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LAWS RELATED TO WOMEN IN INDIA

INTRODUCTION

Women play a crucial role in society. Over time, women have made significant progress with advancements evident across various sectors. Today, women are increasingly provided with equal opportunities to excel and succeed. They possess their own voices and opinions, yet unfortunately, they are often perceived as the weaker segment of society that requires the highest level of protection. The latest National Crime Records Bureau (NCRB) annual report has revealed a distressing surge of 4% in crimes against women in India throughout 2022. These crimes include instances of cruelty by husbands and relatives, assaults, abduction, and rape.¹ Sadly, when women advocate for themselves or others, they often face threats and if they are married or mothers, the fear for the lives of their children or husbands becomes a significant concern. Over the years, the Indian government has implemented various laws and amendments to address women's issues and crimes, but the challenges persist. This blog will delve into some of these laws related to women in India.

THE IMMORAL TRAFFIC (PREVENTION) ACT, 1956

The Immoral Traffic (Prevention) Act, 1956 is the primary legislation that aims to prevent and punish the sexual exploitation of women and girls. However, the said act does not specifically define the word trafficking. Section 143 of the Bhartiya Nyaya Sanhita Act, 2023, formerly known as the Indian Penal Code, 1860 defines Trafficking of persons.²

Offences specified under The Immoral Traffic (Prevention) Act, 1956 are:

¹ NEWSCLICK, <https://www.newsclick.in/crime-against-women-india-4-ncrb-report-2023> (last visited Feb. 17, 2024)

² BHARTIYA NYAYA SANHITA, 2023, § 143, No. 45, Acts of Parliament, 2023 (India)

Keeping a brothel or allowing premises to be used as a brothel, living on the earnings of prostitution, Attempting, procuring or taking person for the sake of prostitution, Detaining any person in premises for prostitution, Prostitution in the vicinity of public places. Seduction of a person in custody³. All these offenses are punishable with either imprisonment or fine or with both.

Recently in 2022, the Kerala High Court ruled that a customer caught in a brothel can be prosecuted under The Immoral Traffic Prevention Act, 1956⁴.

THE DOWRY PROHIBITION ACT, 1961

Dowry is a widely used term in society, particularly in the context of marriage. In a dowry system, the bride's family typically provides financial or material gifts such as money, jewellery, land, or other valuable assets to the groom and his family. It initially intended to bless the newlyweds and contribute to their financial well-being but unfortunately, in contemporary times, the demand for dowry has become prevalent and, in some cases, has led to harassment and violence. Additionally, the exorbitant dowry has, regrettably, turned into a prerequisite for marriage, placing undue pressure on the bride's family.

The Dowry Prohibition Act, 1961 defines Dowry as follows⁵:

"Dowry" means any property or valuable security given or agreed to be given either directly or indirectly.

- a. By one party to a marriage to the other party to the marriage, or
- b. By the parent of either party to a marriage or by any other person, to either party to the marriage or to any other person

According to Section 3 of the Dowry Prohibition Act, 1961, both giving and taking dowry are considered offenses. Therefore, not only would the groom's family be liable for accepting dowry, but the bride's family would also be held accountable for consenting to give dowry. The individual found guilty can face imprisonment for a term not less than five years and a fine of not less than fifteen thousand rupees or the value of the dowry, whichever is more.⁶

³ The Immoral Traffic Prevention Act, 1956, § 3,4,5,6,7,9, No. 104, Acts of Parliament, 1956 (India)

⁴ Mathew vs the State of Kerala, WP(C) NO. 19979 OF 2022

⁵ The Dowry Prohibition Act, 1961, § 3, No. 28, Acts of Parliament, 1961 (India)

⁶ Dowry Prohibition (Amendment) Act, 1986, § 3, No. 43, Acts of Parliament, 1986 (India)

THE SEXUAL HARASSMENT OF WOMEN AT WORKPLACE (PREVENTION, PROHIBITION, REDRESSAL) ACT, 2013

Women are now progressing in various fields, unlike in the past when their roles were mainly focused on managing homes. They are now actively handling office and work responsibilities. However, beyond the challenges of work stress, some women face the added stress of daily harassment and teasing, which is an unfortunate reality. The Sexual Harassment of Women at Workplace Act, 2013, was passed is designed to protect women from such harassment in the workplace.

In the year 1997 The Vishaka guidelines were instituted by the Supreme Court of India which were intended to protect women at the workplace.

After the Bhanwari Devi incident in the year 1992 wherein a lower-caste social worker named Bhanwari Devi, was gang-raped by five men while trying to prevent a child marriage in her village⁷, there were protests by women's groups, asking the government to recognize their rights and take necessary steps and actions to stop mistreatment of women at workplace.

The Vishaka guidelines aim at providing safer working environment. It also states that it is duty of the employer to file a complaint and to assist the employee if she is sexually harassed and also to spread awareness in this regard. All the organisations must set a Complaint redressal committee to deal with the complaints efficiently. The government also has a duty to widen the scope of these guidelines.

