

Empowering Women Through Human Rights: Role of Constitutional and Legal Provisions in India

Dr. C. M. Prakasha

Associate Professor of Sociology HPPC Government First Grade College and P.G Centre Challakere,
Karnataka.

Abstract:

Human Rights and fundamental freedom allow us to develop fully and use human qualities, intelligence, talents and consciences and to satisfy spiritual and other needs. They are based on humankind's increasing demand for a life in which the inherent dignity and worth of each human being are accorded respect and protection. Human rights as the very term indicates represent the rights of all human beings of the sex, men and women, Individuals of both the sex are born with the rights. Human rights are god-given or nature-given rights. Both men and women have equal access to these rights. No discrimination is allowed or imposed in the exercise of these rights.

Constitution of India guarantees equal rights for men and women, women are striving to achieve equality socially, economically, educationally, politically and legally. Human rights are a part and parcel of human life, people, thus cannot lose their human rights, no matter what they do. These rights constitute the basic requirements of dignified life. Indian women are not very much after equality with men. But they expect a change in the attitude of men towards them and their status. On the country, they expect greater freedom, better education, self-dependence, decent jobs, a proper treatment of women by men folk, and a socio-economic environment to women will definitely influence their social status and the socio-economic conditions in the days to come.

Keywords: Human rights, Women, Empowerment, Constitution, Discrimination,

INTRODUCTION:

Empowerment is a Process, by which women gain greater control over material and intellectual resources which will assist them to increase their self reliance, and enhance them to assert their independent rights, and challenge the ideology of patriarchy and the gender based discrimination against women.

The empowerment of women has become popular especially after 1980s. It refers to the process of strengthening the hands of women who have been suffering from various disabilities, inequalities and gender discrimination. The concept of empowerment has replaced the old "Integration in development" approach in the promotion of women. And the women approach gender and development. This calls for the inclusion of men, talking a close look at the gender relationship and changing it into the long run. The women are equally entitled for the human rights, the expression 'human rights' has not been specifically defined in any declaration or covenant of the united nations.

Human rights are generally defined as ‘those rights which are inherent in our nature and without which we cannot live as human beings’. The recognition of these natural rights of human beings is as ancient as the human civilization.

Human Rights and Women Empowerment:

The UN declaration on human rights has been sixty years old. A moment is needed to take stock and look at the deficits, which still exist in terms of human rights half a century later. The declaration of 1948 contains a comprehensive list of political, economic, social and cultural rights and aims at the protection of the freedom, equality, and human dignity of all human beings, irrespective of their race, gender, language or religion. Human rights, therefore, cannot be protected in isolation from economic and social factors. If we manage to reduce poverty, we will also help to improve the human rights situation. Development policy thus becomes a key to the problem without the enforcement of political human rights; social human rights cannot permanently be secured. On the other hand, the realization of political human rights depends to a large extent on favorable economic, social and cultural conditions.

Meaning of Human Rights:

The human rights as the ‘basic freedom that all people should have’. The human rights ‘basically emerge out of human needs and capabilities and human rights are meant for human beings to satisfy their basic needs’. Kashyap defines “Those rights to which every man and woman inhabiting any part of the world should be deemed entitled by virtue of having been born a human being”. In other words, human rights are those rights which are essential for a dignified and a decent human living as well as human existence and adequate development of human personality.

Types of Human Rights:

Human rights in general, may be two types

- (A) Rights which are essential for the dignified and decent human existence.
- (B) Rights which are essential for adequate development of human personality.

Rights under the first category include right to fulfillment of basic human needs like food, shelter, clothing, health and sanitation, earning one’s livelihood and the like.

The second category of human rights comprises of right to freedom of speech and expression, cultural and educational rights.

Characteristics of Human Rights:

Human rights possess the following characteristics:

- (1) Inalienability: both human beings and human rights are inalienable and inseparable. One cannot stay without the other.
- (2) Comprehensiveness: Human rights are comprehensive; they include socio-economic, civil, political and cultural rights which are relevant for a decent human living.
- (3) Universality: Human rights are universally applicable to one and all. These are meant for all individuals of all nations, without there being any discrimination on grounds of caste, class, colour, sex, creed, language, and religion.
- (4) Justice ability: These rights are also justice able.
- (5) Non-absoluteness: These rights are not absolute and there can be restriction imposed on these.

