

WOMEN EMPOWERMENT: A CHALLENGE IN THE 21ST CENTURY IN CONTEXT OF EXISTING PATRIARCHATE BOTTLENECKS

Written by Sakshi Mantri

3rd Year BA LLB Student, Institute of Law, Nirma University

ABSTRACT

There is no chance for the welfare of the world unless the condition of women is improved; it is not possible for a bird to fly on only one wing- Swami Vivekananda

In **21st** century, we have developed in all the arenas, still there is a big question relating to the rights of the women. The battle for their rights is continuing since ages and it seems it may continue as the situation or position of women is deteriorating day by day. It is the harsh reality that women are not treated in a proper manner in which they should be treated in our country. They are always discriminated against men. Women are dependent on men because they are deprived of economic resources. Women are doing only domestic works which are unpaid, but in this modern time they are coming out of the homes and doing jobs but have domestic work also on their shoulders. The researcher will mainly deal with Article 15(3) of the Indian Constitution which is protection and empowerment of women through positive discrimination and the laws for domestic violence against women which is very common not only now but in earlier times also. Indian Penal Code, 1860 has provisions related to domestic violence, Section 498-A and Section 304-B will be dealt in this paper.

In the later part of the paper there will be some cases relating to the study of paper. Through those cases a clear understanding can be formed about whether the women actually gets their rights or its just to say for granted that yes women too have rights. It's a big blot on our society as we treat women as goddess, at the same time they have to face many atrocities against them.

For uplifting women and their status in our country women must be given rights so that women in this male dominating society can have equal status and equal power. Women are given special rights in our constitution but then also women are oppressed section of our society. The researcher also analyzed the proper implementation of those laws which are specially made for women. Researcher also suggested solution for the problem is that there must be a proper implementation of laws and awareness amongst the women of our country so that they can use their rights and power whenever required for their betterment.

INTRODUCTION- STATUS OF WOMEN IN INDIA

There is no chance for the welfare of the world unless the condition of women is improved; it is not possible for a bird to fly on only one wing.

- Swami Vivekananda

We are living in 21st century in which being a women in itself is a great challenge. Women, who is giving birth to the future of our nation after tolerating all the pains, who is said to be worshipped in the names of Goddesses Saraswati, Goddesses Durga in India, who has proved herself to be the best home maker, who has the potential to face the toughest problems, is still facing lot many problems even in the independent and free India. In 21st century we have almost developed in every sphere and achieved many things but still the question comes in front of us regarding women and their rights. It is the unforgiving reality that women in our country are not regarded appropriately as they ought to be dealt with. In the free India where it is said that women are free and are equal to men are actually not free. They are only free in words but in reality they are not free. It is only a mere saying that they get an equal status in the society with men. It is sad realities that the one who do so much for our society gives so much to our society; do not get anything in return. The battle for their rights is being there since ages and seems to be there for ages as their situation is deteriorating day by day. Mainly the problem is that women are dependent on men as they do not get proper economic resources. Women are doing domestic work which is unpaid, but some women in the modern time go out and do jobs but at the same time they had the responsibility of their homes as well, which is more burden on them.

In the present time also their conditions remains unchanged with only a little change. Law cannot change a society overnight, but definitely can come with laws which are helpful for their upliftment and it had came with many acts, provisions for women but then too things are not getting better.

WOMEN EMPOWERMENT

Women Empowerment refers to the creation of an environment for women where they can make decisions of their own for their personal benefits as well as for the society.¹ It is high time for women empowerment because women empowerment will lead to a better and bright future of our country. Women empowerment means empowering and uplifting women in all the spheres it may be socially, politically, legally and economically. It is time for setting them free for taking their own decisions and getting same equal position as man have in our society. Women should be empowered so that they can live and have a sense of self respect, worth and dignity. Women should get equal opportunity for everything i.e. education, employment, rights, social status, etc and all of these without any gender discrimination and biasness. Women empowerment will help women in taking their own decision and in building up their confidence.

