

Women's oppression and protective law in India

Dr. Manjula Devappa
Dept/ women's studies
KSAWU VIJAYAPURA

Introduction: The framers of the Indian Constitution were motivated by the Universal Declaration of Human Rights and they saw to it that the quintessence and the Spirit of the Universal Declaration was incorporated in the Constitution. The inspiration is apparent in the preface to the Constitution which declares: "We, the people of India, having sombrelly resolved to constitute India into a Sovereign, Socialist, Secular, Democratic, Republic and to secure to all its citizens: Justice, social, economic and political: Liberty of thought, expression, belief, belief and devotion; Impartiality of status and of opportunity Fraternity assuring the dignity of the individual. (unity and integrity of the Nation); In our Constituent Assembly this Twenty-sixth day of November, 1949 to hereby adopt, endorse and give to ourselves this Constitution." Human rights are an fundamental part of the concept of human dignity which are protected by diverse requirements of the Constitution of India. It is a unkind reality that women have been ill-treated in every society for ages and India is not an exception to this universal problem. The insincerity lies in the fact that in our country where women are worshipped as 'shakti', the violence are committed against her in all sections of the life. She is being looked down as service or as a slave, she is not only robbed of her dignity and pride outside her house but she also faces ill-treatment and other violence within the four walls of her house also. The women are being considered as an object of male sexual delight and reproduction of children. Women are destitute of economic resources and are dependent on men for their living. Women works are regularly restricted to domestic area; she has to do all house hold works, which are not predictable and voluntary. In modern times many women are coming out to work but has to shoulder double responsibility, first she has to work where she is employed and next she also has to do all the house hold works, moreover, she is the last to be measured and first to be fired as she is considered to be less productive that her complement. Her general status in the family and in the society has been low and unrecognized.

Law cannot change a society overnight, but it can definitely certify that the disadvantages are not given a unrefined deal. However, the magistrates can certainly go beyond mere legality slighting women against injustice suffered due to biological and sociological factors. Indian judiciary has been very

sensitive to women and women related issues. The apex court took special interest in discharging its legal and constitutional obligation and safeguarding the interest of women in changing situation and community demands. The conflict for gender justice has been a long –drawn struggle. The sustained efforts of quite a lot of social reformers, even in the face of resistance from social orthodoxy, have given impetus to the course of gender justice. Constitutional requirements, different laws and judgments of courts have made their own involvement to the cause of gender justice. However, more basic is the work and role of social reformers who wanted to change the mindset of orthodox, tradition-bound society and usher in women’s reforms in the social, economic and educational field.

Hence there is a require to address fundamental issues for making of maternity fund, ban on sex determination tests, reservation for women in government jobs, treating bride burning and dowry deaths as murders, supplies of public toilets and smokeless chulhas in villages, more hostels for lone women in urban areas, making them as joint owners of house and land and making women co-sharers in the wealth and incomes of their husbands to bring women at par with men in the real sense. Gender Justice and the Indian Constitution: The eradication of gender-based discriminations is one of the basics of the constitutional edifice of India. In fact the constitution empowers the state to adopt measures of positive discrimination in favour of women for neutralizing the increasing discriminations and deprecations’ which women face. Constitution of India has done a superlative job in ensuring gender justice in the supreme law of the country. The foreword to the Constitution, inter alia, assures justice, social economic and political, impartiality of status and opportunity and dignity of the individual. It recognizes women as a class by itself and permits enactment of laws and reservations favouring them. Quite a few articles in our Constitution make express provision for positive action in favour of women. It prohibits all types of discrimination against women and lays a flooring for securing equivalent opportunity to women in all walks of life, including education, employment and involvement. The commitment to gender equality is well entrenched at the highest policy making level in the Constitution of India. A few important provisions for women are mentioned below in brief. Fundamental Rights (Part III): Article 14 of the constitution of India ensures to women the right to equality. Article 15(1) particularly provides for positive and positive action in favour of women by empowering the state to make special requirements for them; and the article 16 of the Constitution provides for

