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## **Status and position of Women under Women Empowerment in India** **Panchanan Sabat**

*Ph.D. Scholar, Berhampur University, Berhampur, Odisha*

### **Abstract**

*The status and position of women in India has been changed over the past few decades. The modern and Independent India realizing the inequality and discrimination against women has incorporated in the constitution, the law of the land, several provisions declare that women should be treated at par with men at all walks of life. Women have held high chairs including the President, Prime Minister, Speaker of Lok Sabha. This paper attempts to provide various legal status and position of women in the practical life. Though women in India have been given more rights as compared to men, the condition of women in India is miserable. The paper will throw light on the various issues relating to different periods of women and the present attempt on legal provisions relating to women made in the Indian constitution.*

***Key words: Status, Women, Equality, Legal aspects, Policies and Programmes.***

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**I. Introduction:** The position of Indian women is no better compared to their counterparts in other parts of the world. The status of women in India changed over the past few years. The equal status of with men in ancient period to medieval period for the promotion of equal rights by many reformers, the history of women in India is eventful. In the Indian constitution in its Preamble, Fundamental Rights, fundamental duties and Directive principles not only grants equality to women, but also empowers the state to adopt measures of positive discrimination in favour of women. Liberation of women revolves around focusing augmentation of their cognitive, psychological, political, economic and physical facets for their wholesome development. It encompasses better access to knowledge and resources, greater autonomy in decision making in order to allow them to have enhanced ability for planning their lives and to have requisite control over circumstances that influence their lives. The position of women to comprehend the circumstances and root cause of their subordination over a wide range of issues and enough to analyze systematize and muster courage for a social change. The great philosopher Aristotle influenced by the prejudices of that time opinion that women belongs with slaves as naturally subordinate and guide unworthy at participation in public affairs. In India from ancient time women power was treated as shakti, but at the sametime the shastras state that “Bindasraya Nabartanti,

Kabita Banita, Lata”<sup>1</sup> In modern India, women are now participate fully in areas such as education, sports, politics, media art and culture, science and technology. India has perhaps highest numbers of female politicians in the world. Women have held high offices in India including that of the President, Prime Minister, Speaker of Lok Sabha and Leader of the Opposition. Madhya Pradesh, Uttarkhand, Bihar, Himachal Pradesh, Andhra Pradesh, Chhatisghar, Jharkhand, Kerala, Karnataka, Maharashtra, Odisha, Rajasthan and Tripura have implemented 50% reservation for women in PRIs.

**II. Women Empowerment of India- A conceptual study:** The concept of women empowerment flows from the power. Empowerment of women means developing them as more aware individuals, who are politically active, economically productive and independent and are able to make intelligent discussion in matters that affect them.<sup>2</sup> The National Commission for Women (NCW) and the Ministry of Human Resource Development (MHRD-1985) have been worked to safeguard the rights and legal provisions relating to women. The 73<sup>rd</sup> and 74<sup>th</sup> Amendments of the constitution of India have provide special powers to women for the reservation of seats (33%). The Government of India have ratified various international conventions and Human Rights instruments before the equal rights to women. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. Within the framework of a democratic polity, our laws, development policies, Plans and Programmes have aimed at women’s advancement in different spheres. Today we have seen women are progressively women president, women chief ministers, different political parties leader, well established businessmen etc. The most notable amongst these are Mrs. Pratiba Devi Singh Patil, Mayawati, Binda Karat, Sonia Gandhi, Nazma Heptulla, Indira Nuye (Pepsi-Co.) BJP Leader Sushma Swaraj, Women are also actively participating in the Human Development issues of child rearing, education, health and gender parity. The marketing of wide range products enable them self-independent and self-progressive in different areas like pickles, tailoring, embroidery etc.

