

The Development of Women's Rights: A Cultural and Judicial Perspective

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Abstract

If anyone wants to see how progressive the society is, they should look at the situation of the women there. Women have fought for their rights and equal position in the society, as a result they have covered a long journey from having very few legal rights to gradually recognised as equal member in the society. This article examines how women legal rights have evolved over time. The term "Jura Feminarium" simply means "women's rights" in Latin. This article analyses how the women rights have evolved from being almost non-existent to be recognised in today's legal system. The article focuses on several changes in women's rights such as right to own property, right to vote, access to education, equal treatment in the workplace and protection from violence and discrimination. This journey includes three main forces working together which are feminist movements (group of people advocating for women), new laws being passed and court decisions that supported equality. The article examines these changes in individual countries and around the world. In spite of all the changes, there is still a lot of work to be done to ensure that all women have equal rights and opportunities.

Keywords: Women Rights, Property, Education, Discrimination, Equality

INTRODUCTION- CONCEPT OF RIGHTS

It can be observed that sometime people argue about who's incharge or what gives someone the right to make decisions? This is because authority means different things to different people which can be confusing. For example, a teacher has authority in the classroom, a boss has authority at work, and the government has authority over the laws. But these are very different types of authorities which gives them different types of powers. The authority is not like a simple rule which can be looked in the book, it is like a concept that changes depending on where you are and to whom you are talking to. It can happen that one group finds the authority legitimate and other might not. If we talk about rights, there are various claims and entitlements. It is like opening a toolbox which contains everything from tiny screwdriver to big tools, but all have them have their own roles to play. There is a term called Spectrum of Rights which means the rights can be fundamental or universal, like right to life and right to vote which are very essential.

Then comes the rights which are very basic and practical like right to make phone call when arrested or right to use a machine when trained and licensed. Some people demand for personal or philosophical rights and some people demand for genetic rights. There are certain controversial rights also available to people like right to die. These rights can be derived from three sources: Firstly, Legal Rights where the law officially grants certain rights, secondly social rights where the society and community decide what people deserve and at last, moral rights which is what feels ethically corrects, even if it is not mentioned in law.

The rights act as a guide in the society which helps to understand that what a person can expect from its government or how can a person treat others. They are important

to figure out what is fair and just. Every developed society is built around the idea of rights. They influence how governments are structured, what laws should be implemented and also helps in deciding what is right and wrong for the society. The rights we can exercise today have not developed overnight. Each right is the result of years of hard work and revolt for changes in the society. If you look back in history, it can be observed that each time the changes have been brought in the society, people have made efforts to make the society a better place to live. Thousands of years ago our ancestors suggested us to move in a straight line with honesty, straight forwardness, and doing the right thing. And this idea of moving straight have helped us to evolve and helped us to understand what is morally and legally correct. Therefore, it can be concluded that the journey through time have been like ancient people said move straight, Germanic tribes said Riyaz, old English speakers focused on rights which we follow till date. If you walk across the streets of Europe you will still here the same word i.e., rights. If we talk about French people, they talk about 'droits', French talks about 'derechos', German discuss about 'Recht' and Italians refer to 'diritto'. Though the words are different, but all of them are taking about their rights and laws.

Literature Review

Fran P. Hoskin in his research have focused on the understanding of women's rights. She have raised a question that sounds simple but is complex: 'What exactly makes something a women's rights versus just a general human rights?'

Research Methodology

The research uses a systematic approach to examine rights by organising them in different categories. The methodology adopts four main criteria to provide a

comprehensive understanding of how rights play important role in society. The first analytical framework identifies different categories of rights bearers. This includes rights of children, workers, states and animals. Through this approach researchers examine how rights vary based on their capacity and characteristics. The second framework categorises rights according to their content and scope. This methodology examines what each right enables free expression, privacy, property_and bodily autonomy.

Further, the analytical approach focuses on the sources of rights and their legitimacy. This methodology distinguishes between rights based on moral rights, legal rights and customary rights. The last framework examines how rights function in practice, regarding their transferability and permanence. The methodology analysis the extent to which the rights can be modified, surrendered or revoked. These rights may range from inalienable rights to forfeitable rights to revocable commitments.

