

Role Of Law, Technology And Administration In Promoting Gender Equality

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ABSTRACT

Today the Gender Equality is a burning issue of debate worldwide. In the Indian context article 14, article 15(3), article 16, article 39(a), article (b), article (c) and article 42 are the relevant constitutional provisions in this regard.

In this digital age of globalisation and increasing use of digital technology the issue of Gender Equality has come across new challenges and issues to be dealt with. Since misuse of technology by using mobile phone, internet, and several social media platform has resulted in many woman and child susceptible to cybercrime.

No doubt the new digital technology has brought the world closer than the world ever before but at the same time it has created gender specific problems for vulnerable groups including woman and child. The cyber fraud is on rampant. Efforts are being made to prevent the misuse of cyber space by new legislation and policy and make the vulnerable section aware of various threats. Therefore one important dimension of issues and challenges pertaining to Gender Equality is the use and misuse of new technology. It is imperative to find out the modality of new technology that it does not do any harm to woman and child but promote Gender Equality at large. This is the task under taken in this research.

The study will explore how modern technology particularly the cyber investigation will help not only promoting Gender Equality but also effectively dealing with the issues and challenges in contemporary Indian society. Therefore, socio-economic and technological empowerment through education is the greatest measure for bringing in Gender Equality in this age. Nonetheless to ensure access to digital skills and use of advance information and computer technology is a must for all irrespective of sex.

Online harassment and misuse of technology to threaten the ease of life of woman and child is an important aspect to be dealt with. In our business and corporate world we can't afford to be gender biased if we believe in gender equality. Therefore the study at hand envision to explore how best we can digitally empower the people to move towards a better digital future, where Gender Equality can be ensured.

Key words: Digital technology, Gender equality, Information technology, Cybercrime, Socio -Economic empowerment

I. Introduction:

In this modern day parlance worldwide, females are facing a number of problems such as gender based violence, gender based inequalities and deep rooted gender based socio-cultural issues. It obstructs their overall development and freedom of life. It leads to a negative impact in society regarding their rights of gender equality. Therefore Gender Equality is a boiling issue across the globe, where all the government worldwide are making endeavour to diminish the gender inequality by enacting new laws suitable to their social, economic and modern day aspirations of people.

The Gender Equality should not be limited to some areas like education, political empowerment and economic development. It must include the role of the new technology in bridging the gap and paving the

way for realisation of gender equality. This is because the female gender has less access to new technology particularly in rural sector. Technology and new innovations as a device can accelerate the pace of bridging the gender gap by giving access to females of new technology. It will open up new doors for their fullest development, self-independence, employment and knowledge. It will also empower them to know their rights and mechanism to realise the same. Hence it is important that in whatsoever, manner the technological advancements take place, but it must be used for the benefit of society at large. It is also important in the contemporary world, where technology is expanding in all sphere of life; we just can't ignore the role of woman which they are capable of playing. Therefore it is imperative to focus on the socio-cultural dynamics at global and national level for Gender Equality based use of technology. The working women in unorganised sectors can be empowered in fulfilling their life by self- independence, employment opportunity through the use of newer technology. This will provide them income, social security and will make them self-reliant. There is no doubt that giving access to women in the use of information and computer technology will not only increase their opportunities but will also provide them social security and socio-economic advancement. It is also well known that women have unequal access to the new technology and economic opportunities. More so the information and computer technology is consistently reshaping our life at a fast pace. Technological development can also help in increasing the access to women for various financial services. This is because most of the women have no access to banking or financial services. They have no knowledge about the banking and credit facility. In this area financial technology can play a vital role in equalizing the gender equality. This will pave the way for empowering the women so that the investment and wealth gap between the genders can come to equality.

