

WOMEN'S ASSOCIATION AND THEIR ROLE IN PUBLIC WELFARE: IN SPECIAL CONTEXT OF PROVIDING RELIEF TO THE PARDANASHIN WOMEN

Dr Vrishti Kanojia, Associate Professor

Department of History

Lakshmibai College, University of Delhi

Abstract

This research paper analyses and evaluates the social and legal status of pardanashin women and how Indian contract law has extended its shield to such women. The Indian Contract Act, 1872, more specifically Section 16 of the Act, is an effective tool that helps in protecting such women from undue influence and guarantees them that the contracts they signed were willingly and voluntarily. In the historical past, Pardanashin women were socially insecure since they rarely ventured out, received little education, and were heavily reliant on their male relatives. Because of such circumstances, they are vulnerable in legal contracts and businesses. The paper focuses on tracing the background of the Parda system as well as the effects that it had on the rights of women, and the role that this tradition played among the higher classes of Mughal and post-Mughal India. In addition, it examines the legal definition of Pardanashin status by using some superior judgments like Balai Chandra Parui v. Durga Bala Dasi and Sujana Kaur v. Chand Singh, among others, to demonstrate the circumstances under which a woman will fall under the category and under what circumstances a contract that a woman enters will be considered valid. Moreover, the paper analyses the current tendencies, the reduction of Pardanashin practices throughout the world due to globalisation, enlightenment, and women's movements, and outlines the improvements to be made to emancipate women still subjected to these traditions. Some include educating people or raising awareness, forcing people to vote or having compulsory voting, passing laws, and encouraging people's political and economic active involvement. Finally, this research concludes that although legal recourses are paramount for Pardanashin women, social transformation as well as social awakening are equally important to improve their living standards and allow them to have equal, efficient, and free access to contractual and civil life.

Keywords: Pardanashin Women, Indian Contract Act, 1872, Section 16 (Undue Influence), Legal Protection, Vulnerability, Empowerment

Introduction

Even though the society upholds equality of all people before the law, there are certain sections of the people who deserve more consideration and appreciation to enable them to enjoy their legal rights. Such are Pardanashin women, women with whom cultural rules leave no opportunities to have any interaction with the exterior world. While Section 11 of the Indian Contract Act, 1872 holds a general definition of competency to contract, it is Section 16 that assumes importance when it comes to Pardanashin women. This section pertains to undue influence and discusses when the mitigated party has substantial power over the other or has authority over the latter. This paper delves into the role of Pardanashin women when they were regarded as socially and economically secluded members of the

family who did not participate in any social or political process. Such exclusion confined their legal knowledge and recognition of their privileges. This made them helpless, especially in aspects that involved autonomy in decision-making areas such as property buying, credit facilities, or any other agreements. It therefore becomes the role of the law to offer these women a "special protection." It assumes that once a woman of pardanashin category becomes a party to a particular contract, it becomes the burden of the other party to show that the contract was entered into with the consent of her will and mind and not otherwise. It is a custom that has its origin in the historical and religious system of pardanashin women but has slowly been changing with time, influenced by changes in education and increased legal capacity. However, women still encounter exploitation under the pretext of culture to be practised. This paper presents a discussion of the extent to which these women are protected under the law, the cases that have defined their rights, and the areas that still require reform in matters of law and practice. From this perspective, the topic of the study looks at how the law can be a tool to enforce justice and equality for the citizens, irrespective of their gender or limitations.

Objectives of papers

Objective 1: *To Trace the Historical Evolution and Cultural Roots of the Pardanashin System in India*

Objective 2: *To Identify the Social, Psychological, and Economic Factors Affecting Pardanashin Women in Exercising Their Legal Rights*

Objective 3: *To Examine the Legal Capacity of Pardanashin Women to Enter into Contracts and the Extent of Protection Offered by Indian Law*

THE HISTORICAL EVOLUTION AND CULTURAL ROOTS OF THE PARDANASHIN SYSTEM IN INDIA

The remainder of this article has been comprised of an info graphic that is known as 'Pardanashin to Empowerment: Timeline Shift', which depicts the timeline of changes that have been witnessed by the women in India from the period of the Pardanashin system to the present era of the women's association empowering them through laws. From what is depicted visually, it shows two trends in progress. The degeneration of the Pardanashin practices and the emergence of women-based organisations for public welfare. It is important for the understanding of this change in women's status in society and how the beneficiary associations have given a face and voice to the most oppressed, such as the Pardanashin women.

