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Socio-Legal Empowerment of Women: Issues and Challenges in Indian Perspective

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ABSTRACT

Empowerment of women is the symbol or indication of prosperity, development or advancement of Human Society. The people's power, women power is the totality of democracy. It is sure that a generation of great men is incomplete without the generation of empowered women. Women have to be empowered to have control over their own lives to better their socio-economic and political condition. Thus, women empowerment can be interpreted as totality of empowerment including political, social, cultural and other dimension of human life as also physical, moral and intellectual. The constitution of India secures to all persons right to equality and opportunity and promote among them all, justice of social economic and political and secure to liberty, dignity and fraternity among men and women. In the pursuance of constitutional mandate the govt. has enacted several laws and acts for women empowerment. But due to lack of education poverty, unawareness and orthodox thinking of society these effort could not get success as desired. Women are still victimized of cruelty, sexual harassment and slavery etc. for many years. They are not only out of the house but also insecure in the house and still suffering from the ideology of the male dominated society. The situation of women is still pathetic and they are just only treated as a property. Hence women empowerment in India is not possible unless orthodox tendency and violence against women have eradicated from the society. Empowerment of women is essential as their value systems lead to development of a good family, good society and good nation.

I. INTRODUCTION

India is a democratic and social welfare country. It prohibits inequality. The preamble of our constitution secures to all citizen of India, **Equality** – of status and of opportunity and to promote among them all, **Justice** – social economic and political, **Liberty** – of thoughts expression, belief, faith and worship, **Fraternity** – Assuring the dignity of individual and the

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unity and integrity of the nation. Article 14 of our constitution secure to all persons, right to equality. This article provides that ‘The state shall not deny to any person equality before the law or equal protection of the laws within the territory of India. As Dr. Jennings puts it’s: “Equality before the law” means that among equals the law should be equal and should be equally administered, that like should be treated alike.² As such this right considered generally a negative right of an individual not to be discriminated in access to public offices or places or in public matters generally. It did not take account of existing inequalities arising even from the public policies and exercise of public power.

The constitution of India has provided right to equality in certain matters from article 15 to 18. Article 15 of our constitution provides the prohibition of discrimination on the grounds of religion, race, caste, sex or place of birth. This article states that the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. Article 16 of the constitution provides equality of opportunity in matters of public employment. This article state that no citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them be ineligible for or discriminated against in respect of any employment or office under the state. Article 39 of the constitution provides: The state shall in particular direct its policy towards securing: (a) That the citizen, men and women equally, have the right to an adequate means of livelihood. (b) That there is equal pay for equal work for both men and women. (c) That 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. But in spite of above the state can formulate any legal provisions relating to women. The constitution of India has empowered to state for making any special law for women and their advancement i.e. women empowerment.³ The women empowerment in India is a pre-independence concept. Empowerment refers to increasing the spiritual, political, social or economic strength of individuals and communities. It often involves the empowered developing confidence in their own capacities.

The goal and objectives of Empowerment of women policy is to bring about the advancement, development and empowerment of women. The policy will be widely disseminated so as encourage active participation of all stakeholders for achieving its goals. Specifically, the objectives of this policy includes –

² Dr. J. N. Pandey: *The constitutional Law of India* Ed. 2013, at p. 80.

³ Dr. J. S. Chandpuri at page 207: “*Contemporary Indian Society and Culture*” Ed. 2014, Gayatri Publications Rewa (M.P.)

- Creating an environment through positive economic and social policies for full development of women to enable them to realize their full potential.
- The de-jure and de-facto enjoyment of all human rights and fundamental freedom by women on equal basis with men in all spheres – political, economic, social, cultural and civil.

- Equal access to participation and decision making of women in social, political and economic life of the nation and

- Equal access to women to health care, quality education at all levels, career and vocational, guidance, employment, equal remuneration, occupational health and safety, social security and public office etc.

II. SOCIAL EMPOWERMENT OF WOMEN:

The Government has launched of their various programmes for women empowerment such as Swashakti, Swayamsidha, Streeshakti, Balika Samridhi, Gaura devi kany dhan yojana, Kanya Vidya Yojana, Sukanya Samridhi Yojana etc. and another more than two thousand projects/programmes are working for women advancement and their welfare. The states has taken effective measures for elimination of unemployment sickness and disablement to women. Social justice and social security has become paramount consideration therefore the central and state govt. has provided various financial assistance amongst the women viz. Vidhwa Pension, Virdhavasta (Oldness) Pension, Berojgar Bhatta (unemployment) Assistance, Gauradevi and Balika Shiksha Bhatta (Assistance) etc. govt. of India has announced in their policy that equal access to education and health for women and girls will be ensured. A holistic approach to women's health which includes both nutrition and health services will be adopted and special attention will be given to the needs of women and the girl at all stages of the life cycle.

