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Women Empowerment and Indian Constitution

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ABSTRACT: The main objective behind this article is neither to favour the prevalence of feminism nor to be criticizing about the chauvinism. The focal point of this article is to promote equality. In Today's scenario the empowerment of women has become one of the most important concerns of 21st century. But practically women empowerment is still an illusion of reality. We observe in our day to day life how women become victimized by various social evils. Women Empowerment is the vital instrument to expand women's ability to have resources and to make strategic life choices. Empowerment of women is essentially the process of upliftment of economic, social and political status of women, the traditionally underprivileged ones, in the society. It is the process of guarding them against all forms of violence. Women empowerment is giving legitimate power or authority to perform the tasks.

KEYWORDS: women, empowerment, Indian, constitution, provisions, rules, authority, government, social

I. INTRODUCTION

People of India used to say this country as Bharat-Mata however never realized the true meaning of it. Bharat-Mata means a mother of every Indian whom we have to save and respect. Women population is around 50% of the total population of the world. Reflecting into the Vedas Purana of Indian culture, women is being worshiped such as LAXMI MAA, goddess of wealth; SARSWATI MAA, for wisdom; DURGA MAA for power. Now-a-days, women are increasingly gaining control over their lives and are actively taking their own decisions with regard to their education, career, profession and lifestyle. Women have demanded equality with men in matters of education, employment, inheritance, marriage, and politics and recently in the field of religion also to serve as priest. Also, women need to be given equal opportunities for education and employment without any sense of discrimination. Women empowerment implies the ability in women to take decisions with regard to their life and work and giving equal rights to them in all spheres like: personal, social, economic, political, legal and so on. We are living in an age of women empowerment where Women are working shoulder to shoulder with men. A woman also manages to balance between their commitment to their profession as well as their home and family. They are playing multiple roles - at home as a mother, daughter, sister, and wife and at working place as professionals with remarkable simplicity and compatibility. Women empowerment is essential for the betterment of any country's future as they play dual responsibilities of managing their families while simultaneously juggling to earn to contribute in fulfilling their family needs. No one can ever ignore the importance of the role of a mother, sister, or a daughter in their families. At the same time, women have also established themselves as equal contributors in managing the financial requirements of their homes. On international level as well, women have successfully created their unbeatable position, but they are just a handful in comparison to their counterparts.[1]

Women empowerment is not limited to urban and even women in remote towns and villages are now increasingly making their voices heard loud and clear in society. While it is true that women, to a large extent, do not face discrimination in society today, unfortunately, many of them face exploitation and harassment which can be of diverse types: emotional, physical, mental and sexual. They are often subjected to rape, abuse and other forms of physical and intellectual violence. Women are now claiming the socio-political rights (right to work, right to education, right to decide, etc) for them. The Parliament of India too has passed various legislations to save women from various forms of injustice and discrimination. To empower women there are some following laws : Equal Remuneration Act-1976; Dowry Prohibition Act-1961; Immoral Traffic (Prevention) Act-1956, Medical termination of Pregnancy Act-1971; Maternity Benefit Act-1961; Commission of Sati (Prevention) Act-1987; Prohibition of Child Marriage Act-2006; Pre-

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Conception & Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act-1994; and Sexual Harassment of Women at Work Place (Prevention, Protection and) Act-2013. More recently, in the wake of Nirbhaya case involving the rape and brutal murder of paramedical student in Delhi, the government has passed the Juvenile Justice (Care and Protection of Children) Bill, 2015. This Act makes a significant departure from the earlier Juvenile Justice (Care and Protection of Children) Act, 2000, as the juvenile age inviting punishment for offence now stands reduced from 18 to 16 years.