Source: Historical texts, legal acts, women's associations

Pardanashin was a concept that meant women who were secluded in their homes, restricted in movement, and forced to be indoors and cover their faces with a veil. This practice has been widely practised for a long time by Muslim aristocrat families and even upper caste Hindu families, especially during the Mughal rule. Because of this, the practice of Purdah was deemed to be a sign of status, purity, and honour of the family and its women. Nonetheless, the damage was done, and its effects were legal, social, and educational erasure for generations of women.

For a start, during the Mughal Empire, which was period from 1526–1857, the concept of zenana or women's chambers in royal households was a perfect representation of this demarcation. It limited women's rights to education, property ownership and voting as well as other public participation. This was a period when women were fully dependent on men of the family and did not have a personal identity.

Colonial Influence and Social Reform

As discussed earlier, the practice of gendered segregation was continued during the British colonial period (1858–1947) of India, even though the British critics of Purdah existed. Thus, ironically, the British did not have to interfere a lot as far as women's conditions were concerned at the grassroots. But this period has seen social reformers such as Pandita Ramabai, Ishwar Chandra Vidyasagar, and Begum Rokeya who started to raise their voice against women's oppression. The fundamental establishments of female education and nonofficial organisations were the precursors to women's collectives.

From the data represented in the info graphic, Pardanashin trend remains high through the colonial period although the number of women groups rises slightly. These reformers supported education of women, widow remarriage, and rights of women over properties etc. which seemed to focus the first rays of light of public welfare of women especially the ones who were restricted because of Purdah.

Post-Independence Developments and Legal Reforms

Laws of this country since India's independence in 1947, the constitutional equality has been put in Articles 14, 15, and 16. From 1947 to 1970, this period is called the early independence period, during which there was a marked dwindling of pardanashin culture. Which comprise All India Women's Conference, National Federation of Indian Women and SEWA. Women started coming together to form organisations to fight against legal ignorance, women's abuse, health inequalities, and lack of access to economic power. These associations thus provided the lobby for those who could not lobby, especially the pardanashin women who were denied exposure to any political platforms. They began offering:

- ❖ Legal literacy camps: educating female clients about proper laws, such as marriage laws, property rights, and contractual laws.
- ❖ Vocational training: encouraging financial independence.
- ❖ Women's rights as to matters of shelter homes and healthcare to women who are barred from accessing public health facilities due to seclusion.
- ❖ Legal assistance in court proceedings on behalf of women who have been victims of fraud, coercion, or undue influence, especially in contract matters.

Modern India: Women's Associations as Public Welfare Agents

Of course, in Modern India (1970–2005), this is also evident that numbers of associations of women have been increased and having significant impacts as well, concurrently, Pardanashin practise has been rarely performed. Currently, most females in urban areas are educated and have other sources of income; however there are still some areas of cultural injustice within the female community through rural and traditional societies.

Modern women's associations, particularly the NGOs, have a significant responsibility in being able to go the last mile in as much as public welfare is concerned. For Pardanashin women, this means:

- Popularising the cause through door-to-door awareness crusade.
- Offering micro credit and legal awareness sessions to the secluded or illiterate women.
- Assisting in avoiding contracts that have been formed under undue influence.
- Working for change in personal laws of Muslim women concerning property, marriage, and child custody.

Legal Protection and the Role of Associations

Thus, as per the provisions of Section 16 of the Indian Contract Act, 1872, an agreement made under coercion is voidable. It has been time and again recognised by different courts that Pardanashin women are vulnerable to acts of exploitation. Thus, it is incumbent upon the other party to prove otherwise. In such instances, women's groups help in offering legal counsel or participate in legal battles or mediations for women. The Supreme Court and various High Courts, through landmark cases such as Balai Chandra Parui v. Durga Bala Dasi and Ashok Kumar v. The Gaon Sabha themselves have realised the need for protection of Pardanashin women and have gone to grant similar rights to other married women, literacy or socially restricted women included. Such cases are sometimes brought to the notice of such associations, and the victims are helped and provided with a representation in court.

