



Women Empowerment Through Constitutional Rights

Smt. Bhagyalakshmi.H
Assistant Professor of Law
Government Law College
Kolar

Abstract:

India is a country known for age old customs, traditions, blind beliefs and patriarchal families. Women's being the weaker section of the society has discriminated in all spheres of social life. Women were virtually deprived of all their rights to stand as human beings and were also deprived of expressing themselves. Several social reforms were made to awaken public opinion against sati system, child marriage and other oppressive social evils which had harmed women colossally. In order to enable them to participate in the socio-economic development of the country, a climate had to be created for them to be equal partners in development with men, rather than being mere beneficiaries of developmental activities. One of the most basic causes for the women's inferior status is the inadequacy of the legal system to keep pace with the changing needs and times and to provide her with the framework which would enable her to contribute her ability fully to society. Discrimination between sexes may stem from attitudes, customs, traditions and cultural norms. The victims of discrimination look upon law for equality and justice. Law includes not only the provisions of constitution and legislation but judgments and governmental decisions and actions. The Constitution of India in Article 15 states: "the state shall not discriminate against any citizen on grounds only religion, race, caste, sex, place of birth or any of them". The incorporation of equality before the law in the Constitution "enabled the passage of variety of laws and development of deliberate measures aimed at the improvement of the status of women in post-independent India. The sum and substance of the Constitutional provisions is that women stand on equal footing with men in all spheres of economic, social and political life of the country. Before the enactment of legislations, women's life in India, almost everywhere, was governed only by the archaic and oppressive male 'perpetuated law'. The legislation concerning amelioration of women's condition generally revolved around their: 1) marriage; ii) divorce; iii) family courts; iv) dowry v) abortion vi) guardianship; vii) adoption viii) maintenance ix) inheritance and succession x) prostitution and xi) women's labour. Various legal measures are undertaken to ameliorate the deteriorating status of women.

Keywords: Discrimination, Legislation, Adoption, Patriarchal, Gender justice, Gender Equality, Deprived.

Introduction

Women are deprived in the process of social, economic and political upliftment due to gender discrimination, age old customs, traditions blind beliefs and patriarchal families. Women are encircled with low literacy level, underpaid labour and unbroken cycle of child birth. In contrast to the developed countries India does not have a well developed and universally available welfare services. Women with different abilities are not empowered due to the absence of educational opportunities and inferior complexity. Women are lagging behind in the matters of decision making powers due to gender discrimination. Isolation and confinement based on culture and traditions, attitudes and prejudices often affect disabled women more than men. This isolation of disabled women leads to low self esteem and negative feelings. Lack of appropriate support and lack of education result in low economic status which in turn creates dependence on men. Therefore women need to make more concentrated and consistent efforts to get their status role recognized through empowering women. Empowerment of women in this context would mean enabling women to realize their full potentialities, real identity and powers in every spheres of their lives. Women are an important integral part of every human society. The progress of any nation and society depends greatly upon women participation in all fields of life. Women empowerment as a global phenomena have a different strategies like political discussions, human agency, autonomy, rights and capabilities involving democratization, citizenship and constitutionalism, and discussions in the field of law about judicial reform and practical matters of access to justice. The issue of women empowerment has to be examined in the perspective of human development, which in turn, has to be viewed in the perspective of gender equality having three major components.

Non-discrimination on the basis of gender in various areas of human development Equal opportunities and equal access to facilities for integrated human development. Considering men and women as equally worthy human beings with dignity.

The Government of India has ushered in the new millennium by declaring the year 2001 as 'Women Empowerment Year' to focus on a vision where women are equal partners like men. Empowerment is a term generally used to describe a process by which 'powerless' people become conscious of their situation and organize collectively to gain greater access to public services or the benefits of economic growth. Defining women empowerment means process of acquiring rights, personality development and deciding by self independently. Empowerment of any section of a society is a myth until they are

conferred equality before law. The most common explanation of women empowerment is the ability to exercise full control over one's actions. The overall development of women in general. The last decades have witnessed some basic changes in the status and role women in our society. There has been shift in policy approaches from the concept of welfare in the seventies to development in the eighties and now to empowerment in the nineties. Empowering women is a challenge. Effective political response, efficient gender equality policies, programs and development initiatives targeting women upliftment, raising awareness, combating stereotypes, creating a good work, life balance, promoting social inclusion of women. Preventing and combating gender based violence, promoting legal reforms and ensuring gender justice, improving women's health status, expanding opportunities and choices in life of women, mainstreaming the constitutional legislations, into policies and programs and linkage with gender are some of the areas which facilitate attaining the goals of women empowerment. The National Commission for women was set up by an Act of Parliament in the year 1990 to safeguard the rights and legal entitlements of women. From the year 1990-2000 is known as 'Decade of the girl child'. SAARC (South Asian Association for Regional Co-operation) also declares the year 1990 as the 'Year of the girl child'. It also included Technical Committee on Women and Child Development to empower women.

