

Widowhood Practices Leading to Violation of Human Rights in India

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ABSTRACT

Right to life & personal liberty and right to equality has been guaranteed to each and every citizen of India by the Article 21 and Article 14 of the Indian constitution, 1950. In India, the women empowerment fight that has been fought from ages is finally having a sight of success in it with Indian women doing exceptionally well in all the sectors of the society having a great stand. Still there is a section amongst the women which has still not got its equal stand in all the sectors of the society, Widows. A widow is a lady who has lost her husband but hasn't gotten remarried. Widowhood is a situation which almost every widow has to go through facing end numbers of problems. Addressing widowhood, there is no prevailing conception of it; rather, it is subject to a variety of experiences, interpersonal and social implications, and changes in women's lives in various cultural settings.

Human rights are fundamental rights that are applicable to everyone regardless of their gender, race, country, place of residence, sex, ethnicity, religion, or any other distinction. Human rights are non-discriminatory, and everyone has a right to them and cannot be denied of any. Despite the fact that everyone has the legal right to human rights, not everybody really has access to them. Many countries and persons openly violate and abuse human rights. In India, all citizens are assured of their basic human rights and the basic fundamental rights by the Indian constitution, 1950. However, there are many instances of human rights violations documented in India.

In this research paper, we are going to research more on widowhood perceived through the ages, Human rights violation, problems of widowhood in the country, and laws made for the protection of rights and equal representation of the widows.

Keywords: Widows, Widowhood, Widowhood practices, Exploitation, Violation, Human rights, Sati, Child widows.

INTRODUCTION

Widowhood is a situation of the social demise of the husband. The period which a widow lives after the demise of her husband is generally termed as widowhood. The common term for a widow in India is "Vidhva," which comes from the Sanskrit word "vidhh" that means to be in need. Strict social customs and norms are imposed on them.

According to the 1991 India Census, there are 33 million widows in that country. Eight percent of all women, or one in every thirteen, fall within this category. A large section of these women resides in religious places like Vrindavan, Varanasi, Mathura, Hardwar, Puri and keep on migrating amongst these religious cities. In a patriarchal society like India, many families consider widows as a liability that they will have to take

care of. These cases are mainly reported from the women that reside in disadvantaged and marginalised communities.

Widows occasionally had to adhere to certain dietary restrictions and socially acceptable behaviour codes. They were required to adhere to certain rules, such as not wearing jewellery and dressing in all white. In many disadvantaged and marginalised areas of the country, widows still have to follow these norms and abide themselves by the regulations.

The Human rights issues faced by the people in number of situations and circumstances have always been a hot topic in the country. Each citizen of the country is guaranteed human rights irrespective of one's caste, class, gender, economic status by the fundamental rights mentioned under the Constitution of India, 1950. However, Human rights issues faced by the widows because of the surroundings they live in till date is a big topic of discussion in India. Widows are still shunned and abandoned by several families from various cultures in India. They are subject to deep rooted patriarchal traditions, religious legislations, and substantial bias against inheritance rights from years in the country. Widows face poverty and health problems due to lack of equal opportunities in all circumstances of their widow life.¹

¹ Radhika Kapur, *Widowhood in the Indian Society*. (2018)

HUMAN RIGHTS IN INDIA

The subject of human rights in India is complicated by the nation's vastness, immense diversity, status as a developing nation, and as a free, secular, and democratic republic. Following independence, the Indian constitution was written with a guarantee of fundamental rights and freedom. Six different categories of Fundamental Rights are outlined in Part III of the Indian Constitution, which is in accordance with the United Nations Declaration of Human Rights. All citizens are equally protected by these rights and are equal to enjoy the freedom. There are allegedly many instances of human rights violations, which have manifested themselves in various ways over time.

Human rights violation especially against the widows is something being practiced from a very long time. Lack of availability of equal opportunities whether it's about job, education, financial aid, getting respect and dignity and what not. These widows have to suffer from violations in all spheres of life inculcating a feeling of being alienated in the society making a huge impact to them. These severe widowhood rituals that they are required to adhere to in accordance with their religions and the society they live in's norms and regulations are added to this. As a result, the protection and advancement of widows in India became necessary.