KINDS OF RIGHTS

There are following types of rights which this research seeks to mention:

- 1) **Natural Rights:** These are the type of rights which you are born with. These rights are not provided by the government or any authority but are inherited right from the birth. They come from laws, customs, and government decisions in particular country or society. These rights are with every person present on this earth. The governments can modify, expand or something can even remove these rights.
- 2) **Positive rights:** Positive rights are the type of rights which entitles you to have something. These rights come from the government. Your right to vote is a positive right therefore it is the duty of the government to set polling stations.

Therefore, if you went for voting and the polling stations were not available there, then it is the violation of your positive rights.

3) **Negative Rights:** These type of rights acts as a protective bubble around you.

When there a negative right with you then nobody is allowed to interfere in whatever you are doing. For example, right to not vote is a negative right, therefore government or any other official cannot force you to vote.

4) **Claim Rights:** This means that you owe me something. This right creates a direct relationship between you and another person. When a person has a claim right, then the other person automatically holds the duty to do something or not do something.

5) **Freedom Rights:** This type of right give the person permission to act but does not force anyone else to do anything. For example, the freedom of speech gives you the right to share your opinion, but the other person may disagree with you.

HISTORY OF RIGHTS

The definition of rights has changed throughout history, which shows that social values, political ideologies, and cultural norms keep on changing. It sometimes happens that one part of the society accept the rights but on the other hand other part of the society oppose it which may lead to social and political problems. The concept of rights has played an important role in the political sector. Law of Landal have helped to understand and clear that who is entitled to which right. These laws not only act as safeguards but also raise voice for justice, equity, and power. In ancient times, rights used to have authoritarian structures. These systems gave unequal rights which privileged certain classes or genders. For example, monarchs had unlimited power and they used to give few or no rights to their subjects and there was nobody to keep

a check on them. Such systems gave a preserved dominance to the upper classes. The modern democratic thoughts which were influenced by certain events like American and French Revolutions brought a significant change. These thoughts started talking about liberty, equality, and universality. These frameworks mentioned that rights are not the privileges given by the authority. They ensured that these rights are available equally regardless of their social status. This change is important for the development of human rights and to ensure that every person is treated equally.

IMPORTANT DOCUMENTS IN THE POLITICAL HISTORY OF RIGHTS

A set of legal and political texts have changed the global understanding of rights and governance. These documents have played an important role in the development of the legal systems that protect individual and collective rights:

1) The Constitution of Medina (622 AD)

This charter was drafted under the leadership of Prophet Muhammad. It established a legal framework in Medina. It provides rights and protection to various communities like Muslims, Jews, and pagans. It gave religious freedom for non-Muslims and secured safety for women. It talked about principles for justice and conflict resolution through judiciary.

2) The Magna Carta (1215), England¹

The court members compelled King John to agree with the rule of law. He agreed that the royal authority must function within the reasonable limits. It protected the rights of nobility and evolved to support the principles of due process and the idea that even sovereigns are bound by law.

3) The Declaration of Arbroath (1320, Scotland)

¹ *Magna Carta*, 1215, reprinted in 1 *Statutes of the Realm* 5 (1810).

This document is a cornerstone of Scottish constitutional history which articulated the idea of popular sovereignty. It also ensured that the legitimacy of rules was derived from the consent of the governed.

4) The Henrykian Article (1573, Polish-Lithuanian Commonwealth)

These legally binding provisions laid out a constitutional monarchy based on parliamentary consent. They limited royal power and guaranteed the rights to oppose the ruler who violated their rights or freedom.

5) The English Bill of Rights (1689)

This document was passed by the parliament. It gave civil liberties such as free elections, freedom of speech within Parliament. It provided protection against cruel punishment. The Claim of Right, 1688 had similar intention. It showed Scotland's legal traditions and reinforced the principle that rulers must govern according to the will of people.

6) The Virginia Declaration of Rights (1776, United States)

This document was drafted by George Mason. It separated the natural rights from governmental authorities which laid the groundwork for later American constitutional developments.