The national commission for women was set up by an Act of Parliament in 1990 to safeguard the rights and legal entitlements of women. Similarly every states has been set up a state commission for women in their state jurisdiction for women rights protection. The main functions of the aforesaid commission are as following:

- (i) To investigate and examine the matters relating to the safeguards provided for women under the constitution and other laws.
- (ii) To present report to the central government relating to women under the existing laws.
- (iii) Recommendation to union or state for the effective implementation of women issues.
- (iv) To review the existing provisions of law from time to time which related to the women rights.

- (v) To take up the cases of violation of the provisions of constitution and of other laws relating to women with the appropriate authorities.
- (vi) To look into complaints and takes Suo motu notice relating to deprivation of women's rights, non-implementation of laws enacted to provide protection to women and non-compliance of policy decisions guidelines relating to women.
- (vii) To promote educational research relating to women.
- (viii) To participate and advise on the planning process of socio-economic development of women.
- (ix) To inspect jails, observation, home, women's institutions etc.
- (x) Any other matters referred by the central government.

The 73rd and 74th constitutional amendments act 1992 has brought a dynamic change in our constitution. Consequently the constitution of India provides reservation of seats in the local bodies of panchayats and municipalities for women, laying a strong foundation for their participation in decision making at the local levels. In short we can say that the empowerment in probably the totality of the following or similar capabilities:

- Having decision making power of their own.
- Having access to information and resources for taking proper decision. • Having a range of options from which you can make choices (not just yes/no either/or)
- Ability to exercise assertiveness in collective decision making. • Having positive thinking on the ability to make change.
- Ability to learn skills for improving one's personal or group power. • Ability to change other's perceptions by democratic means.
- Involving in the growth the process and changes that is never ending and self-initiated.
- Increasing one's positive self-image and overcoming stigma.

The principle of gender equality is enshrined in the Indian constitution in its preamble, fundamental rights, fundamental duties and directive principles of state policy. 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. From the fifth five year plan (1974-78) onwards has been a marked shift in the approach to women's issues from welfare to development. In recent years, the empowerment

of women has been recognized as the central issue in determining.⁴

Special Initiatives for women

(1) National Commission for women: In January 1992, the central govt. set up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendment wherever necessary, etc.

(2) Reservation for women in local self-government: The 74 constitutional amendment acts passed in 1992 by parliament ensure one-third of the total seats for women in the all elected offices in local bodies whether in rural areas or urban areas.

(3) The National Plan of Action for the Girl Child (1991-2000): The plan of action is to ensure survival, protection and development of the girl child with the ultimate objective of building up better future for the girl child.

(4) National Policy for the empowerment of women, 2001: The department of women and child development in the ministry of human resource development has passed a ‘National Policy of the Empowerment of Women’ in the year 2001.

The goal of this policy is to bring about the advancement, development and empowerment of women. Some state govt. has set up their policy, for encourage to advancement and betterment of women. For example Women who are abandoned, widow and divorcee, they have entitled a special reservation in public employment, public service commission of several states has provided reservation and some exemption in favour of such women.

III. INTERNATIONAL EMPOWERMENTS OF WOMEN

1. Charter of UNO 1945: The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under condition of equality in its principal and subsidiary organs.⁵

2. Universal Declaration of Human Rights 1948 (UDHR)

(a) All human beings are born free and equal in dignity and rights.⁶ (b) All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of his declaration and against any

⁴ Dr. S. Akhilesh – Women Empowerment in Indian Society at P. 125-126 in ‘Contemporary Indian Society and Culture ed. 2014). ISBN – 978-81-87364-60-3

⁵ Art. 8 of Charter of UNO 1945.

⁶ Art. 1 of UDHR

incitement to such discrimination.⁷

(c) Everyone has the right to the protection of his privacy. Family home or reputation.⁸

(d) Right to Marry and found a family.⁹

(e) Right to work of choice, equal pay for equal work and join trade unions.¹⁰ (f) Right to have a standard of living adequate for health.¹¹

3. Convention on political rights of women 1954 (CPRW)

(a) The Right to vote: Women shall be entitled to vote in all election on equal terms with men, without any discrimination.¹²

(b) Eligibility for Election: Women shall be eligible for election to all publicity elected bodies established by National law on equal terms with men and without any discrimination.¹³

(c) Right to hold public office: Women shall be entitled to hold public office and to exercise all public functions on equal terms with men.¹⁴

4. International convention on civil and political rights 1966 (ICCPR) (a) Right to marriage and have a family: both men and women¹⁵ (b) Right to citizen : Ever Citizen shall have the right and opportunity, with out any of the distinction of sex and without unreasonable restrictions:-

(i) To take part in the conduct of public affairs, directly or through freely chosen representatives.

