

Constitutional Women Empowerment And Constitutional Provisions

Anjuman Usta

Department Of Mercantile Law

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Abstract

Numerous government agencies and international organizations have deemed the situation of women in Indian society deplorable. This paper tries to look at the efforts made throughout history to improve women's lives. It examines the various reforms implemented during the colonial era and the post-independence constitutional safeguards for women. The paper suggests that, despite significant constitutional decisions establishing the foundation for women's equality, women must be empowered immediately to become truly Atmanirbhar. This article's primary objective is neither to support feminism's predominance nor to criticize chauvinism. The promotion of equality is the primary focus of this article. Women's empowerment has emerged as one of the most pressing issues of the 21st century.

However, practically speaking, women's empowerment is still a fantasy. Every day, we see how women are harmed by a variety of social problems. Women's empowerment is the most important tool for increasing women's access to resources and their ability to make wise decisions about their lives. The process of elevating women's traditional underprivileged economic, social, and political status in society is fundamental to empowerment of women. Protecting them from all forms of violence is the process. Giving women legitimate power or authority to perform tasks is women empowerment.

Keywords: Laws, Women Empowerment, Crime Against Women, Constitutional Provisions

Introduction

Women's empowerment and gender equality are two sides of the same coin; in fact, they work well together. There are 1.39 billion people living in India. There are 662.90 million females in India. Females make up 48.04 percent of the population, while males make up 51.96 percent. Both women's empowerment and gender equality are spelled out in India's constitution. Women are granted equality in every aspect of the Constitution. Additionally, it grants the state the authority to enact policies to eradicate all forms of gender-based violence, inequality, and discrimination. It is possible to define women's empowerment as the process of elevating women's status in society and creating regulations and laws to support this. In today's world,

women's empowerment is a way to stop any kind of biological or gender discrimination against women more effectively, giving women in any society or country a strong hand in developing themselves and the country. Men, women, society, and governments all need to take an active role in addressing the problems that women face in society. Making women's empowerment a people's movement is crucial. Indians used to refer to this nation as Bharat-Mata, but they were unaware of its true meaning. Bharat-Mata refers to every Indian's mother, whom we must preserve and honor. Around half of the world's population is made up of women. Women are worshiped in ways that are reflected in Indian culture's Vedas Purana, such as laxmi maa, the goddess of wealth; for wisdom, saraswati maa; for power, durga maa.

Nowadays, women are taking more and more control of their lives and actively making their own choices about their education, careers, lifestyle, and profession. In politics, education, employment, inheritance, marriage, and most recently, the right to serve as a priest, women have demanded equality with men. Equal educational and employment opportunities must also be provided to women without discrimination.

Women Empowerment

Women's empowerment entails empowering women to make decisions about their lives and careers and granting them equal rights in all areas, such as: social, economic, political, legal, and other aspects of one's life. We are living in an era of women's empowerment, when women collaborate with men on projects. Additionally, a woman is able to strike a balance between her commitment to her profession and her commitment to her home and family. With remarkable simplicity and compatibility, they are playing multiple roles—at home as a mother, daughter, sister, and wife and at work as professionals.

Because they have to manage their families and earn money to help pay for their families' needs at the same time, women need to be empowered in order to improve any nation's future. The role that a mother, sister, or daughter plays in a family cannot ever be ignored. Women have also established themselves as equal partners in the management of their households' financial needs. Women have successfully established their unrivaled position internationally as well, but there are only a few of them compared to their male counterparts.

Women's empowerment isn't just for urban women; in fact, women in rural towns and villages are increasingly asserting themselves in society. While it is true that women do not, in most cases, face discrimination in today's society, many of them nonetheless face exploitation and

harassment, which can take many forms: physical, mental, sexual, and emotional. They frequently suffer from rape, physical and mental abuse, and other forms of violence.

Women are now asserting their sociopolitical rights, such as the right to work, the right to education, and the right to choose. India's Parliament has also enacted a number of laws to protect women from various forms of discrimination and injustice. The following laws were passed to give women more power: 1976 Equal Remuneration Act; 1961 Dowry Prohibition Act; Medical termination of pregnancy Act of 1971, Immoral Traffic (Prevention) Act of 1956; 1961 Maternity Benefit Act; Act of 1987, Commission of Sati (Prevention); Act of 2006 banning child marriage; Regulation and Prevention of Misuse of Pre-Conception and Pre-Natal Diagnostic Techniques Act of 1994; and the Sexual Harassment of Women in the Workplace Act of 2013.

