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## Impact of Democracy on State Policies for Women's Empowerment

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### **Abstract:**

*Commonly democracy refers to a type of political system and this system denotes representation of people in the equal manner which is originated by the people means, equal and right participation of the society in the form of equality in the eye of law, which is originated by the people for the people. So the Democracy is a law full assembly of citizens there is no discrimination of the right, on the basis of gender, caste, age, sex. There is no any other type of social imbalance which produced injustices in society or Inequality in the eye of law, economic and right. Naturally, societies worked by severity and use the power of democracy in the consent of natural justices and makes policies for the ruled people and implement to the people. In the democratic constitution of state, state constitution produce the rule, regulation and legal base for preparation for state policies under the sense, of protection and promotion of the society, including safety, security, and assistance of the weaker section of the state, by the social, legal humanity's based regulations and representative government also responsible for encouraging the people for participation in socioeconomic-political system of society. We analyzed the impact of Democratic state policies, nature and effect in reference of women's empowerment in different classes of society and each phase of society.*

**Keywords:** *Representative democracy, natural justice's true democracy, sovereign*

### **1. Introduction**

Democracy commonly refers to a type of political system in which the people and their representation lawfully govern themselves in recent decades, democracy popularized in the sense of social empowerment. Some philosophers claim that democracy is a universal good yet what the word means, and whether and why democracy is to be preferred over its rivals continues to be disputed. Opinions remain divided about whether actually existing democracies like the US or India or Argentina lives up to their democratic ideals. These ideals are also controversial, but most common disagreement is between the advocates of Participation of direct democracy, the participation of citizens in the decision that affect their lives for instance by voting accepting a majority verdict, and those favor indirect representative, a method of governing in which people choose representative who decide things on their behalf.

The beginning of wisdom in such disputes is to see that democracy, like all other human inventions, has a history. Democratic value and institutions are never set in stone, even the meaning of Democracy change through time in Rome civilization 950 CE Democracy was associated with the creation and diffusion of Public assemblies. In the Bronze era 1500-1200 BCE that was centered on Mycenae and other urban settlement of the Peloponnese the custom of popular self-government was born in the 'East' of people and land that geographically correspondence to contemporary Iraq and Iran, during the Fifth century BCE, they were claimed as something unique to the 'West' as a Sign of its superiority over the 'Barbarism' of the East.

According to Great Philosopher Aristotle (384-322 BCE) Democracy was self-government among equals who rule and are ruled in turn. Democracy was the lawful rule of an assembly of male citizens-women, slaves and Foreigners were normally excluded, whose sovereign Power to decide things was no longer to be given over the imaginary Gods, or and aristocracy. So democracy implied that within the political order, Question concerning who gets what, when and how should remain permanently open. That in turn required certain political customs institutions. These included written laws, which provide, the Freedom to speak in public, voting by lot, limited terms of elected officials, recall and impeachment procured the ostracism (407-417) of demagogues form the assembly by a majority of vote.

In the nineteenth – century American poet and writer, Walt Whitman (1819-1892), famously noted that the history of democracy could not be written because democracy as he and others knew it was not yet properly built and we can say. We don't know what will become of Democracy because its Fate has not yet been determined.

### **2. Objective of the Paper**

1. To study the woman's position under state policies and amended legislation.
2. To find out the constitutional status of women empowerment at gross rout level under the democratic sphere.

### 2.1. Methodology

The analysis of this paper is purely depending upon secondary data.

### 2.2. Origin of Democracy

In the Indian democratic constitution play key role in the division of work and responsibility, by the division of responsibility, decentralized the power in state and central including local government, which is known as “Panchayati Raj” It is popularly because objectively it worked in making democracy at level of grassroots we can say, real bringing of millions of people in the state, in the functioning of their real representative government at the grassroots level. Basically democratic polity is involved in the phase of decentralization of power in this way the administration and government complete their affairs at the grassroots level for the protection of poor and local people get their positive participation in the government system. The administration or government exercise their authority for the protection of the citizen, with the participation of the administration and the people of that area and control by the state and central governments. Under the 73<sup>rd</sup> Amendment of the Indian constitution, Bill was centralized for the Panchayat Raj Institutions (PRIs) have been in existence for a long time, they have filed to acquire the status and dignity viable and responsive, people’s bodies. Obstacles in this regard arose mainly because of non-mandatory nature of Article 40 which deals with organization of panchayat, absence of regular elections, insufficient devolution of powers, lack of financial resources, and inadequate representation to women and SCs/STs. These lacunae could not be rectified until appropriate constitutional support to the PRIs was provide to ensure certain basic essential features in Indian Constitution itself to impart them a measure of certainty, continuity and Strength.’