A statutory body listed in the Indian Constitution, The National Human Rights Commission (NHRC) was established in 1993 in accordance with the "Protection of Human Rights Act, with main mission and motive of protecting and promoting human rights in India. The functions of this commission involve looking into concerns of human rights violations or negligence in the prevention of such violation by a public servant. The NHRC have been looking into the matters of human rights violation against widows and the long run cruel practices that take place against them as well. The commission have not only helped in checking

upon and removing the old immoral widowhood practices and protect widows from any kind of exploitation but have also taken the initiative of upliftment of the widows in India by running campaigns in cities like Varanasi and Vrindavan where the population of widows is the most, educating them about their legal rights and encouraging them to indulge more in any activity they want, with the effort to remove the societal rules and obligations imposed on them from their mind. The NHRC have also supported and aided NGO's working for the rights of widows and their upliftment in the India society.⁶

REVIEW OF LITERATURE

➤ Articles

Sati Tradition- A widow burning tradition in India by Nehaluddin Ahmad

The Article written by Nehaluddin Ahmad talks about the ancient practice of Sati in India. He explains how the customary Hindu Indian ritual of sati involves a widow setting herself on her husband's funeral pyre and explains the ban of Sati by the British government in 1829 by Lord Bentick, the Governor General of India at that time. He also discusses the modern time instances of sati in the backward regions of India also mentioning the case of Roop Kanwar, the last Sati of India in the year 1987.²

The Plight of widows by D. Doley

The article talks about widows and their conditions in South Asian region of India, Afghanistan, and Sri-Lanka. The author talks about widowhood in India and talks how the city of Vrindavan is infamous about giving shelters to widows in India, giving it the name of 'City of Widows'. It also talks about the conditions of a widow that one lives in leading them to take big, harsh decisions that are unappreciated by the Society.³

➤ Books

Living Death: Trauma of Widowhood in India by V. Mohini Giri

This work by V. Mohini Giri had a significant impact on widows' socioeconomic circumstances on the Indian subcontinent, where discrimination against women is still pervasive. Although the rigidity of the dimension and degree may vary, this marginalisation transcends limits of caste, class, and religion to define India. While providing a general overview of widows' status in India, it also focuses on the discrimination that is unique to particular locations and types of widows.

² Ahmad, Nehaluddin, Sati Tradition - Widow Burning in India: A Socio-Legal Examination, Web J Cur Legal Issu., 29, 2009

³ D.Doley, <https://www.thehindu.com/opinion/open-page/the-plight-of-widows/article33046135.ece>, 2020

AIMS & OBJECTIVES

- To study and understand practices followed by widows in India violating the Human rights.
- To study and understand the conditions of widows in the contemporary India.
- To critically analyse the laws made for the protection of Widows against exploitation in the Indian Society.

HYPOTHESIS

In a country like India with an ancient past of respecting its customs and practices, the widowhood practices are practiced till date by the society irrespective of the fact that how irrational and immoral they are, creating inequality and immorality in the society. In this modern India, with people having a modern mindset, there is somehow the same mindset for widows as it used to be in the 18th and 19th century. The widows have always been victims of cruel practices which make their lives terrible, inculcating a feeling of Alienation from the society amongst them. There are still regions in the Modern India, where practices that have been longtime banned still in practice, exploiting these innocent women.

RESEARCH QUESTION

Was there any advantage of the colonial government in abolishing cruel widowhood practices like Sati, the widow burning practice in India?

METHODOLOGY

Doctrinal research was conducted for this study. The project has been done under different books, articles, and papers. The main sources for this study paper are online papers and publications by scholars.

WIDOWHOOD PERCEIVED THROUGH AGES

In ancient India (Vedic Period)

In the ancient India, Women availed high esteem and were treated with great respect and dignity in the society. They had the right to attain education and the right to decide their spouse by will via a sacred ceremony called 'Swayamawara' in which many grooms used to participate, and the bride had the liberty to decide her spouse by the way she wants. The norms for widows in those times used to be very flexible. A woman was given number of options after the death of her spouse. 'Sahamara' was one of them. In this practice, the women were given the freedom to join her dead husband on the funeral pyre. According to the historical records and reports, the first incident of Sati was reported during the rule of Gupta dynasty empire between 320 CE to 550 CE. A widow could also use the Niyogi method to conceive another man's kid if she so desired, and then raise the child for the rest of her life. She could also opt for living the life of a Brahmacharya in which she ceases to perform any sexual activity. A widow was also given the option of finding new spouse of her own will and remarry and restore her married life.

