



PROTECTIVE DISCRIMINATION AND WOMEN IN INDIA

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Abstract

After independence, there has been a lot of corrective changes in the state of Indian women. After 78 years of independence, if we discuss the acts made to prevent discrimination against women from a legal point of view, then it is clearly reflected that a lot of laws should be made to maintain the dignified state of women in our country. But have gone in the absence of adequate legal education, they do not get information about laws. Even most women do not know what rights they have. In this presented research paper, the rights made to prevent the upliftment of women and protective discrimination against them have been discussed.

Introduction

From the ancient era to the present era, the saga of women's struggle is very long. It has been said that the only person that has been in subjugation for a thousand years is "woman". For this reason, the woman has also been called the "final colonial". One of the greatest poets of India, Dr. Rabindranath Tagore has shown the pain and inequality of the situation before half a century in these words:

"Lord, why did you not give women the right to conquer her fate?

Why does he have to wait by bowing his head?

She is waiting for a miracle of yesterday, on the side of the road".

Both men and women are important components of society and their mutual understanding and cooperation contribute equally to guide the activities of the world. But it is the most unfortunate that in almost all societies of the world, women have to face inferiority status than men. The situation of women on a large scale in family and society was not better than maids and was

generally treated- unable to enjoy any rights as a human being. Many times, he was condemned to be under his father, husband and parents. Under the old Christian law, the woman was not even considered as a 'person'. Thus, she had no right to humans- as she could not learn a college education, she could not be nominated as a physician or lawyer for this reason. By the eighteenth century, he had no right to vote in Christian countries. The movement of women usually began in the 18th century because people were convinced that laws have been misbehaved. The feminist movement is particularly associated with the call of women franchise in the 19th -century reform movement.

Women in India are still trying for the right to uplift and equality. However, the condition of women in the whole world, especially in South Asia and India, is serious and underdeveloped. Now the time has come to assess and analyse the entire status of women in India. India has a long history of suffering and exploitation of women. Women have been victims of violence and at the same time, they faced both physical and mental discrimination, exploitation and torture not only in the male society but also within the four walls of the family, which deteriorated the balance in our society.

In ancient India, women had the same status as men in all areas of life. Hymn XXI Stotra of the Rigveda praises the qualities of a woman more than a man. In the concept of Ardhanari-Swara, the story of a woman's equality is shown in the Vedic period only by describing the head of God as half a man and half a woman. The Shakti-cult also focuses on the destructive power and superiority of women. But the situation of women began to decline with some memories, especially Manusmriti.

According to Manusmriti: "Women are not worthy of freedom".

It also reduced the freedom of the woman, which can be found in her famous theory like;

".....A woman should have a shadow of her father in childhood, her husband in puberty and her son in old age".

When Muslims invaded India, their situation became the worst during the eleventh century. During that period, women were forcibly taken and sold in markets outside India like an object. Therefore, the eleventh century can be called the darkest era for women, where the woman never achieved freedom and equality like Vedic-era. The condition of women was also pathetic at the beginning of British rule. The British believed in the minimum intervention policy in the religious sentiments of the original inhabitants. As a result, social reforms in women's position slowed down for another century until the attainment of freedom.

The movement of women's liberation and social hierarchy gained momentum in the twentieth century. The constitution makers of India made special provisions for women and tried to awaken a new confidence in them, which worked as a catalyst for the revolution against the wrong attitude of the society. The Indian Constitution is a national charter to end injustice and inequality in relation to women that have been facing gross slavery, sustainable discrimination and centuries -old injustice. No other constitution of the world is so sensitive to gender justice as the Indian Constitution. The major concern of the constitution makers was to ensure equality. There are various weaker sections of citizens in our country and this objective is not fulfilled by the general section of equality in the Constitution. Therefore, special constitutional protection was necessary for the weaker sections of the society. The constitution makers were well aware of uneven behaviour with gender discrimination which has been going on since time immemorial. Therefore, the Constitution of India not only guarantees equality before the law and equal protection to women but also gives them some positive and protective rights. To ensure equality of the status and opportunity of all citizens of India and to bring women's rights equal to men, our Constitution authorizes preference behaviour in favour of women through protective discrimination.

Protective discrimination is a policy of giving privileges to Dalit and deprived weaker sections of society, usually women. These are positive action programs and its practice is the most prominent in India, where it has been vested in the Constitution and made institutional. According to the constitutional plan, the proposal of providing equality of status and opportunity has been given concrete form by provisions of Article 14, 15 and 16. Articles 14, 15 and 16 of the Indian Constitution form a code related to the target of equality. Article 14 guarantees the principle of equality in general terms and it is more specific as the example described in Article 15 and 16. The concept of protective discrimination is embedded in Article 15 (3). The concept of protective discrimination is an exception to the general rule of equality contained under Article 14 in its nature. But it may not be allowed to operate protective discrimination in such a way that the fundamental concept of equality is destroyed to a great extent.

