

The History of Feminism and Children's Right from the Perspective of Law Protection

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Abstract: The development of feminism and children's rights protection has developed rapidly in the past centuries and has drawn many people's attention. The research on how feminism and children's rights protection changed in the past few decades inspired the author to write this essay, as social equality is always important and should be emphasized. The essay will explain the history of feminism and children's rights protection from the perspective of law. Women now share an equal society with men and face fewer societal critiques. They are earning more than before and facing less shift from family, so they have improved their social position. Also, children's proper protection is becoming common sense in society. They are actually enjoying a better social attitude than feminists, and not only are the education rights focused on by society, but the sentencing system also gives children privileges. However, social issues like stigmatization and poverty still bother females and children. Thus no country has achieved an equal society.

Keywords: social equality, feminism, children's right protection, law

1. Introduction

In the past centuries, the social position of women and children has changed a lot. It seems that society tends to be more equal. There was never a clear definition of sexual crime before the industrial revolution due to the polygyny society, and the law did not protect children's rights as they were treated like adults. However, the Renaissance and the industrial revolution changed society's ideology, and this essay will discuss how feminism and children's rights protection have changed in the past centuries.

2. Changes in Female's Roles in Society

In the beginning, feminism was generally regarded as created in the Renaissance. In the 12th century law, every person is capable of moral discernment and self-determination; this has contributed significantly to the future Western tradition of individual natural rights [1]. However, under the patriarchal society, it is still hard for women to get equal rights as men. In The Middle Age, unequal gender rights are joint. Nobody had ever thought about whether women should have the same rights as men because women had limited contributions to an agricultural society. The first feminist who is generally regarded, Christine de Pizan, criticized the discrimination against women in medieval

literature and art, which means that before she was born in the Renaissance, there was never a person who stood out to fight for women.

Firstly, the study will analyze the development of feminism through how sexual crime is defined. In a polygyny society, as every man could have several wives, it is tough to define what is a sexual crime. Unless the woman dies, it could be a problem to prove that she is harassed or raped, and some feminists questioned the Lex Talions “an eye for an eye, so what for a rapist?” Even if the investigation shows that the woman is harassed or raped, she will still be criticized by society as the ideology suggests that it is all women’s fault. The possible result for the woman is to marry the man who raped her. In this case, the woman who faced sexual crime had done nothing, and she was innocent, but not only does the law not help her, the society will also push her to death.

In today’s law, any behavior involving sex that makes the receiver feel uncomfortable could be defined as sexual harassment; at least, laws in most countries agree. Moreover, if a man raped a woman, the man will be arrested once the investigation shows some evidence. So from this perspective, the law has changed because of feminist movements and the increased female in the law field. This could partly show how the influence of feminism rose in the past few centuries.

However, many women, also victims, will feel awkward and nervous when asked to describe what they have experienced; the feeling of shame still prevents them from facing sexual crime, and the social attitude toward these victims is not positive even today. This led to dark figures in sexual crime, so the change in law did not wholly lead to equality.

Also, the development of feminism could be proved by women’s position in the workplace. In the 19th century and before, women were asked to care for their families and children; although there were female poets and artists, most women could still not get the chance to work. Even after the Industrial revolution, during the period of industrial development, women were only allowed to work but not allowed to earn the same amount of money as men did, even though they were doing the same job before the massive feminism movements in the 20th century, most countries did not list the equal pay for equal work between genders in law.

This has also changed today. Nearly all countries listed the requirement for equal pay between genders in law, and the difference in the workplace has reduced to a small extent. Women also get the chance to be well-educated or skilled now; this has increased their competitiveness and helped them have the same work chance as men, leading women to be economically independent.

Last, women’s position in marriage and family life has also changed. In the past centuries, women were asked to stay at home, doing housework and caring for children. Domestic violence has also become a hot topic among feminists. Generally speaking, marriage shows the most prominent unequal gender position. In many countries, women are not even allowed to divorce or have abortions, which means they lose their autonomy of reproduction and may suffer from unfortunate marriages for a lifetime [2]. Women are always facing insensitive social comments and attitudes, but they may be able to stick to their choice now.

3. Protection of Female’s Rights from the Law

The gap between females and males never disappears: as of 2021, only 25 percent of all national parliamentarians were female, a slow rise from 11.3 percent in 1995 [3]. This is not a tiny difference. Moreover, women will still face discrimination and stereotype in the workplace. For example, women are still regarded as physically weak and emotional, so firms may be less likely to have female employees due to this stereotype. Also, most women have to bear the children, which will bring them extended maternity leave. This will lead to a loss for their firm, which has directly influenced their employment rate, but it is almost impossible for feminists to reduce the difference caused by pregnancy.

