

# Casteism and Women Empowerment: An Introspection

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## Abstract:

Women are the integral part of the society. Society can't be an ideal society without the contribution made by the women. In the matter of active women empowerment in the society the contribution of law deserves a special remark at national and international level.

The pervasive inequalities existing in the societies are the basic gender issues that lead to deprivation of human rights for woman. Without human rights they can't have security of life and liberty as well as a dignified existence and they neither can realize their full potential as human beings nor can function as full citizens, participating in all the processes that contribute towards the social progress of a country. Besides all the feminine legislations, international law and covenants and though judiciary has also played an active role with the spirit of judicial activism; still, the euphoria to justice for woman is seems to be a vague discourse without social transformation. Social transformation seeks for active participation of both the sex to move forward towards the ideal of woman empowerment and gender justice in their true sense.

Therefore, in this paper various dimensions relating to women has been analyzed at the various stages and steps and also provided certain remedial or suggestive measures to improve the conditions of women which will ultimately lead to the betterment of the conditions of women in the society and then only the women will be empowered in the true sense of the term.

## Keywords:

Social Change, Feminist Empowerment, Gender Biasness, Human Rights, Education, Liberty, Equality, Parliamentary Democracy, Women Empowerment, Revolutionary Approach, Family Jurisprudence etc.

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## Introduction:

Law is considered as the most pivotal instrument of social change through its dynamic approach. The law is also considered as the golden key to uplift the social status of women because women are playing the most cardinal role in every society whether it is developed or developing. The introduction of the Constitution of India created a revolution in the field of feminist empowerment. According to Manu “Gods were pleased in those houses where the women held in honour”. If we turn the pages of Hindu mythology then we can see that women are called as “Shakti” which means “Power”. Women are playing the various roles like mother, daughter, wife, sister and each and every time she is the inspiration of every successful man. They maintain the equilibrium of the civilized society and if there is any disregard of women then entire civilized society will collapse like a pack of cards. Therefore, according to Pt. Jawaharlal Nehru it can be stated that “you can tell the condition of a nation by looking at the status of its women”. In regard of empowerment of women in the Indian society the Constitution of India deserves a special mention. The Constitution of India not only protects the women but also empowers the women through its various provisions as well as upholds the true spirit of feminist jurisprudence. In the present days woman don’t want to confine within the four walls of the house and they also want to create separate identity in the society beside men. Now the gender biasness has been eliminated by virtue of the various legal instruments and there is a remarkable recognition of women contribution towards establishing an ideal state. The basic human rights like right to education, right to life and liberty, right to equality, right to take part in the parliamentary democracy etc. help them to create a special identity in the society from the grass-root level and also create a revolutionary change in their daily, monotonous and conservative life style.

## Empowerment of Women as a Unique Identity:

The concept of feminist movement under the canopy of women empowerment took its origin in the 18<sup>th</sup> Century in England. The women empowerment is not a magical process which can be achieved over the night. It can only be achieved with a continuous socio-economic progress. So, in the words of Doshi & Jain, it may be stated that “women are empowered through – women emancipation movement, education, communication, media, political parties and general awakening”. Hence, the women empowerment is a continuous progress which requires constant efforts of Government, intellectual men and women who are concerned enough about enhancement of status of women in the society. Therefore, various socio-economic and political factors are there to facilitate the empowerment of women which can be discussed in the following manner:

- i. Society must recognize the equal status of men and women;
- ii. Women can become stronger only with educational and economic power because sufficient education can only help them to create an unique identity as well as it will make them less dependence on men;
- iii. Women must have freedom to take care her own decision about her own life;
- iv. They must be free to take part in the administrative process and political affairs;

Hence, in the process of active women empowerment we should start the process from the very grass-root level. For example it may be stated that, if we give sufficient opportunity to the women to take active participation in ***Gram-Samiti*** then they can able to raise their voice and can

also establish their separate identity in the society. In this regard, the ***Kultikri*** village of ***Paschim Midnapore (Sankhrail Block), West Bengal*** deserves a special mention. That place has successively elected all women panchayats not because of the reservation for women. The mere fact is that its women leaders have beaten their male counter parts fair and square on the basis of their superior leadership qualities and remarkable track record of development.<sup>3</sup>Therefore, the incident of this small village created a great revolution in the area of women empowerment as well as it will also encourage millions of women to create unique identity by promoting social transformation through a revolutionary approach.

