



INDIAN CONSTITUTION AND QUEST FOR WOMEN'S EMPOWERMENT

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Abstract

Women are the most sensitive part of Indian society in all aspect. From long time the Indian national leaders try to make various laws for the betterment of women. In the same way they opposed the negative traditions about women by making laws with the support of British government.

After independent there are so many steps have been forwarding towards the women's empowerment. Indian constitution is a unique document which has been providing a legal and structural instrument for the betterment of Indian society. Indian society is a mix-up of varieties of human groups. Most of the part of this society is far from basic rights and facilities. The history of Indian society is a full of sorrow, pain, exploitation, inequality and so on.

But the making of Indian constitution is a dream for the betterment of each and every person in this society. Women are a half of the part of this society. So the constitution focused by various its articles for the justice, equality and empowerment of women.

This paper discusses a relevant issue pertaining to the concept of social justice with reference to Indian perspective. The paper is focused mainly the issues of social justice through Women's Empowerment



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Introduction

The Indian Women faces various problems from the all corner of their life. Injustice is the main obstacle in the way of the process of their empowerment. Social Justice refers to the concept of a society in which justice is achieved in every aspect of society. A society which affords individual and group's fair treatment and a just share of the benefits of society. When we talk of contemporary issues in social justice in Indian context at least one most important issue namely women's empowerment crops up in the mind.

A step towards Empowerment of Women's

When the term empowerment is used it feels like there are some external sources of power, which are going to empower women. (Karl M.:1995) "Empowerment is a process and is not therefore something that can be given to people. Empowerment is achieved by people themselves through their own efforts." (Prasad R.R.: 2002) Although this debate is new but the issue is age old to unleash the power of women to be guardian of the state, Plato altogether abolishes the monogamous Marriage system for the guardians and guards. J.S. Mill

separately deals with “The subjection of women” in 19th century and proposes their equal voting rights as form of empowerment. But only in the later quarters of 20th century that it becomes a central issue. India starts specially by granting equal rights to both man and women but could not do much, but when we come to know that the mother of direct democracy Switzerland only grant right to vote in 1973, India’s position become more assuring.

After independence, the sheers and our constitution makers made comprehensive efforts to ensure the rights of women and prohibit their exploitation in all its forms. The reforms introduced by Dr. Ambedkar through "Hindu Code-bill" have been adhered to and have been accepted by and large. He, by codifying Hindu Law in respect of marriage, divorce and succession, rationalized and restored the dignity of women. Prior to the Hindu Succession Act, 1956 and Hindu Marriage Act, 1955, the Hindu Law was unmodified in large measures. Though, Hindu Women's Right to Property Act, 1937, was the subject of legislative intervention. The Sharda Act is also worth mentioning. It has set the seal of authority upon that piece of social reforms, which the heads of orthodoxy were imposing and impending.

In Hindu Code Bill, the principles of codification covered:

1. Right to property,
2. Order of succession to property,
3. Maintenance, marriage, divorce, adoption, minority and guardianship.

Needless to say, the Bill was a part of social engineering via law. It was by any standard of any time a revolutionary measure. It was really a first step towards the recognition and empowerment of women in Modern India. (AnandYashRaj:)

The Government of India had made Empowerment of Women as one of the principal objectives of the Ninth Five Year Plan (1997-2002) and also declared 2001 as the year of ‘Women's Empowerment’. These issues of gender equality are discussed in World Conferences, National and International Conferences, etc. Our Constitution has conferred and guaranteed equality before law, universal adult franchise and equal opportunities for men and women as fundamental rights. The imperative of gender partnership in matters of development has been recognised. In order to give a fillip to empowerment of women and appropriate institutional mechanisms and interventions have been consciously built into the development design. Separate institutions for women and child development, departments at

the Central and State levels, creation of the National Commission for Women and also State Commission for Women in several States are some of the important developments for the betterment and prosperity of women. The launching of RashtriyaMahilaKosh, Indira MahilaYojana, MahilaSamridhiYojana, reserving of one third of the number of seats in Panchayats and the local bodies are programmes launched with a view to improve and empower women socially, economically and on political frontiers.

