



Women Empowerment: An Analysis Of The Impact Of Legal Provisions

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Abstract

Presently in the 21st century, women empowerment is the most important topic of discussion in the half of the world's population. From the beginning, women have been deprived of social, economic, educational and political development. This shows the backward position of women in the society. Initially, the society and the rulers did not do any important work for the education of women. If we look at the Vedic period, there was definitely no restriction on women, there women were given equal preference as men at almost every level. But by the time of medieval period, women had to face many bad practices like sati system, child marriage, devadasi system, slave system, purdah system and female slaughter. In the last decades of the 19th century, many great social reformers like Raja Ram Mohan Roy, Swami Dayanand Saraswati, Swami Vivekananda, Mahatma Jyotiba Phule, not only raised their voice against these evil practices prevalent in front of women, but also contributed in ending many evil practices. Various social and religious reform movements came into existence after India's independence and raised many questions for the rights of marginalized women in terms of their social, economic, religious, political and educational development. After independence, legal protection was provided to the rights of women through the Indian Constitution. Many movements and laws have been made for women empowerment by the central government and the state governments at their own level as well. If we see from the legal point of view, there is no deficiency in the legal provisions of the nation for women empowerment, if the need is to implement those legal provisions properly and adopt the quick justice process. It should also be noted here that it is meaningless to talk about women's rights and women's empowerment only through legal provisions. For this, we have to positively change the mindset of the students and people from the school and college level itself. The first beginning of respect for these mothers of the world who emit energy in the society should be from their home. Governments have to keep in mind that the protection of women's rights should not be done by merely making laws. Strong machinery will also have to be upgraded for their comprehensive protection, promotion and implementation. This research paper of mine is also based on women empowerment through various legal provisions.

Keywords: Legal Provision, Women Education, Women Empowerment, Sati Pratha, Devadasi Pratha, Dowry Pratha.

Research methodology-

This research paper specifies the descriptive and analytical study method based on personal and social experiences. In this research paper of mine, an attempt has been made to analyze women empowerment and their rights through legal provisions for women. This research paper is based on secondary sources, for this material has been collected through newspapers, magazines, various research articles, books based on women empowerment, online platforms etc.

Objectives of the study-

1. To know the need of empowerment of women who constitute half the population of the nation at present.
2. To study the various legal provisions made for women empowerment.
3. To know the benefits of women empowerment through legal provisions.
4. To make a realistic assessment of the awareness of women empowerment in India.
5. To do a realistic analysis of the women's rights and legal provisions provided by the Indian Constitution.
6. To make women aware of their rights and legal provisions.
7. Giving necessary suggestions for women empowerment.

Discussion and Findings

Meaning of women empowerment-

Women empowerment means giving them the right to take independent decisions in social, economic, political and all other matters. They have to be given freedom of equality, respect, rights and opportunities equal to men. Empowerment of women is to make them independent and create a social environment in which women can take independent decisions individually or collectively. Be able to choose your own rights, needs and priorities. As we all know, to make the society strong and healthy, it is necessary to treat its weaknesses from the root. There are many obstacles in the way of women empowerment, such as male dominated mentality, social evils, pompous traditions and superstitions etc. Also all the social taboos, dowry system, purdah system, illiteracy and domestic violence etc. are important obstacles in the way of empowering women. That's why first of all these bad practices prevalent in the society should be ended.

We all should cooperate in the empowerment of women with full dedication and heart. The empowerment of society and nation lies in the empowerment of women. Keep in mind that after their complete empowerment, women can be able to contribute shoulder to shoulder with men at every level for the development and betterment of the society and the nation.

Women empowerment through legal provisions-

From the independence of the country till today, many legal provisions have been implemented for the empowerment of women; to a large extent we have also got success in this. Along with the central government and state governments, non-governmental organizations, social organizations and intellectuals have also played an important role in this. Despite all this, even today women have not got the status they deserve in the society. Even today, secondary status is adopted with women in the society, due to which somewhere she is standing on humour. Day by day, laws are being made stronger for the safety of women,

but in spite of all this, people with criminal mindset escape from the clutches of law and take out the avenue of crime. Which somewhere indicates the laxity of the government administrative system and the weak legal system? If we look at the figures of the Human Development Index, it is known that India ranks 118th in the world in terms of gender discrimination with women. This also shows that Indian society was never ready to accept the development, respect and empowerment of women at par with men. In relation to the safety and freedom of women, except Kerala and Sikkim, all other states in India are in the red zone. If there is any reason responsible for this pathetic condition of women, then it is illiteracy or less education of women. Even today, where the literacy rate of men is 82 percent, the literacy rate of women is only 65 percent. Where education provides economic strength and independence to women, the same strong legal provision ensures the safety of women. When we use these two together then only women empowerment will be possible in true sense.

