

Indian Women in the New Age

OR

WOMEN IN YOUNG INDIA

*With a foreword by the Maharani Gaikwar
of Baroda*

BY

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PREFACE.

EVENTS are moving with great speed. Old order is giving place to new. What was considered a few days back as the fantasy of a minority is a reality to-day. Bolshevism which came as a brutal shock in 1918 is almost a house-hold word to-day. Fascism which was considered as an expression of national and racial egoism, of brutality and violence, of militarism and suppression, in 1920, is to-day adopted and adored in two of the leading countries, being advocated as the expression of national re-birth. In almost every other country Representative Government is being adopted in preference to Absolute Monarchy. Such momentous changes could be seen in the economic field too. Communism or Fascism is an open challenge to Capitalism. Planned Capitalism is another alternative suggested. Labour is every-where gaining power and prestige. Socialism is a growing power to-day throughout the world. The traditional forms of thought, the unquestioning faith in antiquated ideas and the unflinching adherence to

old-world dogmas are no longer to be found. Thus changes could be discerned not only in the political but also in the economic, social and religious outlook. These changes are the results of changes in times and changes in circumstances. India lags very much behind the other Nations if judged in the light of the above observations. It is particularly so with the position of women in young India. This backwardness of our women is our own creation, for their condition, in some respects, was much better during the Vedic age than at the present day. Changes in time necessitated changes in circumstances. Just to give an instance, the frequent invasions of the foreign invaders might have necessitated the introduction of the system of early marriage and the system of Purdah. But should they not be removed even after the grounds for such an apprehension are removed? Men have not removed them because either the artificial atmosphere that is created is favourable to them or they have not given a correct interpretation to the Vedic Texts.

Consequently the energies and abilities of half the population of India are wasted. It is

just with the idea of picturing the present position of women in India and of suggesting improvements in the light of the progress that is made by women of the other progressive countries that this book is written. When we have deliberately deprived our women of their birth-rights and when we have purposely chosen to treat our so-called untouchables as our inferiors, though in both these cases it is in our hands to improve them and to restore them to their just and rightful position in society, how could we, in fairness, question the attitude of the foreigners in the matter of colour-bar and racial prejudice. The object of writing this book will have been achieved if the position of women in India is improved and they are given a status equal to that of men.

In preparing this book, I have kept in view the ideas and tendencies of the orthodox, the moderate and the radical. They all want reform, but some through legislation and others through educating the public alone. I personally feel that we cannot afford to wait till that millennium is reached when public opinion will have been sufficiently educated

to welcome reforms without opposition. For this reason I earnestly plead that the Government will co-operate with the people, instead of adopting a policy of neutrality in social and religious matters.

It is my most pleasant duty to acknowledge my deep debt of gratitude to Her Highness the Maharani Gaekwar of Baroda, for graciously consenting to write a foreword to this token of mine to the great cause. I also acknowledge gratefully the courtesy shown me by my publisher, the proprietor of the Jaya Stores.



FOREWORD

The author has taken a historical survey of the position of woman in different countries at different times with special reference to the position of woman in India, past and present. The book is full of information and research. It is refreshing to find the author championing the cause of women in all walks of life. He wants women to hold an equal place with men in political, social and economic life and points out to Russia and Japan where women are largely employed in all departments of life. He writes approvingly of the Baroda State legislation, by which the position of woman in respects of her rights in the joint family and her right to succession is greatly improved. He even approves of the Law of Divorce of the Baroda State and says that the State has gone ahead even of Mysore. He greatly deplors that the Government of India is not taking any interest in improving the

position of woman socially and legally. In matters of law he has gone a little too much in details. But on the whole the book is a refreshing, interesting and informing reading. In it the author has well championed the cause of woman. The author is very optimistic but time and education and travel can alone bring about a change in the mentality of the Hindus and Mahomedans. Deep-rooted ignorance, superstition and prejudice must disappear before the light of knowledge and men must be prepared to give up their long vested interests and do justice to the other half of humanity. The author is an advocate of woman's rights and deserves every encouragement. He has treated the subject so nicely that I cannot but congratulate him on his attempt.

H. H. THE MAHARANI GAEKWAR
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time did exist when social and religious customs dictated the standards of behaviour. The village was in every respect self-contained. Caste fixed the profession of the individual. Now circumstances are altered. Social opinion is powerless. Industrial Towns growing every where. Opinions of Pundit J. Nehru and Dewan Bahadur H. Sarda on the necessity of bringing about change. As we change with changing circumstances so too must our laws and regulations. Authority of the Dharma-Sastras to that effect. The franchise to be further extended. Good education necessary to make them good citizens. The benefits to be derived from bringing about these changes. J. S. Mill's dictum.

CHAPTER I.

A RETROSPECT

" The woman's cause is man's ;
They rise or sink
Together, dwarfed or god-like,
Bond or free."

Tennyson.

"**T**HE Hindu ", on the 20th September 1888, in its editorial, stated, "Supposing that we obtain to-morrow the full measure of liberty that we pray for, will that be enough to make Indians morally a great nation? Certain political privileges alone will not bring about that grand consummation. There must be an earnest and steady work in the field of social as well as political reforms. A radical change is necessary in many of our customs and institutions. But there is one evil which is a standing hindrance to reforms of every kind. We mean the present degraded condition of our women. The hard and unreasonable marriage laws, their seclusion and their ignorance, have made them entirely unfit for the exercise of that elevating and

chastening spirit which is theirs by nature. The kitchen should cease to be their world ; the priests should cease to be their moral preceptors ; cruel marriage laws should cease to rob them of their youths and their minds should be opened by a high and open education."

According to the census of 1921 the number of males in India was 163,995,554 and that of females was 154,946,926. This gives a proportion of 945 females to every 1000 males. The figures of the population of India by sexes, as recorded by the census of 1931, show a further continuation of the steady fall in the proportion of females to males that has been going on since the beginning of this century. The shortage of females is characteristic of the population of India as compared to that of most of the European countries. The all-India ratio is 901 females for 1,000 males for Muslims, and 951 females for 1,000 males for Hindus. The only provinces in which there is actually an excess of women over men are Madras, Bihar, Orissa and the Central provinces. But there is an extraordinarily low female ratio in some of the Rajput States of Northern

India, such as Jaipur, Gwalior, etc. This shortage of females may be due to either the system of marriage within the caste as Westermarck thinks it, or in-breeding, or local and climatic conditions.

Another peculiar feature that we see in India is that, after the period of adolescence is reached, the death-rate amongst females shows an excess over that of males which is contrary to what is existing in Europe. The causes for this state of affairs are many and divergent. It may be due to either the gosha system which is disastrous to health or the system of early marriage which subjects girls to the risks of mother-hood at a very early age when they are not physically capable of withstanding it or the want of good midwifery in the villages.

As Mr. J. H. Hutton, the Census Commissioner for India, has pointed out though the female infant is definitely better equipped by nature for survival than the male, the advantage she has at birth, in India is probably neutralised in infancy by comparative neglect and in adolescence by the strain of bearing children too early and too often. 'Sons are

everywhere desired,' he says, 'not only among Hindus, where a son is necessary to his father's salvation, but almost equally so among other communities as well; daughters in many parts of India mean great pecuniary expense in providing for their marriage which, moreover, among the majority perhaps of Hindus must be arranged by the time they attain puberty.'

It has often been said that the greatness of a nation could be judged by the position it has given to its women. The position which any group of individuals hold in society, at any time, depends upon two factors, namely, 'the quality which actually belongs to the group, and the ideas concerning the group which are current at the time.' In judging of the position of women, the difficulties are increased by the fact that in matters of sex the emotions generally lead the mind and obscure its action.

If knowledge is power, as held by Lord Bacon, or if property is power, as affirmed by Lord Macaulay, only one half of the Indian population possess it. Till the last quarter of the 19th century, it was so with women

of the western countries also. No race in the history of the world has gone through so long a period of subjection as women.

According to Sir Henry Maine the primeval condition of the human race was based on the patriarchal system, under which the eldest male parent, the 'Pater-familias,' was absolutely supreme in his house-hold. From the code of Hammurabi, 2,250 B.C., we understand that the social life in Babylonia was on a distinctly patriarchal basis. A man might pledge his wife, his son or his daughter to pay off his debts. The ancient Hebrews also lived under a definitely patriarchal system. That the father had power of life and death over others of the family could be demonstrated by the father sacrificing sons and daughters to Moloch. It had been decided that women, slaves and minors should not be included to make up the quorum of ten required for the congregational service. According to the ancient Jewish notion, a woman could not be a witness or the guardian of her children; nor could she inherit or own her own earnings. She remained all her life under the tutelage of her father, husband

or son. From the Greek poets, philosophers and historians, such as Homer, Socrates, Plato, Aristotle, Herodotus and Xenophon, we understand that patriarchal theory was at its full swing during the ancient Greek civilisation. Thucydides makes Pericles, at the end of his funeral oration, address the widows of those who had fallen in the war with this terse exhortation, "Thou should not belie thy womanly nature, the great glory of which is that thou should be as little as possible spoken of amongst men, whether for good or for ill". Plato also classed women with children and slaves as unreasonable creatures. The Greek ideal was 'Man shall be trained for war and woman for the recreation of the warrior; all else is folly.' But the Roman matron seems to be less submissive and more self-assertive than her Greek sister and perhaps the Roman man had a finer sense of justice, not legal but human justice, than the sensuous and selfish Greek.¹ We understand from Livy that when the Oppian Law was passed, during the second Punic war,

¹ The Evolution of woman. Johnson, 77.

women were forbidden from wearing dresses of many colours or golden ornaments weighing more than half an ounce or riding in horse-drawn carriages except on religious occasions. This is only a reflection of the condition that existed at that time.

Early christianity in its revolt against pagan sensuality developed an ascetic attitude towards life which recognised women as the dangerous ally of evil. The fact that Jesus never married, that he had no children and that he chose men alone as his active co-workers, backed by the Jewish attitude of Paul, gave women a secondary place in the early Christian Church. From the ancient Epics and Bylinas and also from the ancient Russian chronicle of Nester we understand that women, in ancient Russia, enjoyed a certain amount of freedom in the choice of their husbands and in other social matters. The famous historian, Pokrovskyi has said in his 'History of Russian Civilization' that the words Pater-familias, Pater, Vater, or Pitru, which were so significant among the ancient Indo-Europeans, had no place among the Slavs of Russia, whereas the word 'Mater'

was familiar to them. Among the Slavs the degree of consanguinity was determined not from the father's but from the mother's side, as embodied in the Russian Law, known as the 'Russkaya-Pravada.' They had also full rights over property which they could dispose of at their will. They could personally plead in law courts. The position of widowed mother in pre-Christian Russia was supreme. She was given full authority in the family. Thus the tutelage of sex played a far smaller part in Russia as compared with Germany or England. After the Christian era the Russian soil was inundated by a mighty flood of sophisticated urban civilisation. Patriarchal theory was introduced and woman's position was subordinated to the pleasure and convenience of the man's. In Persia wives lived in strict seclusion within the harem, seeing no men except their husbands, their sons and the eunuchs who looked after the harem.

Coming to India, in the Vedic age, the position of women was very honourable and noble. The Vedas presuppose some sort of love-making or betrothal between the boys and girls before marriage. The parties to the

marriage were grown up parties and also competent to woo. They used to give their consent and even they were having their own choice. There was no trace of seclusion during that period. Women were educated and they attained high positions as scholars and teachers. In the list of the old teachers of the Rig-Veda, given in Asvalayana's 'Grahya-sutra' occurs the names of three women, namely, Gargi Vachaknavi, Vadhava Prathitheyi and Sulabha Maitrayi. These show that women were not condemned to ignorance. During the Epic period also their condition was unaltered. It was not in any way deteriorated. During the Vedic and the Epice periods post-puberty marriage was in vogue. During the time of Asvalayana and Apasthamba, who in their Grihya-Sutras speak of marriage and its ceremonies, we do not see anything mentioned about the age of the bride. From this we have to suppose that grown-up girls also were married. This view is corroborated by the fact that they allowed intercourse on the fourth day after marriage. Hiranyakesan and Jaimani say in express terms that the bride should be a mature girl who has been chaste.

Gobhila and the Manava Grihya lay down that a girl not having intercourse previously with a man should be married. There is again no trace of the system of 'Sahamarana' in the older texts. It might have come with the Aryas that migrated to India because it was in vogue among the teutonic tribes of Europe and also among the non-aryan Scythians. Widow remarriage was also allowed. By the time the metrical Smrithis were written the idea of pre-puberty marriage and of the abolition of widow remarriage had been implanted in their minds.

Coming to the Sutra period we see some change in the position of women. This is the period to which most of the sacred laws and Smrithis belong. This period saw some really eminent and authoritative law-givers. Manu, Parashara, Yagnavalkya and other Smrithi-karthas existed during this period. Manu has said, 'Three persons, a wife, a son and a slave, are declared by law to have in general no wealth exclusively their own; the wealth, which they may earn, is regularly acquired for the man to whom they belong.'¹ They themselves were

¹ Manu. Chapter viii. sl. 416.

in the category of property owned by the father and as such could not own property. A passage of Smrithi cited in the Mitakshara by Vignaneswara says, 'Even where there is a cause of dispute between preceptor and pupil, between husband and wife, between father and son or between master and slave, no action is maintainable.' Again, Manu has stated, 'In childhood must a female be dependent on her father; in youth, on her husband; her lord being dead, on her sons; if she has no sons, on the near kinsman of her husband; if he left no kinsman, on those of her father; if she has no paternal kinsmen, on the Sovereign; a woman must never seek independence.'¹ The next stanza states, 'Never let her wish to separate herself from her father, her husband, or her sons; for, by a separation from them, she exposes both families to contempt.'² Another passage says, 'Though inobservant of approved usages, or enamoured of another woman, or devoid of good qualities, yet a husband must constantly be revered as a God by a virtuous wife.'³

¹ Manu. Chapter v. sl. 148.

² Manu. Chapter v. sl. 149.

³ Manu. Chapter v. sl. 154.

Narada speaks of betrothal. He says, 'Previous to the union of wife and man the betrothal takes place; the betrothal and the marriage ceremony together constitute lawful wedlock.'¹ Again he states, 'Through independence women go to ruin, though they be born in a noble family; therefore, the Lord of creatures ordained dependence for them.'² In the next stanza he states, 'The father protects her during her childhood, her husband in her youth, her sons in her old age; a woman has no right to independence.'³ Kautilya's Arthashastra gives us to understand that even during the times of the Great Mauryas the condition of women was in no way better.

Thus in every country man's power was supreme. It was enforced by men not because experience and comparison of other arrangements showed it to be the best for the world but because of the consciousness of their muscular strength, of their desire to carry on their polygamous habits and of their supposed superiority of mental power.

¹ Naradiya Dharmasastra Chapter. xii. Sl. 2.

² Naradiya Dharmasastra Chapter. xiii. Sl. 30.

³ Naradiya Dharmasastra Chapter. xiii. Sl. 31.

Throughout the middle ages woman was a non-entity in every sphere, even though her subjection had been veiled in decorous clothes of chivalrous or protective customs with which her partner had been pleased to see her adored, and with which she had been contented. James Mill could not see that women had any interest distinct from those of their husbands or fathers. In France Napoleon, who had a cynical contempt for women, passed his 'Code Napoleon,' by which much restriction was placed on women. 'Public education is not suitable,' wrote Napoleon, 'for women, because they are never called upon to act in public.' Rousseau has said, 'the woman's sole sphere is to give pleasure to man.' In the latter half of the eighteenth century, Blackstone said that the husband might give his wife moderate correction. As to her property right, in England, till the third quarter of the nineteenth century she had very little rights. Much less was her influence felt or her power wielded in the domain of politics. This was so not only in England, but also on the continent. These things show that the present position of

women in the west is entirely the growth of the last one hundred years.

In Russia not only 'Terem' had been introduced to conceal their wives but women were considered 'perfidious, cunning, impure and inferior beings.' In church a special place was allotted to them on the left. They were not permitted to approach the altar. Herberstein says that women, in the sixteenth century, could not come out and they were so precluded that nobody could see or talk with them.

Coming to consider the position of women in India, during the middle ages, it was only after the conquest of India by the Mahomedans that an impression was created in the minds of the Hindus that distinction should be made between law and religion. Under the Mahomedan Law also women do not enjoy any freedom. They observe the pernicious system of purdah. Mahomedan religion prohibited carrying away of married women as slaves. This belief and the outrages of the early Mahomedan invaders drove the Hindus of the north, in self-defence, to introduce the purdah and to increase early marriages. Much change could not be expected in the Hindu law as

well as in the Mahomedan law as they claimed to be of divine origin and hence immutable.

Till the time of the early Victorian age there was no feminism in its real sense. No doubt throughout the ages and in all countries the voices of isolated women made themselves felt from time to time protesting against the moral and mental inferiority of their sex. Christine De Pisan (1369—1429) was the first woman in Europe to grasp the principle of feminism, namely that every woman should be allowed to develop her personality and to exercise her faculties to the full. Another male champion of women was Cornelius Agrippa (1476-1535) who published in 1532 a latin treatise concerning the nobility and excellence of women above men. He urged that it was wrong to exclude women from public affairs. Others also like Judith, Susanna, Atlanta and Aspesia had championed the cause of women. In those days woman's subordinate status was a matter of course, so long as there was a man in or outside the family on whom she could depend. The idea of a general uprising on the part of women against men did not arise until the beginning

of the French Revolution. At the beginning of the French Revolution the men were immensely pleased to make use of women's political activities but when they showed to the world that they had their own independent views the natural anti-feminism of the Frenchmen, trained to despise women by Voltaire, Rousseau and Robespierre, manifested itself. But this suppression was a short lived one.

The present day feminism has its root in the general ideas of right, liberty and equality which appear in the latter half of the eighteenth century from the teachings of philosophers of that time. The hitherto accepted causes for the enslavement of women, namely 'the brute force, the religious doctrines and usages, the rise of the institution of private property by which man came to claim as his sole possession the marital rights and powers over womanhood and the consciousness of the burden of the child which kept women from self-assertion and self-defence,' were exposed and exploded. They were crystallised in the celebrated declaration of the rights of man at the time of the French Revolution. Thus it

was only after the French Revolution and the subsequent establishment of democracy in many of the European states that men began to see the injustice that they had done to women. By this time the declaration of independence had already been proclaimed in America. The ideas of right and equality were derived from the principle that all human beings were born equal and that it was only social and economic conditions that divided them. In France, "the people, thoroughly awakened out of the sleep of centuries by Napoleon's cannon, could not be put to sleep again. Napoleon III, in 1874, did indeed construct a new caesarism out of the ruins of that which his uncle had constructed, but the bastille could not be re-built, nor the spirit of liberty be entirely repressed." Lincoln's historic phrase, "Government of the people, for the people, by the people" was much rooted in the minds of the people to be so easily obliterated.

It is pertinent at this stage to quote the relevant portions of the American Declaration of Independence of 1776 and the equally relevant portions of the Declaration of the

Rights of Man, made by the National Assembly of France in 1781.

"We hold these truths to be self-evident that all men are created equal, that they are endowed by their Creator with certain inalienable rights, that among these are life, liberty and the pursuit of happiness, that to secure these rights Governments are instituted, deriving their just powers from the consent of the governed."

American Declaration of Independence, 1776.

"Men are born equal, and continue equal in respect of their rights.

The end of political society is the preservation of the natural and imprescriptible rights of man. These rights are liberty, property-security and resistance to oppression.

All citizens have a right to concern personally or through their representatives in making the law. Being equal in its eyes, then, they are equally admissible to all dignities, posts, and public employments."

Declaration of the Rights of Man, made by the National Assembly of France, in 1781.

But even after the French Revolution the position of women was not safe and secure. "The anti-slavery convention was held in

London in 1840. Delegates were invited to this meeting from all the nations. The convenors forgot to point out that the word delegate, in their view, was of the masculine gender. America sent a number of delegates to this convention among whom some happened to be women. After travelling over three thousand miles to attend a world's convention, they were surprised to hear that women formed no part of the constituent element of the moral world. The convenors explained, at the opening of the convention that it never occurred to them that they were inviting ladies, and it was quite contrary to English sentiment for ladies to appear in any such public capacity. After a long debate the rejection of the women delegates was carried by an overwhelming majority. Their eyes being thus opened to the contemptuous attitude of the dominant male-sex, these delegates, on their return to America, at once took to establish women's rights associations."

In England also, in 1851, the Sheffield female political society, being the first women's suffrage society, was formed. Thus everywhere in England and also on the continent

women's societies were formed to promote their interests. By 1900 this women's movement assumed considerable proportions in Europe and America, and during the last 30 years it has succeeded in getting the social and political status of women recognised. This new recognition may be the consequence of either the further realisation of the democratic principle of equality or the natural development of the process of social and political evolution or the logical outcome of the growth of industrialism. If the latter half of the nineteenth century gave them economic and social status, the first two decades of the twentieth century have given them the ballot?

In Russia, Bardina and Betty Kaminskaya struggled hard for the emancipation of their women during the seventies and eighties of the last century. Their emancipation was completed only by the October Revolution of 1917. Lenin said, "It is impossible to win the masses for politics unless we include the women. We must win the millions of working women, in city and village, for our cause and for our struggle. Without the women there can be no true mass-movement." At the present

day, in Soviet Russia, women are accorded equality in state, industry and intellectual life. Here it is work that is paid and not sex. The Soviet Union is the only country in which the unequal payment of men and women has ceased. In the great "Hammer and sickle works" in Moscow, sixty per cent, that are employed are women. Women collaborate in the administration of justice. It is impossible to conceive now of a people's court in the New Russia without women. Women are members of 'Ossoafiakhiu', a society for aircraft and gas-defence. They can also undergo training in the other departments of war-service, such as, war telegraphy, field telephone service and the ambulance service in the field and behind the lines. Krupskaya, a companion of Lenin's life and struggle, was a deputy commissary in the people's commissariat of education. Yakolleva was people's commissary of finance in the R.S.F.S.R. Nyurina was an assistant of the public prosecutor of the Republic. Kollantay was an ambadressess. Thus, in every walk of life, women are actively participating in the U.S.S.R. Government.

If the standard of civilization of a country is to be judged by the position of women in that country, Communism which is a post-war development stands out as the first fully developed civilization in history, while Fascism which is another development of the post-war period is revealed in its most undisguised reactionary character. Hitler writes, 'In the case of female education the main stress should be laid on bodily training and after that on development of character and last of all, on intellect. But the one absolute aim of female education must be with a view to the future mother.' The drastic cutting down of university education, previously the pride and strength of the German civilization, is a typical expression of a general cultural reaction of Fascism. Spengler writes, in his 'Year's of Decision', 'Let German women breed warrior-men and take pleasure in breeding them. Woman is to be neither comrade nor beloved but only mother.' The National Socialists do believe that the place of women shall once more be in the home. German women have now been made to understand that they have as important a role

in the life of the state as men though not of the same kind. And their contribution to its preservation is confined to matrimony, maternity and the household. The Nazi claims of Germanic superiority of race are constantly kept before the women of Germany and they are called upon to preserve this race. Moving appeals are made to German women asking them not to neglect their duty as mothers of this superior race. Curiously enough the German women themselves rejoice at the thought of having so important a role to play in the future of their 'Fatherland'. To put it briefly, in the words of the American observer, Calvin. B. Hoover, 'The National Socialists conception of women in the scheme of things is that they should bear many strong sons to serve the state in peace and war.'

The position of woman in the present-day Fascist Italy is not far different from the one occupied by her in the Nazi Germany. A visit to Rome or Naples will show how women are not to be found in the main thoroughfares, in the offices of the Government and in the firms. The reverse is true in Moscow or London. Fascist Italy, as

one author puts it, is a man-made and a man-controlled State. She has no independent existence except as mother or wife. She is denied all opportunity to develop her own personality, broaden her outlook on life and participate in the nation-building activities which the women of the other progressive countries consider as their birth-right. As is truly said, she is no more than the mere female of man and the role assigned to woman, in Fascist Italy, is that of a comforter of man, the servant of the hearth and the home, and the mother of sons for use in the army and of daughters to bear more sons. When the Fascists came to power a law was passed which ordained that no woman might teach a male person over eleven years of age any subject which affects the formation of character. This provision almost excluded women from the teaching profession. They are practically debarred from becoming professors in the universities and teachers in high schools. If there are a few women employed as teachers in Italy they are holders of the Fascist card. A non-Fascist woman has no chance of being entertained anywhere. There

is no question of equal pay for equal work in Italy. The women that are employed in the various factories and workshops receive less pay than men workers. Women are virtually excluded from any profession or responsible post that calls for organising ability or administrative capacity.