The government has recently passed the Juvenile Justice (Care and Protection of Children) Bill, 2015, in response to the Nirbhaya case, which involved the rape and brutal murder of a paramedical student in Delhi. The Juvenile Justice (Care and Protection of Children) Act, 2000, was a significant departure from this Act because it lowers the juvenile age at which an offense can be committed from 18 to 16 years.

One of Pandit Jawaharlal Nehru's most well-known wise words is "To awaken the people, it is the women who must be awakened." The family, the village, and the nation all move once she is on the move. In order for women to be empowered in India, the dowry system, illiteracy, sexual harassment, inequality, female infanticide, domestic violence against women, rape, prostitution, illegal trafficking, and other issues must first be eradicated. Cultural, social, economic, and educational divides brought about by gender discrimination push the nation back. The most effective way to eliminate such demons is to empower women by ensuring the Right to Equality stipulated in India's Article 14 Constitution.

It is a legal requirement, as stated in the Indian Constitution, to accord women the same status as men in all aspects of society. Women have always held a high position in India, but they were not empowered to participate in all areas. For their development, they need to be strong, aware, and alert at all times. The development department's main goal is to empower women because a strong mother and child contribute to a nation's bright future.

Women Empowerment- A Historical Perspective

Empowering women means giving them the ability to make decisions about their lives and careers and giving them equal rights in all areas, such as: social, economic, political, and legal

aspects of one's life, among other things. When women and men collaborate on projects, we are in an era of women's empowerment. A woman is also able to maintain a healthy balance between her commitment to her family and work and her commitment to her profession. They are juggling their roles as professionals and mothers, daughters, sisters, and wives at home with remarkable simplicity and compatibility.

The right to work, the right to education, and the right to choose are just a few of the sociopolitical rights that women are now asserting. Additionally, the Indian Parliament has enacted a number of laws to safeguard women from various forms of injustice and discrimination. To give women more power, the following laws were passed: Equal Pay Equity Act of 1976; The Dowry Act of 1961; Immoral Traffic (Prevention Act of 1956), Medical Termination of Pregnancy Act of 1971; Maternity Benefit Act of 1961; Commission of Sati (Prevention) Act of 1987; 2006 law that outlaws child marriage; Pregnancy and Prenatal Diagnostic Techniques Misuse Prevention and Regulation Act of 1994; and the 2013 Act Against Sexual Harassment of Women in the Workplace

In response to the Nirbhaya case, which involved the rape and brutal murder of a paramedical student in Delhi, the government recently passed the Juvenile Justice (Care and Protection of Children) Bill, 2015. The Juvenile Justice (Care and Protection of Children) Act of 2000 marked a significant departure from this Act by lowering the age at which a juvenile can commit a crime from 18 to 16 years old."To awaken the people, it is the women who must be awakened" is one of Pandit Jawaharlal Nehru's most well-known wise words. When she moves, everyone in her family, village, and country moves with her. The dowry system, illiteracy, sexual harassment, inequality, female infanticide, domestic violence against women, rape, prostitution, and illegal trafficking must all be eradicated before women in India can become empowered. The nation is pushed back by the cultural, social, economic, and educational divides caused by gender discrimination. Empowering women through the protection of their Right to Equality, which is enshrined in India's Article 14 Constitution, is the most efficient strategy for eliminating such demons.

Review Of Literature

1. The United Nations Children's Fund, or UNICEF, in 2019: To ensure that every child, boy or girl, has a fair chance in life, gender equality is essential. Equal rights, resources, opportunities, and protections for men, women, and children are referred to as gender equality. The rights and

well-being of women often depend on investments in gender equality, which contributes to positive outcomes for children and their communities throughout their lives.

