

Women Empowerment: A Critical Analysis



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Abstract

In ancient society, the status of the women was very high. They were mark of respect and had the decision making power but after that she was kept in four wall of house with no decision power, in fact treated as commodity. Later on due to many movements and efforts of many social reformers, the status of the women improved but not equal to man. In today scenario, the women have been given equal status in the Constitution and also in other laws. Legislatures have made many laws, Executive has made many policies and introduced many schemes and judiciary has given many decisions for not only uplifting the status of women but for her empowerment also. Even, UN The General assembly has made the 'women empowerment' as one of the goal in agenda 2030 .But even so many efforts, provisions, polices, judicial decisions, could not empowered the women in true sense. Even today, when the women has been given equal status in different laws, in reality specially in rural area she is not enjoying equal status and having no decision taking power. Even their right to vote, specially women of rural area's, is nominal right as they cast vote as per wishes of their father or husband. Although, different laws, polices, judicial decisions, different efforts could not bring the women empowerment in reality because of pateriarchical mind set of society, but due to these provisions women empowerment is there upto some extent. This empowerment has many merits which can led to not only overall development but also have some demerits which can be overcome with the cooperation and partnership of all, like of family members, normal public, government, NGOs, and of course by women themselves.

Keywords: Women Empowerment, Sustainable Development Goals, Agenda 2030, Constitution, Supreme Court, Partnership, NGOs (Non Government Organization).

Introduction

Empowering the women means give power to the women so that she can come forward in every field of life. This can be done by providing good education, raising awareness, Literacy and training. For empowerment of women, following steps have been taken at global and national level.

International Level

Although, various steps have been taken like policies framed, rules made etc. But in 2030, The General Assembly of United Nation has framed agenda 2030. In Agenda 2030, 17 Sustainable Development Goals and 169 target was framed to be achieved up to 2030. Among these goals one of the goal is to achieve 'Gender Equality and Women Empowerment. This aim consists:-

1. To end discrimination and violence against the women.
2. To eliminate practices like child, early and forceful marriage and female genital mutation.
3. To ensure partnership and full opportunities of leadership.
4. To Ensure universal and enhanced use of enabling technology particularly Information and communication technology.
5. To make sound policies and enforceable legislation for gender equality and women empowerment etc.

Objective of the Paper

The objectives of the paper are:-

1. To find out merits and demerits of Women Empowerment.
2. To give some suggestions for proper empowerment.

Research Methodology

This paper is based on pure doctrinal research. The researcher has visited various websites and library.

Hypothesis

Do the provisions made for women empowerment at International ,national level and executive's policies and judicial decision really brings women empowerment?

Review of Literature

In ancient time the status of the women was very high. They had the decision making power. Lives of those women, like Sati Anusueya, Devi Sita, Devi Aditi, etc.is still a role model for today's women. But later on women status in the society lowered down. Women was kept in four walls and their decision making power was taken away and treated like a commodity. She was not assumed a person and having no power to vote. But it was in 1920 that India accepted the application of Ms. Cornolia Sorabji as a person, for law education. Some of the social reformers, like Shri. Rajaram Mohan Rai played a very important role in upliftment of the status of women by removing Sati pratha, Pradha pratha etc. Women were also given right to vote, after a long struggle. In this way there was upliftment in the status of women and today her status is not less than man in law. But in reality , the women does not have equal status to man. Patriarchal mind set of society is not ready to give women equal status. Even today, in many families specially in rural area, important decisions are taken by men and even right to vote is exercised at the wishes of father or husband as the case may be.

Indian Constitutional Provisions**Preamble**

The preamble to the Indian Constitution aims to provide 'Equality' 'Justice', 'liberty's to improve fraternity among the people of India. This concept involves empowerment of the women so that they can be brought at equal status to the man. Even the social justice principle also requires the empowerment of the women. Other provisions, related to justification of special provision for women, are following:-

Article 14

Article 14 guarantees to every person 'Equality before law and equal protection of law' by the state within Indian Territory, which is a fundamental right provided in Indian Constitution. Equality before law has two aspects i.e. negative & positive. The negative aspect is restrictive aspect and it comprises Rule of law, State shall not discriminate between the individual unless justifiable and state shall treat all the persons equally i.e. equality among equals.

Rule of Law

The concept of rule of law is given by Prof. Dicey with respect to English law but it also implies in Indian context up to some extent. It means not an individual but law is supreme i.e. no individual is above the law rather everyone irrespective of his position and status is to be governed by law.

