

WOMEN LEGISLATIVE PROTECTIONS IN INDIA – A LADDER FOR WOMEN EMPOWERMENT?

S. DRAKSHAYANI

Abstract: Human Rights are the natural rights, basic rights which should be enjoyed by all people in the society. Though at the global level and national level laws exist to protect the rights of human being man/women in general but special consideration and concentration is required to recognize the rights of women. General jurisprudence is new ordering of society to emancipate and liberate women from the shackles of ancient law, traditions and customs whereby the new claims, interest and needs of the women are promoted and readjusted through law with men folk on a footing of equality, dignity and non-exploitation.

Introduction: In a democracy, welfare state concept always prevails as important requirement. India, as the worlds, largest democracy, strictly adheres to the Socio-economic welfare of the people as the prime tasks of the makers of the state. Equality is the first principle of the constitution and in every governmental action, gender based discrimination represents the very ugly face of the society. This issue is global with different degrees and very old in nature. It is a travesty of all cannons of social justice and equity, the women who constitutes half of the world's population and work two-third of world's working hours should earn just both of world's property and also should remain victim of inequality and injustice. The sex equality was paramount necessity for national development to eradicate discrimination and inequality and to provide enough opportunities for the exercise of women protection.

Even god is regarded as half man, half women popularly known as "Ardhanariswara" but the women is neglected from womb to tomb or from ancient times to modern times that is as a girl she assists to their mother from six years onwards in fetching water from the pump, cleaning the yard and cleaning utensils. The elder girls look after younger siblings. The sister stalls the babies' cries of hunger by singing songs or by distracting them. As a wife and mother women is heavily loaded with multi responsibilities. All these activities are seems to be social in nature but behind it there will be 'force' which is the cause root for discrimination against women in general and girls in particular.

In India there are various women policies, schemes, and legislatures for protecting women or eradicating discriminations but there are dearth in proviso's or with too many technicalities in the legislature. This impact may be on the organ of implementation and finally favours to the women are remains null. This paper is an attempt to study the protections available in India are really protects through legislative safeguards and the short comings that are coming for providing justice to women. The research paper is based on secondary data with the following objectives.

1. To enlight the scheme and policies available to protect women in India in general and girls in particular.
2. To describe the constitutional and legislative safeguards in India.
3. To study the role of organizations in Protection of

Women Rights.

4. To identify the steps to be followed for protection of women rights.

Conventions, Policies and schemes in India: The life of Indian women has passed in different ways through different periods. If one looks at classical religio-judicial literature, the dharmasastras, the position of women in early India appears to be measurable and degrading. Manusmriti contains verses which are explicitly hostile towards women. The Post modern treat equality as a social construct and since it is a product of patriarchy, feminist reconstruction new truth in place of old things. Within the frame work of democratic polity, our government has ratified various international conventions covenants, policies on among them is convention on elimination of all forms of Discrimination Against women (CEDAW) in 1993 India is a party to the International covenant on Civil and Political rights and the International covenant on Economic, Social and Cultural rights adopted by general assembly of the United Nations on 16th December 1966 and to have the mechanism to deal with this rights enacted the protection of Human Rights act 1993.

The Government has also taken steps for incorporation of various schemes where a separate department is created to ensure development and welfare of women and children. The women welfare department was established in the Madras State in 1952 with special programmes for women and children by converting the activities of women's civil cops started by the wives of the military officers to take care of the war widows and their children after II world war with the help of welfare activities.

The government has introduced women welfare department and this department initially was taken up the welfare approach to women's problems through community development workers. Formation of Mahila mandals, District shelters and after care Homes etc worked with rural women to stimulate the awareness. Later several schemes were taken place like direct investment on girl child, education to girl child, marriage after majority, and so on so forth. Since 1953 several steps were taken by the government for empowerment but there is a lack of practical implementations. Due to these several lacunae, draw backs were facing by the aggrieved women. This impact

of the society has found by the commissions, academic conferences and legislature. The parliamentarians started introducing legislative safe guards for protecting women.

Constitutional Mandate regarding protection of women: The Constitution of India not only grants equality to women but also empowers the state to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, educational, Political disadvantages faced by them.

1. Article 14 Equality before law and equal protection of laws for women.
2. Article 15 states to make special protection for women.
3. Article 16 – Equality of opportunity in Public Employment
4. Article 39(a) state to direct its policy towards securing for men and women equally the right to an adequate means of livelihood.
5. Article 39(d) equal pay for equal work for both men and women.
6. Article 42 maternity relief.
7. Article 51(A) (e) to promote the spirit of brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women.
8. Article 243 one-third of the seats to be filled by direct election and the same ratio for Chairpersons in the panchayats at each level and in Municipal Corporation as well.
9. Article 21 Right to live includes Right to live with human dignity or decency.