However, following the legislation against discrimination, women's social position has improved. They are now facing less social control; this gives them a chance to break the traditional identity and do what they want. This means that during the socialization process, their parents are less likely to give them shaped gender identity while getting more interested in encouraging them to change their ideology. For example, a woman may be criticized by her parents for divorce in the 20th century. However, following the rising divorce rate, all people seem more likely to be divorced, her parents may no longer be angry with her, and they may even support this divorce. This change in ideology makes a female feel better and more relaxed when they decide to break up or divorce. Moreover, there are more female-dominated relationships in this century; these women are more likely to feel comfortable in a relationship.

Moreover, according to the view from "Free Trade, Fair Trade, and Gender Inequality in Less Developed Countries" by Julie Steinkopf Rice, liberal feminist theory understands gender equality as occurring when women have access to economic activities equal to that of men [4]. After the Equal Pay Act, women got more work chances and earned more now, so they became more economically independent. Well-educated women as skilled workers are the most important reason for this independence. Generally, women in developed countries with a well-designed education system are more likely to access higher education. In contrast, in developing countries in Africa or Asia, women are less likely to own high academic background [5]. They can rare a child independently and do not live with their husbands. Thus they are less likely to be controlled by their husbands. They could gain status in the family, and then their lives could be considered better.

According to these reasons, the problem that Marxism feminists worry about is also solved——women will not face the double shift or triple shift anymore, as they are strong enough to divorce and earn money. They may even earn more than their husbands, so their husbands have no reason to ask them to stay at home and do child-rearing.

Domestic violence is also illegal now, so when women face family violence, they could choose to prosecute their husbands and protect their rights. Not only so, but they can also refuse sexual behavior when they do not want to have it, the marital rape is recorded in laws of many countries.

However, the work and family(WFC) conflict due to the permeability between family and work scopes still exists [6]. This conflict shows the unequal involvement in household chores by women and men as it is higher in women than in men, while the perception of partner involvement is lower in women than in men. However, marriage conflict brought by this unequal involvement will not increase both men's and women's WFC, work conflict of both genders will increase, and family conflict will only increase among women.

Therefore, when facing conflict between different parts of life, women are more likely to be harmed or disturbed than their husbands. This could be a puzzle for feminism. Moreover, even though women have improved their family position, they are still vulnerable compared to men. Once domestic violence happens very seriously, they may have lifelong sequelae or be hit to death; in this situation, the law itself does not matter as the violence has already hurt women, and women could never solve this problem due to biological factors. The family's position could never be equal as men and women are biologically different.

The evaluation of the whole feminism development comes to the gaze of the New Right. These sociologists emphasize the importance of the nuclear family and hope that everybody contributes to the nuclear family. All actions which may destabilize the nuclear family are considered to be wrong in their opinion. They believe the increasing social position of women will be wrong for a stable society with all nuclear families because women could now go to work and choose to divorce; both the single-parented family and cohabitation family has increased significantly in the past few decades, so New Right are very worried about whether feminism will break the structure of society now [7].

Some sociologists even think that government should enact legislation to protect the nuclear family, like suppressing feminist movements and encouraging people to marry.

What is more important: freedom, a stable society, equality, and a nuclear family? It could be a complex problem, but the law seems to stand on the feminist side.

4. Children's Right Protection by Law

Then, how children's rights have been focused on and protected in the past centuries is also essential for researching social equality. Generally, the idea of protecting children and treating them differently from adults occurs after the industrial revolution. The following study will analyze how social equality improved significantly after the industrial revolution.

Before the industrial revolution, children were treated as adults in The Middle Age, so there was never "protection of children's rights" in law or the concept of "childhood". However, during industrialization, especially post-industrialization, children are asked to work outside in a hostile environment for long hours. Machines may hurt them as they cannot recognize dangers [8]. Thus, the issue of protecting children was raised and gradually became the consensus of society.

The first international Convention supported by the law, the Convention on the Rights of the Child, was raised in 1989. However, before this Convention was drawn up, many declarations and charters like the Declaration on the Rights of the Child and the Charter on the Rights of the Child emphasized the importance of protecting children's rights.

4.1. Education Rights of Children

Education is regarded to be important in child growth. There were never laws protecting children's education rights before the industrial revolution, and poor people may not be able to afford the cost of university or other schools. This has improved the multi-function of the family, but the chances for children to access society are limited. They accept primary and secondary socialization at home, and their parents are the only available role models.

