



THE WOMEN: LAW AND STATUS

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ABSTRACT

"The Best thermometer to the progress of nation is its treatment of women"

-Swami Vivekananda

The women, who are the integral part of our society, play the important role to establish a nation. A nation build up by its citizen i.e. men as well as women. The aim of this paper is to analyzing the status of women throughout the age. The study also explores the laws on the women at national as well as international arena and reveals the role of the India Judiciary in protection of the rights of women and the number of landmark judgments delivered by the Hon'ble Supreme Court of India.

Key words- Women,law, Status, Judiciary, Initiative, Society,

INTRODUCTION

Woman is the companion of man, gifted with equal mental capacities. She has the right to participate in the minutest details in the activities of man, and she has an equal right of freedom and liberty with him. She is entitled to a supreme place in her own sphere of activity as man is in his. This ought to be the natural condition of things and not as a result only of learning to read and write. By sheer force of a vicious custom, even the most ignorant and worthless men have been enjoying a superiority over woman which they do not deserve and ought not to have. Many of our movements stop half way because of the condition of our women."

Mahatma Gandhi

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Law and women are intrinsically connected with each other. The relationship between law and women is like the sword and shield as the shield gives protection from the attack of sword like this law protects the women from the satanical evils of society. Somewhere the place of women in the society from the ancient times to modern time is derogatory and stereotypes. It is truth that women have been ill-treated in every society throughout the ages. Look at the irony of India that where women are worshiped as “देवी” or “शक्ती”, etc, but the atrocities and wrong committed against her in all section of the society, where “Shakti” underlies both creation and divinity. It is shameful that the incident of crime and violence against women are happening in the country where mega epics such as Mahabhaat and Ramayana were written around the theme of respect of women. In Balyamiki Ramayan, the reference of great respect is found, when Prince Laxman was asked to describe about Princesses Sita, he answered that he remembers only her feet as he had never looked beyond that”. In the “Aranaya Kand of Ramcharitmanas”, a reference of noble tradition of protecting, respecting and promoting the dignity of women is found, and it refers about noble 'Jatayu' (the mithical bird) when witnessed the crime of abduction of princess 'Sita', he came swiftly to protect princesses Sita and consequently his wings were cut down by Ravana, the abductor of the Sita. The noble ' Jatayu' though was wounded and was dying, but he lived long enough to pass the information of abduction of princesses Sita to the Prince Ram and Prince Laxman. Similarly, in “Sabha Parv of Mahabhart”, the reference is found about the appeal of queen Droupadii for justice to the Kuru Raj Sabha and she questioned the legality of her treatment of being dragged by Duhashana into the dice hall. Women is not only loose her dignity and pride outside her house but she also faces ill-treatment and other evils within the four walls of her house. But as by passage of time legal reform had play a significant role in alteration of the position of women in the society. For the recoginition of rights of womens many laws have been made but it is also true that any law can not change the narrow and feudal mentality of the society and even the society itself overnight. But the Judiciary plays a significant and vital role in the protection and safeguards of the women’s right. In 21st centaury women’s are now enough capable to protect theirselves and self-dependent. This all happen just because of changing in the law as per need of time. But deep-down we all know that there are still inequality and atrocities are committing against the women, may be law can not change the feudal mentality of society but only the sanction can prevent the atrocities committing against them.

STATUS OF WOMEN

The status of women can be categorized into three parts- firstly, status of women in Ancient Age, Secondly, status of women in medieval times and thirdly, status of women in Modern time.

STATUS OF WOMEN IN ANCIENT AGE :

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Place of women started degenerating from the Vedic age because of the concept of the purity and pollution and restriction of inter-caste marriage. The Vedic period specially in the Rig-Veda women got some freedom like unmarried women could choose her partner, fight in the battle field but women's had no right to wealth or even on her body. In the Vedic age the life of women divided into two parts- first, early years of father's house and second, after attaining the puberty she was given to married and passed the rest of life in her-in-laws house. Later in the early historical period **Yajnavalkya**, a well known Hindu vedic sage, said- "when a wife refuse to satisfy her husband sexual desire he should first speak soft words, then try to purchase her with gifts, and if she still refuses he should thrash her with his hand or with a stick and face her into subjugation.

In post Vedic period, the status of women suffered a setback when various restrictions were put on women's right and privileges by Manu. Manu gave more importance to men rather than women. The birth of daughter, which was not a source of anxiety during Vedic period, became the source of disaster to the father and later the girls were totally denied to restriction.¹ The concept of child marriage has started form the Smiriti age. During this age women's husband regarded as God or Devta.

