CHAPTER-III

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Emancipation is a broad term used to describe various efforts to obtain political rights or equality, often for a specifically disenfranchised group. All human beings possess certain intrinsic rights that need to be respected by society to enable them to lead the life with dignity. However, human dignity is frequently violated on the ground of gender. Women belong to those marginalized sections of society that are subjugated in every sphere of life. Women emancipation meant the achievement of complete economic, social, political and religious equality of women with men, an aspiration whose realization in the course of the twentieth century has been gradual, varied and incomplete.

It is in the context that the views of Gandhi and Ambedkar have been discussed in the present chapter. What were their perceptions about the role and position of women in society? What was their role for the upliftment of women in the context of various evil social practices related to women prevalent in the society, as well as in the context of colonialism and ensuing independence. How far their vision as well as their efforts in this regard have been successful in the context of the contemporary Indian scenario?

Improving women's position was one of the earliest tasks taken up by the social reformers in the nineteenth century. The problems attracting their attention were sati, the ill-treatment of widows, ban on widow marriage, child marriage, and the denial of property rights to women. Their

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main plank was to ensure women some dignity within the family, and their basic message was that women must not be ill-treated and must be given some dignity and status because they are custodians of the family.\(^3\) The reformers were hardly concerned with emancipating or liberating women from gender-imposed bonds. On the contrary, women’s roles within the family as wife, daughter and mother were re-emphasized and extended, to be in tune with the requirement of the family in a changing situation, which had more to do with the familial problems of the upper-caste women.\(^4\) It was Non-Brahmin social reformers, who made noteworthy efforts for the emancipation of women. Pandita Ramabai, V.R. Shinde and Janaka Shinde highlighted the problems, which touched women’s lives, but they too failed to link up women’s exploitation with that of the caste system. It was reformers like Jyotiba Phule, Ambedkar and Tarabai Shinde who enunciated a revolutionary discourse for women’s liberation.\(^5\)

The gender inequality is the global phenomenon. All contemporary societies are to some extent male dominated, and although the degree and expression of female subordination vary greatly, sexual asymmetry is presently a universal fact of human social life. The institutionalized inequality is reflected not only in working of the political institutions but also in more elementary fields of social and economic life of the women.

Although the issue of women emancipation is universal, the present chapter confines itself to the status of women emancipation in India and the role played by Gandhi and Ambedkar in this context. For a proper

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\(^4\) Ibid.

assessment of the status of women, a brief recapitulation of the status of Indian women through the ages is essential. A society where the rights of any section of society are not protected has no right to call itself a civilized society. The position of women reflects the cultural attainments of a society. In the Vedic Age women enjoyed a relatively high position in the society. They enjoyed freedom for spiritual progress and intellectual development. But this status deteriorated when the injunctions of Manu codified Hindu life and propounded the theory of perpetual tutelage of women. However, Buddhism tried to restore the position of women in social life and opened avenues for their socio-cultural attainments. During the period of Islam and Mughal rule, the position of women slumped. It touched the lowest ebb during the British Raj. It was not until the 19th century however, that serious efforts were made by social reformers to give women an honourable position in the society. Many social reformers of the 19th century, the foremost among them being Raja Ram Mohan Roy, made persistent efforts for the introduction of female education, re-marriage of Hindu widows, prevention of childhood marriage and removal of polygamy. Although, men were the first to take up the cause of Indian women, women too were not far behind. The likes of Sarojini Naidu, Raj Kumari Amrit Kaur, Kamla Devi Chattopdhayya and many others persuaded with utmost sincerity the object of women’s emancipation. Their dauntless struggle against orthodox society became a source of inspiration for countless women. The national movement under the leadership of Mahatma Gandhi provided further impetus towards restoration of position of women in Indian society.⁶

Gandhi has attempted to transport the essence of ancient texts into contemporary society where they can animate social practices and challenge domination. This is visible in his critique of traditional gender practices. He writes, "Of all the evils for which man has made himself responsible none is so degrading, so shocking or so brutal as his abuse of women."\(^7\)

Gandhi finds that the contemporary status of women reflects historical, not natural relationships. The traditional views of gender relations were made by men, therefore, they do not speak about the issue of equality. In his words, "The ancient laws were made by seers who were men. The women’s experience, therefore, is not represented in them. Strictly speaking, as between man and woman, neither should be regarded as superior or inferior."\(^8\) Gandhi was also disturbed that women have accepted the position assigned to them, "and so women have developed an inferiority complex. She has believed in the truth of man’s interested teaching that she is inferior to him,"\(^9\) and this Gandhi wanted to challenge.

