Empowerment of Indian Women: Important Constitutional and Legal Provisions

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Abstract: The paper reveals the concept of empowerment as well as the status of Indian women. Important constitutional, legal and other provisions are also described in a systematic way. The paper covers the status of women during different historical periods such as at earlier time as on today specific gender was getting equal status. But they had faced some difficulties during post-Vedic and epic ages. Many a time they were treated as Goddesses and at other times merely as a slave. From early 20th century (national movement) their status has been changed slowly and gradually. After the independence of India, the constitutional makers and national leaders strongly fought for equal status of women with men. As a result, the women occupied the respectable positions in all walks of the fields. Yet, they have not absolutely freed some discrimination and harassment of the society. Absolute numbers of women have not been able to establish their potentialities.

I. INTRODUCTION

Women constitute almost half the population but Indian female population is comparatively lower than males. As far as their social status is concerned, they are not equal to men in all walks of life. Whereas, in the Western societies, the women are enjoying the equal status to man. But in India gender disabilities and discriminations are still prevailing. The situation in India is unpredictable as she was sometimes concerned as Goddess and at other times merely as a slave.

Women make almost half of the total population of the world. Then why this substantial section of the society needs empowerment? They are not in minority so as to require special treatment. Biologically speaking also, it is a proven fact that female race is superior to male. In spite of the above fact, Women empowerment is a burning topic in India and also at international Laval. Then the question arises that why we are debating the topic ‘Women / Gender - Specific Empowerment’.

What is Empowerment?

Empowerment in simple words can be understood as giving power to any gender -specific to decide for their own lives or inculcating such abilities in them so that they could be able to find their rightful place in the society.

According to the United Nations, women’s empowerment mainly has five components:

- Generating women’s sense of self-worth;
- Women’s right to have and to determine their choices;
- Women’s right to have access to equal opportunities and all kinds of resources;
- Women’s right to have the power to regulate and control their own lives, within and outside the home; and
- Women’s ability to contribute in creating a more just social and economic order.

Thus, women empowerment is nothing but recognition of women’s basic human rights and creating an environment where they are treated as equals to men.

Why women empowerment?

Need for women empowerment arose because they are the target of varied types of violence and discriminatory practices done by men all over the world. India is no exception. India is a complex country and its customs and traditions, good as well as bad, have become a part of our society’s collective consciousness. We worship female goddesses; we also give great importance to our mothers, daughters, sisters, wives and other female relatives or friends. But at the same time, Indians are also famous for treating their women badly both inside and outside their homes.

Indian society consists of people belonging to almost all kinds of religious beliefs. In every religion women are given a special place and every religion teaches us to treat women with respect and dignity. But somehow the society has so developed the various types of ill practices, both physical and mental, against women. For instance, sati pratha, practice of dowry, parda pratha, female infanticide, wife burning, sexual violence, sexual harassment at work place, domestic violence and other varied kinds of discriminatory practices; all such acts consists of physical as well as mental element.
The reasons for such behaviour against women are many but the most important one are the male superiority complex and patriarchal system of society. Though to eliminate these ill practices and discrimination against women various constitutional and legal rights are there but in reality there are a lot to be done.

Today we have noticed different Acts and Schemes of the central government as well as state government to empower the women of India. But still women are discriminated and marginalized at every level of the society whether it is social participation, political participation, economic participation, access to education, and also reproductive healthcare. Women are found to be economically very poor all over the India. A few women are engaged in services and other activities. So, they need economic power to stand on their own legs at par with men. On the other hand, it has been observed that women are found to be less literate than men. It has also noticed that some of women are too weak to work. They consume less food but work more. Another problem is that workplace harassment of women. There are so many cases of rape, kidnapping of girl, dowry harassment, and so on. For these reasons, they require empowerment of all kinds in order to protect themselves and to secure their purity and dignity.

To sum up, women empowerment cannot be possible unless women come forward and to self-empower. There is a need to eliminate feminized poverty, promote education of women, and prevention and elimination of violence against women.

Therefore, the concept of women empowerment not only focuses on giving women strength and skills to rise above from their miserable situation but at the same time it also stresses on the need to educate men regarding women issues and inculcating a sense of respect and duty towards women as equals.

**Women in India**

Now the women in India enjoy a unique status of equality with the men as per constitutional and legal provision. But the Indian women have come a long way to achieve the present positions. First, gender inequality in India can be traced back to the historic days of Mahabharata when Draupadi was put on the dice by her husband as a commodity. History is a witness that women were made to dance both in private and public places to please the man. Secondly, in Indian society, a female was always dependent on male members of the family even last few years ago. Thirdly, a female was not allowed to speak with loud voice in the presence of elder members of her in laws. In the family, every fault had gone to her and responsible. Forth, as a widow her dependence on a male members of the family still are more. Fifth, in many social activities she is not permitted to mix with other members of the family. Sixth, she has very little share in political, social and economic life of the society. Seventh, all kinds of discriminatory practices started as child marriage, devadashi pratha, nagar vadhu system, sati pratha etc. Eighth, women’s socio-political rights were curtailed and they were made fully dependent upon the male members of family. Ninth, their right to education, right to work and right to decide for themselves were taken away.