**III. History-Ancient India:** Women enjoyed equal status and rights during the Vedic period according a study which is later (approximately 500 B.C.), the status of women began to decline with the *Smritis*. The family life was also conducted according to Vedic Dharma and its injunctions. There was no feeling of assigning the women folk a secondary role in pre-marital and post-marital life. Women enjoyed a high position in society surpassing the contemporary civilizations of Ancient Greece and Rome.

**IV. Medieval period:** During the medieval period the position of women worsened and the Muslim invasion brought the *purdha system* and seclusion of women. The practice of polygamy, limited access to education, restricting women to household functions, child marriages, restriction of widows, sale of girls for marriages etc. the status of women further

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<sup>1</sup> . Saxena Shobha, *Crimes against women and Protective Laws-*, 1995.

<sup>2</sup> U. Koko, “Empowering People for Health and Family Planning”, *IASSI Quarterly*, Vol.11, p. 2, 1992.

deteriorated.<sup>3</sup> The position of women in India deteriorated during the medieval period when Sati among some communities, child marriages and a ban on widow marriages became part of social life. The position of a woman was distinctly subordinate and in the long run came to be understood as the service of the male and dependence upon him in every stage of life. The Muslim conquest in the under the *Pardah practice* in the Indian society ; the Rajputs particularly showed great regard to their mothers and never dared to go against their wishes. In some parts of India, the *Devadasis* or the temple women were sexually exploited. Polygamy was widely practiced especially among Hindu Kshatriya rulers. Some women excelled in the fields of politics, literature, education and religion like – Razia Sultana, Chand Bibi, Nur Jehan, Jahanara, Zebunnissa, the ruling administration Shivaji mother, jijabai etc.

**V. British Rule:** Many changes have taken place during the British rule in India. Social movements against the evils of Sati system, female education, prohibition of widow marriages and child marriages by great social reformers increased the status of women. Many women's organizations were formed and took up various issues relating to women's rights.<sup>4</sup> The position of women was not satisfactory in the early period of British rule. Social reformers like Ram Mohan Ray, Ishwar Chandra Vidyasagar, Jyotirao Phule etc. fought for the upliftment of women during the British period. Raja Ram Mohan Ray's efforts led to abolition of the Sati practice. Ishwar Chandra Vidyasagar's crusade for the improvement in condition of widows led to the Widow Remarriage Act of 1856. Lakshmi Bai led the Indian Rebellion of 1857 against the British. During 1917, the first women's delegation met the Secretary of State demanding women's political rights, supported by the Indian National Congress. In 1927, all India women's Education conference was held in Pune. In 1929, Child Marriage Restraint Act was passed, by the efforts of Mohammad Ali Jinnah stipulating fourteen as the minimum age of marriage for a girl. Women played an important part in India's independence struggle. Some of the famous Indian freedom fighters like Bhikaji Cama, Dr. Annie Besant, Vijayalakshmi Pandit, Rajkumari Amrit Kaur, Aruna Asaf Ali, Sucheta Kriplani and Kasturba Gandhi. Sarojini Naidu, a poet as well as freedom fighter was the first Indian woman to become the President of the Indian National Congress. The courage and sacrifices of women in such a noble cause created an atmosphere of sacrifice in the whole country. It created a wave of enthusiasm which touched the remote part of the country covering all sections. During India's freedom struggle women played a remarkable part, prominent of them occupy place of honour and reverence.

**VI. Position of women in modern age:** The status of women in modern India is a sort of a paradox. The Indian women have honed their skills and jumped into battlefields of life fighting against social restrictions, emotional ties, religious boundaries and cultural clutches. In modern times they have achieved a lot but to still travel a long way. They must

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<sup>3</sup> Naiker Lohit D., *The Law Relating to Human Rights*, 2004, 512-14.

