

Role of the State in Empowering Women

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Abstract: A State is an “independent political entity” the members of which are united together for the purpose of resisting external force and preservation of internal order. No modern State today rests content with limited range of its functions. Therefore, today a modern state does not rest its content with being merely a ‘police’ or Law and order state. It is much more than that as it tends to become a social welfare state. The philosophy as to the role and function of state has undergone radical changes.

Keywords: Indian Culture, Woman status, Woman Empowerment

I. INTRODUCTION

In 21st century the state does not mean merely a police state, exercising sovereign functions, but as a progressive democratic state, it seeks to ensure Social Security and welfare for all, regulates the industrial relations, exercise control over the production, manufacture and distribution of essential commodities, starts many enterprises, tries to achieve equality for all and ensures equal pay for equal work. It improves slums, looks after the health and morals of the people, provides education to children and takes the entire step which Social Justice demands. Thus, a “State” is an institution, that is to say, it is a system of relations which men establish among themselves as a means of securing certain objects, of which the most fundamental is a system of order within which their activities can be carried on. Today states are territorial; their governments exercise control over persons and things within their frontiers. However, A state should not be confused with the whole community of persons living on its territory; it is only one among a multitude of other institutions, such as churches and corporations, which a community establishes for securing different objects, though obviously it is one of tremendous importance; none the less it is not, except in the ideology of totalitarianism, an all - embracing institution, not something from which, or within which, all other institutions and associations have their being.¹ The Constitution of India has been conceived and drafted in the mid 20th century when the concept of social welfare state is the rule of the day. Thus, with its modern outlook regarding the objectives and function of the state, it explicitly declared that India will be organised as social welfare state, i.e., State which render social service to the people and promote their general welfare. Therefore the democratic socialism aims to end poverty, insurance, disease and inequality of opportunity. The court in India has derived the concept of Social justice and of economic egalitarian society from the concept of socialism. In *D. S Nakara v Union of India*,² the Honorable Supreme Court of India Expresses its views regarding the principle aim of socialism in the following words:-

“The principal aim of socialism is to eliminate inequality of income and status and standards of life if and to provide a decent standard of life to the working people.”

II. SOCIAL STATUS OF INDIAN WOMEN

During Vedic time’s women in India enjoyed high status in society. Their condition was good. They were free to attain high intellectual and spiritual standard. There was no sati system or early marriage rather they were treated and considered as Goddess. Today, the universal social structure is of view that a woman is to be preserved by the powerful. In 2013 the Madhya Pradesh Cabinet Minister Kailash Vijayvargiya quoting Ramayana has openly said that just like Sita was abducted by Ravana, a woman will be punished if she crosses her limits.³ Violence against women is often sanctified by custom and reinforced by institutions that limit women’s rights, their decision – making power, and their recourse to protection from violence. In his first address in parliament, India’s current Prime Minister has said that the protection of women was paramount, and stressed that women deserved respect and dignity. Still we are in an era where the society in trapped by patriarchal norms and beliefs. The present modern culture / society is of the view that a good woman is safely ensconced in her home, and does not go out after dark or visit unsafe places. Housework and housekeeping is for girls, if women are not good, men have a right to “teach them a lesson” by any means. This outlook leads families to treat women as objects that should remain pure and be controlled; women are their father’s property, and later of their husbands. Families and communities are being afraid of losing face due to her modern way of life and this resulted in to forced marriages or even murdered by their own parents.

