



FACULTY OF JURIDICAL SCIENCES

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NAME OF FACULTY- DR. SHIV KUMAR TRIPATHI

Lecture-13



Reformation for liberation of women

During the British Raj many reformers such as Mahatma Jyotirao Phule, Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar etc. fought for the upliftment of women. Many women reformers such as Pandita Ramabai also helped the cause of women upliftment.

In 1917, The first women's delegation met the Secretary of State to demand women's political rights, supported by the Indian National Congress. The All India Women's Education Conference was held in Pune in 1927. In 1929, the Child Marriage Restraint Act was passed, stipulating fourteen as the minimum age of marriage for a girl. Though Mahatma Gandhi himself married at the age of thirteen, he later urged people to boycott child marriages and called upon the young men to marry the child widows. We also come across a group of women who had inscribed their

names in history. Women played an important part in India's independence struggle. Then came the independence and with it the plethora of laws for the reformation of the old stagnant society. Thus the contribution of the great dignitaries like Mahatma Gandhi, Pt. Jawaharlal Nehru and Dr. B. R. Ambedkar cannot be ignored.

Dr. B.R. Ambedkar and movement of women liberation.

Upon India's independence on 15th August 1947, the new Congress-led government invited Ambedkar to serve as the nation's First law minister, which he accepted. On August 29, Ambedkar was appointed chairman of the Constitution drafting committee, charged by the Assembly to write free India's constitution. He is widely regarded as the "father of the Indian Constitution" for his role in creating the document. Ambedkar won great praise from his colleagues and contemporary observers for his drafting work. Ambedkar's work would guarantee political, economic and social freedoms for untouchables and other ethnic, social and religious communities of India.

The text prepared by Ambedkar provided constitutional guarantees and protections for wide range of civil liberties for individual citizens, including freedom of religion, the abolition of Untouchability and the outlawing of all forms of discrimination. Ambedkar argued for extensive economic and social rights for women, and also won the Assembly's support for introducing a system of reservations of jobs in the civil services, schools and colleges for members of scheduled castes and scheduled tribes, a system akin to affirmative action. India's lawmakers hoped to eradicate the socio-economic inequalities and lack of opportunities for India's depressed classes through this measure, which had been originally envisioned as temporary on a need basis.

The constitution was adopted on November 26, 1949 by the Constituent Assembly. Speaking after the completion of his work, Ambedkar said: "I feel that the Constitution is workable; it is flexible and it is strong enough to hold the country together both in peace time and in war time. Indeed, if I may say so, if things go wrong under the new Constitution the reason will not be that we had a bad Constitution. What we will have to say is that Man was vile."

Constitutional provisions

The Constitution of India guarantees the right to equality and equal protection before the law¹⁸, right to life¹⁹ and provides for discrimination in favour of women²⁰. Untouchability has been prohibited in the Constitution and is made an offence under the Protection of Civil Rights Act, 1955. Article 17, The Government recognizing the historical disadvantage and vulnerability of the dalit women has adopted several measures to address their concerns and the same has been highlighted in Article 4 of CEDAW. The Government has passed two legislations namely the Protection of Civil Rights Act (PCRA), 1955 and the Prevention of Atrocities against Scheduled Caste/Tribes Act, 1989 to enable the dalits to enjoy human rights on par with other sections of Indian society and empower them in their struggle for their rights, but crimes against dalits continue to exist.

The Constitution of India contains various provisions, which provide for equal rights and opportunities for both men and women. The salient features are:-

Article 14 guarantees the State shall not deny equality before the law and equal protection of the laws;

Article 15 prohibits discrimination against any citizen on the ground of sex;

Article 15(3) empowers the State to make positive discrimination in favour of women and children;

Article 16 provides for Equality of Opportunity in the matters of public employment;

Article 23 prohibits trafficking in human beings and forced labour;

Article 39 (a) and (d) enjoins the State to provide equal means of livelihood and equal pay for equal work;

Article 42 enjoins upon the State to provisions for securing just and humane conditions of work; and for maternity relief;

Article 51A (e) imposes a fundamental duty on every citizen to renounce the practices derogatory to the dignity of women;

Article 243 D (3) provides that not less than 1/3rd 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 T (3) provides that not less than 1/3rd of the total number of seats to be filled by direct election in every Municipality shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Municipality;

Article 243 (4) provides reservation of offices of Chairperson in Municipalities for SC, ST, Women in such a manner as the legislature of a State, may by law provide;

In pursuance of the above Constitutional provisions, various legislative enactments have been framed to protect, safeguard and promote the interest of women. Many of these legislative enactments have been in the sphere of labour laws to ameliorate the working condition of women labour.