<sup>4</sup> . *Ibid*, 512-14.

avail themselves of the educational opportunities provided and learn to empower themselves. At the time of Independence, before the constitution of India came into force, some reforms in the state of law were carried out by the British Rulers at the instance of Indian social reformers like Raja Ram Mohan Roy. The concept of the women, being dependent, powerless and needing a charitable consideration rather like dumb animal, not only from humanitarian grounds, but also mistreated, was still neglected. Women are now participated in education, sports, politics, media, service sectors, science and technology etc. Indira Gandhi, who served as Prime Minister of India for about fifteen years perhaps longest serving woman Prime Minister. The Indian constitution came into force in 1950 guaranteeing Indian citizens and non-citizens certain basic human rights called as fundamental rights.

**VII. Education:** The female literacy rate in India is lower than the male literacy rate though it is gradually rising. While comparing to the boys, only far fewer girls are enrolled in the schools and many of them drop out. As per the National Sample Survey Data 2011, only the States of Kerala and Mizoram have highest female literacy ratio. Thus, the majority of the scholars behind the improved social and economic status of women in Kerala are literacy.

**VIII. Changing position of women for legal provision in 21<sup>st</sup> Century:** Social changes take place either through legislation or judicial responses. The pattern of change does have an impact on the laws and must keep pace with the changing socio-economic trends and political movements of the society. Thus law and justice provide a potential force for the attainment of a progressive change.

The status of Indian women in ancient period suffered a setback in the medieval period. Socio-economic and political factors played a vital role for the suppression of social inhibitions and discriminatory practices against them. The constitution of India provides an equal status to women and gives them a place of honour and dignity in the society. It also treated both men and women equally and provide for protective discrimination for women in view of their peculiar position in the human society.

**IX. Constitution of India and Women:** Women are provided with various rights such as political, social, economic and educational rights under the Indian constitution. Article 14 provides equality before the law and equal protection of law within India. Article 15 of the Constitution prohibited discrimination against any person on grounds of religion, sex, place, caste and place of birth or any of these. Article 15 (3) stated that nothing in this Article shall prevent the state from making any special provision for women and children. The constitutional mandate of equality of sexes and special protection provided under Article 15(3) was enforced by the Supreme Court in the cases of *Air India vs. Nargis Mirza*, *C.B. Muthamm vs. Union of India*, *Maya Devi vs. The State*; *Yusuf Abdul Aziz vs. State of Bombay* and *Smt. Wmithri Vishnu vs. Union of India* where unequal provisions were quashed against women and in some cases favoured for protection to women. Article 16(1) of Indian constitution guaranteed equality of opportunity in matters of public employment for all citizens. According to Article 16(2), no citizen shall on grounds of sex, among other

grounds, be ineligible for or discriminated in respect of employment or office under the state. Under Article 19 of the Constitution the fundamental rights ensured that every citizen of India would be allowed to live, speak, write, work and travel, all over India provided that these activities do not amount to criminal activity. It may be thought that these rights coupled with Articles 14, 15 and 16 would fully protect the rights of women. However, Article 25 of the Constitution which allows freedom of religion, has been interpreted to mean that religious custom. The Directive Principles of State Policy laid down in Part-IV of the Constitution also provides some human rights to women. Article 39 provides three specific rights to women. Clause (a) says that the citizen, men and women equally have the right to an adequate means of livelihood. Clause (d) mandates that there is equal pay for equal work for both men and women. Clause (e) states 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 avocation unsuited to their age or strength. In addition to Article 41 says that the State shall make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement and in other cases of undeserved want. Article 42 directs the State to secure just and human conditions of work and for maternity relief. Article 43 asks the State to strive to provide living wages and a decent standard of life.<sup>5</sup>

**(a) Crimes against women:** Crimes against women not only from physical point of view but also social aspects also. As per records of police, women raped, beaten, abduct and given humiliating treatment. Women have been subjected to socio-economic and culture deprivation. The National Crime Records Bureau reported in 2016 that the growth rate of crimes against women would be higher than the population growth rate by 2017. In the early times, many cases were not registered due to social stigma attached to rape and molestation.