Provisions made before independence for women empowerment and protection-

- I. Employees' State Insurance Act- 1948
- II. Plantation Labor Act- 1951
- III. Bonded Labor System Prohibition Act- 1976
- IV. Legal Practitioner Women Act- 1923
- V. Indian Succession Act- 1925
- VI. Indian Divorce Act- 1896
- VII. Parsi Marriage and Divorce Act- 1936
- VIII. Special Marriage Act- 1954
- IX. Foreign Marriage Act- 1969
- X. Indian Evidence Act- 1872
- XI. Hindu Adoption and Maintenance Act- 1956

Women empowerment and legal provisions-

The present era of globalization, liberalization and privatization is the phase of women empowerment. While today women have moved beyond farming and domestic work and have reached space, the condition of women in some areas still remains very pathetic. Therefore, apart from the constitutional provisions, many important legal provisions, government schemes and awareness movements are being run by the Central Government and State Governments to empower women from all sections of the society in all fields. Through this research article of mine, all those important constitutional and legal provisions have been highlighted, which have been made for women empowerment. Also, the shortcomings in implementing those provisions have been discussed. Due to which even today a large section of women in the society have been or are being deprived of the benefits of these provisions, an analytical view has been cast on that. It explains how women can be empowered by protecting them from domestic violence, social discrimination, exploitative and criminal mentality people. That is why in this article I have highlighted the legal provisions made for women as well as the shortcomings in their implementation, and have also sent necessary suggestions. Many acts have been made in India for the development, protection and equal participation of women, some of which are as follows-

1. Hindu Widow Remarriage Act- 1856

In the medieval period in Hindu society, there was a ban on widow remarriage and in its place a new evil practice of Satti system would start in the society. This was one of the most important evils of the Hindu society, which caused a lot of problems to women in the traditional Hindu society. Through this Act, widows were allowed to remarry and Section 5 of this Act ensured her to enjoy all the rights that a married woman enjoys.

2. Child Marriage Restraint Act- 1929

Child marriage is still a serious evil practice in our society, it is still prevalent in the society as another social evil, due to which even today girls and women are facing a lot of troubles. After the passing of this Act, the marriage age of girls was gradually increased. At present, the legal minimum age for marriage of girls has been set at 18 years and in case of boys it has been set at 21 years.

3. Hindu Women's Property Rights Act- 1937

In traditional society, women were not given any right in property. Manu says that "Women should live under the protection of their father in childhood, under the protection of their husband in their youth and under the protection of their son in their old age." This Act recognized the widow of a deceased person as a survivor with equal rights as her in the joint property. Thus, through this Act, initially women in Hindu society got the right to property, albeit to a limited extent.

4. Minimum Wages Act- 1948

This Act talks about eliminating discrimination between male and female workers in daily wages or in the minimum wages they receive. In every field, salaries for women can be fixed equal to those of men.

5. Factories Act-1948 and Mines Act-1952

There is a provision in both these acts that women cannot be employed for any work between 7:00 pm to 6:00 am, that is, making them work at night is prohibited. Along with this, it will also be mandatory to take care of their safety, leisure and welfare during work.

6. Hindu Marriage Act-1955

After independence, the Hindu Marriage Act was passed, which brought about the most revolutionary changes in the lives of women. Under this, all Hindus were given the right to marry only one person at a time, that is, no Hindu man or woman can have relations with two people at the same time. The special thing about the Act is that both men and women have been given equal rights in relation to divorce and marriage. Also, one of the biggest shortcomings in this Act was that under it, women of Muslim, Christian and other religions were deprived of this legal protection. This indicates atrocities and discrimination against these women.

7. Hindu Succession Act- 1956

Under this, women have been given equal rights as men in the property of their parents. That is, if the girl wishes, she can share her share in her father's property like her brothers.

8. Immoral Prostitution (Prevention) Act- 1956

Through this Act, legal provisions have been made to prevent sexual exploitation and trafficking of women and girls. If we put it in simple words, under this, a strict ban has been imposed on prostitution of women, trafficking of their body parts and making them captive to do illegal work.

9. Dowry Prohibition Act- 1961

At present, dowry system in the society is a big challenge and a medium of exploitation for women. Under this Act, it is prohibited to take or give any kind of goods, money and other movable and immovable property from the girl before or after marriage which comes under the purview of dowry. Any kind of property given in marriage is considered women's wealth and the girl has the right over it.