Last but not the least is the technological literacy which comprises of the use of digital technology, information science and computer technology, which will go in a long way for the realisation of gender equality. Therefore the application of law and technology together can be useful in bringing about the gender equality. Since the society is governed by the Rule of Law and therefore the Law relating to the use of new technology needs to be promoted in such a way that woman in rural areas must be at par with their urban counterpart. The focus of this research paper is aimed at how to realise the above objectives, by examining historical/ legislative/ judicial and global perspective of the issue and challenges.

2. Historical Perspective:

Since ages women were subjected to subordination and unequal treatment as compared to their male counterpart. It is very strange that the status of women in human society remained more or less the same till the time of French revolution wherein certain rights were provided to the people such as right to vote. However, it took a long time even in European history, when the right to vote was provided to all women. Finland was one of the pioneering countries in Europe to give women, the right to vote. This process began somewhere in 1878 and by 1919, the suffrage movement finally gain momentum to realise the role of women to help during the world war. Therefore historically the fight for the women right of vote although started in first half of 16th century but it only began to happen in 19th century. After the 2nd war with the very creation of United Nation Organisation (U.N.O) in 1945 and declaration of United Nation Declaration Human Right (U.N.D.H.R), the real process of giving the equality of status, opportunities to the women began. Over the years the education of women child and social awakening played a vital role in promoting the gender equality. This is how the status of women world over began to transform from commodity to a living partner with equal rights. However even today there is a discrepancy about the law of marriage, inheritance, property, and adoption etc. in many countries of the world on the basis of age old custom based religious practices.

In independent India the practise of polygamy and other inequalities were abolished by bringing in a series of legislation such as i) Hindu Marriage Act, 1955 ii) Hindu Adoption And Maintenance Act, 1956 and iii) Hindu Succession Act, 1956 iv) The Hindu Minority And Guardianship Act, 1956 etc. Historically, the gender inequality was rampant, almost in every sphere of human endeavour such as education, right to marry, right to work, right to equal remuneration, political rights etc. This was the greatest challenge in the society and as a result of it women were subject to oppression in there day to day life.

It is pertinent to mention herein that in ancient India, the women were treated with respect and dignity. There were women rights and women were held in high esteem. The women enjoyed to some extent in decision making and certain administrative functions. Historically in 320 BC during the time of **Chndragupta Maurya**, who initiated the tradition of 'kings' in ancient India, was the first to employ armed women as body guards. However in ancient India women were considered economically less advantaged as compared to their counterpart.

During the medieval period there was a perceptible decline in the status of women related to issues like child marriage, *parda system*, *sati partha*, *jahuhar*, polygamy and even denial of education to the girls. Therefore in the medieval time women had no freedom and were subjected to suppression. Peasant women had to work at home and at agricultural fields. It was only in the modern time when there was a paradigm shift in the status of women and became an objective of the state to realise the gender equality. This is not the end but it is a continued endeavour and the greatest challenge before the modern Indian society today.

III. Legislative Initiative:

Since independence the makers of the Constitution of India were aware of the issue of gender inequality prevalent in the Indian society. Therefore they carefully drafted the preamble to the Constitution of India, fundamental rights and directive principals of state policy enshrined in part III and IV of the Constitution of India respectively. The Constitution of India being the supreme law of the land contains detailed provisions directly or indirectly to be interpreted for women's empowerment. Therefore in order to enforce various measures for bringing about Gender Equality as an obligation on the part of States and Central Government of India, it contains several provisions. In this connection Article 14, Article 15, Article 15(3), Article 16, Article 39(A), Article 39(B), Article 39(C) and Article 42¹ are the specific provisions in terms of Gender Equality and equality in general.

It clearly shows that Gender Equality is not only a Human Right but also a Fundamental Right to be observed in totality. This burden lies on the State and Central Government collectively. It is worthwhile to mention herein, that the Indian Penal Code (I.P.C) has several provisions related to crime against women such as Rape (Sec- 375), Kidnapping and Abduction (Sec- 363-373), Molestation (Sec- 353), Sexual Harassment (Sec- 509), Cruelty against Women by Husband and His Relatives (Sec- 498A), Dowry Deaths (Sec- 304B)² etc. Beside the above mentioned Constitutional and Criminal law provisions certain new Acts were also enacted with the aim of providing legal provisions for enforcement of the Gender Equality and Empowerment of women.