Concept of Empowerment:

Empowerment as a concept was first brought at the international women’s conference in 1985, at Nairobi. The conference concluded that empowerment is a redistribution of power and control of

resources in favour of women through positive intervention. Broadly, empowerment means individual the acquiring the power to think and act freely, exercise choice and to fulfill their potential as full and equal member of society. The United Nations Development Fund for Women (UNDFW) includes the following factors in its definition of women's empowerment:

- Acquiring knowledge and understanding of gender relations and the ways in which these relations may be changed
- Developing a sense of self-worth, a belief in one's ability to secure desired changes in the right to control one's life.

Empowerment is a process through which individuals and groups attain greater control over and come to participate in decision making, affecting their lives and circumstances. The ability to take control can be construed as power and this power can be used to increase self-sufficiency and inner strength.

Meaning of Empowerment:

Empowerment means individuals acquiring the power to think and act freely, exercise choice, and to fulfill their potential as full and equal members of society. Empowerment endows women with the ability to gain control over resources, Develop physical and psychological capacity to challenge the prevailing gender norms and ensure change.

Women Empowerment:

Empowerment of women involves many things, economic opportunity, property rights, political representation, social equality, personal rights and so on. Historically the world over, either by law or by custom, the status of women is undermined by asymmetrical power relationships in decision-making, personal and social rights, access to resources and entitlement. Women in many countries still lack rights to inherit property, own land, get education, obtain credit, earn income or work outside home, control their fertility, they are still widely under-represented in involvement in decision-making at the household of social level. Empowerment by means of modest income-generation projects is clearly insufficient to ameliorate the prospects for a high quality of life for women.

Constitution and Legal Provisions for Women in India

The constitution of India has right of equality to all citizens irrespective of their sex, caste, creed and religion. Indian democracy after being proclaimed a republic has been thriving on this basic principle and has continued in the same direction for the last five decades. Strengthening the weaker sections and marginalized communities through reservation system was implicit in the democratic system of the country. In India, the principle of gender equality is enshrined in the constitution since its implementation was started January 26, 1950. Our constitution guarantees to all women the fundamental right to equality under which they get equal right to political participation. Our constitution is firmly grounded in the principles of liberty, fraternity, equality and justice, and accordingly contains a number of provisions for the empowerment.

Constitutional provisions for women:

articles 14 to 18 of the constitution guarantee the right to equality to every citizen of India.

- Article 14: Thus article 14 uses two expressions "equality before the law", and "equal protection of the law", the phrase equality before the law finds a place in almost all written constitutions that guarantees fundamental rights. Both these expressions have, however, been used in the universal declaration of human rights.

- Article 15(1): provides that the state shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. The right guaranteed under article 15 (1) is conferred on a citizen as an individual and is available against his being subjected to discrimination in matter of rights.
- Article 15(2): declares that no citizen shall be subjected to any disability, restriction or condition on grounds only of religion, race, caste, place of birth or any of them regard to (a) access to shops, public restaurants, hotels and place of public entertainment, or (b) the use of wells, tanks, baths, roads, and public resort, maintained wholly or partly out of the state of funds or dedicated to the use of the general public.
- Article 15 (3): However, special provisions may be made by the state in favour of women and children. Women and children require special treatment on account of their very nature. And empowers the state to make special provisions for them.
- Article 16: provides for equality of opportunity for all citizens in matters of employment or appointment to any post under the state.
- Article 39 (a): provides the state has to direct its policy towards securing for men and women equality the right to an adequate means of livelihood under this article.
- Article 39 (d): provides this article that there is equal pay for equal work for both men and women.
- Article 39 (a) the state should promote justice. On a basis of equal opportunity and provide free legal aid by suitable legislation or scheme 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.
- Article 42: the state shall make a provision for securing just humane conditions of work and for maternity relief under this article.
- Article 46: provides that the state shall promote with special care the educational and economic interests of the weaker sections of the people and, in particular , of the scheduled castes and the scheduled tribes, and shall protect them from social injustice and all forms of exploitations.
- Article 47: this article gives assurance for nutrition and the standard of living of its people by the state.
- Article 51 A (e): this article promotes harmony and brotherhood are amongst all the people of India and to renounce practices derogatory to the dignity of women.
- Article 243 D (3): not less than one-third (including the number 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 to be reserved for women and such seats to be allotted by rotation to different constituencies in panchayat by this article.
- Article 243 D (4): under this article nearly one-third of the total number of offices of chairpersons in the panchayats at each level to be reserved for women.
- Article 243 T (3): under this article not less than one-third (including the number of seats reserved for women belonging to the scheduled castes and 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 243 T (4): reservation of offices of chairpersons in municipalities for the scheduled castes. The scheduled tribes and women in such manner as the legislature of a state may by law provide will be given.

