

THE INTERNATIONAL CONVENTION ON THE ELIMINATION OF ALL FORMS OF DISCRIMINATION AGAINST WOMEN AND POLITICAL STATUS OF WOMEN IN INDIA



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Abstract:

Marginalization and under-representation of women in important decision-making bodies is a universal phenomenon. Therefore, empowering women has become one of the critical issues of the 21st century. There seems to be a consensus emerging that the most effective therapy to this malady is empowering women by granting them political and legal rights and ensuring their effective implementation. It has been also advocated by most of the important conventions relating to rights of women like the International Convention on the Elimination of all forms of Discrimination against Women (CEDAW) and other instruments. Incorporation of political and legal rights of women in the constitutional and legal system of a given society is the best way to empower women. The well-defined political and legal rights for women in the constitution will provide a concrete foundation for them to stand up confidently against the crimes and atrocities in the patriarchal society. Participation of women in the political decision making endorsed by the legal system of the country provide them a self-protective shield, which supports them strongly to beat all the odds in the patriarchal society as per law. Moreover, a legal claim in the social, economic and political fields is very important for women to deal with their grievances effectively. In the light of the aforementioned assumption, this paper analyses the impact of the CEDAW in India with special emphasis on participation of women in political decision making. To assess the impact of CEDAW on women participation in political decision making in India “before and after” approach has been used for this study. Women participation at the local level is comparatively high to the representation of women in the parliament due to reservation policy at local level. Despite this their participation does not touch the real essence of empowering them politically.

Keywords: *Women empowerment, Political participation, Legislation, and CEDAW*

Study of women has always been countered with gruesome subjectivism. They have been culturally or forcefully pushed toward their limitation and over the period of time it grossly amounted to become a universal phenomenon. This has led to the under

representation in every prominent decisional making institution in the society. From this immemorial they have been forced to accept their inferior position in the society. This subjugation and subordination has been legitimized on the basis of male dominated cultural values and social milieu. It is in the



20th century that women representation, their marginalization and subtle pattern of peripheralisation became a prominent issue of debate and discussion. The establishment of the United Nations in 1945 indeed provided impetus to the feminist movement and thereby since of their empowerment through effective participation in the decision making bodies. It emphasized that empowering women is an important feature for seeking human rights globally. Therefore, Millennium Development Goal was designed by the United Nations which shows sensitivity toward addressing the issue of women. Truly the Charter of the United Nations granted some degree of dignity to the women under the shadow of equal rights to the men and women. The Commission on the Status of Women (CWS), a principal institution was set up exclusively under the guidance of United Nations to effectively address the women issue at the global level. To achieve its purpose of equality between men and women United Nations adopted many Conventions and Declarations for example Universal Declaration of Human Rights 1948, International Covenant on Civil and Political Rights 1966, International Covenant on Economic, Social and Cultural Rights 1966, Convention on the Rights of the Child 1989, The Convention on the Political Rights of Women 1953, and the Convention on the Elimination of All Forms of Discrimination against Women 1979 etc. similarly there are other several important conferences were also held in Mexico City, Copenhagen, Nairobi and Beijing under the aegis of United Nations to strengthen the status of women.

Women Empowerment

The phrase women empowerment is used in two broad senses i.e. general and specific. In a general sense, it refers to empowering women to be self-dependent by providing them access to all the freedoms and opportunities, which they have been denied in the past only because of their just being

‘women’. In a specific use in two broad sense women empowerment refers to enhancing their position in the power structure of the society.¹

According to definition “**Empowerment is the expansion of assets and capabilities of poor people to participate in, negotiate with, influence, control, and hold accountable institutions that affect their lives.**”² it cannot be denied that political representation is included in the institutions mentioned in the definition of women empowerment. In its broadest sense, women empowerment is the way to enjoy freedom of choice and action. It means increasing one’s ability to engage in decisions that affect one’s life.