The most famous pearl of wisdom said by the Pandit Jawaharlal Nehru is To awaken the people, it is the women who must be awakened. Once she is on the move, the family moves, the village moves, the nation moves. In India, to empower the women, first it needs to kill all the demons killing women's rights and values in the society such as dowry system, illiteracy, sexual harassment, inequality, female infanticide and domestic violence against women, rape, prostitution, illegal trafficking and other issues. Gender discrimination in the nation brings cultural, social, economic and educational differences which push country back. The most effective remedy to kill such devils is making women empowered by ensuring the Right to Equality mentioned in the Article 14, Constitution of India. According to the provisions of the Constitution of India, it is a legal point to grant equality to women in the society in all spheres just like males have. The Women are given a top place in India from the ancient time however they were not given empowerment to participate in all areas. They need to be strong, aware and alert every moment for their growth and development. Empowering women is the main motto of the development department because an empowered mother with child makes the bright future of any nation.[2]

Position And Status of Women

The position and status of women all over the world has risen extraordinarily in the 20th century. We find that it has been very low in past centuries in India and hence they were treated like 'objects' that can be bought and sold. For a long time women in India remained within the four walls of their household. They totally depend on menfolk. In India, the customs of purdha (veil system), female infanticide, child marriage, sati system (self-immolation by the women with their husbands), dowry system and the state of permanent widowhood were totally removed. It would help the innumerable women in the country who get neglected by their husbands and have no means of proving their marital status. It would also help check child marriages, bigamy and polygamy, enable women to seek maintenance and custody of their children and widows can claim inheritance rights. The Act is applicable on all women irrespective of caste, creed or religion. It truly helps to empower Indian women to exercise their rights.

Benefits of Women Empowerment:

Women empowerment raises confidence of women in their ability to lead meaningful and purposeful lives. It eliminates their dependence on others and makes them individuals in their own right. They are able to lead their lives with dignity and freedom which increase their self esteem and give them a unique identity. They are able to gain recognition and form a meaningful contribution to the well-being of society. Women act as capable citizens to make the country achieve and boost Gross Domestic Product (GDP) growth as they are financially independent they are able to spend on all their needs and desires and they also get fair and equitable access to resources of the country.

Necessity of Women's Empowerment

Without women's empowerment, we cannot remove injustice and gender bias and inequalities. If women are not empowered, they deprived from enjoying security and protection in life. It also provides them a secure working environment. Empowerment acts as a powerful tool against exploitation and harassment of women. It is a great means to get adequate legal protection for women. If not socially and economically empowered, women cannot blossom their own identity in society and if they are not employed, the global economy will be adversely affected as women constitute a large extent of the world's population. As women are highly creative and intelligent this makes it mandatory to receive their contributions in socio-economic activities. For a just and progressive society, women need to be provided equal opportunities for work.[3]

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II.DISCUSSION

The challenges/ barriers of women empowerment are the following:

Because of the inherent dominance among the males, they often don't allow their female counter-part to rise as high as them. Women are bound to high level of domestic responsibilities and they are also restricted to participate in social, economic and religious activities. In our society, preference for male-child still exist and priority for education and healthy diet given to the boy child over girl child.

To overcome barriers

Education through mass communication is very important. Both women and men should have aware of their responsibilities for promoting and practicing gender-equality. Accumulate national data and identify the areas where occurrence of violence and gender-inequality is on peak. This data can be used by the Government, NGOs and field workers to increase the status of women. The society should be made aware that both boy-child and girl-child are equally treated, and they both should have equal access to available resources. A person may be said as powerful, when he/she may have the right of particular things and also have control on a large particular portion of power resources such as knowledge, education, social status, capabilities of mobilization, personal wealth, leadership training, etc.

Summit on women empowerment

The summit called Woman up! Organized by Siyahi, a literary agency commence in October, 2019. Financial independence for women is not just about being a part of the workforce. For women to be truly financially independent, it is extremely imperative for men to be active allies and equitable partners in taking up the responsibility of domestic and familiar affairs. The Woman Up! Summit will reflect on such crucial yet often overlooked subjects in the advancement of gender equality. Another theme that will be dwelt upon is the need for science and entrepreneurship to work together as engines of societal change. With several sessions in Hindi, the bilingual nature of the summit makes it an inclusive platform for people from all walks of life to learn and be inspired, Mita Kapur, Founder, curator and producer of Woman Up! Summit said.

