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A STUDY OF THE ROLE OF THE INDIAN CONSTITUTION IN WOMEN'S EMPOWERMENT

AUTHORED BY – ASWINI & SARANKUMAR R

Abstract:

The status of women in Indian society has been a matter of concern for various government and international organizations., This paper aims to examine the measures taken for the upliftment of women across different historical periods. This paper delves into the details of the reforms implemented during the colonial era, such as abolition of sati and the establishment of schools for girls. Mainly, it investigates the constitutional safeguards provided to Women in the post-independence period, including the right to vote and the prohibition of discrimination based on gender. Despite significant constitutional judgments and initiatives that have laid the foundation for women's equality, there is still much work to be done to ensure equal opportunities and rights for women in India. This paper concludes by highlighting the need for continued efforts to address the challenges faced by women in Indian society.

Keywords: women empowerment, society, law, crimes against women, constitutional provisions,

Introduction:

The concepts of women empowerment and gender equality are inextricably linked and mutually reinforcing. India, being the second-most populous country in the world, is home to approximately 662.90 million women, comprising 48.04% of the total population. The Indian Constitution is committed to promoting gender equality and empowering women. It ensures equal rights and safeguards women from discrimination, and it empowers the government to implement laws and policies aimed at eradicating mistreatment, inequality, and violence against women¹. Women's empowerment is a gradual process of enhancing the status of women in society and creating regulations to promote it. In today's world, women's empowerment is a crucial tool for reducing gender discrimination and promoting not just the growth of women but also of nations as a whole. It is a catalyst for social and economic

¹ Kant and anjani, women and law pg 45-50

development, providing women with the power to participate equally in the decision-making processes and contribute to the welfare of their families, communities, and nations.

Review of literature:

Constitution of India provides the provisions related to empowerment and safeguard of women Kant, Anjani's "women and laws" says about the troubles faced by the women even now and what are the law enacted by the government for the women safety.

Pandey, J.N, Bakshi, Constitutional Law of India, provides the provisions and the landmarks cases regarding women empowerment and there safety

The websites live law and legal bites provides the steps and safety measures taken to help the women by the NGO'S.

Aim and objective:

- To know the forms of Empowerment of Women.
- To analyze Women Rights, Legal Protection of Women in Indian Constitution.
- To know the role of NGOs in Women Empowerment.
- To recognize the Government Schemes and Programmes for Women Empowerment.
- To discover how Education has helped Women Empowerment.
- To review how Indian society is changing via Women Empowerment in the 21st Century.

Scope and Limitations:

This article opens up the crimes against women and the provisions in constitution for safeguarding and empowering women with some cases. This article focus within the jurisdiction of our country

Research methodology:

This article is basically relies on secondary information and uses both qualitative and Quantitative data and my perspectives on women empowerment. The Methodology used in this study was both doctrinal and non-doctrinal, providing a comprehensive Understanding of the subject.

Women empowerment – historical perspective:

The history of discrimination against women goes way back to the medieval and pre-medieval period. During those times, women were confined to a single role, which was to be a medium for men to bring forth progeny.² They were not given any other significant role in society and were considered as mere puppets in the hands of powerful men. As a result, they were often exploited and oppressed in several ways. When some women dared to question the powerful men of society, they were accused of indulging in witchcraft, and false allegations were leveled against them.

One of the most barbaric and inhumane practices during those times was the imposition of breast tax on women in the state of Travancore. Women belonging to lower castes were not allowed to cover their breasts, and if they did so, they were heavily taxed. This practice was a blatant violation of human rights and was intended to subjugate and oppress women.

However, there were some brave women who dared to stand up against such cruelty and injustice. One such woman was Nangeli, who belonged to the Ezhava caste. She felt humiliated and outraged by the collector's actions and decided to protest against the breast tax by covering her chest without paying the tax. When one of the officials of the collector asked her to stop breaking the law, she refused to comply and continued with her protest. Her courageous act inspired many other women to join the movement against breast tax, and eventually, the practice was abolished.

Steps to empower women:

The empowerment of women is a crucial aspect of building a just and equitable society. In order to achieve this goal, it is essential to provide women with the necessary resources to become financially independent and self-sufficient, on par with men. This can be accomplished by promoting education among women and providing them with the necessary skills to compete professionally with men. Additionally, it is important to introduce training programs that focus on self-defense techniques, so that women are better able to protect themselves against violence.