Provisions for Women under Indian Constitution

In the Preamble of the Indian Constitution, the provisions of gender equality are installed in the Constitution of India, in Fundamental Rights, Fundamental Duties and in Directive Principles. In the following provisions of the Constitution of India, a reference to equality

between men and women can be found: Part III guarantees the fundamental rights of men and women.

I. Article 14 guarantees the right to equality.

II. Article 15 states that no discrimination will be done on the basis of religion, origin, gender or birth place.

IV. Article 16 provides the right to equality of opportunity in matters of public employment.

V. Article 21 protects life and personal freedom.

VI. Article 23 guarantees authority against human trafficking.

Part of the Constitution IV belongs to the state policy directives principles and directives principles which are directly a matter of concern for women and based on their status.

VII. Article 39 (a)- The right to adequate means of livelihood equally for men and women.

VIII. Article 39 (d) - Equal pay for equal work for both men and women.

IX. Article 39 (e) - Protection of health and strength of male and female workers and children.

X. Article 42- Provision for justified and human conditions and maternity relief of work.

XI. Article 51 (A) (e) of fundamental duties performs duty on every citizen of India to renounce the abusive practices for the dignity of women. This was introduced by the 42nd amendment of the Constitution of India.

XII. Article 243 - Constitution (73rd Amendment Act 1992) envisaged reservation of seats for women in panchayats. This amendment was especially done to improve the condition of women at the rural level and thus, women were given opportunity in the political field.

XIII. Article 325 - Regardless of gender, all citizens guarantee the right to vote.

Legal provision

Various Acts have been passed by the state for the prevention of protective discrimination against women, so that women can get equal rights and protect against social discrimination.

1. Provision of Indian Penal Code 1860: Arrangements have also been made against the atrocities and cruelty on women. Cases affecting specificity and virtue have been banned under Section 292 to 294. According to this, if someone displays naked pictures of women or sells or performs a bang, then such a person has a punishment of up to two years and a fine of up to 2 thousand rupees or punishment.

2. Section 312 to 318 provides for miscarriage, damage to infants, leaving infants unprotected and hiding births.

3. Under Section 354, if a person dissolves the shame of a woman or uses criminal force for the purpose of doing it, then there is a provision of punishment of 2 years or penalty or both.
4. According to Section 361, if a woman is under 18 years of age and a person takes her to the mentor of her vivid patron without consent or lured, then that person will be guilty of convictions and in sections 363 to 366, a provision of punishment has been made.
5. Under Section 372, if a woman below 18 years of age is sold for the purpose of a prostitution, a person convicted can be punished up to 10 years and a fine of or both.
6. Section 375 defines rape and Section 376 provides for punishment for rape.
7. Section 498 (a) provides that if a husband or a relative of a relative mercilessly misbehaves with a married wife or tortures him for dowry, the court can punish him up to 2 years.
8. Under Section 509, if a person says a word with the intention of disrespecting the shame of a woman, someone defers or displays an object or does something to act that encroaches a woman's solitude if there is an encroachment such a person will be punished with a sentence of up to one year and a fine or both.

Additionally, the fundamental rights and policy of directives of our Constitution have made extensive security in favour of women.

India has also objected to various international concepts and human rights documents committed to ensure equal rights of women, including convention in 1993, including convention related to the abolition of all kinds of discrimination against women.

The Indian Parliament has also enacted various constitutions to deal with women's problems in the light of various international and regional agreements. Many important laws have been enacted to protect the interests of women before independence and even after independence.

The Hindu Succession Act (1956), The Hindu adoption and maintenance Act (1956), The Suppression of immoral Traffic in women and girls Act (1956), The Hindu Minority and Guardianship Act (1956), The Dowry Prohibition Act (1961), The Maternity Benefit Act (1961) are land mark achievement in the social development. The National Commission for Women was established to achieve the objectives of empowerment of women in 1992 continued with gender equality in social development providing a platform. There was a historical achievement to realize the nation's aspirations for development.

Although our Constitution and various other legislative acts and various commissions for women have made several efforts to achieve the objective of gender equality. Nevertheless,

in real behaviour, women are denied proper rights and they remain a victim of male domination. Violation of women's rights continues in behaviour. There is a lack of status and power in women and they are more represented among the poor. In India, a girl child, patriarchal and male dominated society is considered to be a creature from her infancy to adolescence, which will never contribute to family income and who is the property of the family at the time of marriage. A large part of it will take as dowry. Therefore, they are considered only burden and less valuable, resulting in less investment on food, inadequate care and nutritional development along with their education. As a result, there is a lack of political participation and educational achievements in women, which shows less representation in the fields of employment.