In early Medieval era (later Vedic period)

During this period, the status of women went on a downslide. According to the texts of the worshiped Manu, the Hindu primogenitor, "A righteous wife is one who after the death of her husband constantly remains chaste and reaches heaven though she has no son." The practice of sati (widow burning) was spreading widely and practiced frequently in this era. During this time, the lives of the widow became very severe. At times, they were held responsible for her husband's death. It was believed that even the shadow of a widow can bring bad luck to lives of people. It was also believed that once a woman's husband passed away, the woman should give up all the conveniences of house. She could display her sorrow by wearing a simple white sari. The presence of widows at rites, ceremonies, and festivities was considered not a good sign and bad luck. In some backward and disadvantaged sections of society, the widows had to have their head shaved. It was done specifically to make the widow sexually repulsive so that no man would find her beautiful or she would never get remarried.

At the time of colonial rule

In the 19th century, sati became a hot topic in colonial India. This topic came in the eyes of the British government there in India and the urge to study and know more about this began in the British officials. Raja Rammohan Roy, a moderate leader from Bengal advocated and brought this cruel topic more into the account of the British' government. The British government had the perspective of Indian culture and society being barbaric and in need of reforms imbibing British Morals. To prove that Sati was one of the barbaric practices practiced in India, the British employed Pandits in civil courts and Nizamat Adalats (criminal courts) to assist them in constructing a case against Sati by deciphering religious texts. They posed questions regarding this practice and asked the Pandits to answer their questions keeping the scriptures like Manu smriti and other shrutis and smritis into account. Later, the British also argued that the only reason behind Sati in the Indian Society was the backward ideology of the Indians thinking that a woman after the death of her husband would become a liability to the family of both the husband and her own. At last, by the order of Governor-General Lord William Bentick, The Bengal Sati Regulation was passed on December 4, 1829, banning Sati throughout the British India.

In the Independent India

Despite all the improvements since India's independence 75 years ago, widows continue to live dejected and terrible lives in many Indian communities. In the post independent India, it took time for widows to gain equal respect in the society after their long battle against the restricting sociological norms and regulations established by the society still there are parts of the country where the old ancient widowhood practices still continued. The late 20th century witnessed many cases of banned widowhood practices reported from states like Rajasthan and Madhya Pradesh till past few years. However, the practice of Sati decreased to nil after the independence still the last sati reported was in the year 1987 when 18-year-old Roop Kanwar took the decision voluntarily to jump in the funeral pyre of her husband. Following this, The Sati Prevention Act, 1987 came into existence putting a stop at the Sati practice fully in the country.⁴⁵

⁴ Ibid [1]

⁵ Shivalika Verma, <https://www.probono-india.in/blog-detail.php?id=172>, 202

PROBLEMS FACED BY A WIDOW IN INDIA

In India, women after the death of their husband face end numbers of problems particularly regarding social, cultural, economic, and psychological aspects in making their life miserable and difficult day by day.

- **Violence against the Widows-** Widows are often seen with distrust in the society after the death of their Husband. They are suspected of killing their husbands, primarily for riches and property. They are unable to lead lives of respect because of the predominance of this mindset. Numerous types of abuse and violence directed towards them have been witnessed and reported. They are subject to harassment, verbal and physical abuse and are prevented from participating in weddings, ceremonies, and other events, and even have their homes forcibly evacuated.
- **Financial problems-** The biggest issue faced by the widows in India is about money. Many widows struggle to provide for their basic necessities as well as those of their family members. In terms of their children, the main issues are their inability to provide nourishing food, clothes, and school fees. Other issues include their inability to afford luxuries, preserve relations with friends and neighbors, repay

loans taken out by their spouses, and cover personal costs. One of these financial issues include the strong financial base required to give 'Dowry', an ancient practice followed in the Indian society during the marriage paid by the bride's family to the groom in number of ways as a sign of gift to strengthen the bonds between both the families. This practice has been declared unlawful by the Indian law and have been penalized as well, still it is practiced with full enthusiasm in many parts of the country especially the backward ones. The lack of proper source of income may also become the foundation for the added difficulties in adapting to widowhood. Due to all these problems, the widows mostly restrict themselves from spending their limited finances on food, clothing, social, cultural, and recreational activities.