(ii) To vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

(iii) To have access on general terms of equality to public service in his country.¹⁶ (c) All persons are equal before the law and are entitled equal protection of law.¹⁷

5. International Convention on Economic Social and Cultural Rights 1966 (ICESCR)

⁷ Art 7 of UDHR

⁸ Art. 12 of UDHR

⁹ Art. 16 of UDHR

¹⁰ Art. 23 of UDHR

¹¹ Art. 25 of UDHR

¹² Article I of the convention of Political Rights of Women 1954

¹³ Art. II of the convention on Political Rights of Women

¹⁴ Art. III of the convention on political rights of women

¹⁵ Art. 23 of International Convention on Civil and Political Right 1966 (ICCPR)

¹⁶ Article 25 of ICCPR

¹⁷ Article 26 of ICCPR

Article 3 of this convention declare that the states parties to the present covenant undertake to ensure the equal of men and women to the enjoyment of all economic, social and cultural rights set forth in the present covenant.¹⁸

6. The Declaration of Mexico on the Equality of Women 1975 the world conference was held on the International Women's year at Mexico in 1975. The declaration of Mexico on the equality of women and their contribution to development of peace is incorporating the following important principles:

- (a) Equality between man and women.
- (b) Equal rights and responsibilities of women and man in the family and society. (c) Equal access to education and training.
- (d) The right to work and equal pay for work of equal value.
- (e) The rights of couples and individuals to determine the number and spacing of children.
- (f) The right of every woman to decide freely whether to marry. (g) The right to participate in and contribute to the development effort. (h) The participation of women in the economic, social and cultural sectors. (i) The role of women in the promotion of international co-operation and peace. (j) The role of women in promoting human rights of all the people. (k) The need to eliminate violation of human right committed against woman and girl.

7. The Convention on the Elimination of All Forms of Discrimination against women 1981:

- (a) The state shall condemn discrimination against women in all its forms and to embodies the principle of the equality of men and women in their national constitution.
- (b) State shall take all measures to ensure the full development of women. (c) State shall take all measures to suppress all forms of traffic in women. Besides this, there shall be equality before law in government services, participation in politics, nationality etc. In short no women shall be discriminated on the ground of sex in any matter. The state shall make special provisions relating to their welfare and empowerment.

IV. CONSTITUTIONAL EMPOWERMENT OF WOMEN:

1. Right to Equality: The state shall not deny to any person equality before law and the equal protection of the laws within the territory of India.¹⁹ It prohibits any discrimination on grounds

¹⁸ International convention on Economic, Social and Cultural Rights 1966 (ICESR)

¹⁹ Article 14 of Indian Constitution

of religion, race, cast, sex or place of birth.²⁰ 2. Equality of opportunity in matters of public employment.²¹

3. Right to life and personal liberty.²²

4. Protection against traffic in human beings (prostitution) and forced labour.²³ 5. States shall ensure equal right for men and women, regarding livelihood.²⁴ 6. Equal pay for equal work for both men and women.²⁵

7. The health and strength of women are not to be abused.²⁶

8. Equal justice and free legal aid for both men and women.²⁷

Besides this the constitution of India has provided some special provisions related to women those are following

(i) Although the constitution provision under Art. 15 prohibits any discrimination on grounds of religion, race, cast, sex, or place of birth, nevertheless the state can make any special law for women and children. Sub-Article (3) of Article 15 provides that “nothing in this article shall prevent the state from making any special provision for women and children.

(ii) Article 16 of constitution provides equality of opportunity in matters of public employment without any discrimination or ground of religion, race, sex or place of birth, but the state is empowered to make any law which encourage the advancement of women. Govt. can reserved some of the post in favour of women.

(iii) Clause (2) of Article 29, relates to admission into educational institution which are maintain or aided by state funds. No citizen shall be denied admission in such institution on ground only of religion, race, caste, language or any of them. Effect of omitting the word ‘sex’ from Article 29 (2) is that the right of women to admission in education institutions is a matter within the regulation of college authorities. It is doubtful if that interpretation is still valid. Read with Article 15 (3), Article 29(2) may not be availed of by males for seeking admission in an exclusively female institution but its protection cannot be denied to female students in all men’s institution.²⁸

²⁰ See also Article 15 of constitution : which prohibits discrimination on grounds of religion, race, cast, sex and place of birth

²¹ Article 16 of constitution

²² Article 21 of constitution

²³ Article 23 of constitution

²⁴ Article 39 (a) of constitution

²⁵ Article 39 (d) of constitution

²⁶ Article 39 (e) of constitution

²⁷ Article 39-A : This article inserted by the constitution 42nd (Amendment) Act. 1976, Sec 8 (w.e.f. 3-1-1977)

²⁸ See also University of Madra V. Shantha Bai, AIR 1954 Mad. 67. For a critique see P.K. Tripathi some

(iv) Article 42 of the constitution provides that ‘the state shall make provision for securing just and humane condition of work and for maternity relief. (v) Under Article 51A (e) it shall be the duty of every citizen of India to promote harmony and the sprit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities to renounced practices derogatory to the dignity of women.

(vi) Under Article 243-D(4), The offices of chairpersons in a panchayats at the village or any other level shall be reserved for the schedule castes, the schedule tribe and women in such manner as the legislature of a state may, by law provided. Provided that not less than one third of the total number of offices of chairpersons in the panchayats each level shall be reserved for women. Provided also that the number of offices reserved under this clause shall be allotted by rotation to different panchayats at each level.

(vii) Under Article 243T(3) not less than one third (including the number of seats reserved for women belonging to the schedule castes and the schedule tribes) of the total number of seats to be filled by direct election in every municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a municipality.

