

WOMEN EMPOWERMENT AND DIGNITY OF WOMEN

"There is no tool for development more effective than the empowerment of women"

-Kofi Annan¹

ABSTRACT

Empowerment may mean equal status to women to develop her, Man should give women opportunity and freedom to develop her. Women empowerment looks at basic women right and attempts on organizing to attain them, Women empowerment can influence not only their own lives but also the lives of man and children. Women empowerment may enhance their self confidence and their ability and willingness to challenge oppression. Women empowerment is the recognition of women's human rights and equal opportunity. Unequal status of women being offensive to human dignity and violative of human rights, has emerged today as a fundamental crises in human development throughout the world. Indian is no exception to this unfortunate situation; Indian society is full of contradictions. On the one hand, we advocate openness, equality, and tolerance in all spheres of life; on the other hand, we do not leave out dated traditions inherited down the ages. It is a pity that our society is divided on gender basis even though the constitution of India stands for equality irrespective of gender. Crimes like killing of girl child, child marriage, dowry, limited work opportunities are the examples of inequality towards women, which put a question mark on so called civilized society. The law has a very limited capacity to ameliorate women and liberate them from age-old sanctioning women oppression and subjugation along with sexualization and commoditization of their body. The judiciary had played a vital role to improve the position of women and resolved many problems of the women in independent India identifying itself as the reformer, promoter and harbinger of social good. Even then the position of women in India is not good. What are the reasons behind this? Some are the quarries which are to be probed in the present work are:

Whether constitutional and statutory safeguards are sufficient to protect the dignity of women?

Whether or not Indian legal machinery has succeeded in fulfillment the role assigned to it.

What role the law has played?

KEY WORDS

Empowerment, Enactments, Amendments, Tools provided by legislature, implementation case law.

¹ Since the founders of the United Nations noted their faith in "the equal right of men and women" on the first page of the UN Charter 60 years ago, - Secretary General- Kofi Annan said.

OBJECTIVE

The law has a very limited capacity to ameliorate women and liberate them from age-old socially constructed systems sanctioning women oppression and subjection along with sexualization and modification of their body. This disillusionment with law was due to the understanding comprehending law as cultural institution which is itself gendered. In this context it was realized that though law may provide sites for discursive struggle for women who indulge into political practice and campaign but real solution lies in deconstruction and demolition of patriarchal structures and historical specifications incorporate under the man made law. Thus the objective the in present work is to discern the development of law relating to women in India and to evaluate its effectively in the emerging feminist perspective

INTRODUCTION

Women empowerment in India has been subject to many great changes over the past few millennia with a decline in their status from the ancient to medieval times. To the promotion of equal rights by many reformers their history has been eventful in modern India. Women have held high offices including that of the President, Prime Minister, Speaker of Lok Sabha, and Leader of the opposition, Union Ministers, Chief Ministers, Governors and many other fields.

During ancient period, women were given equal education and they participated in every sphere of human life and enjoyed a fair amount of freedom and equality with men. They studied in Gurukul and enjoyed equality in learning Vedas. By the twentieth century, north India was under the rule of Delhi sultans. During the Mughal period, many customs crystallized that adversely affect the causes of women. In the time of British India, Indian women experienced an air of freedom and the stir of a new life. Theoretically women then stood protected but in real life the converse was also not untrue. Mahatma Gandhi, the messiah of the Indian masses grasped the position of Indian women with a political aim and wanted to identify for women through eradication of social evils through public Condemnation and welfare legislation. Since Independence, All India women's conference became interested in constructive work and left its agitational attitude of pre-independence era. Its activities since Independence led to the enactment of many social legislations with reference to women. Some significant ones are: Act on Women's Legal Rights 1952, The Special Marriage Act 1954, the Hindu Marriage and Divorce Act 1955, Hindu Succession Act 1956, the Orphanages and Widow Home Act 1960 and the Dowry Prohibition Act 1961 to cite a few besides the constitution providing equal status to her with man.

The court has remarkably evolved a workable and balanced compromise between varying social and individual interests in consonance with spirit of the times and theme and thrust of the constitution in resolving the problems of the woman in independent India the court has identified itself as the reformer, initiator, promoter and harbinger of social good, common welfare and social justice in accordance with our constitutional philosophy of democracy, socialism and secularism.

Indeed a legal revolution is taking place in India within the frame work of rule of law and the constitution where judiciary is using legal and constitutional devices for providing the content and quality of justice social. While the preamble enshrines goal and direction of social change in accordance with spirit and ethos of the constitution, it is the judiciary which has explored a new meaning and content to such goal making them more effective and resilient to meet the ever changing requirements of Indian democracy.