CONSTITUTIONAL PROVISION FOR WOMEN UNDER ARTICLE 15(3)

According to the Indian constitution, women being the legal citizen of the country have equal rights with the men of the country, but the men are not ready to accept the reality that women are equal to them, as it is said that our society is a male dominant society. A woman being the most important section of our society needs to be at par with the males and the title 'Male Dominant Society' should be proven wrong now. The Constitution of India is one of the ways through which it can be done, by giving the rights to women which they actually deserve. Constitution of India carries the articles which are for all and have fundamental rights as well as directive principles for state policy because where there is a legal right there is a legal duty too.

“The Constitution declares certain fundamental rights of the individual.”² These fundamental rights are inherent in each individual, some are for citizens while some are for non citizens also. These rights are for all irrespective of their gender. Fundamental rights are sacred rights, they are inalienable rights which cannot be waived, neither can be transferred, nor can be detached and which the government will not be able to take away. The fundamental rights represent the basic

¹ <http://www.importantindia.com/19050/essay-on-women-empowerment/>

² Mahendra Pal Singh, V. N. Shukla's CONSTITUTION OF INDIA, Eastern Book Company, Twelfth Edition, p. A-41

values enriched by the people of India. Even the constitution makers had made some special provisions for women. The researcher focuses on Article 15(3) of the Indian Constitution.

Article 15- Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. (3): Nothing in this article shall prevent the state from making any special provision or women and children.³

This article is empowerment through positive discrimination. This is the most important clause for women because it talks about making special provisions for them. The reason is the maternal duties of a woman and her physical structure takes her to a disadvantage for her survival. The special provision here means that the state can do either affirmative action or reservation, it can be in the connection with posts or employment under state for the upliftment of the women and for making them to participate in all activities.

“In *Govt. of A. P. v. P. B. Vijayakumar*, the court gave a new dimension to Article 15(3) by holding that reservation for women in state employment was also permissible under that provision notwithstanding separate provision in this regard under Article 16.”⁴ This case showed that Article 15(3) is a broad article and have many possibilities for women. This article can cover any special provisions for women even including reservation in jobs. A woman being the weaker section of the society was in need of such kind of right and this article had been made for their upliftment in the society.

In “*Rajesh Kumar Gupta v. State of U. P.*”⁵, there were large number of young girls who were below 10 years of age were taught in the primary school and identifying that it would be better that women may teach to those young girls, so reservation of 50 percent of the posts were in favor of female candidates, which was held justified and was not violative of Article 15 and even of Article 14 of the Indian Constitution.

Our constitution makers were good enough in making of the constitution because they knew the social problems what a woman has to face at that time and even had foreseen them. Therefore they gave us the fundamental rights which are basic rights everyone must have which include women too.

³ Gopal Sankaranarayanan, *THE CONSTITUTION OF INDIA*, Eastern book Company, Seventh Edition, p. 19

⁴ Mahendra Pal Singh, V. N. Shukla’s *CONSTITUTION OF INDIA*, Eastern Book Company, Twelfth Edition, p.92

⁵ *Rajesh Kumar Gupta v. State of U.P.*, (2005) 5 SCC 172

DOMESTIC VIOLENCE AGAINST WOMEN

Domestic violence is the willful intimidation, physical assault, battery, sexual assault, and/or other abusive behavior as part of a systematic pattern of power and control perpetrated by one intimate partner against another.⁶ Domestic violence is that kind of practice which should not be practiced or accepted in our country. It is one of the acts which is against morality and humanity. Domestic violence can be done in many ways like sexually, emotionally, physically, mentally or financially. It could lead to mental trauma or deaths.

Domestic violence mostly happens due to non fulfillment of demand of dowry. Dowry had its genesis in *vardakshina*, which meant a gift voluntarily given by the girl's father to the bridegroom.⁷ When a girl remains unmarried, social taboos are developed and in this case dowry becomes means of exploitation. Women can be burnt for not bringing enough dowry, tortured and harassed for not providing money to their alcoholic husbands, raped to satisfy the lust of males, or just to teach them a lesson for being bold or outspoken.⁸

Domestic violence is one of the biggest evil of women as well as society also. Women due to fear and threat of being beaten up if raised a volume or in the fear of what society will say if went against husband or in laws, they do not try to protect themselves from such an evil.