As a result of Legislative initiative from time to time, various Acts and Amendments were also under taken by the Government in the direction of Gender Equality and Women Empowerment. Some of them are as under:-

1. The Special Marriage Act, 1954³: This act contains relevant provisions for marriage irrespective of religion or faith to pave the way for facilitating marriages among different communities, caste and religion in furtherance of the fundamental rights of individuals.
2. The Hindu Marriage Act, 1955⁴: The sole objective of this Act was to amend and codify the legal provisions pertaining to marriage among Hindus and others. This Act brought about uniformity of Law among all section of Hindus.
3. The Hindu Secession Act, 1956⁵: It was an Act aiming at to amend and codify the Law relating to succession among Hindus, Buddhist, Jains and Sikhs. The Act aims at creating a uniform system for inheritance and succession. This Act was amended in 2005 resulting in Empowerment of Females by granting them the ownership of property acquired either before or after the signing of the Act, there by abolishing "limited ownership" status.
4. The Dowry Prohibition Act, 1961⁶: This Act contains detailed provisions regarding the prohibition of dowry as a consideration of marriage. Hence demand of dowry (giving and taking) was made a punishable offence.
5. The Maternity Benefits Act, 1961⁷: This Act aimed at regulating the employment of women for a certain period of time before and after the birth of a child takes place. It provides maternity benefit and certain other benefits such as leave for 26 weeks by an Amendment made in 2017, which was earlier 12 weeks.
6. The Equal Remuneration Act, 1976⁸: This Act makes it mandatory for employer to give equal remuneration to men and women for the same job. Therefore this act brings an end to discrimination between men and women in the matter of wages or pay.
7. Sexual Harassment Of Women At Work Place Act, 2013⁹: This Act was enacted as a result of Hon'ble Apex Court guidelines in (Vishakh vs. State of Rajasthan) to prevent sexual harassment of women at workplace by making the employer duty bound to report such offences or make provisions for preventing the same.
8. The Criminal Law Amendment Act, 2013¹⁰: This Amendment Act was enacted on the basis of recommendations of the Verma Committee Report. This Amendment paved the way for incorporation of offences such as acid attack, sexual harassment, stalking etc. in Indian Penal Code.

4. Judicial Perspective:

It is well known that whenever there is a denial of Justice or violation of Fundamental Rights by the two wings of governance (executive and legislature), it is only the judiciary as a third wing of governance, which

¹ The Constitution of India, 1950

² The Bharatiya Nyaya Sanhita, 2023

³ The Special Marriage Act, 1954

⁴ The Hindu Marriage Act, 1955

⁵ The Hindu Secession Act, 1956

⁶ The Dowry Prohibition Act, 1961

⁷ The Maternity Benefits Act, 1961

⁸ The Equal Remuneration Act, 1976

⁹ Sexual Harassment Of Women At Work Place Act, 2013

¹⁰ The Criminal Law Amendment Act, 2013

comes to their rescue. Judiciary as per the Constitution of India enjoys independence under Article 51. Over the years Indian judiciary has come out with a series of land mark verdicts regarding the burning issue of Gender Equality and Women Empowerment. Some of the landmarks Judgments are as under:

1. *Air India vs. Narges Mirza* 1981 SC¹¹: In this landmark verdict the Supreme Court struck down regulation 46 of the Air India Employee Service Regulations on the ground that it was Unconstitutional by creating discrimination in service matter relating to male and female.
2. *Mohd. Ahmed Khan vs. Saha Bano* (1985) SC¹²: This case is also known as Saha Bano case. In this case the Hon'ble Supreme Court held that under section 125 Cr.P.C a woman of any religion can file a maintenance application as section 125. It will override the personal laws if any conflict exists between them.
3. *Mrs Mary Roy vs. State of Keral*a (1986) SC¹³: It was a case where the Travancore Succession Act, 1916 was challenged being violative of Constitution of India. The Apex Court in this case agreed with the contentions of Mrs. Marry Roy (petitioner) and turned down the violatory provisions of the Act by allowing the petitioner a share in her family property.
4. *Sarla Mudgal vs. Union of India* (1995) SC¹⁴: This landmark verdict brought into limelight the exploitation of personal laws of women. It was made mandatory that a Hindu male must obtain divorce under the same law under which his marriage was solemnised. Thereafter he has liberty to change his religion to marry second time. This is also a case where an advisory was issued by the Court for the implemation of Uniform Civil Court under Article 44 of the Constitution of India.
5. *Vihaka & Ors. Vs. State of Rajasthan & Ors.* (1997) SC¹⁵: In this landmark case the Hon'ble Supreme Court issued detailed guidelines in order to prevent the sexual harassment of women at work place. This verdict later on, in year 2013 resulted in enactment of sexual harassment of women at workplace (prevention and prohibition, Redressal Act).
6. *Suhas katti vs. State Tamil Natdu* (2004) SC¹⁶: Probably it was the first landmark verdict related to cybercrime and digital technology. The misuse of cyber technology for sending obscene and vulgar messages to compel a woman to marry was brought to lime light through this case.
7. *Laxmi vs. UOI* (2014) SC¹⁷: This verdict emanates from the incident of increasing acid attacks and the Apex Court issued detailed directives and guidelines including the provision for unauthorised sale of acid across the nation to prevent such incidents.
8. *Sabu Meathew George vs. Union of India And Ors.* (2017) SC¹⁸: In this landmark verdict the practise of prenatal sex determination was banned in view of gender equality, and dignity of women for the promotion of healthy sex ratio in the Nation. It was a ruling related to misuse of (cyber space digital technology) by Yahoo and Google platforms in promoting advertisement of the sex determination.
9. *Federation of Obstetric and Gynaecological Societies of India (FOGSI) vs. Union of India* (2019) SC¹⁹: The Apex Court held that giving preference to the male child is violative of Article 39A and of Article of 51A(e) as the same casts a Constitutional duty on every citizen to renounce practises derogatory to the dignity of women. Court while upholding Constitutional validity of Section 23 of the PNDDT Act has observed that female foeticide is the most inhumane, immoral and anti-social Act.
10. *Vineeta Shrama Vs Rakesh Sharma* (2020) SC²⁰: In this land mark verdict the Hon'ble Apex Court held that daughter to have equal coparcenary rights in the Hindu Undivided family by birth. They cannot be excluded from inheritance even if they were born before the Amendment Act of 2005 in the Hindu Succession Act, 1956.

5. Global Perspective:

Gender Equality being a fundamental human right is necessary for peaceful and sustainable development worldwide. Over the last decades the world has witnessed progress on this front. This is because today more girl child are going to school, number of girls forced to early marriage has substantially declined, more women are participating in Legislative affairs and Leadership. Beside this more and more women are participating in those professions and occupations which were not opened for them before, such as Armed Forces, Police, Pilot, Locomotive Engine Driver etc. The work is witnessing more care for women and women child regarding health issues, education and opportunity for their empowerment ever before. In this digital age with the growing use of internet and social media the share of youth is the maximum. Globally it is a

¹¹ AIR 1981 SC 1829.

¹² AIR 1985 SC 945.

¹³ 1986 AIR 1011.

¹⁴ (1995) 3SCC 635.

¹⁵ (1997) 6 SCC 241

¹⁶ 4680 of 2004 Criminal Complaint.

¹⁷ (2014) 4 SCC 427.

¹⁸ (2018) 3 SCC 229

¹⁹ Writ Petition (Civil) NO.129 OF 2017.