ROLE OF LAW IMPLEMENTING MACHINERY GOVERNMENT POLICIES

Before independence, women were not given any political rights but a present all women who are of the age of 18 years or above have been given the right to vote like those of men. The Government of India has passed the Hindu code bill and the Kamala Act to give equal share to the women in the property of their parents. The Government of India launched many scheme for the empowerment of women :

- 1- Swadhar scheme
- 2- Integrated child Development Service Scheme (I C D S)
- 3- Swa-Shakti Project
- 4- Swayamsiddha
- 5- Sarva Shiksha Abhiyan.
- 6- Mohila Samakhya
- 7- S T E P
- 8- Rashtriya Mahila Kosh (R M K)

These schemes are spread across very wide spectrum such as woman's need for shelter, security, justice, food mental health etc as well as their need for economic sustenance through skill development.

Laws providing for reservation of seats for women in academic institutions and local bodies have been judicially upheld. In **K.R. Gopinath Mair V/s Senior Inspector cum special sales Tax Officer²** of Co-operative Societies Ltd. upholding the constitutional validity of the provisions of section 28A of Kerala Co-operative Societies Act providing for reservation of seats for women in the committee of every Co-operative society, the Kerala High Court said that special measures for women have been recognized in Art 15 read with Art 38. Adopting a corrective approach to gender difference and a substantive approach to equality the court observed.

Even on a global view, women still suffer the pangs of inequity. Though women constitute about 50% of the population, effective participation in the political administration is to them, still a testing illusion, sec. 28A is a small step in the correct and progressive direction in off-setting the ill efforts of age-old handicaps of women.

Constitutional Perspective

In spite of plethora of progressive and protective legislations, we have failed to uplift the socio-economic and political status of women and to place them at par with their male counter parts in different walks of life. The courts have shown greater enthusiasm in granting the constitutional provisions for all women. The judiciary by its landmark judgments had filled up the gap created by the legislative machinery. The judiciary had extended helping hands of women. When the legislature had denied it, the higher judiciary has shown

² A.I.R 1987 Kerala 167

concern for women's right in recent time, it also had been greatly influenced by the international declaration and covenants on women's rights.

In such a situation, the role of judiciary is providing social justice to women becomes decisive. The Indian judiciary has played a creature role in this regard and has uphold the basic principle of equality of sexes and tried to maintain the dignity and honour of women. This could best be seen in the observation of the Supreme Court in **C.B. Muthamma v/s Union of India**³ that the struggle for national freedom was also a bottle against woman's thralldom. In this case rule 8(2) of the Indian Foreign service (conduct and Discipline) Rule 1961 was challenged on the grounds that it requires a female employee to obtain the permission of the Government in writing before her marriage is solemnized and further, at any time after her marriage she may be required to resign from service, if government is satisfied that her family and domestic commitments are likely to come in the way of due and efficient discharge of her duties. There were no alike provisions with regard to male members of the service. The Supreme Court struck down the said rule as it was discriminatory and smacked of bias against women and directed the Government to overhaul all service rules to remove the stain of sex discrimination.

Rule 18 of the Indian Foreign Service (Recruitment, cadre, seniority and promotion) Rules 1961, which ran in the same prejudicial strain and denied to a female employee the right to be appointed to the service because she was a married women, was also struck down by the court as it discriminated them against on the ground of sex alone and hence, it was in defiance of Art 16 of the Constitution. Emphasizing on equality of sexes as enshrined in our constitution, Mr. Justice V.R. Krishna Iyer observed that.

Our founding faith enshrined in Article 14 and 16 should have been tragically ignored vis-à-vis half of the India's humanity, viz. our women is a sad reflection on the distance between constitution in the book and law in action.

Similar view has been expressed by the Apex in **Air India v/s Nargesh Mirza**⁴ case that to bring just social order the claims of women could not be brushed aside. The constitutional validity of Regulations 46 and 47 of the Air India Employees Service Regulation was questioned in this case the Regulation 46 provided for the retirement of an Air Hostess in the event of marriage taking place within four years of service or on first pregnancy, whichever occurs earlier. Whereas, Regulation 47 fixed the normal age of retirement of an Air Hostess at 35 years but simultaneously, it authorized the Managing Director to extent the same to 45 years at his option subject to other conditions being satisfied. The Supreme Court upheld the rule regarding marriage within four years of service as it did not suffer any constitutional infirmity. But so far as the rule regarding termination of service at first pregnancy was concerned, the Apex court ruled that it was clearly violative of Art 14 of the constitution as it was unethical and contained the quality of unfairness and exhibited naked despotism. It would amount to interference with and divert the ordinary course of human nature. It was not only callous and cruel act but also an open insult to Indian women-hood the most sacrosanct and cherished institution. Hence, such a course of action was held extremely determinable and abhorrent to the nation of civil society.

In **Bombay Labour Union v/s International Franchises Pvt. Ltd.**⁵ Marriage of a woman is quite a normal incident of her life. It can be, somewhat, delayed but cannot be completely denied and it should not become a cause for loss of her service.