Gandhi was unambiguous in the recognition of the fact that women clearly had a positive role to offer in the reconstruction of society. He regretted that many of his movements stopped half-way because of the condition of the women and much of the work did not yield appropriate results because women power had not been used. He held that man and woman are one, characteristically declaring that "the soul in both is the same. The two live the same life, have the same feelings."\(^10\) This suggests his belief in equality between sexes. However, along with this Gandhi’s

\(^7\) *Young India*, September 15, 1921.
\(^9\) *Harijan*, February 24, 1940.
ideological position on women related issues was also guided by his belief in differentiation of their social roles as is visible from Gandhi’s following opinion:

Men and women are of equal rank, but they are not identical. They are a peerless peer, being supplementary to one another; each helps the other so that without the one, the essence of the other cannot be conceived.... Man is the supreme in the outward activities of a married pair and therefore, it is in the fitness of things that he should have a greater knowledge therefore. On the other hand, home life is entirely in the sphere of women, and, therefore, in domestic affairs, in the upbringing and education of children, women ought to have more knowledge.11

Gandhi, like other nationalists, also believed that since women were ‘naturally’ constrained, their ‘vocations’ must be different. Because ‘[s]he is passive, he is active. She is essentially mistress of the house, ...[h]e is the breadwinner.’ Comparmentalizing their role on the basis of ‘biological attributes’ Gandhi thus argued, “They become good householders only by dividing their labour and a wise mother only finds her time fully occupied in looking after her household and children. But when both husband and wife have to labour for mere maintenance, the nation becomes degraded. It is like a bankrupt living on his capital.”12

Gandhi considered it degrading that women should be called upon or induced to forsake the hearth and shoulder the rifle for the protection of that hearth. In his words:

It is a reversion to barbarity and the beginning of the end. In trying to ride the horse that men rides, she brings herself and him down. The sin will be on man’s head for tempting or compelling his

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12 CWMG, Vol. 17, p. 326.
companion to desert her special calling. There is as much bravery in keeping one’s home in good order and condition as there is in defending it against attack from without.\[^{13}\]

Considering the fact that he wrote about seventy to eight years back in a different context and circumstances, his views such as women being a complement of men in matters of occupation can be set aside. Today women are capable of balancing the both, their family responsibilities as well as the responsibilities at their work place. Women today are not considered only as home makers. They are excelling in their professional feat and the nation feels proud of such women. It is believed that Gandhi’s image of women is governed by his perception of what a woman should be. He created for women a distinct role in society as a mother and as a wife in order to accommodate them in the nationalist agenda. It was because of the reason that Gandhi considered spinning as the exclusive domain of women. He argued that spinning “will remain women’s specialty… [since it] is essentially a slow and comparatively silent process.”\[^{14}\] “Since they suffer silently for the betterment of humanity, they are the incarnation of ahimsa [that means] infinite love and infinite capacity for suffering. Who but woman, the mother of man, shows this capacity in the largest measure?”\[^{15}\]

Although, women in Gandhian philosophy appear in a supportive role, however, he made woman an integral part of the freedom struggle.

Gandhi thoroughly studied the position of women in the past, the struggles that they had undergone for their individuality, their place and their roles in the social structure. He evolved new methods for their social upliftment basing on the values of morality, equality and social justice. He

\[^{13}\] CWMG, Vol. 17, pp. 207-208.
\[^{14}\] CWMG, Vol. 70, p. 381.
\[^{15}\] CWMG, Vol. 71, p. 208.
considered the family as a “God-ordained institution”. The family ties were sacred to him. The relationship between husband and wife, he believed should be that of true friends and not that of master and servant. He was against discrimination between son and daughter in the matter of inheritance, as practiced by Hindu families. He wanted sons and daughters to be treated with absolute equality.16

Gandhi was against child marriage. He held it to be criminal to make a girl of twelve or thirteen bear the heavy responsibilities of a housewife. He repudiated the claim that child marriage had always been in Hindu society or that it had religious sanction. In his words, “the custom of child marriages indicated physical and moral degeneration, “a recession from God as well as from Swaraj.”17 When the Child Marriage Restraint Bill, 1929, designed to discourage marriages between boys of under eighteen or girls under fourteen years, was passed by the Assembly, Gandhi lent his entire support to it, although, orthodox Hindus and Muslims opposed it bitterly.18 He asked every youth in the country not to marry a girl under sixteen.19

Gandhi stood against the evil practice of dowry system. He called it as ‘the hateful system of dowry’, ‘marriage by purchase’, ‘a degrading practice’ and so on. According to him, there is inherent evil in the dowry system for those that are involved in it because it results in bondage. Human being under this system is reduced to a mere commodity in the process of buying and selling followed by bargaining. This badly affects the human relationships. He pointed out:

