

Legal Status and Rights of Women in Indian Constitution

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Abstract: Women, a girl, a wife, a mother, a grandmother, all in all women is a key of a family. World can never be complete without a woman. Law is the set of rules enforced to govern the behavior of people. From the beginning of this world women is treated as a weaker section of the society and they are the victims of the crimes like rape, eve teasing, female infanticide, dowry, domestic violence, child marriage and acid throwing. They were only allowed to live beneath the shoes of their husbands and fathers. Laws are being made to secure the lives of the women from the violence of their families and societies, and to provide them with their rights of which they are the owners. This paper covers the aspect of women from past history to the present world. It shows how the law of our country has contributed its best to change the lives of women, to make them live with dignity and respect not as a slave.

Keywords: Legal status, Women rights, Domestic violence, Child marriage, Dowry, Eve teasing.

Introduction: After Independence lots of provisions have been introduced to improve the social condition of women and to give them a platform where they can utilize their potential for their betterment and contribute positively towards the growth of their country. It is fact that the in the present era position and development of any country is dependent on the socio-economic position of its women. However, It's a fact that awareness about constitutional and Parliamentary provisions to improve the condition of women is lacking. Lots of provisions have been introduced through constitution to ensure dignity and self respect to the women at large. Dr. B. R. Ambedkar, author of Indian constitution, make sure that constitution of India safeguard the social and legal rights of women. Some of the provisions made in favour of Indian women, in constitution of India are likely as:

The Constitution of India guarantees to all Indian women equality (Article 14), no discrimination by the State (Article 15(1)), equality of opportunity (Article 16), and equal pay for equal work (Article 39(d)). In addition, it allows special provisions to be made by the State in favour of women and children (Article 15(3)), renounces practices derogatory to the dignity of women (Article 51(A) (e)), and also allows for provisions to be made by the State for securing just and humane conditions of work and for maternity relief. (Article 42). Rolling back to the history of our country we can find the pathetic condition of the women from the very first era. According to studies, women enjoyed equal status and rights during the ancient and the early Vedic period. However in approximately 500 B.C., the status of women began to decline, and with the Islamic invasion of Babur and the Mughal Empire and Christianity later worsened women's freedom and rights. Indian women's position in society further deteriorated during the medieval period, when child marriages and a ban on remarriage by widows became part of

social life in some communities in India. The Muslim conquest in the Indian subcontinent brought purdah to Indian society. Among the Rajputs of Rajasthan, the Jauhar was practiced. In some parts of India, some of Devadasis were sexually exploited. Polygamy was practiced among Hindu Kshatriya rulers for some political reasons. In many Muslim families, women were restricted to Zenana areas of the house. During the British rule many reformers fought for the betterment of the women. Women also contributed in the struggle of the independence of India. Condition of women started improving from the British rule Women in India now participate fully in areas such as education, sports, politics, media, art and culture, service sectors, science and technology, etc. Indira Gandhi, who served as Prime Minister of India for an aggregate period of fifteen years, is the world's longest serving woman Prime Minister. There are many acts and provisions made by the Government of India for the benefits of women.

Constitutional Rights & Legal Status of Woman: Women in India are being provided with the legal security to secure their economic, social and cultural lives. These are few acts which show the efforts made by Indian Government in interest of women's life safeguard.

Dowry Prohibition Act 1961, Maternity Benefit Act 1861, Births, Deaths & Marriages Registration Act 1886, Medical Termination of Pregnancy Act 1971, National Commission for Women Act 1990, Pre- natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1999, Protection of Women from Domestic Violence Act 2005, Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act 2013, Hindu Widows Remarriage Act 1856, Muslim women (protection of rights on divorce) Act 1986, Guardians and Wards Act 1890, Indian Penal Code 1860, Christian Marriages Act 1872, etc.

Role of Women in Family & Society: Family is a cooperative unit based on the common interest and mutual support. A woman is the key role of a family. The support of husband, children and in-laws is must to make a happy family. Earlier woman was just treated as a house keeper. She needs to serve her children, in-laws and her husband. But the scenario has changed now, woman enjoys the equal status in the family and contributes more than her husband as she earns for the family and performs all their responsibilities of the household. Women have now stepped out of the house to live their lives in their own manner. Contribution of woman is more than a man in the present era. The acts for the working women and housewives are, Guardians and Wards Act 1890, Married Woman's Property Act 1872, Indian Succession Act, 1925, Dowry Prohibition Act 1961, Hindu Marriage Act 1955, Muslim Women (protection of rights of divorce) Act 1986.

