

# Emancipation of Women: Dr. B. R. Ambedkar's Perspectives

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## 1. INTRODUCTION

India, the largest democratic country of the world, has over 1.20 billion populations whose sex ratio is 1000-940 (as according to 2011 census Report) of male and female respectively. The sources of Indian democracy and its prosperity depends upon the level of education, economic condition, political consciousness and political participation of both male and female in national, state and at grassroots levels. Indian women have been able to prove their ability in the field of education, science and technology, arts and culture, games and sports, fashion technology, defense of the country and in many other fields. But in the field of politics the role of women is not satisfactory.

The Constitution of India is the embodiment of fundamental human rights as well as the protector of individual rights. The Constitution provides equal political right to both male and female citizens of the country irrespective of caste, community, religion, race, sex etc. So that both men and women enjoys the equal rights and opportunities to play in the political affairs of the country. The framers of the Constitution intended for establishing an ideal society in the level of political participation by all citizens.

The Directive Principles of State Policies contained in Part-IV of the Indian Constitution intent for establishing a welfare state by way of imposing an obligation to the state to establish and organize village Panchayat at gross root level.<sup>1</sup> In order to meet the objectives set out under the Constitution various Panchayat Acts and Municipal Acts were enacted by the Government of states in various parts of India. The state acts also made provision for reservation to women in all fields of local self-government. Thereby to increase their participation in decision making process at the grassroots level also. But due to male domination in society as well as political field women were denied an opportunity to participate as equal to men.

India being a member of World community is to give respect to International Law and obligations. However,

India became a member of convention on the elimination of all forms of discrimination against women (CEDAW). It has an obligation to provide equal rights to that of men. The role of judiciary to empower the women is also pre-dominant. The Supreme Court of India in its various judgments initiated the principles of Gender Justice. So, it is a time to empower the Women by giving some power or authority to act.

## 2. INTERNATIONAL COMMITMENTS

March 8<sup>th</sup> is observed as "*International Women's day*" which is an important occasion for us to achieve progress of women towards Gender Equality in the world. The United Nation is committed to the principle of equality of men and women.<sup>2</sup> In the first period from 1945 to 1962, the UN worked to secure women's legal equality.<sup>3</sup>

During the second period from 1963 to 1975, more and more governments responded to the UN by adopting laws and programmes to protect women's rights.<sup>4</sup> The UN encompassed apart from codification of rights, the economic and social realities of women. Matters as policy formulation, attitude change, political commitment and institution building came to the forefront particularly as they affected women in developing countries.

## 3. THE STATUS OF WOMEN IN INDIA

The Crimes against women are a day today activity as subject to various forms of discrimination on the ground of Patriarchal bias, powerlessness and dependence etc. In every three minutes one crime against women, one molestation in every 15 minutes, in every 29 minutes one rape, in every 53 minutes

<sup>2</sup> Article 1 of the UN Charter, 1947

<sup>3</sup> With the formation of the commission on Human Rights and the Commission on the Status of Women in 1946, and the adoption of the Universal Declaration of Human Rights in 1948 etc.

<sup>4</sup> The Declaration on the Elimination of Discrimination Against Women in 1967.

<sup>1</sup> Article 40 of the Indian Constitution

one sexual harassment, in every 17 seconds the crimes are reported against women.<sup>5</sup>

Various forms of atrocities against women can be classified in the following ways:-

- a) Physical violence- Injury
- b) Sexual Violence- Indecent behavior
- c) Verbal violence- abusive and filthy language
- d) Social violence- demeaning, disparaging and humiliating a women
- e) Emotional violence- deprivation of love, affection, concern, sympathy and care
- f) Intellectual violence-denial of right to take part in decision making process
- g) Other forms of violence- denial of educational opportunities, reproductive rights, access to health facilities or opportunities, forcing to prostitution and trafficking

#### 4. THE CRIMES AGAINST WOMEN

Can be classified into two types;

1. **Crimes Identified under Indian Penal Code-** Rape, kidnapping and abduction for different purposes, Homicide for dowry, dowry death and their attempts, torture both mental and physical, Importation of girls, Molestation and sexual harassment.
2. **Crimes Identified under Special Laws-** Commission of Sati Act, 1987, Dowry Prohibition Act, 1961, Immoral Traffic (Prevention) Act, 1956, The medical termination of pregnancy Act, 1971 etc.

