters, senior citizens, and matters, where

directions were given by the Hon'ble Apex Courts. The Superintendent of Police concerned should strictly advise the investigating officers to attend the Courts, for evidence, by giving top priority, so that it would help a lot, for early disposal of matters.

I strongly hope and believe that, pendency of Courts can be reduced by referring as many matters as possible towards lokadalats, in which the offences are made compoundable.

SOCIAL TRANSFORMATION AND WOMEN'S RIGHTS IN THE CHANGING LEGAL SYSTEM

By

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"You can tell the condition of a nation by looking at the status of its women."

—Jawaharlal Nehru

In the words of Dr. *Rajendra Prasad* "Our women have a great part to play in the progress of our country, as the mental and physical contact of women with life is much more lasting and comprehensive than that of men. For nothing was it said, "The hand that rocks the cradle rules the world". In the apron string of women is hidden the revolutionary energy, which can establish paradise on this earth." The women in India have played an significant role in moulding our country into a fast developing country in the world.

The women as freedom fighters such as *Annie Besant, Sarojini Naidu, Vijayalakshmi Pandit, Meera Ben, Aruna Asaf Ali, Sucheta Kriplani, Kasturba Gandhi* have played an important role in achieving independence. In politics

Indira Gandhi as a Prime Minister ruled for about 15 years as a long serving Prime Minister till date. Where as *Vijayalakshmi Pandit* became the first woman President of the United Nations General Assembly. The present and first woman President of India is *Pratibha Patil*. The women in the modern India such as *Mother Teresa, P.T. Usha, M.S. Subbalakshmi, Kiran Bedi, Medha Patkar, Aundati Roy, etc.*, have proved immense success in several fields of sports, politics, performing arts, police administration, medicine, engineering, legal field, pilots, scientists, diplomats and legislators. The women playing different roles in different areas have been transforming themselves as well as society around them. Now the women in India are marching towards progress by dint of their determination, devotion and dedication. According to *Sushmita Sen* the former Ms. Universe, Women in India have now become more aware of their rights as individuals and they are now opting for higher position at

work at the same time being a perfect housewife at home”.

In recent years, wealth has increasingly shifted into the hands of women, and in the United States, 51 per cent of all assets are currently held by women. In turn, they are beginning to supporting institutions that benefit women and tackle the issues that affect them. Among these benefactors is *Helen La Kelly Hunt*, founder of The Sister Fund who have given at least \$1 million to help other women. These gifts enable and how both individuals and women collectively can move forward and improve their lives. And, many hope, the fate of the world¹.

Amb. Joy Ogwu, Permanent Representative of Nigeria, emphasized the importance of the family as the fulcrum of society. “You can fulfil any role in society and still be a woman, wife, and mother.” Rev. *Tsu-Wei Zoe Chang*, President of the United Nations Women’s Guild, chaired the opening session. “Peace starts at home, with young generations learning respect and cooperation,” she said. She envisions women being at the forefront in new inter-religious peace building initiatives².

Kathrine Switzer, the first woman to officially run the Boston Marathon and to win the New York City Marathon and said “The fault was that women did not have opportunities in sports so they could enter events fearlessly and experience the joy of effort and accomplishment, and disprove the myths that prevented them from starting in the first place. I knew if they could only have those opportunities, they would feel the same sense of confidence and empowerment that I felt.”³. When women themselves saw other women running, and then experienced

a sense of triumph from their own efforts, the social change began happening. One mile a day often led to two, then ten. Suddenly women realized they were overcoming their own barriers and feeling good, strong, and pro-active. Feeling it then physically transformed into knowing they need not be held back elsewhere—in education, career, social status, or restrictive convention. Women rights activists stressed the need for social transformation through the involvement of women in decision making bodies⁴.

Arranged marriages continue to be a popular tradition in India, with over 90 per cent of men and women between the ages of 17 and 25 in New Delhi and Mumbai approving of them. In the past, parents or relatives searched their own social networks for suitable prospects. Today family members and prospective brides and grooms themselves are often looking online, at matrimonial Web sites⁵.

The roles of women in India are rapidly changing, along with the nation overall. Our eight-part series takes a look at how women are seizing new opportunities, everything from writing their own stories to challenging religious Courts. Today, millions of Indian girls are in school. Upon taking office, *Patil* promised to fight for women’s rights and end female feticides. Each day, media reports tell of women challenging domestic abuse, sexual harassment and rape. They are making inroads into business and politics. Women are increasingly taking their own destinies into their hands and charting new routes for achievement⁶, women’s leadership is an important element in advancing equity and social justice for all⁷.