THE ROLE OF WOMEN'S ASSOCIATIONS IN SUPPORTING PARDANASHIN WOMEN THROUGH LEGAL AID, HEALTHCARE, TRAINING, AND ADVOCACY

Thus, women's associations became an important factor that impacted the lives of Pardanashin women as the mediators between the traditional seclusion and the reinforcement of social position. In the past, the Pardanashin women used to remain confined at home according to the practice of purdah and were dependent. These women could not even be allowed to have legal awareness, health care facilities, economic stability, or education. Their absence in the public domain ensured that whenever there were contractual relations, predatory exploitation of the providers, especially in issues related to property rights, marriage, or social management. In this regard, women's organisations in India have provided a worthy public welfare intervention geared towards aiding this category of women. Compared to some previous contributions of women's associations, the most significant impact has been identified to be under the legal awareness pillar. Since these women were brought up in purdanas and were not allowed to go out freely, they remained and remain illiterate about the legal rights they possess and the legal actions they can take under the Indian law. Section 16 of the Indian Contract Act, 1872, which describes undue influence, tends to protect women such as these. Some outcomes seem to suggest that contracts signed by them are not necessarily voluntary or even informed. Although the legal awareness programmes for the Pardanashin women are not a new phenomenon, it was mainly the women's associations like the All India Women's Conference (AIWC), the

National Commission for Women (NCW), and the various state level women's rights groups who had taken initiatives to spread amongst this section of women. These associations seek to host camps, provide simplified legal information, and also offer free legal services to women who are in the bad books, such as those who fall prey to fraudsters, coercion, or other forms of domestic control. In this way, they empower women, who were excluded from legal and financial decisions in the past. Healthcare is another key area where Women's organisations have come in handy because disadvantaged pardanashin women have been unable to access basic healthcare services due to their status. Because a female in the household must be chaperoned by a male relative, or due to the strict prohibition of even speaking about health problems, the necessary prompt medical help cannot be called. Women's associations have endeavoured to come up with gender-sensitive healthcare outreach programmes. Mobile clinics and women's health care clinics are used to make health care easily accessible to even houses that are found within remote compounds. These are nursing care for pregnant and lactating mothers, family planning and counselling, and mental health care services, which all accord with culture but are vital.

The economic independence through vocational training has also been one of the most important areas of focus for the women's associations dealing with Pardanashin women. There have been efforts by many organisations to put in place training centres in different local communities in which women can be taught various skills, including garment making, embroidery, food processing from their homes, and computer skills. Such programmes empower women to work from the comfort of their homes, avoiding social norms from their traditional culture that women should not work, let alone go out to work. This not only improves their self-esteem but also minimises women's economic vulnerability to male members of their families, a factor that has been a problem in the past.

Thus, women's associations act as voices for advocacy and policy changes in these societies. They can be seen advocating for change in the personal laws, women's inheritance rights, and local governance rules as regards the Pardanashin women. These associations engage in the formulation of laws and lawsuits of public interest litigation (PIL) to ensure that new laws fulfil the requirements of secluded women. In terms of political culture and women's rights, they also contribute to an electoral awareness campaign, which helps women to exercise their rights and participate in any election. The indigenization process was done through the use of social media adverts, music, and dance, which sought to question why Pardanashin women should be absent from society. That is why, in the indicated aspects, women's associations have expanded their activism from being service-oriented to structural transformational. What they provide is not just a form of welfare, but they engage in forming structures of the empowered forever change. To the Pardanashin woman, who in the past could not speak and whose existence could not be seen, these associations are now avenues. Through the proclamations of knowledge, advocacy and empowering, the women associations have changed the perception of seclusion from that which is dictated by silence to that which the women willingly chose. They are also crucial conduits for the public

welfare service and particularly important for guaranteeing that no isolated woman is left in the lurch.

