

## Law and Women with Reference to Indian Constitution

<sup>\*1</sup>Mr. Bhom Singh Meena, <sup>2</sup>Mr. RP Rao, <sup>3</sup>Mr. Karan Singh Meena and <sup>4</sup>Mrs. Sonu

<sup>\*1</sup>HOD of Special Education, OPJS University Churu Rajasthan, India.

<sup>2</sup>Associate Professor, Special Education OPJS University Churu Rajasthan, India.

<sup>3</sup>Lecturer in Department of Education, OPJS University Churu Rajasthan, India.

<sup>4</sup>Assistant Professor, Special Education OPJS University Churu Rajasthan, India

### Abstract

United Nation members States Adopted “The Declaration on the Elimination of Discrimination against Women” which states that discrimination against women is an offence against human dignity and decorum which is defined under Article 21 of the Indian Constitution protection of the “Human Rights” of woman under International law. International law bodies are trying to protect women’s Rights and Dignity through various Conventions and Declarations. There are different forms of violence against women either in the form of physical, sexually, psychological and economical cultural socio-political and communal armed conflict, new technology may create new form of violence any kind of violence against women and violation of Human Rights. In the wake of violence against women the Government brought some legislation in order to curb the violence against women relating to dowry death and domestic violence and sexual harassment at work place and rape laws are amended to deal accordingly.

**Keywords:** Law and women, constitution, judiciary

### Introduction

As a result of the national family violence survey. In India it was only in the year of 1980s in the wake of dowry related problems that crimes against women came to be recognized as an important social problem. The Constitution of India guarantees equality of opportunity and states women and men but also the state shall make provisions both general and special of the welfare of the women in India the women population covers nearly half of the population even then subjected to many disadvantages, disabilities inequalities in male dominated society oppression and violence is rife at every stage women are vulnerable and the property rights under Hindu Succession ACT, 1925 so also women reservation bill of 33% was not passed and pending in parliament, equal pay for equal work par with males not implemented even in the case of divorce and triple talaques they are not getting sufficient maintenance so facing lot of financial hurdles and its clear violations of article 21 of the Indian constitution Right to life, lively hood, dignity and decorum illiteracy poverty is predominant in rural areas compare to urban area where as in urban area there is a discrimination among the women. The women who are under the purview of Employees state insurance act and the women who are under the purview of university women employees lot of discrimination is there even though mushroom laws are there in the constitution but lagging behind the letter and spirit by taking advantages of this many atrocities, oppression discrimination acid attacks and rapes on the women are taking place but the government has to take primary responsibility the government is the representative of the society executive

also part and parcel of it but the judiciary also taking lenient view by pronouncing speedy judgments a it is taking years together where justice is delayed and justice is denied. The principle of gender equality is the key principle underlines the protection of women rights concerning the legal status of women are discriminating against the women. The legal status of rural women is determined to varying degrees and several levels of law one is international law national law customary law and personal laws. Women rights are protected by the International human rights treaties and convention on the elimination of all forms of discrimination awareness to women CEDAW is a very broad conversion not only to state enacted laws and regulations but also to the behavior of private individuals. International treaties are binding up on the states under specific adoption theory and the treaties and conventions are to be incorporated in our Indian Constitution. The Constitution of India prohibits sex gender discrimination under Articles 14 and 15. Under personal law the women are treated on their religion bases Hindu personal law and Muslim personal law are not reformed still the old age customs are in practice and discrimination bound to occur.

### Causes for Violence against Women

Declaration and elimination of violence against women 1993. Manifestation of historically on unequal power relations between men and women both arising from reinforcing gender inequality and discrimination.

Violence against women on the following grounds

- i) Women and men are not equal.
- ii) Gender inequality in education employment.

- iii) Socio economic, political, cultural, regional.
- iv) Property Rights freedom to marry divorce, sexual harassment at work place, Domestic violence, Forced Labor, protestation etc,

### Legislations

#### Commission of Sati (prevention Act 1987)

Whoever attempts to commit sati and any act towards such commission shall be punishable with imprisonment by a term of six months or fine or both. Sati is a social evil practiced in pre independence as well as post-independence even after enactment still it is taking place here and there nook and corner of India because of lagging of letter and spirit

#### Criminal Amendment Act 1983

The provision is being made for inquest by executive Magistrate and postmortem in all the cases where the marriage is celebrated within seven years from the date of marriage the husband or relatives of husband are subjected to cruelty suicide has been abetted by husband.

#### Dowry Prohibition Act 1961

Dowry means any property or valuable security given or agreed to be given either directly or indirectly by one party doing marriage to other party to marriage as per Dowry prohibition Act both are Offences even then it is being practiced due to non-effective implementation of laws because of these many Women getting Suicide oppression harassment as such Violence against Women are the Violation of Human Rights and Fundamental Rights.

#### Immoral Traffic Prevention Act 1956

Immoral traffic prevention 1956 Act which provides the international convention signed at New York on 9<sup>th</sup> may 1950 for the prevention of immoral traffic act and sexual exploitation for commercial purposes and constitution is not an offence practicing it in a brothel and in public places is illegal in order to arrest the government has not taken any remedial or reformatory measures by establishing protecting homes and not giving any financial aid for self-employment to generate the income to stand on their own legs.

#### Role of Executive

Executives are the second wing of the Government of the government are meant for implementation of laws so also delegate the laws which are made by the parliament and implementation of policy decisions due to over burden not functioning up to the Hallmark.

