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“CRUCIAL ROLE OF THE JUDICIARY FOR THE PROTECTION OF WOMEN’S RIGHT IN THE CONSTITUTION OF INDIA WITH SPECIAL REFERENCE TO VARIOUS LANDMARK JUDGMENTS IN PRESENT DAY SCENARIO”.

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ABSTRACT

Women have an important role to play in the society. They are regarded as primary source that raises and nurtures the family. In spite of the fact that the women’s contribution to the progress of the country is equal to that of their male counterpart, still they experience a number of limitations that restrict them from realizing their potential for growth. Women are not safe, whether it is in their houses, public places or at the workplace. Their safety in their own hands in which the number of crimes that are committed against women, it is pertinent that women are aware about the laws that are in place to protect them. As a parent, wife, daughter, employee and a woman these are rights set in place to protect. India is a country known for its rich beautiful culture and tradition. Women are given the place of goddess Lakshmi in the Indian culture. But by seeing the last few year crimes against women, there seems the safety and security of women is at stake. As we can literally observe that crimes against women occur every minute in India. There has been a decline in the women status from ancient to medieval period which is continued in such an advanced era. Each day a single woman, a girl child, a young girl, a mother and women from all walks of life are being assaulted, molested, and violated. The streets, public transport, public spaces, in particular, have become the territory of the hunters. There are certain common crimes against women are rape, dowry deaths, sexual harassment at home or workplace, kidnapping and abduction, cruelty by husband, relatives, assault on a woman, child and sex, trafficking, attack, child marriages and many more. Though the Constitution of India has given the equal rights of dignity, equality, and freedom from gender discrimination but in practical no one bothers to follow such law until and unless the people’s mindset towards a woman does not change.

Keywords-Constitutional Provision, Protective Discrimination, **Immoral Trafficking in Women, Maternity Benefit, Rights of Women against Abuse and Exploitation, Affirmative Action of Women and Empowerment, Domestic Violence, Women Education and Role of Judiciary etc.**

1. INTRODUCTION

Constitution of India has done a magnificent job in ensuring protection of women in the supreme law of the country. It recognizes women as a class by itself and permits enactment of laws and reservations favoring them. Several articles in our Constitution make express provision for affirmative action in favor of women. It prohibits all types of discrimination against women for securing equal opportunity to women in all walks of life, including education, employment and participation. The commitment to protection of women is well entrenched at the highest policy making level in the Constitution of India which prohibits **discrimination** based on sex but it equally directs and empowers the government to undertake special measures for women. Though the position of women has developed in the last seven decades, however still they are struggling to maintain their freedom and dignity. Presently Indian women are suffering from the toughest time physically and mentally, mainly due to unawareness and lack of information on legal and constitutional woman rights in India. The Constitution provides many protection women rights such as Protective discrimination in favour of women, Rights of women against exploitation, Rights of women under directives, Right to freedom of women and political representations of women. The Constitution of India not only allows equality to women but also empowers the State to use measures of positive discrimination in favour of women for neutralizing the cumulative socio-economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of the law; prohibits discrimination against any resident on the grounds of religion, race, caste, sex or place of birth, and ensure equality of opportunity to all citizens in concerns relating to employment. Articles 14, 15, 15(3), 16(2),19-22, 23,24,39(a), 39(d), 39(e), 42, Article 51-A, **Article 243- D (3) and 243-T (3),(4)** of the Constitution are of special importance in this regard. India is one of the few countries in the world with maximum number of laws that protect women and empower them. The Indian Constitution, through the Fundamental Rights, Fundamental Duties and the Directive Principles guarantees equal rights to all citizens. In fact,

there are several provisions in the Constitution that embody the spirit of gender equality and lay the ground for framing policies, mechanisms, safeguards and programmes for protection and, more importantly, empowerment of women in the country.

2. OBJECTIVES OF THE RESEARCH:

1. To analyze the legal validity in the Constitution of India for the Provisions of equal status of women with men.
2. To study whether the women are enjoying equal status or not after the implementation of the Indian constitution.
3. To study the Government Schemes For Protection of Women.
4. To identify the basic problems in the Path of Protection of Women
5. To assess the Awareness of Protection of Women in India.
6. To analyze the Factors influencing the Importance of Education for Protection of Women.
7. To study the Role of Indian Constitution for Empowering the Women in India

3. HYPOTHETICAL ANALYSIS

1. Women are in vulnerable conditions from ancient society till today.
2. The various social reformers are contributing to uplift the social conditions of women.
3. Legislation and judiciary systems are playing pivotal role for protection of women
4. The main threat of Women are physically (sexually) and mentally harassment in the society.
5. To offer useful suggestions in the light of Findings and its Results.

