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Women Empowerment in India: Concept and Role of Law

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Abstract- During the early Vedic period Indian women enjoyed equal status with men in all field of life. They enjoyed freedom in selecting their life partners. They had the right to get education. Remarriage of widows were permitted. Men did not have the right to divorce their wives. They were given the complete freedom in all aspect of family matters. There was no pardha system in hindu society. However their position got deteriorated during Mughal rule in India as they had not been paid sufficient attention which they deserved. Thereafter, the status of women in the beginning of the British rule reached at the worst level. However in mid nineteenth century some socio-religious reforms movements started by Raja Ram Mohan Rai, Swami Dayanand, and Swamy Vivekanand. Due to their efforts the position and status of women started improving in some instances. Thus, when the Constitution of India was being framed the constitution makers took inspiration from these eminent personalities and expressly provided special provisions in the var ious parts of the constitution which provides equality for women in all aspects of their life. This paper depicts the issues and challenges in empowering the women and suggests some ways of empowering women. This paper also highlights the role of law in empowering women.

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Women Empowerment in India: Concept and Role of Law

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Abstract- During the early Vedic period Indian women enjoyed equal status with men in all field of life. They enjoyed freedom in selecting their life partners. They had the right to get education. Remarriage of widows were permitted. Men did not have the right to divorce their wives. They were given the complete freedom in all aspect of family matters. There was no *pardha* system in hindu society. However their position got deteriorated during Mughal rule in India as they had not been paid sufficient attention which they deserved. Thereafter, the status of women in the beginning of the British rule reached at the worst level. However in mid nineteenth century some socio-religious reforms movements started by Raja Ram Mohan Rai, Swami Dayanand, and Swamy Vivekanand. Due to their efforts the position and status of women started improving in some instances. Thus, when the Constitution of India was being framed the constitution makers took inspiration from these eminent personalities and expressly provided special provisions in the various parts of the constitution which provides equality for women in all aspects of their life. This paper depicts the issues and challenges in empowering the women and suggests some ways of empowering women. This paper also highlights the role of law in empowering women.

I. Introduction

Since time immemorial, the women in our country have not only been given an equal status but have been treated superior to men. Since ancient times anything that could nurture human life was worshipped as a female identity, i.e., the nature as Prakriti Devi, the earth as Prithvi Devi, the forests as Van Devi and so on. The changing times have affected the status of women from being worshipped to being treated as second class citizens and grossly exploited.[1]

During the medieval period women took the forefront in arts literature, and music. Women were also rulers in the medieval period. Some of the great women rulers were Razia Sultan, the only women ruler to reign over the throne of Delhi. The Gond Queen, Durgavati ruled for fifteen years, before she lost the battle to Mughal Emperor Akbar's general Asaf Ali. At the same time the condition of women began to deteriorate in the medieval era because during this time child-marriage, sati, female infanticide came into existence and began to be practiced on a large scale. "Jauhar" was commonly practiced song among rajput women. It was the practice of the voluntary immolation of all the wives and daughters of defeated warriors, in order to avoid capture and consequent molestation by the enemy. Polygamy was become practice by most Hindu Kshatriyas. It is the practice wherein a husband could marry more than once.[2]

The Hindu religion considered the birth of sons extremely important for the family, since it was believed that only sons could fulfil the obligations to their ancestors who had died and save them from suffering a spell in hell. The daughter could not perform these rites and was therefore considered as inferior to the son. All these issues gradually led to the neglect of the female child who is often relegated to the background even in the present day Indian society.[3]

Guru Nanak Dev ji did a lot to ensure that women were respected and not treated inferior to men. He said that from a woman, man is born; within a woman, a man is conceived; to a woman he is married; through women come the future generations; to a woman he is bound. Without a woman there will be none at all.[4]

The Traditional status of a man and woman was that of the husband as the provider and protector of the wife, family and its members. The wife's first duty, therefore, was to submit herself to the authority of her husband and to remain under his roof and protection. This mindset or philosophy was prevalent worldwide. The earlier judicial pronouncements explain it very clearly as in 1909 the House of Lords expressly held that the women did not fall within the meaning of the term 'person'. Just after two years after the famous case of *Bradwell vs. Illinois*[5] the U.S. Supreme Court admitted that women are persons and citizens but they have no right to vote. In India the Calcutta High Court, in *Re Regina Guha*[6] and the Patna High Court, in *Re Sudhansu Bala Hazra*[7] rejected the applications of

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[1] Dr. Yedla Prabhakar, "Women Empowerment In India Through r Property Rights : A Socio Legal Study", *International Research Journal of Human Resources and Social Sciences*, Volume 4, Issue 7, July 2017, p. 557.