(viii) Under Article 243 (T) The offices of chairpersons in the municipalities shall be reserved for the schedules castes, the scheduled tribes and women in such manner as the legislature of a state may by law provided.

(ix) **Horizontal Reservation in favour of women** : The states has been set up a horizontal reservation policy in favour of women at last decade, this policy have provide that 30% seats in every institutions i.e. educational institutions, public offices, public employment and public policies etc. shall be reserved for women. This reservation shall be apply in each category of women.

V. OTHER LEGAL EMPOWERMENT OF WOMEN

1. Under the criminal procedure (Cr. P. C.) 1973

A. The proviso²⁹ of sec. 26 of this act provides that any offence which is related to Sec. 376-a, 376-B, 376-C, 376 D or 376-E of Indian Penal Code 1860 will be heard and decided by a court where at least a woman judge as presiding officer of such court.

B. Under Sec. 416 of Cr. P. C if a women sentenced to death is found to be pregnant the High Court Shall order the execution of the sentence to be postponed and if its thinks fit, may

insights into Fundamental Rights 1992

²⁹ This proviso inserted by Cr.P.C. (amendment) act 2008, w.e.f. 31-12-2009

commute the sentence to imprisonment for life.

2. Under Indian Penal Code (IPC) 1860

A. Sec. 228 – A (1) provides that whoever print or publishes the name or any matter which may make known the identity of the person against whom an offence under section 376, section 376-A, 376-B, 376-C or Section 376-D is alleged or found to have been committed (hereinafter in this section referred to as the victim) shall be punished with imprisonment of either description for a term which may extend to two years and shall also be liable to fine.

B. Section 354 of IPC provides, whoever assaults or uses criminal force to any woman intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either description for a term which may extend to two years or with fine or with both.

C. Section 366 provides that who kidnapping, abducting or inducing woman to compel her to marriage etc. shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

D. Section 372, whoever sales or purchase of minors for immoral purposes or prostitution etc. shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.

E. Whoever commits rap shall be punished with imprisonment of either description for a term which shall not be less than seven years but which may be life or a term which may extend to ten years and shall also be liable to fine. F. Whoever by words, gesture or act intended to insult the modesty of a woman shall be punished with simple imprisonment for a term which may extend to one year or fine or both.

Protection in certain offence not to be punished: Rape under section 376, unnatural offence under section 377 of IPC empowers women. According to these sections the act of man is punishable, but similar act of woman is not punishable under IPC, because these sections carry the word “sexual inter course” and “penetration” naturally is only possible by men.

Protection form arresting a women in night in absence of lady police : The Hon’ble supreme court directed the police not to arrest a lady without the presence of a lady constable and also prohibited the arrest of a lady after sunset and before sunrise under any circumstances.³⁰

Protection from police harassment: A women cannot be called to police station for an

³⁰ Sec. 46 (4) of Cr. P. C. Inserted by criminal procedure code (amendment act. 2005)

inquiry. She can only be interrogated at her residence. No women can be kept in custody at night in a police station. Women cannot be imprisoned under civil court decree.

3. Prohibition of child marriage: The Child Marriage Restraint Act (CMRA) was enacted in 1929 to stop the customary practice of child marriage. It prohibits the child marriage. Under this act child means as males below 21 years of age and female below 18 years of age. The child marriage (restraint) act 1929 has been substituted by the prohibition of child marriage act 2006. The Hind Marriage act 1955, under the section 5 (III) also prohibit the child marriage and under section 18 provides punishment of such marriage. Sec. 18 (a) provides that in the case of contravention of the condition specified in clause (iii) of section 5, with rigorous imprisonment which may extend to two years or with fine which may extend to one lac rupees, or with both.³¹

4. Camera Trail in Family Matters: Sec. 22 of the Hindu marriage act 1955 provides (1) Every proceeding under this Act shall be conducted in camera and it shall not be law full for any person to print or publish any matter in relation to any such proceeding except a judgement of the High Court or of the supreme court printed or published with the previous permission of the court. (2) If any person prints or publishes any matter in contravention of the provisions contained in sub section (1) he shall be punishable with fine which may extend to one thousand rupees.

5. Empowerment of Women under Factories Act 1948 : In every factory/mine, sufficient provisions of latrine, urinal accommodation adequately screened washing facilities, changing for clother etc. shall be provided and conveniently situated and accessible workers at all times while they are at the factory.³²

In every factory/mine where in more than thirty women worker are ordinarily employed there shall be provided and maintained a suitable room or rooms for the use of children under the age of six years of such women. Such rooms shall provide adequate accommodation, shall be adequately lighted and ventilated, shall be maintained in a clean and sanitary condition and shall be under the charge of women trained in the care of children and infants.³³ No woman shall be required or allowed to work in any factory/mine except between the hours of 6 a.m. and 7 p.m. but may not be permitted to work between the hours of 10 p.m. and 5 a.m. No female child shall be required or allowed to work in any factory except between 8 a.m. and 7 p.m.³⁴