In the Parliamentary enactment in 1992, under the 73<sup>rd</sup> constitutional Amendment, provided Constitutional status to democracy at the grassroots level by incorporating a new part IX in the constitution relating to Panchayats. The Amendment provides for a three-tier panchayats Raj system; ensures their regular elections and 33 % reservation of seat for women including women who belonging to reserved category as SCs/STs there is no any division in percentage for separation in reservation and also the provision for separate SEC for the superintendence, under the direction of panchayats are conducting authority of all election, delimitation of constituencies and reservation for some constituencies for women. Political empowerment of women through PRIs was given constitutional recognition under the 73<sup>rd</sup> Amendment and which has shown positive results, As a result of legislative measures the traditional impact of Indian women is gradually changing. However, India is still largely a traditional society where widespread gender-based biases and practice prevail. Some state legislatures have incorporated population control policies in Panchayati Raj Legislations which defeat the aim of the constitutional policy of political empowerment in reference of women. In this paper, we discuss the reasons and the status, which promotes the government of to make change in the constitutional provision for protection to women for their socioeconomic-legal and political empowerment in every class based at the local level institution by practices of removal of vogue, and claue its impact factor as well as discriminatory and social disqualifying factors and its genuine causes

### 3. Constitutional Provisions

Under the 73<sup>rd</sup> Amendment of Indian constitution go to a big change in the history of the amendment, which is protect to citizen of India at the grassroots level by system of local government. By the adoption of the election provision in the time period system which is mandatory at level of PRIs, after every five years. This system provides guarantees in area of, right to local government, institutions to exist, independent of the whims and political sphere of the State Government. The Supreme Court India in *Ratanlal –vs-. State of Karnataka “HC”* observed that “Indeed Part-IX of the Constitution was added to ensure periodic and regular elections to Panchayats, which is not being held regularly in every States of India.”

In another judgment, by Karnataka High Court in “*B.C. Chandrasekhar v. State of Karnataka*” by “P.I.L” court directed to the S.E.C that the authority complete the Panchayat elections in the State within six weeks. In case rejecting arguments by the State Government, that needed changes to the Panchayati Raj Act. The Court held that such a move would amount to subverting the Constitution as perceived under the 73<sup>rd</sup> Amendment. The court in its order also rejected the State Governments argument that the Constitutions views were more in the nature of the directive principles of state policy rather than a mandatory article. The court observed:

“In case of conflict between mandatory provisions of the Constitution and the right of the State Legislature to enact laws which fall within the state’s legislative competence and which result in mollifying the mandate of constitutional provisions would take precedence”

In the sanction of any types of conflict /disputes which is related to validity of the election in reference of authority and any other types of legal problem to the office of chairperson including member, or in a functionary system like no-confidence motion, and any type of disqualification of their membership, reservation of seats for women and SCs/STs etc. have come up for adjudication before the courts. Some States of Indian tertiary have been incorporate new provisions for their Panchayati Raj Acts, “a person should be disqualified for being chosen as and for being a member of a Panchayat-“if he has more than two children after certain date”. This disqualifying clause forms one of the important aspects of this paper, since it serves as the basic premise for other assumptions. Before proceeding to discuss the constitutional validity of ‘two-child norm’ in the light of court decisions, let us have a look on these provisions viz., reservation clauses and disqualifying clauses.

The constitution of India lays down certain Directive principles, that the states shall strive to promote the welfare of the people by securing and protecting a social order based on justice, social, economic and political.

