

POLICIES, SPECIAL PROVISIONS AND LAWS FOR WOMEN EMPOWERMENT IN INDIA

MOHD NADEEM KHAN

Abstract: In spite of women contribution in all spheres of life and they enjoy a unique position in every society and country of the world, but they suffer in silence and belong to a class which is in a disadvantaged position on account of several barriers and impediments.

India, being a country of paradoxes, is no exception. Here too, women, a image of Shakti, once given a impressive status, are in need of empowerment. Women's empowerment in legal, social, political and economic requires to be improved. However, empowerment and equality are based on the gender sensitivity of society towards their problems. The strengthening of women's issues and rights movement all over the world is reflected in the form of various Conventions passed by the United Nations.

Gender equality is always escaped the constitutional provisions of equality before the law or the equal protection of law. Basically, as pointed out by Dicey (Dicey, A.V. introduction to the study of the law of the constitution^{4.1}, Mac Millan, London. 9th edition 1952), the Constitutional theories of Rule of Law and the fundamental rights stemmed from the struggle for individual liberty and were intended to curb the power of the State. For a long time gender issues were not in the limelight. In India, the Constitution maker while drafting the Constitution was aware to the problems faced by women and made specific provisions relating to them.

The Constitution is a living and organic thing which, of all instruments has the greatest claim to be constructed broadly and liberally.

Moreover the Constitution of India is a basic document which provides for women empowerment within the framework of the plenary provision of Articles 14, 15 (3), 21, 39 (a), 51A (e) and Preamble. The courts always try to interpret the cases which are detriment to women within the area of social justice with these Articles.

By this paper I will try to aware and sensitize women and all others about the special provisions and rights in constitution of India for women.

Constitutional provisions for Women Empowerment in India:

Empowerment: Empowerment literally means making someone powerful, facilitating the weak to attain strength, to increase one's self-esteem, to help someone to be assertive/self-confidence ,to enable someone to confront injustice and oppression and to support someone to fight to her right. The most conspicuous feature of the term empowerment is that it contains within it the word power. So obviously, empowerment is about power, about changing the balance of power, or about the balanced distribution of power between men and women. In every society, there are powerful and powerless groups. Power is exercised in social, economic and political relations between individuals and groups. Empowerment is sometimes associated with, a cluster of distinct but frequently overlapping concepts, including rights, interest, autonomy, agency, well-being, equality, power and powerlessness.

Women empowerment: Women empowerment has a regulatory function with regard to the control exercised by men over women. By regulating the power distribution among men and women, the process of empowerment liberates women from the age old culture of submission and subjection to the patriarchal force. Empowerment is essential a transition from a position of enforcing powerlessness

to one of power. Empowerment of women's is constructed as providing them with a sufficient degree of control, to give them decision making powers, to enable them to raise the level of consciousness of their class and enhance to their gender status and rightful entitlement. Women empowerment is a debatable subject. At earlier time they were getting equal status with men. But they had faced some difficulties during post-Vedic and epic ages. Many a time they were treated as slave. From early twenty century (national movement) their statuses have been changed slowly and gradually. In this regard, we mentioned the name of the British people. After then, independence of India, the constitution makers and national leaders strongly demand equal social position of women's with men.

In spite of women contribution in all spheres of life and they enjoy a unique position in every society and country of the world, but they suffer in silence and belong to a class which is in a disadvantaged position on account of several barriers and impediments. India, being a country of paradoxes, is no exception. Here too, women, a personification of Shakti, once given a dignified status, are in need of empowerment. Women's empowerment in legal, social, political and economic requires to be enhanced. However, empowerment and equality are based on the gender sensitivity of society towards their problems. The

intensification of women's issues and rights movement all over the world are reflected in the form of the various Conventions passed by the United Nations.

The India polity more or less has always tried to cope with the contemporary need – based development of laws for the specified purposes. It may be in the field of Human Rights, Politics, Civil Rights, Constitutional Rights or Social Transfer. Still the judiciary always inspires directly or indirectly to meet the challenges as per need, either by precedents, directions or suggestions etc. The Supreme Court in a case¹ observed that “it is well accepted by thinkers, philosophers and academicians that if *Justice, Liberty, Equality And Fraternity*, including social, economic and political justice, the golden goals set out by the Preamble of the Constitution, are to be achieved; the Indian polity has to be educated and educated with excellence. This is because the Constitution is not to be construed as a mere law, but as the machinery by which laws are made. The Constitution is a living and organic thing which, of all instruments has the greatest claim to be constructed broadly and liberally.

Constitutional Provisions: The Constitution of India not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favor of women for neutralizing the cumulative social economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.

Constitutional Privileges

1. Equality before law for women (Article 14)
2. The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of Birth or any of them (Article 15 (i))
3. The State to make any special provision in favour of women and children (Article 15 (3))
4. Equality of opportunity for all citizens in matters relating to employment or appointment to any office Under the State (Article 16)
5. The State to direct its policy towards securing for men and women equally the right to an adequate Means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d))
6. To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme 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 (Article 39 A)

7. The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
8. The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46)
9. The State to raise the level of nutrition and the standard of living of its people (Article 47)
10. To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51(A) (e))
11. Not less than one-third (including the number of seats reserved for women belonging to the Schedule Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (Article 243 D(3))
12. Not less than one- third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women (Article 243 D (4))
13. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (Article 243 T (3))
14. Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide (Article 243 T (4))

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women. Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women'. These are broadly classified under two categories.

