

WOMEN EMPOWERMENT ISSUES, CHALLENGES AND ACTIVISM OF INDIAN JUDICIARY

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Abstract

The existent paper is an endeavour to investigate the status of women empowerment and acmes the Issues and Challenges of Women Empowerment in India and activism of Indian judiciary. Nowadays the consent of women has grown into one of the most imperative concerns of 21st century. But practically women empowerment is still a deception of reality. The study is grounded on purely from secondary sources. The study exposes that there are many issues and challenges associated with women empowerment in India. Researcher believes that the constitution not only grants equality to women, but also empowers the state to adopt measures of positive discrimination in favour of women. The study concludes by an observation that Indian judiciary plays vital role in India for women empowerment. Along with activism of judiciary education, employment and change in social structure are only the aiding elements to Women empowerment. In this paper researcher has focused on, law to find up to what extent it can help for women empowerment in India. The current paper shows the way that how the law of our country has subsidised to change the exists of women, to make them live with self-respect and admiration.

Keywords: *Challenges, Issues, Judiciary, Law, Women Empowerment.*

INTRODUCTION:

Women empowerment includes empowerment within the family and empowerment in the society. Women empowerment is known as deliverance of women from the malicious clutches like social, economic, political and gender-based perception. Empowerment of women is fundamentally the process of upliftment of status of women, the traditionally unfortunate ones, in the civilization. Women empowerment means conceding women the freedom for every aspect. In this regard, there are various facets of women empowerment, such as - a woman are a being with senses, imagination and thoughts; she ought to be able to express herself liberally. Women empowerment is the practice of securing them against all forms of violence. Women empowerment encompasses the building up of a society, a political environment, wherein women can breathe without the anxiety of cruelty, exploitation, hesitation, judgment and the general feeling of harassment which goes with being a woman in a traditionally male dominated structure. It is endowing women to make them able to get their real rights in the society.

The most famous saying said by the Pandit Jawaharlal Nehru is “To awaken the people, it is the women who must be awakened. Once she is on the move, the family moves, the village moves, the nation moves”.

Ubiquitously women are threatened with many challenges. In all civilizations to a greater or lesser extent women are subjected to physical, sexual and psychological abuse that cuts across lines of income, class and culture. Unfortunately, India is one of the few countries where violations against

women have been amassed in tremendous way. The situation of women in India is a provocative subject, as it reveals the contradictory and the paradoxical nature of the Indian society. In one way people offers prayers to women as goddess but in other way women are considered to be in the inferior position and they are put to outrages even before birth till death.

In mean time constitutional law and ordinary law through judiciary has been working as a protector of women from outrages and providing helping hand in abundant ways. Justice is a power of human demeanour. All human rights are derived from the dignity of the person and his inherent worth. Though the present eminence of women in India has escalated to the current equal is not up to the mark but is still adequate is because of active judiciary and public vigorous people who effectively contrived the status of women of our country to the present level. The impartial and liberated judiciary has always played the activism of a real guardian of justice. Voluminous times the judiciary has pro-actively understood and augmented the influence of jurisdictive provisions in favour of the unprivileged half of the society, i.e., the women of India.

Responding to the role expectations, the supreme court has given both a technical and expansive interpretation of the fundamental rights, and has issued various directions and guidelines to uphold human dignity and human rights of the people of India and more so of the weaker sections such as women, children, and etc

According to the United National Development Fund for women (UNIFEM), the term women's empowerment means:

- Generating women's sense of self-worth;
- Women's right to have and to determine their choices;
- Women's right to have access to equal opportunities and all kinds of resources;
- Women's right to have the power to regulate and control their own lives, within and outside the home;
- Women's ability to contribute in creating a more just social and economic order.

Thus, women empowerment is nothing but recognition of women's basic human rights and creating an environment where they are treated as equals to men. At the same time it says that, empowerment means a psychological sense of individual control or influence and a concern with actual social influence, political power and legal rights.