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17 *Young India*, August 26, 1926.
The system has to go. Marriage must cease to be matter of arrangement made by parents for money. The system is intimately connected with caste. So long as the choice is restricted to a few hundred young men or young women of particular caste the system will persist no matter what is said against it. The girls or boys or their parents will have to break the bonds of caste if the evil is to be eradicated. All this means education of a character that will revolutionize the mentality of the youth of the nation.20

What Gandhi said in his times is very relevant even today. Caste barriers, however, are being broken today in case of marriages in urban India. As a result of inter-caste marriages that are increasing rapidly in urban India the caste identities are dissolving and are being threatened by modern social, cultural and ideological forces,21 but dowry in one form or another is still prevalent.

Gandhi called for the formation of a strong public opinion to discredit the dowry system. He advocated even for the excommunication of those who received dowry. In order to counteract their differences, he urged the parents of those girls to ignore the caste and other differences. He pointed out, “Any young man who makes dowry a condition of marriage discredits his education and his country and dishonours womanhood.”22

Gandhi even wanted to reform the marriage ceremony. As it had become a custom to spend lavishly on a marriage festival, the poor deprived themselves of their meager savings and became involved in heavy debts bearing high rates of interest. It pained him to see the waste of national resources in this form, especially by educated people, who are

20 Harijan, May 23, 1936, p. 117.
22 Young India, June 21, 1929, p. 207.
supposed to set an example for the rest. He requested his countrymen, especially the rich because if the rich set the example then the poor would follow without any difficulty to simplify the marriage ceremony and never to spend more than ten rupees on a marriage.23

He was in favour of intercommunal marriages. He also supported marriages between caste Hindus and untouchables. He held that if a Harijan girl married a caste Hindu of a high character, it would be good to both Harijans and Caste Hindus. If the Harijan girl was really worthy she would spread her fragrance far and wide and set an example. He said, “The society will not cease to be sacred on that count and children born out of such parentage, if they turn out to be good, would form active agents for the removal of such social evils as untouchability.”24

Gandhi showed a great concern over the plight of the millions of women who became widows. He wished them to remarry and lead a happy life. He was opposed to the system of enforced widowhood. He believed that every widow has as much right to remarry as every widower. While the voluntary widowhood is a priceless boon in Hinduism, enforced widowhood is a curse. He always wished to gain the support of enlightened public opinion. Gandhi stated with all emphasis that the curse of every widow who is burning within to remarry but dare not for fear of a cruel custom, descends upon Hindu society so long as it keeps the widow under an unforgivable bondage. He declared that whereas “voluntary widowhood, consciously adopted by a woman who has felt the affection of a partner, adds grace and dignity to life, sanctifies the home and elevates religion itself – the widowhood imposed by religion or custom is an unbearable

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23 Harijan, March 16, 1947.
yoke and defiles the home by secret vice and degrades religion." He asked the people who were parents or guardians of child widows to take the courageous step of getting these child widows ‘well-married’ and not ‘re-married’ because he refused to believe that they had been really married. This practice has diminished with the changing times but it is because of social reformers like Gandhi who had the courage to speak and write against such customs.

Gandhi criticized the quotations of authorities like Smritis and according to him books by Hindu law givers were nothing but attempts “to fashion a suitable philosophy in order to mitigate the rudeness of facts that secretly hurt one’s conscience.” He refused to believe that the saints wrote those passages, even if they were found in the texts. This shows Gandhi as a person who possessed indomitable will and fearlessness to pursue what he believed to be true in spite of the fact that the orthodox Hindu society of his time opposed him vehemently. This suggests that without showing them any disrespect, Gandhi was prepared to oppose the views held even by rishis if they were contrary to his own convictions.

Gandhi did not, however, extend the same principle to women who became widows at a mature age. In this respect, he showed an inclination to disfavor re-marriage, provided the person concerned could live a life devoted to the deceased. Moreover, on the positive side, he subscribed to the view that it is the duty of a widow or widower who voluntarily married after maturity to remain devoted to a deceased partner. But he did not regard the remarriage of widows a sin under all circumstances.

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26 Young India, August 5, 1926
27 Young India, July 9, 1926.
28 Young India, October 14, 1926.
Gandhi saw the ideal wife in *Sita* and the ideal husband in *Rama*. Both the husband and wife should be mutually considerate, and their marital life should be based on true love. He was a big critic of the Hindu practice of considering “the wife as the husband’s property”. Regarding the duties involved, both must be mutually dutiful, and one may not be an accomplice in the crime of the other.

