

Legal & Constitutional Provisions for Empowering Women-A Brief Study

Saurabh Pandit

B.A., L.L.B (Bhiwani)

sp249803@gmail.com

Abstract: After independence, the status of women has undoubtedly changed in various fields of life. The government of India has made various legislative, constitutional and other provisions for safeguarding the interest of women. The constitution of India provided equal opportunities to women in all walks of life such as education, employment, justice and political participation and granted equal rights to women in the every field of life. The government has introduced various schemes for socio-economic development and gender justice. After these efforts, there has been a remarkable improvement in women's condition since independence.

Keywords: Gender Equality, Indian Constitution, Women Empowerment, Gender Justice.

Introduction: 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. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.

The principle of gender equality is enshrined in the Indian constitution in its preamble, fundamental rights, fundamental duties and directive principles. 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. The first international effort which lays down the equality of rights for both the sexes is the rule list of the U.N.O. This rule-set reads that the whole mankind enjoys glory and right by birth. All men and women without exception must enjoy the same freedom and rights. The member states of the U.N.O. were supposed to ascertain due social, economical, cultural and political rights for all their entire citizens irrespective of their sex. The discrimination against women is considered to be an infringement of equality of rights and human glory. India has taken several constitutional and legal measures and special schemes, programmes, planning, policies to secure gender equality in all walks of social economic, cultural and political life.

Constitutional Provisions: The constitution of India guarantees justice, liberty and equality to all citizens. The fundamental rights and the directive principles are the conscience of our constitution. The fundamental rights and directive principles of our constitution have made extensive

safeguard in favour of women and tries to remove inequalities which exist between man and women. The preamble of the constitution of India resolved to secure to all its citizens justice, economical, social, cultural, political, expression, liberty of thought, belief, faith and to worship, equality of status and opportunity and to promote among them fraternity assuring the dignity of individual and the unity of the nation. To attain this goal, the constitution guarantees fundamental rights. Fundamental rights ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on ground of religion, caste, sex or place of birth race and guarantee equality of opportunity to all citizens. 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 specific importance in this regard.

- Article 14 guarantees equality before law for women.
- Article 15(1) prohibits discrimination against any citizen on ground of religion, race, caste, sex, and place of birth or any of them. However special provision may be made by the state in favour of women and children article 15(3).
- Article 16 guarantees equality of opportunity for all citizens relating to employment or appointment in any office under the state.
- Article 39(a) guarantees right to an adequate means of livelihood for both men and women (article 39(c)).
- Article 42 just and human condition of work and special maternity relief.
- Article 51 says that it is a fundamental duty of every citizen of

India to renounce practices derogatory to dignity of women.

- Article 243(3) added by the 73rd ,74th constitutional amendments guarantees not less than one-third (including the numbers of seats for reserved for women belonging to schedules casts and schedule tribes) of the total numbers of seats reserved for women to be filled by direct election in every Panchayat .
- Article 243 d (4) states that not less than one third of the total number of offices of chairpersons in the Panchayat at each level are to be reserved for women.
- Article 243 T (4) says that the reservation of officers of chairperson in Municipalities for the schedule castes and schedule tribes.
- Article (243d(2) declares not less than one third of the total seats reserved for women shall be reserved for women belonging to schedules castes of schedules tribes.

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.

The crime identified under the Indian penal code:

- Rape (section 376 IPC)
- Kidnapping and abduction for different purpose(section 363-373)
- Homicide for dowry, dowry death or their attempts (section 302/304-B)
- Torture ,both mental and physical (section 498-A IPC)
- Molestation section (354 IPC)
- Sexual harassment section (509 IPC)

The crime identified under the special laws:

A number of laws by the government of

India have been made to ensure the protection of women and their interests in various fields. Some important acts in this regard are as follows:

- Special Marriage act ,1954
- Hindu Marriage Act 1955
- Hindu succession act 1956
- Dowry prohibition act 1956
- Medical termination and pregnancy act 1971
- Married women's property extension 1959
- Equal remuneration act 1976
- Immoral traffic (Prevention) act 1956
- Indecent representation of women (prohibition) act 1986
- Muslim women (Protection of Right on Divorce) act 1986
- Family courts act 1984
- Hindu widows remarriage (repeat) act 1983
- Factory act 1948

- Hindu succession act 1956 with amendment up 2005
- The Hindu women's right to property act 1937
- The maternity benefit act 1961 (amendment 1995)
- The prohibition of child marriage act 2006
- The criminal law(amendment) act 1983
- The protection of women from domestic violence act (PWDVA) 2005
- Sexual harassment of women at workplace (prevention, prohibition and redressal) bill 2012

Special Initiatives for Women:

1. 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.

2. 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.

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

4. 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.