#### 5. AMBEDKAR VIEWS ON GOD

In '*the Women and Counter Revolution and the Riddle of Women*' Ambedkar portrays the way in which Manu treated women. Manusmriti had denied the right to freedom, self-respect, education, property, and right to divorce to women. As Ambedkar said in Philosophy of Hinduism that, '*God had become attached to a community, and the community had become attached to their god, god had become the god of the community and the community had become the chosen community of the god*'.<sup>6</sup>

The above view of Ambedkar denotes that god is not meant for all but it meant for certain community including women who were not permitted to touch the

god. And also said that the above view had two consequences;

- a) Antique society never came to conceive that god could be universal, god of all.
- b) Antique society never could conceive that there was any such thing as humanity in general.

Dr. Ambedkar started propaganda in *Mook Nayak* in 1920 and *Bahishkrit Bharat* in 1927. The main stress on the gender equality and need for education to women. And the magazine mainly exposed to the problems of the depressed sections of the society, and towards women's emancipation.<sup>7</sup> On 18<sup>th</sup> July 1927, while addressing women of depressed classes, he said that, 'send your children to schools education is necessary for females as it is for males. If you know how to read and write there could be much progress in the society'.

During his studies at New York he wrote a letter to his friend in India that, '*We shall see better days soon and our progress will be greatly accelerated if male education is persuaded side by side with female education*'. In 1930 Kalaram Temple Entry Satyagraha at Nasik more than 500 women were participated. On 20<sup>th</sup> July 1942, The All India Dalit Mahila Conference was organized and 25,000 women were attended.

#### 6. AMBEDKAR VIEWS ON MARRIAGE AND REMARRIAGE

Dr. Ambedkar was strongly against the Manu views about marriage and remarriage. Because Manu said that, 'for the first marriage of the twice born classes, a woman of the same class is recommended but for such as are impelled by inclination to marry again, women in the direct order of the classes are to be preferred'. A Shudra woman only must be the wife of Shudra; Vaisya of a Vaisya, Kshatriya of a Kshatriya, Brahmani of a Brahman'. Manu allowed men to marry with women below the class not above the class. Further Manu said that, 'killing of a woman is like the drinking of liquor, a minor offence'.

Ambedkar was found emancipation in Buddhist values, which promotes equality, self-respect and education. Ambedkar believed that, Buddha treated women with respect and love and never tried to degrade them like Manu did. Women like Vishaka, Amrapali of Visali, Gautami, Rani Mallika, Queen of Prasenajith were approached Budha's philosophy.

The Hindu Marriage Act of 1955 provides the equal grounds for divorce to both husband and wife.<sup>8</sup> The grounds are like adultery, desertion, cruelty, insanity, leprosy, venereal diseases, conversion or renunciation

<sup>5</sup> According to National Crime Records Bureau (NCRB) in its crime clock- 2005.

<sup>6</sup> Ambedkar speeches and writings, Volume 3, Page no 15.

<sup>7</sup> In January 1928, Women association was founded in Bombay with Ramabai as its president.

<sup>8</sup> Section -13 of the Act.

of world etc. The Desertion under the Hindu Marriage Act falls under the following categories;

- a) Actual desertion,
- b) Constructive desertion,
- c) Willful neglect.

## **7. AMBEDKAR ON MATERNITY BILL**

On 18<sup>th</sup> February Dr. Ambedkar was sworn as a nominated member of the Bombay Legislative Council. Ambedkar argued on maternity benefit bill that, 'It is in the interest of the nation that the mother ought to get a certain amount of rest during the pre-natal period and also subsequently, and the principle of the bill is based entirely on that principle'.