4. METHODOLOGICAL RESEARCH:

This Research is purely descriptive and analytical in nature. In this research an attempt has been taken by the Researcher to analyze the protection of women in Constitution of India. The data used in it is mostly from secondary sources according to the need of this study. The

methodology adopted for conducting the proposed research is a Doctrinal Research method. Doctrinal Research in law field indicates arranging, ordering and analysis of the legal framework, legal structure and case laws to search out the new things by extensive surveying of legal literature but without any field work for data collection.

5. CONSTITUTIONAL PROVISION AND PRIVILEGES PRESCRIBED FOR WOMEN

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Similarly, the constitution provides women with specific safeguards in lieu of their disadvantaged and discriminated position. It also takes into account the possibility of women being subjected to harassment sexually and physically and provides adequate preventive measures for the same. In this sense, the Indian constitution can be seen as a progressive document which identifies as one of its prime objectives the empowerment of women. The Indian Constitution upholds women's rights through right to equality, right to life with dignity and right to freedom from discrimination. In addition, there are several laws that ensure protection of women rights and dignity. Our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.

6. PROTECTIVE DISCRIMINATION AGAINST WOMEN IN THE CONSTITUTION.

Article 14 ensures that the state shall not deny to any person equality before law. This is a very important provision which provides equal legal protection to women against any women based on crime. **Article 15 (1)** prohibits discrimination against any citizen based on religion, race, caste, sex or place of birth. Historically women in India were denied an equal status

compared to their male counterparts. The Article ensures that women are treated equally with full political and civil rights as that of men in all aspect of the civil-political and social life. **The state is empowered to make any special provisions for women. (Article 15(3))** by this article, the constitution urges the state to take affirmative action or positive discrimination to further the cause of women. Thus the government is empowered to provide reservations for women when and where it is deemed necessary. **No citizen shall be discriminated against or be ineligible for any employment of office under the state on the ground of sex. (Article 16 (2))** which prohibits discrimination against women while making appointments to government posts and offices.

7. RIGHT TO FREEDOM OF WOMEN FOR PROTECTION IN THE CONSTITUTION.

Articles 19 to 22 of The Constitution of India provide a detailed scheme of Right to Freedom. **Article 19 (1)** guarantees 6 freedoms (speech and expression, assembly, association or unions, movements, residence, profession and occupation) for citizens with reasonable restrictions and **Article 21** provides for Right to life and personal liberty of each and every person in India which includes Right to live with human dignity, right to livelihood, right to work, right to privacy, right against sexual harassment etc.

8. RIGHTS OF WOMEN AGAINST EXPLOITATION IN THE CONSTITUTION.

Right against exploitation is recognized under Article 23 and 24 of the Constitution of India. **Article 23** prohibits “traffic in human beings and beggar and other similar forms of labour”. The expression “traffic in human beings is evidently a very wide expression including the prohibition of traffic in women for immoral or other purposes. Also **the Suppression of Immoral Traffic in Women and Girls Act, 1956** has been enacted with the object of inhibiting or abolishing the immoral **trafficking** of women and girls.

9. RIGHTS OF WOMEN UNDER DIRECTIVES AND FUNDAMENTAL DUTIES.

Under **Directive principles of State policy** various rights of women have been implemented through legislations. The Directive **under** Article 39(a) and (e) ensure women equal economic opportunities and prohibits discrimination in the pay front and holds the state responsible to

ensure that both men and women have access to adequate livelihood and **Article 39(d)** ensures that there is **equal pay for equal work** for both men and women. **Article 42** of the Constitution provides that the state shall make provision for securing just and humane conditions for work and maternity relief and for this purpose **the Maternity Benefit Act, 1961** was enacted. 2017 amendment to the Maternity Benefit Act, 1961. Article 51-A (e) provides that it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women.

10. AFFIRMATIVE ACTION FOR THE EMPOWERMENT OF WOMEN IN THE CONSTITUTION AND ITS RELEVANCE.

The constitution as its framers had envisaged it to be instruments of social transformation also give forth measures and institutional mechanisms to ensure equal participation of women in governance and political decision-making. To realize the Directive the 73rd and 74th Constitutional Amendments had sought to ensure a certain proportion of women as chair persons of panchayats. According to **Article 243- D (3) and 243-T (3)**, not less than one third of the total number of seats to be filled by Directive election in every **Panchayat/Municipality** shall be reserved for women (including SCs AND STs). **Similarly, the offices of chairpersons shall be reserved for women in such manner as the state legislature may provide. (Article 243-T (4))**. This opportunity of being a part of local level arbitration process has improved the social conditions of women in village areas.