Article 28 of the "Convention on the Rights of the Child" stipulated that every child has the right to education. It stipulated that all the State Party shall fully achieve free and compulsory primary education, vigorously develop secondary and higher education, and take all appropriate measures to ensure that discipline is administered in schools in a manner consistent with the child's human dignity and with the provisions of this Convention. This article has directly increased the proportion of skilled workers in every country and reduced the possibility of campus crime and unreasonable oppression of schools. Children now receive more education, so they are more likely to explore their potential and complete their physical and intellectual development. This law could also be deemed beneficial for domestic economic growth.

However, the education right of children is still not protected completely. According to U.N. statistics, in 2022, more than 21% of children will drop out of school in Asia and even worse in Africa [9]. Many poor people may still find it hard to receive a good education, and children in rural areas do not share equal education opportunities with those in cities. Generally speaking, the education rights of children are being protected by the law, but the protection could still be deemed inadequate to many extents.

4.2. The Law against Child Abusing

The fact is that children now have less chance to access violence and discrimination. They are no more seen as adults but being protected well as the whole society knows that protecting children could be essential.

The violence children suffer in real life could influence their personalities or future lives. The way that an adult treats children may influence the child very profoundly. This is also why violence should be hidden from children—they may find it hard to recognize the difference between jokes and harm. Children are usually vulnerable, and they could find no way to hit this violence back, so the law could only protect them.

Nowadays, children are more likely to know more about the world through new media, but they are still considered weak by the law. This type of law could help to reduce the gap brought by biological differences between different age groups [10]. O'Neill also suggests that all people must protect and care for children. The hypodermic syringe model tells the public that the media may directly influence children, so some programs need to be suppressed in the media. This theory could also be used for actual life violence.

However, the law against child abuse is still not enough. Children face many other problems like mental violence, high social expectations, and human trafficking. These problems can still be seen as violence and child abuse in some sense, yet they are not given the attention they deserve and are being reinforced repeatedly. These invisible social oppressions cannot be held accountable by law, and only ideological change can genuinely improve the bottomless exploitation of children. Therefore, solving these problems is still a castle in the air for today's society.

4.3. The Sentencing System of Children

Lastly, the law also has a different sentencing mechanism for children and adults today. Children may commit crimes due to ignorance; in this case, they should not be punished as adults, as they shall have the right to make the wrong choice. They still need to pay the price of their wrong behavior, but the law provides them a chance to correct their faults. Furthermore, the law has the most strict regulations for protecting the privacy of criminals under 18; society has acquiescence to allowing young criminals to return to their everyday lives.

For details, "The Convention on the Rights of the Child" mentions that minors should not be sentenced to death or life imprisonment, that children should be kept separate from adult prisoners, that children should not be tortured, and that children should not be dehumanized in punishment. A sense of dignity and worth should be promoted for children who break the law. However, adult offenders can be sentenced to death or life imprisonment. While humanitarianism is daily in all justice systems, giving children lighter sentences is still somewhat of a social consensus.

However, this sentencing system is still being questioned today. As children are exposed to more diverse societies and faster access to new media, they are becoming more precocious, governments are lowering the minimum age for criminal punishment time and time again, and the concept of child offenders is becoming blurred. Even when the traditional understanding of children's innocence is broken, they sometimes become the representatives of evil. It is worth considering whether it is right to give children a lighter sentence when their mental world is similar to that of adults and how adults could protect children's rights correctly.

For evaluation, according to the natural school, the gap between children and adults is innate. Under the continued existence of such physiological differences, children will always be in a vulnerable position in the family, so can these legal changes penetrate every family, and how could the law deal with the existence of hidden crime? When biological strong could represent power, is it possible to change the vulnerable position of children?

5. Conclusion

To conclude, feminism has improved women's lives in the destigmatization of sex, family, change in the workplace, and the social attitude toward females. Women are now enjoying an equal society as

they are now economically independent and able to fight against social inequality. Also, the change of ideology among females allows more women to accept their gender and recognize the importance of gender equality. So, generally speaking, women's social position has been improving in the past few decades. As for children's rights, industrialization has raised the importance of protecting vulnerable children, and the privilege enjoyed by children is widely accepted by society. For example, very young children may not be sentenced to the death penalty. Their education rights are also emphasized.

Every single part of feminism and children's rights protection could be seemed as developing in past centuries, so social equality could be deemed as also developing. Females and children have occupied a vast proportion of the population, so the development of feminism and children's rights protection could stimulate the formation of an equal society to a considerable extent. However, neither female nor children could be deemed as sharing the same social position as male and all adults; the problems brought by patriarchal society and poverty suggests that there is still a long way for feminists and children to go. Moreover, other vulnerable groups are also underrepresented. For example, the rights and convenience of older adults should be discussed more. An equal society could only occur when there is no secondary sex and vulnerable children.

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