Women empowerment may mean equal status to women, opportunity and freedom to develop her-self. The focus of empowerment is equipping women to be economically independent, self-reliant, have a positive self-esteem to enable them to face any difficult situation and they should be able to participate in the process of decision-making.³

State and its agencies are the most powerful decision making bodies of our time. Then the empowerment of women will be a hoax if they are not given their due representation in the state and its maintained institutions.

The Convention on the Elimination of All Forms of Discrimination against Women

Among all the important conventions adopted under the aegis of the United Nations for the purpose of women empowerment, the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is the most important one adopted in 1979, the Convention was recognized as an **international bill of rights for women**. It came into force on 3rd September, 1981 and



has 30 articles which are divided into six parts.

Part I (Articles 1-6) focuses on non-discrimination, sex stereotypes, and sex trafficking.

Part II (Articles 7-9) outlines women's rights in the public sphere with an emphasis on political life, representation, and rights to nationality.

Part III (Articles 10-14) describes the economic and social rights of women, particularly focusing on education, employment, and health. Part III also includes special protections for rural women and the problems they face.

Part IV (Article 15 and 16) outlines women's right to equality in marriage and family life along with the right to equality before the law.

Part V (Articles 17-22) establishes the Committee on the Elimination of Discrimination against Women as well as the states parties' reporting procedure.

Part VI (Articles 23-30) describes the effects of the Convention on other treaties, the commitment of the state parties and the administration of the Convention. It is the most important instrument for the protection of women at international level and played crucial role in the empowerment of women.⁴

Political Participation

There seems to be a consensus emerging that the most effective therapy to the marginalization of women is empowering women by granting them political and legal rights and ensuring their effective implementation. Incorporation of political and legal rights of women in the constitutional and legal system of a given society is the best way to empower them. The well-defined political and legal rights for women in the constitution will provide a concrete foundation for them to stand up confidently against the crimes and atrocities in the patriarchal society. Participation of women in the political decision making endorsed by the legal system of the country provide them a self-protective shield, which supports them strongly to beat all the odds in the patriarchal society as per law. Moreover, a legal claim in the social, economic and

political fields is very important for women to deal with their grievances effectively.

Now question arises what is the meaning of political participation? In article 7 and article 8 CEDAW discusses the political participation in the following term:

Article 7

States Parties shall take all appropriate measures to eliminate discrimination against women in the Political and public life of the country and, in particular, shall ensure to women, on equal terms with men, the right:

- (a) To vote in all elections and public referenda and to be eligible for election to all publicly elected bodies;*
- (b) To participate in the formulation of government policy and the implementation thereof and to hold Public office and perform all public functions at all levels of government;*
- (c) To participate in non-governmental organizations and associations concerned with the public and political life of the country.⁵*

Article 8

States Parties shall take all appropriate measures to ensure to women, on equal terms with men and without any discrimination, the opportunity to represent their Governments at the international level and to participate in the work of international organizations.⁶

In the modern concept political participation is not limited to simply participation in government making like traditional concept. In the democracy political participation has been expanded from right to vote to participation in decision making process, political activism and political consciousness etc. In others words political participation means not only exercising the right to vote, but also power sharing, co decision making, co policy making at all levels of governance of the state.⁶



Before we delve deep into the issue of political participation of women it is important to evaluate the meaning of the term political participation.

The International Encyclopedia of Social Sciences defined political participation as the principal means by which consent is granted or withdrawn in a democracy and rulers are made accountable to the ruled.⁷

Verba and Pye define it as, "Those activities by private citizens that are more or less directly aimed at influencing the selection of governmental personnel and the actions they take".⁸ In continuation examining the modes of political participation **Schonfeld** has mentioned ten types of activities which include (1) running for or holding public or party offices, (2) belonging to a party or other political organization, (3) working in an election, (4) attending political meetings or rallies, (5) making financial contribution to a party or a candidate, (6) contacting a public official, (7) publicly expressing a political opinion to convince others, (8) partaking in political discussion, (9) voting, and (10) exposing oneself to political stimuli.⁹

On the basis of above definitions we can say that political participation is not just restricted to casting vote but it also includes other activities in it, for example membership of political party, electoral campaigning, attending party meetings, demonstrations, communication with leaders, holding party positions, contesting election, membership in representative bodies, influencing decision making and other related activities.¹⁰ In fact their activities in the political and social arena must be considered as an international parameter to judge the effective and genuine participation of women in the political decision making process.