11. WOMEN EDUCATION IN DEVELOPMENTAL PERSPECTIVES & CHALLENGES

Starting from early medieval time up until the modern period till the advent of the British colonial reforms women folk were not allowed to have the education and most of them lacked even basic literacy. Similarly, the status of married women was not one in line with the principles of a civilized society as they were considered as the property of their husbands who exercised unjustifiable and total control over their life. Most women didn't hold any property and had zero right to inheritance. While the country has grown from leaps and bounds since independence where education is concerned. The gap between women and men is severe. While 82.14% of adult men are educated, only 65.46% of adult women are known to be literate in India. The gender bias is in higher education, specialized professional trainings which hit

women very hard in employment and attaining top leadership in any field. Women play an imperative role in making a nation progressive and guide it towards development. Women education in India has been a need of the hour, as education is a foundation stone for the empowerment of woman .To encourage the education of women at all levels and for dilution of gender bias in providing knowledge and education, established schools, colleges and universities even exclusively for women in the state. The education develops the idea of participation in government, panchayats, public matters etc for elimination of gender discrimination. g policies will be achieved, with a special focus on girls and women, particularly those belonging to weaker sections including the Scheduled Castes/Scheduled Tribes/Other Backward Classes/Minorities. Gender sensitive curricula would be developed at all levels of educational system in order to address sex stereotyping as one of the causes of gender discrimination. The concept of women education right is of utmost important. To make democracy so as to universalize education in India the framer of Indian Constitution under Article 45, incorporate the provisions directing the State to provide, within a period of ten years from the commencement of this constitution, for free and compulsory education for all children until they complete the age of 14 years as one of the most important Constitutional commitment. But we can say that not much serious attention have been paid by the government to fulfill this Constitutional commitment as even after the 70 years of the commitment of the Constitution almost 35 percent of the people of India are still not able to characterize themselves even as mere literate forgetting the concept of higher and quality education. Considering slow and unfasten programme of legislature and executive body toward the fulfillment of the Constitutional duty various judicial steps were taken by Indian judiciary. Supreme Court gave the education right the status of fundamental right in landmark judgment in Mohini Jain VS. State of Karnataka (Popularly known s capitation fee case) and in Unnikrishnan VS. State of Andhra Pradesh. Now the position has been changed by the Constitution (Eighty-six Amendment), Act 2002. From the provisions as Directive Principle under part IV of the Constitution, education right of children from 6-14 years got the standard of Fundamental Rights incorporating Article 21-A under part III of Indian Constitution. Finally, with hopes to every effort by every citizens of India to contribute to the best of one's ability to

make India illiteracy free country for total adult literacy is 100 per cent for women, it is women's education and development urgently necessary.

12. LEGAL RIGHTS AND PROVISION OF WOMEN ENSHRINED UNDER VARIOUS INDIAN LEGISLATIONS:

To uphold the Constitutional mandate, our Supreme legislature has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women.

(1) The Crimes Identified Under the Indian Penal Code (IPC) (i) Rape (Sec. 376 IPC) (ii) Kidnapping & Abduction for different purposes (Sec. 363-373) (iii) Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC) (iv) Torture, both mental and physical (Sec. 498-A IPC) (v) Molestation (Sec. 354 IPC) (vi) Sexual Harassment (Sec. 509 IPC) (vii) Importation of girls (up to 21 years of age)

(2) Government efforts for Empowerment of Women and the Crimes Identified Under the Special Laws

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts which have special provisions to safeguard women and their interests are:(i) The Employees State Insurance Act, 1948 and Minimum Wages Act, 1948 (ii) The Plantation Labour Act, 1951 (iii) The Family Courts Act, 1954 (iv) The Special Marriage Act, 1954 (v) The Hindu Marriage Act, 1955 (vi) The Hindu Succession Act, 1956 with amendment in 2005 (vii) Immoral Traffic (Prevention) Act, 1956 Amended in 1986. In 2006, the Ministry of Women and Child Development proposed an amendment bill i.e. the Immoral Traffic (Prevention) Amendment Bill, 2006 that has yet to be passed (viii) The Maternity Benefit Act, 1961 (Amended in 1995 and 2017) (ix) Dowry Prohibition Act, 1961 (x) The Medical Termination of Pregnancy Act, 1971 (xi) The Contract Labour (Regulation and Abolition) Act, 1976 (xii) The Equal Remuneration Act, 1976 (xiii) The Prohibition of Child Marriage Act, 2006 (xiv) The Criminal Law (Amendment) Act, 1983 (xv) The Factories (Amendment) Act, 1986 (xvi) Indecent Representation of Women (Prohibition) Act, 1986 (xvii) Commission of Sati

