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Gender Equality in India

PRATHANA PATEL¹

ABSTRACT

Indian society has remain patriarchal since ancient time and women is been considered as subordinate gender. Women have given inferior positions in every sector therefore, they are need to be protected. The Indian constitution provides protection to the women in every necessary sector. Not only the Indian Constitution, there are other statutes too, providing protection too women.

Today's women who are leading their personal and professional lives, have actually travelled a long distance to achieve the same. Women have faced discrimination at every stage and have become victim of many severe crimes. Therefore, even the crimes have been categorized and laws have been enacted as an advancement of protection to them. Lastly, the government has also under taken certain initiatives to safeguard the interest of women.

I. INTRODUCTION

*"Gender equality is not only a fundamental human right, but a necessary foundation for a peaceful, prosperous and sustainable world."*²

Women make up more than two-thirds of the world's 750 million adults without basic literacy skills; women represent less than 30% of the world's researchers; and women journalists are more exposed to assault, threat or physical, verbal or digital attack than their male counterparts.³

The meaning of the term Gender equality is simple, 'equality between the gender'. Gender equality means giving parallel approach to men and women and the aspirations, behavior and the need pertaining to men and women must be considered equally. By treating the gender equally it won't make them identical instead it rely on that whether the individual is male of female should be provided equal opportunities, rights and duties. All United Nations Member States adopted it as one of the Sustainable Development Goals in 2015 as a global effort towards ending poverty, ensuring that all people enjoy peace and prosperity and protecting the

¹ Author is a student at GLS Law College, Ahmedabad, India.

² United Nations Organizations, <https://www.un.org/sustainabledevelopment/gender-equality/> (last visited Nov. 5, 2021)

³ UNESCO, <https://en.unesco.org/genderequality> (last visited Nov. 5, 2021)

planet by 2030.⁴

In terms of gender equality there lot of improvement has been observed but before reaching the said stage the women had to undergo cruelty and injustice for throughout their life. This can easily understand by observing the birth discrimination rates with respect to sex. India is one of the highest i.e. there are 918 girls to 1,000 boys as per the 2011 census. This census inspired the government to run a campaign "*Beti Bachao, Beti Padhao*", the central government along with the state government initiated the campaign to admisinter the security, education and health related matters of girls.

II. INDIAN CONSTITUTION ON GENDER EQUALITY

Indian Constitution supports gender equality by guaranteeing equal rights to the women. From the Preamble to Fundamental Right, Fundamental Duties, Directive Principles the constitution enshrines gender equality. The constitution also, authorizes the government to take inequity actions to support woman as per this authority the government has initiated many policies benefiting women in various areas. To ensure equal protection to women the central government has endorsed many international agreements and treaties on human rights. However, not much people are aware about the same.

Following are the few articles under Indian Constitution, highlighting gender equality:

Article 14: Equality before law The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth.⁵

Article 15(1): The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.⁶

Article 15(3): Nothing in this article shall prevent the State from making any special provision for women and children.⁷

Article 16: Equality of oppportunity in matters of public employment

- 1) There shall be equality of oppportunity for all citizens in matters relating to employment or appointment to any office under the State

⁴United Nations Organizations, <https://www.un.org/sustainabledevelopment/gender-equality/> (last visited Nov. 5, 2021)

⁵ Indian Kanoon, <https://indiankanoon.org/doc/367586/> (last visited Nov. 5, 2021)

⁶ Indian Kanoon, <https://indiankanoon.org/doc/1942013/> (last visited Nov. 5, 2021)

⁷ Indian Kanoon, <https://indiankanoon.org/doc/1603957/> (last visited Nov. 5, 2021)

- 2) No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect or, any employment or office under the State
- 3) Nothing in this article shall prevent Parliament from making any law prescribing, in regard to a class or classes of employment or appointment to an office under the Government of, or any local or other authority within, a State or Union territory, any requirement as to residence within that State or Union territory prior to such employment or appointment
- 4) Nothing in this article shall prevent the State from making any provision for the reservation of appointments or posts in favor of any backward class of citizens which, in the opinion of the State, is not adequately represented in the services under the State
- 5) Nothing in this article shall affect the operation of any law which provides that the incumbent of an office in connection with the affairs of any religious or denominational institution or any member of the governing body thereof shall be a person professing a particular religion or belonging to a particular denomination.⁸

Article 39(a): Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing, that the citizens, men and women equally, have the right to an adequate means to livelihood.⁹

Article 39(d): Certain principles of policy to be followed by the State: The State shall, in particular, that there is equal pay for equal work for both men and women.¹⁰

Article 39A: The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes 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.¹¹

Article 42: The State shall make provision for securing just and humane conditions of work and for maternity relief.¹²

Article 51A(e): To promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to

⁸ Indian Kanoon, <https://indiankanoon.org/doc/211089/> (last visited Nov. 5, 2021)

⁹ Indian Kanoon, <https://indiankanoon.org/doc/555882/> (last visited Nov. 5, 2021)

¹⁰ Indian Kanoon, <https://indiankanoon.org/doc/555882/> (last visited Nov. 5, 2021)

¹¹ Constitution Of India, https://www.constitutionofindia.net/constitution_of_india/directive_principles_of_state_policy/articles/Article%2039A (last visited Nov. 5, 2021)

¹² Constitution Of India, https://www.constitutionofindia.net/constitution_of_india/directive_principles_of_state_policy/articles/Article%2042 (last visited Nov. 5, 2021)

renounce practices derogatory to the dignity of women.