Non Discrimination

The state has been prevented by the Constitution to discriminate while applying the law and giving the benefit, among individuals on any unreasonable ground. The doctrine of non

discrimination is enshrined under Article 15 (1), 16(2)



and in 29 (2).

All individuals shall be treated equally by law

Equality before the law means individual shall be treated equally by laws but all individual are not equally placed for the purpose of equal application of laws. Therefore, individuals who are equally placed in the eyes of that particular law have to be found firstly. This process is called the classification. First of all, the purpose of law has to be seen and then, in the light of that purpose a reasonable differentia has to be determined as to be what should be criteria of differentiating between person to fall within domain of that law and the persons who are out of domain. Those criteria of differentiation must have related with the purpose of that law. Such person should be classified together and they shall all be treated equally by law. This is called doctrine of reasonable classification.

The real aim of Constitution i.e 'social justice' 'Equality' and Fraternity could not be attained by above guarantees but the state has to try to remove the existing inequalities and discrepancy in the society and for that purpose state shall play the role of welfare state by taking the positive actions. The existing social wrong in the society and also existence of vulnerable classes require the state to take positive action so that their protection and empowerment could be secured. In this way real aim of the Constitution, i.e. to develop fraternity' could be achieved. So, positive discrimination is constitutionally permissible. State has the duty to remove those circumstances which results into social injustice and prevent any social injustice that may be existed in the society

Equal Protection of law

Equal protection of law means benefits of law should be made available to all people and duty is caused upon the state to ensure that benefit is made available to all equally and without any discrimination. The state shall take proactive action to ensure all

vulnerable classes in the society get equal benefits of law and the other beneficial policies. The phrase 'equal protection of law impliedly includes proactive or positive discrimination.

Article 15

Under article 15, Guarantee of non discrimination on the ground of Religion, Race, Cast, Sex, Place of birth or any of them, is provided to the citizens only,. Clause (2) of Art 15 is a provision for social welfare and it applies upon state as well as private individual. Any place own by private individual but dedicated to public use has to be open to all people equally and there can't be any discrimination on the ground of Religion, Race, Cast, Sex, Place of birth or any of them.

Exception to Art 15 (1) and (2)**Clause (3)**

The state can make special provision for the upliftment of women and children which includes the steps for women empowerment.

Clause (4) the state can make any special provision for the advancement of socially and educationally backward classes of citizen or far Schedule Cast & Schedule tribes

Clause (5)

state can make provision for socially and educationally backward classes of citizen or far Schedule Cast & Schedule tribes in admission to educational institutions, including private ones whether aided or unaided by state, other than minority educational institution referred to in article 30 (1).

Clause (6)

103rd Constitutional amendment has added this new clause to provide 10% reservation to Economically weaker section of general category for admission to educational institutions including private educational institutions other than minority educational institution referred to in clause (1) of article 30.

Article 16

Art 16 guarantees equality of opportunities in the matter of employment to appointment to citizen'. Clause (2) of article 16 guarantee that there will neither discrimination nor ineligibility on the ground of Religion, Race, Cast, Sex, Descent, Place of birth, residence or any of them in respect of employment and office under the state.

Exception to 16(1) &16(2)

As per Clause (3), parliament can make a law prescribing any requirement as to residence within that state or Union Territory.

As per Clause (4) State can make special provision for the reservation of appointment or posts in the favour of any backward classes of citizens, which in the opinion of state are not adequately represented in the services under the state but efficiency of administration should not be affected. Relaxation in qualifying marks and standard of evaluation in both 'job reservation and promotion to Schedule Cast and Schedule Tribes is given by 82nd amendment in 2000, by proviso to article 335.

Clause (5)

Nothing in this article shall affect the operation of any law, which provides that the incumbent of office in connection with the affairs of any religious institution or any number of governing bodies shall be a person professing a particular religion.

Clause (6)

New clause (6) was added by 103rd Constitutional Amendment, which provides reservation to people from economic & weaker section in the government post. Explanation states that 'Economic weakness shall be decided on the basis of family income criteria.

Although, Article 14 of Constitution guaranteed the equality, but to bring equality the government have not only to take steps to bring equality but also should take steps to eliminate the causes of inequalities. Article 15 and 16 is the extension of right to equality. Clause (3) of Article 15 empowers the government to make special provision for women. This is not a discrimination to man but a positive step to bring the women equality and empowerment.