(Prevention) Act, 1987 (xviii) The Protection of Women from Domestic Violence Act, 2005.(xix) Muslim Women (Protection of Rights on Divorce) Act (1986) protects the rights of Muslim women who have been divorced by or have obtained divorce from their husbands The government introduced the Muslim Women (Protection of Rights on Marriage)Act,2019:(xxii) ‘The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013’, provides protection to women from sexual harassment at all workplaces both in public and private sector, whether organised or unorganized. Criminal Law (Amendment), Act 2013 was enacted for effective legal deterrence against sexual offences. Further, ‘The Criminal Law (Amendment) Act, 2018’ have also been enacted making the punishment for offences like rape more stringent by including death penalty for rape

3. Special Initiatives for Women in Present Day Context-

1. National Commission for Women: In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.
2. Reservation for Women in Local Self -Government: The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.
3. The National Plan of Action for the Girl Child (1991-2000) : The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.
4. National Policy for the Empowerment of Women, 2001: The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a “National Policy for the Empowerment of Women” in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women
5. Beti Bachao, Beti Padhao, meant for uplifting women in the sphere of women’s education.
6. Sukanya Samridhi Account, meant to help families’ save for their daughters.
7. One Stop Center scheme meant to offer easy access for women suffering from domestic abuse or violence, and needing support.

8. Pradhan Mantri Ujjwala Yojana meant to offer free LPG connections to women living below poverty line
9. Mahila Haat meant to support women entrepreneurs and women self help groups
10. Maternity Benefit Scheme meant for pregnant women and lactating mothers
11. Women's Helpline 1091 meant to provide emergency assistance to women in trouble, especially those facing violence of any kind.
12. The Pradhan Mantri Matru Vandana Yojana (PMMVY)
13. Mahila Shakti Kendra scheme empowers rural women through community participation through involvement of Student Volunteers. These are just some main programs for women introduced by the government and are well-intentioned, although the actual results would be seen based on the mode and efficiency of implementation.

13. ROLE OF THE JUDICIARY FOR THE PROTECTION OF WOMEN IN THE CONSTITUTION.

Women are considered as weaker section in our society which has resulted in the backwardness of women in every sphere. Women remains oppressed ones and are often denied basic human rights. They are subjected to violence in society whether it is within four walls of the house or at workplace. Judiciary plays pertinent role to protect the women rights. Judiciary is sensitive about gender justice right from its inception. "Despite the provision of right to equality enshrined under Article 14 of the Constitution, they are subjected to discrimination. Gender is considered to be the most important factor as for as Indian labour market is concerned. Discrimination against women laborer in terms of wage payments is a very common phenomenon in India. Wages earned by women are generally lesser than their male counterparts.¹ However; Article 39 of the Constitution guarantees the principle of equal pay for equal work for both men and women. Despite the guarantees of equal rights to women still they are not equally treated with men. It is well established that Article 21 provides that no person shall be deprived of his life or liberty except in accordance with the procedure established by law which ought to be 'reasonable, fair and just'². The Constitutional obligation upon State to undertake the protection of rights of individuals under Article 21 is inclusive of the duty to ensure there is a speedy trial of cases. Hussainara Khatoon & Ors Vs. Home Secretary, State of Bihar³. The Court recommends to the State and the Central Government, a

comprehensive legal service program which is mandated not only by Article 14 which guarantees equal justice and Article 21 which confers the right to life and liberty, but also embodied in the constitutional directive embodied in Article 39A. Similarly Court in *Sheela Barse v. State of Maharashtra*⁴ dealt with an issue of mistreatment of women in police station and court laid down various guidelines for the protection of rights of women in custodial/correctional institutions.

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1. Shayan Javeed and Anupam Manuhaar, "Women and Wage Discrimination in India: A Critical Analysis March 19 – 2013" 2 IJHSSI 7(2013)
 2. Maneka Gandhi v. Union of India, AIR 1978 SC 597.
 3. AIR, 1369, 1979, SCR (3) 532
 4. AIR 1983 SC 378.

There are land mark judgements to protect the rights of women and reinstate the gender justice in society. In *Air India v. Nargesh Meerza*⁵ the Apex Court has held that women shall not be denied merely on the ground that she is women, it amount to violation of article 14 of the Constitution. In this case air hostesses of Indian Airlines and Air India have challenged the service rules which State that "Air hostesses shall not marry for the first four years of their joining. They will lose their jobs if they become pregnant. They shall retire at the age of 35 years unless managing director extends the term by ten years at his discretion." The court further held that not allowing having children is insult of womanhood. In *C.B. Muthamma, IFS v. Union of India*⁶. A writ petition was filed by Ms. Muthamma, a senior member of Indian Foreign Service, complained that she had been denied promotion to Grade I illegally and unconstitutionally. She pointed out that certain rules of Civil Service are against women and also challenged the Indian Foreign Service Rules 1961. Rule 8(2) stipulated that a woman would have to take the permission of the Government in writing before her marriage is solemnized, and she may be required to resign if at any time the Government felt that her marriage and domestic commitments were likely to come in the way of discharge of her duties. Rule 18(4) laid down that no married women had the right to be appointed to the service. The Court in the instant case recognized the need to bridge the gap between the Constitutional prohibition on