Article	Provision
Article 21(A)	Right to be free and compulsory elementary education for all children in 6-14 years age group
Article 24	Right to be protected from any hazardous employment till the age of 14 years
Article 39(E)	Right to be protected from being abused and forced by economic necessity to occupations unsuited to their age of strength
Article 39(F)	Right to equal opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and guaranteed protection of childhood and youth against exploitation and against moral and material abandonment
Article 14	Right to equality
Article 15	Right against discrimination
Article 21	Right to personal liberty and due process of law
Article 23	Right to being protected from being trafficked and forced into bonder labor
Article 46	Right of weaker sections of the people to be protected from social injustice and all forms of exploitation
Article 15(3)	State must make special provisions for women and children
Article 46	State must protect educational interests of weaker sections of the people
Article 29	State must protect interests of minorities
Article 47	State must raise the level of nutrition and standards of living of its people and the improvement of public health
Article 42	Provision for humanity conditions of work and maternity relief
Article 43	Economic compensation , living ways for workers in the sense of equality under the suitable legislation to all workers
Article 43(A)	Participation of workers in management of industries. State must be responsible to secure suitable legislation

*Table 1: Right of Indian Constitution*

*Source: Constitution of India*

#### 4. Provisions for Reservation of Women's

In reference of millennium development goals related to; poverty, gender equality, education, health related problems removed and targeted time period is 2015, by the UN report, the world women have less participation in the compression of the men in a decision making capacity is less in the compression of households, in each communities, and in their societies. Constitution Consider women's under-representation in formal politics, especially in upper echelons, fewer than one-fifth of all cabinet positions is held by women. These patterns; do not change in different developed countries. The participation of women in the parliament needs to as per standard, but it increased only from 10% to 17% in 1905 to 2009. Gender equality is a core development objective in its own right...; Greater gender equality can enhance productivity, improve development outcome for the coming generation and make institutions more better representative (H D R-2010).

The Constitutional Protection in India, provide, to women's for Political Empowerment under Article 243D, which govern, in local self-government institutions was inserted in the Constitution by 73<sup>rd</sup> Amendment which relates to reservation of seats and political participation for women as members.

1. Under the Indian constitution provide provision which is , as 1/3 of the total number of seats to filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in Panchayat (Art.243-D(i)),
2. Under the Indian constitution provision which is, as 1/3 of the total number of seats reserved for women under cl.(i) shall be reserved for women belonging to SCs & STs (Art, 243-(d)(2),
3. Under the Indian constitution provision which is, as 1/3 of the total number of offices of Chairpersons in the Panchayat at each level shall be reserved for women (Art.243-D (4)),

After 73<sup>rd</sup> Amendment of the Indian constitution, next amendments felt necessitated to adopt the state level laws which relating to the Panchayati Raj Institutions (PRIs) for conformity with the provisions of the Constitution. Identical provisions have been enacted under the State Legislatures for the purpose of establishment and implementation, composition, elections, analyzing disqualifications etc.

#### 5. Constitutional Provision

Under the Indian constitution explain in Part-IX of the Constitution relates to the Panchayats. Article 243 F contemplates as to the 'disqualifications for membership' and according to it a person shall be disqualified for being chosen, and for being, a member of a Panchayat-

1. If he is so qualified by or under any law for the time being in force for the purposes of elections to the legislature of the State concerned: provided that no person shall be disqualified on the ground that he is less than 25 years of age, if he has attained the age of 21 years;
2. If he is so disqualified by or under any law made by the Legislature of the State.

If any question arises as to whether a member of a Panchayat has become subject to any disqualifications mentioned in clause(1), the question shall be referred for the decision of such authority and in such manner as the Legislature of the State may, by law, provide.

It is worthwhile to quote the observations made by Justice Chinappa Reddy of the Supreme Court in *Jyoti Basu v. Debi Ghosal*:

A statutory right under democracy which “to elect” “fundamental while it is to democracy is anomalously enough, neither a fundamental right nor a right of Common Law. It is pure and simple, a statutory right. So is the right to be elected. So is the right to dispute and election. Outside of statute, there is no right to elect, no right to be elected and no right to dispute an election. Statutory creations they are and, therefore, subject statutory limitation. An election petition is not an action at Common Law, or in equity. It is Statuary proceeding to which neither the common Law nor the principles of equity apply but only those rules which the statute makes and applies.” The right to remove an elected representative by by Supreme Court in the absence of constitutional restriction under the power of state legislation not policy based and all requisitions of validity related came in forces under legislation.