³¹ Subst. by Act 6 of 2007 Sec. 20. The Hindu Marriage Act 1955

³² From Sec. 11-20 and 42-50 of factories act 1948

³³ Sec. 48 of factories act 1948

³⁴ Sec. 66 of Factories Act 1948

6. The maternity benefit act 1961: Maternity benefit act 1961 provides for the maternity and other benefits to the women employees as follows:

- (i) Prohibition of work during certain periods i.e. delivery miscarriage or medical termination of pregnancy sec. 4.
- (ii) payment of maternity benefit, maximum 12 weeks, sec. 5.
- (iii) payment of medical bonus sec. 8.
- (iv) Breaks for nursing the child sec. 11.
- (v) Payment of maternity benefit in case of death of a woman sec. 7 (vi)
- Leave with wages for miscarriage sec. 9
- (vii) Leave with wages for tubectomy operation sec. 9A.
- (viii) Leave for illness arising out of pregnancy etc. sec. 10.
- (ix) No dismissal during absence due to pregnancy sec. 12 (1).

7. The immoral traffic (prevention) act 1956:

This act was enacted a special law on 30th Dec. 1956 in pursuance of the International Convention signed at New York on the 9th Day of May 1950 for the prevention of immoral traffic. This act makes some acts as punishable: (a) keeping a brothel or allowing premises to be used as a brothel (b) living on the earning of prostitution (c) procuring including or taking person for the sake of prostitution (d) detaining of a person in premises where prostitution is carried on (e) prostitution in or in the vicinity of public place, (f) seducing or soliciting for purpose of prostitution (g) seduction of a person in custody. All offences under this Act are cognizable and police can arrest without warrant.

8. Probation of offenders Act 1958

Sec. 3 and 4 of probation of offenders Act 1958 and Sec. 366 of Cr. P.C. 1973, empowers the court to release certain types of offenders after admonition or on probation of good conduct, if any probation of good conduct, if any person is found guilty of having committed on offence not punishable with death sentence or imprisonment for life or not punishable with more than seven years of imprisonment. But women are entitled to be released after admonition or on probation for any offences other than offences punishable with death sentence of life imprisonment.

9. The Dowry prohibition act 1961:

This Act prohibits the giving or taking of dowry, with effect from 1st July 1961. This act

provides penalty for giving and taking of the dowry. Further, it prohibits the demanding of dowry and makes any agreement for giving or taking dowry to be void offence under this Act are cognizable for certain purposes and to be non-bailable and non-compoundable.

10. Central Civil Services (Leave) Rules 1972: This Law provides various types of leave for women working in central civil services viz. (a) maternity leave under Rule 43 (3) (b) Leave in case of miscarriage not exceeding 45 days under Rule 19. (c) Leave to female govt. servant on adoption of Child, Rule 43 B. (d) Child care leave in respects of central govt. employee.³⁵ These provisions are also applied similarly on state govt's civil servants, under state govt's policy.

11. The Medical Termination of pregnancy act 1971: The object of this act was to provide for the termination of certain pregnancies by registered medical practitioners and for matters connected therewith or incident there to. Further it explain when and where pregnancy can be terminated and by registered medical officer only. Otherwise causing of miscarriage of injuries to unborn child is a punishable offence. Besides this miscarriage of child without the consent of women is also a crime which is punishable by imprisonment of either description for a term with may extend to ten years and shall also be liable to fine.³⁶

12. Equal Remuneration Act 1976: This act provides for payment of equal wages for work of same and similar nature to male and female workers and for not making discrimination against female employees in the matters of transfers training and promotion etc.³⁷

13. The commission of Sati (prevention) act 1987: This act prohibits the observance of any ceremony or the taking out of a procession in connection with the commission of Sati, or (ii) The supporting, justifying or propagating the practice of Sati in any manner or (iii) The arranging of any function to eulogize the person who has committed Sati etc. this act empowers to the collector or district magistrate to prevent offences relating to Sati.

14. The Pre-conception and pre-natal diagnostic techniques (Regulation and Prevention of misuse) Act 1994: The object of this act is prevent to sex determination at preconception and pre-natal stage and prevent to female foeticide. The provisions of this act: (1) determination of sex selection before or after conception (b) non-registration under section 3 (c) conduct of PNDT under Sec. 4 (d) communication of sex of Foetus under sec. 5 (e)

³⁵ With effect from 11th September 2008 Source : <http://india.gov.in/govt/paycommission/php>

³⁶ Sec. 313 of Indian Penal Code 1860

³⁷ Article 39(d) also provides that there is equal pay for equal work for both men and women. See also *Air India cabin crew association v. yeshwinee Marchant* (2003) 81LD 1 SC and *Randhir Singh V. Union of India* AIR 1982 SC 87

determination of sex under sec. 6 (f) Advertisement under section 22 and (g) non-maintenance of records under section 29 etc. is a cognizable, non-bailable and non-compoundable offence. The punishment under this Act upto 5 years imprisonment or fine Rs. 100,000.

