

LAW AND WOMEN EMPOWERMENT

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ABSTRACT:

“There is no chance of the welfare of the World unless the condition of women is improved. It is not possible for a bird to fly on one wing – Swami Vivekananda”

There is no doubt that we are in the midst of a great revolution in the history of Women. The evidence is everywhere; the voice of women is increasingly heard in parliament, courts and in the streets. While women in the west had to fight for over a century to get some of their basic rights like the right to vote, the constitution of India gave women equal right with men from the beginning unfortunately, women in this century are mostly unaware of their rights because of illiteracy and the oppressive tradition.

We need to think big and scale up rapidly in each and every area be it in education, infrastructure, industry, financial services or equality of both genders. For around two centuries, social reformers and missionaries in India have endeavored to bring women out of confines in which centuries of traditions had kept them.

This present paper trying to highlight the need for empowerment of women in National and International level

Keywords: **Empowerment, Equality, Courts, Gender, Constitution**

INTRODUCTION

India today is at the cup of a paradigm change in its growth and its position in the World. Both men and women must act decisively to capture this opportunity. We need to think big and scale up rapidly in each and every area be it in education, infrastructure, industry, financial services or equality of both genders. For around two centuries, social reformers and missionaries in India have endeavored to bring women out of confines in which centuries of traditions had kept them.

But we should not forget that history in a witness to the women who have in the past demonstrated unique leadership capabilities such on Razia Sultana, Rani of Jhansi, Sarojni Naidu and Indira Gandhi who are the motivational examples of women empowerment. Earlier, most women were able to demonstrate the leadership qualities only on their home fronts, as in Indian society, man has always acted as the master of the scene and decision regarding the issue of empowering women has always been taken by him. God has gifted women with compassion, tender heartedness, caring nature concern for others. Therefore, empowerment of women is the prerequisite to transform a developing country into a developed country.

INTERNATIONAL EMPOWERMENTS OF WOMEN

(1) Charter of UNO 1945

The United Nations shall place no restrictions on the eligibility of men and women to participate in any capacity and under conditions of equality in its principal and Subsidiary Organs.

(2) Universal Declaration of Human Rights, 1948

(a) All human beings are born free and equal in dignity and rights; all human beings are born free and equal in dignity and rights.

(b) Equality before law and equal protection of law

All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this declaration and against any incitement to such discrimination.

(c) Everyone has the right to the protection of his privacy, family, home or reputation.

No one shall be subjected to arbitrary interference with his privacy family, home or correspondence or to attacks upon his honour and reputation. Everyone one has the right to the protection of the law against such interference or attacks.

(d) Right to marry and to found a family

Men and women of without and limitation due to race, nationality or religion have the right to marry and to found a family. They are entitled to equal rights as to marriage, during marriage and at its dissolution marriage shall be entered into only with the free and full consent of the intending spouses. The family is the natural and fundamental group unit of society and is entitled to protection by society and the state.

(e) Right to work of choice, equal pay for equal work and join trade unions

Everyone has the right to work, to free choice of employment, to just and favourable conditions of work and to protection against unemployment. Everyone, without any discrimination has the right to equal pay for equal work every one who works has the right to just and favourable remuneration ensuring for himself and his family an existence worthy of human dignity, and supplemented. If necessary, by other means of social protection. Every has the right to form and to join trade unions for the protection of his interests.

(f) Right to have a standard of living adequate for the health.

Everyone has the right to a standard of living adequate for the health and well being of himself and of his family, including food, clothing, housing and medical care and necessary social services, and the right to security in the event of unemployment, sickness, disability, widowhood, old age or other lack of livelihood in circumstances beyond his control. Motherhood and childhood are entitled to special care and assistance all children whether born in or out of wedlock, shall enjoy the same social protection.

(3) International Convention on Civil and Political Rights, 1966

(a) Right to marriage and have a family

The family is the natural and fundamental group unit of society and is entitled to protection by society and the state. The right of men and women of marriageable age to marry and to found a family shall be recognized. No marriage shall be entered into without the free and full consent of the intending spouses. In the case of dissolution, provision shall be made for the necessary protection of any children.

(b) Rights of citizen

Every citizen shall have the right and the opportunity without any of the distinctions of sex and without unreasonable restriction.