1. <http://www.womensenews.org/story/funding-serious-change/090617/funding-serious-change-womens-lives>
2. <http://upf.org/upf-news/142-americas/2544-milestones-achieved-by-women-peacebuilders>
3. <http://www.changemakers.com/blog/woman-runner-social-transformation>

4. The Katmandu Post, September 8, 2011
5. See, Mridu Khullar “In India, Parents of Brides-to-Be Hire Sleuths”, *Women’s News*, August 20, 2007.
6. See, Wenews Staff “As Their Moment Arrives, India’s Women Seize It”, *Women’s News*, December 10, 2007.
7. See, *Srilatha Batliwala and Aruna Rao* “Conversations with Women on Leadership And

Historical Background

In India Scholars believe that in ancient India, the women enjoyed equal status with men in all fields of life⁸. However, some others hold contrasting views⁹. Works by ancient Indian grammarians such as Patanjali and Katyayana suggest that women were educated in the early Vedic period¹⁰, Rigvedic verses suggest that the women married at a mature age and were probably free to select their husband¹¹. Scriptures such as Rig Veda and Upanishads mention several women sages and seers, notably Gargi and Maitreyi.

Some kingdoms in the ancient India had traditions such as *nagarvadhu* ("bride of the city"). Women competed to win the coveted title of the *nagarvadhu*. Amrapali is the most famous example of a *nagarvadhu*.

In the Vedic period, women participated in all fields like men and took active part in every sphere of human activity. Woman was man's friend and co-worker. Agriculture was the monopoly of women. There is evidence to show that the woman was the first potter and weaver. Women of vedic India were educated and they occupied a high position in society and also had an effective voice in the choice of their husbands. Widow remarriages were allowed by the society and were fairly common. However, later (approximately 500 B.C.), the status of women began to decline with the Smritis (esp. Manusmriti) and with the Islamic

invasion of Babur and the Mughal empire and later Christianity curtailing women's freedom and rights¹².

Although reformatory movements such as Jainism allowed women to be admitted to the religious order, by and large, the women in India faced confinement and restrictions. The practice of child marriages is believed to have started from around sixth century¹³.

Medieval Period

The Indian woman's position in the society further deteriorated during the medieval period¹⁴, when Sati among some communities, child marriages and a ban on widow remarriages became part of social life among some communities in India. The Muslim conquest in the Indian subcontinent brought the purdah practice in the Indian society. Among the Rajputs of Rajasthan, the Jauhar was practised. In some parts of India, the Devadasis or the temple women were sexually exploited. Polygamy was widely practised especially among Hindu Kshatriya rulers. In many Muslim families, women were restricted to Zenana areas. Traditions among some communities such as sati, jauhar, and devadasi have been banned and are largely defunct in modern India. However, some cases of these practices are still found in remote parts of India. The purdah is still practised by Indian women among some communities, and child marriage remains prevalent despite it being an illegal practice, especially under current Indian Laws.

In spite of these conditions, some women excelled in the fields of politics, literature, education and religion¹⁵. *Razia Sultana* became

Social Transformation", Study on women leaders and social change was commissioned by the Ford Foundation, 2002

8. Mishra, R. C. (2006). "TOWARDS GENDER EQUALITY". Authorspress.

9. Pruthi, Raj Kumar; Rameshwari Devi and Romila Pruthi (2001). "STATUS AND POSITION OF WOMEN: IN ANCIENT, MEDIEVAL AND MODERN INDIA". Vedam books.

10. *Varttika* by Katyayana, 125, 2477

11. R.C. Majumdar and A.D. Pusalker (editors): "THE HISTORY AND CULTURE OF THE INDIAN PEOPLE". Volume I, The Vedic age. Bombay: Bharatiya Vidya Bhavan 1951, p.394

12. http://en.wikipedia.org/wiki/women_in_india.