**(b) Dowry:** The system of dowry is another social evil which dragging women back from 100 years has a very long history especially in India. There are various legal provisions in India to provide relief to women in case of dowry based domestic violence cases. Further Indian Penal Code, 1860 has introduced under the Sections 304B and 498A which allows to women to file complaint and seek restoration of her rights from serious harassment by the husband's family.

**(c) Sexual harassment:** Two women were harassed at their workplace in India every day as per reports of the National Commission for women during 2017.

**(d) Eve teasing:** Eve teasing is also a very big crime as this activity involves teasing women, passing comments on women and making vulgar signs. A woman has to face this kind of irritating behavior and deal with this on daily basis. The Indecent Representation of Women (Prohibition) Act was passed to prohibit indecent representation of women through advertisements or in publications, writing, paintings, figures or in any other manner. The

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<sup>5</sup> . Bakshi, P.M., *The Constitution of India*, 2003, 16-32.  
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Supreme Court of India in a landmark judgement took a strong stand against sexual harassment of women at workplace and laid down certain guidelines for prevent and redressal of grievances.

**(e) Acid throwing:** Acid attack is very dangerous for human flash and burn. Few victims are forced to leave their education or occupation due to the results of acid throwing. In India, acid attacks on women by the attackers who dare to refuse a man's proposal of marriage or a divorce are a form of revenge.

**(f) Child marriage:** It is a very awful offence against child as it not only harms the future of child but also damage social values. Child marriage restricts the social development along with reduction in the educational and employment opportunities in the global market. The Law Commission of India by fixing the minimum age for marriage which is 18 years for girls and 21 years for boys.

**(g) Female feticides:** The custom of female feticide is practiced by the society from ancient times. Government has taken various steps to spread awareness among people. Many awareness programs are conducted by the government from time to time about the physical, mental and social effect of this practice. Rs. 10,000 as well as punishment of 3 years has been prescribed by the Pre conception and Pre Natal Diagnostic Techniques (Prohibition of Sex selection) Act, 1994 for the offence of Female feticides.

**(h) Domestic Violence:** Domestic violence is a pervasive serious social malady. It has been in existence for a very long time. It bluntly, trips women of their most basic human rights, the right to safety in their homes and community, and carried to the extreme, it may kill, despite its cost in lives, health, economically well being and work productivity and its impact on other social-economic variables, domestic violence tended and still tends to be a 'Crime of Silence'. Domestic Violence Act, 2005 was passed with the objective to handle the cases of Domestic violence in India.

**(i) Trafficking and Prostitution:** Trafficking means import and export of humans for sex business. The Immoral Traffic (Prevention) Act was passed in 1956. Many cases of trafficking of young girls and women have been reported. Prostitution is one of the biggest problems in this world as it creates damaging the women in many ways. It means offer of sexual services for earning money.

**X. Labour welfare legislation and women:** The Indian constitution guarantees equal rights to both the sexes irrespective of caste, colour and creed. The Social Security and Welfare Acts passed by the Government under the Factories Act, 1948. Under the Factories Act women are not allowed from clearing or lubricating or adjusting any part of a prime mover or transmission machinery\ when it is in motion because there is a risk of injury. This Act also deals with every factory should provide where 50 or more women workers are employed a suitable room for the use of children. The Employees State Insurance Act, 1948 provides for the periodical payment to insured women in case of confinement or

miscarriage or sickness arising out of pregnancy, confinement, premature birth of child or miscarriage.

The Plantation Labour Act was passed in 1951 with the objective of crèches where fifty or more women are employed for the use of children below six years. Night work for women should be prohibited. The Maternity Benefit Act, 1961 was passed in the Parliament primarily meant to provide security of wages and employment to the women workers immediately before and after confinement. It also ensures that the employment of women in certain establishments for certain periods before and after child birth and to provide for maternity benefit and certain other benefits.