Further Ambedkar said that, I am prepared to admit this fact because of the conservation of the people's welfare is primary concern of the government. While addressing the conference<sup>9</sup> Ambedkar had emphasized that, 'there could not be any progress without the participation of women'. He spoke that, I am a great believer in women's organizations I know that what they can do to improve the condition of the society if they are convinced. They should educate their children and instill high ambition in them. Ambedkar was returned to India after Round table Conference in 1932, hundreds of women were presented for the committee meetings.

Article 42 of the Indian Constitution directs the State to ensure the just and humane conditions of work and of maternity benefit. In order to meet the objectives as set out in this provision the Government of India has enacted the Maternity Benefit Act, 1961. The central Government has increased the maternity benefit period from four months to six months by amending the law.<sup>10</sup>

The amendments to maternity benefit Act were done by the government in order to increase the period of maternity benefit to the female workers.

- 1) It increased the maternity benefit from 12 weeks to 26 weeks for two surviving children
- 2) 12 weeks for more than two children
- 3) 12 weeks maternity benefit to a commissioning mother and adopting mother

<sup>9</sup> On 20<sup>th</sup> July, 1940 All India Depressed Classes Women's Conference was held at Nagpur.

<sup>10</sup> The Maternity Benefit (Amendment) Bill, 2016 in Parliament.

- 4) Mandatory provision of Creche in respect of establishment having 50 or more employees

## **8. AMBEDKAR IDEA ON EQUALITY**

As Ambedkar said that, 'Political democracy cannot last unless there lies at the base of its social democracy'.<sup>11</sup> By social democracy he meant a way of life which recognizes, 'Liberty, Equality and Fraternity as principle of life'. On 26<sup>th</sup> January He said that, 'we are going to enter into a life of contradictions;

1. In politics we will have equality
2. In social and economic life we have inequality

The politics recognizes the principle of "*One Man One Vote, and One Vote One Value*", but social and economic life denied the one man one value". Therefore we must remove these contradictions by following principles;

- a) All are equal before law
- b) Ensuring equal civil rights
- c) Equal access to all institutions
- d) Equal opportunities to settle or reside in any part of India

Most of the Ambedkar thoughts on rights of women are incorporated in the Constitution of India. The idea of equality as Ambedkar was viewed is incorporated in Part-III of the Indian Constitution from Article 14 to 18.<sup>12</sup>

## **9. THE HINDU CODE BILL, 1948**

Dr. B.R. Ambedkar was strongly defended the bill by pointing out the Constitutional principles of equality, liberty and fraternity. He said that, legal framework is necessary for a social change in which women have equal right with men. The bill was opposed by Hindu Orthodoxy and Patriarchy.<sup>13</sup> After the withdrawal of the bill, Ambedkar was resigned to his Law Minister post. In his resignation letter dated 27<sup>th</sup> September

<sup>11</sup> On 25<sup>th</sup> November, 1949 in his speech in the Constituent Assembly.

<sup>12</sup> Article 14 says about Equality before the law, Article 15 prohibits discrimination on the basis of caste, religion, sex, place of birth, residence etc, Article 16 ensures the equality in matters of public employment, Article 17 says about abolition of Untouchability, and Article 18 states about the abolition of Titles.

<sup>13</sup> In 1951 Prime Minister Jawaharlal Nehru dropped the bill on the ground of opposition by the Hindus.

1951, he stated about the failure of the Government to pass the Hindu Code Bill.

