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Legislative Provisions For Women In India

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Abstract:

As is commonly said that a welfare state takes care of its citizen, a welfare state believes that economic growth does not mean concentration of economic benefits in the hands of a few persons in the society but should aim at common good. Women in India have faced all kinds of humiliation. The women are facing number of problems in the Indian society. Thus a welfare state ensures that economic growth must not be achieved at the cost of the interest and welfare of women. In Indian Constitution social and economic justice finds its mention in the preamble, runs like a golden thread through Chapter III of fundamental rights and is more explicit laid down in Chapter IV of Directive Principles of State Policy. Commissions for Women Rights are some of the agencies which can protect the women, and provide social, economic and political justice for all round development of women. At present under the mask of liberalization, Privatization and Globalization the Welfare State simply escaping from its responsibility to protect women. All the welfare schemes left by the State and privatized the public sector establishments. The present research paper discusses the various protections to the women particularly constitutional provisions and Legislative protections and various schemes introduced in the Five Year Plans.

Introduction:

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. Within the framework of a democratic polity, our laws,

development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights for women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.

Condition of women in India has not been historically very good. As is evident from Manusmriti, women did not have many rights as compared to men. Further, the women are physically weaker than men and due to this fact also, they have been exploited. Due to such continuous unfavorable treatment, the social status of women has become really bad. The makers of Indian Constitution also understood this fact and have provided several provisions for elevating the status of women and giving them a level playing field. The following is a brief description of such provisions.

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment.

Objectives of the Study:

- 1) To know the legislative provisions made in the constitution of India
- 2) To know the legal framework for safeguarding women in India
- 3) To know the initiatives taken in the Five Year Plans to develop and empower the women

Constitutional Framework to safeguard the women:

1) Fundamental Rights:

Art 14: It says that the state shall not deny any person equality before law and equal protection of law in the territory of India. The principle of equality adopted in this article is that "like should be treated alike". This is the key principle for a social welfare state to ensure social and economic equality.

Art 15: While article 15(1) prohibits the state from discriminating on the basis of religion, race, case, sex, or place of birth, art 15(3) allows the state to make special provisions for

women and children. This is important because as espoused by Art 14, it is imperative for the state to make laws as per the social condition of various peoples.

Art 16: Art 16 (1) ensures equality in employment in govt. services and Art 16(2) explicitly prohibits any discrimination on the ground of sex. Even though Art 16 does not directly contain any provision specifically for women.

Art 21: The courts have interpreted very widely the right to life and personal liberty. In several cases, this article has come to the rescue of women who have been wronged

Art 23: Prohibits traffic in human beings and forced labor. This has improved the condition of women in terms of forced prostitution.

2) Directive Principles: Art 39 (a) Urges the state to provide equal right to adequate means of livelihood to men and women. Art 39 (d) Equal pay for equal work for both men and women. Art 39 (e) State should ensure that men, women, and children are not forced into work that is unsuitable to their age or strength due to economic necessity. Art 40/Art 243 D provides that 1/3 seats in Panchayats shall be reserved for women. Art 42 says that the state shall make provisions for securing just and humane working conditions and maternity relief. Art 44 UCC Due to absence of a uniform civil code, women are routinely exploited in the name of personal laws promulgated by religions. This fact was known to the makers of constitution and they urged the states to implement UCC. In the case of **Sarla Mudgal vs Union of India, 1995, SC** urged the implementation of UCC by states.

Legal Framework to safeguard the 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' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women'.

Several Acts have been passed for the improving the condition of women from time to time like, Dowry Prohibition Act 1961, Contract Labor Act 1970 as well as Factories Act 1948, Equal Remuneration Act 1976, The Commission of Sati (Prevention) Act 1987, Protection of Women from Domestic Violence Act 2005, Maternity Benefits Act 1961, Child Marriage

Prohibition Act 1929, The Family Courts Act 1954, The Special Marriage Act 1954, The Hindu Marriage Act, 1955, The Hindu Succession Act 1956, The Medical Termination of Pregnancy Act 1971, The Contract Labour 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 etc.

Schemes Implemented in the Five Year Plans:

In the past 60 years of independence there has been quite a lot of work done towards the benefit of women. In initial Five Year Plans, the focus was on welfare of women. Later on the focus shifted to development and currently the focus is on empowerment. In 2001, National Policy for Women Empowerment was adopted. Its main objectives were; to create an environment so that women feel involved in the making of economic and social policies, to give equal share in social, economic, and political aspects, to remove discrimination against women by enacting various laws, to encourage equal treatment of women in the society etc.

To achieve above objectives, following schemes were introduced;

Swayamsidha Scheme, Swahdhar Scheme, Kishori Shakti Yojana, Mahila Samridhi Yojana, Maternity Benefits Scheme, Rashtriya Mahila Kosh, Scheme for working women's hostels, Development of women and children in rural areas, Margin Money Loan scheme etc.

Special Initiatives for Women:

1) National Commission for Women: In January 1992, 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.

2) Reservation for Women in Local Self-Government: The 73rd Constitutional Amendment Act passed in 1992 by Parliament to ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.

3) The National Plan of Action for the Girl 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.

4) National Policy for the Empowerment of Women, 2001: The Department of Women & 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:

The position of women are said be vulnerable. No specialties have been extended to them. After emergence of British Christians missionaries have changed their position to some extent. The enforcement of Constitution of India and legal framework has brought remarkable change in the lives of women. Reservation policy though not successful completely, but is helpful to same extent for development of women. The atrocities committed on women including the women from weaker sections being monitored by National Commission for women. The labour sections also protect by various legislations, but after introduction of the globalization the implementation of labour laws are liberalized. All these efforts are meager for upbringing women. Having awareness would be the main criteria for maintaining equality. "Nonetheless, we all agree that mere enactment of laws does not guarantee the eradication of the related problems. Proper implementation of the legislations is necessary to ensure that the intended beneficiaries get the optimum benefits. Further, to tackle the problems in a holistic manner, it is imperative to think and go beyond the legislative initiatives."

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