Judicial Decisions**Mohd. Ahmed Khan versus Shah Bano ¹**

In this case, the Hon'ble Supreme court awarded maintenance to a divorced Muslim wife under section 125 of Criminal Procedure Code, 1973. The hon'ble Supreme court clearly stated that the Muslim women could not be deprived of her right to claim maintenance under section 125 of Criminal Procedure Code, 1973, as it will be against guaranteed right to equality enshrined under article 14 of the Constitution of India.

After above judgments, on protest by the muslims, the government led by Sh. Rajiv Gandhi passed 'The Muslim Women (protection of right on Divorce) Act, 1986. Under section 5 of this Act, Parliament declared that the Muslim women after divorce can claim maintenance only under 1986 Act and her matter will not fall under section 125 of Criminal Procedure Code, 1973 (for short 'Cr. P. C.') unless she along with his husband file an affidavit or declaration that they want to proceed under sec 125 of

Cr. P. C. Moreover, as per section 7 all pending proceedings before a magistrate under section 125 Cr. P. C will convert to proceedings of 1986 Act. Thus scope of Muslim women filing a petition directly under section 125 of Cr. P. C. Was taken away. On the other hand section 3 uses the word 'Notwithstanding any other law' enforce and this override the Cr. P. C. Section 3(c) (a) clearly declares that Muslim divorced women will get maintenance and reasonable fair provision within the iddat period. The word 'within' here was intended to mean 'only for' or only during the iddat period, this doing away what was done in Shah Bano's judgments.

Daniel Latifi versus union of India ²

It was held that the word 'within' in section 3(1) (a) if interpreted as 'only for' or 'only during' than it will become unconstitutional as it will be unreasonable classification for Muslim women in the

light of section 125 of Cr.P.C. The purpose of 1986 Act also is to prevent vagrancy and destitution and it is aimed as social justice for Muslim women. A restrictive interpretation would have made the Act unconstitutional where as liberal interpretation would retain its constitutionality and would also bring at par with Cr. P. C. Therefore, the word 'within' shall be interpreted as on or before and not 'only for'. The Muslim husband is duty bound to make the reasonable and fair provision for divorced wife at the first instance, during the iddat period and thereafter, it has to continue until she get married to someone else.

Regarding section 5, court merely observe that otherwise also the consequences will be the same as the magistrate conducting the proceedings of 1986 Act, himself has to conduct the proceeding of section 125 of Cr. P. C. Therefore, it will not make much of the difference as the magistrate will be conscious of the fact that it is maintenance proceeding and so, it has to conduct swiftly.

Vishakha versus State of Rajasthan³

Hon'ble Supreme Court gave guidelines regarding sexual harassment of women at work place to be followed until a law made by the legislature.

ABC versus NCT of Delhi⁴

This is another case where the Supreme Court has given the right of natural guardian to the unwed mother and thereby empowers the women.

Shayra Bano versus Union of India⁵

In this case, the hon'ble Supreme court held centuries old practice of 'Tripple Talaq' in the Muslims is unconstitutional and it is against the fundamental right to equality, right to life and personal liberty under article 14 of Constitution of India. The Hon'ble Supreme Court also held that even their holy book 'Kuran' does not recognise practice of instant tripple talaq so, it is not a religious practice therefore, does not fall under Article 25. By this judgments, The supreme Court have empower the Muslim wives.

Joseph shinne versus Union of India⁶

The Hon'ble Supreme court held 'Adultery' which is punishable under section 497 of Indian Penalty Code, 1860 is unconstitutional as the women can't be treated as the chattel of her husband in view of Art 14,19 and 21.

From above decisions and of many others, it is clear that there is trend towards bringing women empowerment.

Legislations

1. The women Right to Property Act, 1937.
2. Immoral traffic (prevention) Act, 1956
3. The protection from domestic violence Act, 2005
4. The Dowry (prohibition) Act, 1961
5. The Protection of Sexual Harassment at Work Place Act,2013
6. The equal remuneration Act,1976
7. The Maternity Benefit Act,1961
8. The Muslim Women Protection of Right on Divorce Act, 1986 etc.

Executive Actions

The Prime Minister, Mr. Narendra Modi States in international entrepreneurs summit that 'we believe women is incarnation of Devi Sati'. Prime

minister also focuses on women led development. Other executives schemes are as following:-

Women Safety Scheme

The women and child development is planning to launch 3 initiative on women safety which are, Panic button (in mobile),CCTV (SCIM portal under safe city project, DNA analysis facilities at states. Durga app. in Haryana and Himmat app in Delhi is also launched for women safety.

Beti Bachao, Beti padhao

The Prime Minister Mr. Narendra Modi has launched this scheme on Jan 22, 2015 from Panipat (Haryana). The aim of this scheme is to address declining Child sex ratio, to generate awareness and improve efficiency of the girl child.