India started some women specific schemes like D.W.C.R.A. in 1982, STEP in 1985-86, Swayamsidha Swa-shakhti, National women-Fund (swadhar), Manvee-Sanrakshan etc. (Civil Services Cronicle.: 2005) From the 10th Planar innovation has been Women-Bill 2004 and more importantly 'protection against domestic-violence act (2005); Which protects women against Physical, Mental and Psychological abuses, even its ambit has been increased to fight to safe housing'. But most effective and emphatic of all and the only real empowerment has been made possible by the August legislation of Panchayat Raj (73rd -74th amendment Bill-1993). For the First-time women are feeling dignified and confident by enjoying the power and sharing the responsibilities accruing from it though still there are Sarpunchs Fatima bi and Moddama of Andhra Pradesh, have already been awarded by U.N. for their sheer courage and innovative leadership. Despite being illiterate both were self respecting and had got the burning desire for social service.

Inspite of Many world class conference like U.N. Beijing Women Conference 1994 to many constitutional provisions, the state and status of women in India is really a matter of great concern, the following data support its:-

- a) Out 526 Supreme Court and High Court judges, only 16 are women.
- b) In Parliament, which is the main organ of Democracy and decision making only 10% women are there (15th Lok Sabha, Tomes of India, 17 May 2009)
- c) In last decade the share of women in organized sector has reduce to 2% from Previous 8%
- d) 96% of the total working women are engaged in un-organized sector; where they get 1/3rd salary of their male counter-parts and has No Social Security at all.
- e) At pre-Primary level out of 100 boys only 86 girls are enrolled.
- f) 80% reproductive women are anemic.
- g) In 2004 itself-
 - There have been 7000 reported dowry-deaths.
 - 19000 Raped (18124)

- 1,76,000, women have suffered from other crimes.

(Women rights groups maintain these figures of atrocities are only 10% of the actual.) (Civil Services Cronicle.: 2005)

What would be more shameful and painful that an honest most efficient police-officer like Kiran Bedi is denied the top-job in Delhi Police simply because she is women and she is compelled by this corrupt and venal system to apply for V.R.S.

All the schemes which are devised by men and all are afflicted by Gender-stereo types. These schemes are based on top-down approach and which are made on the presumption that the women are basically-home-makers. House-hold activities of women are not thought fit to be economically-Productive. Without disturbing the power-equation between men & women, these are just adhoc-palliatives. This whole view above mentioned represent one-type of solution to the question of empowerment, there is another which touches the other extreme and this is know as Feminism. The chief Proposals of feminism belongs to the realm of Negation of everything which is today with women, like-Marriages family and even society which has males. Of course many women have reached the Pinnacles of Powers but these are owing to their own efforts or some extraneous circumstances and not due to the process of empowerment. Women like Indira Gandhi, Indira Nooyi, Kanchan Bhattacharya, Kiran Bedi or Kalpana Chawala and Sunita PandyaWilliams or Mayawati etc. are some of the glowing examples and they atleast in still some confidence among other women but there is a lot needed to be done.(Panday& Upadhayay:2009)

Constitution of India and Women's Empowerment

The India polity more or less has a 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 judicially always inspires directly or indirectly to meet the challenges as per need, either by precedents, directions or suggestions etc. The Supreme Court in a case observed that “it is well accepted by thinkers, philosophers and academicians that if JUSTICS, 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.

Article 14 and 16 (A) of the Constitution intend to remove social and economic inequality to make equal opportunities available. In reality the right to social and economic justice envisaged in the Preamble and elongated in the Fundamental Rights and Directive Principles of the Constitution, in particular Articles 14, 15, 16, 21, 38, 39 and 46 are envisaged to make the equality of the life of the poor, disadvantaged and disabled citizens of the society, meaningful.

Further the Preamble which is invoked to determine the ambit of both fundamental rights and Directive Principles as observed by the Supreme Court in Various cases embraces all the new laws after make Constitution.

This reasons, why the Government organs owe origin to the Constitution and derive their authority from and discharge their responsibilities within the framework of the Constitution.