It is an important provision for women empowerment because when ever women leads a dignified life in all aspects then only women empowerment is possible

Legislative safeguards for empowering women with the help of constitution: The legislative measures has taken place to eradicate or to control violence against women. The offences against women can be classified as crime against women in general law of crimes and special laws for protecting women in India.

General Law of Crimes: The general of crime or law of crimes is Indian penal code. Outraging the modesty of women (Sec509 and 354), Rape and attempt to rape (Sec376 or 376r/w511), kidnapping or abduction of women or girls (Sec363 to 373), Harassment of married women (sec 498-A), Consequential offences of harassment which are like Dowry Deaths, Homicide for dowry, abetment to commit suicide, or attempt to murder and the like. Harassment leads for filling of maintenance application and its consequences are matrimonial matters like Divorce, Judicial separation and Restitution of conjugal Rights.

Special Legislations for protecting Women: The Legislative activism has taken place for protecting women in different dimensions initially the society was depending on only Indian penal code but some of the

amendments were taken place in the year 1985 in IPC and also in Law of Evidence as well. The Special statutory protections are

1. Immoral Traffic (Prevention) Act 1956
2. Dowry prohibition Act 1961
3. The Maternity Benefit Act 1961
4. The Medical Termination of Pregnancy Act 1971
5. Indecent Representation of women (Prohibition) Act 1986
6. Commission of Sati (Prevention) Act 1987
7. Prohibition of Child marriage Act
8. Protection of Women Domestic Violence Act 2005 and rules 2007.

Indian has a number of well-intended laws on protection of women, a few of them having been shown above. They have not achieved their objective owing to poor implementation, insufficient policing and lack of awareness and the year 2002 declared as women empowerment year. No doubt that the legislative trend from time to time depicts the honest attempt for betterment of women's status in the society as considerable inequalities, gender discriminations, harassment and violence but still the women are facing the unbearable drawbacks.

Role of organizations in protection of women rights:

1. Laws, particularly relating to women, cannot be successful without popular support and social change. NGO's and activists play an important role in creating awareness and informing citizens of their rights and options under law. An interesting example is that of the 'Bell Bajao' campaign against domestic violence. It was produced pro bono by advertising professionals in association with the Ministry of Women and Child Development and several human rights organizations.
2. NGOs and public-spirited individuals can act as a bridge between State and victims, helping them escape situations of violence and also get justice through judicial channels.

Conclusion: The survey and review of legislative provisions particularly in criminal laws reveal that there are pitfalls in the wording of drafting of certain provisions in the legislations like Indian penal Code, Dowry prohibition act, Criminals procedure code. Prevention of Immoral Traffic Act and in Domestic Violence act. In order to provide adequate safeguards to women empowerment the following steps may be taken.

1. These too many legislations are creating confusion for proper action; all these legislations should be brought under one umbrella through making as one single statute as Law of Women and Girls protection act.
2. Criminal laws have to be replaced from concurrent list of the constitution to union list so that uniformity can be maintained in the entire country.
3. In women offences technicalities should be dispensed and speedy disposal and Victim

-
- compensation should be given on the date of Judgment without following a separate enquiry as made in sec.357-A CRPC.
4. Active role of voluntary organizations should be given in the statute for empowerment of women.
 5. Incorporation of Severe penal sanctions, positive implementations of statutes by active police.
 6. "Legal services should be extended irrespective of social and financial status in women matters.

References:

1. Hemalatha Devi.V.Hemalatha Devi. V.Women law and social change in women development perspectives from selected states of India edited by Reddy P.R. and Sumangala P.1998.
2. Subba Rao T.V. and Hemalatha Devi, V.Women law and social change in women development perspectives from selected states of India edited by Reddy.P.R. and Sumangala P.1998.
3. Viswanatha Reddy K.Cultural Ecology of Indian Tribes, Raj Publications, Delhi-2002.
4. Saxena D.R. Law, Justice and Social Change, Deep and Deep Publications, New Delhi- 1996.
5. Anil trehan, Nyaya Deep, NLSA volumeXI, issue ivoct 2010. p89&90.
6. Myneni S.R.Jurisprudence2001
7. Pandey J.N.Constitutional law of India
8. Women Development and Child welfare Department manual
9. www.Parliament of India.nic.in
10. www.mosp.nic.in/mosp_upload/women-man P2010
11. www.lawyerscollective.org.

Research Scholar, Dept, of LAW, SPMVV, Tirupati.