

GENDER EQUALITY: AN INDIAN LEGAL OUTLOOK

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ABSTRACT

Women empowerment is all about the struggle of women to secure social justice and equality since ancient time to modern era. Empowering women is the only way for effective development. Women empowerment is closely associated with the sustainable and economic growth of a country because when a man is educated, only an individual become educated and when a female is educated, the entire family becomes educated and there by whole society and nation develops. Empowering women is a major concern across the world specifically in developing countries like India. In order to that various hurdles have been identified by legislature like economic exploitation, inequalities in education, health and employment. Indian constitution provides equal rights to women and various legislations were enacted in order to protect and safeguard their interest.

KEYWORDS: Health & Employment, Economic Exploitation, Economic Growth, Women Empowerment.

Introduction

Gender Equality is defined as opportunities, resources and freedom available for all without any discrimination in terms of sex. All humans should be allowed to make their decisions irrespective of gender according to their own will. From the evolution of civilization men and women both were equally participated for the development of society. The nature has granted both of them equal potential and capabilities but unfortunately both are not treated equally in society due to gender biased customs and influence which led to gender discrimination and social inequalities. The issue of Gender inequality is rampant in India and involves a very large population. In any case, women are treated inferiorly in India in respect to men.

Concept of Women Empowerment

Empowerment is a broad concept involving many dimensions of society. It is the action and interaction of various facts such as physical, socio-economic, political, mental, psychological and attitudinal. Thus it emphasizes on strengthening the woman in social, economic, political and legal aspect, to ensure equal right to women and to energize them to claim their rights. It is the way by which a woman can utilize the resources like knowledge, idea, information and financial resources and to participate in decision making at home, society, and nation.

Women Empowerment- A Historical Background

“यत्रनायस्तुपूज्यन्तेरमन्तेतत्रदेवताः।

यत्रैतास्तुनपूज्यन्तेसर्वास्तत्राफलाः क्रियाः। -अथर्ववेद”

In the ancient times of India women were given the highest position in the Vedas and the Upanishads, like a mother (mata) or goddess (Devi). Thus empowerment of women is not new concept. It was embedded in Indian culture. In old culture woman was having equal status with men? In early Vedic period education status of women were very high like Maitrayi and Gargi.

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The Ramayana and Mahabharata contain evidentiary proof of women's right to marry as per their choice in "Swayamwar". Females during Vedic period were taught like males without discrimination. The Chinese traveller Ibn-battuta has noticed 13 schools of girls along with schools for boys in Honavar. Buddhist women also visited outside India for teaching Buddhism. Ashoka inspired his daughter Sanghmitra for preaching Buddhism. Women often enjoyed prominent role in politics. Pandya women used to run administration. In Gupta era, queens used to rule Andhra, Kashmir, Orissa.

The position of females gradually declined in medieval period due to adoption of exploited practices by Indian society such as purdah, polygamy, dowry, child marriage etc. which effected literacy among the women. Still there were women who participated in politics, social and educational movements. Meerabai, Razia Sultan, Chand Biwi, Jijabai were some empowered and educated women of that time. During the British rule due to industrialization and urbanization some substantial improvements were made in eliminating gender inequalities in matter of education, employment, social and political participation. Education was considered as the main weapon to raise the social status of women.

Some women organizations were established such as Bharat Mahila Parishad(1904), National Council of women in India (1925) etc. Various legislations were passed for favoring women during the English rule such as Bengal Sati Regulation(1829), Hindu Widows' remarriage Act(1856) etc. After Independence the constitution of India Granted equal rights to women and various special legislations were enacted to safeguard their interest and dignity of women was restored through enactment of various women related law.

Empowering Women with Law

The issue of Gender inequality is rampant in India and involves a very large population. In any case, women are treated inferiorly in India in respect to men. So for empowering women in independent India various constitutional provision and laws are formed by the government.

Constitutional Rights to Women

The rights and safeguards mentioned in the constitution for women in India are:

- The state shall not discriminate against any citizen of India on the ground of sex [**Article 15(1)**].
- The state is empowered to make any special provision for women. In other words, this provision enables the state to make affirmative discrimination in favor of women [**Article 15(3)**].
- No citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex [**Article 16(2)**].
- Traffic in human beings and forced labor are prohibited [**Article 23(1)**].
- The state to secure for men and women equally the right to an adequate means of livelihood [**Article 39(a)**].
- The state to secure equal pay for equal work for both Indian men and women [**Article 39(d)**].
- The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength [**Article 39(e)**].
- The state shall make provision for securing just and humane conditions of work and maternity relief [**Article 42**].
- It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women [**Article 51-A(e)**].
- One-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women [**Article 243-D(3)**].
- One-third of the total number of offices of chairpersons in the Panchayat at each level shall be reserved for women [**Article 243-D(4)**].
- One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women [**Article 243-T(3)**].
- The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide [**Article 243-T(4)**].