Leading Cases

In case of *C.B. Muthamma v. Union of India* (1979) 4 SCC 260⁴⁴, a writ petition was filed by Ms Muthamma, a senior member of the Indian Foreign Service, complaining that she had been denied promotion to Grade I illegally and unconstitutionally. She pointed out that several rules of the civil service were discriminatory against women. At the very threshold she was advised by the Chairman of the UPSC against joining the Foreign Service. At the time of joining she was required to give an undertaking that if she married she would resign from service. Under Rule 18 of the Indian Foreign Service (Recruitment, Cadre, Seniority and Promotion) Rules, 1961, it was provided that no married woman shall be entitled as of right to be appointed to the service. Under Rule 8(2) of the Indian Foreign Service (Conduct and Discipline) Rules, 1961, a woman member of the service was required to obtain permission of the Government in writing before her marriage was solemnised. At any time after the marriage she could be required to resign if the Government was confirmed that her family and domestic commitments were likely to come in the way of the due and efficient discharge of her duties as a member of the service. On numerous occasions the petitioner had to face the consequences of being a woman and thus suffered discrimination, though the Constitution specifically under Article 15 prohibits discrimination on grounds of religion, race, caste, sex or place of birth and Article 14 provides the principle of equality before law. In case of *Air India v. Nargesh Meerza* ((1981) 4 SCC 335)⁴⁵, Nargesh Meerza filed a writ petition, In this case, the air-hostesses of the Air-India International Corporation had approached the Supreme Court against, again, discriminatory service conditions in the Regulations of Air-India. The Regulations provided that an air-hostess could not get married before completing four-years of service. Usually an air-hostess was recruited at the age of 19 years and the four-year bar against marriage meant that an air-hostess could not get married until she reached the age of 23 years.^[4]

If she married earlier, she had to resign and if after 23 years she got married, she could continue as a married woman but had to resign on becoming pregnant. If an air hostess survived both these filters, she continued to serve until she

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reached the age of 35 years. It was alleged on behalf of the air-hostesses that those provisions were discriminatory on the ground of sex, as similar provisions did not apply to male employees doing similar work. The Supreme Court upheld the first requirement that an air-hostess should not marry before the completion of four years of service. The court held that: "It was a sound and salutary provision. Apart from improving the health of the employee it helps a great deal in the promotion and boosting up of our family planning programme." However, this argument given by the Court came in for criticism that as the requirements of age and family planning were warranted by the population policy of the State and once the State had fixed the age of marriage, i.e. 18 years, the reasoning advanced for upholding the rule was a camouflage for the real concern. The Supreme Court struck down the Air-India Regulations relating to retirement and the pregnancy bar on the services of Air-hostesses as unconstitutional on the ground that the conditions laid down therein were entirely unreasonable and arbitrary. The impugned Regulation 46 provided that an air hostess would retire from the service of the corporation upon attaining the age of 35 years or on marriage, if it took place within 4 years of service, or on first pregnancy, whichever occurred earlier. Under Regulation 7, the Managing Director was vested with absolute discretion to extend the age of retirement prescribed at 45 years. Both these regulations were struck down as violative of Article 14, which prohibits unreasonableness and arbitrariness.

III. RESULTS

Legal And Constitutional Provisions For Women In 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. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. Gender equality includes protection from sexual harassment and right to work with dignity which is a universally recognized basic human right.

A. 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)

Rape (Sec.376 IPC)

Kidnapping & Abduction for different purposes (Sec. 363-373)

Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)

Torture, both mental and physical (Sec. 498-A IPC)

Molestation (Sec. 354 IPC)

Sexual Harassment (Sec. 509 IPC)

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 which have special provisions to safeguard women and their interests are:

The Special Marriage Act, 1954

The Hindu Marriage Act, 1955

The Maternity Benefit Act, 1961 (Amended in 1995)

Dowry Prohibition Act, 1961

The Medical Termination of Pregnancy Act, 1971

The Equal Remuneration Act, 1976

The Prohibition of Child Marriage Act, 2006

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The Criminal Law (Amendment) Act, 1983
Indecent Representation of Women (Prohibition) Act, 1986
Commission of Sati (Prevention) Act, 1987
The Protection of Women from Domestic Violence Act, 2005

B. Constitutional Provisions

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of special importance in this regard. Constitutional Privileges[5]

(Article 14) Equality before law for women.