[2] Dr. Radhika Kapur, "Status of Women in Pre-Independence India", Available at https://www.researchgate.net/publication/330221015_Status_of_Women_in_Pre-Independence_India/citation/download

[3] Sutapa Saryal, "Women's Right in India: Problems and Prospects", International Research Journal of Social Science, Volume 3, Issue 7, July 2014, p. 50.

[4] Guru Nanak, *Shri Guru Granth Sahib*, Raag Aasaa Mehal 1, Ang 473,

[5] (1873) 83 U.S 130(Wall.)

[6] AIR 1992 Cal 161

[7] AIR 1922 Pat 269

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women for enrolment under the Legal Practitioners Act. The full benches of these courts held that the women were not included in the term 'person'. This went to show that women in earlier times were not even treated as human beings.

This problem is not just endemic to India but in every society in the world, women have been ill-treated in some way or another. The irony lies especially in fact that in our country where women are worshipped as Shakti[8], the maximum number of atrocities are committed against her in all areas of life. Women are considered as an object of male sexual enjoyment and reproduction of children. They suffer due to two main reasons- firstly, due to gender and secondly, due to abject poverty. Every day, in every country in the world, women are confronted by discrimination and inequality. They face violence, abuse and unequal treatment at home, at work and their communities and are denied opportunities to learn, to earn and to lead. When we speak of poverty, it is important to mention that even though everyone in the society is affected by abject poverty, women are the worst affected. Gender inequality is a key driver of poverty and the main reason that women are denied of their basic rights.

The root cause of all the ill treatment is as follows-[9]

(i) Illiteracy,
(ii) Economic dependence
(iii) Caste restrictions,
(iv) Religious prohibition,
(v) Lack of leadership qualities and
(vi) Apathetic and callous attitude of males in the society.

Socialisation refers to the process whereby an individual becomes a functioning, active member of the society. Families are the first agents of socialisation. In our society girls are socialised from their tender age to be dependent on males. Their families and others around them teach young girls that their place in within the four walls of the house and to take care of family and children. In her childhood she dependent on and protected by her father and after she gets married, she is supposed to be protected by her husband and in old age at the mercy of her sons.[10]

II. Meaning of "Empowerment"

According to the Cambridge Dictionary, by definition, the term "empowerment" refers to the process of gaining freedom and power to do what you want or to control what happens to you[11]. Popular meaning of the term women empowerment is enjoyment of certain rights by women, but generally signifies a little more than feeling better and powerful. Empowerment is essentially a transmission from a position of enforced powerlessness to one of power. It promotes women's inherent strength and positive self image. It should not be misunderstood that to empower women we have to give more powers to women to dominate others, to abuse others, to exploit men or to establish any sort of superiority over men. Women empowerment in the family is the empowerment of men and women both. The partnership between men and women is absolutely essential for creating violence free families, which would empower women.[12]

III. Women Empowerment- Need of the Hour

Due to the atrocities inflicted on women everywhere, women empowerment was needed more than ever. Almost every country, no matter how progressive and developed, has a history of ill-treating women. While the western countries are still making progress, third world countries still have a great deal of work to do to establish equality.

In India, women empowerment is the need of the hour. India has made it on the list of the least safe countries for women. Honour killings, rapes, violence, molestation etc serve as major reasons. Families think it is their right to take women's lives if they bring "shame" or "disrepute" to them. The education and freedom scenario in the country also leaves a lot to be desired from. Women are not allowed to pursue higher education, they are married off early. The men are still dominating women in many spheres of life. In addition to the multitude of problems, domestic violence also serves as a major issue in India. The men beat up their wife and abuse them as they think women are their property and women are afraid to speak up. Similarly, the women who do actually work get paid less than their male counterparts. It is downright unfair and sexist to pay someone less for the same work because of their gender. Thus, we see how women empowerment is the need of the hour. We need to empower these women to speak up for themselves and not be victims of injustice.[13]

a) Statistics

The status of women in India particularly in rural areas needs to address the issue of empowering women. About 66% of the female population in rural area is un-utilized. This is mainly due to existing social customs and norms. In the agriculture sector and animal

[8] https://feminisminindia.com/2018/07/10/women-in-early-india-status/
[9] https://en.wikipedia.org/wiki/Women_in_positions_of_power
[10] Dr.E.Raju. "Gender Discrimination in India", *IOSR Journal of Economics and Finance*, Volume 2, Issue 5, Jan. 2014, pp. 60-62.
[11] www.dictionary.cambridge.org
[12] Hajira Kumar, *Women's Empowerment Issues, Challenges, and Strategies: A Source Book*, Regency Publication New Delhi, 2005, pp. 54, 55.
[13] *Rahman, Aminur,* "Women's Empowerment: Concept and Beyond", *Global Journal of Human Social Science Sociology & Culture, Volume 13 Issue 6, 2013, pp. 9,10.*