Gandhi considered married life “as much a state of discipline as any other.” He considered household place as a means towards the creation of happy society. “When one partner breaks the law of discipline”, Gandhi wrote, “the right accrues to the other of breaking the bond. The breach here is moral and not physical. It precludes divorce.”

He insists that the right of each partner is equal and that the practice of not considering the partner as absolute equals was an evil which had crept into pure Hinduism. In case of cruelty or other cases, when there was no other alternative, he even advocated divorce, which Hindu society has discountenanced for ages.

“The wife”, according to Gandhi, “was not the husband’s bondslave, but his companion and his helpmate and an equal partner in all his joys and sorrows – as free as the husband to chose her own path.”

Gandhi also had his opinion about *Purdah* which women observe in some parts of India. According to Gandhi, it had become useless and was doing incalculable harm to the country. He was disappointed to see the retention of *purdah* even in educated households. “Chastity”, said Gandhi, “was not a hot-house growth. It cannot be superimposed. It cannot be protected by the surrounding wall of *purdah*.”

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29 *Young India*, October 21, 1926.
30 *Young India*, October 8, 1925.
31 *Young India*, August 5, 1926.
32 *Young India*, February 3, 1927.
was a virtue which should grow from within and to be worth anything, it
must be capable of withstanding every unsought temptation.”  It was his
firm conviction that a fearless woman who knows that her purity is her best
shield can never be dishonoured; however beastly the man might be, he
would “bow in shame before the flame of her dazzling purity.” Such
women, he maintained did not need protection by purdah. Interference
with the free growth of womanhood meant injustice even to the future
generation. It revealed India’s weakness to the world, its indecision,
narrowness and helplessness; hence, it was that he asked everyone to join
in and help him “to tear down purdah with one mighty effort.”

Gandhi held that the institution of purdah being adopted in India is
of recent origin. He referred to the age-old Hindu epic Ramayana where
the proud Draupadi and spotless Sita lived without the observance of
purdah system. Gandhi pointed out:

Gargi could not have held her discourses from behind the purdah. Nor is the purdah universal in India. It is
unknown among the peasantry, and one does not hear of any untoward consequences of the comparative
freedom which women in these provinces and among the peasantry enjoy. Nor will it be just to say that the
women or men in the other parts of the world are less moral because of the absence of purdah system.

Gandhi’s ideal by raising his voice against the purdah system among
the women was to make the women realize that they were not meant
simply for the household work but also to stand for the better, higher
causes of society.

33 Ibid.
35 Young India, February 3, 1927.
Gandhi openly denounced the *devadasi* system, the custom of dedicating young girls to temples for immoral purposes. The system had the sanction of Hindu Law.\(^{37}\) He advised the Hindus to purge their society of this ‘pest’. After he met a group of *Devadasis* Gandhi observed, “As I was talking to them... my whole soul rose in rebellion against the custom, calling them *devadasi* we insult God Himself in the name of religion, and we commit a double crime in that we use these sisters of ours and take in the same breath the name of God.... But if man will restrain his lust and society stands up against the evil, it will be easily possible to rid society of the evil.”\(^{38}\)

Speaking about the women (other than *Devadasis*) Gandhi said, “they earn their livelihood out of shame.” When about a hundred of them met him at Barisal, Gandhi declared that [as mentioned earlier also], “of all the evils for which man has made himself responsible, none is so degrading, so shocking and so brutal, as his abuse of the better half of humanity, the female sex, not the weaker sex.”\(^{39}\) Gandhian quote suggests that he never used the word weaker sex but the female sex and considers them a very important part of the humanity.

Gandhi stated that the largest part of the human effort for promoting the regeneration of women should be directed towards removing the blemishes represented in the *Shastras* as necessary requisite ingrained in the characteristics of women.\(^{40}\) He held that it is the privilege of the awakened women to spot out the age long evils and eradicate them. When the rebellion of women against the man’s injustice is non-violent it would

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\(^{38}\) *Young India*, August 29, 1929.

\(^{39}\) *Young India*, September 15, 1921.

\(^{40}\) M.K. Gandhi, *op. cit.*, p. 4.
be nevertheless more effective. This suggests that throughout his philosophy his approach is non-violent. Gandhi says:

To call women the weaker sex is a libel, it is man’s injustice to women. If by strength is meant, brute strength, then indeed, is woman less brute than man. If by strength is meant moral power; then woman is immeasurably man’s superior, has she not greater intuition, is she not more self sacrificing, has she not greater powers of endurance, has she not greater courage? Without her, man could not be. If non-violence is the law of our being, the future is with women... who can make a more effective appeal to the heart than woman?  