If we take the Eastern countries into consideration the Republic of Turkey provides an illuminating object lesson in political change from an autocratic monarchy to a parliamentary Republic. The Turks of Angora decreed that there should be no Caliph of Islam. This was the last step in furtherance of the policy of secularisation of Turkey. The system of *goshas* was discouraged. Education was made compulsory and women were allowed to enter every department of Government. Similar steps were taken at Cairo, Teharan and other countries of Asia. The first president of China, Yuan-Shi Kai (1913-1916) introduced reforms to promote the interests of women. Events have marched so quickly in the land of the rising sun that one is not surprised to see innumerable Japanese women as tram-conductors, detectives, typists, teachers, clerks

and public entertainers. They have also formed into women's Trade Unions. They have started a branch of the International Women's League for freedom and peace.

Various improvements have also been made in the position of Indian women during the last seventy five years. Several laws have been passed in the teeth of opposition of the orthodox Hindus, either prohibiting certain pernicious systems or legalising certain acts which had hitherto been condemned by the ancient laws and customs. The progress in the position of Indian women would have been immense if the East India Company, and after 1858 the British Crown, had not adopted a policy of non-interference and neutrality in the religious systems of India. Section 27 of the famous Regulation of 1772 says, "In all suits regarding inheritance, succession, marriage, caste and religious usages, the laws of the Koran with respect to Mahomedans and those of the Sastras with respect to Hindus shall be invariably adhered to." This was reaffirmed by Section 17 of The Regulating Act of 1773. Again the Queen's Proclamation declared religious neutrality in India. The

position of Indian women would have been worse if social reformers of the type of Rama Mohan Roy, Ishwar-Chandra Vidyasagar, Keshub Chandra Sen, Dayananda and Ranade had not arisen, or if Governor-Generals of the type of Lord William Bentinck, Lord Canning and Lord Lansdowne had not occupied the Viceregal chair.

Lord William Bentinck abolished the system of Sati, by Regulation XVII of 1829, and made the burning or burying alive of widows culpable homicide, inspite of the vehement arguments of Mr. Lushington, on behalf of the orthodox Hindus, before the Privy Council, protesting against the introduction of the Bill, and inspite of the support which Mr. Francis Bathie gave to the orthodox in their protests. Lord Canning, inspite of warnings and clamours, legalised the re-marriage of Hindu widows by Regulation XV of 1826. When Lord Lansdowne introduced the Age of consent Bill the Hindu orthodoxy began its usual uproar, under the leadership of Lokamanya Tilak, by saying that the Government had pledged to complete neutrality in social and religious matters. But it was carried

inspite of violent opposition. After these unpleasent experiences the alien Government shrank from assuming the lead in such matters. Some of the native states, like Baroda, Mysore, Travancore and Cochin, have gone ahead of British India in passing certain social reforms.

No doubt measures have been taken from time to time to ameliorate the social, economic and political degradation of our women. But how far they have effected a change in the out-look and how far the Government have shown a lack of initiative under the guise of religious neutrality will be elaborately dealt with in the following chapters.

As John Stuart Mill, a staunch supporter of the women's cause, puts it, the legal subjection of women to men is tolerated by a universal usage. He continues his argument by saying that it is very difficult to defend the cause of women, as the objections to granting women equality are not based on argument but one rooted in the strongest feelings.

The days when brute force and unthinking sentiment were the order of the day are

gone. There is no question of superior strength at the present day. The legal holding of human beings as salable property is a conception of the by-gone age. The rule of absolute monarchy is a matter of past history, and is only of historical interest. So let not men put faith in customs and sentiments which derive their source of inspiration from the worst parts of human nature. Let feeling and conviction be replaced by reason and commonsense.

CHAPTER II.

LAW AND RELIGION

INDIA may very appropriately be called the land of religions. Social and religious institutions exercise much influence on economic activity. The joint family-system and the caste system, which are the two special features of Hindu Society, play a predominant part in regulating the rights of the individual as a member of the family, as a member of the society and as a member of the trade or guild to which he is attached by birth. There are restrictions placed on the choice of marriage. They are prohibited from inter-marrying and also from inter dining with members of other groups. Restrictions are also placed on the choice of occupations. "In India", observes the Imperial Gazetteer of India, "birth determines irrevocably the whole course of a man's social and domestic relations and he must through life eat, drink, dress, marry and give in marriage in accordance with the usages into which he was born."

The chief communities in India, are the Hindus, Mahomedans, Buddhists, Jains, Sikhs, Christians, Parsees and groups of other tribal communities. The Hindu community tops the list in point of number, being 68 per cent of the total population, the Mahomedans 22 per cent, Buddhists 3 per cent, Christians $1\frac{1}{2}$ per cent, Sikhs 1 per cent, the tribal communities $2\frac{1}{2}$ per cent, the Jains, the Parsees, the Jews and the other minor communities comprise the remaining 2 per cent.

The Hindus and the Mahomedans are governed by their own personal laws so far as inheritance, succession and marriage laws are concerned. The courts are required to take as their rule of guidance Hindu Law where the parties are Hindus and the Mahomedan Law where the parties are Mahomedans. The Buddhist have their own special laws in Burma. Sikhs and Jains, though not included among Hindus, are judicially considered to be governed by the Hindu Law as modified by their special customs. The bulk of the purely European inhabitants are 'mere birds of passage' retaining in matters of marriage and succession the laws of their domicile. And

lastly Christians and Parsees have their own separate laws. Thus there is no territorial law which applies to all. The whole body of rules regulating the life of a Hindu, in relation to civil conduct as well as to the performance of religious ceremony, is contained in the Dharma Shastras. The ancient law-writers were all priests also. It was so among several races, such as, the Celts, the Romans and the Greeks. The ancient jurists were affected by their priestly character in the making of the laws. Their view of law and conduct was intimately affected throughout by their belief as to the lot which awaited human beings after death. According to them man's acts and experiences in one form would determine the next. The place, which, in modern law books is taken by the sanction or punishment for refusing to obey a law, is taken in these writings by penances. These penances are set forth in these law books. As is already said, much of these law-enforcing and law-making work was left to the sacerdotal class. The king had very little power in these directions.

The Mahomedan Law also is essentially a one-man system. The saying is, "There is

one God and Mahomed is his prophet." The Koran professes to repeat verbatim a series of communications made to the prophet through the angel Gabriel on different occasions. Though something is contained in the Koran about succession, inheritance and partition, the amount of legislative matter is very little towards the construction of a modern code. But somehow the opinion gained ground that he had been divinely inspired not only in the formal messages from the heaven recorded in the Koran but also in every act of his life and in his most casual utterances. They are called 'Sunnat.' Mahomed is alleged to have said, 'I leave with you two guides which if you follow faithfully you will never go astray, they being the Koran and my practice. (Sunnat.)' The Sunnis who are numerous in India accept the Sunnat or collected body of Arabic usages as having equal authority with the Koran. The sole scripture of the Shias is the Koran.

The four Vedas consisting of the *Samhitas*, *Brahmanas* and *Upanishads*, which are believed by the Hindus to have been directly revealed by God to man, give us nothing about positive

law. They deal with religious rites and duties, making an elaborate system of rules and regulations, rites and ceremonies, theology and metaphysics, for the conduct of human life. They are collections of ritual hymns, of which the Rig-Veda is the oldest. The *Brahmanas* also are digests of dicta on matters of ritual. The *Upanishads* try to implant in us the belief that knowledge leads to the supreme bliss of absorption into '*Brahman*.' Next in importance comes the Puranas which are too many in number. If the Hindus believe in the immortality of the soul, in the doctrine of Karma, in the transmigration of the soul until it attains *Moksha* and lastly in attaining *Moksha* through *Bhakti*, *Karma* and *Gyana*, the Jains believe in *Nirvana*, in the sanctity of human life, 'in the renunciation of lying, which proceeds from anger, fear, greed and mirth,' and in the renunciation of worldly attachments, the Buddhists in *Nirvana* and in the sanctity of animal life, the Sikhs in the unity of God and in the brotherhood of man, the Mahomedans in the unity, righteousness and omnipotence of God and the Parsees in the performance of rites to the manes of ancestors,

combined with the worship of fire, water, sun, moon etc. The Hindus happen to be the major community in India. Among them, as has already been observed, the theories of transmigration of soul and Karma assume much importance. According to the theory of transmigration of soul 'the individual soul so long as it is entangled in this universe of illusion and bound in the shackles of personality, must pass through an endless series of births and re-births during which it is subject to increasing sorrows and sufferings. When it reaches its final goal and is freed from its separate personality and becomes one with the impersonal '*Atman*' this series of births in the world come to an end and the soul is finally saved from sorrow and suffering.' Karma would only mean that a man reaps what he has sown. It would be presumptuous on my part if I intend taking the role of a religious teacher. I do not attempt to deal with the philosophic conceptions of *Atman*, *Brahma* and *Maya*. Nor are they necessary for my purpose. It is enough if it is made known that much of these books contain very little of law. Even if we get some glimpses

of law here and there they are so intermixed that it is often very difficult to find out where religion ends and law begins.

From the lawyer's point of view, it is only the Smrithis that are important. The entire Hindu jurisprudence is contained in the various codes which are called the Smrithis, which like the Vedas claim to a divine origin. If the Srutis are believed to contain the very words of the deity the Smrithis are supposed to be recollections of the commands of God handed down by the ancient Rishis. Though they are numerous in number, the only codes that throw some light on the positive law are the codes of Manu, Yagnavalkya, Narada, Baudhayana and Devala. The whole body of rules regulating the life of a Hindu, in relation to civil conduct as well as to the performance of religious ceremonies, is contained in them. It is contended that the entire body of law, both religious and secular, emanate from God, and that as a result of it they are of divine origin.

Manu has stated, 'The roots of law are the whole Vedas, the ordinances and the moral practices of such as perfectly understand it, the immemorial customs of good men and in

cases quite different, self-satisfaction.'¹ He continues by saying, 'Whatever law has been ordained for any person by Manu, that law is fully declared in the Veda, for he was perfect in divine knowledge.'²

Manu's code is divided into twelve chapters, of which only chapters eight and nine deal with jurisprudence. Narada's institute deals with nothing but jurisprudence, particularly the second chapter dealing with Vyavahara. In the majority of these texts there is intermingling of religion and moral rules with the civil law. They deal with the religious, moral and legal duties of man. With Hindus, as with Mahomedans, law is only a particular phase of religion. The belief in the divine origin of law is not peculiar to the Hindus. There is no system of recorded law, literally from China to Peru, which, when it first emerges into notice, is not seen to be entangled with rituals and observances. The Twelve-Tables of Rome contain rules which are plainly religious. The Bible and the Koran

¹ Manu. Chapter II. sl. 6.

² Manu. Chapter II. sl. 7.

are also works which are believed by the Christians and Mahomedans respectively to contain precepts communicated to man by God. But the New Testament, unlike the Koran and the Vedas, does not purport to have been written by the founder. In this case the religious founder is not giving the law. The diverse disciples of his who compiled it many years after his death were guided by quite other considerations in composing the fragmentary records of the sayings and doings of Jesus. Hence there is no such thing as Christian Law.

The belief among the Hindus and Mahomedans that the duties and conduct of every individual, both in the secular and in the spiritual field, are guided by the different codes, which, in their turn, claim to be of divine origin, tends to make our civilization not only stationary but also impedes the progress of society.

This conception of the divine origin of law differs from the modern conception of it, such as has been defined and discussed by Austin. According to modern conception, sovereign is the fountain source of positive law. These

laws are set by "Political superiors to Political inferiors and the observance of which is enforceable by political sanctions." Nowadays in all the democratic states, people themselves are the political sovereigns and they can make, amend or abolish any law. Thus the final word lies with the people. According to the ancient sages, as the law emanates from the divine being, it is independent of the state, or rather the state is dependent on the law. The functions of the king, according to Hindu notions, was defined by the divine law. Among other duties he had to see that the divine laws were well observed by the people. Strange it looks, that the present-day Legislatures should be powerless to amend or abolish these ancient laws, even though it is glaring on the face of it, that they do not fit in with changes in time.

The principles of the Hindu religion, as Sarkar points out, are the eternity of the soul, *adrishta*, and *moksha* or liberation of the soul. Whatever may be the pitiable condition of the Hindu, instead of trying to improve it, he simply thinks that it is the result of the deeds of his past life, and is a victim to such a belief. This creates a patient and enduring

state of mind which calmly bears the ill. It will produce a spirit of apathy and helplessness, and he loses what little initiative he has in him. It is the same with woman also. It looks strange and inexplicable to a foreigner to see the Hindu woman bearing the degradation and inferior status so cheerfully, not knowing that her blind acceptance of her present position is due to the belief in the interpretation of religion, which, in its present form, contains not only the sayings of God and the writings of the ancient sages, but also much of the archaic customs and meaningless superstitions.

CHAPTER III

LEGAL DISABILITIES OF WOMEN

MARRIAGE

IN dealing with this subject-matter, we have got to deal not only with the system of infant-marriage that is in vogue in the country but also with the many obstacles that are in the way of widow re-marriage, inter-marriage and divorce.

Marriage, as we all understand, means union between man and woman for certain social and sometimes religious purposes. The essential difference between promiscuity and marriage is the exclusiveness of the latter relation, and the different forms of marriages result from the different degrees of this exclusiveness. In certain parts of India, as among many of the Nairs of Malabar, there is union between a certain number of males with a certain number of females. Polyandry is in vogue in Tibet and in some parts of Ceylon, by which system we find union

between one woman and several men. Among the Tottiyars, a telugu caste, it is customary among women, after marriage, to cohabit with their husband's brothers and near relatives. The Kollars of the Madura district allow a woman to have simultaneously ten, eight or six husbands. Some parts of Malabar and Canara also allow polyandry. Poygamy or Polygyny is extant among the Hindus, and under certain restrictions, among the Mahomedans, by which one male could marry as many wives as he likes, the only restriction that is placed on the Mahomedan being that a male cannot have at one and the same time more than four wives. Monogamy exists among all the Christian countries, for Christianity does not countenance any other form of marriage.

According to the Age of Consent Committee's Report the practice of *ganno*, according to which the girl-wife is not sent to the husband's family till sometime after marriage and generally after puberty, does not prevail in Bengal, with the result that soon after marriage, at any age, the girl lives with her husband and consummation invariably follows

on attainment of puberty.' The custom of gaona is in vogue in the Punjab. It is called garbhadana in Assam and in the South. The orthodox prefer to perform it soon after puberty. But, thanks to the efforts of the reformers, there is a growing tendency everywhere to drop it, especially among the educated class.

As regards marriage, Hindus as well as Mahomedans are governed by their personal laws, whereas, the Parsees are governed by the 'Parsee Marriage and Divroce Act XV of 1815' and the Christians by the Christian Marriage Act XV of 1872 "and the" Divorce Act IV of 1869. Marriage, among the Hindus, is considered a sacrament which is indissoluble. It is looked upon as a "Samskara" or a religious ceremony by virtue of which the holy knot which, when once tied, becomes indissoluble. It is a fusion which becomes complete and irrevocable by the wife changing the Gotra and the husband uttering some religious words. In Hindu Law marriage has always been looked upon as a sacrament. But to use sacrament as a foundation for arguing indissolubility of marriage is not sound,

for the idea that marriage was a sacrament and hence it created an indissoluble tie came in only at a later stage of Hindu social development. Anyway, Hindu marriage, at the present day, is considered to be for the life of the wife, leading to perpetual widowhood in the event of the death of the husband before the wife. Marriage is regarded as one of the ten Samskaras necessary for regeneration of the men of the twice born classes, and the only sacrament for the woman and the sudras. Consequently there is no room for divorce, or for dissolution of marriage, except among the sudras. Neither is it necessary that there should be consent of the parties concerned.

A Hindu must have a son to save him from the hells. The primary means to that end being marriage, it becomes a religious necessity. As cited in Dattaka Mimamsa it is more so as regards the Brahmins. "A Brahmin," says the Veda, "immediately on being born, is produced a debtor in three obligations; to the holy saints for the practice of religious duties, to the Gods for the performance of sacrifice, to his fore-fathers for off-springs." In the

Taittiriya Upanishad it is said, '*Praja Tantuma Vyavacchetsih.*' The whole idea underlying it is that one should not try to cut off the thread of progeny.

The legal consequences of a Hindu Marriage are as follows :

1. The husband and the wife are each entitled to the society of the other.
2. After marriage the custody of the minor wife belongs to the husband, and not to her parent.
3. The marriage does not disqualify her from entering into valid property-contract, independent of her husband.
4. She may sue or be sued in her own name. The husband and wife are competent witnesses for or against each other.
5. She is entitled to joint enjoyment of her husband's property.
6. She is entitled to a share of it at the time of partition.
7. She is entitled to maintenance.
8. It confers the status of legitimacy on the children.
9. When once a woman is married she cannot divorce her husband even though he ill-treats her or marries a second wife. This is a great flaw in the system of Hindu law.

On the Malabar coast owing to the prevalence of the Marumakkathayam system the position of women is better than in any other part of India. The Nambudari brahmins follow the Makkathayam system. Only the eldest son in a Nambudari family marries a wife of his own caste. The others marry nayar women with whom they live in the form of union known as Sambandhum, easily dissoluble by either party.

Among the other communities, such as the Mahomedans, Christians and the Parsees, marriage is a contract, like any other contract, which requires the consent of the parties, and which also could be dissolved or put an end to by either of the parties under certain circumstances. In former days, even among Christians, under the sway of the Canon Law, marriage, divorce, and the other family institutions, were under the domain of mysticism, superstition and sacerdotalism. The Canonists placed the family relations under 'taboo' against any rational or human control. It required a Martin Luther to lift the taboo. 'Marriage,' he declared, 'is a temporal, worldly thing, which does not

concern the Church.' The Roman Catholics are an exception to this, for they consider marriage as a sacrament. Marriage, under the English law, is essentially 'the voluntary union for life of one man with woman to the exclusion of all others.' The requisites are that each of the parties should, as regards age, mental capacity and otherwise, be capable of contracting marriage, that they should not by reason of kindred or affinity be prohibited from marrying one another, that there should not be a valid subsisting marriage of either of the parties with any other person, that the parties understanding the nature of the contract should freely consent to marry one another and that certain forms and ceremonies should be observed.'¹ As regards forms and ceremonies, the validity of a marriage, in England, now almost entirely depends on the observance of statutory provisions, but marriages according to the usages of Jews and Quakers are to a large extent exempt from these provisions.

According to the Hedaya 'Nikkah' means

¹ The Laws of England. Halsbury. Vol. xvi. p. 278.

carnal conjunction. As a legal term, it was defined in the 'Kanz,' a work earlier than the Hedaya, as a 'contract for the purpose of legalising generation,' which includes both the right of enjoyment and the procreation of children. To the validity of marriage, under the mahomedan system of law, no religious significance is attached. Regular marriage is a matter of contract, the terms of which depend on the will of the contracting parties. The husband is bound to give "Mahr" or "dower" for his marital privileges, part of it immediately and the remainder on the termination of the marriage by death or divorce, and to maintain her during the continuance of the wedlock. A woman cannot have more than one husband at the same time and she is further bound to observe 'Iddat' between the termination, by death or divorce, of one matrimonial connection and the commencement of another. It is lawful for a man to have not more than four wives at the same time.

Neither writing nor any religious ceremony is required to the validity of marriage contract among the mahomedans. But there should be

proposal and acceptance by the contracting parties or their agents, which should be in each others presence and hearing, and also two male witnesses, or one male and two female witnesses who are competent should be present and the whole transaction should be completed at one meeting. Even minors of either sex may be validly contracted in marriage by their respective guardians. If the contracting guardian is other than the father or father's father, there is the 'option of repudiation' for both the parties, the female to exercise the option immediately after attaining puberty and the male retaining the option until he has satisfied the contract by express declaration, or by payment of dower, or by commencement of co-habitation.

At this stage it is interesting to note the system of marriage that is in vogue in Russia. Lenin's decree, concerning 'the dissolution of marriage and civil marriage and Registration,' was passed on the 19th December 1917 which was replaced by the new code that was enacted in 1927. The hitherto accepted conception of marriage, based upon inequality and indissolubility, which conceded to the

man the headship and the right to force upon the woman his nationality and residence, was abolished. The decree abolished ecclesiastical marriage and recognised only civil marriage. The bridal pair, in the present-day Russia, are free to be married in church after the civil registration. There is equality between man and wife in every sphere. she could own separate property. There is the mutual responsibility of each to support the other. Liberty is given to dissolve the marriage at any time at the wish of one only of the partners. A registered marriage is judicially on an absolute equality with a 'factual non-registered marriage.' In order that a marriage may be registered it is necessary that the parties should have reached the age limit of 18, that they should be willing, that a proof of identity should be given and that each party should declare in writing that he or she is informed of the other's state of health, especially as regards venereal disease and tuberculosis. By clause 8 she need not change her nationality.

The position of woman, in the present day Fascist Italy, is quite the contrary of what is existing in the Soviet Union. Woman holds

a subordinate position. Marriage laws are one-sided and partial. Voluntary abandonment for a reasonable period cannot be alleged as a sufficient ground for legal separation. Wife-beating is not countenanced with disfavour unless accompanied by physical injury. She is expected to remain in the house even though ill-treated by the husband. If she violates the law she will be imprisoned. Marriage is considered as indissoluble. Divorce in general is prohibited. Thus woman, in Italy, does not enjoy the same rights as man in regard to marriage and divorce. Nevertheless woman has an all-important value for Fascism as the 'begetter of the fighting male.' Government encourages matrimony by giving rewards for the sixth legitimate child and onwards and also for twins. People without children are regarded as 'deserters of paternity.' In providing jobs, married people are preferred to bachelors and spinsters. Even among married, people with children are preferred to people without issues.

Religion, in the west, enjoins celibacy, whereas, in India, it favours matrimony. According to the Hindu notion every one

male should marry and get male children to perform his funeral rites after his death lest he would not go to heavens. The getting of sons is a necessity under the Hindu law.

CHILD-MARRIAGE

Early marriage is the greatest evil in our country. The first argument that the orthodox people bring forward to support their contention is that it has come from antiquity and it has got the sanction of the ancient sages. We have already seen how during the Vedic period post-puberty marriages were common and the parties to the marriage were grown up people. They used to give their consent, and even they were having their own choice. It is only when we come to the Smrithi-period that we see some change in the position of women. Early marriages began to develop. In Gautama's Institute, it is stated, 'A girl should be given in marriage before puberty.' Brihaspathi says, "The gift of a Gowree (when the girl is before eight she is called Gowree) secures the celestial region, 'naka'; the gift of a Rohinee (when the girl is before nine) secures the heaven, 'Vaikunta;'

according to the Hindu law

the gift of a Kanya (girl of ten years old) secures the region of Brahma; while the gift of a Rajaswala (more than ten years of age) entails an abode in hell'. Again, Parasara says, 'The father, the mother and the eldest brother, all the three go to hell by allowing a girl puberty to supervene before marriage.' Such sayings are found in some of the other later text books also. Cannot they, who protest against this system of early marriage, have antiquity on their side also and show the examples of Rama and Sita, Krishna and Rukmini, Arjuna and Draupadi, Nala and Damayanti and so many other instances. If Gautama, Parasara, Brahaspati and others are cited by those who advocate early marriage, those who oppose it may also quote ancient authorities such as Hiranya Kesin, Jaimani, Gobhila, Aswalayana and others, in whose books we find references to post-puberty marriages. Again, the very mantras that the Smrithis prescribe to be chanted during the marriage ceremonies clearly indicate that the bride should be a woman and not an infant!

The second religious basis of child-marriage is the doctrine of the 'Shradha'

according to which it is believed that if they leave sons and die, they reach heaven without any hindrance. Sons are required for this reason, if not for anything else, namely that they offer balls of rice and flour for them. Will not a reasonable man contend himself against this theory by thinking that men will solely be judged by their own action.