## 6. Legislation Regarding of Girls Child

Legislation provided the general guidelines for effective and efficient functioning of PRIs in India. Several details such as composition of Panchayats, there functions are more importantly, for qualifications of membership and disqualifications for being chosen, as and for being, a member of a Panchayat etc., have been left by the constitution to the discretion of the State Legislature. The Amendment has provided maximum latitude to the States to make suitable amendments to their Panchayati Raj Acts as and when required, and this process has already started in some States. According to clause (b) of Article 243(1) - ‘a person shall be disqualified for being chosen as, and for being, a member of Panchayat if he is so qualified by or under any law made by the Legislature of the State. Accordingly some States have incorporated a new provision in their Panchayati Raj Acts viz., “a person should be disqualified for being chosen as and for being a member of a Panchayat – “ if he has more than two children after a certain date “. The constitutions validity of this provision was challenged on the ground that it is violative of Article 14, 19 and 21 of the Constitution. under the convention on the elimination of all forms of discrimination against woman’s (CEDAW ) ratified by 163 countries ,is the most extensive and widely ratified international agreement promoting the right of woman’s and girls its progress is monitored by the UN committee on the elimination of discrimination against women’s India was a signatory of CEDAW in1980 and ratified it on 9 July 1993.India submitted a declaration regarding Article 5(a)and 16(1)that reiterates India’s commitment to abiding by the provisions in conformity with its policy of non-interference in the personal affairs of any community without its initiative and consent article 16 (2)on minimum marriage ages and compulsory registration ;although India fully support the principle ,It is not practical in a vast country like India with its variety of custom, religions and level of literacy .many laws and programmes are still being reviewed to repeal the discriminatory provisions. However the government admits that gender discrimination continues to be a daunting challenge and that it will be continue to pursue all measures, in a concerted manner to eliminate discriminate against women’s and to translate the de jure right into de facto enjoyment of right and equal result. The government is committed to pursue the National policy on employment of women’s 2001 and the plane of action that is being adopted to give effect to this policy on empowerment of women’s and strengthening gender budgeting and the women’s component plan and adopting strategies that enhance socio- economic gain for women’s

Particulars	Rights
Survival	Right to life, Nutrition, Adequate standard of living, Highest attainable standard of health, A name and a nationality
Development	Right to education, Support for early childhood care and development ,Social security, Right to leisure, recreation and cultural activities
Protection	Exploitation, Abuse, Inhuman or degrading treatment, Social Negligence, Special protection in special circumstances
Participation	Respect for views of the child, Freedom of expression, Access to appropriate information, Freedom of thought conscience and religion

Table 2: UN Convention on the Rights of the Women’s and girl child

Source: MoW & CD, Government of India

### 6.1. Main Arguments on Behalf of the Right

First, the impugned provision violates the ‘right of privacy’ of the petitioners as enshrined under Article 19 and 21 of the Constitution. Second, it has no nexus with the purpose which is sought to be achieved through the Act i.e., population control; third, the impugned provision violates Article 14 of the Constitution, which provide for ‘equality before law’, as members of Parliament and State Legislature face no such disqualifications. Examine by HC all the three arguments in detail and came to the conclusion that “the provision for two child norm for Panchayat representative stood the test of law”. The Court held that Section 19(3) does not directly interfere with the right of any citizen to take a decision in the matter of procreation. It only creates a legal disability on the part of a person who has procreated more than two children to contest for hold a public office under the Panchayati Raj Act. The right to contest and elected office is not a fundamental right but only a legal right arising out of a statute. No grievances could be made out on the ground that the rights to liberty and right to privacy of an individual are taken away by the impugned legislation. Whether creation of a restriction such as the one create in this case would in fact achieve the object sought to be achieved, cannot be demonstrated in proceeding like this, but, however, the legislative measure is reasonably connected with the object sought to be achieved. In our considered view, the inquiry must stop there and this court would not be justified in making a further inquiry as to what extent such a

purpose would be achieved. Lastly, the legislature while bringing out a particular enactment need not embrace all categories within the scope of legislation. Hence, there is no violation of the principle of equality before law”.