Empowerment Of Women Under Constitution

As women from her cradle to her grave faces lot of injustice and almost all times her greatest misfortune seeks to be that she is unaware of her rights.

The principle of gender equality is enshrined in the Indian Constitution, as the drafting of the Indian Constitution between 1947 and 1949 coincides with the Universal Declaration on human rights in 1948. The Part III and Part IV of the Indian Constitution i.e., "Fundamental Rights" and "Directive Principles" emulates the United Nations Declaration.

The preamble of the constitution reads "It is solemnly resolved to secure to all citizens justice, social, economic and political, liberty of thought and expressions, belief faith and worship. Equality of status and of opportunity and to promote among them all fraternity assuring the dignity of individual and unity".

The constitution also states that "the state shall not discriminate against any citizens on grounds only of religion, race, caste, sex, place and birth or any form".

In accordance with these constitutional provisions a number of measures have been initiated by the government to empower women are as follows.

Article 14: Guarantees right against discrimination.

Article 15: Guarantees Right against discrimination.

Article 15(3): Special Protection for Women, and 74th amendment, provided for reservation for women in the Municipal and Panchayats.

Article 16: Guarantees the right for equality of opportunity in matters of public employment.

Article 23: Guarantees rights against exploitation.

Part IV of Indian Constitution deals with Directive Principles of State policies which provide direction to the state in formulating policies and programmes in the interest of women.

Article 38: It requires state to strive to eliminate inequalities in status, facilities and opportunities.

Article 39: Guarantees equal pay for equal work, citizens are not forced by economic necessity to enter jobs unsuited to their age and strength.

Article 42: Guarantees just and humane conditions of work and for maternity relief.

Article 45: Guarantees free and compulsory education until they reach the age of 14 years .

Article 46: Strive towards gender justice in society.

In order to improve the conditions of women, Legislature in India enacted laws to prevent discrimination which are as follows.

1929, Abolition of Sati

1856, Widow Remarriage made legal

1870, Female infanticide banned

1872, Intercaste, Inter Community Marriages made legal

1929, Child Marriage Restraints Act was passed

1937, Women get special rights to property

1954, Special Marriage Act was passed

1955, Hindu Marriage Act was passed

1956, Suppression of Immoral Traffic in Women and Girls Act

1961, Dowry Prohibition Act was passed

1986, The Indecent Representation of Women Prohibition Act

1987, Commission of Sati Prevention Act.

Apart from these above mentioned laws there are some enactments pertaining to industry which contains special provisions for women such as.

The Workman Compensation Act,1921

Payment of Wages Act, 1936

Factories Act 1948,

Minimum Wages Act 1948,

Employees State Insurance Act 1948,

Pension Act 1987,

Domestic Violence Act 2005,

The Equal Remuneration Act 1976, aim to provide equal wages for men and women workers and for the prevention for discrimination against women, when the works is of similar nature.

The worst form of Child Labour Convention 1999.

The Universal Declaration of Human Rights declaration on the elimination of all forms of discrimination against womenThe Convention of Political Rights, etc., in order to give women their respective position in society, strong public opinion should be created through education and media.

It should be the political will of the society to bring about social, cultural; political and economic reforms and active support of the strong and efficient state apparatus dedicated to the ethics of gender justice that will enhance the position of women all over the globe. The above legislations and policies should reach the women through media and legal awareness camps, as it is necessary to sensitize those in power about the issues of women empowerment and rights ,because legislations and policies makes socio-economic, cultural and political reforms. The right to life guaranteed by our Constitution includes right live with human dignity. The state is not only obliged to prosecute those who violate fundamental right, it also has a duty to pay monetary compensation to repair the loss done by its agent, who is not being able to discharge their public duty of upholding peoples rights. Apart from the constitutional rights the government has taken concerted action towards mainstreaming of women into national development process by raising their overall status. The impact of various development plans, policies and programmes have brought out perceptible improvement in social, economic, legal and political status of women, for example: employment opportunities in different sectors have given women economic independence and the feeling of importance. Now women feel that they can stand on their own legs and look after the entire family by themselves.

This has boosted their self pride and self confidence. Employed women feel that they need not live as parasites on their men folk.