Another fanciful theory, in support of early marriage, is that women are marriageable at an early age in hot countries than in cold countries. Eminent doctors deny this dogma. They say that 'the custom of premature marriage, thereby acting injuriously upon the morals of the people among whom it prevails, has an undoubted tendency to bring an early puberty, and this is strangely mistaken for climatic influences. Indian girls are not more precocious than others. On the other hand, it could be said that the female mind has been left vacant and uneducated and has thought of little else than frivolous and sensuous objects before reason and judgment have become matured and before correct principles have been formed. The imagination has become excited and the ovaries roused to premature activity.'

Girls are generally married, in India, before puberty in order to avoid social obloquy. This system of child marriage never extended to the Malabar coast. It is not so prevalent in the extreme south along the east coast or in the north. On the other hand, it is much prevalent in the Western India, in Bengal and in the Deccan. It is too deep-rooted in the Central provinces.

Amongst Mahomedans, though religious objection is wanting, early marriage is equally common. According to the census of 1921, the total population of India was 318,942,480, out of which 80,685,132 males and 54,841,195 females were unmarried and 71,057,754 males and 71,593,131 females were married. No doubt the marriage-rate, in India, varies from province to province. But the difference is very little. If 881 females were married for every 1,000, between the ages of 15-19, in Bengal, in 1921, 870 were married in the United Provinces and 831 per thousand in Bombay. The Secretary of the Anti-Child-Marriage Committee, constituted by the All-India Women's Conference, has published a bulletin which explains the extent

of the evils of child-marriage in this country. The bulletin contains an extract from the Census Report of 1931, giving the following figures of the number of girls who are married under the age of 15 by age groups.

AGE GROUP	PERCENTAGE MARRIED
0 to 1	·8
1 „ 2	1·2
2 „ 3	2·0
3 „ 4	4·2
4 „ 5	6·6
5 „ 10	19·3
10 „ 15	38·1

The same fact could be represented in another way also.

MARRIED FEMALES.

Age	1921	1931
0—1	9,066	44,082
1—2	11,595	63,954
2—3	32,197	114,099
3—4	60,755	232,813
4—5	104,850	346,904
5—10	2,016,687	4,200,534
10—15	6,330,207	7,269,208

The table given below shows the number of females per 1000, aged 0-15, who were returned as married for six decades in five religious communities:¹

Married Females aged 0-15 per 1000 Females of that Age.

	1881	1891	1901	1911	1921	1931
Hindus	203	193	186	184	170	199
Mahomedans	153	141	131	123	111	186
Jains	189	172	164	130	117	125
Sikhs	170	143	101	88	72	80
Christians	33	37	58	39	32	43

The magnitude of the problem would be understood if only this is compared with the marriage rate that existed in England and Wales in 1931. For every thousand females only 20 to 30 were married before 20.

Other causes that help early-marriage are the joint-family system among the Hindus, under which the joint family resources are available for the newly wedded couple for an indefinite period, and the very low standard of life that is maintained among the people

¹ Census Report of India 1931, p. 222.

which does not demand prolonged training for children to maintain the same level of the standard of life. Mr. Risley regards the system of child-marriage as due to hypergamy which, by limiting the choice of bridegrooms, impels parents to marry off their girls at an early age. Mr. Gait regards it as the result of the impact of Aryans and Dravidians and as a device to guard against pre-marital communism. Mr. Campbell's opinion is that early marriage is due to a belief in the danger of dying with unfulfilled wishes, combined with the great wish of a Hindu to marry and have children.

The positive evils of this system could be classified as under :

1. 'Early marriages injure the health of all concerned. The drain upon the husband's constitution is very hurtful. Early marriage tends to make women barren. It produces weak children. It causes much sickness and mortality among the mothers. Abortions and ill-formed children are other fruits of early marriage.
2. Early marriages hinder education.
3. It is unjust to both the parties. The boy-husband may be wronged by being united to a wife who

can take no intelligent interest in his pursuits, who can never counsel and help him in perplexity and who cannot train his children.

4. The large proportion of widows is partly due to the system of early marriage. The figures are :

AGE GROUP	ACTUAL NUMBER OF WIDOWS
0 to 1	1,515
1 „ 2	1,785
2 „ 3	3,485
3 „ 4	9,076
4 „ 5	15,019
5 „ 10	1,05,482
10 „ 15	1,85,339

The above figures are records for the year 1931.

5. It also tends to poverty and eventually to national weakness.
6. It encourages pre-puberty intercourse and also by inflicting serious physical injuries on the girl-wife it causes diminished fertility.
7. It increases infant-mortality. In India, out of every 1,000 Children born, 181 die. There are places in India where the average goes up to 400 per 1,000. The backward condition of India in this respect is evident by a comparison

of figures for infant-mortality in England and Japan, which are 60 and 124 respectively per thousand.

8. Population also suffers. An appreciable percentage of girls lose their husbands in India before they are even 15 years of age. Since widow-re-marriage is prohibited, either by law or by custom, among almost all sections of the Hindus, this large number of women do not contribute to the increase of population.
9. Another consequence of child-marriage is the number of young mothers who die in child-birth. 200,000 deaths, in child-births, is the yearly average for India. This works up to 20 deaths per hour. '100 out of every 1,000 girl-wives', says Sir John Megaw, 'are doomed to die in child-birth before they have ceased to have babies, and about 200,000 mothers die in giving birth to children every year in, India.'

There has been in recent years a certain movement in favour of postponing the age of marriage, both in the case of males and females. But this movement is visible only among the educated classes who are very insignificant in number. Moreover post-ponement of marriage is more marked among the males rather than among the females. It was only

recently that the Government of India, due to the agitation and pressure put on it by social reformers, passed the Child Marriage Restraint Act (1929), restricting the marriageable age of the girl at fourteen. The Child Marriage Restraint Bill, otherwise called the Sarada Bill, was opposed by the Sanatana Dharma Sabha, the Yajurveda Brahmana Sabha of Poona and such other bodies. The Muslims opposed the Bill stating that any act controlling the age of marriage was ipso facto an encroachment on the authority of the Shariat and the Koran. Meanwhile there was a good rush to get their minor children married off before the act came into force. Bengal and Gujarat took the lead. After much debate the progressive elements prevailed in the Legislature and the day was won.

While the measure is welcome its effect from the point of view of number is entirely negligible. The reasons for its failure are threefold. The parents who celebrate the marriages of their daughters know fully well that the marriages that are celebrated in violation of the Act are still valid marriages. They

that the violation of law in that respect would bring them only some slight punishment. And lastly, they usually come to some native state, where the law relating to child-marriage is not extant, and celebrate the marriages.

At this stage it is interesting to note the marriageable ages of girls and boys in some of the countries of the west. In England women are agitating for raising the age of consent for girls to 21. While in France the legal minimum marriageable ages, for girls and boys, are 15 and 18 respectively, in Germany the respective ages are 16 and 20, in Switzerland 18 and 20 and in Italy 14 and 16 respectively.

Much improvement in this direction is needed. Of course much could be done by propoganda and education. But the Government should not manifest masterly inactivity in such matters under the guise of religion. Not only the ages of the parties should be still raised, but also more deterrant punishment should be given to the parents or guardians who celebrate the marriages and also to the purohits who participate in it. Even this is not enough. Under the present law even if

children are married in violation of the present law the marriage remains valid for the life of the couple. It cannot be dissolved even if they realise and repent, when they become sufficiently aged, for their having been married without their mutual consent or co-operation. Is it not a sad sight to look at that pair which is neither happy nor co-operating in its pursuits. This necessitates, if not anything else, the introduction of some sort of divorce.

It is not enough if reforms are introduced in this direction only in British India. Side by side with changes in British India there should be change in the native states also, for they contain, according to the census of 1931, a population of 81,2,37,564. It is really regrettable that a bill that had been drafted on the model of the Sarada Act was thrown out in the Legislative Council of such a progressive state as Mysore. One astonishing feature was that although the official block was allowed freedom of conscience they all voted with the no-changers. Native states should take the example of Baroda which passed the "Infant-Marriage Prevention Act as long back as in 1904.

As regards the Parsees and the Christians no question of legislation regarding child-marriage arises, for they very rarely marry their children in their teens. The Mahomedan law is also interesting on this point. The Mahomedan females enjoy greater freedom and advantage as regards marriage than their Hindu sisters. Marriage is contracted among them when a man and woman consent in unequivocal terms to a permanent and absolute union, to commence from the time of the contract, for the purpose of intercourse and procreation of children. Of course, consent to a marriage contract must be given by means of a declaration and acceptance expressed at the meeting. In the *Fatawa-i-Alam-giri*, it is stated that 'understanding, puberty, and freedom in the parties' are the requisites for a marriage contract. There is another thing called the 'Option of puberty,' which means that if the marriage has been originally contracted by a person who is under the age of puberty and his guardian has approved of it, the marriage is nevertheless voidable at the option of the minor on his or her attaining puberty. This is according to the Hanafi Law.

Under certain limitations it is allowed even under the Shia law. But this much must be admitted that even among the Mahomedans as many girls are married in their teens as among the Hindus. This evil exists among Sikhs and Jains also, though not to the same degree. The steps that are suggested to be taken to eradicate the evil among the Hindus may also be taken in these cases.

WIDOW REMARRIAGE

The problem of widow remarriage is of peculiar interest to India. Nowhere else in the world has this problem assumed so much gravity and importance as in India. Before 1856 there were legal disabilities also in the way of widow remarriage. But this was removed by the 'Widow Remarriage Act 15 of 1856'. Still, to the sad experience of all, it must be admitted that it has not produced that change in outlook which the reformers contemplated, the reason being that the bondage to past ideas is still there.

We have already seen that widow remarriage was in vogue in the Vedic period. In Atharva-Veda it is mentioned that when a

woman who has had a husband before marries another, after his death, they are never separated from each other if they perform the rite of 'Aja Panchandana.' In 'Aitareya Brahmana' it is propounded that one man may have many wives, but one woman cannot have many husbands at one and the same time. This implies that she can have many at different times. The remarried woman was called "Punarbhū". During the period of the Metrical Smrithis, widow remarriage was countenanced with unpropitious regard. Even in this period it was not definitely abandoned. Manu makes a compromise by allowing the remarriage of widowed girl who has not arrived at maturity. Parasara and Narada definitely allow it. All the rest oppose it. The writers, on the opposite side, also admit the fact of the existence of remarriage in so far as they put into the list of sons a 'Punarbhava' or one born of a punarbhū or remarried woman. But they have given him a low rank.

Manu, again, speaks of the remarriage of the virgin widow. 'If, on her second marriage, she be still a virgin, or if she left her

husband under the age of puberty and return to him at his full age, she must again perform the nuptial ceremony either with her second or her young and deserted husband'.¹ Yet in another passage he propounds, 'On failure of issue by the husband, if he be of the servile class, the desired offspring may be procreated either by his brother or some other Sapinda, on the wife who has been duly authorised'.² Yagnavalkya says that the debts of a man who is deceased should be paid by him who marries his wife. Some other sages have added that a woman might remarry if her first husband is impotent, or is unheard of for a definite period, or has adopted the religious order of mendicancy. Vishnu says, 'The person to raise issues must be a Sapinda, or a person belonging to a superior tribe.' Baudhayana declared that a widow might, under appointment, bear a son to her brother-in-law. Gautama proclaimed that the brother-in-law was the person to be appointed, and on his failure, a Sapinda, or a Sagotra or a

¹ Manu, Chap. ix. 176.

² Manu, Chap. ix. 59.

Samana-pravara might be appointed. Narada says, 'A damsel, not deflowered, but blemished by a previous marriage, is the first twice-married woman (Punarbhū); she must go through the marriage ceremony the second time.'¹ Again, he says, 'If the husband of a childless woman dies, she shall approach her brother-in-law, through a wish that male issue should be obtained, being authorised to do so by her spiritual parents.'² 'There are five cases in which a woman may take another husband: her first husband having perished or died naturally or gone abroad, or if he be impotent or has lost his caste.'³ The next five slokas also deal with the same subject matter. The well-known text of Parasara has stated unequivocally that there is sanction for widow marriage. He says, 'If the husband be missing, or dead or retired from the world, or impotent, or degraded, in these five calamities a woman may take another husband.'⁴ Devala has

¹ Naradiya Dharma Sastra. Chap. XII. 47.

² Naradiya Dharma Sastra. Chap. XII. 80.

³ Naradiya Dharma Sastra. Cha. xii. Sl. 97.

⁴ Parasara Smṛithi. Cha. iv. Sl. 27.

remarked, 'A husband may be forsaken by his wife, if he be an abandoned sinner, or an heretical mendicant, or impotent, or degraded, or afflicted with Phthisis, or if he has been long absent in a foreign country;' and he further says that in such cases the wife may take another husband for the sake of obtaining progeny.¹

It was, in some cases, called 'Niyoga', or 'the appointment to raise issues.' There is reference to this kind of appointment in some later works also, such as "Vivada-Ratnakara" of Chandeswara, compiled in or about 1315 A.D. and also in "Vivida-Chintamani" of Vachaspathi Misra who flourished at a still later period. Kautilya also in his "Artha-Sastra" says that if a widow wishes to marry again, she should get at the time of her second marriage what was given by her father-in-law and by her late husband. He says, 'A woman hating her husband cannot dissolve her marriage with him against his will. Nor can a man dissolve his marriage with his wife against her will. But from mutual enmity, divorce my

¹ Colebrooke's Digest. Book. iv. 151.

be obtained. If a man apprehending danger from his wife desires divorce, he shall return to her whatever she was given on the occasion of her marriage. If a woman under the apprehension of danger from her husband desires divorce, she shall forfeit her claim to her property.'¹

This practice was not solely confined to ancient India, but was also in existence in ancient Greece and Rome. Lycurgus gives an account of its existence in Sparta. It existed in Rome also. Plutarch tells us how Cato, just to oblige his friend, Quintus Hortensius, allowed his wife Martia to marry him. There is sanction for such a custom in the Bible also. "If brethren dwell together, and one of them die and have no child, the wife of the dead shall not marry without into a stranger, her husband's brother shall go unto her and take her to him to wife, and perform the duty of a husband's brother unto her." Among the Hindus the usage of the procreation of a son by a man on his deceased brother's widow was the most approved form of Niyoga or

¹ Artha Sastra. Book III. Chap. 3.

appointment. Thus it is seen that even during the Smrithi period, though widow re marriage was disapproved by the Rishis, yet its validity was recognised in some cases. But they ranked the issue as Punarbhava or the son of a twice-married woman.

Though widow remarriage was sanctioned by these authoritative texts somehow the opinion gained ground, possibly as a result of either the wrong interpretation of the ancient writings or of interpolation made in some of the books to meet their exigencies, that widow remarriage was condemned by the Sastras. Another school of thought began saying that remarriage of widows, though allowed generally, was forbidden in Kaliyuga. Their argument that though widow marriage was allowed in the first three ages it is not allowed in the present age on account of the degeneration of the human race from its original virtue and purity, is set at nought by the Parasara-Smrithi, for the author himself says that his Smrithi is meant for the Kaliyuga. Some others interpret it to mean that the passage applies to cases of betrothed girls and not to the marriage of widows. They

interpret it to mean that if there are references to the dissolution of marriage and remarriage in those texts such passages are with reference to the dissolution of marriage or remarriage before the 'Saptapadi'.

It was also enjoined that on the death of her husband her obligation was to ascend the funeral pile of her husband, for by such an act she would be exalted to heaven; and also this would secure her residence in another world in a region of joy for thirty five millions of years, and would expiate the sins of her husband's family. This practice was called 'Sahamarana' or 'Sati.' If the husband's cremation took place in another part and she received the information the next day 'Anumarana' was prescribed. The second alternative opened to her, according to some of these texts, was 'Brahma-charya', that being, that she had to observe the duties that were observed by a Vedic student, some of which were that she should take only one meal a day, that on no account should she take a second repast, that she should not sleep on a bed, nor use perfumed substances, and that she should daily make offerings for her husband with kusagraha, thila and water

This inhuman practice of Sati was put an end to by Regulation XVII of 1829, thanks to the courageous stand of Lord William Bentinck. During the time of Lord Canning, by Regulation XV of 1856, the 'Hindu Widow Remarriage Act' was passed, largely due to the pressure and influence of Pandit Iswar Chandra Vidyasagar. He published his famous treatise on widow marriage, in which he established the legality according to the Sastras of the marriage of widows. As a result of this, much controversy began, resulting in social excommunications and family disunions. The whole of the orthodox community opposed it. But their efforts proved fruitless. The Act was styled 'An Act to remove all legal obstacles to the marriage of Hindu widows.' The Government justified it on the ground that it would tend to the promotion of good morals and public welfare.

Section I of the Widow Remarriage Regulation says, 'No marriage contracted between Hindus shall be invalid and the issue of no such marriage shall be illegitimate, by reason of the woman having been previously married or betrothed to another person who was dead

at the time of such marriage, any custom and any interpretation of Hindu law to the contrary notwithstanding.'

No doubt under sec. 1 of the said Regulation all her legal disabilities are removed. But as soon as she gets married to another she loses her interest in the former husband's property. This is made clear from sec. 2 of the Regulation. 'All rights and interests which any widow may have in her deceased husband's property by way of maintenance, or by inheritance to her husband or to his lineal successor or by virtue of any will or testamentary disposition conferring upon her, without express permission to marry, only a limited interest in such property with no power of alienating the same, shall upon her remarriage, cease and determine as if she had then died, and the next heirs of her husband or other persons entitled to the property on death, shall thereupon succeed to the same.'

Thus the right of inheritance or maintenance of the widow, in her deceased husband's family, will cease on her remarriage. But a right of property conferred by will, which is larger than the widow's estate

under the Hindu Law, shall not so determine. The section is not clear as to what would be the effect of remarriage upon property of the widow which she has obtained on a partition. Another anomaly may also be considered here. If a wife is chaste at the time of the demise of her husband, she inherits his properties, if he has left no male issues. However unchaste she may be afterwards she still is the owner of the property. But if she marries another man and be faithful and obedient to him, she loses her interest in the husband's property. This looks astonishing. These difficulties must be removed.

The passing of the Widow Remarriage Regulation has not mitigated the evil completely. Rao Bahadur G.H. Deshmuk has rightly observed that it is considered a point of honour in Hindu Society to keep widows unmarried. Those that keep their widows in this state are considered of the highest and purest caste. Many lower classes, among the Hindus, have given up remarriage, simply to approach the Brahmins.

Progressive Baroda has followed British India in this respect and it has passed the

'Hindu Widow Remarriage Act of 1901. Mysore also is contemplating introducing such a measure. It is yet to be seen how far it will materialise. As it is only a permissive legislation, the bill is expected to become law without much opposition. Other Native States also should follow suite and take the model of these progressive States.

Widow remarriage is in vogue among some of the lower classes of the Hindu community by custom. It is common among the Sudras. Such customary remarriage is common in some parts of Maharashtra, and it is called 'Pat.' According to Pat, she has to give up her right of inheritance in favour of his relations. The custody of children, except infants, also belongs to the representatives of the first husband. It is a custom among the castes that allow Pat marriages that women forming 'Pat' are excluded from preparing food at sacrifices and festivals. Remarriage of widows and divorced wives is allowed by custom among the inferior castes in the southern as well as in the western parts. It is also in vogue in Gujarat by the name of 'Natra.'

With all these changes and reforms that have been brought about, still the rate of widowhood is appalling. Infant marriage naturally involves infant widowhood. Only the Hindus and the Jains place ban on widow marriage. All the rest allow it.

WIDOWS PER 1,000 FEMALES

	1921	1931
Hindus	191	169
Jains	221	253

The Table given below shows the number of females aged 0—15 who were returned as widowed in 1921 and in 1931.¹

WIDOWS

Age	1921	1931
0—1	759	1,515
1—2	612	1,785
2—3	1,600	3,485
3—4	3,475	9,076
4—5	8,693	15,019
5—10	102,293	105,482
10—15	279,124	185,339

¹ All-India Census Report, 1931.

WIDOWS AGED 15-40 YEARS. (OF THE
RE-PRODUCTIVE AGE)

	1921	1931
Jains	47,041	41,672
Hindus	5,817,781	5,981,096

There has been very remarkable increase in child widows, in recent years, which can be attributed to the rush of marriages, anticipatory to the Child Marriage Restriant Act, a rush which will contribute large numbers of young widows to the figures of 1941 census. A ban on widow marriage will bring about, among other defects which have already been enumerated, disparity in the age of the married people, which in it's turn lead to sterility.

Marriages may also be celebrated under Act. III of 1872. But it does not apply to persons professing the Hindu religion. Under the Special Marriage Act of 1872, as amended by the Special Marriage (Amendment) Act of 1923, people professing the Hindu, Buddhist, Sikh or Jain religion, may be married before a Registrar.

Among the Mahomedans, on the death of the husband, his wife or wives are free to marry again. The wife is at liberty to marry another husband after the completion of the period of 'Iddat', or immediately if the marriage is not consummated. The deferred portion of the dower becomes payable by the husband's heirs. The widow has no right to maintenance out of her husband's estate during Iddat. If there is valid divorce the wife is free to marry another husband. 'The ordinary period of the Iddat is three courses in the case of a woman subject to menstruation, three lunar months in other cases, where the marriage has been terminated by divorce; four months and ten days where it was terminated by death; but, if the woman be pregnant, it continues in any case until delivery, and terminates in the case of a divorced woman upon delivery.'¹

No obstacle intervenes in the way of Parsee or a Christian widow contracting a second marriage. Thus it is seen that it is only

¹ Digest of Anglo-Mahomedan Law. Sir. R. K. Wilson. P, 109.

among the Hindus that the problem of widow remarriage is beset with so much obstacle. The best way to come out of the difficulty is to improve the public opinion in favour of a change which could best be done by education.

DIVORCE

The next obstacle in the way of the progress of Hindu women is the refusal to provide for divorce. Hindu law knows no divorce. But judicial separation, in some form, is recognised in certain cases. The husband, in a suit for restitution of conjugal rights, may not get a decree, if the wife proves that the husband is suffering from a loathsome disease, or that he keeps a concubine in the house, or that he is guilty of cruelty in a degree rendering it unsafe for the wife to return back to her husband, or that he has adopted another religion. In progressive Mysore it is enacted that the mere fact of the husband marrying a second wife entitles the first wife to a separate maintenance. But in no part of India, excepting in Baroda, there is provision for dissolving the Hindu marriage-

tie completely, howsoever grave the situation may be. Whether there is desertion, or supersession of one wife by another, or cruelty amounting to danger to life, or keeping a concubine in the house, or suffering from any disease, the Hindu law does not allow divorce. A husband may forsake his wife, for conjugal infidelity, or if she is disobedient and self-willed, or if she treats him with aversion; and in all these cases he is at liberty to marry again. There are texts which say that a wife may be superseded, 'if she drinks any spirituous liquors, or if she acts immorally, or if she shows hatred to her lord, or if she is incurably diseased, or if she is mischievous, or if she wastes his property.' A barren wife may be superseded by another. A wife whose children are all dead, or who brings forth only daughters, may be superseded. There is the basis of the Shastras for all these things. But if the husband is guilty of any of the above-said acts, the wife is helpless. She cannot get a dissolution of the marriage. She continues to be his wife till her death, howsoever incorrigible he may be. This speaks of the one-sided liberty and partial nature of the Hindu law.

Among the other sister communities, such as the Parsees, the Christians and the Mahomedans, there is provision for divorce. The Parsees are governed by the 'Parsee Marriage and Divorce Act IV of 1869'. The Parsees have their own special courts to decide matrimonial matters. As regards the Christians, similar concessions are allowed for the Christian wife, except among the Roman Catholics who do not sanction divorce either for men or for women. Strangely enough, the Roman Catholics look upon marriage as a sacrament and regard the marriage-tie as indissoluble.

Divorce exists, by custom, among the Sudras who form part of the Hindu community. It exists also among the people of Malabar and its vicinity. A similar custom prevails in the Terai of the Himalayas and in all the tracts of the Himalayas influenced by the Buddhist religion. Among the Lingayats of South Canara also it prevails by custom. Here the remarriage of a wife deserted by her husband is valid. Again, divorce is allowed among the Gosavis of the Bombay Presidency, on the ground of impotency. He has only to

give her a 'Char-Chitti' or deed of divorce. Then the wife may contract Pat marriage with another man. The Pat marriage, though allowed to divorced wives, is not always allowed to widows.