15. Empowerment under other laws:

- i. Extra grounds for divorce than man under Hindu Law.
- ii. Safeguard of women married to NRI.
- iii. Right to maintenance from husband.
- iv. Muslim women are also entitled to maintenance under section 125³⁸ of Cr.P.C. 1973.

VI. WOMEN EMPOWERMENT: A MYTH OR REALITY

The government of India had ushered in the new millennium by declaring the year 2001 as women's empowerment year to focus on a vision 'where women are equal partners like men.'³⁹ The decades have witnessed some basic changes in the status and role of women in our society. A review of government's various programmes for women empowerment reveal that little has been done or achieved, through these programmes. 73rd constitutional amendment 1993, which give women 33% of the seats at all levels perceived as a crucial step for empowering women and raised hopes of their increased participation in local decision making structures. But when we talk about women empowerment in India the most important aspect that comes into the mind is the attitude of the society towards women. Infact the society has yet not accepted the feeling of the preamble of the constitution i.e. we (both men and women) the people of India are equal. Women are still considered as burden and liabilities. They are also considered as properties. These kinds of attitudes give birth to the evil of violence against women. Today in Indian Women are facing various troubles in society i.e. Sexual harassment domestic violence, child marriage, female foeticides, trafficking and prostitution, kidnapping, eve teasing, acid throwing, fraudulent marriage, work place exploitation, dowry demand, etc. Although govt. had enacted various laws for protection and empowerment of women, but due to lack of knowledge and poverty such laws could not grant benefits to victims women. In 2007 the ministry of women and child development released a study report on child abuse in India which was based on response of 12447 children aged 5-18 years across 13 states. The study found that 59.06 boys and 40.49 girls were physically abused in the family. The study also reported that 47.04%

³⁸ Mohd. Ahmed Khan V. Shah Bano Begum AIR 1985 SC 945

³⁹ Dr. Archana Singhal : Women Empowerment at p. 165 in "Contemporary Indian Society and Culture", Ed. 2014

boys and 52.96% girls had been sexually abused.⁴⁰ According to NCRB (National Crime Record Bureau) in 2012 Madhya Pradesh has reported the highest crime numbers of rape against children 1632, followed by Uttar Pradesh 1040, and Maharashtra 917. These three states together accounts total 42% of total child rape cases reported in the country. The 2011 census revealed a rapidly declining sex ratios of 933 girls for every 1000 boys. The right of children to free and compulsory Education Act 2009. Popularly known as the Right to Education (RTE) Act came into being in India from April 1, 2010. Nevertheless this effort could not get its objects or achievement. Women child is still now deprived from school almost in rural areas. An estimated more than 56% schools have not separate toilet for girls students and deprived from basic requirement and facilities also.⁴¹

There are estimated to be 10 lakhs sex worker in India and 31% are believed to be children. Recent reports estimated that the number of children involved in prostitution is increasing at 8 to 10 percent per year. Most of the prostitution are below the age of 20 years.⁴²

Table 1 Male-Female literary gap in India

Year	Total Literary	Males	Females	Male-Female
1960-61	28.30	40.40	15.35	25.05
1970-71	34.45	45.96	21.97	23.98
1980-81	43.57	56.38	29.76	26.62
1990-91	52.21	64.13	39.29	24.84
2000-01	64.83	75.26	53.67	21.59
2010-11	74.04	82.14	65.46	16.68

Source: Census of India

⁴⁰ Crimes against children in present scenario by Dr. Deepa Verma at page 374

⁴¹ Dr. J. S. Chandpuri, "Constitutional mandate for child rights and its implementations A myth or reality p. 232, in RJOAMASS (Rewa 2012 ISSN 0975-4083)

⁴² Hindustan times 15th August 2012, An Art by Pooja Bhardwaj, Chief Executive officer child rights and you

The latest news items regarding violence committed against women reveal that women's position has worsened. Tulsidas verse from Ramayan "Dhol, Ganwar, Shudra, Pashu, Narri ye sub taadan ke adhikarin" highlights the discrimination and deep-rooted gender bias which still exists in all sectors on the basis of caste, community, religious, affiliation and class. The following table reveals the position of women, who are victims in various crimes.

Table 2: Crimes against women⁴³

Year	Rape	Dowry	Tampering	Eve-teasing
1998	15031	6917	31046	-
1999	15468	6699	32311	-
2000	16496	6995	32940	-
2004	18233	7026	34567	-
2005	18359	6787	34175	-
2006	19348	7618	36617	-
2007	20737	8093	38734	-
2008	21467	8172	40413	-
2009	21397	8383	38711	9047
2010	22172	8391	40613	9192
2011	24206	-	42968	8570

⁴³ Rashtriya Sahara 21st July 2012

Table 3: Crime against women in states. (in 2011)⁴⁴

West Bengal	Andhra Pradesh	Uttar Pradesh	Rajasthan	Madhya Pradesh
12.70%	12.40%	9.90%	8.70%	7.34%

In 2011, there was 36 cases regarding to women crimes out of 100 each, registered in various police station of Assam. In the same year 1790 women and girls were victims of the rape and 3764 cases was related to kidnapping out of which 3192 was related to women kidnapping. 1293 cases was registered relating to tampering of girls in the same year in Assam. The table no. 3 reveals the worsened position of women in Uttarkhand. Uttarkhand is a small state of Union of India. But it is also failure to stop/prevent women crimes.