NEED OF WOMEN EMPOWERMENT IN INDIA:

The status of women in India particularly in rural areas needs to address the issue of empowering women. From the literature review it has been observed that maximum female population in rural area is unutilized. This is generally due to current social civilizations. In comparison it has found that sex ration of women are lower compared to men. The existing studies show that the women are relatively less healthy than men though belong to same class. Women are found to be economically very poor all over the India.

In India women are discriminated and demoted at every level of the society whether it is social, political, economic, education or healthcare. Women need economic power to stand on their own legs. There are number of reasons for women empowerment few are as listed below:

- **Decision Making Power:**

Since ancient time women are not considered to make any decision for anything. Rather they are not having right to take decision about them though they are married or unmarried.

➤ **Freedom of Movement:**

Freedom of movement is also a major reason/issue which needs to be focus by government. Due to many issues women's are not allowed to wonder anywhere without permission. In some cases family is the barrier and in some cases crime against women afraid them to move out without fear.

➤ **Access to Education :**

One of the major hurdles to the empowerment of women in India is the illiteracy .The scenario in urban and rural area is different. In urban areas, girl's rate of education is quiet and good as compared to rural area.

➤ **Access to Employment :**

Still it is observed that the rate of women employment in India is low as compared to other countries. Government of India has made law for the same wich helps for women empowerment.

➤ **Exposure to Media:**

Women in India have less exposure to media so they are unaware about many things happing around them. This also leads to unawareness about new laws which helps them to protect themselves from numerous issues.

➤ **Domestic Violence:**

Indian women have been exposed to domestic violence and other crimes such as dowry, trafficking, honour killing, etc. It's strange that women in urban areas are more prone to criminals.

In continuation with above reasons researcher would also like to focus on some major issues faced by Indian women's. Here, in this paper researcher has enlightened on this issues because law can help in such issue and can come out with some powerful solutions for the society and women upliftment. The main Problems that were faced by women in past days and still today up to some extent are as mentioned below:

- Gender Discrimination
- Family Responsibility
- Ability to Bear Risk
- Ambition for Achievement
- Social Status
- Violence on Women
- Absence of ambition
- Social status
- Dowry Marriage in same caste and child marriage
- Atrocities on Women

Challenges of women empowerment in India are:

- Education
- Poverty
- Health and safety measures
- Professional skill
- Family burden

WOMEN EMPOWERMENT ISSUES:

A lot of deviations have been sworn in since post-independence epoch for women empowerment in India. Today though the Indian is well known for its super powers still we are lacking behind basic amenities like drinking water, and sanitation facilities in many areas. Unemployment, infrastructure, hygiene etc. are some of the important issues which are yet to attend.

- 1) **Women's empowerment:** There is a need to initiate a change in the mind-sets not only of men, but also women themselves through education, medical treatment, job opportunities, etc. Women empowerment is the fundamental issue.
For women's empowerment and equality it is therefore fundamental that women have the right to decide upon their choices without coercion or violence and have the freedom to participate more fully and equally in society.
- 2) **Gender Equality:** In Indian still in some region of the country women don't have right to take decisions by their own. This is basically because of gender equality issue Gender equality safeguards equivalent opportunities, privileges and obligations for women in every province of life. Equality is needed, financial independence education and business as well.
- 3) **Needs and Concerns:** Identifying need and concern is one of the issues. To address such issue there is need to identify the role that women play needs to be determined. This is administrated by influences such as age, location, community status etc. Needs and concern issues may vary place to place. In some region of the country this issue needs more attention.
- 4) **Education:** Education plays vital role in everybody's life. Education for girl child is a major issue. Governments across the world have realized that investing in girls' education leads to overall reduction of poverty. Education can provide a basic awareness of health, hygiene, to know about women's right. So, the issue of education have to focus on priority aspects.