The Native Converts' Marriage Dissolution Act of 1866 has made some important provisions for dissolution of marriage. It says that when a Hindu becomes a convert to christianity, the convert, if the spouse who remains a Hindu deserts or repudiates the convert for the space of six continuous months in consequence of the latter's change of religion, may sue his or her non-converted partner for conjugal society or for the dissolution of the marriage. If the respondent refuses to cohabit with the petitioner and that the judge is satisfied that the ground for such refusal is the petitioner's change of religion, he shall adjourn the case for a year. If even after the expiration of such an adjournment, the respondent still refuses to cohabit with the petitioner, the judge shall pass a decree declaring that the marriage is dissolved. Sec. 19 of the Act says, 'When any decree dissolving a marriage shall have

been passed under the provisions of this Act, it shall be as lawful for the respective parties thereto to marry again as if the prior marriage had been dissolved by death, and the issue of any such remarriage shall be legitimate, any Native law to the contrary notwithstanding: Provided always that no minister of religion shall be compelled to solemnize the marriage of any person whose former marriage may have been dissolved under this Act, or shall be liable to any suit or penalty for refusing to solemnize the marriage of any such person.' The Indian Divorce Act (IV of 1869) provides for the dissolution of marriage, but it applies to cases only where the petitioner professes the christian religion at the time of presenting the petition. (S. 2 of the Act.). It also applies to those who are married under Act. III of 1872. According to Act III of 1872, marriages may be celebrated between persons neither of whom professes the Christian or the Jewish, or the Hindu, or the Mahomedan, or the Parsee, or the Buddhist, or the Sikh, or the Jain religion. This Act was mainly intended for the benefit of the progressive Brahmos. But now it is

amended by Act XXX of 1923, extending facilities to Hindus, Buddhists, Sikhs and Jains.

Among the Hindus the factor of consent is absent. So the parents get their children married even without their consent. As soon as the marriage ceremony is over it becomes absolute by the principle of 'Factum Valet.' The saying is, 'Once a marriage always a marriage'.

Second marriage of women, who have left their husbands for justifiable cause, or whose husbands are dead, or who have been deserted by them, is expressly sanctioned by the early writers. But the authority of Manu goes to the contrary. As Maine rightly observes, it is one of the many instances in which the original text has suffered from interpolation and omission. Even Manu allows an exception, and that being the case of a girl whose husband is dead before consummation. for he says, 'The damsel, indeed, whose husband shall die after troth verbally plighted, but before consummation, his brother shall take in marriage according to this rule.'¹

1. Manu Dharma Sastra. Chap. IX. 96.

This practice of Levirate was also in existence among the ancient Jews and the Athenians. In other parts of Manu's code, re-marriage of widows is much discountenanced. The doctrine was laid down that a girl was blemished by the mere ceremony of marriage. Perpetual widowhood became the normal condition of the Hindu wife after her husband's demise.

The contradiction in the work of Manu appears to arise from a deliberate omission of part of the original text. In chapter IX verse 76, Manu says, 'If he live abroad on account of some sacred duty, let her wait for him eight years; if on account of knowledge or fame, six; if on account of pleasure, three.' But the next stanza deals with a different topic altogether. The connecting link is missing and this omission might probably be due to some omission from the original text book. If we look to Narada who had an earlier text of Manu before him, we find that he lays down five cases in which a woman might take another husband. 'There are five cases in which a woman may take another husband: her first husband having perished,

or died naturally, or gone abroad, or if he be impotent, or have lost his caste'.¹ Again he says, 'Let a Brahmin woman wait eight years for her absent husband, or else, if she be childless, four years, and then betake herself to another man'.² 'A Kshatriya woman should wait for six years, or if she be childless, for three years; a Vaisya woman should wait for four years if she has children, if not, for two years'.³

Even during the great Mauryas, widow remarriage and divorce were in existence. Kautilya says, in his 'Arthashastra', 'One fallen deeply in vice, domiciled in another country, convicted of treason, who threatens to kill his wife, excommunicated or an impotent, may be given up by his wife.' Kautilya also speaks of the raising of issue by the widow by 'Niyoga.' So after the time of Kautilya some interpolation might have been made in the Code of Manu.

One might ask as to how to reconcile the view that Hindu marriage is always considered

1. Naradīya Dharma Sastra Chap. XII. 97.

2. Narada Smrithi Chap. XII. 98.

3. Narada Smrithi Chap. XII. 99.

a sacrament with the Texts in the Smrithis permitting dissolution of marriage and re-marriage. The explanation is, as Mr. T. R. Venkatarama Sastriar has stated, 'the idea of marriage being a sacrament in the sense that it was indissoluble was of much more recent growth than the Smrithis.' He further says that to use sacrament as a foundation for arguing indissolubility of marriage is not sound. The idea that marriage was a sacrament and hence it created an indissoluble tie came in only in the more recent stages of Hindu social development.

The reason for not allowing divorce among the Hindus, is that marriage is considered a holy knot creating an indissoluble tie. The objections of the orthodox to the introduction of divorce are as follows:—

Under the Hindu Law marriage is considered a 'Samskara'. It is a fusion which becomes completed by the wife changing the gotra to that of her husband and the husband uttering the words, 'Let your heart be mine and let mine be yours.' If marriage is, under all circumstances, indissoluble, the same Smrithi-karthas would not have ventured to

say that divorce, under certain circumstances, is allowed. What they really intended was that marriage, as a rule, was permanent and exceptions were allowed, for both the husband and the wife, to dissolve the marriage under certain special circumstances.

The second argument that the no-changers advance is that chastity, which is a discipline of sexual life, will be corrupted by divorce. It is no good argument to say that because some people abuse freedom there should be no freedom at all.

The third objection that the conservative people put forward to the introduction of any bill in this direction is that there is nothing to show that any section of Hindu women desire it. It is absurd to put forward this argument. The majority of our women, who do not generally keep out of the house, are so conservative, orthodox and bigoted that they think that their end and aim in life is to be what they are. Since a long time, the Hindu women have so much undergone these tortures and privations that they have become, so to say, acclimatized to it. They are illiterate. They are deprived of the

opportunities to know what the conditions of their sisters are in the other countries. Even the few cultured and educated will not come forward to plead for reforms, for they pretty well know that it will be a cry in the wilderness and only results in their being socially ostracized. Either they are afraid to put forward their proposals or they know that it will not find much support in the various legislatures. In recent days, inspite of these obstacles, resolutions have been passed, from time to time, by many women's conferences protesting against these evils.

The mere fact that the male member can marry as many wives as he could, making it a Moghul harem, while a woman remains his wife even after his death, shows the inequity of the position to any ordinary lay man. It will be pertinent to see, at this stage, what the object of marriage is. According to Hindu conception it is procreation; and according to others, it is recreation. If both these objects are unattainable, due to one reason or other, it would be nothing short of inhumanity to keep the woman in bondage. As the law exists, at present, even if the

husband is impotent, an outcaste, or a ruffian, she still should continue as his wife. He may give up his religion ; he may be suffering from some loathsome disease ; or he may marry or keep another woman in his house ; but still the wife should respect her husband as God. It is against this one-sided development of law that remedial measures are sought for. The case for divorce is also based on humanitarian grounds. If the disabilities are congenital and pre-marital, she should have the right to sue for a declaration of the invalidity of two marriage. If they are post-marital, she must have the right to file for dissolution of the marriage.

Whether there should be a dissolution of marriage, enabling each of the spouse to marry again, or there should only be a judicial separation, is a matter of detail which should be decided according to the facts of each case. But the principle that is to be recognised is that there should be provision for divorce, whether it takes the form of judicial separation or dissolution of the marriage-tie, on grounds of adultery, cruelty, bigamy, impotency, change of religion and change of

nationality. The Hindus who are not accustomed to the system of divorce may show their abhorrence at the very idea. They may fancy that invariably in every case of married-life steps will be taken to bring about a crisis. But the experience of other nations, where divorce exists, shows otherwise. Divorce suits are not so common in those nations as we imagine. Even in our law provision may be made to secure such dissolution or separation only through a judicial decree. The system that is in vogue in Norway may serve as a working-guide for us to follow. In all divorce suits a preliminary decree may be passed, in the first instance, with one year's time within which attempts may be made for reconciliation and after which period, if no reconciliation is brought about, a final decree may be passed either by the same tribunal or by an appellate authority.

Legislation in this direction is long overdue. Sir Hari Singh Gour introduced a bill, in the Legislative Assembly, called 'The Hindu Marriage Dissolution Bill'. The drawback of it was that provision was not made for divorce at the instance of men. Besides, it

made no reference to divorce on the ground that the husband was missing for a number of years, or on the ground of his change of religion, or of his being an ascetic. Thus it fell short of even the suggestions embodied in the Naradiya-Smriti. But unfortunately for us even that bill with all its limitations and limited scope could not get through the Imperial Legislature.

It will not be out of place to mention the reform that is introduced in this direction in Baroda. The Baroda Hindu Divorce Act is a comprehensive piece of legislation. This act provides for the dissolution of marriage, declaration of nullity of marriage, judicial separation, remarriage, separate residence and registration by court. Though progressive Mysore cannot boast of a Divorce Act as yet—by the amendment to the Hindu Law that has been passed by Regulation X of 1933, the wife gets a right to maintenance solely on the ground of the husband marrying a second wife. It is high time that not only a bill providing for divorce and dissolution of marriage should be introduced and passed in the Central Legislature, but such enactments

should find place in the statute book of every native state.

Divorce exists among the Mahomedans. A Mahomedan husband has full right of divorce at his sweet will, provided he is of sound mind and has attained puberty. In the Koran it is stated 'Either retain them with humanity or dismiss them with kindness.' The husband may divorce his wife at his mere pleasure without assigning any reason what soever. The wife cannot divorce her husband without his consent; but she may under some circumstances, obtain a divorce by judicial decree.

A divorce, proceeding from the husband is called 'Talak,' which takes different forms according to the different pronouncements. Talak may be either irrevocable (bain) or revocable (rajai). Divorce by mutual consent is called 'Khula' or 'Mubarat.' It is accomplished at once by means of some words spoken by the couple or their respective agents, and the wife offering some compensation for the release of his marital rights. The third kind of divorce is called judicial divorce. A valid Mahomedan marriage may be dissolved by

judicial decree. A Mahomedan wife may claim divorce by exercising the 'Option of puberty.' There will be a judicial decree. She may claim judicial divorce on the ground of impotence of the husband. Lastly, she may also claim a judicial divorce on the ground of an imputation of adultery made by the husband against the wife (Laan).

From the above observation we see that though the husband is allowed full latitude in the matter of divorce, the wife can ask for divorce only under two circumstances, namely, by obtaining a judicial decree and by mutual consent.

There are many other grounds which are left unanswered. Neither cruelty nor conjugal infidelity on the part of the husband nor neglect nor inability to afford proper maintenance, will entitle her to claim a judicial divorce. But if there is actual violence of such a character as to endanger her personal health or safety, she is justified in leaving the husband. It also gives her a sufficiently good ground to oppose to be with him if he brings a suit for the restitution of conjugal rights. But she will not be at liberty to marry again. She might

be free from the duty of cohabitation with her husband. But she still remains his wife in law, and as such, she is disabled from marrying again. Nor could she claim immediately her deferred dower, unless and until he chooses to divorce her. By this kind of judicial separation, she gets a right to maintenance; her prospective share of her husband's inheritance remains, and her claim for dower also remains.

The English rule that the husband, in divorce proceedings, is liable *prima facie* to the wife's costs, except when she has got sufficient separate property, does not apply to divorce proceedings between Mahomedans.

The Parsees are governed by 'The Parsee Marriage and Divorce Act.' Section 4 of the Act says that no Parsee shall contract any marriage in the life time of his or her wife or husband, except after his or her lawful divorce from such wife or husband by sentence of a court. Thus bigamy is penalised. The said Act provides for a decree of nullity of marriage, for dissolution in case of absence, for divorce and for judicial separation. Sec. 27 says, "If a Parsee, at the time of his or her marriage, was a lunatic or of habitually unsound mind,

such marriage may, at the instance of his or her wife or husband, be declared null and void upon proof that the lunacy or habitual unsoundness of mind existed at the time of the marriage and still continues:

Provided that no suit shall be brought under this section if the plaintiff shall, at the time of the marriage, have known that the respondent was a lunatic or of habitually unsound mind."

If the consummation of the marriage is from natural causes impossible, either party may move the law in motion and get a declaration to the effect that the marriage is null and void. Sec. 29 reads: "If a husband or wife shall have been continually absent from his or her wife or husband for the space of seven years, and shall not have been heard of as being alive within that time by those persons who would naturally have heard of him or her, had he or she been alive, the marriage of such husband or wife may, at the instance of either party thereto, be dissolved." Sec. 30 and 31 deal with suits for divorce and judicial separation. Sec. 30 says: ".....and any wife may sue that her marriage may be

dissolved and a divorce granted on the ground that since the celebration thereof her husband has been guilty of adultery with a married or fornication with an unmarried woman not being a prostitute, or of bigamy coupled with adultery, or of adultery coupled with cruelty, or of adultery coupled with wilful desertion for two years or upwards, or of rape, or of an unnatural offence."

Sec. 31 says: "If a husband treats his wife with such cruelty or personal violence as to render it, in the judgment of the court, improper to compel her to live with him, or if his conduct affords her reasonable grounds for apprehending danger to life or serious personal injury, or if a prostitute be openly brought into or allowed to remain in the place of abode of a wife by her own husband, she shall be entitled to demand a judicial separation." The Parsees have their own special courts to decide matrimonial matters.

In matters of divorce, the Christians are governed by the "Divorce Act IV of 1869," by which similar concessions are allowed to the Christian wife. Sec. 10 of the said Act provides as follows: ".....Any wife

may present a petition to the District Court or to the High Court, praying that her marriage may be dissolved on the ground that, since the solemnization thereof, her husband has exchanged his profession of Christianity for the profession of some other religion and gone through a form of marriage with another woman; or has been guilty of incestuous adultery; or of bigamy with adultery; or of marriage with another woman with adultery; or of rape, sodomy or bestiality; or of adultery coupled with such cruelty as without adultery would have entitled her to a divorce, 'a mensa et toro:' or of adultery coupled with desertion, without reasonable excuse, for two year- or upwards."

The parties also may sue for nullity of the marriage on the ground of impotency at the time of marriage and at the time of the institution of suit, on the ground of consanguinity or affinity, or on the ground that either party was a lunatic or idiot at the time of the marriage. She may also successfully sue for a judicial separation on the ground of adultery, or cruelty, or desertion without reasonable excuse for two years or upwards. Thus divorce,

and judicial separation are allowed among the Parsees and the Christians.

Even the Roman Catholic Church, which lays down the dogma that marriage is a sacrament and consequently indissoluble, allows marriages to be nullified in certain cases, with permission to marry. It also allows, in certain other cases, the separation of married persons, but without permission to remarry. All reformers urge that the grounds for divorce should be the same for the wife as for the husband. Since a very long time it is recognised in Scotland that infidelity is a sufficient ground for divorce, whether on the part of the husband or of wife. Even anti-feminist France repealed the old provisions of the 'Code Napoleon,' which said that infidelity on the part of the husband would give no cause of action for the wife to divorce the husband unless his action was accompanied by keeping the concubine in the house only, and passed legislation to the same effect in 1884. England also has granted the right to sue for divorce under certain circumstances, such as desertion, cruelty, adultery etc. The divorce law that is

in vogue in Norway is a little different from what exists in the other countries. Under the marriage law of Norway, divorce is usually preceded by judicial separation which is granted by the magistrate. A decree of divorce is granted by the member of justice, when one year has elapsed after the decree of separation, provided both the parties are then agreed in claiming divorce; but if only one party wishes it, the requisite interval is extended to two years, provision being made for attempted reconciliation. The idea in allowing a certain time to elapse between separation and divorce is to see that the separated pair become reconciled and thus abandon the intention of being divorced. In Russia the dissolution of marriage is much simplified. It is not the State that divorces the parties, but their own free decision. There are no divorce suits. No causes of divorce are required. A marriage may be dissolved at any time either by mutual desire of both the spouses or at the desire of any one party. He or she need not give any further explanation. It is only a private affair. As soon as it is dissolved there is no bar to contract a new

marriage. The so-called period of waiting or mourning is quite unknown in Russia.

Freedom of divorce does not necessarily mean a lowering of the marriage ideal. It is rather a step towards its achievement. The mere fact that many states have adopted it shows that the extension of the privilege would not accentuate polygamy. On the other hand, this freedom would demolish life long subjection.

INTERMARRIAGE

There are numerous instances to show that the system of intermarriage prevailed in former ages.

A man was allowed to marry a woman of an equal or an inferior class, but not one of a superior class. Manu has stated: "For the first marriage of the twice born classes, a woman of the same class is recommended; but for such as are impelled by inclination to marry again, women in the direct order of the classes are to be preferred."¹ The next stanza states: "A Sudra woman only must be the wife of a Sudra; she and a Vaisya, of a Vaisya; they two and a Kshatriya, of a Kshatriya;

1. Institutes of Manu. Chap. III Sl. 12.

those two and a Brahmin; of a Brahmin."¹ Children born of such mixed marriages were called 'Anulomajas' or offsprings of Anuloma marriage. They belonged neither to the caste of the father nor to that of the mother, but to an intermediate caste, higher than that of their mother and lower than that of their father. They were also allowed to inherit their father's property, though not in equal shares. Pratilomajas were those who were offsprings of the prohibited form of intermarriage. They were issues who were born in the inverse order of the castes. They had no share in the father's property.

To give some instances, Vasishta, a Brahmin, married Akshamala, a depressed class woman; Mandapala, a Brahmin, married Sarangi, an untouchable; Jamadagni, a Brahmin, married Renuka, a Kshatriya woman; Yayathi, a Kshatriya, married Devayani, a Brahmin wife; and Santanu married Satyawati. Many Smriti-karthas were the offsprings of intermarriages. As has already been stated, Manu refers to Anuloma and Pratiloma marriages. In the first three ages intermarriage

1. Institutes of Manu. Chap. III Sl. 13.

between the four castes was allowed, both in the direct order of the caste, called Anuloma marriages, as well as in their inverse order, called the Pratiloma marriages. But in the present age, according to some authorities, such as Brahma Purana, Brihat Naradya Purana, Aditya Purana, Vyavastha Darpana and Udvaha Tattwa of Raghunandana, inter-marriages between the different castes have been prohibited.

Following the above authorities, it has been held, at the present day, that inter-caste marriages are invalid under the ordinary Hindu law, the only exception being the decision of the High Court of Bombay which has held that a marriage between a male of a higher caste and a female of a lower caste is valid.¹

According to the existing system of marriage the parties to a marriage must both belong to the same caste and in many instances to the same particular sub-caste too, though marriage between persons belonging to different subdivisions of the same caste is not invalid.

1. 46. Bom. 571. 65. I. C. 602.

Just to give one or two instances, the Mudaliars residing in Madras are divided into as many as fifty subsections, no one of which can intermarry with any other. The Srivaishnavas, who are a sub community among the Brahmins, have got their own sub-divisions such as the Mandyams, the Hebbars, the Madrasis and others, each prohibited from marrying with the other sub-class by custom and usage, let alone the Sreevaishnavas marrying with the other sub-communities such as the Smartas and the Madhvas, or with the other castes such as the Kshatriyas, Vaishyas or the Sudras.

It may be asked as to why inter-class marriages and inter-caste marriages should be advocated. The no-changers might as well say that the system as it exists at present is more than enough. But they are forgetting the fundamental fact that national interest is subordinated to sectional bias. They are ignoring that sectarianism is encouraged at the cost of homogeneity. "Intermarriages are very necessary," says an eminent author "to weld the disjointed portions of the Indian Communities." They are calculated

to fuse the various discordant elements of Indian Society into one homogeneous whole. Not only will it soften down class and caste prejudices but also it creates an intelligent sympathy as the result of the inter-mixture of ideas. Consequent upon such a complex and involved relationship it will certainly engender an enlarged national outlook. This is the benefit of intermarriages.

Looking from the other side of the picture, marriage within a narrow circle is injurious to the general physique of a society. The mental force of a small community will begin to diminish as soon as its connection with others is cut off. It affects morally too. It strengthens the custom of early marriages, for when a large community splits up into a hundred sects, the choice of marriages becomes limited to a narrow circle. The number of boys and girls being limited in each sect, everybody tries to secure the chance for his child by an early betrothal, fearing that if once the opportunity is gone, he may not be able to find a suitable match for his child. On the other hand, in a large community where no caste restrictions exist, parents are

not very anxious to marry their children at an early age. Again, on account of these social boundaries prohibiting inter-marriages, the number of boys and girls has become very limited. Thus their price in the matrimonial market has risen high and immoral monetary transactions such as dowry, relating to marriages, have come into fashion. Each class has thought itself superior to the others. Thus class prejudice is increased. Lastly, desirable matches could not be had. If a boy of one sub caste wants to marry a girl of another sub-caste, the caste comes in the way. Though inter-marriages were allowed in the former ages, the prohibition of the same at the present day has somehow gained ground and has taken its stand on custom and usage, the source of which is not definitely known. As an eminent Hindu jurist puts it, "it is yet another instance of Hindu ingenuity in the favourite human art of self-tormenting."

B. INHERITANCE AND SUCCESSION

As regards inheritance and succession, the Hindus, the Mahomedans, and the Buddhists, are governed by their respective personal laws. The Parsees and the Christians are

governed by the Indian Succession Act XXXIX of 1925. The ordinary Hindu Law applies to the Sikhs and the Jains in the absence of any special custom or usage to the contrary.

People generally think that women, in ancient times, had no power over property and they were considered as mere chattels. Those who think so have the later metrical Smritis as the starting point. If we look to the period prior to the time of the metrical Smritis, we find that women had owned and possessed wealth. Jaimini, in his Purva Mimamsa, which existed before the Vedanta Sutras and obviously before the metrical Smritis, speaks of the rights of women to hold property. The chapter on Adhikarana of the sixth book of his Mimamsa Sutras speaks of the personal capacity of women to inherit and hold property. In it we find such detached precepts as, "Women are likewise possessed of wealth," "They have the capacity of owning and possessing wealth or property," "By virtue of the Vedic texts, the husband and the wife, being both capable of possessing wealth, should perform sacrifices jointly etc." These show that women were con-

sidered as persons under law, and not as mere chattels. The wife had even co ownership in the husband's property. Certainly her position was not so bad as it is to-day. In course of time, when physical prowess became a social and political necessity for protecting person and property, women gradually lost their rights. This tendency to ignore the claims of women reached its climax during Baudhayana. So, at or about the time of the Dharma Sutras, there was a distinct change for the worse, as reflected in the fact that women were considered incompetent to perform sacrifices and hence also to take property by inheritance. Property, it was said, was given to men in order that they might perform sacrifices and make offerings to God. As we pass from the Sutra period to the age of the metrical Smritis, we find some improvement. Certain female relations were admitted to the order of succession by Manu, Yagnavalkya, Brihaspathi, Narada and others.

Yagnavalkya is more systematic and elaborate in dealing with inheritance and succession regarding women than Manu. He

says: "If he make the allotment equal, his wife to whom no stridhana has been given by the husband or the father-in-law must be made partaker of equal portions." "Uninitiated sisters should have their ceremonies performed by those brothers who have already been initiated, giving them a quarter of one's own share." This view is supported by Medhathitha and Vignaneswara. The author of Mitakshara was probably the first commentator who entered the field in defence of the rights of the widow. He had for his background the well known passage of Yagnavalkya, namely 'the wife and the daughters, both parents, brothers likewise and their sons, gentiles and cognates, a pupil and a fellow-student, succeed one after another successively.'

Vishnu says: "The wealth of him who leaves no male issue goes to his wife; on failure of her it devolves on daughters." Katyayana declares: "Let the widow succeed to her husband's wealth provided she be chaste and in default of her the daughter succeeds if unmarried."

In recognising the claims of women to

property, the schools of Bengal and Nilakantha have gone further than even Vignaneswara. Jimutavahana's writings may be considered to have given the ultimate development to the widow's rights. Kulluka Bhatta's commentary, which is in force in Bombay, says: "To the nearest sapinda, male or female, the inheritance next belongs."

