

Gender Bias and Constitution of India

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I. INTRODUCTION

Gender Bias is behaviour that shows favouritism towards one gender over another. Most often gender bias is the act of favouring men or boys over women and girls or girls.

17th century in India is known as Dark Age in India. Practice of child marriages, dowry system, sati system, female foeticides and infanticides had made life of women and girls miserable. Widow Remarriages were not permissible. Women and girls were not allowed to go to school. They were not allowed to do jobs. If at all they worked there was no equal remuneration. Their role was confined to household work and looking after children. Ray of hope in the 18th century when some social reformers tried to improve condition of women in India by banning these practices. After independence of India Constitution of India made some provisions in the constitutional Law of India in the form of protective legislation and tried to put an end to gender bias.

Art 21A, Art 42, Art 47, Art 14, Art 15(3), Art 16, Art 47, Directive Principles of State Policy, Article 39(e), Art 243G, Art 39, Art 51(A)(e), Art 243(D)(4), Art 243 T(4) have tried to empower women and put an end to gender bias.

The Constitution of India is a document that is revered by 14 billion people. It has provided framework for a young nation and has guided its citizens to abide by the principles of equality, fraternity, liberty and justice.

The Indian Constitution declares India as a sovereign, Socialist, Secular, Democratic, Republic. It contains the ideas of equality of all and freedom to its citizens.

In 1947 when India gained independence the country had an extremely poor education system left behind by the British. India's literacy rate stood at poor 123% at a time. The women or girls were at a more disadvantageous position as the female literacy rate was extremely low.

Education had to be provided to everyone. Education Rights at a time of drafting of Indian constitution were included into state subject. This was later amended in 1976 and education became a part of concurrent list. This meant that both the central Government and The State Governments were responsible to provide education to people. The biggest amendment that came in this area was in 2002. The 86th amendment to the constitution made education a fundamental right for every Indian. The Right of Children to Free and Compulsory Education Act came into force from April 2010.

The article 21(A) OF the constitution added after the 86th amendment now makes education a fundamental right for every child within the age of 6 to 14 years. State Governments shall see that this is implemented.

Article 30 of the constitution gives the minorities in India, the right to establish and monitor the educational institutions. This has been done to ensure quality education for minorities too.

The Indian Constitution ensures equality for all and this makes Gender Equality an inseparable element of it. The right to equality is covered under Art 14 to 18 of the constitution. It states that the state cannot deny equal rights before law to any citizen of India.

It also prohibits any discrimination on the ground of religion, race, cast, sex or place of birth. Since gender equality is inherent to the existing rights in the constitution of India there is no specific gender equality law in India.

Art 42 of the constitution makes it mandatory for the state to provide reasonable working conditions and maternity assistance for women.

Other laws for gender equality in India like Dowry Prohibition Act of 1961, the Hindu succession (Amendment) Act of 2005 and Prevention of sexual Harassment at workplace Act of 2013, all these acts are aimed at ensuring the right of equality to women by creating favourable conditions for them to strive and succeed.

Thus discrimination against women is prohibited under Article 14, 15(2), 15(3) and 16 of Indian Constitution which also provide the state the power to grant protective discrimination in their favour under right conditions. Under the Indian Constitution these provisions are a component of Fundamental Rights.

According to Article 47 of the constitution the states principal duty is to improve the nutritional status and condition of its living citizens. As a result the constitution establishes the right to food as a fundamental Right that is guaranteed and

enforceable through the constitutional remedy set forth in Art 32. Additionally the The National Food Securities Act of 2013 grants legal entitlement to receive subsidised food grains through the targeted public Distribution system to up to 75% of the rural population and 50% of the urban population respectively.

Therefore the act covers almost two thirds of the people to get heavily subsidised foodgrains. In an effort to empower women the act requires that the head of the home for the purposes of distributing ration cards be the eldest women in the household. This indirectly adds the right to eat in the Indian Constitution indirectly.

Right to Health- Directive principals of state policy found in part iv of Indian Constitution requires state to ensure adequate healthcare facilities for citizens.

Under Art 39(e) state is required to protect the health of workers.

Under Art 243 G of the constitution the panchayats and municipalities are given authorities to improve public health in addition to state.

Article 39 –As per Art 39 of the constitution the state shall make sure that men and women have equal right to an adequate livelihood, there is equal pay for men and women, the economic system does not result in concentration of wealth and material resources are distributed to serve a common purpose.

Article 51(A)(E) Speaks about promoting solidarity and the nature of mutual friendship among all country's people, and disavowing acts defamatory to women's dignity.

ARTICLE 243 D(3)-More than or equal to one third (including those of the number of seats reserved for women who belong to schedule tribes and schedule castes) of the maximum number of seats to be held by open voting in each panchayat to be reserved for women and allocation of some seats to be done by succession to separate constituencies within a panchayat.

Art 243(D)(4) Says more than or equivalent to 1/3rd of total number of jobs to be reserved for women for administrators for each tier in panchayats.

Article 243T (3)- More than or equal to one third (inclusive of the proportion of seats reserved for women who belong to the schedule tribes and schedule castes) of maximum number of seats to be held by open voting in each municipality to be reserved for women and allocated by succession to separate constituencies in a municipality for these seats.

Art 243T (4) This article speaks about allocation of administrator posts for schedule tribes, women and schedule castes in municipalities in a way that house of a state can provide by statute .

Gender equality now –a –days seems like a distant sight .More than 2 billion women lack the same work opportunities as men. 70% of women and children are the victims of trafficking of human beings worldwide. Female infanticides and female foeticides are also common in some states of India. If equal opportunities are provided to women they can play a major role in enhancing a country's overall development.

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