13. Jyotsana Kamat (2006-1). "Status of Women in Medieval Karnataka".

14. Jayapalan (2001). "INDIAN SOCIETY AND SOCIAL INSTITUTIONS". Atlantic Publishers & Distri.. p. 145

15. http://en.wikipedia.org/wiki/women_in_india.

the only woman monarch to have ever ruled Delhi. The Gond queen Durgavati ruled for fifteen years, before she lost her life in a battle with Mughal emperor *Akbar's* General *Asaf Khan* in 1564. *Chand Bibi* defended Ahmednagar against the mighty Mughal forces of *Akbar* in 1590s. *Jehangir's* wife *Nur Jehan* effectively wielded imperial power and was recognized as the real force behind the Mughal throne. The Mughal Princesses *Jahanara* and *Zebunnissa* were well-known poets, and also influenced the ruling administration. *Shivaji's* mother, *Jijabai* was deputed as queen regent, because of her ability as a warrior and an administrator. In South India, many women administered villages, towns, divisions and heralded social and religious institutions.

British rule

European scholars observed in the 19th century that Hindu women are “naturally chaste” and “more virtuous” than other women. During the British Raj, many reformers such as *Ram Mohan Roy*, *Ishwar Chandra Vidyasagar*, *Jyotirao Phule etc.*, fought for the upliftment of women. Legislature enacted the large volume of enactments and many of these legislations were enacted in colonial period like: Abolition of Sati Act, 1829; Widow Remarriage Act, 1856; Child Marriage Restraint Act, 1929. Apart from these laws there are some enactments pertaining to industry or work which contain special provisions for women such as: The Workmen Compensation Act, 1923; Payment of Wages Act, 1936; Factories Act, 1948; Maternity Benefit Act, 1961; Minimum Wages Act, 1948; Employees State Insurance Act 1948. Penal Code, which provides protection against women's sexual harassments such as in IPC which gave rights to women on par with men.

Women and Law

The Constitution of India guarantees to all Indian women equality before the law.

Political equality for women and men is an inalienable principle within this context. This equality includes not only equal right to franchise but also sharing power of decision making and policy making at all levels¹⁶. It also guarantees to all Indian women equality (Article 14), no discrimination by the State (Article 15(1)), equality of opportunity with respect to public employment and they shall not be discriminated on the basis of sex of the person (Article 16), equal pay for equal work (Article 39(d)). In addition, it allows special provisions to be made by the State in favour of women and children (Article 15(3)), Article 19 guarantees freedom of speech and expression, to assemble peaceably and without arms, to form associations and unions, to move freely throughout the territory of India, to reside and settle in any part of the territory of India; to practise any profession, or to carry on any occupation, trade or business. This fosters the right to equality, by providing the necessary freedoms needed to live in society. Without the right to equality, the purpose of gender justice cannot be achieved. Article 21 guarantees the right to life, the interpretation which has been broadened to include the right to live with dignity. Article 23 guarantees the right against exploitation. It prohibits traffic in human beings. Article 39 talks about the certain principles of policy that need to be followed by the State which are securing adequate means of livelihood equally for men and women, equal pay for equal work among men and women, and the health and strength of workers, men and women are not abused, renounces practices derogatory to the dignity of women (Article 51(A) (e)), and also allows for provisions to be made by the State for securing just and humane conditions of work and for maternity relief. (Article 42). The Indian Constitution calls for eight years of compulsory education for girls and boys

16. <http://www.fesindia.org/WomenEmpowerment.asp>

aged 6 to 14 Amendment (One hundred and tenth) to Article 243-D of the Constitution of India for enhancing reservation for women in Panchayats¹⁷, for enhancing reservation for women in Panchayats at all tiers from 1/3rd to at least 50%. The Protection of Women against Sexual Harassment at Work Place Bill, 2010 prohibits sexual harassment at the work place which may include promise of preferential treatment, threat of detrimental treatment, hostile work environment, or humiliating conduct constituting health and safety problems.

The Protection of Women from Domestic Violence Act, 2005, which came into force from October 26, 2006 covers any woman who has domestic relationship with man Dowry Prohibition Act, 1961. As per the Section 6 of the Hindu Succession Act, 1956, after the amendment the daughters shall have the same rights and liabilities as if she would have been a son. five States in India namely, Kerala, Andhra Pradesh, Tamil Nadu, Maharashtra and Karnataka have taken cognisance of the situation and have made necessary amendments. As per the law of four of these states, (Kerala excluded), in a joint Hindu family governed by Mitakshara Law, the daughter of a coparcener shall by birth become a coparcener in her own right in the same manner as the son¹⁸.

