

DISCRIMINATION AGAINST WOMEN IN INDIA

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ABSTRACT

India ratified the Convention for the Elimination of all forms of Discrimination against women in 1993 but it still needs to ensure the involvement of women. It is a treaty on the rights of a women establishes legally binding obligation on state parties to follow the legal standards set by it to end the discrimination against women. Constitution of India not only removes inequality but provides a special status to women. There are many legislations in India which try to remove the inequalities and punish those who discriminate under various circumstance. However, despite of the legislations their still persists a discrimination and violating the basis of gender justice in India. In India the patriarchal principles and personal laws discriminate against women, thus formal equality under the public sphere exist and does not exist in private sphere. This paper is an attempt to highlight the gap between the same.

Key words: CEDAW, Women's Right, Gender Inequality.

INTRODUCTION

The objective of the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) is to protect the rights of women and bring in equality. India is a party to CEDAW and has ratified the Convention with two declarations and a reservation. The declaration on Article 5 and 16 with a complete reservation on Article 29. With reference to Article 5(a) of CEDAW, India has declared that it would abide by and ensure that the provisions would be taken care of in conformity with its policy of non- interference in the personal affairs of any community. Against this backdrop the research paper is an attempt to analyses the cases in which CEDAW has been invoked by the judiciary with a picture on constitutional provisions in relation to gender equality. Gender inequalities are reflected in the daily realities of women and girls lives including the women who live in poverty and those who are denied their right.[1]

BRIEF ON INDIA'S OBLIGATION UNDER 5 (A) OF CEDAW

The Convention on the Elimination of all Forms of Discrimination against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly, it is also known as an international bill of rights for women and was instituted on 3 September, 1981.

The primary crux of the convention is protection of women by focusing on nondiscrimination, women's right in the public sphere with an emphasis on political life, representation and rights to nationality². It also describes the economic and social rights of women focusing on education, employment and health, women's right to equality in marriage and family life along with the right to equality before the law. CEDAW has also established a Committee on the Elimination of Discrimination against Women as well as the states parties reporting system. Though Indian legislation is in consonance with CEDAW, Article 14 of the Indian Constitution states Equality before law, the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India⁴. Article 15, Prohibits discrimination on grounds of religion, race, caste, sex or place of birth and that nothing in this article shall prevent the state from making any special provision for women and children.[2]

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India fares poorly on gender inequality and was ranked 130 out of the 187 countries in the Gender Inequality Index of the UN Development Programme. The country's National Mission for Empowerment of Women states that the government's commitment is to strengthening the process that promotes a holistic development of women, gender justice, and gender equality by having inter-sectoral convergence of programmes impacting women and more importantly highlighting the violence against women as a key point. Though despite of the legislation the law suffer from various deficiencies and incidents of violence against the women continue to persist.

Discrimination against women is shaped by economic, political and social factors, systems and norms, including policy and legal frameworks and structures, with historical factors which are deep rooted like cultural practices, war, colonization, structural distinction on the basis of age, income, location, ethnicity, disability and gender identity. One of the main root causes for violence against women is gender inequality, though discrimination is prohibited in national and human rights law and the government have an obligation to address it¹⁰. Gender based discrimination in

India is through discrimination against women, Unequal distribution of power and resources between men and women in public and economic life.[3]

CONCLUSION

India should adopt a more number of legislative measures to address the negative cultural patterns, enact laws which promote greater participation of men, make laws which accelerate the elimination of pay discrimination and promote equal pay for all. Though Article 5(a) imposes broad obligations upon states and cultural patterns that negatively affect the specific substantive articles of the treaty. Another important point is that a state can change its laws and policies to legal uniformity but a state cannot legislate cultural changes, in a country as it's a organic process and India being a diverse country it is extremely difficult to implement it at the ground level. Implementing article 5 is difficult as it is not legal in nature, India can offer tax incentives to companies to change wage structures for men and woman.

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