Legal Provisions for Women

Apart from constitutional provision some legal rights are also given to women in order to provide equal opportunity as men and safeguard the right of women in India. Some of the important legislations are as followed:

- Protection of Women from Domestic Violence Act (2005) is a comprehensive legislation to protect women in India from all forms of domestic violence. It also covers women who have been/are in a relationship with the abuser and are subjected to violence of any kind - physical, sexual, mental, verbal or emotional.
- Immoral Traffic (Prevention) Act (1956) is the premier legislation for prevention of trafficking for commercial sexual exploitation. In other words, it prevents trafficking in women and girls for the purpose of prostitution as an organized means of living.
- Indecent Representation of Women (Prohibition) Act (1986) prohibits indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner.
- Commission of Sati (Prevention) Act (1987) provides for the more effective prevention of the commission of sati and its glorification on women.
- Dowry Prohibition Act (1961) prohibits the giving or taking of dowry at or before or any time after the marriage from women.
- Maternity Benefit Act (1961) regulates the employment of women in certain establishments for certain period before and after child-birth and provides for maternity benefit and certain other benefits.
- Medical Termination of Pregnancy Act (1971) provides for the termination of certain pregnancies by registered medical practitioners on humanitarian and medical grounds.
- Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994) prohibits sex selection before or after conception and prevents the misuse of prenatal diagnostic techniques for sex determination leading to female foeticide.
- Equal Remuneration Act (1976) provides for payment of equal remuneration to both men and women workers for same work or work of a similar nature. It also prevents discrimination on the ground of sex, against women in recruitment and service conditions.
- Dissolution of Muslim Marriages Act (1939) grants a Muslim wife the right to seek the dissolution of her marriage.
- Muslim Women (Protection of Rights on Divorce) Act (1986) protects the rights of Muslim women who have been divorced by or have obtained divorce from their husbands.
- Family Courts Act (1984) provides for the establishment of Family Courts for speedy settlement of family disputes.
- Indian Penal Code (1860) contains provisions to protect Indian women from dowry death, rape, kidnapping, cruelty and other offences.
- Code of Criminal Procedure (1973) has certain safeguards for women like obligation of a person to maintain his wife, arrest of woman by female police and so on.
- Indian Christian Marriage Act (1872) contain provisions relating to marriage and divorce among the Christian community.
- Legal Services Authorities Act (1987) provides for free legal services to Indian women.
- Hindu Marriage Act (1955) introduced monogamy and allowed divorce on certain specified grounds. It provided equal rights to Indian man and woman in respect of marriage and divorce.
- Hindu Succession Act (1956) recognizes the right of women to inherit parental property equally with men.
- Minimum Wages Act (1948) does not allow discrimination between male and female workers or different minimum wages for them.

- Mines Act (1952) and Factories Act (1948) prohibits the employment of women between 7 P.M. to 6 A.M. in mines and factories and provides for their safety and welfare.
- The following other legislations also contain certain rights and safeguards for women:
 - Employees' State Insurance Act (1948)
 - Plantation Labour Act (1951)
 - Bonded Labour System (Abolition) Act (1976)
 - Legal Practitioners (Women) Act (1923)
 - Indian Succession Act (1925)
 - Indian Divorce Act (1869)
 - Parsi Marriage and Divorce Act (1936)
 - Special Marriage Act (1954)
 - Foreign Marriage Act (1969)
 - Indian Evidence Act (1872)
 - Hindu Adoptions and Maintenance Act (1956).
 - National Commission for Women Act (1990) provided for the establishment of a National Commission for Women to study and monitor all matters relating to the constitutional and legal rights and safeguards of women.
 - Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013) provides protection to women from sexual harassment at all workplaces both in public and private sector, whether organized or unorganized.

Conclusion

"Women are the largest untapped reservoir of talent in the world". - **Hillary Clinton**

Empowerment of women has become the foremost important concerns of 21st century not only at national but also at international level. Government initiatives alone are not 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 participation in social, economic and political dimension of a country with sense of equality. When women moves forward the nation moves. The best way for empowerment is perhaps through inducting women in the main stream of development. If a woman is not given the same opportunities that man have, the entire Nation will not be able to perform up to its true potential.

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