

WIDOW REMARRIAGE: IS IT THAT EASY?

Written by **Bhumika Verma**

2nd Year BA LLB Student, NMIMS Kirit P. Mehta School of Law

INTRODUCTION

We live in a Patriarchal society where a woman is always suppressed and can never be on the equal footing as man. People of the Indian society have the perception of women being of the lower status because of their upbringing and old beliefs which is in scripted in them. ‘Women are the slaves of their husband’. This phrase may not be explicitly said by the way of words but it is definitely practiced by the way of act, customs, beliefs and norms of our Indian society. In an institution called marriage where both husband and wife should always be on the equal footing, a woman is always deemed to be inferior to her husband. The life of a woman only surrounds around her husband. Basically, the sole reason if living is her husband. This above reasoning can be proved by the brutal practice of Sati System which was prevalent in India in the ancient time. The Sati system is a practice where a widow is supposed to jump in the pyre of her husband on account of his death. So, according to this brutal practice if a husband of a woman dies she doesn’t have a right even to live and this senseless act was considered as heroic act at that time. There is no social existence outside of her husband social existence or identity. If her husband is no more then there is no identity of his wife also but this same practice was not applicable on men. The men were not forced in the pyre of his wife in case of her death and they also had the right to remarry.

Sati system was abolished in 1829 by the efforts of Raja Ram Mohan Roy. After the abolition of this one brutal practice another brutal acts of regressive customs, belief etc burdened the widows while they were alive after the death of their husband. Widow deaths after the death of her husband reduced after the abolition of sati system but they were mentally and socially dead by the treatment they receive by the society. It is very hazardous, painful and humiliating for a woman to enter into widowhood as compared to a widower because of the obvious discrimination which woman faces in an Indian society. In the name of widowhood cruelty is

inflicted upon the widows in the form of various restrictions. Even animals had a better life than widows at that time. They were termed as “vidhva” and were treated as a burden on the family. They believed that she is “ashubh” for the people around her. For the family if she is dead then it is fine but if she is alive they always uses this phrase “kha gayi apne pati ko” to humiliate and blame her for the death of her husband. She lives with guilt for even taking breath right after the death of her husband. They were forced to crop their hair and go bald and wear white saree only as it was believed that there was no colour in their life after the husband’s death. They were confined in a small place and no proper food was given to them. A solution was needed for improving the worsened condition of widows and for the overall growth and upliftment of widows. They lose the security, love, protection etc from their life which was provided to her by the husband. So, remarrying them was the one of best solutions to get them back to the mainstream of society. It is not easy to accept the new conditions and live with a new person but that gradually can solve many problems.

Ishwar Chandra Vidyasagar tried to improve the status of Hindu widows and encouraged the practice of widow remarriage. Many Social reformers and activists were also against the deteriorated situation of widows and were in the favour of legalizing widow remarriage. These continuous efforts of Ishwar Vidyasagar and some of the reformers lead to the Hindu Widow Remarriage Act, 1856 which legalized widow remarriage.

HISTORY OF WIDOW REMARRIAGE

In 19th century the widows were living a miserable life. The life of a widow was termed as misfortune. They were deprived of basic social rights as well as the property rights. They were victims of cruelty and were tortured by the family members. Tired from all the tortures they sometimes ran away to the ghats of Varanasi. Widows were forced to leave all the comforts of the life as a punishment of her husband’s death. There was a practice prevalent in Bengal where old men married pre-pubescent girls belonging to poor families. When these girls by any circumstance widowed young, live their remaining life with a social stigma and live a life worse than an animal. These deteriorated conditions of the widows awaken the social reformers to make a change in the society and make it a better place for these widows.

Ishwar Chandra Vidyasagar, the man behind creating a better environment for widows was born in Birsing village of the Midnapore district of West Bengal. He was an educator and reformer. His own life experiences pushed him to do something for the widows. Reformers like Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar were determined to remove the orthodox practices from the society. In 1854, he started a campaign by writing Tattvabodhi Patrika for widow remarriage.

In 1855 Vidyasagar filed a petition before the government to pass legislation that will permit the Hindu widows to remarry. Ishwar Chandra Vidyasagar collected almost 1000 signatures in his support and sent his petition to the Indian legislative council but equally opposition was also there from the conservatives. Due to strong campaigning and public pressure the Widow Remarriage Act, 1856 was passed by the Administration of the East India.¹ Widow Remarriage was legally recognized but to make it socially accepted by the people was the biggest task for the reformers. The first widow remarriage was between a child widow Kalimati Devi and Siris Chandra Vidyaratna in Calcutta by the initiative of Ishwar Chandra Vidyasagar. Vidyasagar is remembered in today's time also as an important part of history who is known for his progressive and developed ideas who wanted India to get rid of from the chain of orthodox mentality. He not only supported the widows but he also worked for the girl's education by setting up school for them and campaigning for girl's education.