10. Maternity Benefit Act- 1961

Under this Act, women have been provided paid maternity leave for 13 weeks before the birth of the child and 13 weeks after the birth or 6 months together, so that they can take necessary care of their child. It is a legal offense to expel any woman from employment in any public or private sector during this pregnancy.

11. Pregnancy Act- 1971

Under its law, women can be given legal permission to terminate their pregnancy up to 24 weeks on humanitarian and medical grounds under certain circumstances, such as in case of rape or if the woman is suffering from a serious illness. Under normal circumstances, abortion up to 20 weeks of pregnancy is allowed.

12. Equal Remuneration Act- 1976

Under this Act, a provision has been made that there is a provision to give equal pay to both men and women for equal work and work of similar nature. Along with this, there will be no gender based discrimination between men and women on any basis in the recruitment process.

13. Prohibition of Obscenity with Women Act-1986

This Act completely prohibits indecency, exploitation and obscenity of women through any kind of medium like painting, writing, advertisements, publications and any other medium.

14. Sati Prevention Act- 1987

This Act prohibits the very old evil practice and superstition prevalent in the society, the practice of Sati. Under this, the practice, propagation and instigation of women for the practice of Sati in any part of the country have been declared a legal offence. However, long before independence, due to the tireless efforts of Raja Ram Mohan Roy, a law prohibiting the practice of Sati was passed. But even after that this practice remained prevalent for many years but now since last few years the evil practice related to Sati practice is not prevalent in the society.

15. Formation of National Women Commission- 1990

In the year 1990, the Central Government took a revolutionary step to protect women's rights and promote women's empowerment and constituted the National Commission for Women. The Government has constituted this Commission to study and monitor all matters relating to the protection and other safeguards of the constitutional and legal rights of women. Under this, State Women Commissions have been formed in many states also.

Indian Penal Code and provisions related to women's safety-

The Indian Penal Code (IPC) is a comprehensive official criminal code of India. The aim of which is to cover all the important aspects of criminal law. This Code was drafted on the basis of the recommendations of the first Law Commission of India established in 1834 under the chairmanship of Thomas Bavington Macaulay under the Charter Act of 1833. These legal provisions were implemented in India in 1862 during the British rule. After the partition of India, the Indian Penal Code came into force equally in both India and

Pakistan; in Pakistan it is called Pakistan Penal Code. Similarly, after the partition of Pakistan, the provisions of the same penal code were implemented in the same situation in Bangladesh also. The main provisions of the Indian Penal Code through which women have not only got opportunities for their independent development and progress, but their security has also increased. The main provisions of the Indian Penal Code related to women are as follows.

1. Section- 304 (b) Dowry death-

Where a woman dies within 7 years of her marriage under circumstances other than normal and it appears that she has been harassed by her husband or relatives in dowry related matters some time before her death, then such death This will be called dowry death. In this regard, a provision has been made that a person who is guilty of dowry death can be punished with imprisonment for at least 7 years or in some cases life imprisonment.

2. Section 354: Attempt to outrage the modesty of a woman-

If any person tries to outrage the modesty of a woman, attacks her or uses criminal force, there is a provision to punish him with 2 years of imprisonment, financial penalty or both.

3. Section- 366 Forced kidnapping for marriage-

If any person tries to force a woman into marriage against her will or tries to have immoral intercourse with her, he will be punished with imprisonment of 10 years and a fine.

4. Section- 366 (a) Kidnapping of minor girl-

If a person has inappropriate relations with a girl less than 18 years of age or tries to have illicit relations with her, then a provision of 10 years imprisonment and fine has been made for him.

5. Section- 366 (b) Importing a girl from abroad-

If a person brings a girl below 21 years of age from another country and forces her into an illicit relationship, then there is a provision of punishment of 10 years of imprisonment or financial penalty against him.

6. Section- 371

Under this, if a woman is treated as a slave, maid or in any other kind of inferior manner, then it will be considered as a cognizable offence. For this, a provision has been made in the non-bailable warrant along with a punishment of 10 years imprisonment and fine for the criminal.

7. Section- 372 Prohibition of Prostitution-

If any person forces girls below the age of 18 years into illicit relations, sells them, hires them or does any other inappropriate work with them, then there is a provision of 10 years of imprisonment and financial penalty. In this, the person who buys hires or tries to establish inappropriate relations with the person will also be considered equally guilty.

8. Section- 376 (b) Women's safety-

If a public servant forcibly has sexual intercourse with a woman in his custody, there is a provision of 5 years imprisonment and financial fine. It is defined in section 376 (c) that if a superintendent of a jail, repatriation center or other office etc. has a relationship with a woman, then there is a provision of 5 years of imprisonment and fine for that too.