After the Vishakha guidelines, the government worked on making appropriate laws, but they didn't materialize until the Supreme Court issued more guidelines. In 2013, the Parliament passed "The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) bill which came into force on September 9, 2013."⁸

Important features of The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

- The law covers workplaces funded by the government.

⁷ Vishaka & Ors. v State of Rajasthan & Ors., (1997) 6 SCC 241)

⁸ LEGALSERVICEINDIA, <https://www.legalserviceindia.com/legal/article-13433-rights-of-women-against-sexual-harassment-at-workplace.html> (last visited Feb. 19, 2024)

- The aggrieved woman as defined under this act includes a woman of any age whether employed or not who alleges or has been subjected to any act of sexual harassment by the respondent.⁹
- Employer under this act includes any branch, office, department, organization, institution, or such other officer as the appropriated government or local authority.¹⁰
- Employers, including government offices, must set up Internal Complaints Committees for workplaces with 10 or more employees. This committee holds the power of a civil court.
- The law protects domestic workers.
- Penalties exist for employers not following the law.
- All women, including patients, students, or researchers, are protected.
- Employers should conduct educational programs on preventing sexual harassment.

PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

The Protection of Women from Domestic Violence Act, 2005, is a crucial legislation in India addressing violence against women within the family.

Domestic violence, as defined under the Protection of Women from Domestic Violence Act, 2005, includes harm, injury, or endangerment to the health, safety, life, limb, or well-being, whether mental or physical, of the aggrieved person.¹¹ Domestic Violence includes physical Abuse that is causing bodily harm or danger, Sexual abuse which involves engaging in degrading conduct of a sexual nature, Verbal and Emotional Abuse which means Insulting, threatening, and causing mental anguish and Economic Abuse which is to deprive a person of financial resources, preventing employment.

Important features of Protection of Women from Domestic Violence Act, 2005:¹²

- This act provides temporary relief in cases of emergency.

⁹ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, § 2(a), No. 14, Acts of Parliament, 2013 (India)

¹⁰ The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, § 2(b), No. 14, Acts of Parliament, 2013 (India)

¹¹ The Protection of Women from Domestic Violence Act, 2005, § 3(a), No. 43, Acts of Parliament, 2005 (India)

¹² BYJU'S EXAM PREP, <https://byjus.com/free-ias-prep/protection-of-women-from-domestic-violence-act-2005/#:~:text=The%20Protection%20of%20Women%20from,family%20and%20other%20related%20incidents> (last visited Feb. 19, 2024)

- It appoints Protection Officers can be appointed under this act to assist women in obtaining the appropriate order under the Act. This act also recognises the role of service providers for providing medical, shelter, and legal support.
- Shelters and medical facilities are legally obliged to help those in need.
- If someone breaks the protection or magistrate's order, it becomes a criminal offense, moving from civil to criminal law.
- The law doesn't alter existing family laws.
- After receiving help, a woman can still seek relief under other laws.
- Domestic Incident Reports are crucial records for evidence.

WOMEN RELATED LEGISLATIONS BEYOND SPECIFIC ACTS

THE CONSTITUTION OF INDIA

The constitution of India is the supreme law of the country. it contains various Articles that speak about equality before law and equal protection of law. It prohibits discrimination based on religion, race, caste, sex, or place of birth and ensures the fundamental rights of all citizens.

- Article 14 ensures that everyone in India is treated equally under the law, with equal protection.
- Article 15 prohibits discrimination based on religion, race, caste, sex, or place of birth among Indian citizens.
- Article 19(1)(g) grants all citizens the right to pursue any profession or business.
- Article 21 deals with right to life and personal liberty, includes the right to live with dignity and respect at the workplace.¹³

BHARTIYA NYAYA SANHITA, 2023

The Bhartiya Nyaya Sanhita, 2023¹⁴, formerly the Indian Penal Code, also includes various sections related to protection of women such as Kidnapping, Dowry death, Eve teasing, Rape, Sexual Harassment, Domestic violence, Acid Attacks, Women Trafficking etc. These sections also provide the punishment for each offense. The laws have been framed wider than before,

¹³ THE CONSTITUTION OF INDIA, 1950, § 14,15,19(1)(g),21, Acts of Parliament, 1950 (India)

and punishments are made stricter for the protection of women and to eliminate or at least minimize crime against women.

CONCLUSION

India is a country with vast population. It has a complex legal framework surrounding women's rights and gender equality. Despite the existence of laws specifically designed to protect women, the crime rates have not yet decreased to a satisfactory level. To bridge the gap between legal provisions and their practical impact, efforts should be taken to make people more aware and educated about women's rights. Strengthening law enforcement, improving access to justice, and creating an environment where women are respected are crucial aspects that need continued attention. For India to progress, it's crucial for society to work hand-in-hand with the legal system to ensure the effective implementation and enforcement of these laws.

“Let's stay united in building a better future, ensuring every woman's rights are not just words, but lived reality for all.”