Significance Of The Study

India is a country known for traditions, customs, blind beliefs and gender inequality, apart from the social evils like sati system, devadasi, dowry system child marriage etc., In free India the constitution legal provisions –Indian Penal Code, Criminal Procedure Code, and Indian Evidence Act. The establishment of National and State Human Rights Commissions evolving the National Policy for the empowerment of women in 2001 are some of the milestone in eliminating the gender gap. The study also focuses on legislations and policies enacted in Indian Constitution to abolish gender gap and empower women socially, politically and economically. Globalization has presented new challenges for the realization of the goal of women's equality. The link between gender equality and poverty, growth and productivity education health and nutrition and environment were the key issues identified by the development community and were included as development goals. The study has its own significance as constitutional rights encompass the fundamental principle of humanity and these are the rights which every human being is entitled to enjoy irrespective of their caste, colour, creed, sex, political, religious, social and other affiliations. Constitutional Rights also serves as a common standard of achievements for women.

Objectives

To find out the causes of discrimination among men and women.

To give possible strategies to implement legal provisions in practices.

The study focuses on number of legislations enacted to abolish social evils in the society.

To study the policies and programmes of the Indian Constitution.

To analysis how declaration of Human Rights as universal phenomena changes gender inequality.

The study also focuses on how the legislation policies and various programmes empower women.

The study also highlights the need in implementing all the legislations to empower women in this contemporary world.

Findings

Impact of development plans and programs lead to women empowerment.

Legislations like Right to Equality, Equal Remuneration Act, 1976, Free and Compulsory Education for Girls etc., prevents discrimination against women to some extent.

Due to education, socio and political awareness, economic development and awareness of human rights, women also take equal choice in decision making powers.

Many legislations have failed in implementing up to mark. For example Child Labour Act, Child Marriage Act, Dowry Death, Domestic violence Act and Sexual Harassment Act etc.,

Constitutional rights are not reaching the people due to illiteracy and ignorance.

Special rules and policies are framed by constitution to uplift and safeguard women politically, socially and economically.

Women discrimination become and international concern.

Declaration of Human Rights made an impact on constitution of all countries.

The Commission on the status of women was set up by the economic and social council in 1946.

The Human Rights Commissions monitor the work on the Covenant of Civil and Political.

Suggestions

Support women organizations that are critical to ensuring that women have voice and agency, which are often at the forefront of identifying problems and experimenting with innovative solutions that prioritize demands for accountability from all actors both public and private and whose access to resources has been declining in recent years.

Legislative policies and governmental programmes should be implemented from grass root level.

Along with the legal awareness camps legal aid should be given to women who are economically poor.

Media should play a major role in highlighting the legislative policies for women.

Special rules and policies to empower women though enacted , had not yet reached women folk , so furthers steps should be taken to implement all the policies through NGO's and Government.

United Nation should intervene when the legislations are violated by the member countries.

National Women Commission should have separate cell at district and taluk level, as it's is easier for the poor and women to reach.

Empowerment of women should start basically by empowering girl child.

As half of the population of our country is represented by women there is a need for 50% reservation for women in political and economic and educational field.

For achieving women empowerment, gender equality and social development, women voices need to be heard.

Transforming the prevailing social discrimination against women must become the top priority and must happen concurrently with increased direct action to rapidly improve the social and economic status of women.

Conclusion

For achieving women empowerment, women should come forward to express their needs and aspirations. Constitutional rights should be put in practice. The developmental aid programs should be designed for the women towards whom the aid is ultimately directed. All our approaches require fundamental transformation in the distribution of power, opportunities and outcomes for women.

Every one of us must recognize and accept the fact that men and women are equal partners in life and understand the reality and try to bring change in the social system. Our understanding of empowerment reminds us the change. Improvement in the economic, political, educational and social well-being of women will not be sustained unless a change in the value system.

Though Indian Constitution ensures equality of status and opportunity for women and to assume justice for women, the government of India passed much legislation to empower women. Article 14, 15, 16, 21, and 39 of the constitution can be used as the basis towards the elimination of sexual discrimination against women from all spheres of public and private life. But these legislations and articles by themselves as all of us know cannot raise the status of women. Until and unless there is a change of heart a change in the value system on the rights and opportunities among women, empowerment is not possible.

Reference

1. Dr. Agarwal.H.O, 2005, Human Rights, Central Law Publications, New Delhi.
2. Dr. Awasthi S.K and Kataria R.P. 2000, Human Rights, Orient Publications, New Delhi.
3. Devendra.K. 1995, Changing the Status of Women in India, Asian Publication .
4. Klasen Stephan, 1999, Does Gender inequality Reduce growth and Development, World Bank.
5. Krishna Murthy.J.,2010, Gender Issues and Social Development, World Bank.
6. Paci Pierella,2002, Gender in Transition, World Bank.
7. Pramila.V.Rao, 2010, Educate women and Nationality,Critical Quest Publication, New Delhi.
8. Subramanya.G. ,2005, Indian Society Structural Change, Banalore.
9. Rameshwari Pandya, 2009, Women and Law , Madhawa Books.
10. News papers, journals and gazettters.