In the early 20th century, it was rise of the National Movement under the leadership of Mahatma Gandhi who was in favor of removing all the disabilities of women. At the same time, Raja Ram Mohan Rai, Iswar Chandra Vidyasagar and various other social reformers laid stress on women’s education, prevention of child marriage, withdrawals of evil practice of sati, removal of polygamy etc. The National Movement and various reform movements paved the way for their liberations from the social evils and religious taboos. In this context, we may write about the Act of Sati (abolish) 1829, Hindu Widow Remarriage Act’ 1856, the Child Restriction Act, 1929, Women Property Right Act, 1937 etc.

Indian National Congress also supported the first women’s delegation which met the Secretary of State to demand women’s political rights in 1917. The Child Marriage Restraint Act in 1929 was passed due to the efforts of Mahommad Ali Jinn, Mahatma Gandhi called upon the young men to marry the child widows and urged people to boycott child marriages.

During freedom movement, almost all the leaders of the struggle movement were of the view that women should be given equal status in the free India and all types of discriminatory practices must be stopped. And for that to happen, it was thought fit to include such provisions in the Constitution of India which would help to eliminate age-old exploitative customs and traditions and also such provisions would help in empowering women socially, economically and politically.

After independence of India, the constitution makers and the national leaders recognized the equal social position of women with men. The Hindu Marriage Act, 1955 has determined the age for marriage, provided for monogamy and guardianship of the mother and permitted the dissolution of marriage under specific circumstances. Under the Hindu Adoptions and Maintenance Act, 1956, an unmarried women, widow or divorce of sound mind can also take child in adoption. Similarly, the Dowry Prohibition Act of 1961 says that any person who gives, takes, or abets the giving or taking of dowry shall be punished with imprisonment, which may extend to six months or fine up to Rs.5000/ or with both. The Constitution of India guarantees equality of sexes and in fact grants special favors to women. These can be found in three articles of the constitution. Article 14 says that the government shall not deny to any person equality before law or equal protection of the law. Article 15 declares that government shall not
discriminate against any citizen on the ground of sex. **Article 15 (3)** makes a special provision enabling the state to make affirmative discriminations in favor of women. **Article 42** directs the state to make provision for ensuring just and human conditions of work and maternity relief. Above all, the constitution regards a fundamental duty on every citizen through **Articles 15 (A), (E)** to renounce the practices derogatory to the dignity of women.

**Empowerment of women in India**

Empowerment of women would mean equipping women to be economically independent, self-reliant, have positive esteem to enable them to face any difficult situation and they should be able to participate in developmental activities. The empowered women should be able to participate in the process of decision making. In India, the Ministry of Human Resource Development (MHRD- 1985) and the National Commission for Women (NCW) have been worked to safeguard the rights and legal entitlement of women. The 73rd &74th Amendments (1993) to the constitution of India have provided some special powers to women that for reservation of seats (33%), whereas the report HRD as March2002 shows that the legislatures with the highest percentage of women are Sweeden 42.7%, Denmark 38%, Finland 36% and Iceland 34.9%. In India “The New Panchayati Raj” is the part of the effort to empower women at least at the village level. The government of India has ratified various international conventions and human rights instruments committing to secure equal rights to women. These are CEDAW (1993), the Mexico Plan of Action (1975), the Nairobi Forward Looking Strategies (1985), the Beijing Declaration as well as the platform for Action (1995) and other such instruments. The year of 2001 was observed as the year of women’s empowerment. During the year, a landmark document has been adopted, *‘the National Policy for the Empowerment of Women’*. For the beneficiaries of the women, the government has been adopted different schemes and programs i.e. the National Credit Fund for Women (1993), Food and Nutrition Board (FNB), Information and Mass Education (IMF) etc. The most positive development last few years has been the growing involvement of women in the Panchayati Raj institutions. There are many elected women representatives at the village council level. Today we have seen women chief ministers, women president, different political parties leader, well establish businessmen etc. Women are also involving in human development issues of child rearing, education, health, and gender parity. Many of them have gone into the making and marketing of a range of cottage products-pickles, tailoring, embroidery etc. The economic empowerment of women is being regarded these days as a sines-quo-non of progress for a country; hence, the issue of economic empowerment of women is of paramount importance to political thinkers, social thinkers and reformers.

**II. IMPORTANT CONSTITUTIONAL AND LEGAL PROVISIONS FOR WOMEN EMPOWERMENT IN INDIA**

1. **Constitutional Provisions**

   India’s Constitution makers and our founding fathers were very determined to provide equal rights to both women and men. Various articles in the Constitution safeguard women’s rights by putting them at par with men socially, politically and economically.

   The Preamble, the Fundamental Rights, DPSPs and other constitutional provisions provide several general and special safeguards to secure women’s human rights.

**Preamble**

The Preamble to the Constitution of India assures justice, social, economic and political; equality of status and opportunity and dignity to the individual. Thus it treats both men and women equal.