In the Manusmriti it is mentioned that-

***"Pitrabhibhatrabhischa Patibhidervvaraistha,
Puja Bhushiyatvyascha Bhukalyanmipsubhih."***²

The meaning is, *"Women must be honoured and adored by the fathers, brothers, husbands, and brother-in-laws who seek their own welfare."*

In the words of lawgiver Manu – a woman should be subservient in all stages of her life, 'in childhood to the father, in youth to the husband and his elderly kins and to the son when widowed.' While Manu says at another place that-

यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः।

यत्रैतास्तु न पूज्यन्ते सर्वास्तत्राफलाः क्रिया ।

**[Yatra Naryastu Pujyante Ramnate Tatra Devata,
Yatraitaastu Na Pujyante Sarvaastatrafalaah kiryaah.]**

The meaning is, *"all deities are pleased where woman are honoured and all action no matter how noble it may be remains unfruitful where they are abused."*

¹ Mamta Rao, Law relating to women and children (4th Edn., EBC Publication) 25-26

² Eternal values of Manusmriti

The position of women in the ancient ages constantly changed as the time changed. In the ancient times the women's were actively participated in the religious activities. The law giver Manu recognized that the women's were allowed to maintain own personal property like ornaments and clothes. Even the Arthashastra allows them for it. In case the women died then the property transferred to the daughter not to husband or son. This right to acquire the property by women is known as Stridhana. The law giver Manu said that in case if the family had no son, then the daughter was legally authorized person to inherit that property. Manu defined Stridhana as "that which was given to her before the nuptial fire, in bridal procession, in token of love and which she has received from brother, mother, father or husband."³ Hence, there is no denying to the fact in ancient times womens are compared to Goddesses but ironically they have treated like rags.

STATUS OF WOMEN IN MEDIEVAL TIME

In the medieval time the position of women became much worse rather than their development. According to the Hindu text and tradition and till about 500 BC women in India enjoyed considerable freedom but during the next 2000 years women's position gradually deteriorate. Education and religious parity was denied to them and widow re-marriage was forbidden. Medieval India was not women's age it is supposed to be the 'dark age' for them. When foreign conquerors like Muslims invaded India they brought with them their own culture. For them women was the sole property of her father, brother or husband and she does not have any will of her own. This type of thinking also crept into the minds of Indian people and they also began to treat their own women like this. One more reason for the decline in women's status and freedom was that original Indians wanted to shield their women folk from the barbarous Muslim invaders. As polygamy was a norm for these invaders they picked up any women they wanted and kept her in their "harems".⁴ Later on the Purdah system and Jauhar system was also introduced. The purdah system was for Muslims whereas Jauhar was for Hindus specially Rajput community. Womens were put behind the veil, their education system was stopped. Social evils like Sati Pratha, Purdah Pratha, child marriage, girl killing, polygamy, and dowry system etc., were the main social evil of this period.⁵ But during 15th century a movement started known as Bhakti Movement in which the saints like Chaitanya, Nanak, Tulsi, Meera and Kabir etc., stood and fought for the rights of the women. This movement encouraged the women to read religious book but this did not bring any substantial change in economic status of women. Hence, the women hold the lower status in society. But during the 19th and 20th century many reforms have been made by the reformers such as Raja Ram Mohan Roy, Ishwar Chand Vidya Sagar, Jyotiba

³ A.S. Altekar, The Position of Women in Hindu Civilization (Motilal Banarsidas, Delhi 1962)

⁴ <https://triumphias.com/blog/status-of-women-in-the-medieval-india>

⁵ Law Relating To Women And Children, Mamta Rao

Phule, etc struggled and fought for the development and improvement of the status of women. Raja Ram Mohan Roy had abolished Sati System under Governor-General William Bentinck in 1829. Ishwar Chand Vidya Sagar had fought for the development of the condition of widows and enacted the Widow Remarriage Act, 1856, the Child Marriage Restraint Act was passed which stipulated fourteen as the minimum age of marriage for a girl though the Mahatma Gandhi himself married at the age of thirteen but he criticized the custom of child marriage. Later the formation of All India Women's Conference held in Pune in 1927 which played a crucial role in development of women's status.

Even though many step was taken to remove the social evil in the medieval period, several laws were enacted for the protection of the right and status of women but many social evil still alive deep rooted in the society like female foeticide and infanticide.

STATUS OF WOMEN IN MODERN AGE

In the ancient time and the medieval time the status of woman is lower than man. Although there is huge difference the way women were looked at ancient or medieval times and today. But as per the passage of time the status and the position of women in the modern time has been considerably change. The revolution has taken place in India regarding the status of women after independence by the drafting of the Constitution of India which enshrined the principal of equality, liberty and social justice etc. The legislature enacted and enacts various numbers of laws for the development of women and for their protection. Even the Preamble⁶ of the Indian Constitution resolved to constitute India into Republic which is Sovereign and Democratic and to secure all its citizens:

“JUSTICE - social, economic and political;

LIBERTY- of thought, expression, belief, faith and worship;

EQUALITY - of status and of opportunity; and to promote among them all

FRATERNITY- assuring the dignity of the individual and the unity of the Nation..”