sex discrimination in Article 16 and the actual law in practice. In Mohd. Ahmad Khan v. Shah Bano Begum,⁷ the Supreme Court held that under section 125 of Code of Criminal Procedure a wife who is not maintained by the husband is entitled to approach the court for maintenance. In this case the Supreme Court observed that it is liability of Muslim husband to maintain his wife beyond „Iddat’ period, who is not able to maintain herself. The Court further held that under section 125 of Code of Criminal Procedure, 1973 which impose such obligation on all husbands in secular character and is applicable to all religion. In Zohra Khatoon v. Mhd. Ibrahim,⁸ it was held a Muslim wife whose marriage stands dissolved under the provisions of the dissolution of Muslim Marriage Act, 1939, is entitled to maintenance and she is a wife within the meaning of Section 125 (1), Cr. P.C.

5. AIR 1981 SC 182.

6. 8. AIR 1979 SC 1868

7. 9 AIR 1985 SC 945.

8. 10 (1986) 1 SCC 398, AIR 1986 SC 587.

Supreme Court has played remarkable role in protection of women’s right such as in case of Associate Banks officers Association v. State Bank of India,⁹ Supreme Court protected the rights of women workers and held that women workers are in no way inferior to their male counterparts and hence there should be no discrimination on the ground of sex against women. equal pay for equal work has been a slogan of women’s sex based discrimination in the pay scales of men and women doing same or equal work in the same organization. It is meant to prevent discrimination on the ground of sex, against women in the matter of employment. In Punjab National Bank by Chairman and others v. Atamija Das¹⁰ it was held that a woman can avail leave for the period of six weeks from the day immediately following the day of her delivery, miscarriage or medical termination of pregnancy. In State of Madhya Pradesh v. Pramod Bhartiya¹¹ Supreme Court held that under Article 39, the State shall direct its policy towards securing equal pay for equal work for both men and women. Article 21 i.e. protection of life and personal liberty was invoked for the dignified life for the prostitutes by Supreme Court in case of State of Maharashtra v. Madhukar Narayan Mandlikar¹² held that even a woman of easy virtue is entitled to privacy and no one can evade her privacy. In Bodhi Satwa

Gautam v. Subra Chakarborty¹³ Supreme Court has held that rape is a crime against basic human rights. Supreme Court laid down guidelines for protection of women against sexual harassment at work place in case of Vishaka v. State of Rajasthan¹⁴ and reiterated the same in Medha Kotwal Lele v. Union of India.¹⁵ Guidelines for ensuring the safe work environment for women were given and made it mandatory for employer to take responsibility in cases of sexual harassment at work. Therefore, Judiciary is playing a crucial role in the protection of the women's rights from time and again by expanding the scope of the rights to life with dignity and recognizing new rights with the need of time. _____

9 AIR 1998 SC 32.1998 (1) SCC 429.

10 2008 III LLJ 58(SC).

11 AIR 1993 SC 286.

12 AIR 1991 SC 207.

13 AIR 1996 SC 922.

14 1997(6) SCC 241.

15 2013(1) SCC 297.

14. LANDMARK JUDGMENTS AND JUDICIAL PROTECTION FOR WOMEN'S RIGHTS IN PRESENT SCENARIO.

Indian judiciary has played a crucial role in framing and interpreting laws that uphold women's rights and dignity in India, resulting in several landmark judgments,

A. The Sexual Harassment of Women at Workplace Act, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 — an extremely important law to protect millions of Indian women who step out of their households to earn a living for their families. In 2013, India adopted its first legislation specifically addressing the issue of workplace sexual harassment; the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The POSH (Act 2013) had been enacted with the objective of preventing and protecting women against workplace sexual harassment

B. A landmark judgment on acid attacks

Another landmark case, Laxmi v/s Union Of India (2006) where an acid attack victim, Laxmi filed a Public Interest Litigation (PIL) in the Supreme Court praying for the betterment of the acid attack survivors, adequate compensation to the victim and measures to regulate the sale of acid. In 2013, the Supreme Court taking cognisance of the rise in cases of acid attacks on women imposed strict regulations on the sale of acid, including ban on sale of acid over the counter and ban on sale of acid to a person below 18 years.