## Social Transformation of Women as a Separate Identity:

Women are the integral part of the society. Society can't be an ideal society without the contribution made by the women. In the matter of active women empowerment in the society the contribution of law deserves a special remark at national and international level. Therefore, various legal instruments which are responsible for the social upliftment of women as a separate identity can be described in the following manner:

## Basic Human Rights Instruments for Women:

Since the Second World War, the advancement of rights women has been the most serious concerned of Women. So, the basic human rights which are available to women can be discussed in the following manner:

- i. The Universal Declaration of Human Rights, 1948, provides that, all the rights and fundamental freedoms incorporated in the UDHR are available equally to both men and women without any distinction;
- ii. The Declaration of Mexico on the Equality of Women and Their Contribution to Development and Peace, 1975, includes the following rights:
  - ✓ Equality between men and women;
  - ✓ Equal access to education and training;
  - ✓ The right to work and equal pay for work of equal value;
  - ✓ Right of every women to decide freely whether to marry (**etc.**)
- iii. The Convention on the Political Rights of Women provides that:

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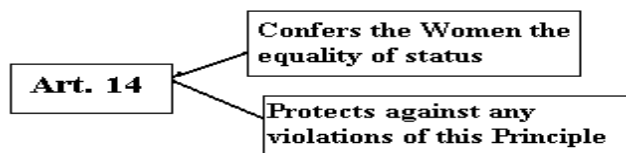
<sup>3</sup> Deccan Herald (Living She); Bangalore Edition; June 15, 2013.

- ✓ Women shall be entitled to vote in all elections on equal terms with men;
- ✓ Women shall be eligible for election to all public bodies, established by national law on equal terms with men without any discrimination.

## Role of Constitution of India in the matter of Women Empowerment:

The various Constitutional Provisions are describing in the following manner:

- ❖ Art.14 provides that, “State shall not deny to any person equality before law and equal protection of laws within the territory of India”. Hence, it may be stated that:



In *Madhu Kishwar & Others v. State of Bihar & Others*<sup>4</sup> the Petitioners, members of HO and ORAN Tribes of Bihar had challenged the validity of Sec.7 and Sec.8 of the Chhota Nagpur Tenancy Act, 1908 and it was declared as the ultra vires of Art. 14 of the Constitution of India as Sec.7 and Sec.8 confines succession of property to the male and it was discriminating the women.

- ❖ Art. 15(3) provides that state shall make special provision for women and children;
- ❖ Art. 16 provides that, no discrimination be made by the State against its citizens including women while providing jobs;
- ❖ Right to Education under Art. 21-A<sup>5</sup>;
- ❖ Art. 23 prohibits traffic in human beings and forced labour;
- ❖ Art.243-D (3) provides that, 1/3 members of seats shall be reserve for women in the Panchayats including the women belonging to SC's and ST's;
- ❖ Art.243-T provides that, 1/3 members of seats shall be reserve for women in the Municipalities including the women belonging to SC's and ST's. (etc.)

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<sup>4</sup> (1992) 1 SCC 102

<sup>5</sup> Inserted by the Constitution(86<sup>th</sup> Amendment) Act, 2002

## Empowerment of Women under Family Jurisprudence:

In the matter of empowerment of women under family jurisprudence the following legislations are playing the most cardinal role:

- The Hindu Marriage Act, 1955;
- The Hindu Succession Act, 1956;
- The Hindu Adoption & Maintenance Act, 1956;
- The Hindu Minority & Guardianship Act, 1956;
- The Criminal Procedure Code, 1973 (Section 125);
- The Prohibition of Child Marriage Act, 2006;
- The Muslim women Protection of Rights on Dowry Act 1986
- The Indian Divorce Act, 1969 (4 of 1969); (etc.)

### 1. Welfare of Women under through various Legal Instruments:

In order to ensure equal justice and to promote the momentum of women empowerment, the following Legislations deserve special mention:

- The Commission of Sati (Prevention) Act, 1987 (3 of 1988);
- Protection of Women from Domestic Violence Act, 2005;
- The Indecent Representation of Women (Prohibition) Act, 1986;
- The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013;
- The Immoral Traffic (Prevention) Act, 1956;
- The Dowry Prohibition Act, 1961 (28 of 1961) (Amended in 1986);
- The Indian Penal Code, 1860;
- The Workmen's Compensation Act, 1923;
- The Trade Unions Act 1926;
- The Payments of Wages Act, 1936;
- The Factories Act, 1948;
- The Maternity Benefit Act, 1961 (53 of 1961);
- The Medical Termination of Pregnancy Act, 1971 (34 of 1971);
- The Pre-Natal Diagnostic Techniques (Regulation and Prevention of misuse) Act 1994; (etc.)