Sukanya Samridhi Yojna

This is the saving scheme, with higher rate of interest, in which parents can save small sum in their daughter's name on regular basis. The amount deposited in account can be used for education, marriage or for business of the girl.

Janni Suraksha Yojna

This scheme is introduced with the aim to reduce Maternal Mortality Rate, the need of pregnant women to remain healthy through all pregnancy till delivery. This scheme includes free check up, injections and delivery in government hospital etc.

Ujjwala Yojna

In this scheme free LPG cylinder are distributed to provide women pollution free fuel to cook the food.

Mudra Yojna

In this scheme government is providing loan at very less interest to improve and open the small scale industries/business. Much of loan has been given to women. This scheme also helps in empowerment of women.

Similarly, so many others schemes like Rajiv Gandhi National Crèche Scheme, Mahila E-hat, Working women hostel, one stop centre etc. are also launched with the aim to empower the women.

Examples

P. V. Sindhu, Dipa Karmakar, Manu Bhakar, Fogat sisters, Ms. Nirmla Sitaraman, Ms. Mira Kumar, Mrs. Sushma Savraj, Smt Sarojni Nayedu, Smt. Indira Gandhi, Ms. Sucheta Kriplani, Cornalia Sorabji, Kalpna Chawla and so many other women are there who have come forward and proved themselves. These women success is a motivation for the others women. This motivation also empowers the women to do some extraordinary.

Effects/Merits

Increase in GDP

Women, who formed half of the population, will take part in the development. It will increase the workforce of a country and therefore gross domestic product of the country will be increased with the participation of all.

Better Children Development

As Sh. Mahatma Gandhi said if you educate a man you will only educate a man but if you educate a woman, you will educate entire family. So, if we empower women, provide them education, awareness, and training then they will be more careful

about child education, Physical development, diet and other extra curriculum activities which help the children in overall development.

National Development

As we know, the children are the Nation builder i. e. the future of a country so overall developed children are proved to be a better citizen and led the Nation on the path of development. Therefore, the contribution of both the women and the all rounder children will helpful in overall development of the nation.

Independent

Empowerment of the women by education, awareness, training etc. and consequently due to her earnings she becomes independent. Today many women are the bread earner for their family.

Decision Makers

As the women are now bread earner in some of the families and in some she is earning more than husband and also due to their independence, they can become the decision maker in the family.

Equality

As the empowerment of the women helps her to know about her right and can come forward for the protection of their rights like Shayara Bano, this will also bring equality.

Challenges

Improper Implementation of law

Although, due to women empowerment they are able to know about their rights and are coming forward for protection of their rights but it is not easy for them to get justice in the court of law due to pendency of cases, long and tiring procedure and corruption.

Patriarchal Society

Patriarchal mind set of the people is a great hindrance in the women empowerment as some of the people don't like to follow a woman order or decision. According to them, command must be in the man hands.

Demerit

As said power corrupt a person and absolute power corrupt absolutely. Every thing has positive and the negative aspect so does the women empowerment too. They are following:-

Less time for family

Some people are of the views that working women can spend less work with the family. She does less care for elders and children.

Probabilities of theft

As the women have also started working so she has to go out of home. In many individual families both the parents are working and so, have to lock their houses. So, there is high possibility of theft.

Disruption of Matrimonial life

Some time due to job at a distant place or due to egos life scumbled and there is disruption of the family.

Crime against women increased

Due to women empowerment, she has stepped outside the home and crime against the women has increased.

Suggestions

1. To stop the crime against the women, there should be proper implementation of policies and legislations.
2. Respect for women should be developed from childhood.
3. Women should make a balance between the work and family.
4. Man should contribute in household work.
5. Women should use empowerment as a shield but not like a sword.
6. Patriarchal mind set of the people should be changed.
7. Reservation to women of Economic Weaker Section should be given.
8. More Fast track court should be introduced to delivered fastest justice.
9. Partnership of all i.e. government, NGOs, normal public should be there.

Conclusion

There is no doubt that all the provisions made at international, national level, policies framed by the executives, and judicial decision brings women empowerment up to some extent but not fully. The patriarchal mind set of the people does not let the women empowered. Women Empowerment is good for development of family, Nation and of world. Although, there are some demerits and challenges but that could be overcome with the whole hearted partnership of all, like of Family members, normal public, NGOs, legislature, of judiciary, of executive and of course, of women themselves.

Endnotes

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