Almost all the authorities current in the different schools are agreed in recognising the rights of five females to succeed to the property of a Hindu, dying without a male issue and intestate. They are the widow, daughter, mother, grand-mother and the great-grand-mother. The Maharashtra school, having for its authority the book of Nilakantha, has recognised the sister as an heir in addition to the female relatives named above, except perhaps the great-grand-mother. According to Nilakantha, after the father's mother comes the sister. According to the Hindu Law of Inheritance Amendment Act II of 1929, son's daughter, daughter's daughter and sister are be entitled to rank next after father's father, of course taking only a limited estate.

In England, before the passing of the Married Women's Property Act, generally speaking, all the property of the wife was vested in the husband, who acquired absolute power of disposal over them. Under the different legal systems of the European countries, unmarried women in general were comparatively free while married women had hardly any rights. By the Married Women's Property Act of 1870 it was provided, in England, that the wages and earnings of a married woman and any real or personal property coming to her by deed or will, should be her own separate property. In France, women conditionally gained the right to own property by the law of July 1907. Sweden, in 1920, passed a law by which the husband's authority and guardianship over wife was abolished, and made her free to dispose of her energy and to administer her estate with exactly the same rights and duties as her husband. Denmark has similarly passed a law. India also has passed the Married Women's Property Act III of 1874. But it does not apply to any married woman who at the time of marriage professes the

Hindu, Mahomedan, Buddhist, Sikh or Jain religion, or whose husband, at the time of such marriage, professed any of those religions. It provides that the wages and earnings of any married woman, acquired or gained in her employment, occupation or trade, and also any money or property acquired through literacy, and artistic or scientific skill, will be her separate property.

In a joint Hindu family a widow is not entitled to any absolute share, but is only entitled to a widow's estate or to maintenance. The primary incidents of a coparcenary, namely survivorship, right by birth and unity of ownership, are all denied to female heirs. A daughter is only entitled to have her marriage expenses defrayed out of the joint family estate. In the case of a separate member or sole surviving member of a joint family, the widow inherits, in the absence of a son, grandson, or great-grandson, but she takes only a limited estate or widow's estate, which means that she cannot alienate the property except for legal necessity. After her death the estate is to be traced back to her husband. It is so in the case of the other

female heirs also. The daughter takes it after the death of the widow. In the Bombay Presidency, she takes an absolute estate. But in the other provinces she takes only a limited estate. So also is the position of the sister, except in the Bombay Presidency.

Of what avail is it to allow a distant reversioner to grab the entire estate by preventing a widow in possession from the enjoyment of full ownership. It looks surprising to a foreigner to see that while a man's own wife or daughter is forbidden from alienating the property of the deceased husband or father, the far removed distant sapinda or agnate relation may, after her death, waste it for any immoral purpose. This is opposed to all canons of justice.

In matters of succession and inheritance, Native States like Baroda and Mysore have taken a stride over British India. In Mysore, according to Regulation X of 1933, the succession to a Hindu male dying intestate shall, after the mother and father, vest in the widows of pre-deceased sons, son's daughters, and daughters' daughters in order before the brothers. Again, sec. 8. of the said

Regulation says: "At a partition of the joint family property between a person and his son or sons, his unmarried daughters and the widows and unmarried daughters of his pre-deceased undivided sons and brothers who have left no male issue, shall be entitled to share with them." "At a partition of a joint family property among brothers, their mother, their unmarried sisters and the widows and unmarried daughters of their pre-deceased undivided brothers who have left no male issue shall be entitled to share with them." Another important innovation from the traditional texts is that property inherited by a female from her husband or son or from a male relative connected by blood, except when there is a daughter or daughter's son of the propositus alive at the time the property is inherited, is considered her stridhana and she will have full estate over that inherited property.

In Baroda, a more rational scheme of legislation has been passed. In a joint family the widow of a deceased coparcener shall be a coparcener herself and shall have the right to ask for a partition as any male member of the

family and her share will be equal to that of a son. As regards self-acquired property the widow will inherit the husband's property along with the son and will be entitled to a share equal to that of a son. Widowed daughters-in-law will now rank next after the mother in the order of succession. Unmarried daughter is given a right for partition of her share, equal to one-fourth of her brother's share, in place of maintenance and marriage expenses. A woman will have an absolute interest in property which she acquires either by partition or as an heir, provided the value of the whole property does not exceed 12,000; if it exceeds that amount, she will have absolute interest over Rs. 12,000 and a limited interest over the rest.' Very recently the 'Thiya Bill,' which was intended to legalise a deviation, in the matter of inheritance to property, from the time-honoured customs of the Thiyas, was vetoed in Cochin. Even that Bill was a half-hearted measure in so far as it made a distinction between sons and daughters, the latter being given only a smaller share. The Nambudiri Bill' was also another bold bid for reform and that too was vetoed. The rejection of these

two Bills is really unfortunate. But they do show signs of the changing times.

There is a type of male objectors who contend that if women are given the right over property their morals will grow lax. This is far from true. When the sacred law-givers gave absolute rights to women over their stridhana property, they did not suspect, even for a moment, that their morality would grow lax. Again, a widow has always been allowed to inherit the self-earned property of her husband, in the absence of sons. When so much latitude is allowed to her, in matters of succession and inheritance, without doubting, for a moment, her ability to maintain it or its effect on her morality, it cannot reasonably be contended that, if her estate is enlarged into an absolute one, she will go astray. The objection that women are incapable of managing the property is only an archaic notion. John Stuart Mill has very appropriately said: "If a Hindu principality is strongly, vigilantly and economically governed, if order is preserved without oppression, if cultivation is extending and the people prosperous, in three cases out of

four, that principality is under a woman's rule. The example they afford of the natural capacity of women for Government is very striking."¹ Another objection to reforms in this direction is that there is no demand for reforms from the mass of women affected. We have been seeing that educated women do protest against this one-sided development. The various women's Conferences have been recording their protests from time to time. Even granting that they have not protested, it shows only that the meek and sub-missive spirit of Hindu women has reconciled itself to the yoke of dependence and disability which it has been accustomed to bear for ages. J. S. Mill has stated, "It is a political law of nature that those who are under any power of ancient origin never begin by complaining of the power itself, but only of its oppressive exercise. All women are brought up from the very earliest years in the belief that their ideal character is the very opposite to that of men; not self-will and Government

1. J. S. Mill. Subjection of women. p. 82.

by self-control. but sub-mission and yielding to the control of others."¹

At this juncture it is relevant to point out that a wife or a daughter will only succeed to his properties if he has not bequeathed or in any other way alienated the property. Her getting the property depends on his sweet will. In Bentham's ideal Code and in the French Civil Code, intestate comes before testamentary succession, on the ground that the property of a dead man should be applied primarily to the support of such persons, whom the deceased was under an obligation to support in his life time. What justice do we find in allowing a person to bequeath all his property to a stranger when his wife and children are alive. Mahomedan Law is, on this point, in agreement with Bentham and it allows a person to bequeath only one-third of his net assets, leaving the two-thirds to his heirs which include both males and females. The Muslim laws are the best in the world concerning the rights of inheritance and possession of property of women.

1. J. S. Mill. Subjection of women. p. 42-43.

The unjust and archaic view that the wives and daughters of a dead person were to be treated as part of the property to be inherited like any other perishable inanimate object was severely condemned by Mahomed. It has for its natural corollary the principle that they should inherit some portion of the property. In accordance with his theory, namely, "Men are superior to women," the proportion was fixed at one-half of the share assigned to the corresponding male. Thus the husband surviving his wife takes one-fourth, if she has left issues, of her unbequeathed property; half, if not. One-eighth or one-fourth is the share assigned to the wife who is undivorced and who survives her husband. It must not however be supposed that every female gets half of what a male, in the same degree of consanguinity, would have had. Special rules, based on Koran, govern the case of females standing in the nearer degrees. Beyond the degree of sister, patriarchal usage prevails in all the Sunni schools to the extent of totally excluding females, so long as there is any male collateral. When judging of a man's claim to inheritance,

it will be seen whether he is a Sharer, Residuary, or Distant Kindred; and the nearer will exclude the more remote.

Under the Mahomedan Law, women have better and more equitable rights than under the Hindu Law. The daughter, widow, mother, sister and even aunt are all recognised as heirs along with men and have definite shares.

The wife or wives must get a share. The share of a single wife or the collective share of any number of contemporary wives, not exceeding the legal number of four, is one-eighth of the net assets, if the deceased has left any child or son's child, howsoever low, and one-fourth if there be no issue. This share is in addition to the unpaid dower.¹ The share of a single daughter, when there is no son, is one-half. The collective share of two or more daughters, when there is no son, is two-thirds.² The mother takes one-sixth if there is a child or son's child howsoever low. The share varies if there are

1. Koran IV. 13.

2. Koran. IV. 11.

no issues. The shares of the sisters are determined according to as they are full, consanguine, or uterine, sisters. If there be no child or son's child and also no father and no full-brother, the share of a single full-sister is one half and the collective shares of two or more full sisters will be two-thirds, to be divided among them equally. Some Sharers, under certain circumstances, become Residuaries, in which case they may either lose their share, or their shares may be reduced.

Under the Mahomedan Law, the females inherit along with males of the same degree or of a lower degree, though they get a smaller share, but the Mahomedan female acquires an absolute interest in property inherited by her. The Khojas, the Cutchi-Memons, the Sunni-Borahs of Gujarat and the Halai-Memons of Porbunder in Kathewar, are all governed by the Hindu Law of inheritance and succession though they profess the faith of Islam.

A different order of things exists in Malabar. The six million people of Malabar are governed by the theory of Matriarchy. This theory is in vogue, in Malabar, since a

very long time amounting to thousands of years, by which system, women hold all the property, and it descends through the female line.

As regards inheritance among the Parsees, when one dies leaving a widow and children, the property shall be divided among the widow and children, so that the share of each son shall be double the share of the widow and that her share shall be double the share of each daughter. A Parsee sister also inherits part of her brother's property along with other brothers, in case the deceased brother dies intestate and childless, even though he leaves a widow. In the latter event, the childless widow gets half of her husband's property. There is no joint family system among the Parsees.

Among the Christians, if a husband dies, leaving lineal descendants, one-third of his property goes to his widow and two-thirds divided among his children. The daughter gets a share equal to that of the son. If the daughter is the only child, she gets the whole property. So also, in the mother's property, she, along with her brothers, takes two thirds

of the mother's property, the remaining one-third devolves on the husband. If the husband does not survive, the whole property devolves on the children equally. The share of the wife is increased to half, when there are no lineal descendants, but only kindreds who get the other half. But if the value of the property is less than Rs. 5,000, the whole belong to the widow. If the husband has left neither descendants nor kindreds, the widow takes the whole property.

CHAPTER IV

POLITICAL EXPRESSION OR THE BALLOT

"EVERY COOK SHOULD LEARN TO RULE THE
STATE." LENIN

OUR experience brings to light two cardinal facts which reveal that for the highest political task women are as eligible as men. What is more, she has a special preparation and a peculiar fitness for it. From the beginnings of society women are entrusted with those works with which law and Government are at the present day most concerned.' In primitive times man was concerned only with fighting and hunting, while the tasks of domestic economy, the welfare of children, the arts of peace and building the home, were entrusted to women. At the present day when so much is talked of about disarmament and the League of Nations, and when pacifists are growing in strength everywhere, it is but natural that brute force, which is one of the claims of man to power over woman, is losing its hold over humanity,

and Governments are turning their attention to deal more and more intimately with other things. Women who have got a capacity for organisation and administrative efficiency should naturally have a place in the administration of every country.

The true function of the ballot clearly justifies its extension to women. Through the ballot she will signify her individual will in determining the character of social control. Many of the functions which were formerly being done by the wife and the mother are now taken over by the State. In an age when the traditional functions of the family are being largely vested in the 'over-parentage' of the State, would it not be a perverse policy to refuse the wife and the mother an equal voice in determining the nature of such 'collective-parentage.' If she is without the franchise she will be powerless to regulate the administration of the factories, the school-house or the hospital, so far as it affects her. These are days when social insurance, maternity and child-welfare centres and national labour exchanges to control unemployments are extant. These require the advice and co-

operation of women without whose help the Government cannot successfully tackle these problems. Women are in a better position to give advice on problems like better housing, public health, education, etc., than men, because they are in direct and immediate touch with the needs of the house and children.

Till the last quarter of the nineteenth century, these considerations were ignored by the various states and they still believed that men were born to rule and women to upkeep the rulers. By 1870, the general democratic movement, as voiced in the Protestant Revolution and the French and American Revolutions, reached down to the women's world. The Industrial Revolution and the mechanical inventions disturbed the women's older position in the self-contained home and forced her into the larger world. At the time of these Revolutions the slogan, everywhere, was "No taxation without representation." Added to all these was the influence and effect of the teachings of the philosophers of that age, about the theory of political equality. These and other considerations were not

without effect on women. The 'Vote-for-women movement' began at this time. Not only was this movement part and parcel of that evolutionary conception of self-government which was gradually developing but also it was the result of the change that was taking place in the conception of politics. In certain respects the movements of women to get franchise differ from the former efforts of men to get enfranchised. The entrance of the middle-class into Government was characterised by two bloody Revolutions, one in America and another in France. But the world-wide entrance of women into Government is a bloodless one. In all these movements people began to realise the principle that taxation without representation was nothing short of tyranny and also the principle that no man was good enough to govern another without that man's consent.

Lincoln says: "Democracy is rule of the people, by the people and for the people." Now a-days it is impossible to have direct democracy or rule by the people in such large nation-states as ours. Direct democracy existed in the city-states of ancient Greece

and even now it exists in some of the cantons of Switzerland. So there is everywhere established indirect democracy or rule by the representatives of the people. Thus we have got representative Government everywhere. This gives rise to two kinds of Sovereignties, namely, legal and political. The political Sovereign is the electorate.

The Great War marks the beginning of a new movement and has made democracy work beyond the political sphere. It has brought about changes of a new sort in economic, educational, religious, industrial and institutional relationships of human beings. Even before the Great War, women had gained franchise in many countries. It had been granted to women on equal terms with men in nine states of the U. S. A., namely, Wyoming, Colorado, Utah, Idaho, Washington, California, Kansas, Arizona and Oregon. Coming to Europe, in Norway the tax-paying women were granted the municipal franchise in 1910 and the full franchise in 1901, 1901 the municipal franchise being extended to all women, the full Parliamentary franchise was given to all women in 1913. In

women of Finland got their suffrage. By 1908 all the States of Australia had extended the full franchise to women, the last state to give it being Victoria in 1908. The Isle of Man and New Zealand had given the suffrage to women as long back as in 1881 and 1893 respectively. As a consequence of the Great War, Russia, Germany, Hungary, Poland, Latvia, Austria, Luxemburg, U. S. A., Canada and Ireland extended the franchise to women.

In Russia, after the revolution of 1917, women participate in every branch of administration. Gifted and talented women have access even to the highest posts. The State is like a pyramid, with the working citizens, regardless of sex, as its broad base. Genuine efforts are being made in the Soviet Union to draw the mass of working women into participation in political life. The lowest plane, in women's practical collaboration in administration and politics, consists of the delegates meetings. The women delegates who number more than a million to-day are elected, in towns and industrial centres, by the women factory workers and in the country by the peasant women. One special delegate or 'De-

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legatka' is elected for every twenty five factory workers and one for every 50 village women. By the nineteenth amendment to the constitution of the U.S.A. the right of suffrage was extended to women. Art. I. of the said amendment, which is also called the 'Bristow-Mondell' amendment, says, 'The right of the citizens of the United States to vote shall not be denied or abridged by the United States or by any State on account of sex.' In England, under the Parliamentary Act of 1918, women are also eligible to vote and the first woman member took her seat in December 1919. Under the Representation of the People (equal franchise) Act of 1928 the qualification for the franchise are the same for men and women. Electors must be of full age and have either owned or occupied business premises of an annual value of not less than 10£ in the same Parliamentary borough or county. There is also a University franchise to be qualified for which a person must be twenty-one years of age and must have taken a degree or in the case of a woman having fulfilled the conditions which would entitle a man to a degree. Under the provisions of the Representation of the People Act 1928, the franchise is extended to women who are registered as electors in the same Parliamentary borough or county as men.

Act of 1928 it is estimated that about 5,000,000 new voters are added.

As a contrast to this liberation of women from the bondage and restriction of centuries, we see more shackles on women in the Fascist Italy and in the Nazi Germany. Mussolini is not in favour of women taking part in politics. They are not permitted to become members of the Fascist party. It is true that there are separate women's Fascist groups whose members number over 300,000. But their activities are strictly confined to philanthropic and charitable work and excepting participating in the national rallies and party parades, the Fascist women's organisations have no other privileges. The position of women, in Nazi Germany, is no better.

The demand for woman's political representation has reached even Mahomedan countries, such as Persia and Turkey where such a demand is supposed to be in opposition to their religious teachings. Even China and Siam, inspite of their eastern habits and customs, have given a political status for their women in their new constitutions.

The Great War had not lasted for more than two years when the Government of His Majesty wanted a declaration to be made defining the attitude of the British Government towards India. Accordingly Mr. Montagu, the then Secretary of State for India, made the historic announcement, on behalf of the British Government, in 1917, wherein he said that the policy of the British Government in India was ".....the increasing association of Indians in every branch of the administration and the gradual development of self-governing institutions, with a view to the progressive realisation of responsible Government in India as an integral part of the British Empire." India is not an independent political unit, as Germany, Japan, or England. The Imperial Parliament is at the head of the whole affair. The Secretary of State for India who is a Cabinet Member and also a Member of the Parliament is responsible to the Parliament for affairs concerning India. Next below is the Governor-General in-Council who form the Government of India. The Indian Legislature which consists of two Houses pass legislations which, with the con-

sent of the Governor-General, become law. In the various provinces there are the Governors who with the councillors and ministers form the Government. Each province has got a Legislative Council, the measures of which will be passed into law only with the assent of the Governor. This, in brief, is the constitution of India under the Act of 1919.

The system of election was first introduced in 1892. The franchise at that time was very limited and narrow and hence the electorate was very small. But people were agitating all the while for the extension of the ballot. The long and strenuous agitation for the vote by women in Britain and America and their victories had brought vividly to the consciousness of all educated Indian men and women the whole question of the inclusion of women in public life, and also there was a national and international necessity that Indian women should be given as high a status as women in other parts of the Empire. The time also was psychological, for a new era was beginning for the Indian people by the introduction of a scheme of reforms in Indian

Government which was planned to give a basis of representative Government on a much extended scale. The door was being opened to complete self Government, but only men were being invited to enter through it. The women of India were too awakened to allow this injustice to remain unredressed.

The rise of the political agitation for Home-Rule in 1914-17 gave additional stimulus to the woman's movement for a share in the representative Government. The internment of Dr. Annie Besant stimulated political activity and political consciousness amongst women. The Indian National Congress also, at its Calcutta sessions in 1917, expressed "the opinion that the same tests be applied to women as to men in regard to the franchise and the eligibility to all elective bodies concerned with local Government and education."

The moment for the ripe public expression of their feelings came when the Secretary of State for India, Mr. Montagu, came to India in 1917. The All-India-Women's deputation waited on him in Madras, on the 18th December 1917, and represented their existing difficulties and deficiencies. In the memorandum, that

they submitted, they stated, ".....the franchise should be broadened and extended to the people; we pray that when such a franchise is being drawn up women may be recognised as 'people,' and that it may be worded in such a way as will not disqualify our sex, but allow our women the same opportunities of representation as our men.:.....The precedent for including women in modern Indian public life has been a marked feature of the Indian National Congress, in which since its inception women have voted and have been delegates and Speakers and which this year finds its climax in the election of a women as its president. Thus the voice of India approves of its women being considered responsible and acknowledged citizens; and we urgently claim that, in the drawing up of all provisions regarding representation, our sex shall not be made a disqualification for the exercise of the franchise or for service in public life."

Though the Secretary of State was sympathetic throughout, yet when the reform scheme, as drawn up by him and Lord Chelmsford, was published no mention of women

was anywhere made though the widening of the electorate was one of the reforms suggested. When the South Borough Franchise Committee was asked to investigate the suggestions regarding the franchise in this scheme the women suffragists spared no pain to represent before that Committee the importance of the problem.

After the introduction of the Government of India Bill in the Parliament, in July 1919, a number of Indian deputations went to England to give evidence before the Joint Select Committee. Mrs. Annie Besant, Mrs. Sarojini Devi, and Mrs. Tata were the women who were heard by the committee. The Parliament said that the question of extending franchise to women was one for Indians to settle for themselves, and while retaining the sex disqualifications in the Reform Bill, the electoral rules were framed in such a way as to enable any Provincial Legislative Council to pass a resolution in favour of women's franchise, by which women might be put on the electoral register of that Province.

Accordingly Dewan Bahadur Krishna Nair of Malabar brought forward a resolution

in the Madras Legislative Council to remove sex-disqualifications. Without much effort it was passed by a majority, inspite of the opposition of the Mahomedans. Dr. Muthu Lakshmi Reddi was the first woman member to enter the Legislative Council. Mr. Trivedi brought a similar Bill in the Bombay Legislative Council. But it was rejected as out of order. Rao Sahab Harilal Desaibhai Desai of Ahmedabad brought again a similar Bill and after much debate it was passed, fifty-two voting for, twenty-five against and twelve remaining neutral. In September 1922 Mr. S. M. Bose moved a similar resolution in the Bengal Council, but it was defeated by 56 to 37, a block of 40 Mahomedans voting against it. Bengal passed it only in 1925. In February 1923 the U. P. Legislative Council passed it by a unanimous vote, creating a world suffrage record. The Punjab and the Central Provinces granted it in 1926, while Bihar and Orissa granted in 1929. Thus the whole of British India has given to women equal political rights with men. Some of the Indian Native States also, like Travancore, Mysore, Cochin and Rajakot have removed

the sex disqualifications.' The Legislative Assembly also has passed a Resolution granting the Assembly-franchise to women.' As a result of it, for the first time, women in British India voted for the election of both the Provincial Legislative Councillors and the Legislative Assembly members in November 1913.

According to the Reform Act of 1919 only three per cent of the population were given the vote. Because the property qualification loomed so large only 315,000 women were qualified to vote for the whole of British India. Thus women who are entitled to vote, under the Reform Act of 1919, form a negligible minority. If we take the Provinces of Madras and Bombay into consideration, for a total electorate of 1,40,931 and 888,801, the women voters number only 127,969 and 47,256 respectively. This is mainly due to the fact that they are not in a position to fulfil either the property qualification or the educational one.

The electorates in each Province are divided on a basis which is designed to give separate representation to the various communities and special interests. The various

constituencies are either general or special. The special constituencies represent the Landholders, Universities, Planters, Commerce, etc. The general constituencies are based on racial distinctions, such as Mahomedan, non-Mahomedan, European, Sikh, etc. In fact, these constituencies also, which are intended to give representation to Mahomadens, Europeans, Sikhs, etc., may be treated as special constituencies.

The qualifications for electors vary from Province to Province, chiefly on account of variations in the laws and regulations which form the basis of assessment of income or property values. Generally it is based on property qualifications, as measured by the payment of a prescribed minimum of land revenue, or of income-tax or of municipal tax, but in all provinces retired, pensioned, or discharged officers and men of the regular army are entitled to the vote. The electoral scheme for the Legislative Assembly is on the same model as that for the provincial Councils, except that the property qualification for the voters is higher for the Legislative Assembly,

The method of election for both the chambers is direct under the Act of 1919.

By the terms of the Reform Bill, in British India, the various Provincial Councils had no power to alter the disqualifications of sex which remained against the right to stand as candidates for election to the Councils. An alteration in this direction could only be done by the vote of the Parliament. In April 1926, as a result of the favourable recommendations of the Muddiman Committee on franchise reforms the rule was changed in the Reform Bill. Power was given to the various Councils and the Assembly to pass resolutions allowing qualified women to be elected or nominated as members of these bodies. Madras again took the lead in passing a resolution to give effect to the alterations made. The other Provincial Councils followed the example of Madras in course of time.