Part IV of the Constitution contains active obligations of the State to secure social economic freedom which could not be granted at the time when the Constitution was framed due to the prevalent socio-economic conditions. But, equality in wages is surely not dependent on the existence of suitable economic conditions. Yet, it was not guaranteed as a right but was incorporated in Part-IV.

It was only in 1976, that the Equal Remuneration Act, 1976 a landmark enactment was introduced, which provides for payment of equal wages to both men and women workers for the same work, or of similar nature. The act also prohibits discrimination against women in the matter of recruitment. Yet, studies reveal that wage differentials still exist, and continue to persist.

The State, under Article 21A of the Constitution has an obligation to provide free and compulsory education for all children in the age group 6-14 years. Further Article 45 ensures that the State shall endeavor to provide early childhood care and education for all children until they complete the age of 6 years and Article 51 A (k) has enforced a fundamental duty on the parent/guardian to provide opportunities for education to his/her child between the age of 6 to 14 years. Article 23 of the Constitution prohibits traffic in human beings and forced labour.

The Government has adopted the Yokohama Global Commitment, 2001 for eradication of commercial sexual exploitation of children. It is actively considering the question of ratifying the UN Protocol to Prevent, Suppress and Punish Trafficking in especially Women and Children and the UN Optional Protocol on the Involvement of Children in Armed Conflict and on Sale of Children, Child Prostitution and Child Pornography. The Government has also undertaken to implement the commitments made in the World Congress against Commercial Exploitation of Children (Stockholm, 1996), In addition to this, India, pursuant to the International Convention for Suppression of Traffic in Persons and of the Exploitation of the

Prostitution, has enacted the Immoral Traffic (Prevention) Act, 1956 (ITPA), which has been amended in 1978 and 1986.

The certification by the Central Board of Film Certification (CBFC) is essential under before screening films. Under the Cable Television Network (Regulation) Act, 1995 the policy initiatives include a code of commercial advertising. Content telecast on TV Channels are guided by Prescribed Program and Advertising code and rules framed there under. Doordarshan and Akashvani strictly adhere to the broadcasting codes and journalistic ethics.

Other Legislation.

There are several laws enacted by the Parliament of India some of them are: the Immoral Traffic (Prevention) Act, 1956. The Dowry Prohibition Act, 1961, The Indecent Representation of Women (Prohibition) Act, 1986. The Commission of Sati (Prevention) Act, 1987: The Guardians and Wards Act, 1860; Indian Penal Code, 1860; The Christian Marriage Act, 1872; The Indian Succession Act, 1925; The Child Marriage Restraint Act, 1929; The Muslim Personal Law (Shariat) Application Act, 1937; The Factories Act, 1948; The Minimum Wages Act, 1948 The Employees State Insurance Act; The Special Marriage Act, 1954; The Hindu Marriage Act, 1955; The Hindu Adoption and Maintenance Act, 1956; The Hindu Minority and Guardianship Act, 1956; The Hindu Succession Act, 1956; The Maternity Benefit Act, 1961; The Foreign Marriage Act, 1969; The Indian Divorce Act, 1869; The Medical Termination of Pregnancy Act, 1971; The Bonded Labour System (Abolition) Act, 1979 The Equal Remuneration Act, 1976; The Contract Labour (Regulation & Abolition) Act, 1979; The Family Courts Act, 1984; National Commission For Women Act, 1990; The Inter-State

Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979; The Pre Natal Diagnostic Technique (Regulation and Prevention of Misuse) Act, 1994; The Infant Milk Substitutes, Feeding Bottles and Infant Foods (Regulation of Production, Supply and Distribution) Act, 1992. The Cinematography Act, 1952, the Right to Information Act in 2005

The discriminatory provisions of law are being progressively reviewed by several bodies, such as the Law Commissions, the Legal Department, DWCD, National Commission for Women and National Human Rights Commission. An Inter-Ministerial Committee including NCW and NGOs working in this field has been constituted in May 2005 to review existing laws to address discrimination and ensure equality to women.

The Juvenile Justice Act (Care and Protection of Children Act, 2000) Provides for Protection, treatment, development and rehabilitation of neglected and delinquent juveniles including girls. The Information Technology Act, 2000 penalizes publication or transmission in electronic form of any pornographic material. The Central Government has also adopted a code of conduct for Internet Service Providers (ISP) with the objective of enunciating and maintaining high standard of ethical and professional practices in Internet and related services.