The main contents of the bill:-<sup>14</sup>

- 1) To abolish different forms of marriage systems
- 2) To establish Monogamy as the only legal system
- 3) To confer the right to property to women
- 4) Adoption of female child
- 5) Restitution of Conjugal rights
- 6) Equal grounds for Judicial separation

Most of the provisions of the Hindu Code Bill as Dr. Ambedkar proposed to introduce in the form of a law are incorporated by the Govt. of India by enacting so many legislations. The Hindu Marriages Act, 1955 provides for the valid and voidable marriages. The practice of monogamy and prohibition of polygamy provisions are contained under the Act.<sup>15</sup>

#### **Section-18. Punishment for contravention of certain other conditions for a Hindu marriage.**

Every person who procures a marriage of himself or herself or to be solemnized under this Act in contravention of the conditions specified in clauses (iii), (iv), and (v) of Section 5 shall be punishable- (a) in the case of a contravention of the condition specified in clause (iii) of Section 5, with simple imprisonment which may extend to fifteen days, or with fine which may extend to one thousand rupees, or with both; (b) in the case of a contravention of the condition specified in clause (iv) or clause (v) of Section 5, with simple imprisonment which may extend to one month, or with fine which may extend to one thousand rupees, or with both; (c) Clause (c) omitted by Act 2 of 1978.

### **10. ABOUT ADOPTION**

According to Dattaka Mimamsa, 'a man should adopt a son for the sake of the funeral cake, water and solemn rites and for the celebrity of his name'. According to Manu, 'a boy equal by caste, whom his mother or his father affectionately gives, confirming the gift with a liberation of water in times of distress to a man as his son, must be considered as an adopted son (Datrima). The Hindu Adoption and Maintenance

Act, 1956 recognized the equal rights to women to give and taking in adoption.<sup>16</sup>

The present law adopted by the state recognizes the equal rights to female child in adoption while taking and giving.

#### **Section-6. Requisites of a valid adoption**

No adoption shall be valid unless- (i) the person adopting has the capacity, and also the right, to take in adoption; (ii) the person giving in adoption has the capacity to do so; (iii) the person adopted is capable of being taken in adoption; and (iv) the adoption is made in compliance with the other conditions mentioned in this Chapter.

#### **Section- 7. Capacity of a male Hindu to take in adoption**

Any male Hindu who is of sound mind and is not a minor has the capacity to take a son or a daughter in adoption. Provided that, if he has a wife living, he shall not adopt except with the consent of his wife unless the wife has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind.

Explanation-If a person has more than one wife living at the time of adoption, the consent of all the wives is necessary unless the consent of any one of them is unnecessary for any of the reasons specified in the preceding proviso.

#### **Section-8. Capacity of a female Hindu to take in adoption**

Any female Hindu- (a) who is of sound mind, (b) who is not a minor, and (c) who is not married, or if married, whose marriage has been dissolved or whose husband is dead or has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind, has the capacity to take a son or daughter in adoption.

#### **Section-9. Persons capable of giving in adoption**

(1) No person except the father or mother or the guardian of a child shall have the capacity to give the child in adoption. (2) Subject to the provisions of sub-section (3) and sub-section (4), the father, if alive, shall alone have the right to give in adoption, but such right shall not be exercised save with the consent of the mother unless the mother has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction

<sup>14</sup> Later these provisions are incorporated in the Hindu Marriage Act, 1955, and Hindu Succession Act etc.

<sup>15</sup> Section - 5 Condition for a Hindu Marriage. 9. Restitution of conjugal rights. 10. Judicial separation 11. Nullity of marriage and divorce- Void marriages. 12. Voidable Marriages 13-A. Alternate Relief in Divorce Proceedings.- 13-B. Divorce by mutual consent etc.

<sup>16</sup> Under the law, Section -6 says about the requisites of a valid adoption, Section-8 capacity of female Hindu to take adoption, Section-9 persons capable of giving in adoption, Section- 10 persons who may be adopted, Section-11 other conditions of valid adoption.



to be of unsound mind. (3) The mother may give the child in adoption if the father is dead or has completely and finally renounced the world or has ceased to be a Hindu or has been declared by a court of competent jurisdiction to be of unsound mind. (4) Where both the father and mother are dead or have completely and finally renounced the world or have abandoned the child or have been declared by a court of competent jurisdiction to be of unsound mind or where the parentage of the child is not known, the guardian of the child may give the child in adoption with the previous permission of the court to any person including the guardian himself. (5) Before granting permission to a guardian under sub-section (4) the court shall be satisfied that the adoption will be for the welfare of the child, due consideration being for this purpose given to the wishes of the child having regard to the age and understanding of the child and that the applicant for permission has not received or agreed to receive and that no person has made or given or agreed to make or give to the applicant any payment or reward in consideration of the adoption except such as the court may sanction.