It is equally important for women to adapt to the changing society and empower themselves,

² Kant and Anjani, women and law pg70

while also supporting government initiatives aimed at promoting gender equality. The elimination of violence against women should be a top priority, as it marks the beginning of a new phase towards the concept of women empowerment. By taking these steps, we can work towards a world where women have the opportunity to thrive and contribute fully to society.

Constitutional Articles, Government Plans and Programs for Women

Empowerment:

Indian planners and policy makers have taken up the issue of women empowerment quite Seriously. This section deals with the government's effort towards women empowerment.

- i. Equality of opportunity for all citizen in matters relating to employment or appointment to any office under the state (Article 16)³
- ii. The state to direct its policy towards securing for men and women equally the right for an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and Women [Article 39(d)]⁴

The state to make provision for securing just and humane conditions of work and for maternity relief (Article 42)

Political empowerment

- iii. The 73rd Constitutional Amendment Acts passed in 1992 by the parliament of India ensures that not less than one-third (including the number of seats reserved for women belonging to Scheduled Caste and 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 243D(3)]⁵
- iv. Not less than one-third of the total number of offices of the Chairpersons in the Panchayats at each level to be reserved for women (Article 243 D(4)]
- v. Not less than one -third (including the number of seats reserved for women belonging to the scheduled Caste 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 243T(3))

³ Indian const.article16

⁴ Indian const.article 39d,42

⁵ Indian const.article 243

- vi. The Lok Sabha and Rajya Sabha, both passed Women's Reservation Bill 2023 (128th Constitutional Amendment Bill) , The bill reserves one-third of the seats in Lok Sabha, State legislative assemblies and the Delhi assembly. This will also apply to the seats reserved for SCs (Scheduled Castes) and STs (Scheduled Tribes) in Lok Sabha and State Legislatures

Social empowerment

- vii. Equality before Law for women (Article 14)
- viii. No discrimination against any citizen on grounds of sex beside religion, race, caste etc.
- ix. (Article- 15) The state to make special provision in favour of women and children (Article 15(3))
- x. To promote justice, on the 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 to all Irrespective of economic inequality or other disability (Article 39A)
- xi. 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)
- xii. To renounce practices derogatory to the dignity of women Article 51(A)

Economic empowerment

- xiii. The STEP Scheme, administered by the Ministry of Women and Child Development since 1986-87, provides employability skills and training to women aged 16 and above, aiming to make them self-employed or entrepreneurs. NGOs and institutions can receive grants under the scheme, which covers various sectors, including agriculture, handicrafts, and computer services.
- xiv. In 1972-73, the Indian government introduced a grant-in-aid scheme for building hostels for working women. The scheme was revised to provide safe and convenient housing for women who need to live away from their families for work. The Rajiv Gandhi National Creche Scheme was also introduced to provide day-care for children of working mothers to improve their health and development.
- xv. The Ministry of Women and Child Development launched Mahila E-Haat, a bilingual portal in 2016. It's a unique platform for supporting women entrepreneurs, Self Help Groups, and Non-Governmental Organizations to showcase their products and services online. The initiative was aimed at meeting the aspirations

and needs of women by leveraging technology for business efficiency. Mahila E-haat has received several awards, including the SKOCH GOLD Award and SKOCH Order-of-Merit Award for being one of the “Top 100 Projects in India” for the year 2016. To increase visibility major PSUs, IRCTC, Nationalised Banks like SBI have Provided a link to Mahila E -haat on its website (<https://wcd.nic.in/sites/default/files/Mahila%20E-haat%2024012017.pdf>)

NGO’s initiative for women empowerment:

The issue of women’s empowerment, particularly in rural areas, has long been a top priority for NGOs and the Indian government alike. To this end, the Ministry of Women and Child Development collaborates with numerous NGOs to implement various schemes and conduct research studies. The government actively involves and supports NGOs in implementing many of its schemes, as they play a pivotal role in expediting the pace of implementation at the grassroots level. Table 4 provides a comprehensive list of performing NGOs in each state, with a staggering 77.55% of NGOs working towards women’s empowerment. Interestingly, Delhi boasts the highest NGO presence, while Goa, Mizoram, and Tripura have the lowest. The discrepancy in NGO presence between states could be attributed to various factors, including crime rates, which are notably higher in these states.