INDIAN PENAL CODE, 1860 PROVISIONS FOR WOMEN- SECTION 304-B, 498-A

Dowry as explained in *Satvir Singh v. State of Punjab*, (2001) 8 SCC 633 means- It should be any property or valuable security given or agreed to be given in connection with the marriage. Customary gift or payment in connection with the birth of child or other ceremonies unrelated to the marriage ceremony, held, do not fall within the ambit of dowry.⁹ Earlier the laws regarding dowry deaths were not so strict but after many cases coming for dowry death and no change in society's behavior regarding atrocities against women and increase in dowry death the laws were

⁶ <http://www.ncadv.org/need-help/what-is-domestic-violence>

⁷ S. P. Sathe, Empowerment of women: Legal strategies. In Indra Deva "Sociology of Law (2nd edition) New Delhi: Oxford University Press

⁸ Shobha Saxena, Crimes Against Women and Protective Laws, 2007, pg. 3

⁹ Eastern Book Company, Criminal Manual, twenty seventh edition, pg. 561

amended and were made stricter. For providing justice to the victims of dowry death we have provisions under Indian Penal Code, 1860. Section 304-B of Indian Penal Code 1860 talks about Dowry Deaths.

(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called “dowry death”, and such husband or relative shall be deemed to have caused her death.¹⁰

When the above ingredients are fulfilled, the husband or his relative, who subjected her to such cruelty or harassment, can be presumed to be guilty of offence under Section 304-B.¹¹

Section 498-A of Indian Penal Code, 1860 says that- Husband or relative of husband of a woman subjecting her to cruelty- Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine.¹² To bring home the charge under Section 498-A, held, cruelty is the necessary ingredient which is needed to be proved.¹³

SOLUTIONS AND CONCLUSION

Women being one of the most important sections of our society, the strongest pillar of our society, who gives birth to the future of our nation now, need to get developed and get the equal status as of men. Everyone is aware about the current situation of women, how pathetic it is. They are not treated properly, they are not given right to do whatever they want to. Women empowerment is now need of hour. Our constitution provides rights for the safety of women and IPC provides punishment for the wrong doers of crimes like dowry death and cruelty but then also there is problem. Women are deprived of their rights due to many reasons, because our society being male dominant society. Now also we have a lot many orthodox because of which women are suffering. They are still continuing to be the oppressed section of our society. Women after having the rights

¹⁰ Ibid 9

¹¹ *Shanti v. State of Haryana*, 1991 1 SCC 371

¹² Ibid 9

¹³ *State of Maharashtra v. Ashok Narayn Dandalwar*, (2009) 9 SCC 257

then are also not able to exercise them because of male dominance over them and the one who is crushing in all is women. Our law provides a lot many articles for women and there are special provisions for women but then there comes the problem in the implementation of those rights and provisions. We have laws but there is implementation problem maybe because of which women are not getting equal status. There should be proper implementation of laws so that women can use them for their upliftment and for the betterment of the society. Another reason is of awareness, due to lack of awareness amongst women are not getting equal status. Many women are not even aware about the basic rights they have and the crimes against them which they can stop, especially in the remote areas and when they are not even aware about their rights and the wrong doing happening against them, they are not able to raise a voice against the wrong happening to them. In the conclusion, researcher would suggest that there must be proper implementation of the laws for bringing women at par with the men of the society and bringing equality between both. There must be proper awareness amongst women specially the ones who are more backward. When there will be proper awareness and knowledge about their rights and wrongdoing against them then they will be able to make use of them for their betterment. A woman deserves respect in society, they deserve the equality, being the indispensable part of our society they deserve all what a man gets and they deserve it all in reality, not only just on paper on words.