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care, women contribute 90% of the total workforce. Women constitute almost half of the population, perform nearly 2/3 of its work hours, receive 1/10th of the world's income and own less than 1/ 100th the world property. Among the world's 900 million illiterate people, women outnumber men two to one. 70% of people living in poverty are women. Lower sex ratio i.e. 933, the existing studies show that the women are relatively less healthy than men though belong to same class. According to 2013, UNDP report on Human Development Indicators, all south Asian Countries except Afghanistan, were ranked better for women than India It predicts: an Indian girl child aged 1-5 years is 75% more likely to die than the boy child.[14] A woman is raped once in every 20 min and 10% of all crimes are reported. Women make up less than 24% of the world's parliamentarians and 5% of its mayors. On average, women are paid 24% less than men for the same work, across all regions and sectors. Nearly two thirds of the world's 781 million illiterate adults are women. 153 countries have laws which discriminate against women economically, including 18 countries where husbands can legally prevent their wives from working. Worldwide, 1 in 3 women and girls will experience violence or abuse in their lifetime.

In 2012, women occupied only 8 out of 74 ministerial positions in the union council of ministers. There were only 2 women judges out of 26 judges in the Supreme Court and there were only 54 women judges out of 634 judges in various high courts.[15] The statistics mentioned leave a lot to be desired from and are a clear indicator that a lot of work needs to be done to eradicate inequality, uplift women and put them on equal footing with men in the society.

b) Various ways to empower Women

Women empowerment is considered the need of the hour. There are various ways in which the ultimate goal of women empowerment can be achieved. Women should be given equal opportunities in every field, irrespective of gender and also be given equal pay for equal work. The most important is emphasising on and providing education to girls and women. Illiteracy is the main reason of women suffering. Providing education can help as a step towards women empowerment. Various programs and skill development training camps can be held where they can be taught skills to fend for themselves in case they face financial crisis and more than that to become independent and stand on their own feet.[16]

Divorce needs to be de-stigmatised in society and women should not be looked down upon for wanting to end their marriage. There needs to be a tide of change in the mind set of the people in the country and societies. Women need to be looked at as more than just child bearers and home-makers. There also needs to be proper implementation of government schemes and programmes. Another extremely important step is providing proper health opportunities and safety. Empowerment of Women could only be achieved if their economic and social status is improved. This could be possible only by adopting definite social and economic policies with a view of total development of women and to make them realise that they have the potential to be strong human beings. Awareness programmes need to be organised for creating awareness among women especially belonging to weaker sections about their rights. Women should be allowed to work and should be provided enough safety and support to work.[17]

c) Challenges

There are several challenges to the process of women empowerment. Improper socialisation of young girls also acts as a major deterrent towards empowerment. The continuing preference for a son over the birth of a girl child in almost all societies and communities adds to the list. There is an increasing inequality with respect to education, nutrition and other opportunities. The root cause of this type of attitude lies in the fact that male child is the heir in India with an exception of Meghalaya. Poverty is a reality of life for a large number of women in India. It is another factor that poses challenge in realising women's empowerment. Targeting these issues will help in eradicating inequality and setting up equal status for women.

Some challenges are listed below-[18]

Education: While our country has grown from leaps and bounds since independence as far as education is concerned, the gap between women and men is extremely large. While 82.14% of adult men are educated, only 65.46% of adult women are known to be literate in India. This goes to show that many women are deprived of basic educational facilities and opportunities and they suffer because of it. The gender bias is in higher education and specialised professional training.[19]

[14] UNDP Report 2013, issued by the United Nations Organisation. Available at http://hdr.undp.org/sites/default/files/reports/14/hdr2013_en_complete.pdf

[15] Crimes in India Report 2013. Available at http://www.nisc.gov.in/PDF/NCRB-2013.pdf

[16] Sunita Kishor, Kamla Gupta, "Gender Equality and Women's Empowerment in India". Available at https://dhsprogram.com/pubs/pdf/OD57/OD57.pdf

[17] Endalcachew Bayeh, "The role of empowering women and achieving gender equality to the sustainable development of Ethiopia", *Pacific Science Review B: Humanities and Social Sciences*, Volume 2, 2016, pp 39, 40.

