

Social Justice – Widows Perspective

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Abstract

Widows in the state of Maharashtra have been very supportive of each other and are very independent individuals. In this paper 25 widows from Mumbai are interviewed and an attempt is made to define social justice from the perspective of widows. “Social Justice” meaning and definition from the views of society at large is laid down, it is time to redefine Social Justice from the perspective of the widows, for the widows and their partly orphaned children.

The widows interviewed, bring up their children singlehandedly and fend for their children. In the city ‘Mumbai’ which is the commercial capital of Maharashtra, these silent sufferers called ‘widows’ struggle to make ends meet. Irrespective of the strata of society the widows belong, they are subjected to the same torment by their family and people in their society. The law in the constitution states that the rights of widows and her children must be protected. Despite several attempts by various organisations to safeguard the right of the widows to live with dignity there are several women who refuse seek help from the law makers. This is a study spanned over 6 years, of the widows and their struggle with daily life. The study highlights the method employed by the widows to sustain and take care of their family. Their children are interviewed. The feelings of young children towards life, religion and society are documented.

Keywords: widows, society, social Justice.

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1. Introduction

Plato in “The Republic” formalised the argument that an ideal state would rest on four virtues wisdom, courage, moderation, and justice. Many Philosophers are mesmerised by the concept of Social Justice from the time of Plato. Social Justice and the justice prevalent in the law of state controlled system are very different and clear-cut. Definitions of Social Justice “refer to a society free from discrimination in its divisions, and distribution of resources”. Social Justice gets its jurisdiction from the rules of ethics and morality existing in each culture. Justice is based on the concept that a person must be accountable for his own actions, and face the repercussions for his wrongdoings. He would however be qualified to earn a reward for his toil and hard work. This lays down the fundamental principle that ‘justice’ meted out in terms of rules by the society or individuals in the society is not above the justice of the state and is in violation of human rights and the constitutional meaning of Justice. The underlying principle of justice is respect for independent, peaceful behaviour by one’s own choice without force. If society imposes rules over an individual /individuals out of disrespect and behavioural aggressiveness over situations that arise due to a natural calamity that is not under the control of that individual /individuals, then it is termed ‘Cultural rules’. The “cultural rules” would violate the basis on which the society is built they will restrict the freedom of choice and violate the basic principle of justice. Both justice and morality require respect for individual free choice not violating the rights and duties of any other. The idea of natural rights can be used to create a legal system that makes it possible for individuals to pursue happiness and live life with honour and dignity. Rawls is known for his theory of justice as fairness he assumes a society is composed of free and equal people having personal and political autonomy with equal set of circumstances and cooperative arrangements that benefit the more and the less advantaged members of the society. Rawls had feminist critics, such as Susan Moller Okin who focused on lacunae in Rawls theory. Rawls theory did not take into account the family relations, the injustices due to hierarchies among family members. Rawls argued that justice should only apply to the “basic structure of society.” Feminists were of the opinion that Rawls had failed to account for the “injustices found in patriarchal society and the division of household chores based on gender”.

“I think we – especially those of us who consider ourselves politically progressive and opposed to all forms of oppression – have been too quick to assume that feminism and multiculturalism are both good things which are easily reconciled. I shall argue instead that there is considerable likelihood of tension between them – more precisely, between feminism and a multiculturalist commitment to group rights for minority cultures” (Okin, 1999). Some thinkers agree with Okin that liberal feminism’s principle that advocates the principle of equality for all people with respect to gender is paramount and that all cultures are capable of such change. Katha Pollitt (1999), feminist columnist she had a ‘hard time understanding how anyone could find these [Okin’s] argument controversial.’ What Okin and Pollit missed out in their understanding about the Indian system is that an unwritten law in society is ingrained in the minds of the members of the society and people accept the law irrespective of the gender. Some people rebel against unwritten laws of the society in Mumbai, they are silenced by the masses that make up the society and eventually learn to accept these laws as a “way of life” or as “fair”.