9. Section- 377 Crime against nature-

If any person tries to have sexual relations with any woman or living creature outside the natural order, then there is a provision of 10 years of imprisonment and a fine.

10. Section 494: Definition of marriage

Under the Hindu Marriage Act- 1956, under Section 494 of the Code of Criminal Procedure, if a person marries a second wife while his first wife is alive, then there is a provision of 7 years of imprisonment and fine.

11. Section- 497 Jaar Karma Crime-

If a person, knowing that he is the wife of another man or having a relationship with another man, has sexual intercourse without the consent or willingness of that man, then it will be considered in the category of forced relationship. He will be considered guilty of a criminal offence, for which there is a provision of 5 years imprisonment or fine or both.

12. Section- 498 Category of crime-

Under this, any verbal, physical, mental or economic crime against any woman will be considered as violence. Under this, if a person commits a crime, there is a provision of non-bailable punishment of 3 years.

Provisions related to women of the Indian Code of Criminal Procedure (CrPC)-

Indian Criminal Procedure Code (CrPC) is also commonly known as the Criminal Procedure Code. It is the main law on the procedure for administration of substantive criminal law in India. It was first enacted in 1973 and came into effect from April 1, 1974. It provides machinery for investigation of crimes, apprehension of suspected criminals, collection of various types of evidence, determination of guilt or innocence of the accused person. It is a legal provision relating to determination of punishment for culprits, identification of public miscreants, prevention of crimes, maintenance of wife and children.

1. Section- 46 (1) Provisions related to arrest of woman-

There is a provision in this that at the time of arrest of any woman, she will be given verbal information about her detention. It is also clear that unless the circumstances are extreme or unless the police officer is a woman, no male security force will touch the accused woman in order to arrest her. It is also provided in its sub-sections that a woman cannot be arrested in the evening and she cannot be forced to forcibly confess to a crime. It is necessary to arrange for necessary facilities for the woman even while she is kept in lockup.

2. Section- 51 (2) Search of women-

When it is necessary to search a woman in the context of any crime or any investigation, then such search should be done by women police keeping in mind all decency.

3. Section-98 Provision for return of kidnapped women-

When any woman or girl below the age of 18 years is to be abducted or kept for any unlawful purpose, the District Magistrate, Sub-Divisional Magistrate or First Class Magistrate may order that the woman be immediately set free. Let's do. It can also be ordered that the woman or girl be handed over to her legal guardian, who is capable of maintaining and protecting her.

4. Section- 160 Requirement of attendance of evidence-

It provides that a woman cannot be compelled to appear at any place other than the place where she resides.

5. Section- 167 Time of investigation-

Under this, the police can take a female accused on remand only under special circumstances. Before submitting the application for remand, it is necessary to make proper arrangements for the safety of the woman and the facilities required for her at the remand site.

6. Section- 416 Moratorium order regarding pregnant woman-

If a woman who has been sentenced to death is found pregnant, the High Court can order suspension of the sentence. If he thinks fit, he can reduce this sentence to life imprisonment.

Central government schemes for women empowerment-

1. Domestic Violence Prohibition Act- 2005

Through this, provision has been made to protect women from all types of domestic violence like physical, mental, sexual, verbal, emotional and symbolic violence. Its scope also includes those women who have been victims of any kind of abuse or are still living with the abuser out of compulsion.

2. Prohibition of Sexual Harassment of Women at Workplace Act- 2013

Under this Act, a provision has been made to provide protection to women from any kind of sexual harassment at workplaces in all sectors, public and private, organized or unorganized.

Women empowerment and constitutional provisions-

1. Article 14

Under the right to equality of the Constitution, it has been provisioned in this article that everyone will be equal before the law, that is, there will be no discrimination of any kind between men and women. No person within the territory of the State shall be deprived of equality before the law or equal protection of the laws.

2. Article- 15

Under this article, six types of discrimination generally occurring in the society have been abolished, that is, any kind of discrimination on the basis of caste, religion, language, region, gender and caste will be prohibited. Article 15 (3) provides that the state can make any special provision in relation to women, children, the elderly and the disabled, that is, provision for special legal protection can be made for them.

3. Article 16

It has been provisioned that there will be equality of opportunity for all in matters of public employment, that is, there will be no discrimination against any person, but if the state wishes, it can make special provisions for women. In Article 16 (1) It is provided that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State.

4. Article 19

Under this article of the Constitution, all citizens will have freedom of speech and expression of opinion. Under this, no person can be discriminated against on the basis of gender or on any other basis. Article 19(1)(a) states that all citizens shall have the right to freedom of speech and expression. Freedom of the press is enshrined under this article.