For attaining these objectives mentioned in the Preamble, the Constitution guarantees the Fundamental Rights, Directive Principal of State and the Fundamental Duties.

Now in the modern era there is no any field left which is not touched or covered by the women. They are getting the rights and liberties but the crimes against women still rising rampantly such as, exploiting and harassing for dowry, female infanticide, domestic violence, molestation, rape, sexual exploitation and harassment, malnutrition etc., even though the government has made various laws for the protection of women and her dignity and

⁶ Constitution of India, 1950

development. However, the judiciary, has played , and is playing, a crucial role in the protection of the women's rights by giving the landmark judgments.

In the case of the **Madhu Kishwar V. State of Bihar**⁷ the Hon'ble Supreme Court observed that the women have always been discriminated against and have suffered and are suffering discrimination in silence. Self-sacrifice and self-denial are their nobility and yet they have been subjected to all inequalities, indignities and discrimination.

In the case of **Vishaka V. State of Rajasthan**⁸ the Hon'ble Supreme Court said that the gender equality includes protection from sexual harassment and right to work with dignity which is universally recognized basic human rights.

In **State of Punjab v. Gurmit Singh**⁹ the Hon'ble Apex Court said that the crime against women in general and rape in particular is on increase. Further, the court said that rape is not merely a physical assault- it is often destructive of the whole personality of his victim. A murderer destroys the physical body of the victim, a rapist degrades the very soul of the helpless female.

In **Lilu @ Rajesh and Anr. Vs. State of Haryana**¹⁰ the Hon'ble Supreme Court held two finger test, it's like getting raped once again. Therefore, two finger test is unconstitutional as it violates the right of victim to the privacy, physical and mental integrity and dignity.

In the latest matter of **Mobashar Jawed Akbar Vs. Priya Ramani**¹¹ a Delhi Court said that women has right to put her grievance at a platform of her choice even after decades. The Court further said that the women cannot be punished for raising voice against sex abuse, sexual abuse takes away dignity and self confidence.

LAWS ON WOMEN

Throughout the time for the protection of women's right the legislature made the laws even though the natural law is superior law. Every state has their own written constitution except few states do not have a written constitution. Likewise India has also their own written constitution and others law for the protection of women's right so that they can live their life with dignity in the society. Many laws are made for the protection of women's rights not

⁷ (1996) 5SCC 125

⁸ (1997) 6 SCC 241

⁹ (1996) 2 SCC 384

¹⁰ (2013) 14 SCC 643

¹¹ DLCT120000252019

only the National level but also International level, number of International Organization have been established for the protection of human right.

I. LAWS ON WOMEN'S AT NATIONAL LEVEL

For the protection of women the Parliament of India enacted the number of laws so that the women can live fearless and dignity full life in the society. It is the duty of the state to protect the individual rights.

A. CONSTITUTIONAL PROVISIONS

The beauty of our constitution is that it includes 'I', 'You' and 'We'. Such a magnificent, compassionate and monumental document which has developed the golden triangle of the fundamental rights i.e. Article 14¹², Article 19¹³ and Article 21¹⁴ of the Constitution of India. Historically, Women have been treated with inequality and that is why, many have fought for their rights. Individual's dignity has a requisite in a civilized society. No society is a tabula rasa. Every society may be presumed that there shall be rules and regulation for governing the society. Any society which treats women with indignity, inequality or discrimination then it invites the wrath of constitution, and then it is the clear violation of the constitution. The women can not be asked to live as per the desire of the society because being an individual she has the right to do or right to live with his own will or desire. The constitution of India not only grants or protects the rights of women but also empowers the state to adopt the measures of positive discrimination in favour of women for neutralizing the cumulative socio, economic, education and political disadvantages faced by them.

• THE PREAMBLE

The Preamble of the constitution of India provides that –

WE, THE PEOPLE OF INDIA, having solemnly resolved to constitute India into a SOVEREIGN SOCIALIST SECULAR DEMOCRATIC REPUBLIC and to secure to all its citizens: JUSTICE, social, economic and political; LIBERTY of thought, expression, belief, faith and worship; EQUALITY of status and of opportunity; and to promote among them all FRATERNITY assuring the dignity of the individual and the unity and integrity of the Nation;

¹² Equality before law

¹³ Protection of certain rights regarding freedom of speech etc.