Women and Education: Women are a subclass in India. It has been a constant challenge for Indian government specially amongst increasing in women's population and decrease in their education level. Education for a girl child is very necessary to prevent child marriages and sexually transmitted diseases. As a result government has introduced many important strategies like 'Five Year Plan' to achieve literacy level by providing free primary school for all children. It is horrifying to see lack of school in

some rural areas like Bihar, just as they often lack consistent electricity, water, proper roads and medical services. Therefore, it is important to understand how the Women's Convention administers the issues of girl child. The introductory paragraph of **Article 10**, suggests all state parties to "take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education" education of a girl child determines the quality of her life. A girl child cannot understand her freedom without education. Right to education is a civil and political right similar to economic, cultural and social right".

The **93rd Amendment of Constitution** also states that, 'the state shall provide free and compulsory education to all children of the age of six to fourteen'. The world declaration provides special attention towards the girl child, it states "girls must be given equal treatments and opportunities from the very beginning".

Reservation for Women: In India women were considered to be kept inside the house for the service of their in-laws, children and husband. Their rights were not secure and they were not given equal opportunity in any of the aspect whether it may be social, economical, political or cultural. Reservation for women started to give exposure to them and to make Indian society feel that women are not less than man in any aspect. In 1993 the constitutional amendment called for random one third village council leader or pradhan position in gram panchayat to be reserved for women. Recent researches on quota system has revealed that it has changed perception on women's abilities, improved women electoral chances, and raised aspirations and educational attainment for adolescent girls. There is a long term plan to extend this reservation to parliament as well as legislative assemblies. For instance some law schools in India have 30% reservation for females. Progressive political opinion in India is strongly in favour of providing preferential treatment to women to create a level playing field for all the citizens. The Women's Reservation Bill was passed by the Rajya Sabha on 9 March 2010 by a majority vote of 186 members in favour and 1 against. As of March 2013, the Lok Sabha has not voted on the bill. Critics say gender cannot be held as a basis for reservation alone other factors should also be considered e.g. economic, social conditions of woman candidate especially when applying reservation for educated women. There also is a growing demand for women reservation in pre-existing reservations like OBC, SC/ST, Physically handicapped etc. Some feminist groups still demand that reservation for women should be at least 50% as they comprise 50% of the population.

State initiatives for women: National Commission for Woman - In January 1992 the Government set up this statutory body to study and monitor all the matters relating to the safeguard of women and reviews the existing legislation to make and suggest amendments wherever necessary. Reservation of women in local self-government - The 73rd constitutional amendment act passed in 1992 ensures one-third of total seats to women in all elected bodies in local bodies whether in rural or urban areas. The national plan of action for the girl child (1991-2000) – this plan action was to ensure survival, existence and development

of a girl child with the ultimate objective of bringing up the better future of girl child. National policy for the empowerment of women (2001) - this policy was aimed to bring advancement, development and empowerment of women. Indian women will never be equal as long as these 9 laws will remain in the books. The Goa law on polygamy - a Hindu man can remarry if his present wife cannot give birth to a male child till the age of 30. And this law is just the tip of the sanctioned sexism across the country. Hindu law of inheritance – the property of a woman who dies without a will is handled differently from a man. Even if the deceased woman was ill-treated in her marital home her husband's mother or father will get her property instead of her own mother and father. Parsi's law of inheritance - Parsis still penalize those who marry outside their community-and it's allowed. A non-Parsi woman who is either a wife or widow of a Parsi cannot inherit. Their children still can, although those born to a Parsi woman married to a non-Parsi man are not considered part of the community. Prohibition of a child marriage act - the law only prevents the marriages of children; it does not render them illegal once actually happen. The married children have right to make their marriage void. A woman can call off her marriage till the age of 20 where as a man can call off his marriage till the age of 23. Age of consent - sexual intercourse with a girl without her consent is considered rape. A man can legally have sex with his wife even she is minor and does not give her consent to it. Marital rape is not criminalized in India.