#### **Section-10. Persons who may be adopted**

No person shall be capable of being taken in adoption unless the following conditions are fulfilled, namely-

- (i) he or she is a Hindu;
- (ii) he or she has not already been adopted;
- (iii) he or she has not been married, unless there is a custom or usage applicable to the parties which permits persons who are married being taken in adoption;
- (iv) he or she has not completed the age of fifteen years, unless there is a custom or usage applicable to the parties which permits persons who have completed the age of fifteen years being taken in adoption.

#### **Section-11. Other conditions for a valid adoption**

In every adoption, the following conditions must be complied with:

- (i) if any adoption is of a son, the adoptive father or mother by whom the adoption is made must not have a Hindu son, son's son or son's son's son (whether by legitimate blood relationship or by adoption) living at the time of adoption;
- (ii) if the adoption is of a daughter the adoptive father or mother by whom the adoption is made must not have a Hindu daughter or son's daughter (whether by legitimate blood

relationship or by adoption) living at the time of adoption;

- (iii) if the adoption is by a male and the person to be adopted is a female, the adoptive father is at least twenty-one years older than the person to be adopted;
- (iv) if the adoption is by a female and the person to be adopted is a male, the adoptive mother is at least twenty-one years older than the person to be adopted;
- (v) the same child may not be adopted simultaneously by two or more persons;
- (vi) the child to be adopted must be actually given and taken in adoption by the parents or guardian concerned or under their authority with intent to transfer the child from the family of its birth or in the case of an abandoned child or a child whose parentage is not known, from the place or family where it has been brought up to the family of its adoption. Provided that the performance of datta homan, shall not be essential to the validity of an adoption.

#### **Section- 12. Effect of adoptions**

An adopted child shall be deemed to be the child of his or her adoptive father or mother for all purposes with effect from the date of the adoption and from such date all the ties of the child in the family of his or her birth shall be deemed to be severed and replaced by those created by the adoption in the adoptive family. Provided that-

- (a) the child cannot marry any person whom he or she could not have married if he or she had continued in the family of his or her birth;
- (b) any property which vested in the adopted child before the adoption shall continue to vest in such person subject to the obligations, if any, attaching to the ownership of such property, including the obligation to maintain relatives in the family of his or her birth;
- (c) the adopted child shall not divest any person of any estate which vested in him or her before the adoption.

#### **11. ABOUT INDIVIDUAL DEVELOPMENT**

According to Ambedkar, 'individual is an end in him, the aim and object of the society is the growth of the individual and the development of his personality. The society is not above the individual and if the

individual has to subordinate himself to society'. The associated life between members of society must be regarded by consideration founded upon liberty, equality, and fraternity'.<sup>17</sup>

Manu said that, Women have no business with the text of the Veda. A twice born man who has divulged the Veda the Shudras and women will commits sin, atones for his offence. If a Shudra intentionally listens for committing to memory of the Veda, then his ears should be filled with (Molten) lead and lac, if he utters the Veda then his tongue should be cut off, if he has mastered the Veda his body should be cut to pieces'.<sup>18</sup> Dr. Ambedkar has said that, '*Law and order are the medicine of the body politic and when the body politic gets sick, medicine must be administered*'.

## 12. CONCLUSION

The role of women in every walk of life is predominant in the society. The education is necessary for women to make her children to be educated as well as to inspire high ambition on them. Dr. B.R .Ambedkar called the nation to give equal rights to women in every field. If the women s are empowered the nation will be in progress.

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<sup>17</sup> As stated in, *The Hindu Social Order: Its Essential Principles*, Chapter-2, Volume-3, page no-95.

<sup>18</sup> *Ibid* page no-122.