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Constitutional and legal provisions for womens in India

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Abstract

Human rights are those minimum rights which are compulsorily obtainable by every individual as he/she is a member of human family. The constitution of India also guarantees the equality of rights of men and women. However, in the sphere of women's human rights in India, there exists a wide gulf between theory and practice. Indian society is a male dominated society where men are always assumed to be superior to society. The women in India very often have to face discrimination, injustice and dishonor. Though women in India have been given more rights as compared to men, even then the condition of women in India is miserable. The paper will throw light on the human rights of women in India and that how all the fundamental rights given to the women are being violated in India, by focusing on the various crimes done against them.

Keywords: Human rights, constitution of India, discrimination, fundamental rights, women.

1. Introduction

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.

1. 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 socio 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

- Equality before law for women (Article 14)
- 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))
- The State to make any special provision in favour of women and children (Article 15 (3))
- Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
- 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))
- 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)
- The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)

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- 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)
- The State to raise the level of nutrition and the standard of living of its people (Article 47)
- 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))
- 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 Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (Article 243 D(3))
- 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))
- 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))
- 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))

2. LEGAL PROVISIONS

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)
- Torture, both mental and physical (Sec. 498-A IPC)
- Molestation (Sec. 354 IPC)
- Sexual Harassment (Sec. 509 IPC)
- 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 Labor 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 Labor (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

3. SPECIAL INITIATIVES FOR WOMEN

• *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.

• **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.

• **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.

• **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.

4. Conclusion

There has always been a discourse on women position in the historically of India and elsewhere, the global history has been one sided throughout its growth in terms of human rights. The history has always given a prime importance to man and his existence and never gave any chance to think of women rights. The state and human rights relations dominated the historical process without seeking any participation in the above concept for women. Lately, the concept of women rights has made its mark on the global horizon, and the globe has been endeavoring to protect women by protecting women rights. The modern states have done enormous efforts to empower women through legislations, Yet the clear concept of women might has not seen of the days. Despite lows to safeguard women rights, the rights are still continuously resolved at various levels, but my feeling deciphered after glossing over the rights history is that the human kind needs to be empowered in totality to be bacon for safe sastaianance of women rights on continuous basic at state and global level.

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