**XI. Hindu Law and Women:** To improve the conditions of women, Hindu Law was codified after independence. Women is subjected to many social disabilities and held high position during the Vedic period. Hindu Widows Remarriage Act, 1856 was passed for the upliftment of Hindu women efforts by Ishwar Chandra Vidya Sagar. U/s. 5 of the Hindu Widows Remarriage Act, marriage may be solemnized between any two Hindus are fulfilled. For the Hindus, it provides for the various grounds on which divorce can be passed on grounds of adultery and cruelty respectively.<sup>6</sup> When the wife is physically or mentally abused by a husband who is of incurably unsound mind or suffering from episodic fits of mental disorder, then this provision provides a clear cut ground of divorce under section 13 of the Act. Section 13 (2) enumerates the grounds available only to a wife for obtaining a decree of divorce. It provides that a wife can file petition for divorce from her husband if he has 'since the solemnizing of the marriage, been guilty of rape, sodomy or bestiality.

After sometime, The Hindu Succession Act was passed in 1956. Under this Act, Hindu women have a right in the ancestral property but their share as against a male member of the family is much less. Coparcenaries consist of all the male members of the family and only coparcener can ask for partition. In the State of Andhra Pradesh and Maharashtra however, the law has been amended to include women as co-parceners. All male members of the family have equal share in the ancestral property. Daughters have a share only in that part of the ancestral property, which falls to the share of the male head of the family. Similarly, a woman has a share only in that of the ancestral property which falls to the share of her husband. However, in the self-acquired property of a Hindu male, all the members of the family have equal rights, (including the women i.e. his daughters), wife, mother, daughter's daughter, widowed daughter-in-law, it is to be noted that even a married daughter or married female member of the family have share in the father's self-acquired property. The Law of Adoption and Maintenance Act 1956 which provides for the maintenance of wife, widows, minor children and the poor parents. It pays special attention to women, have got the right to adopt a child.

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<sup>6</sup>. Section 13 of The Hindu Marriage Act, 1956.

**XII. Social Welfare legislations and Women:** Women empowerment is also another important factor to provide social and economic justice. After independence the Indian Government took a bold step by enacting several legislations like The Dowry Prohibition Act, 1961. Under the Dowry prohibition Act which was amended in 1984 and 1986. Under the new offence ‘Dowry death was included Indian Penal Code and necessary consequential amendment have been made in Criminal Procedure Code and Indian Evidence Act. The penalty for demanding dowry is imprisonment for a term which shall not be less than six months but which may extend to two years and with fine up to Rs. 10,000<sup>7</sup> which is now cognizable, non-bailable and not compoundable. The Indian Penal Code 1860: The rising trend of dowry killings and cruelty to the wives by their husband and in-laws a new chapter has been added. It adds to the victims problems by looking for habitual assault and life to be miserable, which was not required under Section 498A<sup>8</sup>. Not only this, Section 4 (2) of the Bill introduced a new clause: plea of self-defence, by the man. In simple words if an abusive husband can prove that he beat his wife to protect himself or his property, or the property of another person, he will not fall under the ambit of law. Sec. 497 of IPC is also important which makes a provision for punishment to adulterous man to exempts adulterous wife.

The National Commission for Women Act, 1990 by the Parliament with the objective of to fulfil the surveillance as well as functions to facilitate redressal of grievances of women relating to constitutional and legal safeguards provided for women and review the existing laws and suggest amendment.

**XIII. Conclusion:** From the above study it reveals that women are one of the pillars of the society. Our judiciary and legislature has also accepted the fact that women are one of the most important elements of society. Women plays different role in her life as daughter, wife, sister and mother at different stages of life. Thus we must give them due care and respect and understand their efforts towards welfare of the society. Despite the fact that after independence many Acts have been passed for empowering and improving the conditions of women but some of the Acts remain only on the paper. There are several policies and approaches are made to reduce the inequalities between men and women and to empower the women at large.

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<sup>7</sup>. The Dowry Prohibition Act, 1961(Amended in 1984).

<sup>8</sup>. Agnes, Flavia, (1998), “Violence Against Women : Review of Recent Enactments”, pp.35-39.