The member elected must be permitted to perform his duties as such for a statutory term. Subsequent disqualification to hold the elected post would require proof of the highest degree”. However, in dealing with the validity of a provision prescribing disqualification on the basis of the number of children an elected member has the High Court has preferred to defer to legislative wisdom. Therefore, be clear that the main purpose of having the disqualification of more than two children is to implement the government’s family planning programme rather the participation of people in these grassroots level democratic institutions. The State authorities should also bear in mind the reasons for which the PRIs, had failed and it had become necessary to have the 73<sup>rd</sup> Constitutional Amendment. On the one hand, the Amendment provides of mandatory reservation of 1/3<sup>rd</sup> seats for women (including the members of seats reserved for women belonging to SC/STs) in PRIs at district, block and village levels, but on the other, the linking up of the population control programme with democratization of grassroots governance raised doubts about the State’s seriousness in seeing women play and active role in local administrate. If more than 20 civil writ petitions came before the court on one point in one State only, should not a second look be given to it so that it becomes more acceptable to the court whether disqualifying clause is serving any purpose and there is proper implementation of the enactment with constitution sanction for reservation of seat for women in PRIs.

### 7. Legislation Regarding Women’s Reservation

The 73<sup>rd</sup> Constitutional Amendment; if properly implemented would conceivably go a long way in changing the status of women as they would become a part of governance of the State. The statement of objects and reasons of the Bill traced the need for the change. thus: “ in spite of the PRIs having been in existence for a long time these institution have not been able to acquire the status and dignity of viable and responsible peoples ‘ bodies due to number of reasons “. One of the reasons was the insufficient representation of women. One of the most positive results of the 73<sup>rd</sup> Constitutional Amendment has been women’s participation in a big way in the PRIs.

This amendment has provided for reservation of seats for women in the Panchayats, both for the offices of the members as well as those of the Chairpersons. This is of special significance as similar reservations for women do not resist for the membership of either Parliament or the State Legislature. States were given time of one year i.e., till April 23, 1994, to either enact a new law or to amend their existing legislations to give effect to the various mandatory provisions of the Constitution (73<sup>rd</sup> Amendment) Act, 1992 an accordingly consequential provisions were made in the State Legislations relating to reservation for women. However, the women members from various parts of the country have to face a strong culture of exclusion. There are cases of numerous “no-confidence motions” being brought against female Sarpanches so that male deputy Chairpersons in PRIS could out unwanted women office bearer. There are also cases when the provision of “ more than two-child norm “ as a disqualifying clause has been implemented in an arbitrary manner in total violation of the law to effect a takeover until fresh elections are held. The problems of women after being elected these institutions and the unreserved approval granted by the judiciary to the provisions that seek to implement the government’s populations control measure have overridden the real intent of the 73<sup>rd</sup> Constitutional Amendment. Both the judiciary and legislature underscore the need to strengthen the legislations with a view to ensuring the continued participation of women in local governance.

#### 7.1. Protection by State Policy Framework; under Five Year Plan

The essence of democracy is ensuring social justice to all sections of the community this demands the protection of those who cannot project themselves in the modern setup of society, naturally social justice is concerned the distribution of benefits and burdens throughout a society .It is concerned with such matter as the regulation of wage and profit the protection of people through the legal system.

- Justice Bhagwati in a land mark case opined the concept of justices does not emanate from the fanciful notice of any particular adjudication but must be founded on a more solid foundation.
- Justice Gajendragadkar opined that “the concept of social justice and economic justice in a living concept of revolutionary import, it gives substance to the rule of law meaning and significance to the idea of welfare state.

#### 7.2. First Five Year Plans (1951-1956)

In the first five year plan Government of Indian recognize the importance of promoting social services for maintaining and consolidating the gains of economic development, attaining adequate living standards and social justice. Accordingly, a comprehensive Social Welfare Program that was developed during the First Five Year Plan included welfare of Women and Children, Family Welfare, Welfare of the Physically and Mentally Disabled. In 1953 setup Central Social Welfare Board for the purpose of voluntary action in the field of women’s protection and development and In 1955 under ministry of education constituted in national advisory council for education training social and cultural development for physically disabled women’s.