Much of what an individual is today is shaped by the culture that he or she is born in and lives through, acquiring cultural values, attitudes, and behaviors. Culture determines definitions and descriptions of normality and

¹ Black’s Law Dictionary, 4405 (8th ed. 2004)

² AIR 1983 SC 130

³ India Today, New Delhi, 4th Jan 2013

psychopathology. It plays an important role in how certain populations and societies view, perceive, and process and presence of women. The discrimination against women has been started after Vedic period in education and other rights and facilities. Child marriages, widow burning, the purdha and polygamy further worsened the women's position. The epics and purans equated women with property. Even Buddhism did little for women. Though the Maurya Kings often employed female bodyguards, spies and stri - adhyaksha mahamatras. But their status was still bad as upper cast ladies have to accept purdha. During this period men were polygamous and widow burning was an accepted norm. Arthashastra imposed more stigmas on women as Kautilya dismissed women women's liberation. Child marriages, teenage pregnancy, sexual assault and of domestic violence are still exists in 21st century. The ways in which women are not valorized are endemic in the society. While the customary offences are on their way as against the women, today internet has also played a vital role in sex crimes or crime against women. For example Cyber stalking - threatening behavior or unwanted sexual advances using the Internet or other high - tech communication - is a well placed. Mobile phone, surveillance, and computer technologies provided new ways to abuse or intimidate. Photos or video taken during a sexual assault are widely shared through MMS and other modes, offenders uses chat rooms and instant messaging to seek their hunts, whether adults or youth. All these things made an innocent a victim and creates further trauma to them. Violence committed against women as a result patriarchal behaviour have been there in the country since long, however sudden spurt in such violence is seen in majority of States/UTs since 2011. According to the data collected by NCRB from States/UTs rape cases have increased from 24206 cases in 2011 to 38947 cases in 2016 and similarly cases of criminal assault to outrage the modesty of women have increased from 42968 cases in 2011 to 84746 cases in 2016 (excluding POCS O cases). A total of 36022 cases were registered in different sections of POCS O (Prevention of Children from Sexual Offences) Act, 2012 in 2016.⁴ A new dimension to the sexual offences in the country is the increasing involvement of juveniles in the commission of sexual offences. Sexual offences have a deep psychological impact on victims and hence are one of the most heinous offences imaginable. The National Commission for women on the occasion of its 25th year in 2018 still spoke about subordination women and emphasized to promote gender justice and to take steps for upgradation of the social status, dignity and quality of life for women. It has been accepted fact now that domestic violence is a reality of every married woman and because of the patriarchal nature of the society; the rights of women are compromised. Inequality and violence against women is entrenched in our society.⁵ Thus,

Indian woman bearing the torch of cultured living through self-sacrifice, physical and mental endurance.

III. ROLE OF THE STATE IN WOMEN EMPOWERMENT

Being customized by its patriarchal norms and ruled by the Britishers for more than 100 years. Today, India as a State is the world fastest growing economic. It is a land of diversities even than it emerged as a Sovereign, Democratic, Republic, Socialist and Secular - State for securing all its citizens Justice, Liberty, equality and Fraternity. The Preamble to the Indian Constitution guarantees Social, Economic and Political Justice which too include gender justice, liberty of thought, expression, belief, faith and worship; equality of status, while fraternity to treat each other with respect and dignity, regardless of gender. The constitution of India recognize the fact that the women in India have been socially and economically handicapped for centuries and as a result thereof they cannot fully participate in the social economic activities of the nation on the footing of quality. Thus to eliminate this social economic backwardness of women and to empower them in such a manner as to bring about effective equality between men and women, since after the independence a number of legislative enactments have been formed with a view to protect the women from every kind of violence that can affect her dignity. Also India is a signatory to all the international Conventions relating to women and the obligation of the State to ensure gender justice (including protecting women from crime and abuse) arises from many sources of international law. Such as Universal Declaration of Human Rights, 1948, the International Covenant on Civil and Political Rights, 1966, the International Covenant on Economic, social and Cultural Rights, 1966, Convention on the political Rights of Women, 1954, The Declaration on Elimination of Violence against Women 1993 and Convention on Elimination of all forms of Discrimination against Women. Also the legislature has enacted gender specific laws in order to provide maximum protection to the status and dignity of women such as Immoral Traffic (Prevention) Act, 1956, Indecent Representation of Women (Prohibition) Act, 1986, the Maternity Benefit Act, 1961, the Dowry Prohibition Act, 1961, Medical Termination of Pregnancy Act, 1971. The Prohibition of Child Marriage Act, 2006, The Protection of Children from Sexual Offences Act, 2012, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Besides legislative provisions, promoting social and economic empowerment of women through cross - cutting policies and programmes, a number of women empowerment schemes and both at Central and State levels have been launched and operated by the Government of India such as :-