Gandhi believed in good education for women. By this he did not mean that they should compete with men in all vocations; woman’s proper place, according to him, was the “home”. Man is supreme in activities outside the home; therefore, it is natural that he should have greater knowledge. On the other hand, as mentioned earlier also, home life is entirely the sphere of the woman; therefore, in domestic affairs and in the upbringing and education of children, women ought to have more knowledge. This truth ought to be taken into consideration in the education of women.  

Gandhi, by advocating selective education did not mean that women are not equal in rank with men, but only that they are not identical. He talks about selective education to women. May be under the given circumstances his approach was right and because he does not consider them identical. This was held without altering his conviction of their equal status and while maintaining that men and women are so interdependent that the

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41 Young India, April 10, 1930, p. 121.
existence of one without the other cannot be conceived without damage in the status of both.

Gandhi regarded legislation to remove the inequalities of women as essential. He sought the repeal of all legal disqualifications and the abolition of all social discriminations and considered it better for the enlightened women of India to take up this matter. He wanted India to produce women who were pure, firm and self-controlled in order to achieve this non-violent revolution in Indian society. However, he held that “it is the privilege of Congressmen to give the women of India a lifting hand. Women have been taught to regard themselves as slaves of men. It is upto Congressmen to see that they enable the women to realize their full status and play their part as equals of men.”

Gandhi, thus stood against the evil social practices, viz. child marriages, the practice of sati, purdah, dowry system, child widows and the deplorable living conditions of women in the society. He was not opposed to legislation but wishes to seek public opinion in these matters.

Like Gandhi, Ambedkar too was a great votary of women emancipation. He was the first leader of the Dalits who not only wrote on various issues but waged a series of protests with a view to establish a just society based on the principles of liberty, equality and fraternity. His efforts for the upliftment of women in Indian society were a part of his major project of establishing a just society. He made social reforms divisible into two parts, one, the reforms of the Hindu family, and the other, the reorganization and reconstruction of the Hindu society. The problems of sati, widow remarriage, child marriage etc. relate to the social

43 Ibid., p. 60.
reforms of the Hindu family. The abolition of caste system abolition of untouchability, changes in the laws of marriage, adoption and succession relate to the social reforms in the larger sense of the reorganization and reconstruction of the Hindu society.\footnote{45}{B.R. Ambedkar, \textit{The Rise and Fall of the Hindu Woman}, Hyderabad: Dr. Ambedkar Publication Society, 1965, p. 18.}

Ambedkar’s views on the women’s question crystalised gradually. His thorough going analysis of the caste system in the light of Kabir tradition and Mahatma Phule’s movement helped him to arrive at the basic laws of social engineering. Ambedkar argued that the caste system itself was responsible for women’s subordination and exploitation. He held that endogamy was a characteristic feature peculiar to caste, it was the essence of caste. Numerical parity between the two sexes was maintained through sati, enforced widowhood and child marriage. These three customs were prescribed to maintain the caste system. Through exercising control on women’s sexuality caste was preserved, women being considered the gateway to the caste system. During the Mahad satyagraha (1927), Ambedkar addressed the Dalit women, drawing linkages between caste exploitation and women’s subordination and contested the claims of upper-caste women’s progeny being pure and that of the lowest caste being impure.\footnote{46}{P.G. Jodgand, “Problems of Hindu Women,” in Sukhadeo Thorat Aryama (ed.), \textit{Ambedkar in Retrospect – Essays on Economics, Politics and Society}, New Delhi: Indian Institute of Dalit Studies, 2007, p. 333.}

Ambedkar organized several conferences of Dalits, ensuring that women’s conferences were held simultaneously with those for men, and as a result by 1930, dalit women had started conducting their own marriages and conferences independently. They organized such conferences at Kanpur in 1944, at Bombay in 1945 and at Calcutta in 1946. Ambedkar’s
message inspired the dalit women who, rather than being content to remain merely as the audience, shouldered the responsibility in Ambedkar's movement. Their participation in Ambedkar movement documented by Moon and Pawar, shows that these women made great strides in achieving political consciousness. Their activism moved from a phase of organizing conferences and participating in *Satyagrahas* to a more provocative one of criticizing Brahmanical customs and patriarchy.47