#### 7.3. Second and Third Five Year Plans (1956-61 and 1961-66)

Under this sphere of the five year plan completely devoted to social welfare activities in different sectors including the rehabilitation, education and extension of welfare service for women in rural and urban areas. In 1961 Central Bureau of Correctional services for the collection and compilation of notational statistics and preparation of guide books and model, The central institute of research and training in public corporation was setup in 1966 for research and training on problems relating to popular participation.

*7.4. Fourth Five Year Plans (1966-1971)*

The activity of CSWB was further strengthened. In addition to three national institute for blind, deaf and mentally retarded. In the national institute of orthopedically handicapped was setup for the placement of disabled person in employment by special employment exchange.

*7.5. Fifth Five Year Plans (1974-1978)*

Under this plan government of India work in the field of child development through the adaptation of national policy for children and launching the integrated child development service. The central bureau of correctional services was rise to the status of apex agencies by name national institute of social defense, which is a model organization at the national level with specialized service training development and innovative experiment in the field of women and child development.

*7.6. Sixth Five Year Plans (1980-1985)*

The national policy of health adopted in 1983 for the purpose of highrate of infant and child morality and take up universalisation of immunization. The national policy on education of 1986 emphasized universal enrollment and retention of women's and girl children. The voluntary action bureau was setup in 1982 to meet the challenge of crimes, atrocities against women and girls children. Government of India promote by the policy in reference of equality to women's and girls children.

*7.7. Seventh Five Year Plans (1985-1990) Including Annual Plan 1990-92*

The major strategies of promoting early childhood survival and development through programs in different sectors ministry of health protects in the field of health and development program for women's and girls' child in rural areas. The science and technology project in the mission mode of application of technology for the welfare and rehabilitation of disabled was launch in 1988 for purpose of protection, promotion, training and development program for women's and girl children

*7.8. Eight Five Year Plans (1992-1997)*

Major focus of ministry of human resource development in the area of education on the basis of policies for women's protection in high priority. Under the right to education of the child 1992 government of India formulate national plan of action which promotes to girls child in the priority base in the area of health, nutrition, educations and equal opportunities for their survival. By the slogan "Health for all - Education for all".

*7.9. Ninth Five Year Plans (1997-2002)*

In order to achieve the good result in reference of women's and girl child through the various policies and programs, training and development procedure related to women's and girls child is priority base agenda in the government. Under this plan different types of state level development program launch for the purpose of holistic development of the young children through integrated child developed scheme Balika Samriddhi Yojna, Kishori Sakti Yojnana. And different act for the purpose of prohibition and protection to woman's and girls under the policy framework in the government of India like that Immoral traffic prevention act- 1956, juvenile justice act 2000, right to education act 2010, National policy on education modified in -1992, National Policy for Children - 1974, N.P.C. Labour – 1987, National Nutrition Policy – 1993, National policy for Empowerment of Women's (NPEW)-2000, National Health Policy – 2002, National Youth Policy-2003, etc.

The principal challenge of the petitioners was to the legality of the orders of the Chief Executive Officers and to his jurisdiction to hold an inquiry in the matter of declaring a Panch or Sarpanches as disqualified under section 19 (1). It was contended that the executive authority had made the orders by merely serving a notice and without waiting for reply to the allegation in the notice that there was a child born in the family, which has raised the number of children of the member (panch) to more than two after the commencement of the Act. The High Court accepted the contention of the petitioner that in the absence of the allegation in the notice having been accepted the executive officer could not, in the exercise of is powers under Section 39, seek to summarily disqualify a member. It was for the civil Judge, under Section 40, to hold the enquiry and then give his decision about the disqualification. The Rajasthan High Court disapproved the order of the Chide Executive Officer passed without an enquiry being conducted by the judicial authority as required under the Act.

Under Section 19(I) which sought to implement the government's population policy.

1. No authority under the Constitution for the State Legislature to make such law ;
2. In the absence of similar prescription of disqualification for members of Parliament or State Legislatures,
3. the provision violated the right to life which included the right to procreate;
4. there was no remarkable nexus between the restriction imposed and the object of the parent legislation,
5. The provision offends the religious freedom enshrined in Article 25 and 26 of the constitution.

