



CONSTITUTIONAL PROVISIONS FOR EQUALITY OF WOMEN: EDUCATION AND LEGAL PROVISIONS

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ABSTRACT

Gender equality is one of the main aspects in self-reported happiness and well-being in the international world. Gender equality term denotes to the equal opportunities, responsibilities and rights of both feminine and masculine genders. Recognizing the urgent need, gender equality is most significant part of the Indian Constitution for every citizen. The fundamental code and principle of gender equality is enshrined in the Preamble of the Constitution which is reinforced by the Fundamental Duties, Fundamental Rights and Directive Principles. Through the instrument of the Constitution women are empowered by the various states through the measures of positive discrimination for the well-being of women. The present paper focuses on the constitutional provisions made for the development and better treatment of women in every aspect of life. This study is done on the basis of secondary sources of data.

Keywords: *Gender, Constitution, Equality, women, Rights.*

INTRODUCTION

The term “Gender equality” refers to the equal right; opportunities and responsibilities of men and women and boys and girls. Gender equality does not indicate that women and men will be equal or become equal, but moderately gender's human rights, duties, obligations, opportunities and commitments will be self-determining of the other's gender rights at birth. Equality of the gender implies that the interest, needs and priorities of both men and women are taken into account recognizing the diversities of different groups of people. Given the necessity, the Indian Constitution places a high priority on the equality of gender. The Indian constitution and its Preamble, Fundamental Duties, Fundamental Rights and Directive Principles of state policy do preserve the equality of the gender. The states are asked to take measures to preserve and enshrine constructive and positive discrimination in



favour of the well-being of girls and women in India. This article highlights the real position and condition of women before and after the Independence, and portrays the actual legal, real situation of women during the Vedic era, Post Vedic period and also medial era.

WOMEN AT VEDIC PERIOD

The real situation and position of feminine gender during the Vedic era was wonderful and glorious on account of equality and freedom of expression. Women participated in every aspect of life and seemed to have enjoyed a comparatively higher status in comparison with the later period of time in the history. The great women who were the frontrunners in the society are Apala, Yamini, Gargi, Visvara and Ghosastole. In Vedic period, there even some of the female scholars were also mentioned such as Gargi and Maitreyi, who took part in intellectual and philosophical debates.

Sati, Child Marriages and co-education of the girls and boys were the rule of the time. Women were allowed to perform sacrifices individually and independently and the impediments were not regarded and considered in most of the ritual and practices. Though the purdah system was absent yet the dowry and polygamy systems and practices were prevalent during this era particularly among the ruling elite societies. Remarriages of widows were permitted and no prejudices and discriminations of bias against boys and girls were absent. There was absence of the purdah system. However, the system of polygamy and dowry was only prevalent in the ruling elites. There was no prohibition in the remarriage of widow and prejudice against boys and girls were present.

POSITION OF WOMEN AT POST-VEDIC PERIOD

During this period, the girls and women obligated to endure severe adversities and limitations as propounded by Manu. By elevating the status of men, he sought to establish a society dominated by men. The family's reaction to the birth of a girl kid was one of calamity. Girls were kept at distance from getting education. During this period, pre-puberty marriage system became more common and widowhood was sometimes seen as a social stigma. The development of stringent caste hierarchies and the publication of Dharmashastra scriptures emphasized more restrictive social roles for women. The ruling class girls were permitted to get educational schooling, training in military service and science, fine arts and administration to some level. During this Vedic Period, the idea of "stridhan" prevailed and the right to property for women was accepted and recognized.



WOMEN'S POSITION DURING THE MEDIEVAL PERIOD

During the medieval period women were degraded and this era was marked by the foreign invasions of India by the Huns and Alexander, the influences of Islamic practices and the cultural paradigm. The security threats and adversities were caused by the invading soldiers in all areas of the country as a result, women were afraid of coming out and placed behind the walls and veils. Women and girls were not given the chances of getting education and their community participation as well as individual participation in the community gatherings and affairs was not allowed. Society witnessed many social evils such as sati, child marriages and female infanticide during this period while social curses such as Devadasi, dowry systems, and polygamy kept women under pressure and constant unrest in their life.