In the Indian Scenario, in most cultures, irrespective of patriarchal/matrilineal society, the treatment meted out to the widows is unfair, unjust and against human rights. In Maharashtra, according to the census of 2011, 2 % of the males are widowers/divorced/ separated and 9.5 % of the females are widows/divorced/separated. The distinction is very clear widow or a widower is a status bestowed by society due a personal loss by the death of a lawfully wedded partner whereas separation or divorce is by individual choice. The census does not distinguish widows or widowers from the divorced or separated. The widowers enjoy the “high status” in many cultures of the Indian society. The widowers especially in the Brahmin community are most revered and often remarry very easily. Mohini Giri an activist fighting for women’s rights in India was nominated for the Nobel Peace Prize in 2005. Mohini Giri says that “Widowhood is a state of social death, even among the higher castes”. According to one of the widows, who extended the definition by Mohini Giri, “widowhood is a state of Social death due to society inflicting torture (mental/physical) by violating their rights and in turn violating the right to live in peace, harmony with equality and dignity”. A widow is isolated from the society. The code of the society in educated urban areas is not enforced by the society blatantly but very subtly. The Societal code is elusive and escapes the law of the land.

2. Methodology used in this study:

In a time line study of the 25 widows over 6 years, the researcher along with a widow visited the residences of the widows and documented their conditions of living and their views on life. (table 6.1).

Six women were widowed between the ages of 50 and 55 years (≥ 50 years). Six women were between the ages of 40 years and less than 50 years (≥ 40 years & < 50 years). Six women were less than 30 years (≤ 30 years) and seven were between 30 and 40 years (> 30 years and < 40 years).

In the present context twenty five widows living in Mumbai and their children were asked the same questions and the meaning of Social Justice as they see and understand. Their life style and how they cope with day to day activities were documented.

Forty married individuals in Mumbai (20 men and 20 women) were asked why they isolated widows from society and excluded them from social auspicious functions. Response from them is documented.

Forty unmarried women aged 22-28 years and forty unmarried men 26–32 years were asked if they or kith and kin / sibling should marry an individual whose partner is dead and if it is okay if their mother could remarry if she attains widowhood (hypothetical). These 80 individuals were not a part of the study but their views on widowhood needed to be recorded as members of the society.

2.1 Financial and social conditions of the widows in this study:

Of the twenty five widows studied,

- One widow was from an affluent family and financially independent. So she did not need to depend financially on relatives or friends to lend her a hand. She was

isolated from her family but could afford domestic help to do her daily chores.

- One widow was remarried by her husband's brother who took care of her and her two children; and she was his second wife (it was polygamous relationship).
- One young widow 22 years of age was helped by NGO and another widow to sustain and fight for her rights in her marital home.
- Twenty two widows found employment to care for their children.

3. Causes and consequences of Widowhood

Adult males die due to various reasons. In this study it is observed that the cause of death of 22 males is related to chronic alcoholism. Three males died of other reasons.

3.1 Cause of widowhood

Of the 25 widows interviewed, in this study the cause of death of their husband was due to the following reasons

- One lady was widowed as her husband died of natural causes.
- One lady's husband died of illness.
- One young lady (widow) lost her husband to a 'freak' accident.
- All the other ladies interviewed, were widowed because their husbands were chronic alcoholics. One ladies alcoholic husband committed suicide and was a long term patient for mental illness.

3.2 Rituals after the death of the husband

The Six widows living in flats defied the tradition of rituals after their husband's death. It is customary in Maharashtra among Hindus, for a widow to accompany the dead body of the husband to the funeral pyre decked up as a bride. On returning the widow is made to wash off the vermilion on the forehead and the glass bangles on her hand are broken by the mother-in-law (if the mother-in-law is no more any in law or a neighbour would complete the ritual). She is stripped off her bridal wear. The mattress on which her husband and she sleep is thrown away. She is given a separate mattress. From this point onwards codes are enforced and the lady is made to believe that her stars are responsible for her husband's death irrespective of the causes of his death.

A widow after a few days after the death of her husband is forced to leave her marital home. She and her children are stripped of all rights in the marital home that she is entitled. In Mumbai, however most people who are migrants from other states and seldom have their families living with them. They are nuclear families. The widow in this case is naturally isolated from all family. Once a year the in-laws pay a visit unannounced so that they can check the widows 'character' the neighbours are vigilant of the activities the widow undertakes to survive. It is an unwritten code by the society that a widow can never wear colours red and green. Green and red coloured Glass bangles can never been worn by a widow. If a widow dares of defy the unwritten code she is termed a "randi"(prostitute-with no husband), "chaalu" (fast), "chuldail" (witch). This is common in Mumbai the commercial capital of India to use derogatory terms to address widows who want to live life on their own terms making personal choices without harming another individual or the society at large. The

widows however are allowed to bless new born children people receive money from a widow as blessings. The widows are not allowed to attend any “auspicious” ceremonies like marriage, thread ceremony, parties etc. They however are allowed to attend pilgrimage, temples, religious gathering and are expected to visit places where a death has occurred. No help is extended to the widows.