5. Article-21

Under this, a provision has been made for the life and personal liberty of a person, that is, no person can be deprived of his life and personal liberty without due procedure established by law. Under this, the Supreme Court in the year 2019 has provided protection to everyone's right to privacy under Article 21 (1).

6. In Part 4 of the Constitution, many types of provisions have been made for the legal protection of women under the Directive Principles of State Policy. Article 39(A) states that the State shall make such a policy in which the necessary resources of livelihood can be provided equally to men and women, that is, no one will be deprived of their basic needs. Article 39(d) directs the State to ensure equal pay for equal work for both men and women. Under Article 39(A), provision has been made for equal justice system and free legal aid for all, including men and women. That is, a provision has been made that no person will be deprived of getting justice without legal aid due to lack of financial resources.

7. A very important provision for the welfare of women has been included in Article 42 of the Constitution. Under which the state will ensure fair and humane working conditions for all and provision will be made to give paid maternity leave to women.

8. Article 51(a)(e) deals with women's rights. This manifests that it shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood among all the people of India irrespective of religion, language, region or sectional diversities. It further states that the state will abandon superstitions and derogatory practices that are against the dignity of women.

9. According to Article 243 (D), from the very beginning, there is talk of reservation of 33 percent seats for women in Lok Sabha and Assembly elections, however, till now women have not received reservation of seats in Lok Sabha and State Assemblies. Is. According to the 73rd and 74th Constitutional Amendment - 1993-94, a provision has been made for reservation of 33 percent seats for women in the Panchayat Raj system and Municipal Corporations and Municipal Councils. In some states like Rajasthan and Madhya Pradesh, it has been increased to 50 percent. Under some other provisions of the same article, provision for reservation of seats in the Panchayat Raj system has also been made for women belonging to Scheduled Castes and Tribes.

Necessary suggestions for women empowerment-

As we all know that India is a male-dominated country, where even today men dominate in almost every field. Women have been limited to only taking care of the family and staying at home. Since the beginning, the need for women empowerment is being felt due to gender discrimination and male dominance in Indian society. Women constitute almost half of the population of India, by depriving them of the mainstream of the country, the overall development of the nation cannot be achieved and the overall development of the nation cannot be achieved by leaving it under the control of men only. Overall, strong and holistic development of the nation is not possible without the holistic and active participation of women. In such a situation, we cannot say that our country will be able to develop in the future without empowering half of the nation's population i.e. women. If we want to make our country a developed nation by the year 2030, then half of the population, women, will have to be empowered and provided full participation at every level.

Since ancient times, such evil practices, conservative traditions and superstitions have been adopted in the society so that they can be used as killers of exploitation against women. Men and women are like two wheels of the same car or we can say that they are two sides of the same coin, one without the other has no importance. That is why constitutional and legal protection has been provided to women's rights under the sections of the Indian Constitution, IPC and CrPC. It is not that women have not benefited from these legal and constitutional rights. If we look at the situation of women a few years ago, it becomes clear that today women have become free from the initial social constraints and are playing an effective role shoulder to shoulder with men in every field including social, economic, political and educational. Women have benefited a lot from these legal

provisions, but despite this, sometimes criminal elements violate these laws and exploit them physically and mentally. Putting an effective stop on it is still proving difficult. Most recently, in May 2023, two women were stripped and chased in Manipur and later gang-raped and murdered. Similarly, in Jodhpur, Rajasthan, a girl was held hostage and gang-raped by 3 people in front of her lover, which is a heart-wrenching incident. In another heart-wrenching incident in Bhilwara, a minor girl was gang-raped and burnt in a blazing furnace. These inhuman, cruel and animalistic activities taking place in the society have not only hurt the women's society but it is like a disaster on the entire civilized society.

Conclusion-

It is a matter of great irony that despite having such strict and strong legal provisions for women in India, the condition of women here is very pathetic as compared to developed countries. If we look at rural areas, the situation is even more pathetic, even today women are considered like shoes for men. In my view, the main reasons for this are women's illiteracy, economic dependence and women's lack of knowledge about their rights. If we look at the frustrated human mentality prevalent in the society, from the point of view of economy, environmental protection, national and international peace and prosperity, then the solution to every small to big problem lies in women empowerment. In the last few years, the positive effects of women empowerment are also visible to us. Women are becoming more aware of their responsibilities towards their health, education, career, job, family, society and country. Today she is registering her positive presence by actively participating in every field. Finally, after a long and difficult struggle, women are getting the right to move forward on the right path, this pace of progress of women can become more rapid if we also actively cooperate in this by standing shoulder to shoulder and hand in hand.

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