¹⁴ Protection of life and personal liberty

IN OUR CONSTITUENT ASSEMBLY this twenty-sixth day of November, 1949, do **HEREBY ADOPT, ENACT AND GIVE TO OURSELVES THIS CONSTITUTION.**¹⁵

In the landmark judgment of the **Keshvananda Bharti v State of Kerala**¹⁶ the Hon'ble Supreme Court said that The Preamble is the part of the Constitution and it ensures need to secure all its citizen justice, liberty, equality and fraternity.

As fraternity assure the dignity of individual, the basic object behind this to improve the quality of life of individual. Therefore, the Preamble itself protects the dignity of women's. Any kind of practice or equality which derogates or affects the dignity of women's then it will be clear violation Preamble of the Constitution which is not permitted by the Constitution.

Though the expression justice, equality, liberty. Fraternity and dignity of individual do not have any fix content and may not easy to define its ambit and definition, they without content and the ambit of these fundamental principal have a wide scope.

• **FUNDAMENTAL RIGHTS**

The fundamental rights are the considered as the basic structure of the doctrine. They are the rights of the people provided by the constitution. *Fundamentals rights are the modern name for what have been regarded as natural right.*¹⁷ Therefore, fundamental rights are the primordial rights which have been traditionally regarded as natural right. In that context Fundamental rights are inseparable and indispensable rights of human existence.

The constitution gives six types of the fundamental rights, Right to equality (Art. 14 to 18), Right to freedom (Art. 19 to 22), Right against exploitation (Art.23 to 28), Cultural and Educational Rights (Art. 29 to 30), Right to constitutional Remedies (Art. 32 to 35).

Article 14 which enunciate fundamental principal of the equal protection of law and equality before law. This principal also contains under Universal Declaration of Human Rights which says that "All are equal before law and entitled to without discrimination to equal protection of law. Article14 ensure the women right to equality. This article lays down the general principles of equality.

¹⁵ https://www.constitutionofindia.net/constitution_of_india/preamble

¹⁶ (1973) 4 SCC 225

¹⁷ Golak Nath v Stateof Punjab, (1967) 2 SCR 762

Article 15 ensures the prohibition on the basis of religion, race, caste, sex or the place of birth. This article specially provides the positive action in favor of women that the state can make any law in favor of women.

In the case of **Yusuf Abdul Aziz v State of Bombay**¹⁸, it was held that Section 497 IPC¹⁹ does not discriminatory in nature as it is a special provision and made for women; therefore, it is protected by Article 15(3).

Article 16(2) ensures that there shall be no discrimination on the basis of religion, race, caste, sex etc. in the matter of public employment.

In the case of **Vishaka v State of Rajasthan**²⁰, the Apex Court held that the sexual harassment at workplace is gender discrimination and which is prohibited by law.

In the case of **Mobashar Jawed Akbar Vs. Priya Ramani**²¹ the Delhi Court said that the right to reputation cannot be protected at the cost of the right of life and dignity of a women as guaranteed in the indian Constitution under Article 21 and right to equality before law and equal protection of law as guranteed under Article 14 .

• **DIRECTIVE PRINCIPAL OF STATE POLICY**

The provision of the Directive Principal of State policy is non enforceable by law or any court but these are the fundamental principal of direction and imposes the duty on the State in the governance of the country.

Article 39 lays down the principal of policy to be followed by the State which include that the state shall direct its policy as to secure that all men and women have the right to adequate means to livelihood, that there shall be equal pay for equal work, that the health and strengths of workers men and women are not abused.

Article 42 imposes the duty on the State that it shall make provision for securing just and humane conditions of work and for maternity relief.

¹⁸ AIR 1954 SC 321:1954 SCR 930

¹⁹ Adultery

²⁰ (1997)6 SCC 241: AIR 1997 SC 3011

²¹ DLCT120000252019

Article 44 ensures the duty upon State to make the uniform civil code for the citizens throughout the territory of India. The basic object behind it to re-place all the existing personal laws of different sect and most of which are discriminating the women. For instance, Triple Taqal though it has been struck down by the Apex Court.

There are several provisions under the Code of Criminal Procedure for the protection of women though CrPc²² is a uniform code. For instance, under section 46, a female can be arrested by the male police officer but under section 51, a female can be searched only by another female. Similarly, under section 64, a summon to be served to an adult male member of the family; it can not be served to a female member of the family.

• FUNDAMENTAL DUTIES

The fundamental duties incorporated by the 42nd Amendment Act, 1976 during the proclamation of the Emergency under Part IV A. This part of the Constitution imposes certain duties upon the citizens.