One educated widow approached her community for “threading” her son to enable the son to perform the rituals after death of her husband. The widow belonged to a patriarchal society and her late husband belonged to a matrilineal society. Both communities continue to decline to accept the child and the widow. The widow and her child are completely isolated from society and their families as they believe they are both cursed and have devoured the male who died of illness. An Astrologer predicted that her child has no “Pitru Yog” (that child will lose his father) and that the lady is “Not Manglik” (will not lose her husband and no influence of planet Mars) Another Astrologer had predicted that the son has a great relationship with the father who has a long life and that mother is a “Manglik” (bound to lose her husband by the influence of planet Mars). Contradicting predictions were given by two astrologers about the lady and her son. Finally her “family” decided that both widow and her son have caused the death of her husband. The conclusions of the marital family were based on the contradicting and conflicting predictions by two different astrologers.

Astrologers are consulted by the family of the widow and when they do not get an answer that they anticipated they seek the predictions of another astrologer. 24 widows in this study narrated the similar experience with their families visiting astrologers after the death of their husband. Amateurs practicing astrology is another evil that has seeped into the daily lives of the people. This unprofessional practice of astrology is one of the grounds on which society functions, relies and victimises widows based on this unprofessional and unethical practices, unwritten laws and subtly implemented.

3.3 Living Conditions:

One widow, who is 22 years old, was asked to vacate the house of the husband who died in a “freak” accident. She has two toddlers; youngest child was 7 months old when her husband died. She is not formally schooled has no skill; another widow living close by, approached an NGO to extend help to the 22 year old widow. The NGO mobilised her paper work and established her rights in her marital home at the flat in Mumbai. The widow and both her children are given the kitchen to live. Her Mother- in-Law and Sister-In-Law use the same kitchen to cook their food. The Gas cylinders belonging to her In Laws are stored in the very kitchen where she and the children live. She has a 4 Kg miniature gas cylinder and one kerosene stove in the same place. The whole area is potentially a fire hazard.

Six Widows had self-contained accommodation and privacy, all the other widows are living in slums.

The widows living in slums have a room and kitchen is a non-marked area inside the room. They have a “mori” or a wet area where they wash utensils and clothes. They use this area to urinate in the night. They have common shared toilets to several houses. The common toilets may be near their house or several metres away. They fear rape and molestation by men who are alcoholics in the area.

Five widows were educated and three of them were working. One of them had a part time job and one widow was working as a domestic help. The educated widow working as a domestic help was able to read and communicate in English. She belonged to the Scheduled Caste. Persons belonging to Scheduled cast are entitled to reservation government sectors. She had difficulty in obtaining a caste certificate to prove her minority status to secure admission for her daughter in college. The government machinery has no provisions to electronically obtain the records. She was turned away by the law when she approached to obtain a BPL (Below Poverty Line) card which would have entitled her for subsidy on food. She educates her two minor children and her employers gift her children school fees. She stopped seeking help as she has to abstain herself from her work places.

The widows who are not formally schooled learn and acquire skills such as tailoring, “Bindi” making, bag making, basket making, crochet etc. and work as domestic helps. They fear people in offices and seldom approach the government for help because they feel handicapped without education and the taboo of widowhood prevents them from interacting with men.

3.4 Inability of widows to approach law:

A widow singlehandedly cannot challenge a group. The law takes its own course and it is very cumbersome for a lone lady, as it is time consuming and productive working time is lost in fighting for justice. This is the biggest drawback for the widows who wish to approach the law.

In the case of the widow whose alcoholic husband committed suicide, initially the law treated her as a prime suspect. It took her more than a year to prove that her husband was being treated for mental illness.

Forty Adult individuals (20 males and 20 females) were asked why they isolate widows and why widows are not invited for auspicious functions. Ten males said they invite widows and treat them equally but the widows are inhibited to participate because they fear that others might shun and ostracise them in a social gathering. The Ten males also mentioned their spouses did not like them talking or interacting with widows. Thirty adults (20 females and 10 males) were very hostile and said it was their function and could decide who they choose to invite. In such circumstances the unfair social treatment meted out to the widows cannot be taken up in a court of law for discrimination. It is the fundamental right of an individual to invite any one for a lawful, peaceful, private social gathering or function. Here the widow silently accepts the decision of the society, and then fear sets in and prefers to accept and stay isolated.