(1) The Crimes Identified Under the Indian Penal Code (IPC)

- Rape (Sec. 376 IPC)
- Kidnapping & Abduction for different purposes (Sec. 363-373)
- Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)

- (iv) Torture, both mental and physical (Sec. 498-A IPC)
 - Molestation (Sec. 354 IPC)
 - (vi) Sexual Harassment (Sec. 509 IPC)
 - (vii) Importation of girls (up to 21 years of age)
- (2) The Crimes identified under the Special Laws (SLL)

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts which have special provisions to safeguard women and their interests are:

- The Employees State Insurance Act, 1948
- The Plantation Labour Act, 1951
- The Family Courts Act, 1954
- The Special Marriage Act, 1954
- The Hindu Marriage Act, 1955
- The Hindu Succession Act, 1956 with amendment in 2005
- Immoral Traffic (Prevention) Act, 1956
- The Maternity Benefit Act, 1961 (Amended in 1995)
- Dowry Prohibition Act, 1961
- The Medical Termination of Pregnancy Act, 1971
- The Contract Labour (Regulation and Abolition) Act, 1976
- The Equal Remuneration Act, 1976
- The Prohibition of Child Marriage Act, 2006
- The Criminal Law (Amendment) Act, 1983
- The Factories (Amendment) Act, 1986
- Indecent Representation of Women (Prohibition) Act, 1986
- Commission of Sati (Prevention) Act, 1987
- The Protection of Women from Domestic Violence Act, 2005

Special Initiatives For Women

1. National Commission for Women: In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.
2. Reservation for Women in Local Self - Government: The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.
3. The National Plan of Action for the Girl Child (1991-2000): The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

4. National Policy for the Empowerment of Women, 2001: The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a "National Policy for the Empowerment of Women" in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

The 73rd amendment to the constitution in December, 1992 and the subsequent education and training intervention, which have been made initiated, are a good beginning in the process of political empowerment of women. Women are empowered by the provision of 33% reservation in the Panchayat. The SCs, STs and OBC are empowered by reservation in legislatures and services.

The NNP (1988-2000) is a long term policy document for development of women. 'Shram Shakti'-a report of a national commission on self-employed women (1987) examined the issues facing women in the unorganized sector and made recommendation for betterment, of women. National Expert Committee on Women Prisoners (1986) examined the conditions of women prisoners. National Nutrition Policy (NNP), 1993 articulated nutritional considerations and identified measures necessary to improve nutritional status of women and children. National Plan of Action for Girl Child (1991-2000) is an integrated multi-sectoral plan with special gender sensitivity for girl children and adolescent girls. National Policy on Education 1986, National Health Policy 1983 and National commission for women's act 1990 are other programmes which have influenced the welfare of women in different ways.

Under the Department of Women and Child Welfare, Ministry of Human Resource development to provide technical, institutional, organisational and social support to poor women working in the selected sectors such as agriculture, dairy, fisheries, small animal husbandry, trade and village industries, handlooms, handicrafts and sericulture. Besides providing financial support for income generating activities, DWACRA aims to increase women's access to other government programmes and welfare services. The Mahila Mandals program began in 1954 with the objective of providing women training in better methods of household management. The objective of women development programmes WDP is to empower women through information, education, and training and to enable them to recognise and improve their social and economic status.

The DWCD prepares plans and policies and programmes, enacts/amends legislations and coordinates both the government and non-government effort in the field of women and child development. The department has also been keen in

formulating certain innovation programmes for women and children from time to time. These programmes include welfare and support services, training for employment and income generating, awareness generation and gender sensitisation. The ultimate objectives of these programmes is to ensure the empowerment of women both economically and socially, making them equal partner in national development along with men

The government of India has ratified various international conventions and human rights instruments committing to secure equal rights to women. These are CEDAW (1993), the Mexico Plan of

Action (1975), the Nairobi Forward Looking Strategies (1985), the Beijing Declaration as well as the platform for Action (1995) and other such instruments. The year of 2001 was observed as the year of women's empowerment. During the year, a landmark document has been adopted, 'the National Policy for the empowerment of women.' For the beneficiaries of the women, the government has been adopted different schemes and programs i.e. the National Credit Fund for Women (1993), Food and Nutrition Board (FNB), Information and Mass Education (IME) etc.

Reference:

1. A.V.Dicey. *'Introduction to the study of the law of the constitution by*
2. *73rd and 74th Amendments of the constitution'*
3. Dhruva Hazarika. *'Women Empowerment in India: A Brief Discussion', International Journal of Educational Planning & Administration, ISSN 2249-3093 Volume 1, Number 3 (2011), pp.199-202*
4. Hazarika, Dhruva; *International Journal of Educational Planning & Administration. ISSN 2249-3093 Volume 1, Number 3 (2011), pp. 199-202 © Research India Publications <http://www.ripublication.com/ijepa.htm>*
5. Hajira Kumar, Jaimon Varghese. *'Women's Empowerment issues, challenges and strategies', Regency publication, 2005.*
6. Kamaluddin Khan. *'Constitution of India and Women Empowerment'*.
7. Kaushik, P.D; *Women's Rights: Access to Justice.- Bookwell, New Delhi, 2007.*
8. Pruthi, Raj kKumar ; Devi, Rameshwari and Romila Pruthi. *'Status and Empowerment of Women in India'.- Mangal Deep Publication, Jaipur, 2011. Volume 3.*
9. Shamim Asmat, Chanda Devi. *'Women Empowerment in India', Mittal publication, 2012.*
10. Sahay, Sushma; *Women and Empowerment: Approaches and Strategies.- Discovery publishing house, New Delhi, 1998.*

Mohd Nadeem Khan/Research Scholar/Centre for Women's Studies/A.M.U, Aligarh/