



Roll of Judiciary in Empowering women in India

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Introduction

Women have served all these centuries as looking glasses possessing the magic and delicious power of reflecting the figure of man at twice its natural size.” –**Virginia Woolf**.

In our country the framers of the Constitution have taken enough care for women’s rights, its dignity and all other aspects. Under our constitution article 14 to 21 are known as fundamental rights and protection has been granted and has been declared that prevail the legislative will not act in a manner which can suspend, prohibit or make any law against the fundamental rights. Our constitution expressly call first upon the court the power of judicial review and as regards fundamental rights the court has been assign the roll of a sentinel to determine finally the constitutionality of a statute. Once the Supreme Court is satisfied that there has been violation of fundamental rights or there is likely to be infringed by state action it becomes the duty of the Supreme Court to interfere. And will safeguard the fundamental rights guaranteed under the Constitution.

Position of women’s in ancient India

Women’s empowerment has been taken great care by the judiciary. Women like Men are creation of nature yet they are so different. She is no near, attached, bonded, care giver yet so far, unfathomable silent sufferer. Women share every burden but they are hardly sole beneficiary. The National Commission Act,1990 for women recognizes that a woman in India had never been treated well even at home or while at work. Women forget about their self and sometimes promote, perpetrate, patriarchal, over other women subconsciously. We need to sensitize the society including the women. Woman is not inferior to Man in any respect and can perform all

functions equally well or even better. She might be lacking physical strength but is also having the gifts of civilizations. Vedic period was a golden period when women took part in every sphere of social life and enjoyed great amount of freedom and equality with the Men. They used to study in Gurukuls and enjoyed equality with Men in understanding the Vedas. They even fought battles. No parda system was prevalent. Women used to choose their life partners. Even a widow had the right marry again. And there was no discrimination between a boy and a girl. But various restrictions came to be imposed on women’s rights and privileges by Manu and the status of women got lower and the roll was restricted to four corners of their home. During the period of Ramayana and Mahabharata freedom of women both in deed and speech were restricted. During the Mugal period and British regain attention was given to injustice being done to women and with the advent the independence our constitution makers and law framers showed concern for basic rights for women. There was a declaration on the elimination of discrimination of women in 1967 and matter was considered on international level and concern of women was discussed at length.

After Independents role of Judiciary for Empowerment of women’s

That our law passed by our legislature which protects the women from various sexual harassment, molestation, rape, dowry deaths, bride burning, harassment at work place and various other modes of harassment to a women. Some are as under:

- 1) Indecent representation of Women (Prohibition) Act,
- 2) Indian Penal Code,

- 3) Suppression of Immoral Traffic in Women and Girls Act,
- 4) Dowry Prohibition Act.

Under the Indian Penal Code, 1860 provision for prosecuting and punishing various offences attracts punishments for offences committed under the sections viz. section 293,294,317,339,340,341,342,354,359,361,362,363,365,366,370,371,372,373,375,376,496,498,506,509 and 511.

The Suppression of Immoral Traffic in Women and Girls Act,1956 (SITA)

This act was enacted under Article 35 of the Constitution with the object of inhibiting and abolishing trafficking in women and girls. It was also in pursuance of the UN's Trafficking Convention, which India signed on 9 may 1950. The Act aimed to rescue exploited women and girls, to prevent the deterioration of public morals and stamp out the evil of prostitution that was rampant in various parts of the country.

The Immoral Traffic (Prevention) Act, 1956

In 1986 SITA was drastically amended and renamed the Immoral Traffic (Prevention) Act, 1956. It is a special legislation that deals exclusively with trafficking. Offences under the act are:

Keeping a brothel or allowing a premises to be used as a brothel (S.3)

Living on the earnings of prostitution (S.4)

Procuring, inducing or taking persons for the sale of the prostitution (S.5)

Detaining a person in a premises where prostitution is carried on (S.6)

Prostitution in and around the vicinity of public places (S.7)

Seducing or soliciting for the purpose of prostitution (S.8)

Seduction of a person in custody (S.9)

The Probation of Offenders Act, 1958

This Act is aimed at the offenders. Its important features are:

The Act empowers the Court to release certain offenders after admonition and place certain other offenders on probation for good conduct, and

The Act puts a restriction on the court forbidding the imprisonment for any offender

below the age of 21 years, who has not committed an offence punishable with imprisonment for life, unless the circumstances of the case or nature of the offence requires that the offender be punished.

The Indecent Representation of Women (Prohibition) Act, 1986

This Act puts restriction on the publishing or sending by post of books and pamphlets containing indecent representation of women and prohibits all persons from getting involved or directly or indirectly in the publication or exhibition of any advertisement containing indecent representation of women in any form.

Other various acts are as under:

The Child Marriage Restraint Act, 1929

The Bonded Labour System (Abolition) Act, 1976

The Child Labour (Prohibition and Regulation) Act, 1976

The Transplantation of Human Organ Act, 1994

The Information Technology Act, 2000

The Juvenile Justice (Care and Protection of Children) Act, 2000

Goa Children's Act, 2003

Land mark Judicial pronouncement as under
RupanDeol Bajaj & Anr v/s Kanwar Pal singh Gill & Anr

In case of RupanDeol Bajaj v/s KPS Gill the Supreme Court has given directions to try the accused under for the offences under sec 354 and 509 of IPC and she got justice for outraging her modesty. The Hon'ble Supreme Court analyzed defect of existing system of handling the cases pertaining to women victims in case of Delhi domestic working women v/s UOI.

