

**Saraswati Vidya Mandir Law College,
Shikarpur, District Bulandshar**

Women and Law in All Time

Namesty,

Hon'ble Mr. Justice D.P. Gupta, president of the seminar,

President and other Office bearers of the Saraswati Vidya Mandir Law College,

Distinguished guests on and off the dias,

Teachers of the College,

Dear Students,

Ladies and Gentlemen.

“Women and Law in All Time” is a very wide subject to be covered in any seminar in a day.

In the wake of recent unfortunate incident in Delhi and the general uprising for women empowerment, the topic of the seminar appears to be very apt for discussion.

It is a privilege and honour for me to be part of this seminar. I have been greatly benefited by the views expressed by the eminent and renowned personalities and experts in the field of law.

Unlike America which has no language or religion of its own. India is a land of diversity and is the birth place of many religions and sects with firm faith in divinity.

Contrary to the general perception that man has subjugated women to his will and used her for promoting his comforts, the Vedic age reflects that it was a period of feminine glory in India.

In that era women in India were educated and enjoyed equal status with men. Men and women together used to perform religious duties and no 'Yagya' was possible without the wife. According to Hindu mythology, in the absence of Sita even Lord Rama was advised to have her golden statute to perform a 'Yagya' successfully.

“यत्र नारीस्तु पूज्यते, रमन्ते तत्र देवता”

अतः जहाँ नारी को पूजा जाता है वहाँ देवताओं का निवास होता है ऐसी हमारी मान्यता है।

The status of women suffered a set back with the invasion of India by Alexander and later by Muslims which pushed the women behind the 'pardha' for security reasons and gave rise to several evils like Sati, Jauhar and child marriage.

The great social reformers Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, Mahrashi Dayanand Saraswati, Swami Vivekanand worked hard for the revival of the old Vidic society where women were held in high esteem.

भारतीय संस्कृति में "या देवी सर्वभूतेषु मात्ररूपेण संस्थिता" कहकर नारी को माँ की संज्ञा देकर सर्वव्यापी माना गया है।

नास्ति मातृसमा छाया,
नास्ति मातृसमा गति,
नास्ति मातृसमं त्राणं,
नास्ति मातृसमा प्रिया,

अर्थात् माता के तुल्य कोई छाया नहीं है। माता के तुल्य सहारा नहीं है। माता के सदृश कोई रक्षक नहीं है तथा के समान कोई प्रिय वस्तु नहीं है।

माँ सर्वव्यापी है, संसार में आये हर प्राणी की उत्पत्ति नारी अर्थात् माँ से है।

In a country like India with such strong beliefs and where women have been revered and worshiped, we do not find any law or much law concerning women in the earlier period. One reason may be that under the tenants of Hindu religious scriptures women were regarded as mother of all men and women where men owed the moral responsibility of the welfare of women folk, their security and upliftment.

Even in the absence of any legislation for the protection of the rights of the women they were more secure and safe and enjoyed more independence in comparison to modern days where they are excelling in all spheres but with little or no security probably for the reason that men earlier considered it to be their religious and a social obligation to respect and protect women.

Gradually, with the influence of western culture the concept of joint family and the institution of marriage caved in and the morality lost all significance.

Duncan M. Torret in his treatise "The death of Marriage Law" observed that in India disputes between husband and wife were not supposed to be handled by the courts but by the assembly of either the relatives as elderly members of the society. There was no matrimonial litigation or if any it was avoided.

The Indian Penal Code, 1860 for the first time identified the crimes against women and provided for the offences like rape, kidnapping and abduction, molestation, sexual harassment and later dowry deaths or torture of women both mental and physical. At the same time Section 125 Cr.P.C. provided for the grant of maintenance to wives.

The adoption of the Constitution after independence, apart from conferring fundamental rights upon all her citizens, both men and women, took special care for ensuring freedom and equality to women and for the elevation of their social, economic, educational and political rights. These privileges available to the women under the Constitution can be referred to Article 14, 15, 16, 39A, 42, 243D(3), 243D(4), 243T(3) and 243T(4).

The preamble that is regarded as the key to the Constitution of India itself points to equality between men and women by saying “We the people of India” which includes within its fold both men and women.

In addition to the above, several legislations have been passed to protect the interest of the women and for their empowerment namely:-

- (1) The Family Courts Act, 1984,
- (2) The Special Marriage Act, 1954,
- (3) The Hindu Marriage Act, 1955,
- (4) Hindu Widows' Remarriage Act, 1856,
- (5) The Hindu Succession Act, 1956 with amendment in 2005,
- (6) Immoral Traffic (Prevention) Act, 1956,
- (7) The maternity Benefit Act, 1961 (Amended in 1995),
- (8) Dowry Prohibition Act, 1961,
- (9) The Medical Termination of Pregnancy Act, 1971,
- (10) Indecent Representation of Women (Prohibition) Act, 1986,
- (11) Commission of Sati (Prevention) Act, 1987,
- (12) The Protection of Women from Domestic Violence Act, 2005,
- (13) Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994,
- (14) Muslim Women (Protection of Rights on Divorce) Act, 1986
- (15) Dissolution of Muslim Marriages Act, 1939

In 1990 National Commission for Women Act was passed by the Central Government and a National Commission for Women was constituted to study and monitor all matters and laws relating to women and for suggesting necessary amendments in the existing legislation and for taking new legislative measures.

The Government has also come out with a national plan for action for girl child with the objection of building a better future for them and a National Policy for Empowerment of Women.

The Indian judiciary has also played a pivotal role as a reformist of the socio-economic condition of women in the country. The law marks judgment of the Apex Court

in the case of **Vishakha** goes a long way in protecting the women and their rights specially at work places.

Despite all efforts and all enactments, the general belief is that the position of women in Indian society has suffered a lot. There are emptied number of cases reported every day of molestation, harassment, rape, prostitution, illegal trafficking of women and dowry death and of the kind.

The graph is on the rise and none is able to check its rising trend. The outcry is for harsh and legislation and time bound disposal of cases concerning rights of the women. It may be justified or the need of the day but the reforms are meaningless unless we educate ourselves, have a strong moral character and respect for human beings.

Gandhiji used to say:-

आज की शिक्षा प्रणाली से कहीं बेहतर हमारी पुरानी शिक्षा
पद्धति थी जहाँ मूल्यों पर आधारित शिक्षा दी जाती थी।

The education should not be confined to gaining knowledge alone but it should be directed towards character building and man making as has been rightly put by Martin Luther King Jr.

“Intelligence plus character is the goal of true education.”

Swami Vivekanand also propagated that “The goal of all education should be man making”.

I am also reminded of Swami Vivekanand's views towards reforms concerning women. He said “Educate your women first and leave them to themselves; Then they will tell you what reforms are necessary for them. In matters concerning them, who are you?”

Endorsing the above view to my mind the better course open is to develop a good society consisting of people of good moral character who would desist from encroaching upon other persons' rights and acts of crime against women. This is only possible by good education based upon moral values and the character building of citizens.

I would conclude by highlighting the following broad points for women empowerment and for bringing about more cohesive and effective system to tackle the crimes against women.

- (i) impart education which inculcates moral values, builds character and aims at human making;
- (ii) allow women folk to suggest reforms they require and then to bring about appropriate legislation;
- (iii) fewer the legislation lesser the violation, so do not legislate to please a particular class; and
- (iv) implement the existing law in the rightful direction with speed and sincerely.

With these words I thank the organizers and the college authorities for their wonderful work and the pains taken by them in organizing the seminar and making it a big success.

Dt.16th February, 2013.

Jai Hind.