Indian Constitution and Women

The issue of marginalization and under representation of women has become global phenomenon. Women's concerns are still given second priority almost everywhere. According to the Report of the World Conference of the UN Decade for Women, Copenhagen, July 1980: "While Women represent 50 per cent of the world adult population and a-third of official labour force, they perform nearly two-thirds of all working hours, receive only a-tenth of world income and own less than one per cent of the world property".¹¹ India is also unable to break this reality although since independence India was gender sensitive. It recognized women as a special group with the establishment of non-discrimination provision on the basis of sex. Indian constitution has wide range of provisions for women which starts with the **Preamble** and extent through, **Part III, Part IV** and others provisions. **Preamble** defines the basic structure of the constitution shares the protection of women in the form of equality. **Part III and Part IV** of the constitution are fully conscious to the women well-being. Articles related to the rights for women are in the following.

Article 14 provides equality before the law or equal protection of law to its all citizens including women

Article 15 enshrines the non-discrimination principle and prohibited discrimination on the basis of inter alia sex. 15 (3) has worth to discuss because it provide special provision for women.

Article 16 emphasizes on the equality of opportunity in public employment by preventing discrimination on the basis of inter alia sex.

Article 21 protects the life and liberty and includes basic rights.

Article 23 prohibits the exploitation and trafficking in human being.

Although **Part IV** of the Constitution containing **Directive Principle of State Policy (DPSP)** is not justiciable yet it cannot be simply ignored. It has the potential to address the women issues in multi-dimensional way.



Article 39 protects the right to an adequate means of livelihood, health and equal pay for equal work for both men and women. Besides this it protects to the citizens from economic necessity which force to them to engage in occupation, unsuited for their age or strength.

Article 42 provides maternity relief and just and human condition of work.

Article 47 talks to increase the level of nutrition and standard of living of its people.

India strengthens her constitutional provisions by signing and ratifying the international convention CEDAW on the 30th July, 1980 and on the 9th July, 1993 respectively. In fact India was under CEDAW obligation after ratifying it i.e. 1993. However, as a signatory to the convention in 1980, India was under moral obligation to deal with the grievances of women in accordance with the provisions of CEDAW. Therefore, the paper analyses the issue of political participation of women in two parts to evaluate the impact of CEDAW on the women particularly on the political status of women in India. The analyses periods have been divided into two parts, first part deal with the period of before signing the CEDAW i.e. 1947 to 1980 and second part deal with the period of after signing the CEDAW 1980 to till now.

Political Status of Women Before 1980

It is considered that the actual social status and effective level of political participation cannot be understood in isolation. It is interlinked with socio economic conditions, political climate and inequalities inherent in the traditional social structure, its norms and values, custom and rituals.¹²

In the aforesaid it has been discussed that India since independence is committed to provide space for gender equality. There have been various shifts in policy during the past years from the concept of welfare to empowerment. Meanwhile India's approach towards the women well-being in 70s, development in the 80s and empowerment in