He involved women in all the struggles. In Mahad Satyagraha, women participated in large numbers. About 500 women marched at the head of that historical procession to assert the untouchables' right to drink water from the public tank. As the movement gained momentum and experience, Ambedkar developed the understanding of the Hindu social order. The temple entry movement which continued for a long time was a social process of action and retrospection through which his views on Hindu philosophy and society crystalised. In this process, he made an indepth analysis of the *Smritis* and *Shastras*, which are considered to be the basis of Hindu philosophy. He questioned Manu and *Manu Smriti* and felt that it was solely responsible for downfall of Hindu women. *Manu Smriti*, according to him, ordained, graded social, religious, economic and cultural status to the *chaturvarnas*, and put women in the *Shudra* category. Manu prescribed a number of laws in this respect. Some of these were: by a girl, by a young woman, or even by an aged one, nothing must be done independently, even in her own house; a woman shall not perform the daily sacrifices prescribed by the Vedas. If she does it, she will go to hell; a wife, a son and a slave, these three are declared to have no property; the wealth which they earn is (acquired) for him to whom they belong. Liquor, slaying

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women, *Shudras, Vaishyas* and *Kshatriyas* and atheists (are all) minor offences. Ambedkar believed that the laws prescribed by Manu suggest that he not only showed contempt for women but also degraded them as slaves, devoid of any intellect, denied them the right to education and property and forbid them from performing daily sacrifices prescribed by *Vedas*.

He believed that *Varna* system has not only subjugated untouchables but also women. He showed that *chaturvarnya*, claimed to be based on 'worth' instead of 'birth', cannot explain the status and position of women as well as the system of endogamy. A system based upon worth, cannot justify the permanent denial of education and religious rights to women. He upheld equal rights for men and women. His consistency on universal adult franchise, contrary to the Congress ambivalence, testifies to the roots of his democratic consciousness.

Ambedkar respected their “personal dignity without belittling their roles as mothers and wives and gave women along with men” equal task of achievement of freedom.” His ideas are remarkably similar to those voiced by the women’s liberation movement all over the world. He propagated equality in family and society, dignity of women’s personality, the opening of wider opportunities for women for her self-development and refusal to be regarded as sex symbols. As the Chairman of Drafting Committee of Constituent Assembly he advocated several measures to free women from age old subordination imposed by the Hindu social laws authored by Manu.

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Ambedkar included Articles 14, 15 and 16, which deal with the right to equality, in the Constitution, to put men and women on equal footing. Ambedkar tried to raise the status of women through legal measures and one of them was the Hindu Code Bill. Hindu Code Bill was introduced in Parliament on April 11, 1947, which intended to place women at par with men in matters of property, adoption and marriage. The bill was, in fact, in accordance with the findings of a committee set up by the government in 1941, with B.N. Rau as its chairman and D.N. Mitter, J.R. Gharpure and V.V. Joshi as members. The committee advocated codification of Hindu law and recommended that the position of women in Hindu law be improved. The committee justified its recommendations on the basis of Hindu religious texts and on the basis of ‘majority opinion’ while responding to the questionnaire.\(^{51}\)

Ambedkar arranged the subject matter of the original bill in a more logical sequence. Ambedkar, in the Constituent Assembly, while speaking on the Hindu Code Bill, urged the members to have a common code which could do away with the rules of Hindu Law scattered in innumerable decisions of the High Courts and of the Privy Council, a motley of different matters, i.e. (i) the right of property of a deceased Hindu who has died intestate without making a will, to both female and male; (ii) the order of succession among the different heirs to the property of a deceased dying intestate; (iii) the law of maintenance; (iv) marriage; (v) divorce (vi) adoption and guardianship.\(^{52}\)


The Hindu Code Bill placed women at par with men in matters of property, adoption and marriage. She now is allowed to choose her spouse from any caste – high or low – a privilege enjoyed by men only. She has been given absolute right on her property. She can inherit as mother, sister or daughter, the property of deceased, equally with sons, and the adopted son cannot deprive her of her share in her husband’s property. As per the Bill a girl can also be adopted and for adoption wife’s consent is necessary and over and above all a destitute man can claim maintenance from his wife.  

Ambedkar, in his spirited defence of the Bill, said that the ideals enshrined in it are derived from the constitution based on liberty, equality and fraternity. He pointed out that the original Indian society was not based on caste and women’s oppression, and that women had equal share in property with men. They were deprived of property rights after the emergence of caste system at a subsequent stage. He observed that the sacramental marriage does not satisfy the ideal of liberty or equality. He described sacramental marriages as polygamy for the men and perpetual slavery for the women because under no circumstances within that system women got liberty from her husband, however bad he may be, however undesirable he may be. He insisted that women should have the freedom to break the contract and the constitutional commitment to liberty and equality did not permit the restoration of the ancient and archaic ideals.

The provisions of the proposed Bill were aimed at providing a legal framework for social change. However, stiff opposition came from different members of the parliament. Shyama Prasad Mukerjee said that the
“Hindu Code Bill would shatter the magnificent structure of Hindu culture and stultify a dynamic and catholic way of life that had wonderfully adopted itself to changes for centuries.” Madan Mohan Malaviya had also opposed the Bill mentioning that if the Bill was passed then the “very fibre of Hindu society would be weakened.”