PLIGHT OF WIDOWS

Widows in India not only suffer with social and economic problems but also face many psychological problems such as loneliness, sense of deprivation causing emotional trauma and imbalance. They face many problems like loss of spouse, security and income. They always have a sense of insecurity without her husband. There is lack of love, care and affection which every woman deserves. There are many restrictions imposed on them like they can't go out for any wedding or ceremony. They have to live in a corner of the house not getting a chance to eat good food. They have to wear only a white colour saree and were asked to sleep on the floor. They were basically tortured in the name of the custom.

¹ Marking a Milestone- The Hindu Remarriage Act, <https://www.livehistoryindia.com/snapshot-histories/2017/07/26/marketing-a-milestone---the-hindu-remarriage-act>, 19 August, 2018, 2:32 PM

After passing of the widow remarriage act also widow remarriage is only legally accepted but it is certainly not socially accepted by the people of the society. Today many families are there who accept the widows and take care of them and support them financially and mentally but still there is a section of orthodox people who still believes that widow remarriage is a sin. Although we are living in 21st century in a so called “developing country” but still when it comes to widow remarriage there is no such thought as “developed”. People still have this orthodox mentality that widows can’t remarry. Today women while considering their second marriage has to see their children also because they know that her in laws would never accept her kids and they can’t afford to lose their kids. So, they spent their rest of the life in looking after their young ones. They have to perform the brutal mourning rites in many parts of the society in present time also. They are also victim of the abuse by their in laws. It is seen in many cases that after the death of the husband his brother tries to sexually assault the widow and take advantage of the situation. Many families treat the widow as their free servant also. They even don’t have the enough money to live their rest of the life. If a girl is widowed young then only she has a scope for remarrying but if the woman is widowed at an older age then she has to bear all the consequences. Dowry is also one of the reasons as the in laws are not ready for giving dowry on account of remarrying their daughter in law neither the parents have the required expense to marry their daughter again in many of the cases.

The main problem is that of shelter. In many cases families are not ready to keep them and in some cases they live on the mercy of their relatives. Today most of the widows ran to Vrindavan and Varanasi for shelter and some are forcefully thrown to such cities by their own family. Not only the poor families even there are women from the very rich and so called progressive families too. These cities are called the “widow cities” because of the no. of widows living there is very high. There are shelter homes for the widow but the condition of the homes is terrifying. They don’t have proper food to eat and there is no running water in their house. A widow has right to life under article 21 of the constitution. So, it is violative of her right. They usually beg in the streets of Varanasi and Vrindavan. They sing bhajanas in the temple and earn very less amount of money. They barely earn to even have one meal a day. Some of the young widows are sexually assaulted and some of them are forced in the prostitution.

Younger widows have more chances as compared to older widows to remarry and led a normal life but instead they are forced in prostitution and are sexually assaulted because remarrying

widow is still a taboo in an Indian society. Only few sections of the society have progressive thoughts regarding widow remarriage.

Supreme Court has directed to setup the committee for working upon the rehabilitation of widows but much cannot be done until and unless the people will be willing to contribute and tries to change their mentality and outlook towards these women. These women of our country need our support and care to come back to the mainstream of society.

The Supreme Court of India in *The Environment and Consumer v. Union Of India* stressed on encouraging widow remarriage. A bench comprising of Madan B. Lokur and Deepak Gupta said that there can be little or no doubt at all that widows in some parts of the country are socially deprived . Petitions were filed and taken up in public interest for the betterment of widows in Vindravan and in other ashrams in the country.

It is a pity that these widows have been so unfortunately dealt with, as if they have ceased to be entitled to live a life of dignity and as if they are not entitled to the protection of Article 21 of the Constitution. A petition was filed under Article 32 of the Constitution essentially for an appropriate writ requiring the Union of India and the State of Uttar Pradesh to take all steps to rehabilitate the widows of Vrindavan so as to bring them to the mainstream of the society where they can live with dignity..

The petition was filed on the basis of an article ‘White Shadows of Vrindavan’ written by Atul Sethi and published in the New Delhi edition of the Times of India of 25th March, 2007. The apparent intention of the article was to report and bring to the notice of the public and the government agencies the pathetic and shocking conditions of the widows living in Vrindavan - begging in temples and then huddling together in hovels. Broadly speaking, the article described the city of Vrindavan in which abandoned widows live a hand to mouth existence like white shadows thus giving the city another name that is the City of Widows. Many of them are too old to look after themselves requiring others to pool in their resources to look after them.