In the Seventh Schedule of the Indian Constitution. "Article 14 cannot be used for declaring a law made by the State unconstitutional by a comparative study with other state laws or the law made by the Union". Article 14 does not prevent the legislature of s Stated form the gradual introduction of reforms and even a single institution can be selected for the purpose of implementing its policy. In answering the ground based on the right to life, the High Court declared that the right to marry or procreate is neither a common law right nor a right recognized by the Constitution. The court also pointed out that the right to be elected was not a fundamental right and the right to privacy was not absolute. the validity of Section 19 (I) on the ground that " these provisions have been enacted by the Legislature to control the menace of population explosion, the social policy is designed to secure social order for the promotion of the

welfare of the people, adequate means of live hood, raising the level of nutrition." But interest of people and economic condition of society, technological improvement and boom that the country has seen the last years seem to have aided and unwanted female babies' ratio as under;

Year	Sex Ratio	Child Sex ratio(0-6)
1961	941	960
1971	930	964
1981	934	962
1991	927	945
2001	933	927
2011	940	914

Table 3: Gender Ratio in India  
Source: Census of India, 2011

Percentage distribution of gender based population under table during 2001 ,the adolescent girls from age group of 10-19 years constituted about 22.6 % which is projected to declining trends in the next decades which is negative result under states policy implementation and protection procedure regarding women's .

Age group	1981		1991		1996*		2001*		2006*		2011*		2016*	
	M	F	M	F	M	F	M	F	M	F	M	F	M	F
10-14	13.2	12.6	11.9	11.6	12.0	11.5	12.1	12.1	10.5	10.6	8.9	9.0	8.7	8.7
15-19	9.9	9.4	9.7	9.1	9.9	9.5	11.0	10.5	11.2	11.2	9.7	9.9	8.3	8.3

Table 4: Percentage Distribution of Adolescent Population  
Source: United Nations Population Fund (2000). Adolescents in India: A profile, New Delhi

"To make life meaningful and worth living the legislature can provide for limiting one's family. How can the State assure one the right to work, education and to public assistance... if there is no check on the ground of population."

The example cited by the High Court in Fazru's case to meet the point regarding the absence of a similar disqualification for members of parliament was that of nationalization. The court said:"There can be no doubt that nationalization had to be done in phased manner and all the institutions cannot be taken over at a time .... "The Nationalization in a phased manner contemplates that by and by the nationalization will be taken over".

Under Section 175 (1) (q) of Haryana P Act, 1994 which disqualifies of a member from continuing to be a member of the Panchayat-if the person has more than two children after the commencement of the Act'. "The government is spending large sums of money propagating family planning. One of the agencies to which the project of family planning has been entrusted for implementation is the Gram Panchayat. The Panches and Sarpanches are to set the example can they set before the public? The Legislature has rightly come forward by imposing reasonable restriction in the interest of the state.... How can one expect the citizens of this country to live with human dignity and social equality when the population goes on increasing by bounds?

"Personnel Law was not a fundamental right- The fundamental right was only to practice and propagate religion. But even this fundamental right is subject to public order, morality and health."

The legislation being of recent origin, and the awareness of provisions being low, it is conceivable that there are not too many challenges to doubtful decisions of the executive officers and continues to act in an arbitrary manner in total violation of the law. In Bhanwari Devi v. State of Rajasthan, the petitioner was elected as chairperson (sarpanch) of a Gram Panchayat. A complaint was filed by a member (Panch) from the Panchayat that by delivering third child after 27-11-1995 she had become disqualified to continue as a chairperson. On receiving the complaint, the Chief executive officer promptly sets up an enquiry and after receiving the report issued a notice to the petitioner to submit her reply. But the petitioner Bhanwari Devi had not received the notice as there was no way by which reply could be got from her within the stipulated time. The court explained that the ineligibility of a member to continue as provided under the Act can be divided into two parts; (1) a member becomes disqualified under Section 19(1) of the Rajasthan Panchayat Act, which deals with the provision about her having more than two children afar the disability under section 39 on account of his absence, removal from membership, resignation, death or his not taking oath on assumption of office. The law is clear that in the first case ,i.e., under Section 19(1), the jurisdiction is given to the civil court. In the case of the second category i.e., under section 39, the authority rests with the competent authority which is quasi-judicial body which could exercise the power of declaring Panch as disqualified after a proper inquiry. In the instant case as there had been no admission by the petitioner about the birth of the third child, the disqualification, if any, could not be determined by the Court. The whole proceeding by the Chief executive officer was held to be illegal and without jurisdiction.