²⁰ (2020) 9 SCC 1.

positive sign because, it is helping in creating a wide awareness regarding the respect for Gender Equality and much needed Women Empowerment.

During COVID-19, when people were confine to home for the first time they realised the dignity of labour of a women in domestic affairs. The covid-19, experience has drastically changed the world and particularly the attitude of men towards the women. The use of digital technology during the pandemic has helped in bringing the people world over together on a digital platform inspite of travel ban. Beside this during Covid-19 time not only all Educational Institutions worldwide, were online but also the people were made to work from home. Several virtual meetings, Seminars, Conferences were being organised globally on several issues including Gender Equality and Women Empowerment on digital platform. The positive impact of pandemic was to help in bringing the world closer than ever before.

The gender imbalance not only deprived women of equal opportunity and rights but it also cost society at large. Several researches indicates that a more gender- balanced world is not only beneficial for women but for human society at large. Although, there are no short cut for achieving Gender Equality but digital technology can offers an opportunity to narrow down gender gaps by facilitating access to women in every sphere of human endeavour. This is because the access to digital technology provides new door of awakening with privacy, service and security if used cautiously.

The use of digital technology is helpful in many ways such as asserting legal rights, easy access to banking services, various claims, entertainment for woman and their children in day to day life. In this context it is worthwhile to mention that still there exist a gender based digital divide in many countries of the world. The situation in developing world indicates that women are significantly lower in the use of technology compared to their male counterpart. This can be attributed to deeply rooted socio – cultural ethos regarding the role of women in society. Therefore in the recent time, human society has witnessed more and more interactions among members of society and also among different countries due to digital revolution. The access to information and communications technologies (ICTs) is an essential part of our day-to day life today as it is playing an important role world over in social – economic and political interactions. The unfortunate fact is that not everyone including many women living in rural areas has access to this technology, resulting in what we call a “digital divide”. Therefore, the law and particularly the law relating to information and communication technologies can only bring about a desirable change in the direction of Gender Equality and Women Empowerment in this age.

6. Conclusion and suggestions:

The issue of gender equality in a country like India continue to face huge challenges because of the age old mind-set of male dominance and craving of a male child. Although, the Constitution of India guarantees equality in all aspects of human endeavour as fundamental right. Therefore the main challenge is how to bring gender equality in a pluralistic, multilingual, multi-religious and multi ethnic society like India. Over the years several legislative initiatives, judicial efforts and efforts of various Non-Governmental Organisations (NGOs) are engaged in bringing about awakening in the Indian society for realising the importance of gender equality.

According to the global gender gap index 2021, India still ranks very low in comparison to various other countries of the world. This is because the allocation of funds on education and health sector in India are far less as compared to developed countries like U.S.A and UK. However we have to see this situation in a different context because of several issues and particularly in the context of our population which is far more and larger then these countries as compared to our GDP.

It is worthwhile to observe that in this age of globalisation and digitalisation no country can afford to be aloof for the overall growth and development of a nation. The efficient implementation of law, technology and various measure of spreading awareness in society can be an effective way out for transformation of Indian society in desired direction for realising gender equality and women empowerment. On the basis of the study conducted the following are the suggestions:

1. To promote Gender equality, it is necessary that the women should be provided more access to the use of new technology which will help them to equip with new skills to meet the challenges of modern time.
2. Equally important is to improve the educational and financial status of women and women child particularly in rural areas for improving their standard of living.
3. Appropriate legislation is required for giving proper representation to women in decision making process, in service sector as well as in legislative affairs.
4. There is also a need for creating a monitoring mechanism at Governmental level and also encouraging Non-Governmental Organisations (NGO's) regarding the proper implementation of the various guidelines and directives issued by the Hon'ble Apex Courts in its various judgements related to gender equality and women empowerment.
5. In this age of globalisation and digital technology the world has shrunk into a global village therefore the best practise of those countries where women enjoys gender equality needs to be adopted and practised.