The Supreme Court in some cases held that the social justice enables the courts to uphold legislations to remove economic inequalities, to provide a decent standard of living to the working people and to protect the interests of the weaker sections of the society.

The democratic socialism aims to end poverty, ignorance, disease, and inequality of opportunity. This socialistic concept ought to be implemented in the true spirit of the Constitution. Article 14 is to be understood in the light of directive principles. Articles 14 guarantees equal treatment to persons who are equally situated.

Besides clause (3) of Articles 15, which permits special provision for women and children, has been widely resorted to and the courts have upheld the validity of special measures in legislation or executive orders favouring women. In particular, provisions in the criminal law, in favour of women, or in the procedural law discriminating in favour of women have been upheld. Article 21 spells that no person shall be deprived of his life or personal liberty except according to procedure established by law. This Article if read literally is a colorless Article and would be satisfy, at the moment, it is established by the State that there is a law which provides a procedure which has been followed by the impugned action. But the expression “procedure established by law” in Article has been judicially constructed as meaning a procedure which is reasonable, fair and just.

The right to life and the right to personal liberty in India have been guaranteed by a constitutional provision, which has received the widest possible interpretation. Under the canopy of Article 21 of the Constitution, so many rights have found shelter, growth and nourishment. An intelligent citizen would like to be aware of the development in this regard as they have evolved from precedents of courts. (Khan Kamaluddin: 2009) This Article lays down that no person shall be deprived of life or personal liberty, except according to procedure established by law. This Article, hence gives a positive effect by judicial interpretation. This right is a fundamental right, enforceable against the State, and Judicial decisions have imposed, on the State, several positive obligation.

A question arises while going through the constitutional provisions that why a constitutional provision arises on various subjects. Is the ordinary law not enough? To the answer it is true that Indian Penal Code contains adequate provision to punish a person who takes away or attempts to take away the life of another. But the impact of constitutional provision to take away the life of another. But the impact of constitutional provision lies in this respect, that by being elevated to the pedestal of a fundamental right, the right is placed beyond the reach of ordinary legislation inspired by political motives. Hence it can be said that the enumerative rights can derive from Article 21.

Article 39 (a) among other things provides that the State shall in particular, direct its policy towards securing that all citizens, men and women equally have the right to an adequate means of livelihood. This Article has been described as having the object of securing a welfare state may be utilized for construing provisions as to fundamental rights.

Further Article 51 A (e) imposes that duty of every citizen in India to renounce practices derogatory to the dignity of women.

Section 14 of the Hindu Succession Act, 1956 should be construed harmoniously with the constitutional goals of removing gender based discrimination and effectuating economic empowerment of Hindu women.

The right to elimination of gender based discrimination so as to attain economic empowerment, forms part of Universal Human Rights. Article 2 (f) of CEDAW States are obliged to take all appropriate measures; including legislation, to abolish or modify gender based discrimination in the existing laws, regulation, customs and practices that constitute discrimination against women. Article 15(3) of the Constitution of India positively protects such acts or actions. (Khan Kamaluddin: 2009)

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.

Conclusion:

In order to be truly empowered the women have to increase their Socio Economic Political participation. The Individual and collective involvement is very essential. For Freire rightly said- "The supreme touch stone of development is, whether the people who were previously treated as mere objects-known and acted upon; can now actively know and act-upon thereby becoming subjects of their own destiny." (Prasad R.R.: 2002)

Hope that India will provide a kind of Milieu, where women can know and act-upon there are two important conditions of empowerment-

- (a) Direct access to resources.
- (b) Involvement and influence in decision-making.

Again there are five parameters of measuring the empowerment.

- i. Whether-welfare is actually taking Place or not,
- ii. Conscientization.
- iii. Participation.
- iv. Control-over process and resources.
- v. Decision-making Power and control over it. (Prasad R.R.: 2002)

To conclude I would like to quote of Kroneberg J.B.M. (Empowerment of Poor) "With the Newly acquired, auto generated power of knowledge participants can influence the course of events to liberate themselves."

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