Judgements and Women's Rights

Unlike in bygone days, women now occupy every area of avocation, the latest being the space research also. There are women among pilots, drivers, conductors, policy, weightlifters, in sports and games and what not and we have seen the transformation

of Indian women from kitchen to police to defense and then the sky and outer space. Women being weaker sex and thus weaker section of the society need different treatment in order to attain a result which establishes equilibrium between men and women. Emancipation of women can be made real, only if they are made self-reliant by economic independence¹⁹. The Delhi High Court grants women in the armed forces the right to permanent commission, so far denied on flimsy grounds. Justice *Sanjay Kishan Kaul* of the Delhi High Court delivered a landmark judgment upholding the right of women in the armed forces to gender equality. The consequence of not being granted permanent commission was that they were deprived of certain benefits and privileges such as pension, "ex-serviceman" status and medical facilities²⁰. The Supreme Court held that sexual harassment of working women at her place of an employment amounts to violation of rights of gender equality and right to life and liberty which is clear violation of Articles 14, 15 and 21 of the Indian Constitution²¹. The Supreme Court struck down the provision of rules which stipulated termination of service of an Air Hostess on her first pregnancy as it is arbitrary and abhorrent to the notions of a civilized society²². The Supreme Court applied the Equal Remuneration Act to grant same salary to the Lady Stenographers²³.

Conclusion

Swami Vivekananda aptly said "Just as a bird could not fly with one wing only, a nation would not march forward if the

17. <http://indialawyers.wordpress.com>

18. The Kerala Joint Family System (Abolition) Act, 1975; The Hindu Succession (Andhra Pradesh Amendment) Act, 1986; The Hindu Succession (Tamil Nadu Amendment) Act, 1989; The Hindu Succession (Maharashtra Amendment) Act, 1994; The Hindu Succession (Karnataka Amendment) Act, 1994

19. *P. Katama Reddy v. Revenue Divisional Officer*, 1998 (1) ALD 136, 1997 (6) ALT 548

20. <http://www.frontlineonnet.com/stories/20100409270703600.htm>

21. *Vishakha and others v. State of Rajasthan*, 1997 (6) SCC 241

22. *Air India v. Nargesh Mirza*, AIR 1981 SC 1829; 1981 (4) SCC 335

23. *M/s Mackinnon Mackenzie and Co. Ltd. v. Audrey D'costa and other*, [1987 AIR 1281; 1987 SCC (2) 469]

women are left behind.” The change is a transformation of the substance itself. Man is not a complete, final being without women. To effect this change, to be reborn, to be awakened, really women are less selfish and more dedicated to duty and have much patience than men by nature. In order to make optimum use of our vast womanpower more opportunities have to be given. However, mere legislation cannot emancipate the lot of our women. This needs a radical change in our mental make up and our social structure. For this, we shall have to foster a social emancipating spirit in our everyday life. The conservative male chauvinistic attitude shall have to give way to liberalism.

It can be said with a sense of pride and confidence that the future of women in India is quite bright and prosperity will be safe in their hands. Women are also becoming more economically independent. With the growth of the nuclear family, a married woman’s dependency on her natal family and continued closeness to it is much greater today even if it was not so earlier. Among human beings where neither man is superior nor is a woman inferior. “Yathra, Narayanthya Pujyathe Raman The Tatra Devatha”, has been the culture of our society and the girls have been worshipped and held in high esteem for enriching the society which in turn leads to the development of mankind.

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RIGHT USE OF WORDS AS CONVEYANCE AND CONFUSED TO WIN THE LEGAL BATTLE

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“Watch your thoughts, for they become words.

Watch your words, for they become actions.

Watch your actions, for they become habits.

Watch your habits, for they become character.

Watch your character, for it becomes your destiny.”

— Author Unknown

1.0 Introduction

Languages consisting of right, effective words are the medium to express our ideas

or thoughts; the judicious use of language is necessary for expressing ideas in effective manner to achieve the target/win the legal battle. Everyone has to study words so that a person can use them significantly, effectively, worthily. Words reveal more about you than you realize. Words are the voice of the heart¹. A single word ‘legal’ is used in forty three ways in English language². Once a word has been allowed to escape, it cannot be recalled

1. Confucius said.

2. www.morewords.com/contains/legal/.