Article 243D(3): 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 shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat.¹³

Article 243D(4): The offices of the Chairpersons in the Panchayats at the village or any other level shall be reserved for the Scheduled Castes the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.¹⁴

Article 243T(3): 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 shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality.¹⁵

Article 243T(4): The offices of Chairpersons in the Municipalities shall be reserved for the Scheduled Castes, the Scheduled Tribes and women in such manner as the Legislature of a State may, by law, provide.¹⁶

III. OTHER LEGAL PROVISION

To ensure equal rights the state has undertaken various measures. The law has also created special protection for working women. This also helps in breaking the social discrimination against women. Women can be victims of any crime but, particular crimes are categorized as "crime against women". This can be classified as follows:

(A) The Crimes Identified Under the Indian Penal Code (IPC)

- Sexual Harassment (Sec. 509 IPC),
- Importation of girls (up to 21 years of age),
- Torture, both mental and physical (Sec. 498-A IPC),
- Rape (Sec. 376 IPC),
- Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC),
- Molestation (Sec. 354 IPC),
- Kidnapping & Abduction for different purposes (Sec. 363-373).

¹³ Indian Kanon, <https://indiankanon.org/doc/1081110/> (last visited Nov. 5, 2021)

¹⁴ Indian Kanon, <https://indiankanon.org/doc/1898596/> (last visited Nov. 5, 2021)

¹⁵ Indian Kanon, <https://indiankanon.org/doc/735247/> (last visited Nov. 5, 2021)

¹⁶ Indian Kanon <https://indiankanon.org/doc/1399524/> (last visited Nov. 5, 2021)

(2) The Crimes identified under the Special Laws (SLL):

Laws tend to provide equal protection to all and therefore not all laws are gender specific. As per need emerging in the society the laws pertaining to women have been enacted and amended on timely basis. Following are the laws enacted to safeguard women and their interests:

- The Equal Remuneration Act, 1976
- The Maternity Benefit Act, 1961 (Amended in 1995)
- The Family Courts Act, 1954
- The Protection of Women from Domestic Violence Act, 2005
- The Hindu Marriage Act, 1955
- Dowry Prohibition Act, 1961
- The Plantation Labour Act, 1951
- Indecent Representation of Women (Prohibition) Act, 1986
- The Hindu Succession Act, 1956 with amendment in 2005
- The Employees State Insurance Act, 1948
- The Medical Termination of Pregnancy Act, 1971
- Immoral Traffic (Prevention) Act, 1956
- The Special Marriage Act, 1954
- The Factories (Amendment) Act, 1986
- Commission of Sati (Prevention) Act, 1987
- The Hindu Marriage Act, 1955
- The Prohibition of Child Marriage Act, 2006
- The Criminal Law (Amendment) Act, 1983
- The Contract Labour (Regulation and Abolition) Act, 1976.

IV. GOVERNMENT'S INITIATIVE

(i) National Policy for the Empowerment of Women, 2001: In the year 2001, The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a “National Policy for the Empowerment of Women” with the objective to empowering women by development and advancement.

(ii) Reservation for Women in Local Self -Government: Under it is stated that whether in rural areas or urban areas, one-third of the total seats for women in all elected offices in local bodies should be kept reserved. The Parliament under the 73rd Constitutional Amendment Acts passed the rule in 1992.

(iii) National Commission for Women : To Study and monitor all the matters pertaining to the women such as legal safeguards provided to women or other constitutional matters the government set-up this statutory body in January 1992. The commission not only reviews the existing legislation but also suggest the necessary amendments.

(iv)The National Plan of Action for the Girl Child (1991-2000): The objective of the plan is to provide protection to the girl child beginning from survival and her development so that, her future becomes better.

V. CONCLUSION

It can be concluded that although being an patriarchal country we as an nation have made good efforts to empower the women. Our constitution and other various statues provides protection to women and also aims to empower them. But, is the reality as same as shown in the statutes? The answer maybe in no because even today the women in many parts of our country living as subordinate gender and are not given opportunities to avail the as basic right as an education. The same can be seen at higher level positions hold by the women, it is definitely very less than it should be. Therefore, we have enough laws for the protection but it's the time for its strict implementation.