2. Fahlberg and colleagues in the international organization and conference on women's empowerment: achievements, opportunities, and constraints: feminist scholars, activists, and practitioners continue to be committed to advancing women's equality, economic and political empowerment, and women's participation in economic and political decision-making despite these obstacles. Equal opportunities for women to find decent work are the objective. This is fair for paid, productive work that is done in an environment that is free, equal, secure, and respectful of human dignity.

3. Shettar (2015) examines the state of women's empowerment in India and focuses on the issues and difficulties associated with it. The study relies solely on secondary sources. The dimensions that the researcher took into consideration are the economic, social, and political status of women, who have traditionally been disadvantaged members of society. The study concludes that only enabling factors to women's empowerment are access to education, employment, and a shift in social structure.

4. Gull (2015) conducted the following investigation into women and violence: a study of the difficulties associated with women's empowerment in Jammu and Kashmir. Women are the section of society that is most at risk and suffers the most, especially when there is violence from militant conflict and mill tray. The Kashmiri women were the hardest hit by the troubling situation in Jammu and Kashmir, which had a negative impact on its peaceful development. The conclusion was that every aspect—political, social, economic, domestic violence, etc.—has an impact on women's empowerment. A solid and effective planning system is necessary for women's empowerment in J&k.

Priorities

- 1.To shed light on the constitutional laws that promote women's empowerment and welfare.
- 2.To provide a brief explanation of the plans designed to promote women's empowerment.
- 3.To explain why women need to be empowered.

Importance Of Women Empowerment

Women's empowerment has emerged as one of the most pressing issues of the 21st century, not only on a national but also a global scale. His objective could not be accomplished by government action alone. Women are an integral part of our society. She took care of her

children and fulfilled other family obligations. Women play an ideological role in the nation's development. Women's participation is essential in every aspect of life because it is essential to the national and international development of a nation. Dr. B.R. Ambedkar, who wrote the Indian constitution, believed that women should be treated equally and given equal status. In his final address to the Indian parliament, he said: The Indian constitution guarantees equality for women, so no man can be grateful at the cost of his honor, no nation can be grateful at the cost of its freedom, and no woman can be grateful at the cost of her chastity. The headings listed below provide a clear picture of the significance of women's empowerment:

- For growth on a local, national, and global scale.
- For progress in politics, the economy, and society.
- For the growth of cultures.
- For the advancement of education.
- For survival and health.
- For the development of agriculture.
- For Making Decisions
- Finally, but certainly not least, women's empowerment is essential for peaceful development.

Position And Status of Women

In the 20th century, women's positions and status have skyrocketed across the globe. We discover that in earlier centuries, it was extremely low in India, and as a result, they were treated as "objects" that could be purchased and sold. In India, women were confined to their households for a long time. They completely rely on men.

The veil system, female infanticide, child marriage, the sati system, the dowry system, and the state of permanent widowhood were all completely abolished in India.

It would be beneficial to the numerous women in the nation who are neglected by their husbands and do not have any means of establishing their marital status. It would also help stop bigamy, polygamy, and child marriages, make it possible for women to get support and custody of their children, and it would give widows the right to inherit. The Act applies to all women, regardless of caste, religion, or creed. It really helps Indian women become empowered to exercise their rights.

Benefits of Women Empowerment

Women's confidence in their ability to live lives with meaning and purpose grows when women are empowered. It makes them independent individuals and ends their dependence on others. They are able to live their lives with dignity and freedom, which gives them a unique identity and boosts their self-esteem. They are able to become well-known and make a significant contribution to society's well-being.

Because they are financially independent, women are able to spend on everything they want and need, and they have equal access to the country's resources. As a result, women are capable citizens who help the nation achieve and boost GDP.

Necessity Of Women's Empowerment

Inequalities, bias based on gender, and injustice cannot be eradicated without women's empowerment. Women are deprived of life-long security and protection if they lack empowerment. Additionally, it gives them a safe place to work.

Women's exploitation and harassment can be effectively combated with empowerment. It's a great way for women to get the legal protection they need.

Women cannot develop their own identities in society if they are not socially and economically empowered, and the global economy will suffer as a result, as women make up a significant portion of the global population. Women's high levels of creativity and intelligence necessitate acknowledging their contributions to socioeconomic endeavors. Women must have equal employment opportunities if we are to have a just and progressive society.