According to Article 14, 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) Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.

(Article 15(1))The State shall not discrimination against any citizen on grounds only of religion, race, caste, sex, or place of birth or any of them.

(Article 15(3)) The State to make any special provision in favour of women and children.

(Article 16) Equality of opportunity in matters of public employment.

(Article 16(1)) There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state.

(Article 19) Freedom Of Speech And Expression

(Article 19(1)(a)) states that, all citizens shall have the right to freedom of speech and expression.

(Article 21) Protection of life and personal liberty.

No person shall be deprived of his life or personal liberty except according to procedure established by law.

(Article 39) Directive Principles of State Policy

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

(Article 39(d)) directs the state to secure equal pay for equal work for both men and women.

(Article 39 A) To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

Article 42 of the Constitution incorporates a very important provision for the benefit of women. It directs the State to make provision for securing just and humane conditions of work and for maternity relief.

(Article 51(A) (e)) is related to women. It states that;

It shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religion, linguistic, regional or sectional diversities; to renounce practices derogatory to the dignity of women.

Article 243 D: Reservation of seats.

(Article 243 D(1)) Seats shall be reserved for –

(a) The Scheduled Castes; and

(b) The Scheduled Tribes,

(Article 243 D(2)) Not less than one-third of the total number of seats reserved under clause (1) shall be reserved for women belonging to the Scheduled Castes or, as the case may be, the Scheduled tribes .

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(Article 243 D(3)) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat.

(Article 243 D (4)) Not less than one- third of the total number of offices of Chairpersons in the Panchayat at each level to be reserved for women.

Article 243 T: Reservation of seats

(Article 243 T (3)) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality.

(Article 243 T (4)) Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide.

C. Special Initiatives For Women

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. **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. **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 a better future for the girl child. **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 in socio-economic and politico-cultural aspects, by creating in them awareness on various issues in relation to their empowerment.

Government Enactments

The National Commission for Women has in the last few years introduced several new bills in the parliament from time to time towards eradication of many social evils. Some of the significant enactments are mentioned here.

Beti padao beti bacho yojana

The Dowry Prohibition Act, 1961

The Hindu Widow Re-Marriage Act of 1856: In the traditions at Hindu society there was a ban on widow remarriage it was one of the most important evils from which women in the traditional Hindu society suffered a lot. This act allowed widow to remarry and section 5 of this Act ensured her to enjoy all the rights, which a married woman did.

The Child Marriage Restraint Act of 1929: The practice of child marriage was another social evil from which women in traditional Hindu society suffered a lot. Age at marriage for girls was 9 or 10 and after passing this act the minimum marriageable age of women was fixed to 15 years. Later this age was increased up to 18 years.

The Hindu Marriage Act of 1955: This Act has recognized the equal rights of men and women in the matters of marriage and divorce. Under the provision of this Act either the man or woman[ii] can present a petition in a court of law for divorce, wife has got equal right to divorce husband.[6]

IV. CONCLUSIONS

The Empowerment of Women has become one of the most important concerns of 21st century not only at national level but also at the international level. Women Empowerment helps to make the society and world a better place to live in and march forward on way to inclusive participation. It means increase happiness for the family and the organizations

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where women make a difference. Government initiatives alone would not be sufficient to achieve this goal. Society must take initiative to create a climate in which there is no gender discrimination and women have full opportunities of self decision making and participating in social, political and economic life of the country with a sense of equality. Women empowerment will be real and effective only when they are endowed income and property so that they may stand on their feet and build up their identity in the society. Let us take the oath that we want an egalitarian society where everybody whether men or women get the equal opportunity to express and uplift one's well being and well being of the society as whole. If we want to bring about women empowerment in the true sense, there is a crying need for the elimination of the male superiority and patriarchal mindset. Also, women need to be given equal opportunities for education and employment without any sense of discrimination .[6]

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