³ A.I.R 1980 SCR (1) 668

⁴ A.I.R 1966 SC 942

⁵ 1986 (1) SCR 743 (S/C)

A Rule requiring married women to obtain their husband's consent before applying for public employment was declared unconstitutional in **Maya Devi v/s State of Maharashtra**⁶ as it was anachronistic obstacle to women's equality and hence, violative of Articles 14, 15 and 16 of the constitution.

In order to implement the Directive Principles contained in Article 39(d) and to meet out the problems of disparity in payment of wages the Parliament enacted 'Equal Remuneration Act, 1976 with an intention to eliminate discrimination in payment of wages and to ensure equal remuneration to workers of both the sexes for doing same or similar nature of work. But, it is matter of regret that after the enactment of such welfare legislation, disparity continue. It is worth mentioning that the Indian Judiciary has provided content and teeth to the principle of 'equal pay for equal work' which is apparent in its observation that.

'Equal pay for equal work' is not a mere demagogic slogan. It is constitutional goal capable of attainment through constitutional remedies by the enforcement of constitutional rights.

The Supreme Court of India in furtherance of its about observation and to provide blood and flesh to the Equal Remuneration Act, 1976 has in number of cases directed to Govts central as well as states, and Private establishments not to violate the provisions of the Act and to pay equal pay for equal work to all the workers irrespective of their sex and irrespective of financial ability of the establishment concerned as the Act was made to implement the 'Directive Principles of state policy' contained in Art 39(d) of the constitution and the violation of such Act results in violation of Right to equality enshrined under Article 14 of the constitution.

In **Uttarakhand Mahila Kalyan Parishad v/s State of U.P.**⁷ where the lady teachers and other female employees in the educational institution under the State Government were performing the same work but were discriminated against on the basis of sex in the matters of pay scales and promotional avenues, the Supreme Court observed that under the constitutional scheme, there is no occasion for differential treatment between male and female employees, if they were doing some job nor any justification for preferential treatment in promotional avenues for women, the state was directed to get it examined by an appropriate committee, within two months. Thus, the reduction of disparities in economic conditions between men and women caused by the long history of discrimination has been recognized as an important object.

The Indian Judiciary has also played a vital role in uplifting the economic status of women and has upheld the validity of various welfare legislations favoring women. In **Shamsher Singh v/s Punjab State**⁸ the Punjab and Haryana High Court upheld the validity of a Government order granting special pay equivalent to 25% of basic pay but not exceeding Rs.50% per month to the women working in the Punjab Education Service, Non-Gazetted (Class-III) School cadre manned by women only. It was argued that the said order was discriminatory and such discrimination was solely based on the ground of sex and hence, violative of Article 16(2) of the constitution. The H.C. ruled out the contention and observed. Article 14, 15 and 16, being the constituents of a single code of constitutional guarantors, supplementing each other, clause (3) of Art 15 can be involved for construing and determining the scope of Article 16 (2). And, if a particular provision squarely falls within the ambit of Article 15 (3), it cannot be struck down merely because it may also amount to discrimination solely on the ground of sex.

⁶ 1986 (1) SCR 743 (S/C)

⁷ A.I.R 1992 SC 1695

⁸ A.I.R 1976 P&H 372 (FB)

However, the court emphasized that unreasonable provision in favour of women cannot be made under Article 15 (3). Articles 14, 15 & 16 belong to one family. While Article 14 can be called the genus, Articles 15 and 16 are its species. Article 15 in one respect, is more general than Article 16 because its operation is not restricted to public employment and hence it operates in the entire field of state discrimination. Relying on the above logic, the court construed clause (2) of Article 16 in the light of clause (3) of Article 15 the constitution. Thus, the scope and content of clause (3) of Article 15 extends to the entire field of state discrimination including public employment, seats in academic institution and political bodies.

These, however, without referring to Shamsheer Singh's case took a similar view in **Govt. of A.P. v/s P.B. Vijay Kumar**⁹ and upheld the constitutional validity sex-based reservation in the public employment. In this case, the constitutional validity of a particular rule of public employment in the State Andhra Pradesh, providing 30% reservation for women candidates in certain categories of jobs, was questioned before the Supreme Court. The petitioners advanced the argument that since there was no express provision of reservation in favor of women in the matters of public employment or services under the state in Article 16, the State cannot make any reservation in favor of women in the matter of public employment or services under the state in Article 16. The state's action of reservation 30% ports to women, according to responds, would amount to discrimination. The Supreme Court while negating the above argument principally referred to and relied on Article 15(3) of the constitution and held that the argument advanced by the petitioners ignores Article 15 (3) which permits the state to make special provisions for women. In dealing with the matters of employment under the state, one has to bear in mind both Article 15 and 16, the former being a more general provision whereas, latter a more specific provision the court observed that:

Since Article 16 does not touch upon any special provision for women being made by the state, it cannot in any manner derogate from the power conferred upon the state in this connection under Article 15 (3). This power conferred by Article 15 (3) is wide enough to cover the entire range of state activity including employment under the state.