Article 51A (e), cast the duty that all practices derogatory to the dignity of women are renounced. Dignity of women is an essential ingredient of constitutional morality. This clause reminds the famous Shlok of the Gita that *Yatra Naryastu Pujyante Ramante Tatra Devta* which means the Gods resides where the women are worshiped.

In the case of **Indian Young Lawyers Association & Ors. V. The State of Kerala & Ors.**²³, the Supreme Court said that “to treat a women as children of a lesser god is to blink at the constitution itself. Further it said that to allow practices derogatory to the dignity of women in matters of faith and worship would permit conscious breach of the fundamental duties of every citizen.”

B. LEGISLATIVE PROVISION

The legislature has enacted certain laws for the protection of women.

1. The Protection of Women From Domestic Violence Act, 2005
2. The Prohibition of Child Marriage Act, 2006
3. The Commission of Sati (Prevention Act), 1987

²² Code of criminal Procedure, 1974

²³ W.P.(C) NO. 373/2006

4. The Indecent Representation of Women (Prohibition) Act,1986
5. The Immoral Traffic (Prevention) Act, 1986
6. The Dowry Prohibition Act, 1961
7. The Medical Termination of Pregnancy Act, 1971
8. The Maternity Benefit Act, 1961

C. SPECIAL INITIATIVE OR FOR WOMEN²⁴

The government has also taken initiatives and set up bulk of commissions for the protection of the rights of the women and for their development.

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 to review the existing legislation to suggest amendments wherever necessary etc.
2. **Reservation for women in local self-government-** The 72nd and 73rd constitutional Amendment Acts passed in 1992 by parliament require one-third of the total seats in all elected offices in local bodies whether in rural areas or urban areas to be allocated to women. These amendments provide for reservation of 33.33% of elected seat.
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 aim of building up a better future for the girl child. National Policy for Children-2013 was adopted by the Government of India on 26th April 2013. National Plan of Action for Children 2016 is in Draft Format.
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 aim of policy is to bring about the advancement, development and empowerment of women. National Policy for the Empowerment of Women, 2016 is under draft stage.

D. LEGAL RIGHTS

²⁴www.iosrjournals.org

To give the effect of constitutional mandates the State has enacted bulk of legislative act intended to ensure the safety and protection of women. These legislative act works as shield to give protection of the dignity of women, violence and atrocities against them in the society. The legal rights can be divided into two parts.²⁵

- **OFFENCE UNDER INDIAN PENAL CODE (IPC)**

- Rape:** Rape is defined under section 375 and its punishment defines under section 376 of IPC. Rape is considered as the most frequent and most gruesome crime against the women. It is most violent and barbaric act. A person who commits rape shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven year, but which may extend to imprisonment for life and shall also be liable to fine. The offence of a rape is “ravishment of a woman” without her consent or against her will by force, fear or fraud and also includes the carnal knowledge of a woman.²⁶
- Kidnapping and abduction for different purposes-** The provision relating to Kidnapping and abduction is embodied from section 361 to 373IPC. Any person, who is abducting a minor for purpose of begging or kidnapping minor/women for prostitution or illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years and shall also be liable to fine.
- Homicide for Dowry, Dowry Death** - The provision relating to Dowry Death of women is under section 302/304B/306 IPC. Where the death of the women is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her she was subjected to cruelty or harassment by her in laws or husband, for or in connection with, any demand of dowry, such death shall be called dowry death. Whoever commits dowry death shall be punished with imprisonment of with either description for a term which shall not be less than seven years, but which may extend to imprisonment for life.
- Cruelty-** Domestic violence is undoubtedly is a serious human right issue. The provision regarding the cruelty is embodied under section 498A IPC. Whoever, being the husband or the relative of the husband or the relative of the husband of a woman,

²⁵ Mospic.nic.in

²⁶ Bhupendra Sharma v. state of Himanchal Pradesh (2003)8 SCC 551

subjects such woman to cruelty shall be punished with imprisonment for a term which may extend to three years and shall also is liable to fine.

- v. **Molestation**-Molestation is embodied under section 354 IPC. Whoever assaults or uses criminal force to any women, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either a description for a term which shall not be less than one year but which may extend to five year, and shall also be liable for fine.
- vi. **Sexual Harassment**- Sexual harassment is embodied under section 509 IPC. Whoever intended to insult the modesty of women shall be guilty of the offence of sexual harassment and shall be punished with imprisonment for a term which may extend to three years, and also with fine.