Information regarding crimes against women:

- It is crucial to curb crimes against women, as per the statistics shared by the National Crime Records Bureau of India.
- In 2011, more than 228,650 incidents of crime against women were reported.
- There was a crime against a woman committed every three minutes in 2012.
- In 2015, there were over 300000 reported instances of crimes committed against women.
- Uttar Pradesh reported 2,244 cases of dowry death.
- Bihar accounted for 1,275 cases of dowry death, which is 15.5% of cases nationwide.
- Around 5,000 dowry-related deaths are reported every year.

Other crimes against women are as follows

- Honour killing
- Branding women as witches (accusing them of witch craft) & their murder

Sexual Crimes Against Women

Outraging modesty of women

- Rape
- Marital rape
- Human trafficking and forced prostitution
- Domestic violence
- Child marriage
- Acid attack
- Abduction
- Perpetuation
- Eve teasing

Domestic violence widespread predominantly against women. Around 70%cent of women in India are victims sexual violence,a women raped every 29minites, dowry deaths Occurs every 60 minutes. Cases of cruelty against women occurs every 9 minutes. These crimes in the society against the Women are making the concept of “women empowerment” meaningless day by day.

In a landmark case that has come to be known as C.B. Muthamma vs Union of India,⁶ it was highlighted that gender injustice is not just a concern of political parties but also the judiciary. The case involved a challenge to the validity of the Indian Foreign Services (conduct and discipline) rule of 1961, which required female employees to seek written permission from the government before getting married and stipulated that they could be forced to resign from service at any time after getting married. The Hon’ble Supreme Court ruled that this provision was discriminatory against women and therefore unconstitutional. The verdict is the latest step towards gender equality and the eradication of gender-based discrimination in the Indian civil service.

In the case of Vishakka & others Versus State of Rajasthan⁷ saw the Hon’ble Supreme Court of India ruling that the harassment of women in work places amounts to a grave violation of the principles of gender justice, as well as the fundamental rights to life and liberty enshrined in articles 14, 15 and 21 of the Indian Constitution. This ruling has been widely regarded as a significant step in the fight against workplace harassment and discrimination, and has helped

⁶ AIR1979SC1868A

⁷ (1997) 6 SCC 241

to establish a legal framework that protects the rights and dignity of women in the workplace.

Women empowerment – plans and policies:

- Starting from the Fifth Five Year Plan (1974-78), there has been a significant change in the way women's issues are addressed, shifting from a welfare-based approach to a development-based approach. The focus has shifted from merely providing aid or support to women towards empowering them and promoting their participation in various sectors of society.
- In 1990, the Indian government established the National Commission for Women (NCW) through an act of parliament. The primary objective of the NCW is to safeguard the rights of women and ensure their full participation in all aspects of life. The commission also works towards promoting gender equality and eliminating all forms of discrimination against women. The NCW plays a crucial role in addressing various issues concerning women, including domestic violence, sexual harassment, and gender-based discrimination in the workplace. Its efforts have contributed significantly to the advancement of women's rights and their overall well-being in the country.
- The 73rd and 74th amendment to the Indian Constitution made a historic move towards women's empowerment by reserving one-third of the seats for women in panchayats and municipalities. This amendment aimed to increase women's participation in local governance and decision-making, ultimately leading to their overall development and progress.
- In 1993, the United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This international treaty aimed to eradicate all forms of discrimination against women in all areas of life, including education, employment, and politics. The CEDAW has been ratified by 189 countries, including India.
- The second World Conference on Human Rights held in Vienna in June 1993 re-emphasized the principle of equality between men and women. The conference focused on preventing and eliminating all forms of discrimination against women. Similarly, the fourth World Conference on Women held in Beijing in 1995 reiterated this principle and called for the integration of a gender perspective in all policies and programs.