Finally, the bill was defeated. The Congress leadership did nothing to push it, even Rajendra Prasad said it would be ‘undemocratic’ to pass the bill since it had never been discussed in Congress conferences. Ambedkar resigned from his post and explaining his decision in parliament said:

> The Hindu Code was the greatest social reform measure ever undertaken by the legislature in this country. No law passed by the Indian Legislature in the past or likely to be passed in the future can be compared to it in point of its significance. To leave inequality between class and class, between sex and sex which is the soul of Hindu society untouched and to go on passing legislation relating to economic problems is to make a farce of our Constitution and to build a palace on a dung heap. This is the significance I attached to the Hindu Code.

In his resignation letter dated 27th September, 1951 to the Prime Minister Nehru, he observed, “I ever agreed to break up the Bill restricted it to marriage and divorce in the fond hope that at least this much of our labour may bear fruit. But even that part of the Bill had been killed. I see no purpose in continuing to be a member of your cabinet.”

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55 Ibid.
57 P.G. Jogdand, op. cit., p. 335.
58 Dhananjay Keer, op. cit., p. 430.
Later the Hindu Code Bill was split into four bills that were put in the statute book of the Parliament. The Hindu Marriage Act, 1955, Hindu Succession Act, 1956; Hindu Minority and Guardianship Act, 1956; and Hindu Adoption and Maintenance Act, 1956 are the four enactments which incorporate the ideas and principles of the Hindu Code Bill formulated by Ambedkar.\(^59\)

Apart from this, Ambedkar also advocated birth control and moved a resolution through P.J. Roham in the Bombay legislative assembly on November 10, 1938, regarding the measures of birth control. He moved this bill as he was concerned about the health problems of women. He was of the opinion that the survival rate was more important than the birth rate. Gandhi, however was opposed to any artificial measures of birth control and had faith only in the concept of self-control.\(^60\)

Ambedkar also supported the bill for maternity leave for working women as a member of the Legislative Council of Bombay in 1928. He believed that financial responsibility should be on both the employer and the government. He also supported equal wages for women.\(^61\)

All this suggests Ambedkar’s commitment to female equality and to legal measures to help women. It is because of his initiative that there are new laws prescribing women’s rights. Although, it is again a matter of debate how far these laws have been able to protect women against injustice. For example, despite dowry prohibition act which came in 1961, the problem of dowry and, consequently of dowry deaths continues to loom large even today. The rise in the woman’s status notwithstanding, dowry

\(^{60}\) P.G. Jagdand, *op. cit.*, p. 335.
continues to undermine her position in society. Moreover, gender discrimination begins before birth. The poor gender ratio continues to challenge the planners and experts because women still are assigned a peripheral role in the success story of the nation. However, it can be said that it is due to Ambedkar’s efforts that a large part of the Hindu social law is now at par with the legal system prevailing in advanced western countries.

Gandhi and Ambedkar’s vision of freedom and equality for women has been firmly established in the constitution of independent India. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the state to adopt measures of positive discrimination in favour of women. The “Fundamental Rights” chapter in the Indian Constitution guarantees various rights. The rights of special importance to women are the Rights to Equality in Article 14 and the Prohibition against Discrimination in Article 15. Article 14 mandates that “the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.” Article 15(1) prohibits discrimination against any citizen of the state “on grounds only of religion, race, caste, sex, place of birth or any of them.” Article 15(3) also allows for special provision for women and children by clarifying that “Nothing in this Article shall prevent the state from making any special provision for women and children.” In addition, Article 16(1) mandates equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state. Article 16(2) clarifies 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.” These fundamental Rights in Chapter III of the Constitution are obviously enforceable in a court of law.

Chapter IV of the Constitution of India contains principles of law known as the “Directive Principles of State Policy,” which, though not enforceable, are supposed to be fundamental in the governance of the country. It is also supposed to be the duty of the state to apply these principles in making laws. These principles direct the state, in Article 39(a), to ensure that all citizens, men and women equally, have the right to an adequate means of livelihood. In Article 39(d), the state is directed to ensure that there is equal pay for equal work for both men and women. The Equal Remuneration Act passed by the Indian Parliament in 1975 does provide that men and women will be paid equally for doing the same work or work of a similar nature. This Act also states that there will be no discrimination against women at the time of recruitment or later at the time of promotion.