The Court took up the petition in public interest and passed certain significant directions. National Commission for Women was directed to prepare a comprehensive report on the problems faced by the widows. It was also directed that the report should contain the age groups of the widows, their family background and all other information relevant for the purposes of

this case. The Court directed that in order to mitigate the miseries of the widows, a Special Committee should be constituted to undertake an exercise of identification and enumeration of the destitute in Vrindavan - both those having shelter and those wandering in the streets without any shelter. The Committee was required to collect complete data of the widows including the reason for their shifting to Vrindavan and particulars about their family and their present source of income. A Committee was constituted to study all the reports filed in this Court and provide us with a common working plan.²

Supreme Court Bench was of the view that we should rehabilitate these women and skill should be imparted in them so that they can live an independent life. Bench also observed that there is no policy to encourage the widow to remarry. They were of the view that there should be some policy to encourage the widow to remarry especially young widow so that they live their life peacefully.

These guidelines of Supreme Court were for improving the conditions of the widows in Vrindavan who daily faces n number of problems in their day to day life.

COMPARATIVE STUDY

Earlier in Indian widows were considered as inauspicious, misfortune etc but due to the efforts of Ishwar Chandra Vidyasagar and many other reformers widows were allowed to remarry by the passing of widow remarriage act. It is legal in India for a widow to remarry. Although socially it is not accepted by many parts of the society but widow remarriage is valid and legal in India. Whereas in Pakistan widow remarriage of a hindu woman is made legal recently in May, 2018. Prior to 2018 a hindu widowed woman cannot remarry on account of death of her husband. She didn't have the legal right to marry again after the death of her husband. We are living in a 21 century still in Pakistan few months back there was no right given to a hindu widowed woman to remarry.

² Environment And Consumer v. Union Of India, 11 August,2017, WRIT PETITION (CIVIL) NO. 659 of 2007

A bill was passed by Pakistan's Sindh which granted Hindu women the right to remarry six months after separating from her spouse or after his death.³ Prior to the passage of the bill, divorced or widowed Hindu women in Sindh were not legally allowed to marry for a second time after the death of her husband. A Pakistani leader in the house said that the hindu community especially their widows suffer a lot because of the outdated customs and traditions that don't allow them to remarry. They were of the view that they wanted to get rid of the outdated traditions and customs which is the main reason of amending the laws. The widows can remarry after six months of iddah.

Both the countries' law, India and Pakistan prohibits bigamy. A woman can remarry in case of only death and divorce from her husband and not if the husband is still alive.

In Afghanistan, the wife is treated as a property of the family so after the death of her husband a widow is forced to do levirate marriage in which she is asked to marry her husband's brother. They believe that there property is with themselves only. Also, if there is no son in that family the widow is not allowed to remarry outside her husband's family. It is socially and culturally not acceptable for a widow to remarry. They are always considered of a low status. Even a man who marries a widow is always demeaned by the society. If a man marries a woman they are not willing to accept their children and even if they are willing to accept their children they don't stand on their promise and forces a woman to abandon their children. Remarriage of a widow woman deemed to be a punishment instead of blessing when she is forced to leave her children. No mother can be separated from her child. The identity of girl before her marriage is that of her father and after her marriage is that of her husband. So, she is considered as socially handicapped after her husband's death. They don't have a clear policy for widows.

In Nepal the condition of the widows is same as in India. They are also burdened with the brutal norms made for the widows in the society. All the customary things of white saree, no jewelry, no good food, no outings etc. There the widows can remarry but they still see it as a taboo. According to the Nepali Marriage Bill, 2011 a widow can remarry if she is under 35 years of age and doesn't have a child whereas on the other hand a widower can remarry if he is under 40 years of age and doesn't have a child. ⁴So it is clearly seen that there is discrimination

³ Available at <https://www.hindustantimes.com/world-news/hindu-women-in-pakistan-s-sindh-granted-right-to-remarry/story-RrHx7QLnBtYzv0TVqTSN5J.html>, 19 August, 2018, 4:03 PM

⁴ Nepali Marriage Bill,2011

between both the gender. In 2009 Nepal government tried to uplift the conditions of the widows by offering money to the men for marrying a widow but was highly criticized by the many advocates and human rights organization on the grounds that there can be risk of violence and trafficking. This is basically like selling a widow and identifying her as a mere object. I also agree that this is not the right way to uplift the conditions of the women because it might be possible that a man marries a widow just for the sake of money and never give her the status of wife in his heart and treat her in an inhumane way. Secondly, she is a woman, a human and she is not a thing that we can objectify her.