[18] Lalit Mohan Choudhary, "Women Empowerment in India: Issues and Challenges", *IOSR Journal of Humanities And Social Science,* Volume 21, Issue 10, 2016, p. 55

[19] Manju Hooda, Anjali Hooda, "Women Empowerment in India", *Imperial Journal of Interdisciplinary Research (IJIR)*, Volume 3, Issue 5, 2017, p. 895.

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Poverty: Poverty is considered the greatest deterrent to peace in the world and also an even greater hindrance in the way of women empowerment. It is important to set up eradication of poverty as a national goal because even though it is something that affects society at large, women suffer the most.

Health and Safety: The health and safety concerns of women are paramount for the wellbeing of a country and are an important factor in empowering the women in a country. However there are many concerns as far as maternal healthcare is concerned.[20]

Professional Inequality: This type of inequality is practiced in the employment sector and promotional opportunities. Women face countless types of discriminations in male dominated environment of work in Government Offices and Private enterprises. They are also denied the opportunities to hold important positions and do not get proper promotions according to their potential.

Mortality and Inequality: Due to gender bias in health and nutrition there is an extremely high mortality rate and a reduction in the population of women especially in Asia, Africa and China.

Domestic Inequality: Domestic relations show gender bias in infinites small but significant manners all across the globe, more so, in India e.g. sharing burden of housework, childcare and menial works by so called division of labour.[21]

d) Role of Law

Law plays an indispensable role in promoting women empowerment in societies across the world. It can be defined as a system of rules and regulations which a particular country, community or society recognises and can be enforced in a court of law.

The patriarchal system which is prevalent in India makes women to live at the mercy of men, who exercise unlimited power over them. In order to uplift women in India and improve their condition, the Legislature enacted multiple enactments. This process of making laws to empower women started in the colonial era when we were under the British rule. Which are as follows:

1. 1829, Abolition of Sati;
2. 1856 Widow Remarriage
3. 1870 Female infanticide banned;
4. 1891 age of consent raised to 12 years for girls;
5. 1921 women get rights to vote in Madras province:
6. 1937 women get special rights to property;
7. 1956 Suppression of Immoral Traffic in Women and Girls Act
8. 1961 Dowry Prohibition Act
9. 1986 The Indecent Representation of Women (Prohibition) Act

Apart from these above mentioned laws there are some enactments pertaining to industry which contain special provisions for women such as:

(i) The Workmen Compensation Act, 1921
(ii) Payment of Wages Act, 1936
(iii) Maternity Benefit Act, 1961
(iv) Minimum Wages Act, 1948

In addition to these Acts, the Constitution of India also gives special protection to women in the form of these following privileges;[22]

(i) Article 14 expresses that the State shall not deny to any person the equality before the law and equal protection of laws with in the territory of India.
(ii) Article 15(1) prohibits the State to discriminate against any citizen on the grounds only of religion, race, caste, sex, place of birth pr any of them.
(iii) Article 15(3) permits the State to make special provisions for women and children.
(iv) Article 16 provides that there shall be equality of opportunity for all citizens and they shall not be discriminated on the basis of religion, race, caste and sex.

Article 39 (a) of the Constitution provides that the state in particular direct its policy towards securing that citizen, men and women equally, have the right to an adequate means of livelihood. Article 39 (e) of the Constitution provides that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength.[23] Article 51(A)(e) of the Constitution provides that it will be the duty of every citizen to renounce practices derogatory to the dignity of women.[24]

Due to the fact that in earlier times women were not allowed to make decisions for themselves, women empowerment and these laws came like a breath of fresh air. It made women aware of their rights and independent. These laws challenged patriarchy and shook it to its roots. They also acted as tool to empower women and ensure that they could make their own independent places in society and carve out a path for themselves instead of depending on their male counterparts.

[20] Rajeshwari M. Shettar, "A Study on Issues and Challenges of Women Empowerment in India", *IOSR Journal of Business and Management*, Volume 17, Issue 4, 2015, p. 17

[21] Manju Hooda, Anjali Hooda, "Women Empowerment in India", *Imperial Journal of Interdisciplinary Research (IJIR)*, Volume 3, Issue 5, 2017, p. 896.

[22] Constitution of India, Bare act.
[23] Article 39 Constitution of India.
[24] Article 51(A) (e) Constitution of India.

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IV. Conclusion

Women represent half the world's population and gender inequality exists in every country across the world because of which women do not feel empowered to stand up for themselves. Unless women are given the same opportunities that men are, they will underperform and will not be able to achieve their maximum potential. The greatest need of the hour is change of social attitude towards women. Women empowerment will be real and effective only when women are given equal rights and can stand on their own two feet. The Empowerment of Women has become the most important concern of 21st century not only at national level but also at the international level. Societies must do their own bit to ensure equal participation and upliftment of women.

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