C. Upholding the dignity of rape survivors

In Lillu v/s State Of Haryana (2013), for the first time the agony and trauma of a rape victim was realised who had to go through the two-finger test to give her character certification? On the basis of various precedents, the court held that the test is a violation of the victim's right to privacy and dignity. The court held that rape survivors are entitled to legal recourse that does not re-traumatise them or violate their physical or mental integrity and dignity.

D. Landmark judgments relating to guardianship rights.

In ABC v/s The State (NCT of Delhi) (2015) the Supreme Court in a landmark judgment held that an unwed mother belonging to the Christian faith is not bound to disclose the name of the child's father. The unwed mother would have all the rights as a guardian to the child and need not take the father's consent for guardianship rights. A division bench held that living under the same roof under law in Dhannulal and ors v/s Ganeshram and Ors (2015). The bench held that continuous cohabitation of a couple together that is, 'live-in relationship' would raise the presumption of marriage unless otherwise proven. The case was that of a property dispute of a man who lived with a woman, not legally wedded wife, for 20 years and the bench held that she was eligible to inherit the property.

E. Maternity Benefit (Amendment) Act, 2017 ("Maternity Amendment")

The Maternity Amendment provided for mothers adopting a child below three months of age, or "commissioning mothers" to take twelve (12) weeks of maternity leave from the date of receiving the child. The Maternity Amendment enables mothers to work from home after completing twenty-six (26) weeks of leave subject to their work profiles and the employer's consent.

F. Decriminalizing of Adultery

On September 27, 2018, a five-judge bench of the Supreme Court of India struck down Section 497 of the Indian Penal Code that prescribed a maximum imprisonment of five years to men for adultery. All five Supreme Court Judges clarified that adultery will be a ground for divorce. Dipak Misra, the then Chief Justice of India said that "It's time to say that (a) husband is not the master of (his) wife. Women should be treated with equality along with men". Justice Chandrachud in his separate but concurring opinion said that Section 497 was destructive to woman's dignity and also emphasized that "Respect for sexual autonomy must be emphasized". "Section 497 perpetrates subordinate nature of woman in a marriage", were his concluding remarks. Justice Indu Malhotra noted in her judgement that the Section institutionalized discrimination.

G. Triple Talaq

"Triple Talaq" or "Talaq-e-Biddat" is an Islamic practice that allows men to divorce their wives immediately by uttering the word "talaq" (divorce) three times. The Supreme Court, once again in its recent landmark judgment of Sayarabano Vs. Union of India pronounced on August 22, 2017, set aside the practice of "Triple Talaq". The ordinance making the practice of instant triple talaq, a penal offence has been issued for a third time in February 2019.

H. The Right to Freedom of Religion of women in India and religious practices.

Sabrimala Issue-The Supreme Court on September 28, 2019, delivered one of the most keenly awaited judgment in the Sabarimala case. By a 4:1 majority, permitted entry of women of all age groups to the Sabarimala temple, holding that 'devotion cannot be subjected to gender discrimination'. The Supreme Court of India ruled that women of all age groups can enter

Sabarimala Temple. The court initially lifted the ban and termed it as a violation of women's right to practice religion before going on to place it for review before a larger bench in November 2019. The Apex Court said restrictions on women in religious places was not limited to Sabarimala alone and was prevalent in other religions as well.

15. GOAL -5 OF 17, UN SUSTAINABLE DEVELOPMENT GOALS (SDG- 2030)-TO ACHIEVE GENDER EQUALITY AND EMPOWER ALL WOMEN AND GIRLS:

While much more progress remains to be made, a number of indicators pertaining to the status of women in India have moved in the right direction over the years. For instance, 68.4% of women were literate in 2015-16, as compared to 55.1% in 2005-06. Additionally, 53% of women were independently using a bank or savings account in 2015-16, which is a significant improvement from 15.1% in 2005-06. Numerous measures have been put in place for promoting gender equality. For example, the Beti Bachao Beti Padoo (Save the Girl Child, Educate the Girl Child) initiative focuses on a comprehensive package of interventions for the girl child including those pertaining to education and protection. The Maternity Benefit Programme protects women from wage loss during the first six months after childbirth. Further, several programmes are being implemented for enabling greater participation of women in the work force.