Now that the Indian Reform Bill has been passed and has received the Royal assent, the position of women, under the new Act, will be quite different. As a preliminary to the Act, the Simon Commission was appointed in 1927-28 with the object of studying the con-

ditions of India and suggesting what further changes could be introduced. The Statutory Commission in its report remarked: "The woman's movement in India holds the key of progress and the results it may achieve are incalculably great. It is not too much to say that India cannot reach the position to which it aspires in the world until its women play their due part as educated citizens."

After the publication of its report many more commissions and conferences were held. In April 1931 a representative meeting of women was held in Bombay, under the presidentship of Mrs. Sarojini Naidu, to discuss their legitimate grievances and to decide upon their future programme. As a result of it, the All-India Women's Conference, the Women's Indian Association and the National Council of Women in India conjointly drew a memorandum with the idea of placing it before the Franchise Sub-Committee of the Round Table Conference. The following points were embodied in the memorandum:

1. Equal rights and obligations of all citizens without any bar on account of sex.

2. No disability to anyone on account of his or her religion, caste, creed or sex in regard to public employment, office of power or honour.

3. Adult suffrage.

4. Women to fight elections on equal terms with men in mixed general electorate.

5. No reservations of seats for women as such nor special nomination or co-option.

Apart from submitting the memorandum, nine women of the All-India Women's Conference gave evidence. But their efforts did not prove fruitful, as the only outcome of all these endeavours was the unsolicited Communal award. According to the White Paper which emerged as a result of the recommendations of the three Round Table Conferences, women can vote for and will have seats reserved for them in both the Federal Assembly and the Provincial Legislatures. The Provincial Legislatures are enlarged and the allocation of seats and the method of election are in accordance with the provisions of His Majesty's Government's Communal award. Again, a second memorandum had to be submitted in 1933, because

their former attempts had proved futile. The former resolutions were re-affirmed and the same was submitted to the Joint Parliamentary Committee. Three representatives were sent to England to give evidence. They were against the communal award and the special representations in the various Legislatures. To the disappointment of all, the report of the Joint Parliamentary Committee did not embody the suggestions of these various representative institutions of women. But the general position was made worse when indirect election was recommended for the Central Federal Legislature.

The new electoral scheme is explained in Schedule IV to the Government of India Act of 1935, according to which, apart from the general constituencies, there are Sikh, Mahomedan, Anglo-Indian, European and Indian-Christian constituencies. No person who is entitled to be included in the electoral roll of these special constituencies shall be included in the electoral roll for a general constituency in that province or vote at any election to fill a general seat therein provided that this shall not apply in relation to the general

seats reserved for women in Assam and Orissa. "No person shall in any province vote at a general election in more than one territorial constituency, provided that, in any province in which territorial constituencies have been specifically formed for the purpose of electing women members, nothing shall prevent a person from being included in the electoral roll for, and voting at a general election in, one territorial constituency so formed and also one territorial constituency not so formed."

If a woman, at the time of the death of her husband, is included in the electoral roll for a territorial constituency by virtue of his qualifications shall continue to be on the roll for that constituency. But if she remarries she loses the right. A person who is a woman shall also be qualified to be included in the electoral roll for any territorial constituency, if she is the wife, the pensioned widow or the pensioned mother of a person who was an officer, non-commissioned officer, or soldier of His Majesty's regular military force, or if she is the wife or widow of a person who in the previous financial year was assessed to the

necessary income tax, or if she is the wife or widow of a retired, pensioned or discharged officer or soldier of His Majesty's regular military force, or if she is proved in the prescribed manner to be literate. The qualifications as regards women vary from province to province. This could be seen by comparing the educational qualification that is prescribed in Bengal with the educational qualification that is prescribed in the other provinces. In Bengal all those who have passed the Matriculation or the School leaving certificate or an examination accepted by the Government as an equivalent thereof and are over twenty-one years of age will be entitled to vote. It has been reduced to bare literacy in some provinces. Several associations in Bengal protested against this attitude and pleaded for a bare literacy qualification. As a result of these agitations, it has been decided that, after the first election, the educational qualification should be lowered to bare literacy. If we take Madras into consideration, to be included in the electoral roll for a territorial constituency, the qualifications are that a person should either pay a

house tax or property tax or pay tax under the Motor Vehicle Regulation or pay income-tax or be a registered land-holder or a ryotwari pattadar or a graduate. Thus qualification depends on residence, taxation, possession of property, and literacy. The general qualification is that a person shall be qualified to be chosen as a representative to fill a seat in the Federal Legislature, if he or she is a British subject or Ruler of a Native State or subject of a State which has accorded to the Federation and is, in the case of a seat in the Council of State, not less than thirty years of age, and is in the case of a seat in the Federal Assembly, not less than twenty-five years of age and possesses such, if any, of the other qualifications specified in or prescribed under as may be appropriate in his or her case.

According to the Communal Award, there will be general seats, seats for representatives of the scheduled castes, seats for the Sikhs, seats for the Mahomedans and seats reserved for women, labour, commerce, etc. No person shall be entitled to vote at an election to fill a Sikh or a Mahomedan seat in the Council of State unless he is a Sikh or a Mahomedan as

the case may be. Again, a person who is included in the electoral roll for the election of person to fill a Sikh or a Mahomedan seat in the Council of State shall not be entitled to vote at an election to fill a general seat therein. The arrangement is the same for the Federal Assembly also. Seats in the Assembly, allotted to a Governor's Province as general seats or Sikh or Mahomedan seats, shall be chosen by electorates consisting of such of the members of the Legislative Assembly of the Province as hold therein general seats, Sikh seats or Mahomedan seats respectively. In both the Federal and Provincial Governments women are eligible to contest seats other than those reserved for them.

In the Federal Assembly nine seats are reserved for women, Madras and Bombay having two each and Bengal, the United Provinces, the Punjab, Bihar and the Central Provinces including Bihar having one each. Both in Madras and Bombay the proportion granted to women is larger than in Bengal. In the Upper House, called the Council of State, originally no seats had been reserved for women. But while the Bill was in the Committee stage in

the House of Commons, an amendment was brought forward for reserving six seats for women in the Council of State and it was carried. For the purpose of choosing persons to fill the women's seats in the Federal Assembly there shall be, for British India, an electoral college consisting of such women as are members of the Legislative Assembly of any province and the person to fill a woman's seat allotted to any particular province shall be chosen by the members of the college. Rules regulating the conduct of election by the women's electoral college shall be such as to secure that of the nine women's seats allotted to provinces at least two are held by the Mahomedans and at least one by an Indian Christian. The same is true with the Provincial Councils also. If the case of Bengal is taken, five seats are reserved for women in the new Legislative Council, out of which two are reserved for Hindus, two for Mahomedans and one for an Anglo-Indian. In all these Provincial Councils and the Federal Legislature, apart from the seats reserved for women, they can also contest the general seats.

The one great draw-back in the electoral system that is advocated for India is the continuation of the system of separate electorate. No doubt strenuous attempts were made by the Indian delegates to the Round Table Conference to bring about a solution which would satisfy the aspirations of all the communities concerned. Unfortunately their attempts proved abortive and the whole task was entrusted to the British Government. The result was the announcement of the Communal Award. If the Award had given joint electorate to the whole of India certainly it would have helped towards national solidarity. To the disappointment of all, separation is encouraged, Hindus voting for Hindus and Mahomedans voting for Mahomedans. Another defect in the electoral system is the absence of universal suffrage. No doubt the electorate is increased from seven millions to nearly thirty five millions. The population enfranchised will be fourteen per cent as compared with the present percentage which is only three. But still the percentage is very low. India has got a population of 350 millions, out of which only about 35 millions

will be eligible to vote. Of the 35 millions, 29 will be men and 6 will be women. The number of women votes will be increased from 3,15,000 to 6 millions.

With the exception of the Punjab, Assam and Sind, women have the same right of franchise to local bodies as men.

In all the civilized countries of the world, as has already been observed, the percentage is kept at a high level so that it may truly represent the interests of the people. If all the adult members of a state are not given an opportunity to participate in the functions of the state, the Government will be anything but a democratic one, for the state is then ruled, not by the representatives of all the people, but by the representatives of only a selected few. This, in other words, is another form of autocracy. By Act. No. 18 of 1930 South Africa introduced female franchise and gave the vote to all women over twenty-one. In Canada women have the vote and are eligible for election to the Dominion Parliament. In Australia the franchise for both the chambers is the same and is based on Universal Adult (male and female) Suffrage.

Every man or woman registered as an elector is eligible to vote in New Zealand. In America, by the 19th amendment to the Federal Constitution passed in 1920, women have the vote and are eligible for both the Federal and the State Legislatures on the same terms as men. But the franchise is not universal. The requirements, to be qualified to become a voter, also vary from State to State. In Russia the franchise is enjoyed, irrespective of religion, residence, nationality and sex, by all citizens over eighteen years of age who earn their livelihood by productive labour, and by soldiers and sailors in the red army and navy.

Thus it is seen that everywhere attempts are being made to introduce Universal Adult Suffrage. India must follow suite and there should be a rapid increase in the percentage of the voters. Particularly the percentage of women that are entitled to vote, even under the new Constitution, is very low. If the number of women voters are sufficiently large, the men candidates will have to depend on them for their success. The elected candidate will naturally look to the interests and aspira-

tions of women in order to get their support, in the next election. The mere fact that many women observe 'Gosha' or seclusion in Northern India should not be an argument for refusing them the ballot. Till the purdah system disappears, the various provincial Governments may try the experiment of sending polling officers to every house to collect the female votes. This system was successfully tried in some of the States of Australia. Again, by spreading education much could be done in this direction for if mere literacy, as is prescribed in some of the Provinces, is the qualification to vote, by spreading education in rural and urban areas the benefits of universal womanhood suffrage could be easily procured.

CHAPTER V

ECONOMIC ADVANCEMENT

“ ENFORCED IDLENESS IS THE ENGLISHMAN’S HELL.”
CARLYLE

IT is said that the present-day outlook of the average man, in India, towards the economic position of woman is mid-Victorian, and he has not travelled far beyond the ideal of Tennyson, namely.

“ She knows but matters of the house
And he, he knows a thousand things.”⁴

This apathy is mainly due to his unquestionable conviction in the system of early marriage, early maternity, enforced widowhood, purdah and the withholding of education for them. Her seclusion has caused the loss of initiative in her. Her ignorance has resulted in ‘a lack of sharpened intellectuality.’ Here we see the strong insistence of wifely obedience. Lastly, ‘the doctrine of Karma gives rise to a sense of resignation to worldly

In the technical sense of the term, 'a person is economically independent if he is earning an income in the form of economic goods or money, in an occupation usually carried on outside the home, and in which he is producing goods which are put on the market for sale and which have exchange value.' In this sense many women in India are economically dependent. But one might curiously ask whether women in general are not producing goods for home consumption and whether they are not performing the invaluable functions of child-bearing, child rearing, cooking and looking after the house-hold affairs. No doubt these services have got economic values. However modern economic progress has taken many of the cottage industries from the house. Again, the chances of bearing and rearing children are less because of the propaganda against too much of children. The lowering of the birth-rate is visible everywhere. These changes have brought about much transformation in the economic functions of women. Consequent upon this change in outlook she has got much leisure. Western Countries, these changes are pūja p. 27.

the cause of the modern feminist movement because women, who have leisure, have become restless in their idleness. Thus they have initiated movements for enlarging the political and economic activities of women.

In India, the entrance of women into factory is of recent date and is still on a very small scale. It is often considered unwomanly for Indian women to go outside the house in order to use a spindle driven by steam power. Not only is the spinster looked upon as worse than an outcaste but the mere intention of the woman to enter any industrial occupation is countenanced with disfavour. The result is that almost half the population of India is prevented from doing any productive work, their potentialities being wasted. Consequently the economic output of the country is reduced by half.

One of the causes for the poverty of India is the economic backwardness of its women-folk who form half the population of India. The total wealth of British India is estimated at Rs. 12,000 crores, whereas that of America, which is one-third of India in matter of population, is Rs. 112,315 crores and that of

England Rs. 29,432 crores. If the per capita income is taken as the index of a country's prosperity, India compares very unfavourably with many of the industrial nations of the world. If the average income for British India, in a normal year, is about Rs. 82 per head of the total population, that of Japan is Rs. 271 per capita. of Germany Rs. 634, of France Rs. 636, of the United Kingdom Rs. 1092, of Canada Rs. 1268, and that of the United States of America Rs. 2053. The income in the United Kingdom is thus nearly 13 times that of India and that in the United States more than 25 times.¹ If women also had actively participated in the industrial progress of the country the per capita income would not have been so low as at present and the total wealth of the country would have been much increased. Harada, in his book called "Labour conditions in Japan," says that fifty per cent of the factory workers in Japan are women and eighty per cent of the textile workers are women. In Europe and America also the number of women opera-

1. Sir M. Visweswariah. *Planned Economy for India* p. 27.

tives exceeds that of men in cotton factories. No doubt in the jute factories of Bengal, in the tea plantations of Assam, and in the textile industries of Bombay, Sholapur and Ahama-dabad, we see women workers, but they form a low percentage. Some factories, in India, have no women at all.

The Industrial Revolution, in England, caused much dislocation of the small scale industry which, in its turn, involved much suffering to the handicraftsmen. If England had not adopted itself immediately to large scale production and to the establishment of factories, this displaced labour would not have been absorbed so quickly. There was a movement towards urbanisation. The result was that England entered on an era of power and prosperity. The attempt of women for political expression, which is one of the characteristic features of the twentieth century, bears a close analogy to their endeavours for economic independence in the early part of the nineteenth century, when the textile industries were taken out of private houses and organised as factory enterprises. If women had not adapted themselves to the changed environ-

ment, thousands of them would have remained idly at home without any employment. It is hard to see how the basic industries of England could have been developed without the thousands of women and girls who, inspite of public opprobrium, followed these occupations.

The Industrial Revolution first took place in England. But it was not without its effect on the other countries. India was no exception to it. Before the revolution had any effect on India, cottage industries were very common in the villages and many women used to be employed in such industries. But India, at present, is in a transitional stage. We are forced to discard the old, but we have not yet fully adopted the new. "In the period which opened with Arkwright's mechanical inventions," says Dr. Cunningham, "has been the commencement of a new era in the Economic History, not only of England but of the whole world. It marked one of the great stages in the growth of human power to master nature"¹ The Industrial Revolu-

1. Growth of Eng. Ind. and Com. Vol. II. p. 609.

tion has effected changes in more directions than one. Unexpected improvements have been brought about in the methods of manufacture. The structure and organisation of industry are changed. The Revolution has brought into existence modern scientific form of cultivation. The Revolution in transport, which began with Stephenson's 'Rocket,' one of the four locomotives that was allowed to compete in 1830 and with the 'Comet' that was allowed to ply in the Clyde since 1802, has quickened the means of transport. Above all, it has affected society profoundly.

The effects of the Industrial Revolution, combined with the policy of 'Laissez-Faire' or free-trade that was then adopted by the British Parliament, brought about the disintegration of the Indian village and also the disruption of the Cottage Industries. The evolution from the field to the factory is going on. The process of urbanization is also going on at a slow rate. This slowness is due to various causes such as, peoples' ignorance, lack of adaptability, poor power of organisation, lack of scientific knowledge, shortage of capital, immobility of labour and

lastly apathy on the part of the Government. Till the Great War, industrial development in India was slow. But even by that time some industries, such as, the textile industries of Bombay, the jute industries of Bengal, and the iron and steel industries of Bihar and Orissa, had attained some status and stability.

Since the meeting of the Labour Conference in 1919, at Washington, Indian labour is definitely connected with International labour. About the same time there was also the definite beginning of a working class movement in India. Prominence was given to what Mr. B. Shiva Rao, President of the National Trades Union Federation, calls "the human factor in Indian industry."

With all these improvements in Indian industry and labour, still seventy one per cent of the population of British India are engaged in agriculture. Only ten percent look to industry as a means of livelihood and of this small percentage of industrial population not more than a fifth is engaged in the large scale industry.

According to the memorandum of the Government of India to the Labour Com-

mission the India office mentioned 20 million as the number of Indians engaged in industries including mines, transport and cottage industries. This has entitled her to be sanctioned as one of the eight most important industrial countries of the world by the International Labour Office.

Women, in India, who are economically independent, form a very low percentage. The nature of their work is manual or mental. Manual workers are employed either as factory labourers or as workers in small scale cottage industries or as agricultural labourers. Women who are called as mental workers are those who are employed in the various professions and services requiring educational and cultural attainments.

The extent of industrial progress varies from province to province. Women who are found in the various industries are mostly dependent workers. The largest number of them are to be seen in the textile industry. They are also employed in other industries, such as the jute industry, tea plantation, ceramics, etc.

The chief features of work and of the life of the workers are different in different types of industries. The conditions of the textile workers of Bombay, Sholapur and Ahamadabad, of the coal miners of Jheria, of the jute workers of Bengal, of the iron and steel workers of Jamshedpur and of the tea garden workers of Assam are different from each other. Even within the same industry there is no uniformity. The conditions of the textile workers of Bombay, Sholapur and Ahamadabad are not the same.

In Bengal 2 lakhs of women are employed as industrial workers. The jute factories and presses alone give employment to half of the men and one fourth of the women that are employed as industrial workers in the province. In the jute mills 347,000 workers are employed in all. In each mill males, females and children work together. Eighteen per cent of the workers are women. Seventy-six per cent are men and the remaining six per cent are children. Half-time girls are also employed to change bobbins. Some are employed on warp-winding and weft-winding. Some women weave sacking.

Others are employed in the batching, stripping, sack-sewing and preparing departments. The production and trade in jute and tea which form the major industries of Bengal amount to over forty per cent of India's total export trade, they being managed by British people. In the jute mills, men and women usually work together, receiving the same pay for time-work, which is usually being paid once a week. They are also given equal rates for piece-work. Most of the workers are immigrants from other parts. The percentage of Bengali women is still very small, the reason being that Bengalis generally do not allow their women to go to factories to work. No doubt a few Muslim women work in some departments as in the packing section. But their seclusion is the main reason for not many Mahomedan women coming outside to work. In the tea industry of Darjeeling and Jalpaipuri Districts nearly fifty-seven percent are women.

Bombay is next to Bengal in respect of the demand for industrial labour. There are nearly 3½ lakhs of men workers and 1 lakh of women workers. Cotton mills alone give

employment to two-thirds of the men workers and four-fifths of the women workers that are employed as industrial workers. The majority of them are employed in the city of Bombay. Others work in industrial centres like Sholapur and Ahamedabad. Among the Bombay labourers many women workers are immigrants from the surrounding places such as Poona, Satara and Nasik. In the ginning and pressing factories, the majority of workers are women. These factories are seasonal in character and so provide work for the agricultural population to come and work in their off season.

In India seventy-seven per cent of the workers in the cotton mills are men, nineteen per cent women and four per cent boys and girls. Harada, in his book, 'Labour conditions in Japan,' says that in Japan fifty per cent of the factory-workers are women and eighty per cent of the textile workers are women. Most of them are unmarried. In Europe and America also the number of women operatives exceeds that of men in cotton factories. In India, strangely enough, some factories have no women at all.

Women are usually employed to do reeling, winding, waste-picking, sweeping and spinning. In Bombay and Ahamedabad a large number of women are employed in ring-spinning departments. In dyeing departments, women work on the washing machine and also on the oiling machine. In Ahamedabad women are generally employed in almost all the processes upto beaming. They also receive equal wages. This healthy influence is in no small measure due to the development and influence of trade unions. Many women also have joined them, thanks to the efforts of Anusuya Bai Sarabhai. In Sholapur also nearly about 5,000 women are employed. In Ahamedabad some Rajaput caste women are working in hand-winding and reeling departments. They are much harder workers than the men of their caste. In some of the mills in Nagapur also women are employed. Thus we see that women are employed everywhere in the textile industry but not in such good numbers as they are employed in the other countries.

If we take into consideration the industrial labour of women in the non textile factories such as the railway work-shop, the iron

and steel company, the printing industry, the match factory, the tanning industry and the mica industry, we find that very few women are being employed in them, except perhaps in the mica industry where they are in a substantial number.

In dealing with the conditions of employment in the factories, sanitary conditions are tolerable only in the big factories. The small factories are not well equipped. The drainage system is not kept in good condition. The walls are not regularly whitewashed. The passages are not kept clean. Ceiling is not in good order. Even drinking water that is supplied to them is not wholesome. Even in the big factories no satisfactory arrangement is made to remove completely the dust that is produced. Either they cannot afford to buy the exhaust boxes, pipes and fans that are necessary to remove the dust or they are callous and indifferent. Consequent upon these drawbacks, the health of women and children is very much affected. The 'Safety-first' rule is to be rigorously enforced. The anxiety of the employers to increase the output of each worker and consequently the

'Speeding-up' of work, the ignorance of the labourers to skilfully handle the machinery, and the increasing admission of ignorant and unskilled women as workers on account of their cheap labour, have increased the number of accidents out of all proportion to the number of workers that are employed.

In transport where the highest number of labourers are employed women are not generally entertained. Railway and such other workshops take only such people as are robust and capable of withstanding strenuous work. From that view-point women might not be able to cope with the work. But at least they may be employed as ticket-collectors, gate-keepers, watchmen, and sweepers. Till 1929 women were employed in under-grounds, though as long back as in 1901 an Act had been passed in this direction. The latter Act had not brought about much improvement. After the deliberations of the Labour Conference at Washington, the Mines Act of 1923 was passed. But this Act still retained women's labour in under-ground work, the reason being that as many as forty-five per cent of the under-ground workers were women and that

they could not be dispensed with so suddenly without prejudice to the work. Only the low class women were working in the mines. By that time almost all the Western countries, realising the harmful effect it would produce on women, had abolished the system of allowing them to work in under-grounds. It was only in 1929 that the Government of India came to the rescue of women under-ground workers and passed the Mines Act of 1929, prohibiting women from working in under grounds, permission being given to women to work in coal and salt mines. The reason for the provision was that they thought that work would suffer and consequently the industry would be dislocated if such a drastic measure was taken.

The conditions of women in the factories are in no way better. Women are not given even a living wage. This low wage is partly due to their supposed inferior skill. Labour of women and children is cheap because many of them have male support which enables them to accept less than a living wage. The employers taking advantage of it entertain more of females and children than men because of

the cheap supply of labour. They use this as a weapon to bring down the general wage level. According to the investigations of the Bombay Labour Office the average monthly incomes of the female labourers in the cotton mills of Bombay, Ahamedabad and Sholapur are Rs. 20/-, Rs. 21/- and Rs. 11-8-0 respectively, whereas those of males are Rs. 45/-, Rs. 33/- and Rs. 27 respectively. As a result of this very low-wage women are not in a position to purchase even the necessary things in life. They cannot have decent clothes. Much less could they aspire to live in good houses. In Bombay, for instance, mill workers live in iron sheds called 'Zavli' sheds. Each family cannot afford to have more than one room. The sanitary conditions are not good. The dwelling houses are ill-ventilated. As Mr. B. Shiva Rao says, housing in some of the industrial centres is a scandalous blot on our economic system. The food that they take is unwholesome. They have got to live, eat and sleep with their children in such an unhealthy area. When they go out to work in the factories the condition is worse. Not only they have to work for long hours but also they have to tolerate the dust

and the smoke of the factories. The drainages in the factories are not kept in good order. At times the workers find it difficult to get even good drinking water. These troubles are common to men and women. In addition to these privations women have got the additional troubles of cooking and child bearing. They usually administer opium to children just before they go to the factories, so that they may not trouble them. They will not have thought of the ultimate effect it would produce on the health of their children. These conditions accentuate malaria, hookworm and tuberculosis. They take away their energy and stamina and make them unfit for any active work. If the average number of looms tended by a cotton weaver in India is less than two, women weavers in Japan tend at least five. If each worker in India runs three automatic looms, a woman weaver in Lancashire runs at least fifteen automatic looms. This inefficiency of industrial labour is due to the very low standard of living that is maintained in India. This is also due to what Major Norman White calls 'the neglect of industrial hygiene in India,' which, in its turn is due to the

fact that labour in India is plentiful and cheap.

