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Constitutional and Legal Rights for Women in India

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Abstract: Women are an important part of the society. World can never be complete without a woman. A woman is a blessing to this earth. She plays a versatile role in one's life; she is a daughter, a sister, a wife, a mother, a friend and above all a real motivator, an inspiration and strength. But from the beginning of this world women is treated as a weaker section of the society and they are victims of the crime like rape, eve teasing, adultery, female infanticide, child marriage, dowry, domestic violence, prostitution, fraudulent marriage, exploitation at work place, murder, acid throwing. Majority of women experience other forms of discrimination, based on their age, customs, nationality, religion, health status, marital status, education, disability and socio-economic status. The discrimination in any form against women is violation of human rights and Fundamental freedom. In modern India some improvement has been taken place in the status of women. But still woman do not enjoy as much independence and liberties as men do. Crimes against women are increasing day by day. In spite the fact that the women's contribution to the progress of the country is equivalent to their male counterpart, still they experience a number of restrictions that restrict them from realizing their capabilities. Though women in India have been given more rights as compared to men, even then the condition of women in India is miserable. The problem behind this situation is lack of knowledge of legal and constitutional rights of woman. Most adverse part of this is even women are not fully aware about their rights. This paper will throw light on the various constitutional and legal rights of women in India, by focusing on the various crimes done against them.

Key words: Women, Rights, Crime

INTRODUCTION:

In the ancient Indian times women held a high position of respect in the society as mentioned in Rig Veda and other scriptures. Volumes can be written about the status of our women and their gallant deeds from the Vedic period to the modern times. But later on, because of social, political and monetary changes, women lost their status. Many evil customs and traditions stepped in which imprisoned the women and tied them to the boundaries of the house. Physical, sexual and psychological violence strikes women in outbreak proportions worldwide. It crosses every social and economic class, every religion, race and civilization. During that period Indian women were in a need of some laws in order to improve their social position and to ensure proper safety against mental and physical torture¹. Dr. B. R. Ambedkar, author of our Indian constitution, took certain constructive and much needed steps in favour of Indian women to make them independent and socially strong. Due to the radical changes brought by our constitution and efforts made by Indian women, they have earned themselves a reputable position in the society. Now they are treated equally with men. Today women are everywhere and to be precise women are in space, women are in corporate, women are in politics, women are in entertainment field, women are in defence field and the list goes on. In fact it is a matter of pleasure that the position of women has improved in the last four decades. But still somewhere I feel that the presently Indian women are again a bit struggling to uphold their self-respect and freedom. Physical and mental torture of women has again become common and that is why they have started feeling insecure. From domestic abuse to rape as a weapon of war, violence against women is a gross disobedience of their human rights. Not only does it intimidate women's health and their social and economic well-being, violence also thwarts worldwide efforts to reduce poverty. The official statistics showed a declining sex-ratio, literacy rate, health status, political participation and work participation among women.

Humiliation, rape, kidnapping, molestation, dowry death, torture, wife-beating etc. have grown up over the years². The treatment of women's as sex object is a very common scenario in every sphere of life be it torture, rape, beating, molestation, physical abuse or any such thing that has a direct effect on the mental and physical state of the women. The treatment of girl as a burden on the family because of the reason for the huge dowry to given at the time of her wedding, and because of this reason many of the girls are not even encouraged to take up even middle education. Gender discrimination be it education, employment, home or anywhere is prevalent enough to attribute to the feeling of gender bias because of which girls are confined to the house.

Although, women are victims of all kinds of crime, be it cheating, murder, robbery, etc., yet the crimes in which a women is specifically targeted to be harmed are characterized as "crime against women". Broadly, crimes against women are classified under two categories³:

(1) Crimes under the Indian Penal Code (IPC), which include seven crimes:

- Rape (Sec. 376 IPC)
- Kidnapping & Abduction for different purposes (Sec. 363-373)
- Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
- Torture, both mental and physical (Sec. 498-A IPC)
- Molestation (Sec. 354 IPC)

- Sexual Harassment (Sec. 509 IPC)
- Importation of girls (up to 21 years of age)

(2) Crimes under Special and Local Laws (SLL), which include seventeen crimes, of which the important ones are:

- immoral traffic (1956 and 1978 Act),
- dowry prohibition (1961 Act),
- committing Sati (1987 Act)
- indecent representation of women (1986 Act)
- Domestic violence act (2005 Act)

PROVISIONS FOR WOMEN IN INDIAN CONSTITUTION:

Gender equality is enshrined in every sphere of Indian constitution, be it preamble, fundamental rights, fundamental duties and directive principles. 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. 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 1993⁴.