3.6 What children of widows feel:

Two widows had minor children and these children could not be interviewed. 48 children of the 23 widows were interviewed (table 6.2). The children of the widows did not approve the treatment meted towards their mother by the society. They did not talk against the elders who violated their mother. They always felt they were at the receiving end and talking against elders would be “wrong”. The most important and

most alarming statement made by the male children of the widows was that when they grow up they would not like to marry a widow. One child said that he did not mind marrying a widow. The female children (of the widows) also agreed that the boys should not marry a widow. The children are made to believe that the widows are unlucky and harm would befall if they married a widow. The female children however said they did not mind marrying a widower. Eleven children of the widows interviewed were asked after 5 years if they would marry a widow / widower and they gave the same answers that it is “okay to marry a widower not they would never allow their siblings or anyone they were associated with in the family to marry a widow nor would they marry a widow “. These answers were given in front of the widows and the widows agreed to their children’s views. The psychological trauma suffered by the children of widows is not addressed.

Questions were asked to 40 unmarried women and 40 unmarried men who were not a part of the study and their responses were documented (table 6.3). All women replied that it is okay for them to marry a widower as a lady would be “blessed” if she was to die “in the presence of her husband”. And the men agreed to the same response. The men said they would never marry a widow nor allow any sibling or kith and kin to marry a widow. All 80 people believed in astrology and said the reason for widowhood is the “wrong” alignment of the stars in the Horoscope. And that if a widow remarried her stars would again make her a widow meaning it would kill another man. No male would take a chance with death by marrying a widow. They also agreed that if their mother attains widowhood they would never “allow” her to re-marry.

4.0 The Indian Constitution: Article 21

Protection of Life and Personal Liberty: “No person shall be deprived of his life or personal liberty except according to procedure established by law.”

The Constitution Of India Provides Fundamental Rights Under Chapter III. These rights are guaranteed by the constitution. One of these rights is provided under article 21.

The phraseology of Article 21 starts with negative word, the word ‘No’ has been used in relation to the word deprived. The object of the fundamental right under Article 21 is to prevent encroachment upon personal liberty and deprivation of life except according to procedure established by law. It clearly means that this fundamental right has been provided against state only. If an act of private individual amounts to encroachment upon the personal liberty or deprivation of life of other person, such violation would not fall under the parameters set for the Article 21. The person violated under such circumstances could approach the law for remedy under Article 226 of the constitution or general law. But, where an act of private individual supported by the state infringes the personal liberty or life of another person, the act will certainly come under the scope of Article 21.

The Article 21 of the Indian Constitution deals with the prevention of encroachment upon personal liberty or deprivation of life of a person.

Not inviting a widow to participate in a private function hosted for peaceful and personal purpose by a person is not in violation of the Article 21 or any law of the land.

The person hosting such a function has the right to choose the invitees. So also people have the right to not talk or maintain personal relationship with a widow as it is their fundamental right to choose who they wish to associate with; so long as the widow or her children are not subjected to ridicule or physically / mentally harassed in private or in full public view. It is a crime against women and children if a widow is asked to leave her marital home because of widowhood. It is a crime if a widow is not allowed to use public spaces, utilities, other amenities provided and maintained by the state, a widow must be provided the aid she is entitled by the law that has been laid down with respect to women and children and all other laws of the land. Not all fundamental duties of a citizen are enforceable. This is the grey area where social norms and the law of the land contradict and are in conflict with one another. The impact of this conflict of unwritten laws by the society and the laws of the land are reflected on the minors in the society who ingrain values of the society and as adults build social values and continue traditions.

5.0 Meaning of Social Justice to a widow

Several attempts to define social justice have been made and recommendations have been made to the law makers. Herein the widows attempted to define Social Justice as applicable to them:

“The change of personal laws towards a lady after the death of her husband” and “which she accepts unconditionally”.

According to three widows, they believe that social justice is “Accepted code created by people in the society or in a geographic area, and imposed by society or people living in that area, on a widow to let her and her children exist in society” (here the word co-exist is not mentioned). They have no complaints about the way they are treated and would treat the next generation in the similar way.