No doubt factory Acts have been passed from time to time to enforce the ' Safety first ' rule. The Government should further reduce the hours of work, thus allowing the workers to have sufficient time to develop life as distinguished from mere existence. If a 60 hour week in a cotton mill or a 54 hour week in a jute mill is enforced, labourers will have little leisure to develop their general out-look. Messrs. N. M. Joshi, John Cliff and Dewan Chamanlal, all labour leaders, have advocated a weekly limit of 48 hours and a daily limit of 8 hours and the extension of the daily rest to 2 hours. But Sir Victor Sasoon and others would not agree to this drastic change as it would mean either an increase in the cost of production or diminution in the wages. Again the Labour Commission was not for reducing the hours of work for women below that of men for the reason that it would tend to the replacement of women by men workers. Women are generally forbidden from working in mines. But there are some mines in which they are at present working. This is to be

discouraged. Some people might apprehend that it would lead to unemployment among them. But this could be made up by giving preference to women to fill up vacancies occurring among surface workers. Insurance against sickness and unemployment is very necessary. Except in Bombay, Madras and in the Central Provinces no other province has provided for maternity benefit.

We will now deal with the small scale cottage industries. As a result of the Industrial Revolution there was everywhere to be found competition and exploitation. The cottage industries were unable to withstand the effects of the Revolution. Consequently many industries died. But still some industries have survived even to the present day, such as the Kincobs of Ahemababad and Surat, the silver-wares of Bombay, the brasswork of Poona and Nasik, the carpets and brasswares of Benares and Mirazpur, the muslins and silks of Mubarakpur, the wood-carving of Shaharanpur and the furniture-work of Bareilly. Hand-spinning is almost dead. There are other cottage industries also like dyeing, poultry-making, oil pressing, embro-

idery, lace-making, rope-making, etc., which have survived even to the present day. Women take part in all these small-scale industries. Many of these industries are in the villages, and consequently some of the agriculturists also are making use of their spare time by engaging themselves in these vocations.

The principle occupation in India is agriculture which supports nearly 64% of the population. The extent to which women of the agricultural classes take part in field-work and in industrial occupations during their spare hours differs from locality to locality. Of course they do the work of cooking in the house. Lack of knowledge about the grinding and pounding machines make them grind the grain and pound the rice for themselves, thus wasting much of their valuable time. In agricultural occupations, like paddy growing, sugarcane industry, cotton growing, wheat-growing etc., women do take part and help the males. They also take part in weeding, planting and reaping. They carry grass and branches of trees for fodder. In the sugarcane industry they plant, cut and bind sugar-

cane. In localities where cotton growing is prevalent they do picking. Sowing is not generally undertaken by women, except in some parts of the Central Provinces. They also do the other minor works, such as herding the cow, milking the cow and the goat, collecting the cow-dung, watching the crop, etc., If the villages are near a town the village-women go and work in the ginning factories which are of a seasonal character.

In all these spheres there is much scope for improvement. We have already seen that nearly sixtyfour per cent of the population of India are engaged in agriculture. Women also help men in the cultivation of the soil. As agriculture is only of a seasonal character the agricultural population have got leisure for six months in the year. Only a small percentage of this population gets itself engaged in the cottage industries and in the ginning factories. The majority of them waste their time and energy without any employment or work. This is a great fillip to the productive capacity of the land. This is also another cause for the very low standard of living of the agriculturist.

Article 3 of the Draft Convention adopted by the Washington Labour Conference, in 1919, has laid down that in industrial occupations a woman must not be allowed to work during the six weeks following her confinement. It also provides that if she produces a medical certificate to the effect that her confinement will occur within six weeks she must be given leave. It further says that when she is absent from employment owing to the above-mentioned reasons she should be provided for, either out of the public funds or under a system of insurance. It recommends also free medical help during that period. Article 4 strictly warns the employers from issuing them notice of dismissal if the women absent themselves for reasons mentioned in the preceding article, and also on account of illness due to pregnancy or confinement. This is a very important and useful measure which should not be over looked. The Labour Commission also has pointed out that legislation in this direction is very imperative. But so far nothing is done in this direction in India.

It is not enough if the Government does what all it could do. The object will not be

fulfilled if the public will keep aloof without joining hands with the Government in the proper administration of these laws. The employers should take a sympathetic attitude towards the workers. They always smell politics in every demand of the labourers and refuse to redress even the obvious grievances of the workers. They see in the new and growing Trade Unions a challenge to their long and unquestioned dictatorship and refuse to treat organised labour on equal terms. Labourers also should help themselves by forming into Trade Unions. Mr. Sorabji Shapurji Bengalee and Mr. N. M. Lokhade were the two who worked hard for the amelioration of the wretched condition of women and children in the factories, in the nineties of the last century. No doubt the right to organise trade unions has been recognised in the Trades Union Act; but the unions are yet in their infancy. As Mr. Ahmed Mukhtar says disputes in Bombay City, for instance, are out of all proportion either to the number of units in the industry or to the workers employed there in. The Girni Kamgar Union has not done anything to improve the

condition of the worker. In contrast to this, Ahmadabad has organised a Trade Union which serves as a model to the rest of India. The Ahmadabad Textile Labour Association has extended its help and co-operation to schemes of welfare, such as education to women and children, hospitals for maternity and housing for the workers. Provision is made in the Trades Disputes Act for the settlement of industrial disputes. Mahatma Gandhi and Anusuya Sarabhai are permanent members of the arbitration board. This has not only ensured harmonious settlement of industrial disputes but also has improved the condition of women workers and their standard of living. Labour Unions on this model should be established in all the industrial centres of India.

So far we have dealt with the position of women in the various occupations requiring manual labour. Now we look to the position and status of women in the different departments and services requiring mental labour.

Women, in theory, are not precluded from entering the public services. There is no bar to their entering even the Civil Service, as is made

clear by the Government of India Act of 1935. Very few women have so far entered the Police Service, for the Government have not thought fit to entertain them in the Police Service. The appointment of some women to do police work in the excise department of the Central Provinces and the temporary appointments of some women, in Delhi, during the political upheaval of 1930 to look after the female prisoners are only exceptions. Even in the Indian Medical Service no women doctors are recruited because it is supposed to serve as a reserve for the army service. But women have got a separate service of their own which is called the Women's Medical Service. We find women in the Educational Service. We find them not only as teachers and professors but they are also recruited for administrative work. Thus they have entered chiefly the legal, medical and teaching professions. As regards payment, grade, and terms of service, there is always a tendency to pay them less than what would be paid to men, and the grades and terms of service also are not the same. In the field of arts we find women as musicians, dancers, artists and actresses.

But still we have to admit our backwardness in all these directions for we see not many women being entertained in any of the departments except medical and educational departments.

When dealing with this problem the question arises as to whether women are competent to enter all occupations as freely as men can do. It is admitted that it is not in their best interest to allow them to enter occupations wherein excessive strains are unavoidable. Again, there are occupations which are not beyond her physical strength, but in which she is likely to receive injury because of her sexual and reproductive organs. Leaving apart these departments, she is competent to enter any work, whether mental or manual, which a male would do. If that sort of thing is encouraged we will see men and women working together in some occupations at least for segregation is inevitable in others because free competition would drive out inferior labour to some other field. Thus all the productive forces have not only opportunity to work but they work where their faculties are most productive. Provision should be made and chance should be given for

women for associating themselves in the administration of the land. Women should be appointed to each Provincial Public Service Commission. Chances should be given to women to compete for the various Civil Service Examinations.

At present women are entertained as teachers, midwives, nurses, doctors, music teachers and in some cases as stenographers. But many more fields are opened to them wherein they could profitably be employed. The tendency in all the western countries is to entertain more and more of women as teachers, both for boys and girls, in the primary and middle school sections. This system could be adopted in India also. More and more of women could be employed as telephone operatives, clerks in stores, saleswomen, boarding and lodging keepers, laundresses and house-keepers and stewards. Not very many women have so far entered the professional occupations. Instances are not wanting to show that if only sufficient opportunity is given to them they prove as capable lawyers, engineers and doctors as any other male in that or those professions.

One might ask as to what advantage would arise by opening all employments to women. The answer is simple. 'The first great gain will be,' says J. S. Mill, 'that men will cease to be artificially stimulated to unjust self-preference.' Again he says that there would be 'the doubling of the mass of the mental faculties available for the services of society.' 'To give free play to women's nature,' says J. S. Mill, 'can never lead them to act contrary to their natures. Free competition will induce women to do only those services for which they are most wanted and are most fitted.'

CHAPTER VI

SOCIAL POSITION

"A hen is not a bird,
Nor a woman a human being.
And who will bring the water?-The daughter-in-law.
And who will be beaten?-The daughter-in-law.
And why should she be beaten?-Because she is the
daughter-in-law."

A RUSSIAN PROVERB.

MODERN world believes that each individual should be left free to pursue occupations which he or she thinks most desirable instead of being chained to some profession or occupation by birth. The mere fact that one is born a girl should not disqualify her from social positions and occupations. J. S. Mill observes: "It avails nothing to say that the nature of the sexes adopts men for ruling and women for obedience. We cannot know the respective nature of the sexes, as they have not been seen in any but their present artificial relations. What is called the nature of women is the result of forced repression and unnatural

stimulation." This is particularly true with regard to India. Till the beginning of the twentieth century women in India suffered from many disabilities in the circumstances of their lives. Infant marriage, infant motherhood and infant widowhood were much more common than at the present day. Education was solely confined to the male sex. Marriage and maternity were the two things that were primarily expected of women. The expectation of society was wholly against women's choosing any profession besides their functional service of cooking, child-bearing and child-rearing. Foreign travel and contact with the westerners were beyond imagination even. There were very few women's societies and organisations to advance their cause. Added to all these was the interference and influence of the various religious doctrines.

Social reforms in India are very few and far between. Old and antiquated ideas and superstitions govern every aspect of our life. A small percentage of our educated and cultured people may be free from the tyranny of these old-world dogmas. But the majority of them are still guided by them. This is parti-

cularly so with our women-folk who are less educated and who have had less opportunities of coming into contact with progressive ideas which are only possible either by travel or by keeping company with people of such forward nations. Unfortunately for us, there is a lack of faith in the higher and purer nature of men and women. Men generally do not tolerate their household females speaking to males other than their nearest and dearest relations. This kind of mutual suspicion must go out of the mind. The ignorance of our women is due to either this kind of rigid segregation which even forbids her from looking at a male, let alone speaking with him, or the wide-spread prevalence of the system of seclusion. This wretched system of purdah which is fast disappearing in the lands of its birth, namely Persia, Turkey and Egypt, is still the bane of many a group in India. This system prevails not only among the Mahomedan community but also among many Hindus in Northern India. Social reformers are sparing no pains to discourage this kind of segregation and seclusion, and thanks to their efforts, there are signs of people discarding

such voluntary confinements and coming out with their energy and intelligence available for increasing the national output of the land.

From her birth almost till her death she is made to suffer. In many a case the birth of a female child itself is not welcome, for it costs the father to pay a large dowry. Before she attains the age of maturity she is saddled with the marriage tie, thereby giving a death-blow to her education. Early marriage is accompanied by early maternity, ignoring all principles of physiology. Early marriage combined with the helpful climatic conditions will produce greater number of children which in its turn bring forth poverty and misery. Not only is it a stumbling block in the way of education of both the wife and the husband but also it reduces the standard of living of the family. Among the Hindus, particularly the higher classes, if the husband dies she becomes a widow for ever. She is precluded from marrying again. It does not end with that. She is to take off her ornaments. She is not expected to take part in any social gathering. Some sections of the Hindus go even to the extent of causing her head to be

shaved because men are not wanting who would readily cite a verse or two from Vyasa to the effect that "the hair of the widow made up into knots or plaits would act as fetters on the husband's soul" In effect she becomes a despicable creature, uncared for by the Universe and unwanted by the Heavens.

No doubt efforts have been made from time to time to bring about reforms in all these directions. With the idea of discouraging the system of child-marriage the Age of Consent Bill and the Child Marriage Restraint Act have been passed. These have mitigated the evil to a little extent. But as has already been referred to in a prior chapter unless the punishment for defying the acts is made still more stringent and unless and until people are educated to give up the age-long customs and superstitions it is too much to expect any salubrious change in this direction. But the consolation lies in the fact that signs of change are visible everywhere. The system of Sati or Sahamarana, according to which the wife was expected to ascend the funeral pile of the husband, was done away with during the regime of Lord William Bentinck. The

alternative course of Brahmacharya or strict austerity that was expected of a Hindu widow is less strictly observed or enforced nowadays than it used to be formerly. The Widow Re-Marriage Act has also done much towards their social advancement. There is no legal impediment in the way of their remarriage. Many young widows have taken advantage of this salutary measure and have re-married. This reminds us of the troubles and privations that the late lamented Ranade, Vishnusastrī Pandit and five other leading members of the Widow Re-Marriage Association that had been founded in 1866 had to undergo while trying to prove to the orthodox sastries that widow re-marriage was not in conflict with the Sastras. They were publicly excommunicated by the Shankaracharya of Western India. But Ranade refused to lower the flag of reform.

The women's club movement is one of the important civic forces of modern times. Many Samajas, Seva Sadans, Societies and Samithis are started in India, with the object of giving women not only literary, technical and professional education but also moral,

spiritual and physical training. They are not mere recreation clubs for the pastime of the rich. Many of them train women to become teachers, midwives and nurses. They have started classes, workshops and dispensaries, for the benefit of the poor. In short, not only women are given training, in such institutions, to become good mothers to bear the burden of house-hold management and to bring up the children but also they are given some practical professional training, thus enabling them to earn their livelihood in life. Music, tailoring, cookery, laundry, embroidery, spinning, weaving, hygiene, etc., are taught in such institutions. By giving instructions in such arts and handicrafts, women who are poor and helpless are made self-reliant. In India many such Samajas, Seva Sadans, Societies and Samithis are in existence.

The Poona Seva Sadan Society is one of its kind. It was started in 1909 by the Late Mrs. Ramabai Ranade with the object of making women self-reliant. It is working on a non-sectarian basis. There are different departments which are sub-divided into classes.

They train women to become nurses, midwives, and sub-assistant surgeons. They teach music, sewing, embroidery, hosiery, composing and weaving. They send girls for advance studies to foreign countries. They have got their own branches at different places. In addition to all these things the society has undertaken maternity work, infant-welfare and general nursing. The Poona Seva Sadan trains girls for missionary work also. The Seva Sadan, started in 1908 by the Late Malabari and Mr. Dayaram Gidumal, is also working on the same lines. The Vanita Seva Samaj of Dharwar, though started only in 1928, is making rapid progress. Under the auspices of the Samaj, an infant class, both for boys and girls, was started in 1931. Boarding and lodging are provided for the poor and deserving lady candidates. Graded education is given to the girls, and in group system to the adult women, from infant class up to the seventh standard in vernacular. Some practical training also is given in domestic hygiene, first-aid, home-nursing and midwifery. The Samaj maintains a free ayurvedic dispensary, a circulating library, a free maternity hospital and a

magazine called 'Samsar.' Besides these institutions of some repute, there are many Mahila Seva Samajs and Bhagini Seva Samajs, each working on the above lines in particular areas.

Other women's associations which are all-India bodies are the Women's Indian Association, the National Council of Women and the All India Women's Conference. These bodies are, by means of conferences, deputations and propaganda, trying to secure not only primary education, municipal and legislative vote and equality of opportunities for women but are also endeavouring to see that life is not dominated by the immemorial customs and age long superstitions, which are in other words called "the social patterns." In this connection we cannot but mention the names of two other associations which are doing pioneer work in the cause of women in Bengal. The Saroj Nalini Memorial Association is training women in industrial and technical pursuits. The Vidyasagar Banibhavan is also working in the same field, but it gives particular attention to the imparting of technical training to widows. Lady Abala Bose, wife of Sir J. C. Bose, is the life and soul of it.

After the great war of 1914 there has been an awakening of womanhood in India as in the other parts of the world. Women are striving not only to bring about social and legal reforms, but they are also fighting India's battle for freedom. Mrs. Ranabai, an accomplished sanscrit scholar, devoted herself to the cause of the unhappy widows. Mrs. Saroj Nalini Dutt, with the idea of removing the cruel customs and traditions that kept them down, started many mahila samitis. Mrs. Ramabai Ranade, the widow of the great Indian reformer, Mr. Justice Ranade, was the sponsor of the Poona Seva Sadan. Mrs. Annie Beasant, the sponsor of the Home Rule movement, by courting imprisonment, awakened the Indian women from their slumber. Srimati Sarojini Devi is another international figure. She is not only a political leader but also a poetess, an orator, an ambassadress, and a social reformer. She has presided over many women's conferences and has led many deputations. By electing her to preside over the Indian National Congress, India has done her the highest honour that it could give. By wielding her enormous influence she is trying

to bring about Hindu Mahomedan unity. In her message for the new year, in 1925, she said: "As a loyal daughter of Bharata Mata, therefore, it will be my loyal though difficult, task through the coming year to set my mother's house in order, to reconcile the tragic quarrels that threaten the integrity of her old joint-family life of diverse communities and creeds and to find an adequate place and purpose and recognition alike for the lowest and the mightiest of her children and foster children, the guests and the strangers within her gates." Among others who are working for the cause of women mention may be made of Mrs. Cousins, Dr. Muthulaxmi Reddi, Srimati Kamaladevi, Miss Cornelia Sorabji, Mrs. Toru Dutt and the Rajkumari Amritkaur. Among the royal families of the Native States, the Maharanis of Baroda and Travancore have been doing pioneer work in the direction of improving their civic, political and economic rights.

The social advancement of a nation could be secured not only through promoting social reforms by way of legislation, but also by educating the public to adjust themselves to

environments instead of being chained to the age long customs, helplessly allowing to be led by these "categorical imperatives," most of which have gone out of date. As has already been observed, after the Age of Consent Bill was passed, during the time of Lord Lansdowne, the Government of India and the various Provincial Governments have adopted a policy of neutrality in religious and social matters. The Indian National Congress, before it gave preference to political reforms, was giving much attention to the question of social reform. But after the death of men of the type of Ranade and Ghokale the Congress gave less and less attention to the question of social advancement and preferred political agitation to all the other needs of the time. Another reason for this preference was, as Mr. Chirol puts it, "it was so much easier for Indians to unite on a common political platform against British Raj than on a platform of social and religious reform which offended many different prejudices and threatened many vested interests." Though this remained the attitude of the Congress for a while, some individual members of the Congress, such as Mrs.

Anni Beasant, Sarojini Devi, Bibi Amma and others were really trying all through for the emancipation of women. After the advent of Mahatma Gandhi to the political arena, the Congress, under the leadership of the Mahatma changed its outlook and realised its duty as much towards the social side as towards the political fight.

As a result of these movements women are gradually realising that they have personalities of their own as human beings, and that their mission in life does not end with becoming good wives and wise mothers but also in realising that they are all members of the civic community and of the body politic. We are nowadays seeing women standing as candidates to the Provincial Legislatures, University Senates, District Boards and such other representative bodies. The women's Club movement which is one of the civic forces of modern times is also growing rapidly. It creates civic sense in them. It is the training ground for them to know the philosophy of liberty and equality.

CHAPTER VII

EDUCATION

“By educating a boy you get an educated individual,
But by educating a girl you get an educated family.”

M. Paul

Ex. Minister of Public Instruction,
France.

THE idea that women need not be educated, for their lot in life is one of perfect obedience, is fast disappearing. The notion that their salvation consists in three kinds of obedience—obedience to the father when unmarried, to the husband when married and to the son when widowed—is losing ground. Till about 1825, education of women, in America as well as in England, was a thing of “shreds and patches.” As one author puts it, it had gone very little beyond the point looked upon as desirable by the gentlemen of the court of Charles II, who thought that women were educated enough if they could spell out the recipes of pies and puddings, the manufacture of which nature had entrusted to their tender mercies. Mr. Ruskin said: “All such know-

ledge should be given her as may enable her to understand and even to aid the work of men and yet it should be given, not as knowledge, not as if it were, or could be, for her an object to know, but only to feel and to judge." Misses Barbould, an excellent lady with wide culture in America, once said: "Do not unsex yourselves. Do not throw your lovely feminine charm for the empty bauble of trained intellect. Remember, your best, your sweetest empire is to please." These age long ideas dominated the mind of the Japanese also in the days of feudalism under the Tokugawa regime. Very few women, in Japan, were allowed to go to Terakoya to receive the elementary knowledge of reading and writing. This condition continued in Japan till the early seventies of the last century, by which time they abandoned the feudalistic idea of considering women as inferior by nature to men. Nowadays we see, in Japan, thousands of girls going to schools and colleges. That national awakening which dawned in Japan about fifty years back is in evidence in India at the present day. It has been realised that education is necessary, whether in the case of

men or women, to build up character, to develop the mind, and to cultivate the talents to the best use of the country. The function of education is not so much to add something to man from without as to develop man from within. Abbott says: "Education is the whole process by which the child who is but a seed may be developed into the tree, the child who is but a germ may be developed into the man, the child who is but a beginning may be carried on towards completion." To put it briefly, education is the development of the personality. This opportunity to develop the personality should not be denied to any one, whether a male or a female. People have got a capacity to learn. Learning is very necessary to govern ourselves and also to take part in governing the other fellow citizens. These are days of democracy when the State is governed by the people. Consequently Universal Adult Suffrage is becoming the fashion of the day. When such being the case, of what avail is there in giving every citizen a vote if he or she does not know how to use the powers. The more educated a democracy is the better is its Government.

Wherever democracy undertakes the problem of self-government, it must also undertake the problem of universal education.

In India, women who form half the population cannot afford to be illiterate and ignorant, particularly when democracy is fast spreading in all parts of the land. Lord Bryce has said that democracy could be worked successfully only if the electorate are sufficiently educated.

Again, a man would always prefer to have an educated and a cultured wife to be his companion for life. An intelligent conversation after a busy day would very much relieve the husband of his tiresomeness. In no sense is she a friend to her husband if she is illiterate and her experience of men and things and her ability to advise her husband in matters not connected with the domestic life are absolutely nil. Another gain from educating a girl is that she would be a proper guide to her children. By educating a girl we get an educated family, whereas by educating a boy we get only an educated individual. On economic grounds too education is very necessary for women. It increases not only the productive capacity of the individual but also

it enhances the purchasing power. The national output of the country also will be doubled. Apart from all these considerations, it is the duty of every state to see that a certain amount of education at least is given to every individual so that each person may enter some vocation in life and earn his or her livelihood.

Every male should see that proper education is given to his wife and daughters. After the husband's death the wife should not become destitute. She should not be forced to depend on others. Not in all cases we might expect the husband to leave or bequeath sufficient property to the wife to depend upon. In such cases education alone will come to the rescue. A woman might choose to remain unmarried all her life. In such a case she should be in a position to earn her living. The father is not fully discharging his duties if he does not give her a good education, whether general or technical, as the circumstances require. From the ethical view-point also education is necessary because it elevates and maintains at a high standard the character of the members of a state. It would give them not only

knowledge but also infuses in them public spirit and honesty. It makes every one individually efficient, the sum total of which forms the national efficiency. So from every viewpoint, whether political, social, economic or ethical, education is very necessary for all the members of a state.

Hitherto the males were either indifferent or hostile to the spread of education among their wives and daughters, because possibly they were afraid that knowledge and intelligence would make them revolt against the present bondage. This was so not only in India but also elsewhere. In Imperial Rome education was confined only for the selected few. Women formed no part of this inner circle. By primitive and mediaeval christianity the scope was enlarged. After the Renaissance and Reformation the scope was still broadened. The object and method of education were also changed. While the Renaissance changed the curriculum of education the Reformation changed its nature. Martin Luther (1483-1546) was the first to advocate universal compulsory elementary education for both the sexes. John Knox

advocated the same thing in Scotland. Before the beginning of the seventeenth century there was not a single separate girls school in England. A few convents admitted girls here and there. Girls were not generally admitted either to the elementary schools or to the grammar schools. People showed much astonishment when the Red Maids' School was founded at Bristol in 1627. Though Luther had advocated universal elementary education as long back as in 1500 it was only after the passing of the Education Act of 1870 that universal education, for boys and girls, was enforced in England. On the continent the position was still worse. The ideal of house-wifeliness and submission to the rule of the husband was very much embedded in the minds of the Germans to make it easy for them to provide openings for the higher education of their women. Rousseau's teachings in France, retarded progress. It was only after 1848 that opportunities were given for women in Europe for higher education. India formed no exception to this rule. Though well educated and well cultured women could be found here and there at

different periods they formed a microscopic minority. Almost till the beginning of the present century women's education in India was not countenanced with much favour. The progress of the other nations in this direction has acted as an eye-opener and as a consequence of it the various Provincial Governments and the Native States are now-a-days passing legislations enforcing universal elementary education, both for boys and girls, and are also making provisions for the higher studies of girls inspite of public censure and reproach.