BRITISH ERA AND WOMEN SITUATION

Notably, during the British era, the situation and position of women and girls had shifts and changes because of the westernization of the socio-cultural aspects of the Indian society. The various notions such as liberty, individual secularism and equality came up during this period and yet they were restricted to the ruling classes only. British introduced modern education system that provided limited opportunities for girls to access formal education, albeit in smaller numbers compared to boys. On the contrary, the British administration often displayed a lack of understanding of local customs and traditions, leading to policies that were insensitive to the complexities of Indian society. So, British colonialism impact on women's lives was complex and multifaceted. During the British regime, two major movements attracted the attention of everyone in the society. They are Social Reform Movement and Nationalist Movement.

SOCIAL REFORMS MOVEMENT

During the 19th century, social reforms movement emerged and dealt with the issue of women equal status in the society. Many social reformers were concerned about the social problems and challenges including prohibition of re marriage, sati, child marriage, refusal to give right to property to women and denial of right to education for girls and women in the Indian culture and society. M.K. Gandhi, the father of the nation powerfully criticized many social evil systems of sati, Devadasi system, child marriages and preventing the remarriage of widows.



NATIONALIST MOVEMENT

The movement of the nationalist attracted and got the attention of the society to impart and to instill confidence, respect and sense of security among the women to create the awareness against the oppressive culture and raise their voice against social evils degrading them. All India Women's Conference took place in 1972 and it was most significant for proving to moving the society to give right to equality and respect to women at large. The social reformers intended to fight against societal evils and ills, paved the ways to bring forth various laws such as Child Marriage Act, Widow's Remarriage Act and the Hindu Women's Right to Property Act.

EQUALITY OF WOMEN IN THE INDIAN CONSTITUTIONS

The Constitutions of India in 1950 made several provisions targeting at the equality for women and fighting and raising voices against gender-based discriminations. It provides several provisions for the development, growth, empowerment and treatment of every female gender in all aspects of life in the country. The preamble is the fundamental and vital to the Indian Constitution which does not create or discriminate women from men but always maintain equal treatment for both genders. The suppression and oppression of women in the Indian history is an old concept. This notion of suppression gradually was given up and it paved the way for the upliftment and provision of equal status for women. Despite the fact that it does not explicitly address gender equality, it does lay the foundation for "the equality of status and opportunity" to all citizens, including women.

FUNDAMENTAL RIGHTS IN INDIA

The third part of the constitution highlights the fundamental rights and the articles 12 to 35 ensure the fundamental rights of all citizens without any bias of sex. Though the rights protect both genders of Indian society, yet certain sections of the provisions likely protect the women. For example:

- ❖ **Article 15 (1)** safeguards prohibition of discrimination on various grounds including sex.
- ❖ **Article 15 (2)** forbids gender-based discrimination in public places and establishments such as hotels, stores, restaurants, theaters and other entertainment areas.



- ❖ **Article 15 (3)** presents the prevention of discrimination on the basis of race, religion, sex, caste or place of birth and should not prevent the various states from creating and making special provisions for children and women.
- ❖ **Article 16** guarantees equality of opportunities in all matters of general public employment and prevents discrimination on the basis of sex or sexual orientation.

It is to be understood and noted that constitutional provisions ensure all the right to women and girls which are specifically provided for them. The list of fundamental rights provided the constitution are: Right to equality, Right to equality, Right to Freedom, Right against Exploitation, Right to freedom of Religion, Cultural and Educational Rights, Right to constitutional remedies.

DIRECTIVE PRINCIPLES OF STATE POLICY AND WOMEN

The directive principles of State Policy in the Indian constitution, reflects the governance of India as a country and ensures that it is a democratic and welfare state. This policy demands for the equal employment rights, adequate means and dignified livelihood, equal compensation for work for both genders in and democratic manner.

Article 39 (a) describes that the state needs to direct its policy and welfares towards all securing equal right to adequate means of livelihood and life style in all economic matters emphasizing the principle of gender equality in all aspects of life.

Article 39 (d) states that there should be equal payment for equal labour for both women and men.

Article 39 (e) of the constitution presents that strength of workers and the health of the workers that is women and men as well as that of their children of underage needed to be equally safeguarded.

Article 42 of the directive principles of state policy directs all States to establish policies that offer fair as well as compassionating better working conditions of work and maternity relief measures for women at all times.