During last three decades there has been a sea change in the concept of women empowerment. A woman today expects herself to be treated whether individual living human being entitles to the same dignity as her male counterparts. The Universal Declaration of human rights, 1948 reaffirms faith in the fundamental human rights, dignity and worth of human person and equal rights of man and woman. Followed by world conference on human rights in 1993 etc. in our country laws have taken

silent and slow steps in participation in women society preventing gender biases and removing lacunas in procedural laws and law relating to evidence.

Shakti Mills Gang rape case

The judicial pronouncement in various cases pertaining to various crimes against women have been considered and in 2013 Mumbai Gang Rape case known as Shakti Mills Gang rape Case in which 22 years old journalist was gang raped at Shakti Mills compound near Mahalaxmi Temple in South Mumbai.

One most important Act is protection of women from Domestic Violence Act, 2005. The said Act is heavily in favor of women. The main benefit of this Act will be women of upper class and gives right to shelter, property and maintenance. The legislation is landmark legislation. It gives married and unmarried women far reaching legal protection against abuse or threats of abuse from their spouses, partners or other members of the family.

Nirbhaya rape case

On December 16, 2012 Nirbhaya a 23 year old paramedic was raped and brutalized with an iron rod in a moving bus in Delhi. She and her male friend were thrown out the bus. Nirbhaya lost her battle for life in a Singapore hospital. The Hon'ble Court while delivering the judgment held that dying declaration of Nirbhaya is reliable and convicted 6 people involved in heinous crime. One of the Accused was a juvenile at the time of a crime and could be punished for three years and thereafter the parliament passed amendment in juvenile justice act and the juveniles age was reduced from 18 to 16.

Vishakha v/s State of Rajasthan

In case of Vishakha v/s State of Rajasthan the Hon'ble S.C has laid down guidelines and norms to be observed to prevent sexual harassment of working women and for this purpose held that sexual harassment includes such and welcome sexually determined behavior as :

- a) Physical contact and advantages,
- b) A demand or request for sexual favors,
- c) Sexually colored remarks,
- d) Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Similarly a three judges bench passed a landmark judgment in *Air India v/s Nargesh Mirza* in which retirement age of flight persons was 58 while for airhostess were to be retired at age of 35 or on marriage. If they married within four years of marriage joining the service or from their first pregnancy. The Supreme Court upheld the regulations in part modified them in part and struck them down in part. And declared that article 14 forbids hostile discrimination and noted that even otherwise article 15 and 16 (2) prohibit discrimination on the ground of sex. And observed that determination the service of the airhostess is not only clause and cruel act but is an open insult to Indian womanhood. And the court has struck down the absolute discrimination vested in the Director to terminate the employment of airhostesses after they reach the age of 35. Holding that the uncanalised decreation amounted to excessive delegation of power.

Rup Kunwar Sati case

On sep 4, 1987, 17 year old Rup Kunwar was burnt alive on the funeral pier on harassment in Deorala village of Sikar district in Rajasthan and in famous incident came to be referred "The Sati case". And after 16 years the special court acquitted 11 persons for want of evidence. Women's organizations mps in people at large had called Rup Kunwar's burning as murder and demanded a central law to prevent sati and its glorification. And an act was passed as Commission of sati "Prevention Act". And the Presentation of the peoples Act was amended in 1951 so as to disqualify any person convicted under the Sati Prevention Act from contesting election to parliament or state assembly for a period of 5 years after his or her release.

Bijal Joshi case

The Hon'ble Gujarat High Court upheld life imprisonment who gang raped 25 year old Bijal Joshi in the hotel on the eve of Dec 23, 2003 in Delhi. The Hon'ble Court held that the accused have treated the victim as an object and had sexual intercourse in a barbaric manner and ultimately she committed suicide due to such barbarous.

This case and such other cases as cited above have established that judiciary is alive to the issue of gender injustice and has become instrumental and has seen that a woman get impartial justice from a man. And many laws have been passed and amendments in adjusting laws have been made by providing stringent and harsher punishments to protect the women in the society and has helped in women empowerment through judiciary and have awoken the society to take great care and respect of women and her safety. Without aid of judiciary the rights of women cannot be protected and the various enactments for them remain teeth less. It is our pias duty to protect the women from all sort of atrocities, violence and discriminations to make the society a peaceful and livable society.

Delhi Domestic Working Women's Forum v. Union of India, 1995 SCC (1) 14

Four domestic servants had filed charges of indecent sexual assault against seven army personnel. The Supreme Court pointed out the defects of the existing system while dealing with rape victims, issuing 8 broad parameters while assisting victims of rape. The Bench comprising of Justice S. Mohan, Justice M.N. Venkatachalliah and Justice S.B. Mujmudar emphasized on the legal representation that needs to be provided at the police station. The Police should be under a duty to inform the victim of her right to representation before any questions were

asked of her and that the police report should state that the victim was so informed. The advocate should be appointed by the Court, upon application by the Police. However, in order to ensure efficiency, advocates would be authorized to act at the police station before leave of the court was sought or obtained. The Court also mandated anonymity of the victim, along with formation of a Criminal Injuries Compensation Board.

Conclusion

Thus, women have always been considered as the weaker sections of the society, as the victims. They have been shown merely as characters in a man's world. What they don't realize is that women are leaders everywhere you look and our judiciary is vigilant to protect their rights, the legislature is always willing to formulate various laws for upliftment, empowerment of women's rights in this country.

Reference

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