There are some special difficulties in the way of women's education in India which are not to be found elsewhere. The system of early marriage that is in vogue in India prevents the girl from getting a good education. The purdah system that is prevailing among the Mahomedans and also among some of the Hindus precludes her from going to any public school. Early maternity and early widowhood are the other causes which hinder her education. Apart from all these considerations, the expectation of society, even to-day, has been wholly against her choosing

any vocation besides her functional service in the family.

Appalling illiteracy prevails in India. For every thousand people only eighty are literate in the sense that they know just how to write a letter and to read the answer to it. In British India, Burma stands first in the matter of literacy, the reason being that both boys and girls are being taught in the monasteries of which every Burman village has one. Burma excepted, some of the Native States have gone ahead of British India in matter of literacy. Cochin, Travancore, Baroda and Mysore come in order. If the country as a whole is taken into consideration female literacy is negligible. Of the male population 9.96 per cent attend some school or college, whereas of the female population only three per cent attend it. Cochin and Travancore have one literate female to every two literate males. Malabar and Coorg have one for every three literate males. Baroda and Mysore have roughly one literate female for every five literate males. The British Indian Provinces do not compare favourably with these States.

In British India no centralising agency exists for education. Each Province has independent control of education under a minister. It has been realised that the greatest need of the day is universal elementary education which should be both free and compulsory. With that object eight Provincial Governments have passed the Primary Education Act. Some enlightened Native States also, such as Travancore, Cochin, Baroda and Mysore, have passed it. The Primary Schools are mainly under the Local Boards and the Municipalities. In almost every State of America Compulsory Attendance Regulation is in force. Regular attendance is required up to the age of 14. It is free and democratic. They do not want that poverty at home or the lack of ambition of parents should be allowed to interfere with their educational progress. In England between 5 and 14 every child is compelled to attend the School. In Russia the whole people have been seized by a ravenous appetite for knowledge. What is more, in all educational institutions one would see more of women than of men. The participation of women in

the Technical Colleges and the Factory schools is much increased. In the Medical Colleges and Teachers' Academies the majority are women. Private schools are abolished. In Soviet Russia not only elementary education but also secondary education is imparted free. The tradition that the sole sphere of women is the house has persisted longer in Germany than in other countries. It is regarded as a waste to spend money over female education. So attendance at continuation schools is compulsory for girls only in some States like Bavaria, Wurttemberg, Baden and Saxe-meimingar. In Berlin, compulsory attendance for girls was introduced only in 1931. Under the Fascist regime, in Italy, the admission of women to the Universities is restricted, the object of female education being to prepare her for the life of motherhood and to make her the perfect mistress of the house. With this idea the girls are treated to a special course in hygiene, domestic science and Fascist culture. In Denmark, there are schools of household economy and summer courses for young women which give them training in sewing, needle-work

sanitation etc., There are also continuation schools for rural boys and girls. Government gives them aid though they are private schools. There is an old custom in Denmark according to which it is usual to send young women as soon as betrothed to some country-home, otherwise called the 'manse,' to undergo a year's training in practical house keeping. In China there is a regular campaign against illiteracy. They want to establish mass schools and institutes of mass education. Beginnings have already been made in the districts of Chow-Ping and Ting-Hsien. In France, between 6 and 13, compulsory attendance of full time is enforced both for boys and girls. Secondary education also is given free. Thus we see that elementary education is made free and compulsory, both for boys and girls, in almost all the countries of the world.

As regards giving rural bias to elementary education in India, the report of the United Provinces Unemployment Committee, presided over by Sir Tej Bahadur Sapru, recommends such a course. Sir M. Visvesvaraya also, in his book "Planned Economy for India," suggests that in addition to teach-

ing the three R's the education should include instructions on agricultural products, cottage industries and occupations and the essentials of home and farm accounts. The success or other wise of this scheme is yet to be seen.

As regards secondary education, separate high schools have been provided for, both for boys and girls, though the institutions provided for girls are far less in number. This paucity of girls in the high schools is mainly due to the prevalence of the system of early marriage in India. The notion that the sphere of women is the home and consequently any expenditure of money to train girls would be wasteful has still hold over many an adherent. But the consolation lies in the fact that signs are not wanting to warrant that people are showing more and more interest in giving their daughters decent education. There is consensus of opinion as to giving a bias to technical or professional course after one passes the Matriculation Examination. The Hartog Committee point out that primary education or mass education as it is called is very necessary in all the

cases whether one would prefer general education or vocational course in his advanced study. As regards Secondary education they plead that the object should be to provide varied forms of training which would suit large numbers of boys and girls of varied attainments and circumstances. But the present system of education provides no choice at all. The Sapru Committee recommend that the High School course should result in the issue of two kinds of certificates, one recording the completion of Secondary education and qualifying for admission to a profession or calling and the other qualifying for admission into the arts and science Intermediate Colleges. Germany has two types of Secondary classes, the classical and the modern, the latter having realistic curricula including practical subjects for study. Secondary education should not be made exclusively an avenue for the Universities. There should be extension and diversification. This kind of democratization of education is going on in all the countries. Efforts are being made everywhere to see that the educational system is reformed and adjusted

to the economic needs of the land. No doubt we see here and there women taking up to professional courses and practising as doctors, lawyers and teachers, but very few women could be seen taking up to other advanced technical courses. In fact the number of scholars, under professional and technical course, is very small as compared with the conditions elsewhere.

As regards the University education all the eighteen Universities in India, including the two that are in the States, provide for the advanced studies of women. Arts Colleges, Science Colleges, Medical Colleges and the like admit students of both the sexes. A few girls also attend them. In many parts of India separate colleges for girls are also maintained. In this connection special mention may be made of the Indian Women's University at Poona, which was founded by Prof. D. K. Carve in 1916. It is called the Shrimathi Nathabai Damodher Thackersey Indian Women's University. It is not a recognised institution, being established neither by an Act of the Legislature nor by a Royal Charter. It has got branches all over the

Bombay Presidency and it is doing pioneer work in the cause of female education. Women that enter the various colleges for advanced studies are very few. To give an instance or two, in 1931-32 there were 12,404 male scholars in recognised Arts Colleges in the Madras Presidency whereas there were only 509 females in the same; in Bengal there were 366 female scholars as against 19,378 male scholars.

We will now see how far co-education exists in India. In almost all the countries of the world co-education exists in the Kindergarten, Primary and University courses. Secondary education is given separately. Russia forms an exception to this rule. Co-education is general by law in all the educational institutions. In India separate schools are maintained for boys and girls in the primary stage. But there are also mixed primary schools, in villages and towns, wherein education is given both for boys and girls together. Secondary Schools are kept separate except in Patna wherein co-education exists in a few High Schools and Colleges. As regards the Intermediate and Degree class-

es though separate colleges exist for women they come to males' colleges in many a case for such courses as are not to be found in their colleges. In some cases, due to financial stringency, mixed education is given in the colleges.

It will be of much interest to know the opinions of the various Indian Universities on this point. In accordance with a resolution passed by the Inter-University Board the opinions of the various Universities were invited on this point which had been referred to the Board by the Universities of Calcutta and Delhi. Eleven Universities replied, Madras not being among them. All unanimously agree that while co-education may be permitted and even encouraged up to the age of ten, it is not desirable in the present conditions in India either in the secondary or the intermediate courses. The Calcutta University is against co-education in schools of girls of above ten years of age. The Decca University considers that in the pre-university stage boys and girls should be in separate institutions. The committee appointed by the Lucknow University while support-

co-education up to the age of ten considers that separate institutions are advisable in the secondary stage, but if in a place there is only one school, girls should not be prevented from joining that school if their parents so desire. This committee also suggests that women teachers may be employed in the primary schools, even for those meant for boys. This is an important and practical suggestion which could be given effect to immediately. In the Punjab a good number of women are attending the men's colleges, though there are two first grade colleges for women. In Mysore also women come to the mens' colleges for advanced studies. As has already been observed there is general consensus of opinion in favour of co-education not only in the Kindergarten and primary classes but also in the Degree classes and post-graduate courses.

As regards literacy India is in a very backward condition. This is particularly so among women. The traditional notion that the place of women is the home should disappear and everybody should bear in mind the saying that knowledge is the way to life and virtue.

CHAPTER VIII

AN ARGUMENT

"Full many a flower is born to blush unseen,
And waste its sweetness on the desert air."

Grey.

J. S. Mill has said: "Experience does say that every step in improvement has been so invariably accompanied by a step made in raising the social position of women that historians and philosophers have been led to adopt their elevation or debasement as on the whole the surest test and most correct measure of the civilization of a people or an age." Gladstone also once said at a meeting: "When we are seeking to ascertain the measure of that conception which any given race has formed of our nature, there is perhaps no single test so effective as the position which it assigns to women." If the present condition of Indian women is judged in the light of the above observations one has to painfully admit the statement made by Margaret E. Cousins in her book "The Awaken-

ing of Asian Womanhood." She says: "With all the good-will in the world my daily growing experience of India brings with it a daily growing knowledge that when compared with the freedom of thought, word and action in which the women of other countries live, the women of India are the most fettered and cramped in the world to day." Of course we do find notable exceptional groups as in the west coast. But what she says is generally true. "The mental vision of our women scarcely extends beyond the limits of the individual domestic concerns. They are entirely ignorant of those large interests of humanity, a just comprehension of which alone entitles them to the dignity of citizenship."

We have already seen in the previous chapters the causes for the backwardness of Indian women. There are many legal disabilities in removing which one has to encounter much opposition from the orthodox and the conservative. It was a common tendency among the ancient Hindu law-givers to group all rules of human conduct and every sphere of social and political relationships

with religion. Vyavahara was considered as part of Dharma. Consequently religion played an important role in moulding a man's career and character. Legal rules as well as moral and religious precepts were intermixed. As the Privy Council has observed it the rules of Hindu Law are an admixture of morality, religion and law and it is not often easy to determine where religion ends and morality or law begins. Whenever efforts are made to bring about reforms by legislation people come forward with the plea that the existing laws are not only of immemorial times but also are of divine origin, emanating from the God and hence immutable. There are others who cleverly avoid taking sides by saying that they want reforms but not by coercive measures as legislator. If by educating the public alone we try to bring about changes in all these directions it may at least take one hundred years more to expect that stage when people, realising the havocs that are wrought by many of the existing customs and habits, voluntarily consent to a change. Even then the demand for a change may not be with one voice. At every

age and in every country no legislation has been passed so far without opposition, particularly when it affects social and religious habits. Our experience reveals the fact that the more the people are educated and enlightened, the less will be the opposition for such enactment. We should have awaited that blessed day when education and enlightenment would have imbued everybody with sufficient knowledge to free themselves from the shackles of age-long bondages if we could really afford to wait for that day. But our conditions do not permit us to allow these ancient laws, customs and usages to have a free play over us. We have had enough of strife, suffering and slavery. A comparative study of the progress of the different civilizations of the world, a cursory glance at the material progress attained by the different states and a knowledge of the annual economic output of every country and the resultant high or low standard of living of the average individual of every state, should enable every one to understand that our meagre progress in every respect is not little due to the very negligible position we have given to our

women. So the Government which is the guardian of the people should take the initiative for the time being and try to bring about such social reforms as are necessary for the happiness of the people. It is true that the Government were showing interest in the promotion of social reforms, as in the case of the abolition of Sati, the Widow Re-marriage Act, and the Age of Consent Bill. That attempts had been really made even prior to this period, discouraging infant marriage and encouraging the re-marriage of widows, could be seen from what is stated in Havell's History. While dealing with the reign of Akbar, Mr. Havell says: "Akbar was as resolute in putting down Hindu practices which offended him as in braving the hostility of orthodox Mussalmans by adopting those which he liked. He not only prohibited the burning of Hindu widows against their will and prevented the Rajas from evading the prohibition, but also forbade the marriage of boys before the age of sixteen and of girls before fourteen, and interfered with the Hindu law forbidding the re-marriage of widows."¹ But the Govern-

¹ The History of Aryan rule in India. p. 475.

ment which experienced much opposition from the Hindu orthodoxy while attempting to pass the Age of Consent Bill shrank, after that unpleasant experience, from taking the lead in social and religious matters. But the Government cannot escape the blame for having avoided its duty under the guise of religious neutrality.

There is also another reason which we have got to consider while discussing the need for a change in the social organisation. "Circumstances alter cases" is the saying. In a particular period the circumstances may be such as to necessitate the enactment of a particular piece of legislation. After the lapse of a considerable period the environment might change. Circumstances might so alter as to warrant an alteration in the laws and customs which were certainly good under different circumstances. So the "Time-spirit" is to be taken into consideration. A time did exist when social and religious customs dictated the standards of behaviour. India consisted only of villages then. The village Panchayat was the sole deciding factor. If a villager went against any of the customary

rules he was deprived of the privilege of taking water from the village well. He was not admitted to participate in the village Panchayat. Nobody was allowed to give him any help in distress or delight. The village in every respect was self-contained. Everybody was afraid of social opinion. The decision of the Panchayat was final on every point. Such was the rigidity. Nor was there freedom of individual action. Anybody could not take up any profession which he liked or which suited his temperament most. Caste fixed the profession of the individual. But look at the present age with all its discoveries and inventions. No State could afford to remain isolate at the present day. The village has ceased to be what it was generations ago. Social opinion is powerless at the present day. The age of unquestioning faith and implicit obedience in the words of the elders is gone. This is an age of reason. Mr. G. Subramanya Iyer, late Editor of the Hindu once said: "How many of our Brahmanical class are spending their life either in sacrificial rites or in secluded contemplation, as written in the Vedic literature or in the Smritis. India can no more go back to that primitive stage

than the great British Nation can go back to the age of the Druids." The Industrial Revolution has necessitated a change in every direction. Industrial towns are growing everywhere. They observe no standards. If a man is driven out of the village there is immediate demand for his labour in the factory which does not look to his observance of the standards. As Mr. Panindakar points out he no more goes to the village tank for water for there is the water pipe belonging to the Municipality or the Government which will not deny him water. The whole social outlook on life is fast changing. The caste system is giving way under the impact of European civilization and culture. The joint family system is fast disintegrating under the economic pressure exerted by the industrial and democratic West. This tremendous change from the old to the new is what is called the "Time-spirit" or "the changes-in-time."

Pandit Jawaharlal Nehru has very aptly stated: "All nature changes from day to day and minute to minute; only the dead stop growing and are quiescent. Fresh water runs

on, and if you stop it becomes stagnant. So also the life of man and the life of a nation. Whether we want to or not we grow old. Babies become little girls, and little girls big girls and grown up women and old women. We have to put up with these changes. But many of us refuse to admit that the world changes. They keep their mind closed and locked up and will not permit any new ideas to come into them. Nothing frightens them so much as the idea of thinking. What is the result. The world moves on inspite of them and because they and people like them do not adopt themselves to the changing conditions, they are big burst-ups from time to time.”¹

In the light of the above observations one has to see whether a Manu's Code, compiled probably in 200 B.C, or a Yajnavalkya's Institute, written in the 4th century A.D. or a Narada Smrithi, written in the 6th century A.D. should be held solely as a working guide in the 20th century when Internationalism is the order of the day. When we say that the old order should

1 Glimpses of World History. Pandit J. Nehru, P. 8-9.

give place to the new we do not for a moment think of denying or disputing the greatness of the ancient revered sages. We entirely agree with the German philosopher Neitzsche when he says, "Such a book as that of Manu sums up the experience, sagacity and experimental morals of long centuries..... To draw up a law book like that of Manu means to permit the nation henceforth to get the upper hand, to become perfect and to be ambitious of the highest art of living." Swami Vivekananda has rightly said that there is no other country in this world whose institutions are better than the institutions of this land. A time did exist when India was dominant in every respect. Thousands of years ago, when the whole of Europe had been inhabited by wild tribes, India had a civilization of her own which ranked second to none. But now times are changed Europe is more advanced in every respect than India. This, if not anything else, proves that nothing in the world that is alive remains unchanging. So when we initiate the people into the codes of our revered Manu and Narada, we must so

modify them here and there as to adjust them to the changed circumstances of the time.

While pleading for social reform and freedom of action in conformity with society and social ideas we can even quote instances from ancient law-givers themselves to support the plea that as we change with changing circumstances so too must our laws and regulations. The Dharmasastras do not say that Dharma and Achara are unchangeable for all times to come. On the other hand they support the theory that it should develop with time, necessity and circumstance. In Manu's Code, Aditya Purana and Veera Mithrodaya we get stanzas to the following effect: "The decision of good men is on matters of law of the like authority as the Vedas," "What is repugnant to the town or the country or what is forbidden by the King, that should not be accepted by the knowers of law." Indeed Brahaspathi and Yagnavalkya go a step further and condemn the blind following of the Shastras unmindful of the effect it produces on society. Brahaspathi says: "Decision should not be based on the Shastras. By an unreasonable statement there is loss of Dharma."

Yagnavalkya says: "By act, mind and speech, practise Dharma with care. But practise not that which is abhorred by the world though it is ordained in the text books, for it does not secure spiritual bliss."

As we have already observed in a previous chapter during the Vedic period women enjoyed much liberty, both as regards person and property. Jaimini, in his *Purvamemamsa*, refers to three aphorisms: "Women are likewise possessed of wealth," "They have the capacity of owning and possessing wealth and property," "By virtue of the Vedic texts the husband and wife, both being capable of possessing wealth, should perform sacrifices jointly." These show that women were possessed of property even at that time. Women also were not condemned to ignorance. But a time came when there was a dire need for physical power to protect their persons and properties from the attacks of the enemies. As a consequence of this woman's claims and rights were overlooked and man usurped superiority over woman. By the time of Baudhayana this tendency to ignore woman's claim reached its climax. He has

said: "A woman is not entitled to the heritage, for according to the Veda women are considered devoid of prowess and incompetent to receive a portion." Thus what was adopted at the time of the Dharmasutras as a temporary contrivance to meet the exigencies of the moment was later on converted into a permanent feature. Referring to Dr. Deshmukh's Bill concerning Hindu women's rights to property, Dewan Bahadur H. Sarda has said: "The measure has been long overdue. It is of vital importance to the welfare of Hindu society because it seeks to do some justice to Hindu women who are groaning under the burden of much injustice. The peculiar social organisation adopted by mediaeval thinkers of India deprived the women of the status of coparceners enjoyed by men, and an ignorant interpretation of an old text took away from them what rights had been left to them under the social system." Another instance of an analogous nature could be stated here. Before the Mahomedan invasions of India in the 10th and the 11th centuries, early marriages were not common in India. But as a result of their invasions people resorted not only to early

marriages but also to the purdah system to protect their families against the foreign intruders. In this case also measures which were contrived as a temporary device to counteract the intentions of the foreign invaders became a permanent feature and have continued even to this day. These instances only show that woman's position in society is changing with changing times. It is not static as some people want us to believe. Neither is it true to say that the nature of the two sexes makes them fit to their present function and position. "Nobody could know," says J. S. Mill, "the nature of the two sexes as long as they have only been seen in their present relation to one another. If men had ever been found without women in society, or women without men, or if there had been a society of men and women in which the women were not under the control of the men, something might have been positively known about the mental and moral differences which may be inherent in the nature of each. What is now called the nature of women is an eminently artificial thing—the result of forced repression in some directions, unnatural stimulation in others."

From the political viewpoint it is necessary that more and more of women should be given the vote. Democracy is the rule of the people by the people or by the representatives of the people and for the people. As the present day states are large nation states direct democracy or rule by the people is not possible. Instead of it we find everywhere rule by the representatives of the people or indirect democracy as it is called. By exercising the ballot she will signify her individual will in forming the national opinion or in determining the character of social control. If she is not represented in the various representative bodies which make the laws she will be powerless to influence the law makers, or to regulate the administration so far as it affects her. The legislature makes laws for every one of either sex covering every field from the school house to the factory and the hospital. Women who work in the different fields, such as the school, the factory and the hospital should be given an opportunity to ventilate their grievances and to suggest modifications so far as it affects them in the fields they work. Three international organisations

namely the International Alliance of Women for suffrage and equal citizenship, the Open Door International and The Equal Rights International are striving to achieve this end. The Governments of Paraguay, Cuba, Ecuador and Uruguay are the first Governments in the whole world to realise the importance to the worlds progress of adherence to the principle of the equality of the sexes. The other States also are realising the truth of it and they are extending the franchise to more and more of their women. Under the Government of India Act of 1935 no doubt the franchise has been extended to some more percentage of women. But still the figure is very unsatisfactory. The sooner this deficiency is covered up the better it will be not only for women but also for the nation as a whole.

In the economic sphere the benefit of almost half the population is lost to India because men still think that the sole sphere of women is the home. Early marriage deprives them of education. Early maternity degenerates their vigour. The purdah system that prevails among the Mahomedans and also among some Hindus

prevents them from going out of the house to work in the field or in the factory. Due to one reason or the other the energy and enthusiasm of almost half the population of India is denied to the nation. Consequently the national income of the country is very low as compared with those of the other nations. The per capita income and the per capita wealth are very insignificant. "In order to get the best out of the nation," says Sir M. Visvesvaraya, "the women folk of the country should be put to work in increasing numbers and made to produce or do things for which they are best fitted." The examples of Russia and Japan are noteworthy in this direction. They work along with men in all the industries. In fact one of the urgent demands of the Revolution of 1917, in Russia, was that women should be accorded equality in state, in industry and in intellectual life. We may look to any industrially forward nation. The progress is in no small measure due to the growing participation of women in industry. It is an accompaniment of the process of industrialisation. "If a woman in this country," says Sir M. Visvesvaraya, "is enabled to do

even two thirds of the work of a man and if the work of both men and women is simultaneously regulated by local and national organisations, the capacity of the nation to build up prosperity will advance at a bound."

A good education is very necessary to make one a good citizen. Wherever democracy and self-government prevail there must be as a condition precedent universal education. The working of a successful democracy presupposes an educated electorate. An educated wife will certainly be in a position to give her children a good training. A tamil proverb puts it: "As is the thread so is the cloth; as is the mother so is the child." Instructions in after life often fail to counteract the evils of early acquired bad habits. Even to an ordinary woman who has no such ambitions in life and who wants to lead merely a married life education is very necessary. The authors of the Report of the Age of Consent Committee have stated: "It is necessary that every girl that looks forward to lead a married life must have a minimum knowledge for the proper fulfilment of even the limited functions of wife, mother and

keeper of her home. One must have enough knowledge to conduct a home and bring forth and rear up children and even educate them to some extent. She may have preferably more knowledge about her duties to society but in any case she must have this minimum."

Some might curiously ask as to what good do we derive from all the changes proposed in our customs and institutions. Others might question as to whether mankind would be at all better off if women are free. The answers to these questions could best be given by quoting what J. S. Mill has stated in his book 'The Subjection of Women.' "The sufferings, immoralities and evils produced in innumerable cases by the subjections of women to men are far too terrible to be over-looked. It is true that the abuse of power cannot be very much checked while the power remains. It is a power given or offered, not to good men or to decently respectable men, but to all men, including the most brutal and the most criminal. By improving the condition of women there will be the advantage of having the most universal and pervading of all human relations,

regulated by justice, instead of injustice. Another benefit to be expected from giving to women the free use of their faculties, by leaving them free choice of their employments and opening to them the same field of occupation and the same prizes and encouragements as to other human beings, would be that of doubling the mass of mental faculties available for the higher services of humanity. Above all, the opinion of women would then possess a more beneficial influence upon the general mass of human belief and sentiment."

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ERRATA

- Page 5 line 22 for " a women "
 read " a woman "
- Page 10 line 12 for " inplant "
 read " implant "
- Page 11 line 22 for " qualitesy et "
 read " qualites yet "
- Page 42 line 8 for " poygamy "
 read " polygamy "
- Page 119 line (top) for " Leagl "
 read " Legal "
- Page 145 line 17 for " the right, "
 read " the right. "
- Page 146 line 3 for " Rugular "
 read " Regular "