Article 44 urges that the government must work to ensure that every Indian citizen has access to a civil code that is consistent across the country. But women still experience inequalities and injustice.



LEGAL PROVISIONS

To maintain the constitutional mandate, the state have had passed a various legislative policies and measures meant to guarantee equal rights, combat social discriminating evils of the society, different forms of atrocities and violence as well as to offer support services, particularly to working women. Although women can become victims of any crime, including murder, robbery, and infidelity, etc. Crimes against women are those that are committed especially with the intention of harming a woman.

Two broad categories of legal provisions are:

1) The crimes identified under the Indian Penal Code (IPC)

- a) Rape (Section 376 IPC)
- b) Kidnapping & Abduction for different purposes (Section 363-373)
- c) Homicide for Dowry, Dowry deaths or their attempts (section 302/304-B IPC)
- d) Torture, both mental and physical (Section 498- A IPC)
- e) Molestation (Section 354 IPC)
- f) Import of girls (up-to 21 years of age)

2) The crimes identified under the Special Laws (SLL)

The government of independent India adopted a number of legislative measures to safeguard the interests of women. Some of the acts such as Insurance Act, Labour Act, Immoral Traffic Act, and other acts which are making special provisions for protection and upholding their interests are presented below:

a) **The Employees State Insurance Act, 1948:** The purpose of this Act is to ensure financial assistance in instances of sickness, pregnancy, and disability as well as to provide medical services to workers at factories and other institutions.

Maternity Benefits: -The Act outlines regular compensation to insured women in the event of childbirth, a miscarriage, or a connected illness. Section 46 of the Act allows employees covered by it to request maternity benefits worth up to 70% of their income. Additionally, companies are not allowed to fire, suspend, or otherwise penalise an employee while they are receiving maternity benefits (Section 70).



b) **The Plantation Labour Act, 1951:** This act dealing with the aim of facilitating and providing the welfare of plantation, labour welfare measure along with the regulations to regulate the conditions of work in work places.

c) **The Immoral Traffic of Women and Girls (Prevention) Act, 1956** passed in the parliament and exclusively focuses on women and girl children. The immoral activity of prostitution or sex work is not only limited to the female gender as well as children but also the male gender is also covered under this act.

d) **Maternity Benefit Act, 1961** deals with job opportunities and employment of women in institutions/establishments for a particular period of time for the benefits of maternity and child birth giving benefits to both.

e) **The Dowry Prohibition Act, 1961:** It affirms that the receiving of dowry is an unlawful act and illegal activity during the marriage and thereby prevents the exploitation and selling of women and girls.

f) The Medical Termination of Pregnancy Act, 1971

g) Equal Remuneration Act, 1976

h) The Contract Labour (Regulation and Abolition) Act, 1976

i) The Criminal Law Amendment Act, 1983

j) Commission of Sati (Prevention) Act, 1987

k) The Protection of Women from Domestic Violence Act, 2005

l) Prohibition of Child Marriage Act, 2006

SPECIAL INITIATIVES

Some special initiatives for women are worth mentioning such as National Commission for Women (1992), Reservation for Women in Local-Self Government in (1992), The National Plan of Action for the Girl Child (1991-2000) and National Policy for Empowerment of Women (2001). All these initiatives taken by the Indian government and state governments are aimed at safeguarding the legal and constitutional provisions and rights, to regulate the rules and obligations for both genders to protect the women in the elected offices of urban and rural areas, for the development and growth of the girls' children and for their future survival and protection and they were also intended to bring up empowerment and advancement of female gender.



CONCLUSION

Women have contributed in many fields, yet they have nonetheless experienced prejudice on a variety of reasons. The policy makers of the constitution were responsible and sensitive to the issues and challenges confronted by women and provided special provisions for their safety, empowerment and betterment in the future. These constitutional provisions collectively aim to ensure gender equality, empower women, and eliminate discrimination based on gender. While these provisions establish the legal framework, their effective implementation requires concerted efforts from the government, society, and various stakeholders. Over the years, the interpretation of these provisions by the judicial systems which have been playing a significant role in shaping gender justice, gender equality, and equal payment and employment for all times to come in India.

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