(i) To take part in the conduct of public affairs directly or through freely chosen representatives.

(ii) To vote and to be elected at genuine periodic elections, which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors.

(iii) To have access on general terms of equality to public service in the country.

(C) All persons are equal before the law and are entitled equal protection of the law. All persons are equal before the law and are entitled without any discrimination to the equal protection of the law. In this respect, the law shall prohibit any discrimination and guarantee to all persons equal and effective protection against discrimination on any ground such as race, color, sex, language, religion, political or other opinion national or social origin property, birth or other states.

(4) Convention on Political Rights of Women 1954

Under this Convention the power is empowered with following rights.

(a) The right to vote :

Women shall be entitled to vote in all elections on equal terms with men without any discrimination.

(b) Eligibility for Election

Women shall be eligible for election to all publicly elected bodies established by national law on equal terms with men and without any discrimination.

(c) Right to hold public office

Women shall be entitled to hold public office and to exercise all public functions on equal terms with men.

(5) International Convention on Economic, Social and Cultural Rights 1966

State shall ensure equal rights for men and women. The status parties to the present covenant undertake to ensure the equal right of men and women to the enjoyment of all economic, social and cultural rights set forth in the present covenant.

(6) The Declaration of Mexico on the Equality of women 1975

The World conference was held on the International women's year at Mexico in 1975. The declaration of Mexico on the equality of women and their contribution to development of peace is incorporating the following important principles.

- (a) Equality between man and women.
- (b) Equal rights and responsibility of woman and man in the family and society
- (c) Equal access to education and training
- (d) The right to work and equal pay for work of equal value.
- (e) The right of couples and individuals of determine the number and spacing of children
- (f) The right of every woman to decide freely whether to marry
- (g) The right to participate in and contribute to the development effort.
- (h) The participation of women in the economic, social and cultural sectors/
- (i) The role of women in promoting human rights of all the people
- (j) The role of women in promoting human rights of all the people.
- (k) The need to eliminate violation of human rights committed against woman and girl

(7) The Convention on the Elimination of all forms of Discrimination Against Women 1981 (CEDAW)

- (a) States shall condemn discrimination against women in all its forms

According to Art. 2 states parties to convention shall condemn discrimination against women in all its forms, agree to pursue by all appropriate means and without delay a policy of eliminating discrimination against women and to this end undertake

- (i) To embody the principles of the equality of man and women in their national constitutions or other appropriate legislation if not yet incorporated there in and to ensure through law and other appropriate means, the practical realization of this principle.
- (ii) To adopt appropriate legislative and other measures including sanctions where appropriate prohibiting all discrimination against women
- (iii) To establish legal protection of the rights of women on an equal basis with men and to ensure through competent national tribunals and other public institutions the effective protection of women against any act of discrimination
- (iv) To refrain from engaging in any act or practice of discrimination against women and to ensure that public authorities and institutions shall act in conformity with this obligation
- (v) To take all appropriate measures to eliminate discrimination against women by any person organization or enterprise

(vi) To take all appropriate measures including legislation to modify or abolish existing laws, regulations, customs and practices which constitute discrimination against women

(b) State shall take all measures to ensure the full development of women

According to Art 3 states parties shall take in all fields in particular in the political, social, economic and cultural fields, all appropriate measures including legislation to ensure the full development and advancement of women, for the purpose of guaranteeing them the exercise and enjoyment of human rights and fundamental freedoms on a basis of equality with men

(c) States shall take all measures to suppress all forms of traffic in women

According to Art 6 states parties shall take all appropriate measures including legislation, to suppress all forms of traffic in women and exploitation of prostitution of women

Besides, this there shall be equality before law in Government services participation in politics, nationality etc. in short no women shall be discriminated on the ground of sex in any matter. The state shall make special provisions relation to their welfare and empowerment.

CONSTITUTIONAL EMPOWERMENT OF WOMEN

Indian Constitution is a fundamental social document designed to achieve planned social change. The political revolution completed by the attainment of independence and assurance of political justice irrespective of sex, creed, race or case, through the principles of the Constitution is sought to be strengthened and supplemented by social and economic revolutions constitutionally planned especially through part III – fundamental rights and part IV the Directive Principles of state policy which are considered to be the core and conscience of the Constitution

Preamble:

The preamble of the Indian Constitution briefly crystallizes and solemnly declares among other things, “Justice, social, economic and political and equality of status and opportunity which by implication sought to equalize women.