Leading Cases

Ms. Muthamma, a senior member of the Indian Foreign Service, filed a writ petition in the case of *C.B. Muthamma v. Union of India* (1979) 4 SCC 260⁴⁴, claiming that she had been denied promotion to Grade I in an illegal and unconstitutional manner. She noted that the civil service had a number of rules that discriminated against women. At the very beginning, the Chairman of the UPSC advised her against joining the Foreign Service. She was required to sign a promise to resign from service if she got married when she joined.

No married woman can be appointed to the Indian Foreign Service under Rule 18 of the Indian Foreign Service (Recruitment, Cadre, Seniority, and Promotion) Rules, 1961. Before a woman in the Indian Foreign Service could get married, she had to get written permission from the government from Rule 8(2) of the Indian Foreign Service (Conduct and Discipline) Rules, 1961.

She could be required to resign at any time after the marriage if the government found that her family and domestic obligations were likely to prevent her from performing her duties as a member of the service properly and effectively. Even though Article 15 of the Constitution specifically prohibits discrimination based on religion, race, caste, sex, or place of birth, and Article 14 of the Constitution establishes the principle of equality before the law, the petitioner was frequently subjected to the consequences of being a woman and, as a result, suffered discrimination.

In the case of *Air India v. Nargesh Meerza* ((1981) 4 SCC 335)45, Nargesh Meerza filed a writ petition. In this case, the air hostesses of the Air-India International Corporation had approached the Supreme Court to protest discriminatory service conditions outlined in Air-India's regulations once more. According to the regulations, an air hostess could not get married before she had served for four years. An air hostess was typically hired when she was 19 years old, and the four-year marriage restriction prevented her from getting married until she was 23 years old.

If she got married earlier, she had to quit, and if she got married after 23 years, she could stay married but had to quit when she got pregnant. If an air hostess passed both of these tests, she would continue to work until she was 35 years old. The air hostesses argued that the provisions were discriminatory based on sex because they did not apply to male employees performing the same duties.

The first requirement that an air hostess not marry before four years of service was upheld by the Supreme Court. The judge ruled that: It was an excellent and beneficial provision. In addition to improving the employee's health, it greatly aids in the promotion and expansion of our family planning program."

However, this argument made by the Court was criticized because it was based on the fact that the state's population policy justified the requirements of age and family planning and that the state had set the age of marriage at 18 as a cover for the real problem. The Air-India Regulations regarding retirement and the pregnancy restriction on air hostess employment were declared unconstitutional by the Supreme Court on the grounds that their terms were completely arbitrary and unreasonable.

An air hostess was required to retire from the company under the disputed Regulation 46 when she turned 35 years old, married within four years of employment, or had her first child, whichever came first. The Managing Director had complete discretion to extend the 45-year

retirement age established by Regulation 7. Article 14, which prohibits unreasonableness and arbitrariness, was found to be violated by these regulations.

Legal And Constitutional Provisions For Women In India

In the Indian Constitution's Preamble, Fundamental Rights, Fundamental Duties, and Directive Principles, the principle of gender equality is enshrined. In addition to granting women equality, the Constitution grants the State the authority to implement measures of positive discrimination in their favor. Our laws, development policies, plans, and programs have aimed at women's advancement in various spheres within the framework of a democratic polity. Gender equality includes the right to work in dignity, which is a fundamental human right that is universally recognized, and protection from sexual harassment.

A. Legal Provisions

The State has enacted various legislative measures to ensure equal rights, combat social discrimination, combat various forms of violence and atrocities, and provide support services, particularly to working women, in accordance with the Constitution's mandate. Even though women can be the victims of any crime, such as murder, robbery, fraud, etc., those that are specifically committed against women are referred to as crimes against women. In general, these fall into two categories:

(1) The Crimes Identified Under The Indian Penal Code (IPC)

1. Rape (IPC Section 376)
2. Abduction and kidnaping for various reasons (Sec. 363-373)
3. Homicide for Dowry, Dowry Deaths, or Attempts to Cause Dowry 302/304-B IPC)
4. Mental and physical torture (Sec. 498-A IPC)
5. Sexual Abuse (Sec. 354 IPC)
6. Harassment of Women (Sec. 509 IPC)
7. Girl imports (those under 21 years old)

