

CONSTITUTION & GENDER EQUALITY

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ABSTRACT

The paper deals with various provisions provided in indian constitution to women for greating equality in all sphares of life.

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INTRODUCTION

Woman is described as man's better half but never treated equally. According to Gandhiji, 'As long as she does'nt have the same rights in law as men or the birth of a girl does not receive the same fervor as that of a boy, India will continue to suffer from partial paralysis.'¹ After independence this spirit of Gandhiji to bring about gender equality is firmly enshrined in the Constitution of Free India as it has taken due care of the interests of women and laid emphasis on equality of men and women.²

Law as a tool of social change assumes paramount importance. It can directly affect a norm setter or indirectly as providing institutions which accelerate social change by making it mere acceptable.³ The constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favor of women for neutralizing the cumulative socio-economic, educational and political disadvantages faced by them. The preamble of the Constitution of India resolved to secure all its citizens justice—social, economic and political; liberty of thought, expression, belief, faith and worship; equality of status and opportunity; and to promote among them, fraternity assuring the dignity of individual and the unity of the nation. Indian women are beneficiaries of these rights in the same manner as Indian men.⁴

CONSTITUTIONAL MEASURES

To attain these objectives, the Constitution guarantees certain fundamental rights and freedom, such as freedom of speech, protection of life and personal liberty. Fundamental right ensures equality before the law, equal protection of law, prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth and guarantees equality of opportunity to all citizens in matters relating to employment. Article 14, 15, 15(3), 16, 39a, 39b, 39c and 42 of the constitution are

of specific importance in this regard. There are five articles dealing with these rights. Article 14, 15 and 16 conferring specific equalities and Article 17 and 18 are for removing specific inequalities among all citizens.⁵

Article 14 ensures equality before law and Article 15 prohibits any discrimination. Article 16(1) guarantees equality of opportunities for all citizens in matters relating to employment or opportunity to any office under the State.⁶ Article 42 directs for just humane conditions of work and Maternity relief. Article 44 is to secure uniform civil code for all the citizens. Article 46 deals with the educational, economic interests and social justice of the weaker sections and with Article 51(A), state is ordered to promote harmony and to renounce practices derogatory to the dignity of women. Article 325 and Article 326 give men and women equal rights and responsibilities for electing democratic government and participating in it.⁷

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. In this regard the crimes which are characterized as 'Crime against women', are broadly classified under the Indian Penal Code (IPC) and Special Laws (SIL).

The crimes under IPC are –

Rape (Sec. 376 IPC)

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

Homicide for Dowry, Dowry Deaths or their attempts
(Sec. 303/304-B IPC)

Sexual Harassment (Sec. 509 IPC)

Importation of girls (Up to 21 years of age).

The crimes identified under the Special Laws are not gender specific but some acts which have special provisions to safeguard women and their interests are;

Employees State Insurance Act 1948

The Plantation Labor Act 1951

The Family Courts Act 1954

The Special Marriage Act 1954

The Hindu Marriage Act 1955

The Hindu Succession Act 1956

Immoral Traffic (Prevention) Act 1956

The Maternity Benefit Act 1961

Dowry Prohibition Act 1961

The Medical Termination of Pregnancy Act 1971

The Contract Labor (Regulation and Abolition) Act

The Equal Remuneration Act 1976

The Child Marriage Restraints (Amendment) Act 1979

The Criminal Law (amendment) Act 1983

The Factories (Amendment) Act 1986

Indecent Representation of Women (Prohibition) Act 1986

Commission of Sati (Prevention) Act 1987.⁸

Thus a series of social legislations have been enacted from time to time in our country to protect as well as to empower its women. Apart from constitutional provisions, the five year plans have given special emphasis on providing minimum facilities integrated with family welfare and nutrition for women and children, acceleration of women's education, their increase in the labor force and welfare services for the needy women. Various welfare and developmental schemes have been introduced to improve the conditions of women and to increase their access to and control over material and social resources.⁹

Various Conventions, documents and instruments are indicative of the fact that since long efforts have been made to bring women at par with men.¹⁰ In context with special initiatives taken by the government of India is setting up National Commission of Women in January 1992 to study and monitor all matters relating to the Constitutional and legal safeguards provided for women reviewing the existing legislation to suggest amendments wherever necessary. The National Plan of Action for the girl child (1991-2000) was implemented by the Government of India for taking their care. The decision of 33% reservation of seats in Panchayats and local bodies through 73rd and 74th constitutional amendments in April 1993 was a significant step taken by the Indian Government to bring about gender equality in decision making bodies at the grassroots level. Now this percentage has been increased to 50%. To ensure equal participation of women in social, political and economic spheres, the year 2001 was celebrated as women's empowerment in India which has twin purposes as stated by the former Prime Minister Shri Atal Bihari vajpeyi while inaugurating this year. First to acknowledge that one of the keys to our nation's socio-economic programme is empowerment of women, and second to create mass awareness of the linkage between development on the one hand and progress and gender equality on the other'.¹¹

CONCLUSION

Several acts, laws and welfare measures have been passed and amended by the Indian government for protecting and empowering women and improving their status in society after independence. These constitutional and other measures have made a big contribution in the upliftment and empowerment of women in Indian traditional society. But in India's traditional societies its implementation by government machinery and women itself is still a matter of concern as violence against women are on continuous rise women's empowerment, education and employment. According to the study of National Crime record Bureau,¹² one women is raped in every 54 minutes, one act of eve

teasing happens in every 51 minutes and molestation in 26 minutes, one dowry death in 1-1.5 hour, one act of criminal offence in 7 minutes and one mother dying in every 6 minutes. According to Central Statistical Organization in 2000, incidence of torture and molestation top the list. What is more disturbing is the fact that about 4% of the rape victims in 1998 were below 10 years of age. Moreover, this is not the exact picture of gravity of the situation as large numbers of such cases go unreported because of the social, cultural and legal barriers, lack of evidence and amount of secrecy and senseivity.

Apart from it, women's representation in politics is also very low. The 81st Constitutional Amendment for 33% reservation for women in Parliament passed in the Rajya Sabha but could not get green signal in Lok Sabha due to opposition of few political parties and this Bill is still kept pending. This shows the conservative outlook of the political parties. Anyway, India's changing attitude towards gender equality will surpass all barriers and there will be a new horizon for women when they will get their lost status in socio-economic and political world may be first through the ladder of Constitution. Only after true gender equality our nation can progress and become a developed nation.

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