16. CRITICISM

Despite all the legal provisions and government endeavors still women are not being treated as equal to men in our country. More often than not, men are treating them as an object to fulfil their carnal desires. Crimes against women are at alarming stage. The practice of dowry is still widely prevalent and female infanticide seems to be a norm in our society. There are wide spread news of sexual violence against women, incidence of rapes, dowry death, women trafficking, honor killing and domestic violence against women, in dailies, on TV and in social media which are disturbing the peace of mind of the people. Even in Economic empowerment, professional competence and integrity of women are not given due importance even in contemporary society. That is the reason why the numerous legislations passed to help women to occupy equal place in society often seem to be grating concessions they are rendered infructuous for they are not properly implemented. Enforcement of women and children legislations like Child Marriage

Restraint Act, the Dowry Prohibition Act, Sati Prevention Act, Immoral Traffic Prevention Act, Domestic Violence Act, Pocsso Act, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act are glaring examples which are not being scrupulously implemented in letter and spirit. The patriarchal mindset, even in the 21st century of post modernization, is refusing to realize that women remain an integral part of the human community and that it will be impossible to consider socio-economic and societal transformation in isolation without women and men together playing their due developmental role.

17. FINDINGS OF THE STUDY

1. There are several Government programmes and NGOs in the Country, there is still a wide gap that exists between those under protection and those not.
2. Poverty and illiteracy add to these complications, The Protection of Women begins with a guarantee of their health and safety.
3. Protection of Women could only be achieved if their economic and social status is improved. This could be possible only by adopting definite social and economic policies with a view of total development of women and to make them realize that they have the potential to be strong human beings.
4. In order to create a sustainable world, we must have to begin to Protection for the Rights of Women.

18. SUGGESTIONS

1. The first and foremost priority should be given to the education of women, which is the grassroots problem. Hence, education for women has to be paid special attention.
2. Awareness programmes need to be organized for creating awareness among women especially belonging to weaker sections about their rights.
3. Women should be allowed to work and should be provided enough safety and support to work. They should be provided with proper wages and work at par with men so that their status can be elevated in the society.
4. Strict implementation of all the Programmes and Acts should be there to curb the mal-practices prevalent in the society.

19. SUGGESTIVE MEASURES FOR WOMEN'S RIGHT IN THE CONSTITUTION BY THE APEX COURT THROUGH GENDER JUSTICE.

This is important that a judge while administering the laws, if deprived of requisite sensitivity may frustrate the objectives sought to be achieved by the best of the laws. However, one thing shall have to be clearly borne in mind i.e. the role of the judiciary, in the vindication of gender justice. According to Justice V.R. Krishna Iyer, "case law, creative, imaginative and gender-friendly, has its logic and limitation. Judges cannot make law but only interpret it and decide specific cases and controversies within defined bounds although in that process they do make law interstitially. But legislation is essentially a wider function covering vaster spaces and free to weave fabrics of fundamental mutation. So it is substantive codification, radical in transformation of the social order, that we need, an avant-garde operation Parliament must perform. Magnificently as the judiciary has acted they have not, and could not usurp legislative functions."

Justice Lahoti **suggests** the following principles to be kept in mind by the judges to achieve the goal of gender justice:

1. The court should keep in mind the historical and cultural background of patriarchal society in which the women have lived and respect their feelings.
2. The court should adopt the balanced approach in dealing with any issue related to a woman keeping in their view the position of the victim as a weaker section of society. Their case me be dealt with in such a way so that they may be treated not only as equals but also feel confident that they are equals;
3. The Court is expected to treat them with dignity and respect by their conduct, behavior and ideology. Such an approach would certainly inculcate confidence in women seeking justice as a victim. They should not feel harassed in any manner.
4. The Court should make best endeavors to deliver quick, speedy and economical justice. It would be an effective and meaningful justice without any delay.

There are the broad principles and the same are shared with the readers a few courtroom tips which the Hon'ble Justice himself followed in the trial court as well as in the higher judiciary.

These are:

1. Women to be treated with courtesy and dignity while appearing in the court. Any comment, gesture or other action on the part of anyone in or around the courtroom which would be detrimental to the confidence of the women is to be curbed with a heavy hand.
2. There should be no gender bias in the courtroom. The protection from gender bias should be extended to each female present or appearing in the court whether she is a member of the staff or as party or witness or member of legal profession. The behavior if it is unbecoming of the dignity of woman should not be tolerated by the court.
3. The Court proceedings in women's cases must begin on time and in a systematic way so that they are concluded as expeditiously as possible avoiding the repeated appearance of women in the honorable court.
4. The examination and cross-examination in respect of women witnesses, particularly in cases of violence against women should be conducted under the supervision of the presiding judge. The Hon'ble Judge may take such care and caution as to avoid lengthy and tedious questions so that any harassment to the witness may be prevented.
5. The female advocates need to be encouraged in their profession. They may be given opportunity for appointment as Court Commissioners to inspect and recording statements of the witnesses.
6. In the matter of assigning legal aid work or to work as amicus curiae briefs, preference may be given to female lawyers to ensure their more effective appearances in the honorable courts.
7. Sexual harassment and crime against women ought to be dealt with on priority basis. As they say justice delayed justice denied. Therefore, to avoid this feeling, it is desirable that the cases of women victims may be decided at an early date lest the delay should defeat the justice.