Rape of a separated wife - The rape of a separated wife carries lesser punishment than the rape of any other woman. Forced sexual intercourse with the former is punishable with two to seven years of imprisonment. Prison sentence for the rape of any other woman ranges from seven years to life.

Marriageable age - The minimum age for marriage for a boy is 21, but 18 for a girl. This is a legal extension of the patriarchal mindset that believes that a wife should always be younger than the man. Hindu Minority and Guardianship Act: Women are still not equal guardians of their children. A father is considered the “natural guardian” of a child, although the custody of offspring under the age of 5 will ordinarily be awarded to the mother. No right to marital property - Upon separation or divorce, an Indian woman is entitled only to maintenance from her husband. She has no right on the assets, such as house or commercial property, bought in her husband's name during the marriage. So if she leaves him or gets divorced, even years after the marriage, she is potentially without assets. Indian government policies do not consider the work done at home by a woman as having an economic value.

Indian scenario of women security: The government of India has made many laws and acts to safeguard and secure the life of a woman in the country. In spite of such laws, rules and regulations the life of women is still not secure completely. Inequality between men and women runs around every sphere of the country whether it may be education, governance or economic opportunities. Some recent statistics on women include:

One bride was murdered every hour over dowry demands in 2010 (National Crime Records Bureau). Almost 45% of Indian girls are married before they turn 18 (International Centre for Research

on Women). One in five Indian women, many child mothers, dies during pregnancy or child birth (the United Nations). Upto 50 million of girls are missing over due to female infanticide and female foeticide. 66% of women who have experienced physical violence in their lifetimes are divorced, widowed or deserted. 85.3% of women reporting violence claim that their husbands are perpetrators. Particularly women and girls from the northeast region in India living in urban centre have reported experiencing social discrimination and marginalization and many times physical violence.

Extent of Misuse: Many women who are actually harassed by their husbands and in-laws files case under 498A. Lots of them live in rural areas, unaware of law or lack of necessary economic and moral support from their natal families. Going by the conviction rate reported by several judges and the Centre for Social Research the proportion of women who have genuine case is 2%. 98% of the women who file 498A cases are from urban background, and are either capable of finding themselves or have enough family support to fall back on. In every instance that one daughter-in-law files a false complaint, at least two women (an innocent sister-in-law and mother-in-law) are arrested and undergo stress, humiliation and harassment in the hands of exploitative police, lawyers, staff and officials in Indian courts before being acquitted several years later. So in every 100 cases 2 women genuinely and 98 women get away with perjury and extortion and many women suffer needlessly.

Every year there is a rising number of cases fabricated by wives only to threaten, extort money from and wreak revenges from husbands and their in-laws, in case of marital discord. There are also false cases of sexual harassment, molestation and rape by women employees in order to threaten their males' colleagues of bosses and to extort money from them and to defame them. According to data obtained (using RTI) from the Ministry of Home Affairs, in the year 2005 alone, 58,319 cases were registered under charges of cruelty by husband and relatives (IPC 498A) and resulted in the arrest of 127,560 individuals including 339 children and 4512 adults over the age of 60. Less than 10% of the cases resulted in conviction of the accused. In the same year 15,409 individuals were arrested in Andhra Pradesh, including 417 senior citizens and 14 children.

The Supreme Court of India has labeled the misuse of section 498A as “legal terrorism” and stated that “many instances have come to light where complaints are not bona fide and have been filed with an oblique motive. In such cases acquittal of the accused does not wipe out the ignominy suffered during and prior to the trial. Sometimes adverse media coverage adds to the misery.”

The Delhi High Court recently stated that, “Provisions under Domestic Violence Act should not go the IPC’S section 498A way (anti-dowry law), which, to our view is the most abused provision.”

The World Health Organization, in its report on India clearly cited Section 498A as one of the major reasons for the “Increasing Abuse of the Elderly in India.”

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. Nothing can help a woman until she helps herself.

Educated women are just on the threshold of transition from tradition to modernity. The women themselves desire that their status and position in society should rise higher. Though a proper climate for such a change is still wanting, yet there have been many structural and statutory innovations for the improvement of their position. The traditional status and role sets of women are breaking up and new role-sets based on achievement, independence and equality are gradually coming up. Women must never be considered the weak part of the society.

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