A WORLD SCENARIO

There have been several United Nations Convention of women and Law and textually women enjoy equality. Art-2 of the Economic, Social & Cultural Covenant and Art-2 of civil and Political Rights covenant guarantee that the rights enunciated in these covenants will be exercised without discrimination of any kind as to race, colour, sex etc.

Art-3 both these covenants ensure right to men and women.

The term "human rights of women" emphasizes the individuality and universality of all human rights and their full application to women as human beings.

The United Nations held the following conventions on rights of women:

1. 1994 convention on suppression of traffic in persons and exploitation of the prostitution of others.
2. 1952 convention (UN) on Political Right of women.
3. 1956 supplementary convention of abolition of slavery trade and practices similar to slavery.
4. 1957 convention on the nationality of married women.
5. 1963 convention on consent of marriage, minimum age of marriage and registration of marriage.

⁹ A.I.R 1995 SCC (4) 520

In the short at my disposal it is not possible to go into-details of these conventions, and suffice it is to say that they had only a limited effect on the overall situation of women as an under privileged and traditionally oppressed group.

In 1967 the General Assembly of the United Nations adopted a declaration on discrimination against women. 1975 was declared by the United Nations as being international Women's 1979 there was again an International Convention on Elimination of All Forms of Discrimination Against Women and lastly in 1985, there was an International Conference at Nairobi (Kenya) to review the UN recommendatory in character articulate specific measures to ensure equality, development and peace for women, excluding distinction and exclusion of restriction made on basis of sex tending to nullify the recognition, enjoyment or exercise by women of human rights on the basis of equality.

The growing reality is that women constitute half the world's population, perform for reality is that women constitute half the world's population, perform for nearly two thirds of working hours, receive one tenth of the world's income and own 1/100 of the world's property. They are euphemistically referred to as "better half of man", but they have the worst deal at the hands of society which physically and sexually exploits and abuses them. They are denied a say in governance, denied equal wages and are always treated as appendage of man. She is wife, mother, an unpaid worker in the household. When widowed young, she is a fair game for all the lecherous young men, and even dirty old men.

Global recognition to protect women's right to come with the adoption of Convention of the Elimination of all forms of Discrimination against Women (CEDAW) by the UN General Assembly on June 25, 1993. India ratified CEDAW with some reservation. This convention is the only legally binding international instrument dealing with rights of women while much has been done to project the new values in respect of women in letter of law, there is still a kind of ambivalence about is on the fact that old values continued to be reared.

CONCLUSION AND SUBMISSION

The Britishers, during the 19th century initiated the process of social awakening and consciousness by enacting various laws and hence, opened a new vista for India women. But from the very beginning, the progress has been limping and deactivating. Even after a century, the effect of legislative device is yet to percolate to the under privileged and indigent section of the society such as women, But the social science is not changing.

Educational attainment and economic participation are the key constituents in ensuring the empowerment of women, Educational attainment is essential for empowering women in all spheres of society, for without education of comparable quality and content given to boys and men, updated with existing knowledge and relevant to current needs, women will be able to have access to well-paid formal sector jobs and advance with men. The economic empowerment of women is a vital element of strong economic growth in any country. Empowering women enhances their ability to influence changes and to create a better society.

SUBMISSION

It, therefore, appears from the discussion that the laws both substantive and procedural have failed to facilitate the punishment of the guilty and to create terror in the minds of the culprits. The husband and in-laws escape from punishment on account of many loopholes in our existing criminal justice system, The system needs a complete overhauling some practical steps to put a check on violence against women have to be take following submissions are as under:

- 1- Law enforcing machinery must be trained and made sensitive to the issue.
- 2- Women must organize themselves in groups and raise a collective voice against this violence.
- 3- "Special Family Courts" have become need of the time. In some of the states these courts have started functioning through with little satisfaction. It is because of lack of required zeal and determined will, and further due to procedural drawbacks and set standards for the courts. They must established without any further delay to deal with the offences against women only in every state. It is suggested that these courts should have at least a few female judges or at least more than half of their total number. Further the need for the availability of services of female prosecutors in such case cannot be denied.
- 4- "An ombudsman" should be set up in each state to enforce the social justice and to ensure equal opportunity and rights to women. This authority should be competent to supervise the offence relating to women and should be adequately empowered to guard the woman social, economic and family crimes.
- 5- The National Commissions for Women should review all the personal laws and other concerned laws in order to strengthen the rights of women so that women must be protected from cruel treatment etc.