90s are remarkable contribution in history of women welfare. By standing on the developmental approach India passed bunches of special provision under the guidance of women welfare i.e. **The Special Marriage Act 1954** with the provision of inter caste marriage provides freedom of choice in the matters of matrimony. Moreover, **The Hindu Succession Act 1956** introduced the right to have equal share in property. **The Immoral Trafficking Act 1956** that protected the women from illegal human trafficking. **The Maternity Benefit Act 1961** just added another feather in the cap to procure extra privilege to women in the field of labor force with granting maternity leave and its **Amendment Bill 2016** was passed in Rajya Sabha which seeks to increase maternity leave from 12 weeks to 26 weeks. **The Dowry Prohibition Act 1961** tried to remove stereotypes practicing on the women for not bringing dowry. **The Medical Termination of Pregnancy Act 1971** saved the life of many female from infanticides. Actually it made a water tight compartment for the sex selective abortion which was frequently practiced. **The Equal Remuneration Act 1976** recognized women equal to men in term of work and provided provision equal pay for equal work to men and women.

Despite legislative acts women continue to remain marginalized in decision making bodies. **The Committee on the Status of Women** in India CSWI in its report "toward equality" 1974 recognized tokenism in women representation and reveals that political parties have "tended to see the women voters and citizens as appendage of the male...."¹³

The above discussed argument is based on initiatives taken by the government in past certain years to provide legal opportunity to empower women. But analyzing political power shared by the women within the specific years let us more central toward the addressing result. Political participation



means not only exercising the right to vote, but also power sharing, co decision making, co policy making at all levels of governance of the state.

Political Status of Women After 1980

As we discussed that the actual status of women in politics is interlinked with socio and economic condition of women. After signing the CEDAW India adopted and enacted several acts and policies for the improvement of women socio economic condition in compliance with CEDAW. **Indecent Representation of Women Act 1986** was enacted to prohibit indecent representation of women through advertisement or in publications, writings, paintings, figures or in any other manner. **Commission on Sati Act 1987 Sati (Prevention) Act, 1987** is law enacted by Government of Rajasthan in 1987. It became an Act of the Parliament of India with the enactment of the Commission of Sati (Prevention) Act, 1987 in 1988. The Act seeks to prevent Sati practice or the voluntary or forced burning or burying alive of widows. **The National plan of Action for the Girl Child 1991-2000** is a specially formulated action plan by the Government of India to protect and promote the Girl Child. This plan seeks to prevent female feticide and infanticide, eliminate gender discrimination, provide safe drinking water and fodder near homes, rehabilitate and protect girls from exploitation, assault and abuse. **The National Commission for Women 1992 (NCW)** is a statutory body of the Government of India, generally concerned with advising the government on all policy matters affecting women. The objective of the NCW is to represent the rights of women in India and to provide a voice for their issues and concerns. **National policy for the Empowerment of Women 2001** was prepared by the Department of Women and Child Development with the goal advancement, development and empowerment of women. **The Protection of**

Women from Domestic Violence Act 2005 was like a momentum in the favor of women. It prohibited one of the most prevailing and justifiable evil of Indian society that is domestic violence. **The Prohibition of Child marriage Act 2006** provides 18 year minimum age for girls. Minor girl generally was victim of child marriage. Women and girls have been protected from the harmful conditions those occurred in the result of child marriage through this act. **The Protection of Children from Sexual Offences Act, 2012** was enacted to protect children from sexual assault. **The Criminal Law Amendment Act 2013** was enacted to make the punishment more rigorous for offences like rape. Due to amendment act now Indian Penal Code includes new offences like acid attack, sexual harassment, voyeurism and stalking and disrobing a women etc. in its purview. **Sexual Harassment Act 2013** seeks to protect women from sexual harassment at their place of work.

The next mile stone attached to real women empowerment done by the enactment of The 73rd Amendment Act 1992 which provides three tier system of local Government with associated clause made mandatory for the 33 percent reservation of seats for women in Panchayati Raj Election. It was the first time where not just well-being of women is targeted besides that it also endorses platform for the real development of women agency. This amendment was made in order to improve the position of women especially at the grass root level and thus, providing political choice at ground level. In addition to this, the 74th Amendment Act 1992 made the provisions relating to Urban Local Governments (Nagarpalikas). The total seats (including the seats reserved for women belonging to Scheduled Castes and Scheduled Tribes) to be filled by direct election in every Municipal (Nagarpalikas) election, not less than one-third shall be reserved for women and such seats may be allotted by rotation to different constituencies in Municipality. The most