THE LEGAL CAPACITY OF PARDANASHIN WOMEN TO ENTER INTO CONTRACTS AND THE EXTENT OF PROTECTION OFFERED BY INDIAN LAW

The third objective of the paper is to examine whether the Indian contract law is capable of establishing the contract performance that Pardanashin women are capable of and to evaluate to which extent the Indian existing legal framework protects her against such vitiating practises. Generally, pardanashin or the women who in theocratic societies like purdah that do not venture outside their homes and have minimal or no contact with other men are considered especially vulnerable in legal regards. Their circumstances of operating in homes, reliance on male relatives, and illiteracy rendered them susceptible to be coerced into signing the documents whereby they could not even read the autographed documents. This specific objective can further be described as the critical discussion on how the Indian Contract Act, 1872 particularly Section 16 has been beneficial for deliverance of justice to such women.

According to the provision of section 11 of the Indian Contract Act a person to enter into a contract should achieve the age of majority, should possess a sound mind nobody should prevent the entering into of the contract. However, Section 16 is followed by an additional substantial section—it defines undue influence as a means and states the settings in which the contract is to be avoided in case one party has power over the will of the other. The following has had a great impact regarding the Pardanashin women in particular on some of the provisions. In this respect, referring to the remarks of the Indian courts for the most part is quite correct. Contracts concerning pardanashin women should be read with much consideration. In fact it is not the burden of proof on the side of the woman as it is on the other side that seeks to prove that the contract was legal. They once more have to explain that the woman understood the agreement and all the conditions that were provided within it, agreed to the terms in the agreement voluntarily without being coerced by anybody, and also that she did not make the agreement out of fraud from the side of the signatory.

The legal rights protecting Pardanashin women have extended to females that are not effectively secluding themselves, but those who are illiterate, ignorant, or secluded from the public domain. The logic is that not only physical but social and educational seclusion can also impact people's legal vulnerability. For example, in *Lakshmi Narain and Another Vs Smt. Hubraja Alias Barki* violently subjugated and erased of subjectivity, illiterate women can have no status if they are not qualifying as Pardanashin still they are also so held by the court. This is in line with what can be envisaged as a more general tendency of the law to safeguard the weaker party in a contract. To advice and protect the rights of Pardanashin women, these association has performed this great task in informing the women in matters to do with contract rights and assistance in case of a legal dispute. These groups also engage in legal advice giving, advocacy appearance in courts, and acting as lawyers for women and assisting the women in drafting or assisting in reading through contracts before signing them. In the aspects of property deals or loans, or any business related contract in which a married

woman called a pardanashin might be forced to sign without understanding the extent to which they are being blinded, it is them who play their role.

But nonetheless an essential legal structure is there and there are no doubts that there are concrete difficulties. For instance, for Pardanashin women living in rural or conservative areas, they do not realise that they have been wrong to challenge a contract that was signed under duress. Such instances, women organisation act as a mediator in taking up the cases and assist the women to negotiate justice in the courts. They actually supplement the provision of legal aid by creating areas of legal enlightenment, legal awareness and provision for mobile justice and paralegal services.

Conclusion

Indian pardanashin women who were primarily restricted to lowly positions in the social hierarchy and who were seen coming out to climb the ladder towards the women's association need to be noted as a slow changing role of understanding the public welfare of women in India. These women could not be educated, sought shelter under the law, access health or work because they were restrained through practises like purdah. Such persons were vulnerable and legal system of India together with the various laws like the Indian Contract Act Section 16 considered this vulnerability and has extended 'special cloak of protection' to do justice in the contractual matters. But as it has already been mentioned it is impossible to solve the problem only with the help of legal tools. Women's associations serve as change agents in teaching the legal rights of a woman, delivery of health services, training of women in vocational training, and in shaping policy. Thanks to such organisations, the Pardanashin women have the opportunity to be empowered in the level of knowledge of their rights and be more articulate to express and engage in the society. These women's associations hence, moderate the tension of the law and its interpretation by reconstructing the pardanashin women as vibrant citizens. Still today they are involved in the dismantlement process and they are deposit important role in an inclusive development. However, what is acceptable in contemporary India are such relationships are the 'conic' symbols of respectability that makes women understand that power does not only come from legal right but from other spheres of parity and equality in terms of companionship, education and interactions.

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