- **OFFENCES RECOGNIZED UNDER SPECIAL LAWS**

Although all laws are not gender specific. Some laws are specifically made for the safeguard the rights and dignity of women as following-

- i. The Employment state Insurance 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, 1953
- vi. The Hindu Succession Act, 1956
- vii. Immoral Traffic (Prevention Act), 1956
- viii. The Maternity Benefit Act, 1961(Amended in 1995)
- 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 child Marriage Restraint (Amendment) Act, 1979
- xiv. The Criminal Law (Amendment) Act, 1986
- xv. The factories (Amendment) Act, 1986
- xvi. Indecent representation of women (prohibition) Act, 1986
- xvii. Commission of sati (Prevention) Act, 1987
- xviii. Bonded Labour System (Abolition) Act, 1976
- xix. Legal Practitioners (Women) Act,1923

- xx. Indian Succession Act, 1925
- xxi. Indian Divorce Act, 1869
- xxii. Paris Marriage and Divorce Act, 1936
- xxiii. Special Marriage Act, 1954
- xxiv. Foreign Marriage Act, 1969
- xxv. Muslim Women (Protection of Rights On Marriage) Act, 2019

II. LAWS ON WOMEN AT INTERNATIONAL LEVEL

It is the duty of the state to protect the human rights of every citizen. The various commission, conference and convention have been held for the protection of women's right. Women should be treated equal with men in all sphere and they should be given right to education equal with the men.²⁷ John Stuart Mill in his book **The Subjection of Women** said that they should be given of the opportunity of education and employment. Further he argued that the development of women is necessary not only for the women's sake but for the humankind itself.²⁸

- i. **The United Nation:** The establishment of the United Nations in 1945 is an important step in promotion of human rights and women's development. It deals with the women related issue in their particular area of operation. The Second World War is one of the reasons behind the establishment of United Nation for the protection of Human rights and maintains the peace and harmony at International level.
- ii. **Commission:** The United Nation Economic and Social Council have been established the Commission on the Status of women in 1946 for the protection of women's right as the human's right. The basic aim behind the establishment of the commission is to bring the gender equality and promote the rights of the women in fields of the economic, social, political and educational. India is the 15th member of the commission.
- iii. **Universal Declaration of Human Rights:** The United Nation has adopted the Universal Declaration of Human Rights (UDHR) in its resolution on 1948. UDHR promotes and protects the Human Right's at International level; it recognizes the equality between men and women at every sphere of the life. To protect and give respect to other's dignity is the basic fundamental principal of UDHR.

²⁷James Meadowcroft, ed., *The Liberal Political Tradition Contemporary Reappraisals* (UK: Edward Elgar Publishing Limited, 1996)

²⁸Subrata Mukherjee and Sushila Ramaswamy, *A History of Political Thought – Plato to Marx* (New Delhi: Prentice Hall of India Private Limited, 1999)

Article 1 of UDHR said, “All human beings are born free and equal in the dignity and rights.” Thus, the meaning of this article is that everyone shall respect and maintain the dignity of each other without any discrimination.

Article 13 of the UDHR says that all are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination.

- iv. **Convention for the Suppression of the Traffic in Persons and exploitation of the Prostitution of others:** This convention is adopted in the year 1949 which prohibits prostitution and traffic in person and punishes if any person indulge in the act.
- v. **Convention on the Political Rights of Women:** This convention has been adopted by the General Assembly in the year 1952. “Women shall be entitled to vote in all elections on equal terms with men, without any discrimination.”²⁹

“Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination.”³⁰

Thus, the Article 1, 2 recognizes the equality in the area of right to vote, right to elect and right to hold public offices without any discrimination. Therefore, this convention recognizes that there shall be no any kind of discrimination for the enjoyment of the political rights between men and women.

- vi. **Convention on the Nationality of Married Women:** The convention on the Nationality of Married Women was adopted by General Assembly on 1957. The basic aim behind the convention on the Nationality of Married women is to maintain the equality between men and women.
- vii. **Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages:** for the protection of rights of women the General Assembly has been adopted the Convention on the Consent to Marriage, Minimum Age for Marriage and Registration of Marriages on 1962. The basic object behind it protects the right of women and give them right to choose their life partner without any kind of fear.

²⁹ Article 1 Convention on the Political Rights of Women, 1952

³⁰ Article 2 Convention on the Political Rights of Women, 1952

viii. **Declaration on Elimination of Discrimination against Women:** Declaration on Elimination of Discrimination against Women was adopted by the General Assembly on 1967.

The Declaration in Article 1 states that discrimination against women is unjust and it is an offence against human dignity.³¹

Article 2 rightly proclaims that all appropriate measures should be taken to abolish existing laws, customs, regulations and practices which are discriminatory against women.³²

Article 9 of the Declaration proclaims that necessary measures should be taken to ensure equal rights of women with men in education at all levels.³³

ix. **Convention on Elimination of All Forms of Discrimination against Women:** The convention on Elimination of All Forms of Discrimination against Women adopted by General Assembly on 1979 which is also known as International Bill of Rights for Women.