(2) The Crimes Identified Under The Special Laws (SLL)

Even though there is no gender-specific law, the parts of the law that have a significant impact on women have been reviewed on a regular basis and changed to keep up with the new requirements. The following are specific laws that protect women's rights and interests:

1. The 1954 Special Marriage Act
2. The 1955 Hindu Marriage Act
3. The Maternity Benefit Act of 1961, as amended in 1995

- 4.1961 Dowry Prohibition Act
5. Medical Abortion of Pregnancy Act of 1971
6. The 1976 Equal Remuneration Act
7. The 2006 Child Marriage Prevention Act
8. The 1983 Criminal Law Amendment Act
9. Act of 1986 Against Indecent Representation of Women (Prohibition)
10. Act of 1987 for the Prevention of Sati
11. The 2005 Act to Protect Women from Domestic Violence

B. Constitutional Provisions

Not only does the Indian Constitution guarantee women's equality, but it also gives the government the authority to take positive discrimination measures in their favor in order to alleviate the cumulative social, economic, educational, and political disadvantages they face. Among other things, fundamental rights guarantee equality before the law and equal legal protection; guarantees equality of opportunity for all citizens in employment matters and prohibits discrimination based on religion, race, caste, sex, or place of birth. In this regard, the Constitution's Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c), and 42 are particularly significant.

C. Special Initiatives For Women

Women's National Commission

This statutory body was established by the government in January 1992 with the specific responsibility of studying and monitoring all matters pertaining to the constitutional and legal safeguards provided for women, reviewing the existing legislation to suggest amendments whenever necessary, and so on.

Women's Reservations in Local Self-Government

One-third of the seats in all elected offices in local bodies, whether in rural or urban areas, are guaranteed to women by the 73rd Constitutional Amendment Acts, which were approved by Parliament in 1992.

From 1991 to 2000, The National Plan Of Action For The Girl Child

The goal of the action plan is to ensure the girl child's survival, protection, and growth, with the ultimate goal of creating a better future for the girl child.

2001 National Policy For Women's Empowerment

A National Policy for the Empowerment of Women was developed in 2001 by the Ministry of Human Resource Development's Department of Women & Child Development. By raising

women's awareness of a variety of issues related to their empowerment, this policy aims to promote the advancement, development, and empowerment of women in socioeconomic and political-cultural spheres.

Government Enactments

In recent years, the National Commission for Women has periodically introduced a number of new bills to eliminate numerous social problems. In this section, significant statutes are discussed.

The Dowry Prohibition Act of 1961

The Hindu Widow Re-Marriage Act of 1856- One of the most significant evils from which women in traditional Hindu society suffered greatly was the prohibition on widow remarriage in Hindu society's traditions. Section 5 of this act made it possible for a widow to remarry and ensured that she would have the same rights as a married woman.

The 1929 Child Marriage Restriction Act

Women in traditional Hindu society also suffered greatly from the practice of child marriage. Girls had to marry when they were 9 or 10, and this law made women's minimum marriageable age 15 years old. This age was later raised to 18 years.

The 1955 Hindu Marriage Act

Men and women have been granted equal rights to marry and divorce under this Act. This Act gives either man or woman [ii] the right to file for divorce in a court of law; wife has the same right to divorce husband.

Conclusion

The empowerment of women has emerged as one of the most pressing issues of the 21st century, not only on a national but also a global scale. Women's empowerment contributes to the advancement of inclusive participation and the improvement of society and the world as a whole. It means making the family and organizations in which women make a difference happier. To achieve this objective, government initiatives alone would not be sufficient. Women must have full opportunities to make their own decisions and participate in the country's social, political, and economic life with a sense of equality, and society must take the initiative to create a climate free of gender discrimination.

Women's empowerment will only be real and effective if they are provided with income and property so that they can build their identity in society and stand on their own two feet. Let us swear that we want an egalitarian society in which all people, men and women alike, have equal

opportunities to express and improve their own well-being and the well-being of society as a whole. Eliminating attitudes of male superiority and patriarchy is absolutely necessary if we are to achieve true women's empowerment. Equal educational and employment opportunities must also be provided to women without discrimination.

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