7) The United States Declaration of Independence (1776)

It defined the political philosophy and also proclaimed the inalienable rights of life, liberty, and the pursuit of happiness. It inspired the constitutional reforms and revolutions worldwide and influenced the Declaration of the Rights of Man and of the citizens of France (1789), Article 13 of Post-war Constitution of Japan (1947), Declaration of Independence of Vietnam (1945), Article 13 of the Universal Declaration of Human Rights.

8) Virginia Statute for Religious Freedom (1785, United States)

This statute was authored by Thomas Jefferson. It advocated for the separation of church and state and promoted the individual's right to religious belief without governmental interference.

WOMEN'S RIGHTS

Women's rights are legal, social, and political entitlements for women and girls. They aim to address the historic and systematic inequalities they have often subordinated their status in society. These rights cover a wide range of issues and have formed the basis for major social movements which includes the women's rights movements of 19th century and the feminist wave of the 20th century. In some societies, these rights have been part of law and reinforced through cultural acceptance and in others, they remain restricted and denied. Women's rights are different from the general human rights because they address the challenges particularly faced by the women which may range from legal exclusion to cultural discrimination. These rights seek to correct the imbalances that have traditionally favoured men.

The general areas that women's rights include are right to vote, participation in political processes, equal access to education and employment, the right to own property and manage financial asserts, legal protection against gender-based violence and harassment, reproductive rights and bodily autonomy and equal treatment under family and inheritance laws. These rights not only seek legal equality but also promote social and economic empowerment. They aim to ensure that women can participate fully and equally in all aspects of life.

RIGHTS OF WOMEN IN ANCIENT CULTURES

In ancient times, the women were generally excluded from the political and legal rights. Though some regions such as Delphi, Gortyn, Thessaly, Megara and Sparta, permitted a degree of independence such as owning land. But with time their status slowly declined because legal frameworks were strictly enforced to limit the rights of women. In classical Athens, women were considered as legal minors and lacked independent legal status. They were usually considered as part of household and remained under the control of male guardians, mainly father or husband. Women were not allowed to be part of legal proceedings, owned properties indirectly like gold or stridhan and were restricted even for a minor economic transaction. The women were excluded from citizenship and political participation. Though Athen was considered as centre of philosophical and political thought, but these intellectual domains were only available to men. Women were restricted from becoming public figures, scholars or artists and were confined to domestic life. The historian Don Nardo observed that women in Ancient Greece had minimal civil rights and personal freedoms. The philosophers like Aristotle reinforced these patriarchal structures and portrayed women as inherently disruptive.

In Ancient Rome, women remained legally subordinate to the paterfamilias which is the term used for the male head of the family. A woman was passed from the authority of her father to her husband after marriage which means that they were controlled by men throughout their life. Although the power of husband over wife was not absolute as over children. Roman women were financially and legally dependent on male guardians. Interestingly, early Roman customs did allow for relatively progressive practices such as a married woman could legally divorce and remarry and cohabiting

relationships outside formal marriage were socially accepted. Roman law made no distinction between children born within or outside marriage. But, such liberal norms gradually disappeared and women's legal freedom diminished with the rise of Christianity.

Similar dynamics can be observed in German legal traditions. Lombard Code placed women under male guardianship which could extend to the king if no family member was available. While some elite women may seek divorce in cases of abuse. Legal protections were often denied to women of lower status such as servants, beggars and slaves. These classes were vulnerable to violence and exploitation.

EVOLUTION OF WOMEN'S RIGHTS IN THE MODERN ERA

The late 18th and 19th centuries observed a major change in the discourse on rights across Europe. These rights were driven by enlightenment ideals and growing demands for equality, liberty and justice. These movements were raised for religious tolerance, abolition of slavery, broader suffrage and rights for marginalised groups and women. In 1791, French activist Olympe de Gouges published the 'Declaration of the Rights of Women and the Female Citizen', as direct to the 'Declaration of the Rights of Man and of the Citizen. De Gouges criticised the failure of French Revolution to extend ideals to women and stated that true equality could only be achieved when women were recognised as equal to men. She supported equality of women for public roles and pointed out the hypocrisy of laws that imposed obligations on women without granting them rights.