The Prime Minister of India is the Chief of The Government and advisor to the President of India. Head of the Council of Ministers and the leader of the majority party in the Parliament. The Prime Minister leads the executive branch of the Government of India. The Executive Branch of Government is the one the sole authority and responsible for the daily administration of the State Bureaucracy. The Executive power is vested mainly in the president of India as per Article 53(1) of the Indian Constitution. The President enjoys all Constitutional powers and exercises them directly or through officers subordinate to him.

#### Role of Judiciary

Judiciary is the third wing of the Government meant for interpretation of the laws and Award the Judgment Supreme Court is the highest court in the country Under Article 141 Supreme Court Judgment is binding all over the India.

Judgment is radical and meant for Reforms some the Judgment of the Supreme Court as follows.

#### Menaka Gandhi V Union of India (Pass port Case)<sup>[1]</sup>

Menaka Gandhi passport was impounded by passport Authorities under section 10 (3) of Passport Act without giving notice and hearing means Audi Alterum Partum these was challenged by the Menaka Gandhi in Supreme court the Authority of Executive is arbitrary and against the Fundamental Rights under Article 19(1) (g) and 19 (1) (d) the Supreme court stricken down arbitrary action of the executive under the Ultra virus Against the principles of the Natural Justice.

#### Late Indira Gandhi V Raj Narain<sup>[2]</sup>

Late Prime Minister won the election from Raiberaly contusion are rival contested filed the Election petition against the Indra Gandhi in the High Court of Aliabadon the misuse of official Machinery but in Aliabad High Court Judgment is against the Indra Gandhi and appealed in Supreme Court Aliabad decision was conformed.

#### Vishaka V State of Rajasthan (Sexual Harassment)<sup>[3]</sup>

Vishaka guidelines were a set of procedural guidelines for use in India Sexual Harassment at work place they were promulgated by the Supreme Court in 1997. Sexual Harassment resulting in Violation of Fundamental Rights of Women workers under Article 14, Art, 19, Art 21 for Redressal under Article 32 for Judicial intervention for eradication of social Evil some of the provisions are relevant relating in the Constitution that are Art14, Art15, Art19(1)g, and Art 21.

#### Nirbhya Act 2013

The criminal law amendment bill 2013 commonly known as anti-raping came into force in April 2013 and the same bill called as Nirbhya Act 2013 this amendment of law to deal with sex crimes against women was felt after the brutal gang rape and murder of a paramedical student. Some of the key points in Nirbhya Act 2013 Gang Rape as recognize as an offence Sexual harassment includes sexual advances and sexual overtures including pornography.

#### Conclusion

Major laws existing in India came into force in pre independence and post-independence only some meager changes took place there are also which were enacted in particular social setup of our country and these laws become impractical but the main issue which is to be noted that whether the reforms are kindly are keeping pace with social change and social progress but were as law reforms are ignoring sociological and philosophical background of society. Constitution is the major guidelines of the Indian legal system though the laws are enacted before the commencement of the constitution is a declaration for the people by the constituent assembly representing the people that India is a socialist, sovereign, secular, democratic, republic. Our Constitution in its Preamble assures to all citizens Justice, Social, Economic, Political Equality of Status and Opportunities Under Article 43 Directive Principle of State Policy Assure to provide living Wage and Decent standard of life and full enjoyment and leisure and cultural opportunities not getting due representation in State Assembly and Parliament 33% of Women Reservation Bill is Still pending for Awaiting for it. The Universal declaration of

Human Rights adopted in 1948 the concept of Human Rights includes Man and Women it is observed the women are not getting there required status and protection despite international declarations conventions for women all forms of discrimination against women (CEDAW), and Beijing conference 1995, Violence against the women Violation of Human Rights and Fundamental Rights. There of various forms of discriminations one is caste, color indigenous people and minorities. Discrimination of gender inequality and ethnic, religion, region and socio economic condition rich and poor the level of poverty in India is so appealing that the poorer cannot afford justice so also the criminal justice system is inefficient. Poor human resources and inadequacy of technical resources affect every area of the system. But the enactment of laws are not taking place in order to cope up the adverse situations. The role of the executive is minimal whereas the judiciary is sitting at ivory towers and observing the situations either silent spectator but not taking any suomotto actions. The rape victims are suffering from years together waiting for judgments. The existing laws dealing with crimes against women and children and marginalized people rights are not adequately safeguard their interests. The reason for letter and spirit of the laws. The protection of human rights of citizen is one of the important responsibility of the judiciary to speedy dispense of cases and more compensation must be granted to the victims so also government must be rehabilitee the destitute and rape victims.

### Suggestions

Various suggestions for imprudent in the law protecting crime against the women in relation to investigation procrustean and punishment of offenders. It as to be checked by the sensitization of the enforcement machinery and the society and as a whole.

- i) We have bring awareness about the laws Centralized mechanism was failed and decentralization is recommended.
- ii) Women representation should be increased from Assembly level to parliament.
- iii) Enacted laws must be implemented effectively.
- iv) Illiteracy and poverty must be erected.
- v) Women constitute half of the population of the world and deserved to enjoy all rights irrespective of all rights par with man.
- vi) A comprehensive legislation may be made to curb sexual harassment of the women at work place.
- vii) Domestic violence needs a radical change.
- viii) Parliaments should pass women reservation Bill 33% Panchayat level to Parliament.

### References

1. Parashar A. "women and family law reform in India. Uniform and civil code and gender equality" Sage Publication New Delhi, 1992.
2. Agnes and Flavia. "Law and gender, 1999.
3. Inequality: The politics of women's right in India", India: Oxford university press new Delhi.
4. All India democratic Women's association, "Gender-just Laws" India: self publication, 2000.
5. Womens Empowerment in India, "An analytical overview" The Asia Foundation
6. Indian Law for the protection of women's rights against domestic violence, 2017.