Table 3: Crimes against women in Uttarkhand⁴⁵

Crime	2012	2013	2014*
Murder	53	59	18
Rape	138	207	98
Modesty	131	285	121
Kidnapping	216	560	146
Tampering	84	75	26
Dowry Death	69	41	14
Dowry Harassment/Coercion	358	437	161

* Data of 2014, available only upto mid- May 2014.

⁴⁴ Ibid

⁴⁵ Hindustan Hindi New paper Dehradun, 26th June 2014

Table 4: Crimes: Headwise cases Registered under crime against women during 2012-2019

Year	Rape	Dowry Demand	Dowry Death	Cruelty by husband or his relatives	Kidnapping and Abduction	Tampering	Eve-Teasing
2012	24923	10796	8233	106527	38262	45351	9173
2013	33707	10709	8083	118866	51881	70739	12589
2014	36735	11050	8455	122877	57351	82235	9735
2015	34651	10058	7634	113403	59277	82422	8685
2016	38947	-	7628	125603	56689	84639	-
2017	32559	-	7416	127135	59705	83752	-
2018	32632	-	7166	129306	58139	86755	-
2019	33356	-	8003	134475	61706	88667	-

Gender discrimination as Foeticide has become a serious problem not only in India but also in world level. A girl child is considered a burden since age, as we have seen in history. So in states like Maharashtra, Punjab, Gujrat, Haryana, U.P. and Rajasthan and even in Uttarakhand the sex ratio is going down. Girl child foeticide is a very serious issue to present time. The Sex Ratio in India stands at 933 per 1000. An analysis of fertility and mortality survey of 1998 estimates that about 0.5 million female births go missing yearly. These translate into approximately 10 million female fetuses getting aborted over the past two decades. The United Nation Children's fund state that systematic gender discrimination has resulted in upto 50 million girls and women "going missing" from India's population due to this heinous crime and other form of violence against women. The basic right to life of a girl child is questioned and violated even before she is born. Mr. Amir Khan, a prominent actor and social worker in his programme "Satyamev Jayate" based on the scientific research has stressed that almost 80% of the women in India are suffering with the domestic violence. It is not the wife only facing the agony of domestic violence by husband but daughter is facing the domestic violence by

father, sister by brother, grand-daughter by grandfather etc. Male preference is a dominant feature of Indian Society which resulted in ‘Foeticide’ consequently disturbing the sex ratio in Indian Social Structure. In fact the men want to control and regulate the life of women at their whims. Proper attention on education nutrition, food and other social benefits is not given for the women. Besides this they are discriminated every social institution of Human Society.⁴⁶

The popular **TV serial Satyamev Jayate** hosted by an eminent actor **Amir Khan** has revealed some shocking and painful data in respect of crimes against women. In short, such crimes are as follow:-

Domestic Violence: According the survey of National Family and Health Service (NFHS) more than **45** percent women are victims from domestic violence, because **Yugantar** which is a social institution says that **84** percent women including adolescent girls are suffering from domestic violence.

Female Foeticide: according an estimate, more than **10** lakh girls killed in mother womb every year. In last decade more than **3 Crore** child girls has destroyed by abortion in India. **Mr Rambabu** Social scientist has said that **Women Foeticide** has become a great concern in India. Not only the illiterate but well educated like **IAS, CA, Doctors, Advocates, MNCs** and many more are involved in this heinous activity. Doctors has a certain package for Sex determination i.e. Two thousand for male disclosure and Five thousand for female. Due to desire of more earning they knowingly provides mostly wrong or false report, for which they could get abort in the name of **Female Child**. **Dr Puneet Bedi** says that the business of Sex determination has taken the shape of **2.5 to 3** Thousand Crores Rupees .**Ms Meena Sharma & mr Seepa saktawat** (both journalist) has disclosed some shocking and alarming data through their **sting operations**. They did a survey on **140 Doctors** of **40 Hospitals** in various cities. They caught red-handed some doctors with sufficient proof, who were indulged the activities of **Sex determination** and committed many abortions of female child , an arrest warrant had issued against them but after some time they had success to get the bail and matter has gone in abeyance. **Mr Shaktawat** a social activist says that **Female Foeticide** has become an easy game for some greedy professionals, further he told that the professionals have a specific code word I.e. Shrikrishna and Durga . The krishna means male child and Durga is the indication of female child in mother womb. According to Amir Khan that due to lack of girls, more than **2 Crore** of male persons will deprived from get to marry within 10 years. **Virendra Vidrohi** from Alwar Rajasthan says that Rajasthan has become the larger centre of **Human trafficking**

⁴⁶ Amir Khan “Gharelu Hinsa Kee Trasadi” : Dainik Jagran News Paper 18 June 2012

in India . Further He says that in Alwar district alone, more than 20 thousand women are buying from Bihar, West bengal, Assam,Orissa,Belgian, Karnataka,Delhi and even from uttarakhand . At first they are seduced by the name of marriage but later they are treated as a property and many brothers of the same family are forced them to have sexual relations to each other. It is said by **Karminder kaur** production officer Govt.of Haryana, that even, if the girls who survived incidentally from the demon of female foeticide, later fall prey to the lust of boys of the same society.