## Establishment of National Commission for Women:

The Central Government established the National Commission for women in the year of 1992 in order to check incidents violence against women as well as to promote social, legal and

economic equality of women. The Commission consists of a Chairman, Five Members and a Member Secretary and all are nominated by the Central Govt. The Commission performs the following activities:

- Review of Legislations;
- Remedial Action to safeguard the interest of Women;
- To accord highest priority to secure speedy justice to women;
- To monitor the enforcement of Laws;
- To inquire into “Unfair Practice” against the women;

## Compensation Jurisprudence under Art. 21 and Women:

Article 21 of the Constitution of India is the mother of all the Fundamental Rights. According to Article 21, “no person shall be deprived of his life and liberty except according to the procedure established by Law.” Therefore, Article 21 can be divided into two parts i.e.

$$\boxed{\text{Art.21}} = \boxed{\text{Right to life + Personal Liberty}}$$

This scope Art.21 is undoubtedly expanded after the historic decision of *Maneka Gandhi*<sup>6</sup>. Hence the compensation jurisprudence under Art.21 can be discussed with reference to judicial pronouncements in the following manner.

- ❖ In *Delhi Domestic Working Women’s Forum v. Union of India*,<sup>7</sup> The Supreme Court had laid down the following guidelines.
  - i. She must be given free legal aid;
  - ii. Every Police Station must of list of Advocates;
  - iii. She must be given free medical aid;
  - iv. Name of the Victim shall not be disclosed;
  - v. Proceedings should be in camera trail;
  - vi. She must be rehabilitated;
  - vii. She must be given interim compensation and there should be a Compensation Board;
- ❖ In *Chairman, Railway Board v. Chandrima Das*<sup>8</sup>, the High Court awarded a sum of Rs.10 Lakhs as compensation to the victim.
- ❖ In *Bodhisathwa Goutam v. Subbra Chakraborty*<sup>9</sup>, the Supreme Court awarded an interim compensation of Rs.1000/- per month to the victim of Rape until her charges of rape are decided by the Trial Court.

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<sup>6</sup> Maneka Gandhi v. Union of India, AIR 1978 SC 597

<sup>7</sup> (1995) 1 SCC 14

<sup>8</sup> AIR 2000 SC 988

<sup>9</sup> (1996) 1 SCC 490

- ❖ In *Vishaka v. State of Rajasthan*<sup>10</sup>, the Supreme Court has laid down guidelines to prevent sexual harassment of working women in places of their work and the Court also held that, it is the duty of the employer or other responsible person in work place or other institutions, whether public or private to prevent sexual harassment of working women. The Court further stated that instances of sexual harassment resulting in violation of Fundamental Rights of women workers under Art.14, 19 & 21 of the Constitution of India.

Hence in the words of Mr. Justice Saghir Ahmad it may be stated that “Women also have the right to be respected and Reactive as equal citizens. Their honor and dignity cannot be touched and violated. They also have the right to lead an honorable and peaceful life.

## Legal Aid and Women Empowerment:

Legal aid is a key instrument to accelerate the process of illuminating every aspect of social justice in every corner of society. It is also considered as a dynamic instrument to achieve justice. The concept of legal aid also enhances the true spirit of “Rule of Law”. Free legal aid is necessary because most of the women are there mainly in rural and semi urban area who cannot afford legal representation in the courts due to the financial difficulties and lack of proper knowledge. Therefore, in order to spread the concept of legal- aid in the every corner of society, the Constitution of India has taken special initiative. In Article 39-A<sup>11</sup> which directs the State to ensure equal justice and free legal aid to economically backward class. This Article was mainly added to the Constitution pursuant to the new policy of the Government to give legal aid to the economically backward classes of people. Now, the Right to free legal aid and speedy trial are also guaranteed as fundamental right under Article 21. Hence, in order to achieve the objectives in art. 39-A, the State must encourage and support the participation of voluntary organizations or social action groups in operating a legal aid program.<sup>12</sup>

## Status of Dalit Women:<sup>11</sup>

The vulnerability of *Dalit* women as depicted by a Nepali writer can be taken as an example on how these women are oppressed in the total social and family context. In her story of *A Naikape Sarkilli*, Parijat has well described the story of a low caste woman who has to earn her living by digging sand in the Bagmati River, in Kathmandu valley. The story goes like this –

The woman works so hard digging the sand in Bagmati River during the cold and chill winter of Kathmandu. During that cold winter she has wrapped herself in a thin saree and a blouse without proper