Low Political Participation of Women

The participation of Indian women in the political field began with the freedom movement. Mahatma Gandhi made serious efforts to awaken political consciousness among poor, illiterate women so that they could participate in the freedom movement. Political participation can be defined as a voluntary participation in political affairs, membership, voting and participation in political parties, legislative bodies or politically inspired movements. The Constitution of India guarantees adult franchise and provides full opportunities and structure to women to actively participate in politics. But it is sad that women have not taken sufficient advantage of constitutional provisions. Election data shows that almost the same number of men and women have participated in voting for the last two decades. The number of women filing nomination in any national or state elections is only a part of the number of men. But the percentage of candidates winning in Parliament in all previous elections has been relatively low of men. The same situation is in state assemblies. There has been no much change in half a century. Thus, it is clear that the number of women winning the election is so low that their percentage in the legislative body is nominal. Apart from political parties and Parliament, low representation of women in other areas of decision making also appears to be contradictory in a country like India. Political empowerment automatically follows economic empowerment; Therefore, it becomes mandatory for women's organizations as well as the Government of India to seek remedial measures to improve the political situation of women. The efforts of the governments to amend the Constitution of India to make a provision for reservation in the Legislatures of the country, some leaders are unable to take tangible forms due to insensitive behaviour towards gender equality, which expected to be committed to social justice.

Quota proposal for women Bill is a step towards bringing women into mainstream in politics, where they have been represented in the highest elected bodies at both national and regional levels, where they can discuss all the problems so that their prevention can be searched and thus get an opportunity to highlight them on the national and regional platform. Women will remain neglected, without proper representation of women in legislative bodies and political participation at all levels.

Educational backwardness of women in India

Education expands opportunities for women, equip them to choose more informed options, empowering them to oppose harassment and enables them to claim their rights. The right is associated with other basic human rights including the right to freedom, the right to work and the right to participate in the decisions affecting a community themselves. But not only between men and women but also between rural and urban women have a widespread difference between literacy rate. Even today, women lack the basic potential to read and write. Compared to boys, in schools' enrolment of very few girls, and many of them leave schools. Women's literacy rates in rural and urban areas have been continuously low. Girls get very few opportunities for schooling compared to boys. The basic features available for women have other shortcomings, which encourage their natural talent for proper participation in the social functions of the community. According to a 1998 report by the United States Department of Commerce, the main obstacles for women's education in India, such as insufficient school facilities, shortage of female teachers and gender distinctions in the course. Opportunities in higher education and professional training are less for young women than young men. Indeed, gender prejudice in higher education and professional training is based on supernatural ideas that the "provinces" of men and women are just different.

Low representation of women in employment

The Constitution of India provides equality of opportunity to all matters related to employment or appointment in any office under the state. Article 39 of the Constitution orders the state to direct its policy that citizens- men and women are equally reserved for adequate means of livelihood. The Uniform Recruitment Act prevents discrimination against women at the time of recruitment or after recruitment in their service conditions. The same remuneration act attempts to ensure equal remuneration to male and female workers in establishments that perform the same work and equal nature. Despite all these constitutional security measures provided in favour of women, the ratio of the female workforce is much less than the male

workforce. In addition, women workers face lack of wages, working status and welfare benefits like their counterparts in the organized sector. Work participation rates between men and women have widespread inequality.

Conclusion

Women in India have been marginalized, poor and socially excluded. Fast fall in teen sex ratio; Continuous high maternal mortality and infant mortality; High gender difference in literacy at all levels; High rate of leaving studies among girl students; and increasing incidence of crime against women; Inadequate access to women for property rights and employment opportunities; and raises many questions about the role of institutional machinery to implement their low political participation and minority law. Obviously, women need to remove the laws and lack of constitutional provisions that guarantee the place of respect and equality. Secondly, there are large bureaucratic at the centre and state levels there is a wide network of institutions that have the responsibility of raising the position of women on their shoulders. Nevertheless, on the one hand there is still a very widespread difference between the constitution, legislation, policies, schemes, programs and the targets propounded in the related mechanisms and the status reality of the status of women in India on the other hand. This is due to a slow, expensive legal system that is procedurally biased against women. Therefore, existing laws and policies are not enough to deal with the threat of inequality. The educational and economic freedom of women is the most important to convert women's liberation and their legitimate equality into real equality. This can lead to complete development of women. This goal of economic freedom and empowerment of women can be achieved only through beneficial employment opportunities. Beneficial employment of women, especially in more rewarding businesses, will clearly play a role in improving the condition of women, especially in increasing their status and status in society. To achieve this objective, it is the demand of the hour to enact a comprehensive reservation law to provide reservation in political, educational and employment to women.

Suggestion

Further suggestions we want to suggest are as follows:

1. Due to the weaker section of the society, women should be included in the list of beneficiaries of reservation policy.
2. The education of women should be given priority by amending the Constitution of India.
3. Women should be given free consultation, guidance and coaching to take advantage of better career opportunities at the higher educational level.

4. The Representation of the People Act, 1951 should be amended so that political parties can be forced to provide compulsory nomination of women candidates for at least one-third of seats to avoid cancellation of recognition as a national party.
5. All women organizations should come on a common platform and their only goal should support political parties to support the passage of reservation bill or to face the anger of women voters in the next general elections.
6. Print and electronic media can play an important role in creating awareness in society. It can act as an agent of political socialization to develop gender equality and values of gender justice.

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