Fundamental rights, duties and directive principles ensure equality before the law and equal protection of law. These constitutional provisions attempt to remove gender inequalities by banning discrimination based on sex, prohibiting human trafficking and forced labor, and reserving elected positions for women.

Legal provisions for Indian women:

to uphold the constitutional mandate, the state has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women. Although women may be victims of any of the crimes such as murder, robbery, cheating and trafficking etc, the crimes, which are directed specifically against women, are characterized as crime against women these are broadly classified under two categories.

1. The crimes identified under the Indian penal code (IPC)

- Rape (sec.376 IPC)
- Kidnapping and abduction for different purposes (sec.363-373)
- Homicide for dowry, dowry deaths or their attempts (sec. 302/304-B IPC)
- Torture, both mental and physical (sec.498-A IPC)
- Molestation (sec.354 IPC)
- Sexual harassment (sec. 509 IPC)
- Importation of Girls (up to 21years of age)

2. The crimes identified under the special laws (SLL); although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts which have special provisions to safeguard women and their interests are:

- The employees state insurance act, 1948
- The plantation labour act, 1951
- The family courts act, 1954
- The special marriage act, 1954
- The Hindu marriage act, 1955
- The Hindu succession act, 1956 with amendment in 2005
- Immoral traffic (prevention) Act,1956
- The maternity benefit Act, 1961 (amendment in 1995)
- Dowry prohibition Act, 1961
- The medical termination of pregnancy Act, 1971
- The contract labour (regulation and abolition) Act,1976
- The equal remuneration Act, 1976
- The prohibition of child marriage Act,2006
- The criminal law (amendment) Act, 1983
- The factories (amendment) Act, 1986
- Indecent representation of women (prohibition) Act, 1986
- Commission of sati (prevention) Act, 1987
- The protection of women from domestic violence Act, 2005

Special initiatives for women:

National commission for women: in January 1922, the government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc

- Reservation for women in local self-government: the 73rd constitutional amendment Acts passed in 1992 by parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.
- The national plan of action for the child (1991-2000) : the plan of action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.
- National policy for the empowerment of women, 2001: the department of women and child development in the ministry of human resource development has prepared a “national policy for the empowerment of women” in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

Conclusion:

These are the special constitutional, legal and mechanic initiatives taken for women empowerment in India. There has always been a discourse on women position in the historically of India and elsewhere, the global history has been one sided throughout its growth in terms of human rights. The conditions are changed and improved, there are number of organizations are institutions run by women to eradicate there backwardness. Constitution enforces for equality, law stress on improvement and machineries for development. The state and human rights relations dominated the historical process without seeking any participation in the above concept for women. Lately, the concept of women rights has made its mark on the global horizon, and the globe has been endeavoring to protect women by protecting women rights.

Reference:

1. Bishnu C. Barik (2010) Gender and Human Rights, Rawath Publication, Jaipur
2. Rahul Rai (2004) Human Rights and Fundamental Freedoms, Authour Press Network, New Delhi
3. Choudari Appa Rao (2011) Women Empowerment and Social Development, The Associated Publishers, Delhi
4. Ganesamurthy. V S, (2008) Empowerment of Women in India, New Century Publications, New Delhi
5. Dr.Giriraj Shah (2004), Human Rights: Looking and Forging Ahead, Himalaya publishing House, Mumbai.
6. K.C. Pradhan (2010), Social exclusion –Identity and Issues, Sonali Publications, New Delhi.
7. P.C.Das, B.c.das, S.s.das (2006) Indian Society and Culture, Kalyani Publishers, New Delhi.
8. M.L, Narasaiah (2005), Women and Human Rights, Discovery Publishing House, New Delhi.
9. Wilson, Richard (1997), Human Rights Culture and Context: Anthropological Perspective, Pluto Press.
10. V.D. Mahajan (1991), Constitutional Law of India, Eastern Book Company, Lucknow
11. Dr. J.N.Pandey (2003) Constitutional Law of India, Central Law Agency, Publishers, Allahabad.
12. C.N. Shankar rao (2010), Sociology of Indian Society, S. Chand and Company Ltd, New Delhi.



13. Dr.Indrabhusan and Dr. Usha kumara (2007) Rural Development and Women Empowerment, Kurukshetra, March.