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<sup>10</sup> AIR 1997 SC 3011

<sup>11</sup> Added by 42<sup>nd</sup> Amendment Act, 1976

<sup>12</sup> Centre of Legal Research v. State of Kerala, AIR 1986 SC 1322.



winter clothes. She returns home after she finishes the work at 4 O'clock in the evening which is *almost* dark during the winter time. She then begins to cook the evening meal and waits for her drunken husband to come home from playing cards, which is his daily job. Her husband who is disabled cannot help her in anything even giving the physical comfort, but assaults her with bitter words and gets satisfied as being a man. He comes to the *pati* (shelter for the homeless) with all his frustration, inferiority *complex* and defeat which automatically comes in his words. He still demands the money she earned by her hard work as his right, to drink alcohol which she cannot protect without a proper place to hide. After completing all the household chores she sleeps in her wet clothes that is all she has to wear. "She is as cold as the sand of Bagmati, being deprived by everything". She is already turned to her old age in her middle age. She can neither revolt nor fight against this injustice.

This is a typical story described by the writer which represents the condition of majority of the *Dalit* women's life. They have to live a miserable life be it social, economic educational, legal and others.

11. [http://himalaya.socanth.cam.ac.uk/collections/journals/opsa/pdf/OPSA\\_08\\_06.pdf](http://himalaya.socanth.cam.ac.uk/collections/journals/opsa/pdf/OPSA_08_06.pdf) browsed on 14.12.2013 at about 8 p.m.

## Women in Political Participation:

Women have the equal right to participate in the process of Parliamentary democracy actively beside a man because in every modern political system election process occupies the most cardinal role. In many studies and research it is found that women, particularly of backward caste and class in the rural areas are not independent voters due to the following reasons:

- That majority of them are illiterate;
- That majority of them don't have enough independence to express their views and they make their choice on the basis of suggestions given by male members of the family, viz. husband, and sons;
- They lack information and political awareness;
- They are not politically conscious.

Therefore, special initiative must be taken to increase the number of women voters, particularly of backward caste through proper education and awareness program. It is necessary to send the message to those women that their life is not confined within the four walls of kitchen and other house-hold works, they must come forward to participate not only in democratic process but also in administrative process, legal process, educational process etc. to enhance their entity in the society. Hence, it may be stated that:

- ✓ Article 1 of the Convention on the Political Rights of Women, 1952 provides that, the women shall be entitled to vote in all elections on equal terms with men;
- ✓ Article 2 of the Convention on the Political Rights of Women, 1952 provides that, women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men and without any discrimination;
- ✓ In India, Women's Reservation Bill or the Constitutional (108<sup>th</sup> Amendment) Bill, is a pending Bill which proposes to amend the Constitution of India to reserve 33% of all seats in the Lok-Sabha and in all State Legislative Assemblies for women;



- ✓ Art. 243-D and Art. 243-T provides that in every Panchayats and Municipalities 1/3 members of seats shall be reserve for women including the women belonging to SC's and ST's. (etc.)

## Conclusion and Suggestive Measures:

Thus, from the above discussion it may be concluded that that law has been proved as an important instrument for the development of the status of women and it also brings a new hope for millions of oppressed women in India. So, the following suggestive measures may be considered for the betterment of social status of women in the society under the canopy of socio-legal aspect:

- More attention must be given on women education by establishing educational institutions in rural, semi urban and urban areas;
- Application of legal instruments must be strengthening in order to eliminate crimes against the women;
- It is necessary to conduct the awareness program to eliminate gender biasness at every **Gram-panchayat** level in rural area;
- Special attention must be given to improve conditions of health centres in rural as well as urban areas specially for women and these health centres must spread the good advices for the betterment of healthy life to women by conducting various workshops and health awareness camps at least twice a month;
- It is necessary to establish legal aid camp at every sub-divisional and **Gram-panchayat** level to provide necessary legal assistant to women.
- Women panchayat must be established to encourage the leadership qualities;
- NGOs must actively take special efforts to encourage and to motivate the women especially in rural area to participate in active democracy and various administrative processes.

Hence, the advancement of women involves concerned commitment from men as well as women. It also indicates that, men and women both should jointly move to promote socio-economic development of those women who are socially backward and economically week. So, welfare is necessary because a nation's development can be measured by looking at the social condition of women in that country. Therefore, it can also be stated that, men and women are like two flowers in a same twig. The social transformation beckons the modernization of law when the society needs freedom from its orthodox ideology which hinders the decent movement of the society towards a welfare state.

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