According to Article 1 of the Convention the term "discrimination against women" means any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field.³⁴ This convention is an important mechanism for the protection of the discrimination against women. But besides all these convention there were number of discrimination against women happened.

x. **World Conference on Women's Human Right:** The first world conference on Women's Human Right was held in Mexico City in 1975, the theme of the conference was "Equality, Development and Peace." It was recognized that women are the part of a development country and there should be full participation of women in the development of a country. The Conference also adopted International Research and Training Institute for the Advancement of Women.

³¹ Article 1 Declaration on Elimination of Discrimination against Women

³² Article 2 Declaration on Elimination of Discrimination against Women

³³ Article 9 Declaration on Elimination of Discrimination against Women

³⁴ United Nations, "Convention on the Elimination of All Forms of Discrimination against women", <http://www.un.org/womenwatch/daw/cedaw/text/econvention.htm> (accessed on 03 April 2013).

- xi. **Vienna Declaration:** The declaration was adopted in 1993 by World Conference on Human Rights. This conference says, “The full and equal enjoyment by women of all human rights and that this be a priority for Governments and for the United Nations.”³⁵
- xii. **Beijing Declaration:** the Fourth World Conference on Women: Action for Equality, Development and Peace was held in Beijing, China in 1995. This declaration mainly concerned on the issue of violence against women and girl child and primary health care for girl child and women, equal treatment women in education and health care sector without any discrimination on the basis of sex.

SUPREME COURT OF INDIA ON WOMEN’S RIGHT

The Indian Judiciary is the robust judiciary throughout the world. The judiciary in India is independent from the executive and the legislature gurateed under Aticle 50 of the Indian Constitution .The Indian Judiciary has played a significant role in the women empowerment. The Hon’ble Supreme Court by its judicial pronouncement protects the rights of the women and gives the right to the women to live with dignity. The decision given by the Judiciary becomes norms for all living in the society. The Constitution of India imposes duty upon the Supeme Court to protect the rights of citizens and declare a law to be void if it abridges the rights of citizens. By the judicial prnouncement the Supreme Court have protected the rights of womens.

1) Chandra Prakash Kewal Chand Jain V. State of Maharashtra³⁶

In this case the Supreme Court expressed that when the respect of women in our country is on the decline. So the decency and morality in the public life can be promoted and protected only if the Courts deal strictly with those who violate the social norms.

2) Vishaka & Ors. V. State of Rajasthan & Ors.³⁷

The Supreme Court issued the guidelines to prevent sexual harassment against women in work place, amounts to violation of the right to gender equality and also the right to life and

³⁵ Vienna Declaration, Para 36.

³⁶ AIR 1990 SC 658

³⁷ (1997) 6 SCC 241

liberty- the two most precious fundamental rights guaranteed under article 14, 19 and 21 of the Constitution of India.

3) Daniel Latifi V. Union of India³⁸

A constitutional bench of the Hon'ble Supreme Court held that it is the liability of Muslim husband to his divorced wife to pay maintenance. The Court further said that it is the liability of a Muslim husband to make reasonable maintenance for the future of the divorced wife or unless she gets married for second time.

4) Lakshmi V. Union of India³⁹

The Hon'ble Supreme Court strictly banned the sale of the acid and further ruled that a buyer can purchase the acid from the seller only if buyer provides the valid identity proof and the need for the purchase and made it mandatory for the dealer to submit the sale report within three days of the sale of the acid to the nearest police station and prohibits the dealer to sell the acid to minor.

5) Mary Roy V. State of Kerala⁴⁰

In this case the Apex Court delivered the landmark judgment by granting the women right to seek equal share in their father's property.

6) Shamima Farooqui V. Shahid Khan⁴¹

The Supreme Court said that the women can not be treated as beggars and they have right to claim maintenance after divorce even the husband has retired from his service.

7) Air India V. Nargesh Meerza⁴²

This case is about the status of women and it was held that a women shall not be denied employment merely on the ground that she was a women as it amounts to the violation of the Article 14 of the Constitution and the Court struck down the clause of the retirement of the airhostess, from the Air India Employees Service Regulation, 1963, on attaining the age of 35

³⁸ 2001(7) SCC 740

³⁹ WP(CrI) No. 129 of 2006

⁴⁰ 1986 AIR 1011, 1986 SCR (1) 371

⁴¹ CRIMINAL APPEAL NOS.564-565 OF 2015

⁴² (1981) 4 SCC 335

years or on marriage within 4 year of the service or on first pregnancy as it is violation of the Article 14 of the Constitution of India.

8) Sarla Mugdal V. Union of India⁴³

The Supreme Court said that the second marriage of a Hindu husband or wife after conversion to other religion i.e. Islam which permits polygamy is void marriage.