India, Pakistan, Nepal and Afghanistan are highly patriarchal society so norms, culture and traditions of four of these countries are inclined towards one gender i.e. male. Women are considered as slaves of their husband and treated in the same manner with cruelty.

SUGGESTIONS

I think the root cause of any problem in the society is the mindset of the people. In order to make our country developed we need to develop our mentality also then only there will be overall growth in the society. The old mindset of the people needs to be changed according to changing needs of the society as society works on dynamics and it is not static. So, we should also not keep our mentality static. If the mentality of the people will be changed and they will be not judgemental then there no such thing will exist such as taboo, unacceptability, fear of getting judged, stigma, embarrassment etc. Widows are also humans and their husband's death is certainly not their fault and society needs to understand this. They should be treated with full respect and dignity and awareness should be created among the people so they can help these widows to come to the mainstream of the society.

In my opinion the government should help them to rehabilitate socially and economically. Due to the loss of their spouse some of the widows find it difficult to maintain themselves. So widows who are not financially sound and are not taken care by their in laws or family should be provided with financial support so that they can maintain themselves. There is policy of widow pension scheme but it is not properly implemented. The widows who are in dire need of the pension are not getting it and even if some are getting it is not sufficient to sustain in the

society and to lead a normal life. Since widow remarriage is still a taboo in Indian society and there is no source of income for them so government should provide them with decent employment and educational opportunities. These women should get atleast 2% reservation in government jibs so that the women who are qualified enough to get a job could get job easily for maintaining herself and her child. The women who are not educated enough to get a job should be provided with a job of aayah, peon, care taker etc. so that they can have 3 meal a day and also serve her child. There should be facility of vocational training centers provided to them. They should be given vocational trainings in accordance to their education. Through training facilities they can enhance their skill and can use their skill for earning money. They should be provided loan with concessional rate of interest in case if she wants to give higher education to her child. It is very difficult for a single mother to bear the expenses of the educational institute these days. The children of widow should be given under graduate education in minimal amount to the widows who are not that much financially sound to bear the education expenses. They should be provided with some amount of money in the form of held for their daughter's marriage. They should conduct awareness program for the general people so that it can had a little impact on their mind to change their mentality towards the widows. Government should create a clear policy regarding widow remarriage and for the betterment of the widows.

The various national and international organizations should launch awareness campaigns so that it can reach to the maximum people and help them to understand the plight of these widows. Media house and celebrities can do a great help for creating awareness and removing the stereotype mentality which people have for the widows. These people can reach to the maximum people because the general people follow them the most and get inspired by them and their films. They have a great influential power to influence the general people to change their mentality. Television serials, documentaries and movies should be made on them to show people the sad reality of the people.

Widow Remarriage can also be encouraged with the help of these television serials and movies. Some movies and television serials are made on them and it was a great initiative to create the awareness among them.

Though widow remarriage is legalized in India but still it is considered as taboo and being a widow is considered as misfortune. So the Supreme Court Bench was of the view that we

should rehabilitate these women and skill should be imparted in them so that they can live an independent life. Bench also observed that there is no policy to encourage the widow to remarry. They were of the view that there should be some policy to encourage the widow to remarry especially young widow so that they live their life peacefully. Instead of getting dumped in Vrindavan or Varanasi they can live a normal life.

The most important thing that can be given to a widow is counselling and guidance services because the most crucial thing a widow can get is mental support from a trained psychologist or a social worker because the death of her spouse is an emotional roller coaster ride for her because she is out casted and blamed by her in laws each and every time. Despite of giving her mental strength sand support she is blamed and tortured at every point of time for her husband's death. In spite of reducing her loneliness they do cruelty with her and make her life worse than before. So, mental support and counselling is the best thing she can get because she has gone through a lot after her spouse's death and it can really help for the mental stability of her. So, proper counselling sessions should be held for the widows in need of them so that come out of the trauma and feel a little light leaving the entire burden on her heart and mind.

The second most important thing is that widow should know their rights until and unless they will not now their rights nothing can be done for them. The widows should know what legal rights are available for them in their country. If they are not competent enough to know their rights, they should be educated about this so that they can exercise it well. If there is right given to them for remarrying if they don't know about this law they will believe in old customs and traditions and think that it is taboo in India. Hence, they will never be able to know what is right for them and they can remarry if they wish to do.