According to 21 other widows who were interviewed they believed that the social justice is “Justice of God delivered ‘through’ the members of the society, by the members of the society. When they were asked why they have responded in this manner, they said “it is okay for the society to lay down laws for a widow as justice of God is above the law of the land”. (According to twenty one widows interviewed)

With definitions and views put forth by the widows, no voice is raised against the society at large by the widows and the society continues to violate the rights of the widows by unwritten laws, codes and torture (mostly mental sometimes physical) which has been widely accepted by adults and children alike. The widow who tried to defy the social system could not succeed to obtain justice as the societal law bearers were males and their wives made sure that husbands did not communicate with the widow. There was no violation of the law of the land hence the widow accepted the social norms and unwritten laws.

4.0. Conclusion

Widows in Mumbai and their children accepted the way they are treated and believed there was nothing wrong. They attempted to define social justice contradicting its fundamental meaning. The value systems of the society are ingrained amongst the

people and the widows fail to believe that there is any recourse for them legally. The widows who attempt to defy the system are isolated by society.

5.0 Recommendations to draft a state policy:

Most widows accept the way they are treated though they wish to be treated different. They have no support system. Ngo's cannot play a part in their daily routine. The Hindus in India still follow traditions because of which it is difficult to make a change. The male members of the communities are dominant and seldom allow a widow to make choices. The children learn socially accepted behaviour from the other members of the society. It was alarming to see the widows and their children accept the unwritten laws of the society.

- Widows must be given a chance to represent other widows in the government machinery.
- Education can help children think differently.
- Counselling to widows and their children must be made available at the school or nearest education centre.
- Children must be taught understand the death of the father and learn to see life from another perspective.
- The illustrations titled “Your father lives in your Genes” are made available to try and find out what people think and if such sheets can be given to children to help them cope with the loss of their father and if it would educate them to think different as they are the future of the society.

5.1 Description of the illustration for children “your father lives in your Genes”

This little story first shows the father is dead and both the mother and the child (central character of the story) are sad and yearning for the child's father. The child sadly sits and observes two caterpillars talking to each other. “Papa” caterpillar is eaten by a bird and the mother caterpillar consoles the baby caterpillar saying “your father lives in your Genes” and that they need another man caterpillar to complete the family balance. The child starts observing couples and lets the mother find and marry a kind man to take care of her and her mother. The child and keeps smiling at the end because she believes her father lives in her genes. The central plot or illustrations may be subject to change at a later stage, but by and large this is the ground on which the material would be created.

6.0 List of tables

Table 6.1 data collected from the widows

Age of 25 widows who were documented	Age >=50	6
	Age >=40 and <50	6
	Age <=30	6
	Age >30 and <40	7
How they managed financially	Children started working	9
	Widow herself started working	14
	Remarried	1
	Well off widow	1
If they were helped to adjust to their new life after the death of husband and by whom	Help from government	0
	Help from another widow =2	3
	Help from NGO	1
	Help from Family	1
	help from employer	2
	Help from none	18
Do they accept the way they are treated by society?	Unconditionally Accepted unwritten laws by the society	3
	Unconditionally accepted codes unwritten laws by the society as divine justice or Justice of God that has been delivered by the society.	21
	Injustice need reforms but accepted unconditionally the unwritten laws by the society	1

Table 6.2 responses of the children of the widow.

Children of widows There are 4 minor children who could not be interviewed		Would you marry a widower(asked to female children) / widow (asked to male children)	Is it okay if your sister / cousin sister marries a widower?	Is it okay if your brother / cousin brother marries a widow?	If society agrees would you like your mother to re marry?
22 Female children	Yes	22	22	0	0
	No	0	0	22	20
	Not sure	0	0	0	2
26 Male children	Yes	1	26	1	1
	No	25	0	25	25

Table 6.3 Responses of 80 unmarried men and women

People on the road interviewed various ages 28 - 45		Would you marry a widower(asked to Women) / widow (asked to Men)	Is it okay if your sister / cousin sister marries a widower?	Is it okay if your brother / cousin brother marries a widow?	If your mother is widowed would you allow her to remarry if society agrees?
40 Women	Yes	40	40	0	0
	No	0	0	40	40
40 Men	Yes	0	40	0	0
	No	40	0	40	40

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