5. Other Government Schemes for Women Empowerment:-The Government programmes for women development began as early as 1954 in India but the actual participation began only in 1974. At present, the Government of India has over

34 schemes for women operated by different department and ministries. Some of these are as follows:-

* Rastria Mahila Kosh (RMK) 1992-1993

* Mahila Samridhi Yojana (MSY) October, 1993.

* Indira Mahila Yojana (IMY) 1995.

*Women Entrepreneur Development programme given top priority in 1997-98.

*Mahila Samakhya being implemented in about 9000 villages.

*Swayasjdha.

* Swa Shakti Group.

*Support to Training and Employment Programme for Women(STEP).

*Swalamban.

* Crèches/ Day care centre for the children of working and ailing mother.

*Hostels for working women.

*Swadhar.

*National Mission for Empowerment of Women.

*Integrated Child Development Services (ICDS) (1975),

* Rajiv Gandhi Scheme for Empowerment of Adolescence Girls (RGSEAG) (2010).

*The Rajiv Gandhi National Crèche Scheme for Children of Working Mothers.

* Integrated Child Protection scheme (ICPS) (2009-2010).

* Dhanlakshmi (2008).

* Short Stay Homes.

* Ujjawala (2007).

*Scheme for Gender Budgeting (XI Plan).

* Integrated Rural Development Programme (IRDP).

*Training of Rural Youth for Self Employment (TRYSEM).

*Prime Minister's Rojgar Yojana (PMRY).

*Women's Development Corporation Scheme (WDCS).

*Working Women's Forum.

*Indira Mahila Kendra.

*Mahila Samiti Yojana.

*Khadi and Village Industries Commission.

*Indira Priyadarahini Yojana.

*SBI's Sree Shaki Scheme.

* SIDBI's Mahila Udyam Nidhi Mahila Vikas Nidhi.

*NGO's Credit Schemes.

* National Banks for Agriculture and Rural Development's Schemes

Conclusion: There has always been a discourse on women position in the historically of India and elsewhere, the global history has been one sided throughout its growth in terms of human rights. The history has always given a prince importance to man and his existence and never gave any chance to think of women rights. After independence the women's status has changed in India. There is no denying the fact that women gradually have come out of the veil and their contribution in different fields of life is gaining momentum considerably. It is observed that the government of India has taken several steps for empowering through different legal and constitutional provisions and different schemes. No doubt after these

numerous provisions, a qualitative improvement has come in the position of women but their rural counterparts are not fortunate enough to feel this improvement in equal measure. In spite of all these schemes, programmes, commissions for women, there are significant gaps between the actual practice at ground level and the policy achievements. The global gender gap index (2012) observed that India is not doing enough for its women. Only government's initiatives would not be enough for empowering women, society must also take initiative to generate a high-quality atmosphere in which there is no gender discrimination and women have full opportunities in different field of life.

References:

1. A.B.M. Mafizul Islam Patwaris, Fundamental Rights and Personal Liberty in India, Pakistan and Bangladesh, ed. (New Delhi: Deep and Deep Publications, 1991).
2. Mishra, R. C. (2006). Towards Gender Equality. Authors press. ISBN 81- 7273-306-2

3. B.P. Singh (Ed), Human Rights in India: Problems and Perspectives, New Delhi, 1995.
4. Laxmikant.M, Indian Polity, NewDelhi, 2013. Liya Levin, Human Rights, New Delhi, 2010.
5. P.B. Gajendra Gadkar, The Historical Background and Theoretic Basis of Hindu Law - The Cultural Heritage of India, Vol.II (Bombay Asia Publishing House, 1965) 421.
6. R. C. Majumdar and A. D. Pusalker (editors): The history and culture of the Indian people. Volume I, The Vedic age. Bombay: Bharatiya Vidya Bhavan 1951, p.394
7. Kalyani Menon-Sen, A. K. Shiva Kumar (2001). "Women in India: How Free? How Equal?". United Nations. Archived from the original on 11 September 2006. Retrieved 24 December 2006.
8. Krishna Iyer, The Dialectics and Dynamics of Human Rights in India – Yesterday, Today and Tomorrow, Tagore Law lectures (Calcutta: Eastern Law House. 1999) 115.
9. Shibani Kinkar Chaube, the Making and Working of the Indian Constitutions, New Delhi, 2009.
10. V.R. Krishna Iyer, The Dialectics and Dynamics of Human Rights in India: Yesterday Today and Tomorrow, Tagore Law Lectures (New Delhi: Eastern Law House, 1999) 115.
11. Z.A. Nizami and Devika Paul, ed. Human Rights in the Third World Countries (New Delhi: Kirs Publications, 1
12. "The Commission of Sati (Prevention) Act, 1987".
13. "National Policy for the Empowerment of Women (2001)".