British philosopher Mary Wollstonecraft after a year published 'A Vindication of the Rights of Women'² which is one of the earliest and influential works on women's equality. She stated that women's subordinate status is because of poor education and asked for equal opportunities for personal development. Wollstonecraft like other thinkers such as Damaris Cudworth and Catherine Macaulay demanded the application of universal rights to women which is based on their capacity. John Stuart Mill who is the member of Parliament raised voice for women's suffrage during debates of 'Second Reform Bill, 1867'³ and proposed to replace the term 'man' with 'person' in the legislation. His efforts failed but it bought public attention to the demand for women's voting rights in Britain. In 19th century women in Britain and United States faced legal inequalities in property and marriage laws. Women were denied right to vote, hold property independently or higher education. Laws like Married Women's Property Acts started challenging these norms and allowed women to own property and have some control over their finances.

Women's Voting Rights Movements

The worldwide moment for women's voting rights gathered attention in the late 19th and early 20th centuries. Starting with New Zealand in 1893 and followed by Australia in 1902 and several other countries began granting women right to vote. The changes were soon followed by Finland in 1906, Norway in 1913 and Denmark and Iceland in 1915. After World War II, many countries like Netherlands, Austria, Canada, Germany, U.S. and Sweden granted voting rights to women. In UK, the 'Representation of the People Act, 1918' gave voting rights to women above 30. In Canada, most parts enacted women's voting rights between 1917 and 1919. Quebec delayed these rights

² Mary Wollstonecraft, *A Vindication of the Rights of Woman* (1792).

³ John Stuart Mill, *The Subjection of Women* (1869).

till 1940. Other countries like Brazil, India, Japan and Nigeria introduced women's voting rights in 20th century.

Reproductive Rights

Reproductive rights are the type of rights which gives freedom and legal protections to individual regarding reproductive health and choices. These rights were recognised at 'International Conference on Population and Development in Cairo, 1994' and again mentioned by 'Beijing Declaration, 1995'. In early 1870s, feminists raised voice for voluntary motherhood. They mentioned about women's right to refuse unwanted pregnancy. This movement provided a base for future struggles over bodily autonomy and reproductive rights.

Modern Women's Rights Movements

The feminist movement in 1960s across English speaking countries was known as the women's liberalisation movement. Activists mentioned about equal pay, legal equality, reproductive autonomy and freedom from traditional domestic roles. The movement led to major legal and cultural changes. This progress is different across regions.

International Council of Women (ICW)

The International Council of Women was founded in 1888 in Washington DC. This was the first organisation focusing on women's rights. It consists of 9 countries and 53 organisations. It worked with bodies like League of Nations and United Nations. It is now based in Switzerland. It represents over 70 countries and continues its work through global meetings.

Women Movement in the UK

In UK, women's contribution during World War supported gender equality. In 1960s, there was a major legal change which like 'Equal Pay Act' and 'The Sex Determination Act' and the formation of 'Equal Opportunities Commission'. These efforts changed European policies which eliminated discriminatory laws.

National Organisation for Women (NOW), USA

NOW was established in 1996 and became a support for women's rights in the USA. It mentioned the 'Equal Rights Amendment (ERA)' which failed to gain attention. NOW is an important force for gender equality and legal reforms.

Women for Women International

Women for Women International was founded in 1993 by Zainab Salbi and Amjad Atallah. It assists female survivors of war by offering financial support, life skills training and vocational education. It has a headquarter in Washington DC and functions to empower women through community-based programmes and small business development.

CONCLUSION

The development of women's rights shows that there have been major changes in legal frameworks, culture and social values. From fighting against inequalities to have legal protections, this shows a growth towards justice, equality and empowerment. What began as a fight has now changed to upholding the women's rights.

Though some important changes have been made, but certain issues such as gender-based discrimination, unequal wages and limited legal protection are still there. To achieve a major change, it is important to enforce legal framework and bring changes in the society to ensure equality. Education and public awareness are very important tools to bring a significant change in the society. It is important to focus on other challenges also to achieve gender equality and changes such as workplace equality and reproductive autonomy⁴. The enforcement of women's rights will remain important to achieve human rights development. A fair society and justice cannot be achieved without including women and considering them equal.

⁴ Fran P. Hoskin, *Getting the Heart of the Matter*, Women's Studies Int'l Forum (1981).

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