In the other word, conversion does not give license to commit bigamy.⁴⁴

9) Ms. Githa Hariharan V. Reserve Bank of India⁴⁵

In this case the Supreme Court said that the father alone can not claim that he is the only natural guardian of the minorchild and wife has no authority over the minor. The court observed that a mother can also act as a natural guardian of the minor during the lifetime of the father.

10) Lily Thomas V. Union of India⁴⁶

The Apex Court said that a second marriage during the lifetime of the spouse is an offence punishable under Penal Code and marriage would be void under section 11⁴⁷ and 17⁴⁸ of the Hindu Marriage Act, 1955.

11) Joseph Shine V. Union of India⁴⁹

Three judges bench of the Hon'ble Supreme Court held that Section 497⁵⁰ is a denial of equality which violates the Article 14⁵¹, section 497 is based on gender stereotypes about the role of women and violates the non discrimination principle embodied in Article 15⁵², Section 497 is a denial of the constitutional guarantees of dignity, liberty, privacy and sexual autonomy which are intrinsic to Article 21⁵³. Therefore, Section 497 is unconstitutional.

⁴³ AIR 1531,1995 SCC (3) 635

⁴⁴ K.D. Gaur, offence relating to marriage, section 494, page-1047

⁴⁵ W.P.(C) NO.000489/1995

⁴⁶ AIR 2000 SC 1650

⁴⁷ HMA,1955, Sec. 11: Void Marriage

⁴⁸ HMA,1955, Sec17: Punishment for Bigamy

⁴⁹ W.P.(C) No. 194 of 2017

⁵⁰ Section 497, Indian Penal Code 1872, Adultery

⁵¹ Article 14, Equality before law, Constitution of India

⁵² Article 15, Prohibition of discrimination on grounds of religion, race caste, sex or place of birth, Constitution of India

⁵³ Article 21, protection of life and personal liberty, Constitution of India

12) Shayara Bano V. Union of India⁵⁴

The Supreme Court laid down by 3:2 majority holding the practice of Triple Talaq unconstitutional.

13) Indian Young Lawyers Association & Ors. V. The State of Kerala & Ors.⁵⁵

The Supreme Court held that the social exclusion of women, based on menstrual status, is a violation of Preamble and their fundamental rights. Therefore, the Hon'ble Court allowed the entry of women into the temple Sabarimala.

14) Vineeta Sharma vs Rakesh Sharma⁵⁶

The Supreme Court ruled that daughters have an equal right in the parental property the same as the son, even if the father died before the Hindu succession (amendment) act 2005.

15) The Secretary, Ministry of Defence v. Babita Puniya & Ors⁵⁷

The Supreme Court held that all women army officers are eligible for permanent commissions, allowing them to be in commanding roles. Women officers are now on par with their male counterparts when it comes to promotions, rank, benefits and pensions, thereby fortifying their position in the defense sector, an institution with rigid gender norms.

Therefore, it appears that Judiciary plays a vital and important role in empowerment of woman. Judiciary not only protected status of women but also gave their right to live with dignity and individuality. The Hon'ble Supreme Court through its number of landmark judgments protects the women from the evil of the society. It is judiciary which plays vital role in the interpretation of the Constitutional Rights through its judgment and considered the women not as a stereotypes and weaker than men, it gave women equality and equal rights as a men in the society.

⁵⁴ W.P.(C) No. 118 of 2016

⁵⁵ 2018 SCC OnLine SC 1690

⁵⁶ (2019) 6 SCC 162

⁵⁷ MANU/SC/0194/2020

CONCLUSION

“If you give me 50 women I could change the world but you could give me 5000 men, I don’t think I could.”

-Swami Vivekananda

Even in the holy Bhagavad-Gita Lord Krishna said that women are not an obstacle on the path to God but they can be a distraction and a distraction can become an obstacle if you do not take action. Women have a lot of wonderful qualities such as purity, power, joy, faith, glory and compassion. And women’s are the manifestation of these qualities.

As the passage of the time the rights of women have also changed. Though there is change but even in 21st century dowry system is still there, Purdah system is there even child marriage is also prevailing some part of India. The kind of rituals followed during ancient and medieval period for the purpose of marriage is almost same but in spite of going and asking the relative of girl to give their daughter for the marriage, we are searching better match for marriage through internet. In the modern time they are not treated as inferior or subordinate but equal as to the men. But there is lot of crime against the women in the modern society. The laws like constitutional provision, IPC, special laws for the protection of women’s are not enough to protect the status of the women. To stop the crime against the women it is necessary that the society has to change the ill mentality towards the women. Even the mindset of women as well as men is required to be change.

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