**Fundamental Rights:**

   The policy of women empowerment is well entrenched in the Fundamental Rights enshrined in our Constitution. For instance:

   * Article 14 ensures to women the right to equality.
   * Article 15(1) specifically prohibits discrimination on the basis of sex.
   * Article 15(3) empowers the State to take affirmative action in favour of women.
   * Article 16 provides for equality of opportunity for all citizens in matters relating to employment or appointment to any office.

   These rights being fundamental rights are justiciable in court and the Government is obliged to follow the same.

**Directive Principles of State Policy**

Directive principles of State Policy also contains important provisions regarding women empowerment and it is the duty of the government to apply these principles while making laws or formulating any policy. Though these are not justiciable in the Court but these are essential for governance nonetheless. Some of them are:

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Article 39 (a) provides that the State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood.

Article 39 (d) mandates equal pay for equal work for both men and women.

Article 42 provides that the State to make provision for securing just and humane conditions of work and for maternity relief.

Fundamental Duties

Fundamental duties are enshrined in Part IV-A of the Constitution and are positive duties for the people of India to follow. It also contains a duty related to women’s rights:

Article 51 (A) (e) expects from the citizen of the country to promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women.

Other Constitutional Provisions:

Through 73rd and 74th Constitutional Amendment of 1993, a very important political right has been given to women which are a landmark in the direction of women empowerment in India. With this amendment women were given 33.33 percent reservation in seats at different levels of elections in local governance i.e. at Panchayat, Block and Municipality elections.

Thus it can be seen that these Constitutional provisions are very empowering for women and the State is duty bound to apply these principles in taking policy decisions as well as in enacting laws.

2. Legal Provisions

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women. Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women'. These are broadly classified under two categories. (1) The Crimes Identified Under the Indian Penal Code (IPC) (i) Rape (Sec. 376 IPC) (ii) Kidnapping & Abduction for different purposes (Sec. 363-373) (iii) Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC) (iv) Torture, both mental and physical (Sec. 498-A IPC) (v) Molestation (Sec. 354 IPC) (vi) Sexual Harassment (Sec. 509 IPC) (vii) Importation of girls (up to 21 years of age) (2) The Crimes identified under the Special Laws (SLL) Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts have special provisions to safeguard women and their interests like (i) The Family Courts Act, 1954 (ii) The Special Marriage Act, 1954 (iii) The Hindu Marriage Act, 1955 (iv) The Hindu Succession Act, 1956 with amendment in 1995 (v) Immoral Traffic (Prevention) Act, 1956 (vi) The Maternity Benefit Act, 1961 (Amended in 1995) (vii) Dowry Prohibition Act, 1961 (viii) The Medical Termination of Pregnancy Act, 1971 (ix) The Contract Labour (Regulation and Abolition) Act, 1976 (x) The Equal Remuneration Act, 1976 (xi) The Prohibition of Child Marriage Act, 2006 (xii) The Criminal Law (Amendment) Act, 1983 (xiii) Indecent Representation of Women (Prohibition) Act, 1986 (xiv) Commission of Sati (Prevention) Act, 1987 (xv) The Protection of Women from Domestic Violence Act, 2005

3. Specific Laws For Women Empowerment In India

Here is the list of some specific laws which were enacted by the Parliament in order to fulfill Constitutional obligation of women empowerment:

- The Dowry Prohibition Act, 1961.
- The Sexual Harassment of Women at Work Place (Prevention, Protection and) Act, 2013.

Above mentioned and several other laws are there which not only provide specific legal rights to women but also gives them a sense of security and empowerment.

4. Special Initiatives for Women

(i) National Commission for Women : In January 1992, the Government 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 amendments wherever necessary, etc. (ii) Reservation for Women in Local Self-Government : The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-
third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas. (iii) 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 a better future for the girl child. National Policy for Children-2013 was adopted by the Government of India on 26th April 2013. National Plan of Action for Children 2016 is in Draft Format. (iv) National Policy for the Empowerment of Women, 2001: The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a “National Policy for the Empowerment of Women” in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women. National Policy for the Empowerment of Women, 2016 is under draft stage.

III. CONCLUSION AND SUGGESTIONS

In conclusion, it can be said that women in India, through their own unrelenting efforts and with the help of Constitutional and other legal provisions and also with the aid of Government’s various welfare schemes, are trying to find their own place under the sun. And it is a heartening sign that their participation in employment—government as well as private, in socio-political activities of the nation and also their presence at the highest decision making bodies is improving day by day.

However, we are still far behind in achieving the equality and justice which the Preamble of our Constitution talks about. The real problem lies in the patriarchal and male-dominated system of our society which considers women as subordinate to men and creates different types of methods to subjugate them.

The need of us is to educate and sensitize male members of the society regarding women issues and try to inculcate a feeling of togetherness and equality among them so that they would stop their discriminatory practices towards the fairer sex.

For this to happen apart from Government, the efforts are needed from various NGOs and from enlightened citizens of the country. And first of all efforts should begin from our homes where we must empower female members of our family by providing them equal opportunities of education, health, nutrition and decision making without any discrimination India can become a powerful nation only if it truly empowers its women.

"You can tell the condition of a nation by looking at the status of its women"

- Pt. Jawaharlal Nehru

IV. REFERENCES