- **Child rearing-** Most of the widows report having difficulties with child rearing. Many of them struggled with disciplining the kids, taking care of their everyday needs, and dealing with their sicknesses and health issues. With the child aging, the widows are more stressed by the thought of getting their child quality education from quality institutes which in today's time is next to impossible.
- **Personal and social life of a Widow-** Widows frequently experience issues with respect to their personal and social lives. They were subject to strict restrictions about their outward appearance, including being forbidden from wearing ornamented clothing and expected to dress conservatively. These factors subsequently led them to having trouble interacting with the other members of the society and felt withdrawn and alone. They had to manage their own expenses required for fulfilling their basic daily needs and safeguarding their households. Widows frequently experience fear due to a variety of situations, including criticism and mistreatment from their own family members and friends, spending time alone at night, and participation in social events feeling distant from others leading them to develop mental illness like depression and anxiety as well.
- **Force Child Marriage-** The daughters of widows who live in impoverished and backward settings run the risk of being violently married off as children. A widespread practice of widows with low socioeconomic level and extreme poverty is to pull their daughters out of school so they can marry them or sell them to older men. They marry off their daughters at a young age because they believe that they would be unable to meet their demands and obligations and perceive them as burdens.
- **Homelessness-** Homelessness among widows is a common issue. Homeless people are those who live on the streets, in pavilions, ashrams, or in the homes of friends or family. Widows run into this issue when they are forced to leave their home by their relatives, who are typically in-laws. The house owners also don't prefer Widow tenants because of the sociological prejudice created in their mindsets regarding widows. In India, widows after the death of their husband migrate to holy cities like Vrindavan, Varanasi, where they become permanent residents in the big ashrams or become servants of priests of temples in Banaras.
- **Inheritance Rights-** Majority of Indian Widows are deprived of their inheritance rights. Most Indian citizens lack the ability to inherit property. A widow may benefit from it if she has adult sons, but she actually has issues if she has no children or just girls. However, the Hindu laws gave widows less legal protections than males, certain states have passed laws including equality in protection of their inheritance laws. Also, some of the widows are unaware of their legal rights leading them to be unaware of correct move they should take place in such circumstances.
- **Problems faced by child widows-** In rural and backward India, there are still instances of child marriage taking place. Since they are denied access to all of their childhood activities, child widows face more serious challenges. The main issue facing child widows is particularly connected to the

pursuit of education. There have been cases where ladies lose their husbands before they become 18 years old. They are subjected to all the restrictions widows are expected to adhere to at such a young age. The biggest obstacle is encountered to acquire education and enroll in a quality education providing institution. They must adhere to religion teachings, rules, values, and beliefs throughout their whole lives.

- **Remarriage of Widows** – Caste system being prevalent in the Indian society, the remarriage of Widows became very difficult. The higher caste of the women, the stricter rules and regulations for her after the death of her husband. Some castes prohibit remarriage of Widow. Others accept it if it occurs within the family, but if a widow marries outside the family, she loses both her kid and her property. The second marriage poses numerous difficulties in finding a suitable spouse if the widow is extremely impoverished and unable to pay dowry and end up finding someone who may be an old widower, a divorcee, ill, or crippled. Some of their second husband. The majority of widows who had children when their spouse went away do not want to remarry because they are concerned that her in-laws will abuse them.

LAWS MADE FOR THE PROTECTION OF WIDOWS AGAINST EXPLOITATION

The post-independence India have witnessed many laws coming in force for the protection and safeguard of Indian widows against inequality, exploitation and harsh widowhood practices bestowed upon them due to society made immoral norms and regulations. Some of the laws that came up for the protection of Indian widows were: -

Rights of Inheritance - The Hindu Succession Act, 1956 governs the succession and inheritance rules for Hindus, Buddhists, Jains, and Sikhs. The aforementioned Act applies to both men and women equally and makes no distinction between moveable and immovable property. This act is only applicable where there is a will or testimonial record given by the Hindu Male died.

The section 10 of the Hindu succession act of 1956 talks about appropriation of property of a deceased Hindu male amongst his heirs and considers the wife of that person who is a widow now as one of the heirs of the deceased person. Like other entitled and living beneficiaries, a wife is entitled to an equivalent share of her spouse's assets. The woman has the complete option to acquire her late husband's whole property if there are no other sharers.⁶

Under the Christian law, if the husband, who is a Christian, the wife's religion doesn't matter, and she can acquire the property of the husband easily. If a husband leaves both a widow and a lineal heir, the widow will be entitled to one-third of the estate, while the other two-thirds will belong to the lineal heir. If there are no lineal descendants but other relatives are present, then the widow receives half of the inheritance, and the remaining portion goes to the relative.