Some other issues are:

Sexual & Reproductive Health & Rights

- Women affected by HIV/ AIDS
- Women suffering from life threatening diseases
- Women with Disabilities
- Elderly Women

Freedom from Violence:

- Domestic violence
- Rape victims

- Women in trafficking
- Women suffer under witch-hunting
- Acid attacking

Solitary Women:

- Adolescent Girls
- Widows
- Women whose husbands are missing due to Conflict
- Migrant women (Economic Migration)
- Divorcee Women
- Unmarried Women
- Unwed Mothers

Government Policies and Schemes for Women Empowerment [2]:

Earlier segment of this paper has discussed about various issues and challenges of women empowerment. Here, researcher would like to focus on some schemes provided by Indian government for women empowerment. The Government of India launched a National Policy for Empowerment of Women in the year 2001. The specific objectives of the policy are as follows:

- Creation of an environment through positive economic and social policies for full development of women to enable them to realize their full potential.
- Creation of an environment for enjoyments of all human rights and fundamental freedom by women on equal basis with men in all political, economic, social, cultural and civil spheres.
- Providing equal access to participation and decision making of women in social political and economic life of the nation.
- Providing equal access to women to health care, quality education at all levels, career and vocational guidance, employment, equal remuneration, occupational health and safety, social security and public life etc.
- Strengthening legal systems aimed at elimination of all forms of discrimination against women.
- Changing societal attitudes and community practices by active participation and involvement of both men and women.
- Mainstreaming a gender perspective in the development process
- Elimination of discrimination and all forms of violence against women and the girl child.
- Building and strengthening partnerships with civil society, particularly women's organizations.

CONSTITUTIONAL PROVISIONS FOR WOMEN IN INDIA

The Constitution of India granted equality to women and empowered the State to take special measures of positive discrimination by eliminating the cumulative socio economic, education and political disadvantages faced by the women.

The Constitution of India has taken great steps for exterminating the prolonged effects of such argumentative forces so far as women are concerned. Indian Constitution makes prompt endowment for favourable action in favour of women. According to analytical jurisprudence a court merely found the law or merely interpreted the law. From the literature review researcher come to know that judges are smearing the unrestricted power to provide better justice to women. Judiciary has played a

dynamic role in enforcing and strengthening the constitutional goals towards protection/rights of the women of the land.

Some of the Bench mark cases in Indian court for women were:

1. Air India vs. Nargesh Meerza
2. Vishakha vs. State of Rajasthan
3. Railway Board vs. Chandrima Das
4. Madhukar Narayan Mardikar vs. State of Maharashtra
5. Deelip Singh vs. State of Bihar

JUDICIARY ACTIVISM:

The judiciary plays an important role in upholding and promoting the rights of citizens in a country. Judicial Activism and its role in Women Empowerment .Arthur Schlesinger Jr. acquaint with the term "judicial activism" in a January 1947 in the magazine name "Fortune" .The name of the article was "The Supreme Court: 1947". According to A.M Ahmadi, judicial activism is a necessary adjunct of the function since the protection of public interest happens to be its main concern

Every country has its own laws and same can be interpreted by judiciary of the nation. Indian government also has law for women empowerment. Now a day's Indian judiciary ia active player for the same. Judiciary activism for women empowerment is boon for women.

Judiciary is ascertaining itself a truthful custodian of constitutional assurances .Jurisprudence prolonged the supremacy of judiciary to go further than the statutory limit to offer better justice. In our Country Judiciary is known as the independent wing of government. This Independent Judiciary has two roles¹. The traditional roles [11]:

1. The traditional role i.e. to interpret the laws and another is
2. Judicial activism i.e. to go beyond the statute and to exercise the discretionary power to provide justice

Some of the Cases of Judiciary activism:

- VishakaVs State of Rajasthan
- Mary Roy Vs State of Kerala
- LaxmiVs Union of India
- Nirbhaya Case

CONSTITUTIONAL PROVISIONS FOR EMPOWERING WOMEN IN INDIA:

- Equality before law for women (Article 14)
- Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth (Article 15(I)).
- The State to make any special provision in favour of women and children (Article 15 (3))
- Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
- The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d))

