



## **SOCIAL LEGISLATION FOR WOMEN IN INDEPENDENT INDIA**

The nineteenth century saw for the first time in India, Social Legislation enacted by the government. It was Raja Rammohan Roy who showed for the first time that the ancient Hindu Scripture did not prescribe Sati. This strengthened the hands of Lord William Bentick to pass an act abolishing Sati in 1829 making it a crime. The Brahmo Samaj established by Rammohan Roy stood for the principle of freedom of women and equality of sexes. So it campaigned for widow remarriage. It was a time when there were many child widows. Hence the campaign was critical. It was through the untiring efforts of Ishwarchand Vidya Sagar that the widow remarriage Act of 1856 was passed which legalized widow remarriage. Another great landmark was the civil Marriage Act of 1872, which marriage a secular ceremony. It raised the age of marriage to 14 years and enforced monogamy.<sup>1</sup>

The destructive effects of child marriage forced social reformers to get them prevented by enactment of law. Therefore, in 1929 child marriage Restraint Act, was passed in which for men and women, minimum age of marriage was kept 18 years 14 years respectively. In 1978, after amendment of this Act, age of marriage has been increased to 21 years for men and 18 years for women.<sup>2</sup>

Towards the end of 19<sup>th</sup> century great man like Swami Vivekananda, Govind Ranade and Karve did a lot for emancipation of women. Swami Vivekananda said, "That country and that nation which did not respect women has never become great nor will ever be in future. He took a stand for the liberation of women and equality of treatment on the basis of the vedantic ideals that one and the same is present in all beings in attributed we helplessness and dependency of women on men to the training they are given the emphasized the ideals that through education women should be taught to think independently and take their decision. Ranade and karve started educational institutions for women.

There were also several Indian women leaders who worked for the emancipation of women in the nineteenth century. Foremost among women reformers was Pandita Rama Bai, who was a great Scholar of Sanskrit. She spoke about the social injustice done to help and educate women. In early 20<sup>th</sup> century, Annie Besant played a significant role in the progress of Indian women. The year 1917 was very important for women. In that Annie

<sup>1</sup> Zainab Rahman, Women and Society, Kalpaz Publications, Delhi, 2005, PP.55,56

<sup>2</sup> Saraswati Mishra, Status of Indian Women, Gyan Publication House, New Delhi, 2002 PP.121-122

Besant was elected president of the Calcutta session of Indian National Congress and praised the Indian women for their involvement in Home Rule Movement in her Presidential address. The same year a demand for enfranchisement of women on a basis of equality with men was made by Indian women to the British Parliament.

Another important development in the nineteenth century was the effort to educate Indian girls by social reformers. More and more schools were opened by missionaries and voluntary Indian bodies. Great progress was made in girl's education in the last quarter of the 19<sup>th</sup> century. Social change can be initiated by educating women and enacting progressive legislation.<sup>3</sup>

According to Bhatia, After the 1857 war of independence the British stopped interfering with the religion and customs of Indian and the task of modernization of Polity, Society and Economy had to preformed by the single political elite which came to be composed over whelming of the educated middle class.<sup>4</sup> They realised they needed political power and authority to bring about all desirable changes. That is how the Nationalist Movement gathered momentum and became a mass movement. It also was a powerful force that helped change the position and attitude towards women.

### **Social Legislations before Independence**

The abolition of Sati Act was passed in 1828, Widow Remarriage Act in 1856 and Civil Marriage Act in 1872. Child Marriage restraint Act was passed in 1929. It is known as Sarada Act after Harvilas Sazada who worked to get it passed. The Hindu women's right to property Act was passed in 1937. According to it the widow gets a share equal to the son's in Daybhag joint Family and gets a limited right to property, with no right to sell or gift it, in a mitakshara family. Later this Act was amended to give equal rights to women. Separation and maintenance for women Act of 1946 applies under certain specified conditions, Shariat Act of 1937 gave Muslim women increased right to divorce. Dissolution of Muslim Marriage Act of 1939 gave equal right to both men and women to seek divorce under certain conditions. Acts relating to Christian, Parsi, and Sikh marriage and divorce was also passed during British Rule.

### **Social Legislation After Independence**

“We all know that women are half the world and hold up half the sky but where are they when it comes to equality” –Leela Seth.

The concept of equality, however, requires equity. The history of social development is also the history of inequality. Inequality between nations, religious, ethnicity, class, caste, race and sexuality. However the question of women's right looms large, cutting through all the layers of social stratification. German philosopher and social scientist Friedrich Engles in his classical writing “Origin of the Family, private property and the state”. States that “Women was the first human beings that tasted bondage. Women were a slave

<sup>3</sup> Zaninab Rahman,P.57

<sup>4</sup> Bhatia.BM, History and Social Development volt 1970Elites in Modren India, Vikas Publishing House,Delhi

before slavery existed”. The feminist struggle for equal rights has been paved through legislation, be it the suffragette movement and the right to vote, to employment rights, property rights, rights governing divorce and marriage to child care and medicine legislation based on equal rights effects the very values of society, impacting not just the way we vote, but the way we work, live and functions as a family the way we access education, healthcare, and justice.

### **Constitutional Provisions**<sup>5</sup>

The constitutions of India not only grants equality to women but also empowers the state to adopt measures of positive discrimination in favor of women for neutralizing the cumulative social, economic, education and political disadvantage faced by them. . Fundamental rights, among others, ensure equality before the law and equal protection of law, prohibits discrimination against any citizen on ground of religion, race, caste, sex or place of birth and guarantee equality of opportunity to all citizens in matters relating to employment. Article 14, 5,15(3), 16, 39(a), 39(b),39(c) and 42 of the constitution are of specific importance in this regard.



<sup>5</sup> <http://www.legalseviceindia.com/lawyers/lawyers.home.htm>