correspondence of opportunity to all, in matters describing to public employment or appointment to any office and exclusively forbids discrimination inter-alia on the ground of sex. These articles are all justifiable and form on the basis of our legal Constitutional history. Directive Principles of State Policy (Part IV): Article 38 requires the State to secure a social order in which justice social, economic and political for the endorsement of welfare of the people. It requires the state to strive to eliminate inequalities in status, services and opportunities. Clearly the aim of the makers of the Constitution was to ensure that equality would not be only of opportunity but in reality. Article 39 puts down the principles of policy to be followed by the state which include that the state should direct its policy toward securing the right to an adequate, means of livelihood, that there is equivalent pay for equal work, that the health and power of workers men and women, are not ill-treated and that citizens are not forced by economic requirement to enter avocations mismatched to their age or power. Article 42 requires the state to make provision for securing just and humane conditions of work and for maternity relief. Article 46 requires the state to promote with special care the education and economic interest of the weaker sections of the citizen. Clearly then the objective is to strive towards a gender just society. Fundamental Duties (Part IV: A): In part IV:A of the constitution incorporated through 42nd Amendment Act, 1976, our natural obligation to renounce practices derogatory to the dignity of women has been elevated to the status of fundamental duty by article 51:A. The Equal Remuneration Act, 1976, the Maternity Benefit Act, 1961, the Dowry Prohibition Act, 1961 and the Immoral Traffic (Prevention) Act, 1956 are some of the enactments which owe their existence to the above mentioned provisions of the Indian Constitution.

The Constitution 73rd and 74th Amendments Act of 1993: The 73rd and 74th Amendments (1993) to the Indian constitution have served as a major breakthrough towards enhancing the women's contribution in democratic procedure. These amendments provided for reservation of 33.33 per cent of elected seats. There is also a one-third reservation for women of posts of chairpersons of these local bodies. This is likely to be widen by constitutional improvement for women's representation in legislatures by proviso. However, it must be remembered that guaranteeing a right in law does not make sure the capacity to admittance the right in reality. The fact that the historical subjection of women has not come to an end is constantly before us in the form of the reducing number of women in each census. It is falling at an alarming rate which is a

matter of concern. Similarly crimes against women have been on the increases. Incidents of rape, sexual attack, sexual harassment, domestic violence, cheating etc. have been growing not only in numbers but also in intensity and violence. The data provided by the Crime Bureau of India brings this before us every year. These figures only tell the numbers of reported cases. One can easily imagine how much bigger the number would be if one were to take into account the abundant unreported cases. In addition, in the context of an increasing market economy, there has been the increasing objectification of women in the advertisements and the media. Parliament has from time to time either made amendment to the existing laws or enacted new laws to address these various concerns.

Gender inequity throughout the world are among the most all: invasive forms of inequality. Gender impartiality concerns each and every member of the society and forms the very basis of a just society and hence, the issue of 'gender justice' is of enormous scale and mammoth implication engulfing an all: embracing and illimitable canvas. In the midnight of August 15, 1947, when India awoke to "life and freedom", most of its 170 million women scarcely knew what the 'Tryst with Destiny' was all about. Victims of poverty, ignorance and oppressive social institutions, they hardly knew their destiny and who controlled it. Despite this regression in the social and moral values, there is still a ray of hope in the midst of the darkness surrounding the realization of women's rights. Time and again the Indian judiciary has played a pro: active role by their positive elucidation of the diverse constitutional provisions for women upholding, the validity of various legislations and laying down exhaustive guidelines to realize the concept of 'gender justice' and gender equality. The Apex Court of our country has observed that democracy, development and respect for human rights and fundamental freedoms are inter: dependent and have mutual reinforcement. The human rights for women, including the girl child, are therefore, an inalienable, integral and indivisible part of worldwide human rights. All forms of discrimination on the grounds of gender is violative of basic freedoms or human rights. In this way, the judiciary has lay down complete guidelines in its an variety of decisions to realize the concept of 'gender justice' and gender equality.

Reference

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