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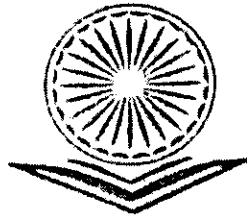
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5. Women Empowerment - Whether a Reality or Just a Castle in the Air ?

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"The fight is not for women's status but for human worth. The claim is not to end the inequality of women but to restore universal justice. The bid is not for the loaves and fishes for the forsaken gender but for cosmic harmony which never comes till woman comes"

Justice Krishns Iyer¹

Introduction

Indian Philosophy and Hindu Mythology, carve a beautiful picture of the women in the social arena and depict her to be fortress of knowledge, wealth and power. Reality shows that women have fought and still fighting for the real worth, and this struggle has contributed to mould a nation, into what we are today. Though she is worshiped as goddess in our culture on the other hand they are the most vulnerable and disadvantage class in the society.

The legal framework for protection of women Rights and the actual situation of women in Indian Society

Since ages women and protection of their rights is considered a secondary matter and women are largely thought to be just an "Object" rather than a "subject" of priority or protection. Her biological status has been the target point of the "patriarchal Society" which subjugated her to yield to the abuse and violence. National reports shows a grim picture of women in India, statistics of their birth ratio, their education, their abuse in the form foeticide, rapes, torture, domestic violence are all instances which show that women in Indian society do not even enjoy their basic rights as human beings.

Considering this pathetic situation question comes in mind about the sufficiency of laws, but the response is much positive with lot of legal framework. But the reality that bites is that women are made to suffer from "womb to Tomb"

International concern over women empowerment

The principles of equal right of men and women have been incorporated in the Universal Declaration of Human Rights. It says "All human beings are born free and equal in dignity and

rights". Also it says 'everyone is entitled to all the right and freedom set forth in this Declaration without distinction of any kind'. The competent organs to protect her rights are also established in the international scenario, in the form of The Commission on the Status of Women² and The Committee on the Elimination of Discrimination against women³ Other initiative such as International Women's Year⁴ and UN Decade for Women⁵ was observed to elevate her status.

Constitutional feminism

The Constitution of India safeguards women's right by putting her at par with men. The principle of the gender equality is enshrined in the Constitution in every part. However still there is a very wide gap between the goals incited on the one hand and the situational reality on the other. Constitution provides for 'Protective Discrimination.⁶ Traffic in human beings and beggar and other similar forms of forced labour are prohibited and any contravention of this provision shall be an offence punishable in accordance with law.⁷ The guidelines in governance provide for adequate means of livelihood⁸ and equal pay for equal work for both men and women.⁹ The State is also under duty to make provision for just and humane conditions of work and maternity relief.¹⁰ To make her stand for national development the provisions are also made for reservation in local governments. The officer of the Chairperson in the Panchayat in villages or municipalities un urban, at any level shall also be reserved for women in such manner.¹¹ The fundamental duty to renounce practices derogatory to the dignity of women is also provided in the law of the land.

The gender specific legislations also passed to provide every relief to her.

Female foeticide a social evil- To protect birth of girl child the legislature has taken care to curb the menace of and to maintain balanced gender ratio in the nation.¹² But statistic and UN (World Population Prospects 2017) shows that the gender ration in India in 2019 is 107.48 which mean there are 49,314,062¹³ more males than females. This gives a clear picture of atrocities on the female child in the form of foeticide

Menace of Immoral Traffic – women who are usually exploited for prostitution, immoral trafficking or illegal activities, in need of protection from such abuse and torture the Parliament has passed legislation.¹⁴ But ground reality shows that even today girls under 18 years age and women are trafficked in the whole country, especially the border areas for prostitution and are victimized without any bounds or limits. According to NCRB data of 2016, out of 15,379 persons trafficked 4,123 were girls.

Sexual Offences against minor girls- An Act¹⁵ specially protect the young minor girls from sexual harassment and torture is also in place which lays down stringent punishments for

the offenders. But in spite of such strict legislation to prevent sexual offences against children, especially girls there are 36,022¹⁶ cases in India in 2016 of sexual violence in India.

Domestic violence-The level of torture and harassment increases in her own house, where she is physically and verbally abused by her family members, husband and in-laws each and every day and hence to give her protection an Act¹⁷ is in place to stop such violence in all its forms and lays down punishment for the violence. Nonetheless, 30% of women in India in the age group of 15-19 have experienced violence. 99% of women do not even report domestic violence cases, due to the fear of loss of reputation that it may lead to her parent, if a bride makes a complaint against her husband or his family.

Sexual harassment at workplace- working women face sexual harassment which required a separate legislation, it received the support with the passing of POSH law¹⁸. till then they have to suffer silently, out of fear of being fired from their jobs or because their voice against sexual abuse may hamper their promotion and increments. This fact can be proved from the survey¹⁹ that 70% cases of Sexual Harassment were not reported.

There are various direct and indirect regulative and prohibitive legislations passed for her empowerment, for example the relief in the for maternity relief²⁰ to put an end to social evil of dowry²², to support her right to choice of conception provided her right to terminate the unwanted pregnancy²³, her indecent representation is legally prohibited²⁴. For proper implementation of the enactments for protection of women, government has established and initiated Commission for Women²⁵

Judicial Contribution in the Empowerment of Women

Our judiciary has always contributed to build a new Socio-economic order and played active role in fulfilling the dream of our Constitution makers. The judicial activist approach where in new judicial trends are observed show a concern of them. The Apex court has given several directions regarding sex selection and sex selective abortion and for proper implementation of enactment, saying female foeticide is a heinous act and indicator of violence against women^{26,27}. In another judgement²⁸, the Supreme court held that children of the prostitutes have the right to equality of opportunity, dignity, care, protection and rehabilitation so as to be a part of the social rehabilitation. While protecting rights of women workers held that women workers are in no way inferior to their male counterparts and hence there should be no discrimination on the ground of sex.²⁹ Further the Honorable Supreme Court in *Air India Vs Nargees Mirza*³⁰, struck down the provision of rules which stipulated termination of service of an air hostess on her pregnancy as it is arbitrary and abhorrent to nations of a civilized society.