- To promote justice, on a 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 are not denied to any citizen by reason of economic or other disabilities (Article 39 A)
- The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
- 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)
- The State to raise the level of nutrition and the standard of living of its people (Article 47)
- To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51(A) (e))
- Not less than one-third (including the number of 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 a Panchayat (Article 243 D(3))
- Not less than one- third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women (Article 243 D (4))
- Not less than one-third (including the number of 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 Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (Article 243 T (3))
- 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 (Article 243 T (4))

THE INDIAN PENAL CODE (IPC) AND THE WOMEN PROTECTION MEASURES

- 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 21 years of age)
- The Crimes identified under the Special Laws (SLL)

RESEARCH METHODOLOGY:

This paper is mainly descriptive and analytical in nature. In this paper an endeavour has been taken to analyse the women empowerment in India. The data used in it is purely from secondary sources according to the need of this study. For this paper researcher has used secondary data. The secondary data related to the proposed study is collected through various local and international journals, articles, web sites and published and unpublished thesis, reports, blogs, articles etc.

DATA COLLECTION AND ANALYSIS:

COLLECTION OF THE DATA:

The data for this paper is collected through secondary method. For the data collection researcher has gone through various newspaper articles, magazines, books, journals, research papers and reports and web sites etc.

CONTENT VALIDITY:

In this study the content validity of the survey instrument ensured by:

- Printed and digital books
- Extensive Literature Review

DATA ANALYSIS:

This paper intended to explore the activism of Indian Judiciary for women empowerment. This paper is comprises of what is women empowerment. In addition to it researcher has also enlightened on basic need behind women empowerment. Further researcher has listed various factors influencing women empowerment and challenges of women empowerment in India .Eventually the paper is designed with help of the data which is collected via the secondary source. The data is collected and reviewed by literature review method for explicable form.

CONCLUSION:

The need of women empowerment ascended because of the gender discrimination and male domination in the Indian society since primeval time. Women are being stifled by their family members and society for number of reasons. In this paper researcher has highlighted the issues and challenges associated with women empowerment in India. The main of the researcher of this paper was to deliver information about activism of Indian Judiciary for woman empowerment. From the study done researcher has come up with some of the conclusions :

- There need to identify those drawbacks in order to empower woman in India.
- Need to design resilient women policy.
- Equal opportunity for women.
- More and enhanced laws for women protection
- Strict judiciary action
- Public awareness and support for the success of judicial activism.
- The National Commission for Women and the National Human Rights Commission could be important allies in addressing violations of women's rights.
- Make more positive judgement in favour of women victims.

LIMITATION:

The present paper is focused on women empowerment and role of Indian judiciary. Due to the precise time period for the paper, it was neither feasible nor obligatory to review the large number of papers and researches based on the primary data, which resulted in this paper as it is more focused / limited only for theoretical understanding of this area of the research.

SUGGESTIONS:

Researcher would like to give following suggestions from the study:

If one work on following factors then it will help to enhance the women empowerment:

- Proper awareness for laws.
- Women education has to be made compulsory.
- Strict implementation of the schemes and policies for women empowerment should be done.
- Awareness camps for women should be organized where they can become familiar with the framed schemes and policies and can take benefit of those schemes and policies.
- Change the social interaction process
- Access and control over resources
- Decision making power
- Provide education and employment
- Provide health care facility
- Change of mind-set

FINDINGS OF THE STUDY:

This paper is basically deals with secondary data. From the literature review done by researcher; researcher comes up with following major findings of the study:

- It is required to change the mind set of people in India for women.
- Illiteracy, poverty, health and safety measures are some of the complications should be redressed in order to achieve total women empowerment in India.
- Improvement in economic and social status of women is must needed factor for women empowerment.
- Indian judiciary plays vital role for women empowerment.

TOPICS FOR FURTHER RESEARCH:

In this paper researcher has focused on highlighting issues, problems associated with women empowerment in India. Further researcher has given information about various constitutional provisions for empowering along with the Indian penal code (ipc) and the women protection measures. As per researcher point of view further research can be done on to show case wise results for women empowerment. Along with this future research can be done on why India is lacking behind from other countries for women empowerment.

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