

Protection of Women 's Human Rights Under Indian Constitution and Indian Law



Political Science

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ABSTRACT

The Human rights of women differ against cultures and societies . It has been observed that women are human beings like men and women's Rights are human rights and feminism is an advocacy for human rights. There are over-twenty-three main un conventions relating to human rights in general and five special rights of women. The Indian mythology placed women on very high pedestal, deterioration in this glorious status suffered a socio- cultural setback resulting in loss of their freedom and decline in their personality. the concept of equality and non -discrimination finds its due place in the constitution of India and many other legal documents but it is the social and cultural factors legal documents, but it is the social and cultural factors which impede the realization of this concept. so the objects to find out and make some mechanisms and systems and develop new strategies to empower women who also creative and equal partners in the future transformation of our societies.

The preamble of the Indian constitution gives equality of status and opportunity. Art.14 provides for equality in general and article 15(18) prohibits discrimination on special grounds i.e of sex .Art 15(3) embodies the exception which permits the state to make special provisions for women. Article 16(e) of the discrimination against women convention guarantees men and women the same rights to decide freely and responsibility on the number and spacing of their children. and Article 12 mandates equality in matters of health care services including those related to family planning. The 73rd and 74th amendment in the Indian constitution provides for reservation of seats of women in election to Panchayats and Municipalities .Article 23 prohibits trafficking in human beings. Desi system has been held to be trafficking by supreme courts. Similary Art. 39(a),(b),(c) and Art. 42 and 44 of the constitution provides for the benefit of women. The Indian personal laws as followed by Hindus ,Muslims, Christians are different from each other and each applies unequally against women is another issue .Article 51-A(e) in the chapter on fundamental duties makes it obligatory ,inter alia to renounce the practices derogatory to the dignity of women.

Laws have also been passed and progressively interpreted on many matters to stop the exploitation of women, particularly laws related to family matters such as marriage, divorce, property, and adoption are efforts to develop the potentialities of women

The Dowry prohibition Act 1961 was passed to curd the evil of dowry because increase in cases of dowry deaths or bride burning or suicide it became a unique form of violence experienced by women in India.

Legal services authorities Act is one of the most important pieces of social legislation that Parliament adopted in the 40th anniversary year of Indian independence. The government both at the centre and in the states instituted expert committees on legal aid to make recommendation for evolving proper schemes and policies for legal services, delivery to the women and poor among them.

In 1961 Maternity Benefits act was passed. The Act, aims to regulate of employment of women employees in certain establishments for certain periods before and after child birth and provides for maternity and certain other benefits.

The Act extends to the whole of India and is applicable to:

1. Every factory, mine or plantation (including those belonging to Government) and
2. An establishment engaged in the exhibition of equestrian, acrobatic and other performances, irrespective of the number of employees, and
3. To every shop or establishment wherein 10 or more persons

are employed or were employed on any day of the preceding 12 months.

The State Government may extend the Act to any other establishment or class or establishments; industrial, commercial, agricultural or otherwise. However, the Act **does not apply** to any such **factory/other establishment** to which the provisions of the **Employees' State Insurance Act are applicable** for the time being. But, where the factory/establishment is governed under the Employees' State Insurance Act, and the woman employee is not qualified to claim maternity benefit under section 50 of that Act, because her wages exceed Rs. 3,000 p.m. (or the amount so specified u/s 2(9) of the ESI Act), or for any other reason, then such woman employee is entitled to claim maternity benefit under this Act till she becomes qualified to claim maternity benefit under the E.S.I Act

Indian parliament in 1976 enacted the Equal Remuneration Act ,prescribing equality of remuneration for both the sexes .The Act is being implemented by the Central Government in relation to any employment carried on by or under the authority of the Central Government or a railway administration, or in relation to a banking company, a mine, oil field or major port or any corporation established by or under a Central Act.

The Medical Termination of Pregnancy Act 1971 allows termination of pregnancy:

1. As a Health measure
2. On Humanitarian grounds-when pregnancy arises from a sex crime etc.
3. Eugenic ground -where there is deformities and diseases.

The act unfortunately, increasingly being used to abort the female foetus ,making the fact of inequality suffered by women a blatant reality.

Incident of sati Roop kanwar in Deorala Rajasthan caused furor amongst various section of the society so Sati prevention act 1987 was establishment of special courts for trying offences under this category. The important component of the Act was Establishment of special courts for trying offence under this category.

Girls are discriminated rights from the beginning even before they are born. India unfortunately is one of the countries where female foeticide is on the rise. Amniocentesis technique used to abort female fetuses .Indian parliament passed pre-Natal Diagnostics Technique (Regulation and prevention of Misuse) act 1994 which came into effect only in 1996. The act provided for the regulation of pre-natal diagnostic Technique and prevent its misuse.

The protection of women through Domestic violence act 2005 came into effect from 26th October 2006.the act seeks to cover those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household .one of the important features of the act is the women's rights to secure housing .The Act provides for women's rights to reside in the matrimonial or shared household, whether or not she has any title or rights in the household. The act provides for appointment of protection officers and NGOs to provide assistance to the women with regard to medical examination. Legal aid, safe shelter. Rape is a humiliating and the most shocking of the crime against human conscience and morality. section 375 to 376 (d) of Indian penal code deal with the issue of rape. Section 375 defines the statutory offence of rape.

The National Commission for Women established in January 1992 under the provisions of the indian constitution as defined in the 1990 National Commission for Women Act. The objective of the NCW is to represent the rights of women in India and to provide a voice for their issues and concerns. The subjects of their campaigns have included dowry, politics, religion, equal representation for women in jobs, and the exploitation of women for labour. They have also discussed police abuses against women.The commission regularly publishes a monthly newsletter, Rashtra Mahila in both Hindi and English.The NCW has adopted a multi-pronged strategy to tackle the problem. The Commission has initiated generation of legal awareness among women, thus equipping them with the knowledge of their legal rights and with a capacity to use these rights. To facilitate speedy delivery of justice to women Parivarik Mahila Lok Adalats are organized in different parts of the country to review the existing provisions of the Constitution .The complaints received relate to domestic violence, harassment, dowry, torture, desertion, rape, refusal to register FIR, cruelty by husband, deprivation, gender discrimination and sexual harassment at work place. It has so far covered Tamil Nadu, Andhra Pradesh, Rajasthan, Uttar Pradesh, Orissa, Sikkim, Madhya Pradesh, Assam, Tripura and Manipur.

The Twenty-first century begins with the future of women Human Rights uncertain.Despite the social reform movement in the 21 century arousing considerable awakening ,constitutional and legal provisions aimed at schemes and activism of voluntary sector ,women continue to suffer from increasing tide violence in and outside homes.The women are mistresses of our society. They are life partners and co-travellers of man in the creation of life and progress of the society.They are part of development without whom development is not possible. First and foremost reason is that mere passing of laws cannot check the increase in violence against women .it has to be backed by sensitization of the implementing machinery and the society as a whole.

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