Constitutional Provision for women is as under:

1. Equality before law for women (**Article 14**)
2. The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (**Article 15 (i)**)
3. The State to make any special provision in favour of women and children (**Article 15 (3)**)
4. Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (**Article 16**)
5. The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (**Article 39(d)**)
6. To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (**Article 39 A**)
7. The State to make provision for securing just and humane conditions of work and for maternity relief (**Article 42**)

8. The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (**Article 46**)
9. The State to raise the level of nutrition and the standard of living of its people (**Article 47**)
10. To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (**Article 51(A) (e)**)
11. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (**Article 243 D(3)**)
12. Not less than one- third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women (**Article 243 D(4)**)
13. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (**Article 243 T (3)**)
14. Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide (**Article 243 T (4)**)

Legal Provision for women is as under:

The following various legislation's contains several rights and safeguards for women:

1. Protection of Women from Domestic Violence Act (2005) is a comprehensive legislation to protect women in India from all forms of domestic violence. It also covers women who have been/are in a relationship with the abuser and are subjected to violence of any kind—physical, sexual, mental, verbal or emotional⁵.
2. Immoral Traffic Prevention Act (1956) is the premier legislation for prevention of trafficking for commercial sexual exploitation. In other words, it prevents trafficking in women and girls for the purpose of prostitution as an organized means of living.
3. Indecent Representation of Women Prohibition Act (1986) prohibits indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner.
4. Commission of Sati Prevention Act (1987) provides for the more effective prevention of the commission of sati and its glorification on women.
5. Dowry Prohibition Act (1961) prohibits the giving or taking of dowry at or before or any time after the marriage from women.
6. Maternity Benefit Act (1961) regulates the employment of women in certain establishments for certain period before and after child-birth and provides for maternity benefit and certain other benefits.

7. Medical Termination of Pregnancy Act (1971) provides for the termination of certain pregnancies by registered medical practitioners on humanitarian and medical grounds.
8. Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994) prohibits sex selection before or after conception and prevents the misuse of pre-natal diagnostic techniques for sex determination leading to female foeticide.
9. Equal Remuneration Act (1976) provides for payment of equal remuneration to both men and women workers for same work or work of a similar nature. It also prevents discrimination on the ground of sex, against women in recruitment and service conditions.
10. Dissolution of Muslim Marriages Act (1939) grants a Muslim wife the right to seek the dissolution of her marriage.
11. 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.
12. Family Courts Act (1984) provides for the establishment of Family Courts for speedy settlement of family disputes.
13. Indian Penal Code (1860) contains provisions to protect Indian women from dowry death, rape, kidnapping, cruelty and other offences.
14. Code of Criminal Procedure (1973) has certain safeguards for women like obligation of a person to maintain his wife, arrest of woman by female police and so on.
15. Indian Christian Marriage Act (1872) contain provisions relating to marriage and divorce among the Christian community.
16. Legal Services Authorities Act (1987) provides for free legal services to Indian women.
17. Hindu Marriage Act (1955) introduced monogamy and allowed divorce on certain specified grounds. It provided equal rights to Indian man and woman in respect of marriage and divorce.
18. Hindu Succession Act (1956) recognizes the right of women to inherit parental property equally with men.
19. Minimum Wages Act (1948) does not allow discrimination between male and female workers or different minimum wages for them.
20. Mines Act (1952) and Factories Act (1948) prohibits the employment of women between 7 P.M. to 6 A.M. in mines and factories and provides for their safety and welfare.
21. 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.
22. The following other legislation's also contain certain rights and safeguards for women:
 - Employees' State Insurance Act (1948)
 - Plantation Labour Act (1951)
 - Bonded Labour System (Abolition) Act (1976)
 - Legal Practitioners (Women) Act (1923)

- Indian Succession Act (1925)
- Indian Divorce Act (1869)
- Parsi Marriage and Divorce Act (1936)
- Special Marriage Act (1954)
- Foreign Marriage Act (1969)
- Indian Evidence Act (1872)
- Hindu Adoptions and Maintenance Act (1956).

SPECIAL INITIATIVES FOR WOMEN:

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.

CONCLUSION:

Women - a human being with all the spheres in her which are considered to be the weak part of the society but actually are the strongest one. We see in the history of our country women were ill-treated, were not given any exposure or appreciation, but even after such a discrimination there were females like Rani Lakshmi Bai, Razia Sultan and Meera Bai who even after living in such a man, society and culture dominating environment, fought for themselves and their countries. By this I simply mean to say that Government can make laws, rules and policies for our security but we do need to remove all the fear and hesitation and step out ourselves for our recognition. Nothing can help a woman until she helps herself. As we move from past to present there is a drastic change in the lives of women, now women with their household work also contributes in the earning of her family and economy of the country. She lacks nowhere behind the man. Everything has its merits and demerits both, some women make proper utilization of legal securities provided to them, some misuse it and some are still unaware of the legal provisions for women. Things will take time to get in systematic manner as I already mentioned government can make laws but its utilization is in our hand. Women must never be considered the weak part of the society as their household work is more difficult than a man's

office work. Men for 8-10 hours a day with a weekly leave but a woman work whole day without any leave. Struggle of a women's life is more than a man. Respect woman respect world.

“A woman is like a tea bag; you never know how strong it is until it's in hot water.” – Eleanor Roosevelt

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