Since ours is a male-dominated society, difficulties are bound to be there initially. Laws are enough, and the courts have enforced them to ordain real social purpose, with objectivity. What is needed, further, is the change of attitude to bring about required change to harmonize society and in turn Indian polity to make it gender-just.

## 8. Conclusion

Democracy denotes socioeconomic equality under political legal system and challenge of Society directly approach to the living condition of woman's and man and their social status, importance, value full participation and awakening to share in the mainstream of national standard of living life. Empowerment of women is one of the major objectives of the 9th (1997-2002) plan. Priority for girl's protection and their development under planning based strategies The proper approach of the government policy implementations and recommends and integrated approach towards empowering girls and women. This underscores the harmonization of different fronts viz., social illegal, economies and political protection in consent of right and humanities. It also recommends the expeditions adopted of the National Policy for empowering women. Political process has also gone towards the age, cast; class based overall development in all selective representation of women mandatory in PRIs, which is itself a step forward on the direction of political-gender-justice, as the women suffered inequality in representation to these e public intuitions. Meanwhile, the legislations bringing about reservation for women in PRIs have come for scrutiny in various high courts. The decision reveal the problems faced by women after being elected to these institutions, the violation of disqualifying clause such as two-child norm and its impact of removal of Chairpersons or members on 1/3rd reservation of seats for women. The unreserved approval granted by the judiciary to the provisions that seek to implement the government's population control measures calls for critical comment. The courts underscore the need to strengthen the legislation with a view to ensuring the continued participation of women in local governance. It would, therefore, be clear that the main purpose of having the disqualification of more than two children is to implement the government's family planning programme rather than to provide women opportunities to participate in local self-government. The State authorities should always consider the reasons and objects of 73rd Constitutional Amendment while framing policies to ensure constitution's guarantee to 1/3rd reservation of seat for women other weaker sections of the society in Panchayats. The state policies should not be in conflict with constitutional guarantee rather should pave way to make their active participation meaningful for socioeconomic and political justice. Parliament would need to relook at these provisions to plug these oblivious loopholes. And Government must be work effective and efficient administration by different schemes for empowerment of the women's adolescent girls. To provide a completely new strategy based on a holistic approach of protection, awareness, implementation, national level, state level, and by using nodal agency, to provide quality based administrative system by natural and social justice to state woman's and other people of weaker section of society.

## 9. References

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2. Constitution of India, Article 243 K.
3. AIR 1997 SC 1075.
4. AIR 1999 Kant. 46.1.
5. Ibid
6. Id., at p.466.
7. Article 243(D) of Constitution (73<sup>rd</sup> Amendment) Act 1992.
8. See for example, Mukesh Kumar Ajmera v. State of Rajasthan, AIR 1997. Raj 250, where 12 elected Panches challenged Section 19(1) of the Rajasthan Panchayat Act, who were disqualified for having more than two children.
9. Constitution of India. Article 243 F(1)
10. Id., Article 243 F(2). See also State of H.P. V . Surrinder Singh Banolta, AIR 2007 SC 903, the Supreme Court held that disqualification as provided for under Art 243F has been laid down in Section 122 of the H.P Panchayat Raj Act. Section 122 must be read in the light of Article 243-0(b) of the Constitution, which mandates that "no election shall be set aside, save and concept, by an order passed by the authorized officier." The Act has been enacted pursuant to or in furtherance of the Constitutional mandate contained in Part IX of the Constitution. The provisions of the Act, therefore, are required to be constructed strictly in terms thereof.
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32. Fazru and Ors.v. State of Harayana, (1998) Punj; L.R. 222.
33. Lbid., at 223 . See also javed v. State of Haryana, AIR 2003 SC 3057, where the Supreme Court held that Sections 175(1) (q) and 177(1) of the Haryana Panchyat Raj Act, 1994 providing for disqualification to contest elections for Panchayat office bearers to those having more than two living children, were within the legislative competence of the state legislature.
34. Ld., at p.226
35. 1997 AHIC 608.
36. Ld., at p. 611.
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