⁴ NCRB, *National Data base of Sexual Offences* , 37 (Vol – 1. No – 1, Oct. 2018, New Delhi)

⁵ National Commission for Women, “Rashtra Mahila” (Vol. 1 No. 222, Jan. 2018)

1. Beti Bachao Beti Padho Scheme
2. One Stop Center Scheme
3. Women Helpline Scheme
4. Ujjawala : A Comprehensive Scheme for prevention of trafficking and Rescue, Rehabilitation and Re – Integration of Victims of Trafficking and Commercial Exploitation
5. Working Women Hostel
6. Swadhar Greh: A Scheme for Women in difficult circumstances)
7. Support and Training and Employment Programme for women
8. Mahila Police Volunteers
9. Mahila Saakti Kendras
10. Nirbhya
11. Kishori Shakti Yojana

Thus, a number of efforts have been made for women's social, economic and political benefits, but they were never been proven to be fully effective, to bring a remarkable change in the situation. It does not mean that nothing has been achieved till dated. As compared with past, women in modern times have become powerful in various fields and have achieved a lot but in reality they have to still travel a long way. In *Municipal Corporation of Delhi vs. Female Workers' Muster Roll*,⁶ the Supreme Court observed the constitutional position vis-a-vis the Indian reality as that "Not long ago, the place of a woman in rural areas has been traditionally her home; but the poor illiterate women forced by sheer poverty now come out to seek various jobs so as to overcome the economic hardship, they also take up jobs which involve hard physical labour. The female workers who are engaged by the Corporation on muster roll have to work at the site of construction and repairing of roads. Their services have also been utilized for digging of trenches. Since they are engaged on daily wages, they, in order to earn their daily bread, work even in advance stage of pregnancy and also soon after delivery, unmindful of -detriment to their health or to the health of the new-born. It is in this background that we have to look to our Constitution which, in its Preamble, promises social and economic justice. We may first look at the Fundamental Rights contained in Chapter III of the Constitution. Article 14 provides that the State shall not deny to any person equality before law or the equal protection of the laws within the territory of India. Dealing with this Article vis-a-vis the Labour Laws, this Court in *Hindustan Antibiotics Ltd. v. Workmen*, has held that labour to whichever sector it may belong in a particular region and in a particular industry will be treated on equal basis. Article 15 provides that the State shall not discriminate against any citizen on grounds only of religion, race,

caste, sex, and place of birth or any of them. Clause (3) of this Article provides as :- (3) Nothing in this article shall prevent the State from making any special provision for women and children.

IV. CONCLUSION

While the customary offences are on their way as against the women today in the digital era internet has also played a vital role in sex crimes or crime against women. For example Cyber stalking - threatening behavior or unwanted sexual advances using the Internet or other high - tech communication - is a well placed. Mobile phone, surveillance, and computer technologies provided new ways to abuse or intimidate. Photos or video taken during a sexual assault are widely shared through MMS and other modes, offenders uses chat rooms and instant messaging to seek their hunts, whether adults or youth. The women contribution in countries decision making process is still low as compare to male counterparts. As per the electoral statistics pocket Book, 2017, the percentage of women nominated in Rajya Sabha has been around 11% in 2016. Female participation in elections has been 65.54% in the sixteenth General elections in 2014 which is more or less equal to male participation at 67%. As per Census 2011, the workforce rate for females is 25.51% against 53.26% for males. Rural sector has a better female workforce rate of 30.02% compared with 53.03% for males whereas for urban sector. In 2007 The National Human Right Commission committee on missing children's 2007 had quoted that the Constitution of India has sufficient mandate to secure human rights. Thus it will not be wrong to say that the State fails to perform its duty and it require a strong political, legislative and executive will to achieve constitutional mandate of welfare state.

⁶ AIR 2000 SC 1274