(i) **Right to equality : Art 14**

The state shall not deny to any person equality before the law the equal protection of the laws within the territory of India. It prohibits any discrimination on grounds of religion, race, caste, sex or place of birth. Art 15 Constitution imposes prohibition on the state not to discriminate against any citizen on grounds only of religion, race, caste, sex, and place of birth or any of them. But, nothing in this Article shall prevent the state from taking any special provisions for women. Women require special treatment on account of their very nature. The Government can make provision for reservation of seats for women institutions.

Art 16 There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state. No citizen shall, on place of birth, residence or any of them be ineligible for or discriminated against in respect or any employment or office under the state. The state Government can make provisions for reservation of seats for women in local bodies the 73rd amendment of the Constitution provides for the reservation of 1/3 seat in all tiers of local Government for women.

2) Right to life and personal liberty

Art. 21 guarantees for the right to life and personal liberty. The explained horizon of right to life includes the right to have a dignified life, right over her body control reproduction function to give or not to give birth to a child. This article is the bunch of rights and heart of the constitution (Art. 32).

Within the ambit of Art. 21, the Hon'ble Supreme court included the bunch of rights i.e. right to life, Right to live with human dignity, speedy trial, free legal aid, right to compensation, right to privacy, environmental rights, right to education, to health and medical care, right to drinking water, protection against sexual harassment, right to shelter and rights of prisoners etc.

3) Protection Against Traffic In Human Beings (Prostitutions) and Forced Labour Art. 23

This article prohibits trafficking in human beings, beggars and other similar forms of forced labour. This includes prohibition of prostitution where many women are forced to become prostitutes due to socio economic reasons.

It was held in the above cases that the sale of women is considered as traffic in human being which is prohibited by Art. 23 of the constitution and any action based on such a contract cannot at all be entertained. Thus a suit by the buyer of a woman is not maintainable.

Art. 24 no child below the age of 14 years shall be employed to work in any factory or mine or engaged in any other hazardous employment. Regarding the sexual abuse of children in the houses where they are engaged as maidservants to do domestic work.

Art 39 (d) Equal pay for Equal work

It is not a constitutionally proclaimed fundamental right. By combined interpretation of Art 14 and 39 (d) and also the preamble of the Constitution the Supreme Court held that the principle of equal pay for equal work is deducible (conclusion) from above Constitutional provisions and is applicable in cases of unequal payment though the work is identical Art 39 envisages that the state shall, direct its policy towards securing men and women equally the right to adequate means of livelihood, equal pay for equal work for both men and women and the health and strength of male or female workers is not abused.

Art 39 (A) Equal Justice and Free Legal Aid

The state shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity and shall, in particular provide free legal aid, by suitable legislation or schemes 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.

This Article has often been relied in support of right to legal aid as well as legal aid programmes. In pursuance of this article Parliament has passed the Legal Services Authorities Act, 1987

OTHER EMPOWERMENT OF WOMEN IN INDIA

Women's Right to Properties Act, 1937

Child Marriage (Restraint) Act, 1976

The Immoral Traffic (Prevention) Act, 1956

The Dowry prohibition Act, 1961

The Maternity Benefit Act, 1961

Domestic Violence

The Commission of Sati (Prevention) Act, 1987

The Pre Conception and Pre Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994

Sexual Harassment at workplace

Right to maintenance Under Sec 125 of Cr.P.C

CONCLUSION

From the above discussion, it is obvious that the constitution of India and various Statutes enacted by Parliament and State legislature provide for women empowerment; yet, women status is not ameliorated, and continues to face a lot of problem like dowry death, domestic violence, and sexual harassment beside socio-economic problems. It is not because no adequate laws exist but because of lacuna or flaws in and lack of will power on the part of enforcement agencies as well on society. Efforts by the Government are on to ensuring gender equality but government initiatives alone would not be sufficient to achieve this goal. Society must take initiatives to create a climate in which women rights are protected and have full opportunities of making self decision and participating in the social, political and economic life of the country with a sense of equality.

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