In cases³¹, the Supreme court held that, rape is a crime against basic Human rights that even a woman of easy virtue is entitled to privacy and no one can evade her privacy. So also Supreme Court laid down guidelines for protection of women against sexual harassment at work place in case of Vishaka Vs state of Rajasthan³² and the same was also retreated in Medha Kotwal Lele Vs Union of India³³ to ensure safe work environment for women. Similarly court in Sheela Barse Vs State of Maharashtra³⁴ dealt with issue of mistreatment of women in police station and court laid down various guidelines for the protection of rights of women in custodial & correctional institutions. In The Chairmen Railway Authority Board & Ors Vs Mrs Chandrima Das and Ors.³⁵ court has awarded compensation of Rs 10 Lacs to the petition who was raped and suffered personal injustice due to acts committed by and negligence of the public functionaries and has laid down the foundation for Compensatory jurisprudence.

Forces Weakening the Legal Framework In India

Other than the social-cultural factors responsible for the hindering of women empowerment there are various loopholes in our system which can be regarded as major factor for the violation of women rights leading to abuse and violence against women which has been briefly highlighted below:

Lack of Proper Education and awareness creates fear about the formal legal system in the country

It is observed in domestic violence cases, harassment cases, abuse and torture; go unreported due to the fact that police regard such issues as family matter. On the one hand women fail to report violence committed against them mostly because it happens either from their own family member or due to fear of police personnel, corruption political pressure and cultural constraints. They prefer to suffer silently without raising their voice. The victims of sexual offences are not reported or followed due to stigmata and the repeated visits to court. It puts tremendous psychological pressure on victims hence they prefer to suffer silently than being harassed. Rural areas have their own peculiarity, where political threats or monetary benefits offered by the accused leads to the witnesses turning hostile, which in turn leads to acquittals, adding more sorrow and pain to the woman's grievances.

Weakness in Justice delivery system leads to increased violence against women³⁶

In Indian Judicial System standard of proof in criminal cases is very high, long pending cases resulting in almost 4-5 years for judgement, cross examination of women victims is more humiliating than crime itself and last but not the least is justice delayed is justice denied. As the case goes long and results are delayed it loosed deterrent effect for perpetrators.

Failure of the implementation Machinery in the legal system

As already discussed the justice delivery system in our country is very slow it takes many years to come for the final adjudication. As per the Economic Times report³⁷ 43 lakh cases are still pending in High Courts out of which 12 -15 lakh are criminal cases. The justice after a long break and no effective machinery to implement the orders and decrees passed by the courts adds to further deteriorations.

Conclusion

An overview of the concept of Empowerment of women in India in the context of International and national legal framework coupled with the judicial contribution though paint a colourful picture, the bitter truth still remains unchanged that, women are still in the shackles of serfdom and male domination is still a hurdle in their overall development and empowerment.

In spite of governmental policies to educate women and strengthen them economically by giving free education, low interest, bank loans for personal employment and start-up schemes, she is still economically dependent on the male family member, or those earning have no financial independence. They lack their right to decision-making in relation to their education employment, marriage, finance and even the reproductive choice. In this scenario women empowerment really appears to be a 'Myth' Though one may say that women entrepreneurs, scientists, doctors and the like have contributed in nation development, but still there are many things yet to be done.

Suggestions

Strong Legislative and Implementation Mechanism: Laws for protection of women and policies for their empowerment are numerous, but the need of the hour is a strong implementation machinery to enforce the laws.

Special Budgets for women Empowerment and Protection: Allocation of special funds for education, protection and promotion of women rights, free medical aid and advise, is to be made available in practice to every woman without hindrance.

A good example of such initiative can be found by the Delhi Government under the leadership of Chief Minister. Mr Arvind Kejriwal. For e.g. The Dehli government has allocated Rs 65 crores for setting up one stop centres. They have already set up one centre for rape victims, and are setting up more of their centres in district as per news updates of news18, as on Dec 5, 2019.

Change in the justice delivery system: Though there are many cases that have be rules in favour of women to protect and promote women rights, still there are many cases awaiting

judgements and many cases go unreported due to lengthy legal procedure. The pending death penalty for convicts of Nirbhaya (Delhi) is supportive in this context. For women a woman friendly procedure with less time consumption, financially less expensive, fully confidential is must, which would greatly contribute to create a reverse of security and freedom in the minds of the women and accelerate their progress.

Attitudinal Change – both in women and society: A change does not occur overnight. But unless and until the society changes its outlook towards the women and treat her more like human being than a woman full of human rights. Last but not the least attitudinal changes of women more in themselves will ignite the spark for their own empowerment and progress. Women have to first shun the thought about her being 'weaker sex' 'a secondary citizen', It is the women who have to empower themselves internally and externally and overcome the hurdles.

Footnote

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3. Adopted by the General Assembly on 7 Nov. 1967
4. 1975
5. 1975 to 1985
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8. Article 39(a)
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