prominent feature of the 73rd and 74th amendment is one third reservation of elected offices for women and for SCs and STs in proportion to their population. Women political participation at local level is satisfactory at least on paper. There are 13.42 lakhs Elected Women Representatives in Panchayat raj Institutions which constitute 46% of total Elected Representatives¹⁴ but they acted merely as the dummy of their male family members. Interestingly there are some states which are more sensitive towards women participation at local level and they exceeded reservation from 33% to 50% in their respective states. Assam, Andhra Pradesh, Bihar, Rajasthan, West Bengal and Uttrakhand etc. are some example of that states.¹⁴

The second mile stone in compliance with Article 7 and 8 of CEDAW which discusses the political participation of women was the introduction of **women Reservation Bill in 1996**, which seeks to reserve 33 per cent of all seats in the Lower House of Parliament of India, the Lok Sabha and in all state Legislative assemblies for women. The Bill has been passed by the Upper House Rajya Sabha in 2010 but unfortunately bill is still pending in Lok Sabha.

Conclusion and suggestions

After signing the CEDAW in 1980 India adopted various measures to enforce its provision. It led to marked improvement in the political participation of women and their empowerment. According to data given in the tables, improvement can be noticed in the percentage of women MPs from 5.15% in 1980 to 8.9% in 1984. The 16th Lok Sabha Election was remarkable with 11.23% women MPs. There was improvement of 3.37% in average percentage of women MPs during the first period and second period. The percentage of female contestant has been increasing and reached at the average percentage of 5.29 while during the first period the average percentage of female

contestant was 2.94. It is delighting to mention that percentage of women winning candidates has always been high against percentage of man winning candidates. However this percentage of female winning candidates declined from average 39.59 in first period to 13.72 in second period. The participation of women as CM and Governor of state has been improved with average 3.11 which quietly high against the first period. Women as voter completed tough task and successfully reduced huge gap between men as voters and women as voters. The 16th Lok Sabha Election was remarkable in terms of women voter turnout. The difference between percentage of male voters and female voters was reduced to 1.46 which was 16.68 during initial elections. Rajya Sabha has also noticed increment in women members from 8.25% to 10.78%. (All data collected from reports of various Lok Sabha and Rajya Sabha election of Election Commission of India (interpreted in percentage format)

Data at state level extract from

Wikipedia https://en.wikipedia.org/wiki/List_of_female_Indian_chief_ministers (drive number of seats from archive data

The Constitution of India provides rights to all women against discrimination on the basis of sex, caste and place of birth etc. yet we can notice that participation of women in political decision making bodies is not impressive. The numbers of women politicians is low as compared to men.

No doubt improvement can be noticed in women voting turnout but participation as voters cannot be considered as reliable basis for measurement of political participation. But Mostly women vote under the influence of male members of their family.

In fact participation of women in local bodies is a welcome sign. The participation of women in local government makes other women confident to serve in various professions and lead to breaking stereotypes



about women's roles in society and public spheres. Society had gained confidence in women as good public administrator and acknowledged the sincerity and commitment of women to their duties. Nevertheless, it must be mentioned here political participation of women has been increased due to reservation policy but they acted merely as the dummy of their male family members. This advocates the possibility of variations between participation of women on paper and what actually exist on ground. It is easy to collect quantitative data of political participation of women at local level but to measure qualitative data on the aspect of their active participation is difficult. Therefore, data on their awareness about their rights and its usage is still vague. It can be easily observed that the condition of women in politics has been improved after signing CEDAW by India.

Only reservation cannot solve the problem unless and until women are given equal power to function effectively. The male representative should establish understanding with female representatives and give due respect and attention to their opinions. Initiatives should be taking place at large scale to aware women about their role as representative by the government and NGOs.

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