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) onward there has been a marked shift in the approach to women’s issues from welfare to development. The National Commission for Women was set up by an Act of Parliament in 1990 to safeguard the rights and legal entitlements of women. The 73rd and 74th amendments (1993) to the Constitution of India have provided with 33% 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.
India has also ratified various International conventions to secure rights of women. Key among them is the ratification of the Convention of all forms of Discrimination Against Women (CEDAW) in 1993. Certain other international plans for the empowerment of women have been endorsed by India. The women’s movement and a widespread network of Non-Government-Organizations having strong grassroots presence and deep insight into women’s concerns have contributed in inspiring initiatives for the empowerment of women.\(^{62}\)

This whole debate suggests that women’s emancipation in India thus, had an indigenous component being pioneered by rational men, which metamorphosed in due course of time into a movement. Gandhi exhorted women to realize their potential and work as a collectivity for social transformation. Though many of his ideas related to women’s economic and political participation are not women friendly, yet his concepts of self-esteem, self-realisation, selfless service as a collectivity are the keys to justice for all human beings irrespective of their being men or women, which is the basis of good governance. Considering the fact that he wrote his ideas about 70 to 80 years back, some of his views can be set aside such as the women being a complement of men in matters of occupation and education and female chastity in the context of women’s honour.

This is true that Gandhi has been criticized for not evolving a concrete programme for the economic upliftment of women but this cannot be denied that he succeeded in raising the question of their depressed conditions as a moral question for society to reckon with. He made a major contribution towards creating a general climate of sympathetic awareness of women’s situation. Though he had a personal predilection for idealizing

\(^{62}\) Vijay Sharma, *op. cit.*, pp. 131-133.
certain roles played by women, yet he did not shirk from accepting the logical consequences of his insistence on absolute equality between men and women.

Similarly the inseparability of caste and gender in Ambedkar’s conceptualization and his interpretations of history and the place and role of marriage in social reconstruction of graded inequality, provide an important understanding of the issue of women’s emancipation in the Indian context. As Ambedkar said, caste is endogamy and endogamy is caste. He also brought out how the origin and reproduction of caste rested on gendered violence.

The Hindu Code Bill, as conceived by Ambedkar, and the intense opposition to it also offered a great deal of insight into the governing forces and ideas at play in the wake of struggles for women’s emancipation. The opposition to ideas leading to women empowerment is still prevalent in the Indian society as the fate of the bill for the reservation for women in the Parliament is a glaring example of this. Feminist scholars, especially after the women reservation bill debate, also agree that Indian society cannot be analyzed without taking note of caste. Though patriarchy is pervasive in India, it varies in degree depending upon the religion, region, caste, community and social group, maintained and perpetuated through endogamy. Since Ambedkar himself was a victim of oppression and discrimination in all its severity, his views about women’s oppression and equal rights are more pragmatic in comparison to Gandhi. He saw women as the victims of the oppressive, caste-based and rigid hierarchical social system. He believed that socio-cultural forces, Hindu religion and Manu Smriti have artificially constructed gender relations. In his works, “The Riddle of the Woman,” “The Woman and the Counter Revolution” (1987),
"The Rise and Fall of Hindu Women" (1950), "Castes in India: Their Mechanism, Genesis and Development" (1979), through the issues of the Journals Mooknayak (1920) and Bahiskrit Bharat (1927), Ambedkar has tried to show how the gender relations and differences are constructed by Hindu Brahmical order. These are based on social and historical experience and are not an abstract moral condition.

Gandhi and Ambedkar believed in providing good education to women. Ambedkar said, "we shall see better days soon and our progress will be greatly accelerated if male education is pursued side by side with female education." Ambedkar conceived education not only in terms of cultures of learning and teaching but also dissenting against that which is learnt and taught by dominant cultural practices. He considered teachers as well as students as modern truth seekers and agents of social transformation. It is in this context that he believed that men could play a crucial role in social transformation of a society.

Gandhi however advocates selective education for women. By advocating selective education, Gandhi did not mean that women are not equal in rank with men, but only that they are not identical.

Another polarity between Gandhi and Ambedkar has been on the issue of birth control measures. Ambedkar again is more practical in this regard as he argued that the survival rate was more important than the birth rate and pleaded for measures of birth control where as Gandhi believed in self-control and was opposed to artificial measures of birth control.

Thus, Gandhi’s ideological position on women related issues has been guided by his belief in differentiation of their social roles and his insistence on self-control and morality in all aspects of human life. Gandhi has given an alternative way of social transformation through self-control and self-realization. Ambedkar’s approach in this regard has been more pragmatic and it was he who initiated to raise the status of women through legal measures such as Hindu Code Bill which placed women at par with men in matters of property, adoption and marriage, bill for maternity leave for working women and the principles of gender equality enshrined in the Indian Constitution.