Other international conventions for women protection are:

- Universal declaration of human rights(1948)

- Convention on the political rights of women(1952)
- Declaration on the elimination of all forms of discrimination Against women(1967)
- Declaration on the protection of women and children in emergency and armed conflict(1974)
- Inter-American convention for the prevention, punishment and Elimination of violence against women(1995)
- Optional protocol to the convention on the elimination of all forms Of discrimination against women(1999)
- Convention on consent to marriage, minimum age for marriage and registration of marriages(1964)

In her quote, **Smt Indira Gandhi** emphasized the importance of empowering women to be true to themselves. She believed that women should not strive to compete with men but should instead focus on their unique abilities and personalities. According to her, true liberation comes from embracing one's individuality and capabilities.

Landmark judgements on women rights and protection:

- 1) Vishaka v. State of Rajasthan(sexual harrasment in work place)⁸

Social worker from Rajasthan was brutally gang raped by five men for preventing a child marriage. In a shocking decision, Trial court acquitted all five accused.

Vishakha, a women's education and research group, collaborated with four other women organizations and submitted a legal plea before the Supreme Court of India. As a result, on August 13, 1997, the Supreme Court established the Vishakha guidelines that outlined the definition of sexual harassment and placed the responsibility on employers to create a secure working environment for women.

- 2) Vineeta sharma v. Rakesh sharma (daughters coparcenary rights)⁹

In the year 2020, the highest court of India declared that daughters have an equal right to the ancestral property that belongs to the Hindu Undivided Family (HUF). The court stated that this right is inherent from birth, which means that when a daughter is born, she is entitled to the same rights as a son in the HUF. However, if a daughter was born before the amendment was made on September 9, 2005, she can claim these rights only from the date of the amendment, as mentioned in Section 6(1) and Section 6(5).

⁸ (1997) 6 SCC 241

⁹ Decided by Supreme Court on 11 August 2020.

Additionally, the court clarified that since the right to coparcenary is based on birth, the father coparcener doesn't have to be alive as of September 9, 2005.

3) The Secretary, Ministry of Defense v. Babita Puniya and Ors

The decision made by the Supreme Court in this case can be hailed as a milestone for transformative constitutionalism, as it broke gender stereotypes in the Indian Army. The ruling stated that all women army officers are eligible for commanding positions and deserve permanent commissions. The Court also criticized the Ministry of Defense for submitting arguments that relied on sex stereotypes based on gender roles, which discriminated against women. The Court further added that the Ministry's argument that women officers face greater challenges due to pregnancy, motherhood, and domestic obligations is founded on the assumption that these responsibilities fall solely on women, which is a flawed notion. The Court held that such assumptions are in violation of Article 14 of the Constitution of India. This judgment will always be celebrated as it paved the way for gender equality in the Indian defense services.

4) In the case of Indian Young Lawyer's Association versus The State of Karnataka,¹⁰ the issue of access to places of worship was addressed. The verdict ruled that the exclusionary practice observed at Sabrimala was in violation of women's rights. This is because it imposed restrictions on their freedom, particularly in their right to worship. The court held that the rule which prevented women's entry was a violation of their right to worship. It was further emphasized that the exclusion of women cannot be regarded as a religious practice

Conclusion:

The topic of women empowerment is not just a mere slogan but rather a crucial prerequisite for enabling optimal capacity for overall development of a family, society, nation, and a sustainable world. This paper provides comprehensive coverage of affirmative legislation, plans, and programs initiated by the Government, NGOs, and Corporate sectors through their Corporate Social Responsibility across a wide spectrum, starting from the Indian constitution to recent developments. The paper highlights the improvement in achieving gender parity in the category of educational attainment and political participation. However, it also reveals a declining trend in economic participation and opportunity, as well as in health and survival segments. Unfortunately, India's performance in terms of Health and Survival is worse than

¹⁰ W.P. NO. 373 OF 2006

even among SAARC countries. As we have a deadline of a decade towards achieving the SDG Goals, the Government needs to focus more on these two segments to achieve gender parity. There is an urgent need to reassess India's affirmative actions, providing fresh impetus towards empowering girls and women not only through conventional education but also hand-holding for skill acquisition and providing them with equitable economic opportunities, fitting medical and healthcare. The findings of this paper open up several avenues for policy discussion and intervention towards women empowerment.

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