Sexual Crime : according an estimate by (NCRB) there are more than **101041** Rape cases were convened in various courts in india up to 2012.In which 3561 criminals were punished 11446 were acquitted due to lack of proper evidence and remaining 86032 cases are still pending. In expectation of justice approximately **35000** cases of rape are brought to the court in every year, but unfortunately onl **3.5** percent culprit gets punishment, because some of cases get not registered in police station due to police autocracy and other reasons . **Stamina Rafique** member of National women commission (as she then was) says that 80 percent Rape case get not registered due to police apathy .**Dr Sanjeena limberwala & Dr Shubhra mehndiratta** has said that a woman who is victims of rape has to go through very painful situations like social harassment, social boycott, eve teasing and taunting, polic misbehavior and menymore.**Dr Trupti Shah** says that the victim becomes scared and intimidated during the investigation further she said, doctor who investigates the case then he/she would be a witness and to be present in the court ,so most of people try to avoid it,and the investigation can be avoided . The tehnic of Rape investigation i.e. MLC and Two Finger test is really very cruel & barbarous. **Dr Maclean merine** has said that a two finger test doesn't always be reliable, but it embarrasses to the victim and it is like hurting the victim's wounds

Domestic violence: **Domestic** violence also called intimate partner violence - occurs between people in an intimate relationship. Domestic violence can take many forms, including emotional, sexual and physical abuse and threats of abuse. **Section 3 of the protection of women from domestic violence act 2005**, explain that Domestic violence means and includes:

A: Harms or injures or endangers the health, safety, life,limb or well- being, whether mental or physical, of the aggrieved person or tends to do so and includes causing physical abuse and economic abuse

B: harasses, harms, injures or endangers the aggrieved person with a view to coerce her or any other person related to her to meet any unlawful demand for any dowry or other property or valuable security or

C: has the effect of threatening the aggrieved person or any person or any person related to her by any conduct mentioned in clause (A) or clause (B) or

D: otherwise injures or causes harm, whether physical or mental, to the aggrieved person. The main object of this act is to protect to women from domestic violence. In the year ending of March 2019 there were **1.32 million domestic abuse** related incidents and crimes reported to police , of which **746219** were deemed by police to be domestic abuse related criminal offences.

The National crime record bureau **NCRB** ranks **uttar pradesh** as the worst for women's security and **Madhya Pradesh** as the state where rape is most rampant. The statistics released on 09 January 2020 highlight the poor state of Law and Order throughout the country with **378277** cases of crime reported against women in **2018**. They showed Uttar pradesh having the most crimes against the women at **59445** with Madhya Pradesh registered the maximum number of rape at **5450** really 15 a day.

VII. CONCLUSION AND SUGGESTIONS

The women empowerment refers to increasing the spiritual political, social or economic strength of women in society. The women empowerment in India is a pre independence concept. It often involved the empowered developing confidence in their own capacities. In our constitution and other several laws, there are various provisions enacted in such laws, in favour of women empowerment. Government has introduced many more policy or programmes for women welfare and their development and empowerment. But, hopefully achievement have not get still now. The position of women in India is becoming worsened, day to day. Although equality before law is a fundamental right in the land of India but Administration of equality has become impossible. We often hear and see in our society that women are being exploited in street, home and workplace. Women are still deprived from education and suffering from Malnutrition, Foeticide, Kidnapping, in human traffic, beggar, forced and bounded labour, coercion, sexual harassment such as rape, modesty, tampering, and eve-teasing etc. and mental or physical torcher and many other abuse. Young and minor girls being disrespected, stripped, beaten and raped in shelter homes, streets and school/college. Women are also suffering from the negligence behaviour of their family relatives. Dowry system and Dowry demand has become a fashion or new trend in every society. Dowry is one of the strong and biggest reasons for increasing domestic violence. Every year thousands of dowry deaths along with mental trauma cases reported and registered in India. In case of inadequate dowry, incidents like burning, suicides, physical and mental torture of women is very common by husband and his family. In fact, the society has yet not accepted the feeling of the preamble of the constitution

i.e. we (both men and women) the people of India are equal. Women empowerment in India is not possible unless violence against women is eradicated from the society. Empowerment would become more relevant if women are educated, better informed and can take rational decisions. It is also necessary to sensitize the other sex towards women. It is high time now that women should get a respectable and dignified position in the Indian society. Awareness in the women as society should be created and their equal rights should be effectively implemented. Crimes against women should be made punishable as rigorous and non-bailable. Research programmes and research facilities must be encourage and should be done on every crime which comes to the light.

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