20. THE WAY FORWARD: GENDER INJUSTICE SHOULD NOT BE MAINTANED

The issue of gender injustice should not be perceived as a war between the two sexes. Long before, when consciousness in society towards gender injustice was not present then resentment on the part of women was justified; but now the approach should be of complementing each other rather than competing on perceptions, which may not be real or may be non-existent. Societal bonds are based upon integration, mutual dependence and respect. They are not just contractual but based on deep organic unity. It is true that the male sex is most of the time blamed as the disseminator of gender injustice; but it cannot be ignored that the male sex also suffers from and feels pained at gender injustice, as the woman subjected to injustice is sometimes his mother or his daughter or sister or wife. Therefore, perceptual change is needed for greater social awareness and sensitization which breeds equality of the sexes and not rivalry of the sexes

21. CONCLUSION

Women are deprived of economic resources and are dependent on men for their living. Women works are often confined to domestic sphere, she has to do all house hold works, which are not recognized and unpaid. In modern times many women are coming out to work but has to shoulder double responsibility, one she has to work where she is employed and secondly she also has to do all the house hold works, moreover, she is the last to be considered and first to be fired as she is considered to be less productive that her counterpart. Her general status in the family and in the society has been low and unrecognized "When women move forward the family moves, the village moves and the nation moves". It is essential as their thought and their value systems lead the development of a good family, good society and ultimately a good nation. The best way of empowerment is perhaps through inducting women in the mainstream of development. Women empowerment will be real and effective only when they are endowed income and property so that they may stand on their feet and build up their identity in the society. The protection of Women has become one of the most important concerns of 21st century not only at national level but also at the international level. Government initiatives alone would not be sufficient to achieve this goal. Society must take initiative to create a

climate in which there is no gender discrimination and women have full opportunities of self decision making and participating in social, political and economic life of the country with a sense of equality. There are varied legislative safeguards and protection mechanisms for women but the ground reality is very different. Despite all the legal provisions and government endeavors still women are not being treated as equal to men in our country. More often than not, men are treating them as an object to fulfil their carnal desires. Crimes against women are at alarming stage. The practice of dowry is still widely prevalent and female infanticide seems to be a norm in our society. There are wide spread news of sexual violence against women, incidence of rapes, dowry death, women trafficking, honor killing and domestic violence against women, in dailies, on TV and in social media which are disturbing the peace of mind of the people. The formidable foe is the societal role perception of women. Economic empowerment, professional competence and integrity of women are not given due importance even in contemporary society. That is the reason why the numerous legislations passed to help women to occupy equal place in society often seem to be grading concessions they are rendered infructuous for they are not properly implemented. Enforcement of women and children legislations like Child Marriage Restraint Act, the Dowry Prohibition Act, Sati Prevention Act, Immoral Traffic Prevention Act, Domestic Violence Act, Pocso Act, Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act are glaring examples which are not being scrupulously implemented in letter and spirit. The patriarchal mindset, even in the 21st century of post modernization, is refusing to realize that women remain an integral part of the human community and that it will be impossible to consider socio-economic and societal transformation in isolation without women and men together playing their due developmental role. There have been great and commendable contributions of women over the years in the building of our nation. We must thank them for the same. The bill for 33 percent reservation for women in elected bodies is a long pending issue that so far the country has not been able to achieve over 12 per cent representation. People in society have to make themselves effective with issues, facts and figures relating to women empowerment. Mere changes in the legal provisions, framing government programs/policies for gender equality will not suffice. Moreover we see some or the other changes keep happening in the structure. In

order to reach our goal of women participation and their welfare and bring them in a leadership role, people should have the knowledge of the laws and schemes to develop an independent image as a public representative. We must make an attempt of building a dignified image of women in our country. Once the image of equality is established among people, it will last for long. You will see people accepting the ideas once these are thus established. In this respect Prime Minister Modi called upon the people “we must think beyond women’s development” and move towards “women-led development.” Stressed girls’ education. Women are bonding between father and children. If father is head of family mother is heart of family. Woman is practically backbone of the family and the community. She brings up the children. So, parental obligation is richer by the women. Girls’ proper education is important to create independent mind. Without that we cannot control the population. There has to be strict implementation of laws to prevent rape, abduction, torture domestic violence. We have to see, how we can remove all these tyranny and crime against women and children. Young generation can contribute in this regard. One more thing, children and women are allowed to participate in the matters of their concern, what you desire, what’s your hope, interest, rights and claim. Society should help NGOs involved in furthering the cause of children and women.

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