Right of Adoption – The Hindu adoption and Maintenance Act of 1956 discusses about the ability of a woman to adopt a child. According to the section 8 of this act, any woman may adopt a son or daughter who is not a minor, who is not married, whose marriage has ended or whose husband has passed away, who has renounced marriage, who has completely given up on the world, who has stopped practicing Hinduism, or if he has been declared of an insane mind by a court of competent jurisdiction.

With the implementation of this act in 1956, the status and stand of the widows in Indian society got changed. Prior to the implementation of this act, the widows did not have the right to adopt without the consent and explicitly expressed authority of her deceased spouse or in few instances the widow cannot adopt without the consent of her Sapindas.

Right of maintenance- In India, Laws have been passed and implemented for ensuring the right of Maintenance of a Widow. The Hindu adoption and Maintenance act of 1956 ensures maintenance of a women after the death of her spouse. According to section 19 of this act, if a widow is unable to support herself from her own earnings or other property or, in the

⁶ The Hindu adoption and Maintenance Act, 1956,
<http://ncwapps.nic.in/acts/TheHinduSuccessionAct1956.pdf>

absence of any such property, is unable to obtain a maintenance payment from the estate of her spouse, parents, or children, she can claim the maintenance from her father in-law. The amount of maintenance to be paid is one of the most important issues to be resolved since a deficiency in and of itself is unjustifiable.

The total amount is entirely at the discretion of the court of law. According to section 23 of Hindu Adoptions and Maintenance Act of 1956, lists several factors that can be taken into consideration, including dependent's background, relationship to the deceased, reasonable wants, current condition, provisions in the will, the deceased's net estate's value, any outstanding debts, the number of dependents who are eligible for maintenance, etc. ⁷

According to Muslim law, the woman is entitled to maintenance throughout the duration of the marriage, its dissolution, maintenance for Muslim Divorced Women till her Remarriage, or if she is living apart owing to her spouse's cruelty and non-payment of dower. However, the wife is not qualified to file for support as a widow.

CONCLUSION AND SUGGESTION

In a patriarchal society like India, widowhood is a complex institution that makes a women go through one of the hardest phases of their life facing end number of problems which excludes a certain group of women from the general population. There are limitations placed on their ability to dress, eat, participate in social activities, and get married again. Widowhood draws attention to the disconnects between cultural and social realities, as well as between ideals and actual behaviour. For any woman, losing a spouse is tremendously traumatic, especially if she is left to care for her young children by herself. The most severe problems they face are financial, including maintaining their standard of life, meeting the requirements of their children, paying bills, and many more. In the contemporary India, widows in metropolitan regions are gaining prospects for empowerment and entering the workforce as professionals like physicians, attorneys, teachers, journalists, and business owners. On the other side, particularly in rural places, widows lack possibilities for empowerment and are still victim to violation and their exploitation in many ways.

⁷ The Hindu adoption and Maintenance Act, 1956,
<http://ncwapps.nic.in/acts/TheHinduSuccessionAct1956.pdf>

Complete economic dependence on others, the shame attached to being a widow, and societal restrictions to remarriage, particularly for the widows belonging to higher caste, have rendered their positions fragile in Indian culture. Many measures have been taken and implementations have been made for the upliftment of the widows and protection of widows from any kind of exploitation in the Indian society.

The post-independence India have witnessed many acts and laws come into force, empowering widows, and helping them getting their deserved rights in the patriarchal Indian society. The formation of National Human Rights Commission (NHRC) brought a great change by ensuring removal of old immoral practices made for the exploitation of widows making them feel alienated from the society. Numerous efforts have been made to assess widows' living situations in the country while also regularly informing and educating the widows about their legal rights in this country.

In a vast and a religious country like India, the ancient, severe widowhood customs have been so ingrained in the minds of Indians that they are regarded as reasonable and greatly supported by the populace. First, the way Indians see widowhood needs to change in order to stop the violence toward widows. Literacy and education should be spread about equality amongst all and end of discrimination in the country based on a person's social background. Respect for widows should be instilled in people's hearts, and they should be taught that they deserve the same standing and status in all facets of society as everyone else.

Widows should be treated with respect, and people should be educated that they deserve the same standing and position in all facets of society as everyone else. The government should launch more schemes and campaigns for providing quality education and job opportunities to widows in all the fields of professionals and thereby encouraging, uplifting, and conveying the world the message that the widows in the Indian society have equal stand and say as any other.