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RIGHTS OF WOMEN AND GENDER EQUALITY

“ A strong woman knows she has strength enough for the journey, but a woman of strength knows it is in the journey where she will become strong”- Luke Easter

Women being human beings is having the absolute entitlement to live with dignity and freedom. Depriving women of their basic rights particularly based on gender bias is a blur on any civilized society. Freedom and equality, includes affording opportunities to women on all fronts be that political, economic and social.

Gender bias leads to inequality and lack of empathy, manifesting in the form of discrimination, crime violence in the society particularly against women. Gender based discrimination is violative of fundamental freedoms and human rights¹.

Twenty first Century universally witnessed upliftment of women empowerment movement .Various universal declarations stand adopted and Municipal Laws enacted, empowering women with special rights. Social and economic deprivation so suffered by women as a class, stands somewhat checked and eradicated. Women is now recognized as a class by itself, permitting enactment of laws and reservation in favouring them .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 social, economic ,educational and political disadvantages faced by them.

International perspectives

United nations has taken immense step and measures for the elimination of gender bias with a avowed object of providing fundamental freedom, human rights and social justice. In 1946,

¹ National Legal Service Authority, Laws Relating to Rights of Women in India , [https://palsa.punjab.gov.in/sites/default/files/Laws%20relating%20to%20women.pdf\(2015\)](https://palsa.punjab.gov.in/sites/default/files/Laws%20relating%20to%20women.pdf(2015))

United Nations established **Commission on the Status of Women under Economic and a Social Council (ECOSOC)**. United Nations, for developing and promoting the rights of women, and for assisting the committee on Elimination on Discrimination against Women and the commission on the status on women.

Convention on the Political Rights of Women 1953 expressing the desire to implement the principle of equality of rights for men and women which was included in the charter of the United Nations. A draft on the convention of the married women was prepared on the convention for the status of women for assuring equality of women with men ,particularly with respect to nationality and preventing them from stateless upon marriage or on its dissolution. Subsequently in 1957 ,the general assembly drafted the convention on **the Nationality of the Married Woman** .The General Assembly of the United Nations adopted the **Declaration on Elimination of Discrimination against Women ,1967**..It remembered that discrimination violated principles of equality and respect for human dignity .Article 10 of all declarations takes measures to ensures that all women ,married or unmarried shall be treated equally with men in the field of economic and social life. It further led to the adoption of the convention on the elimination of all forms of discrimination against women. It finally led to the adoption on the Convention on the Declaration on Elimination of Discrimination against Women .

The preamble of the Declaration on the Elimination of Violence Against Women ,1993 underscores that it is the inaugural international human rights instruments solely dedicated to addressing violence against women. It affirms that such violence infringes upon or negates women's human rights and their ability to exercise fundamental freedoms. Article 1 of both Declaration on the Elimination of Violence Against Women and the Platform for the Action for the Fourth World Conference on Women, both define violence as “Any act of gender -based violence leading to or likely to result in physical ,sexual or psychological harm or suffering of women including threats of such acts, coercion or arbitrary deprivation of liberty whether in public or private settings .”

By adopting Optional Protocol to the Convention on the Elimination of Discrimination Against Women ,1999 it was recalled that member states thereto should condemn discrimination against women in all its manifestation is acknowledged, and a commitment is made to actively pursue the elimination of such discrimination through all suitable means and promptly. States further reaffirm their dedication to guaranteeing women's complete and equal enjoyment of all human

rights including freedom, fundamental rights and pledge to implement effective measures to prevent violations.

There are other equivalent consequences declarations which are: (i) The Covenant on the Elimination of All Forms of Discrimination Against Women (CEDAW), 1979; (ii) The Second World Conference on Human Rights at Vienna in 1993 and in the Fourth World Conference on Women held in Beijing in 1995. (iii) International Covenant on Civil and Political Rights (1966) (iv) International Covenant on Economic, Cultural and Social Rights (1966) (v) Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974) (vi) Inter American Convention for the Prevention, Punishment and Elimination of Violence against women (1995) and (vii) Universal Declaration of Democracy (1997).

Constitution of India

Our Constitution lays emphasis on safeguarding the marginalised sectors of the society particularly women and children seeking to enhance their social hierarchy on the basis of Constitutional Guarantees enshrined therein. It provides guarantee to woman, its right of equality before law and the society.

Article 14 provides equality before law in which State is guaranteeing each individual equal protection of law within the borders. It prohibits prejudice on the ground of religion, race, caste, sex or place of birth.

Article 15 mandates the State not to treat any citizen prejudicially on the ground of sex. Also no citizen shall be restricted on the ground of sex to be subjected to any disability, liability, restrictions or condition with access to shops, public restaurants, public places, use of wells and tanks, bathing ghats, places of a public facility sustained either completely or partially through government funds.

Article 16 of the constitution ensures that no citizen shall be discriminated on the ground of sex regarding any employment or office.

Article 19 grants full protection to all citizens of freedom of speech and expression. The right assumes the presence of a conducive environment for women, which is protected and sheltered in every aspect.

Article 21 ensures every individual will have the right to live with human dignity .It ensures protection of life and personal liberty of an individual. State identifies the need and its duty for maintaining operational facilities for the provision of women care

Article 23 prevents trafficking of human beings. To fulfil this constitutional mandate several statutes stand enacted to deter the exploitation in diverse ways

Article 25 protects right of an individual to profess, practise an propagate any religion.

Supreme Court of India under Article 32 taken up its obligation in enforcement of fundamental rights of women. Article 39 (a)& (d) secure equal rights for men and women for livelihood and equal pay for equal work. Article 39-A ensures that no citizen is denied the opportunity to seek justice due to economic or any other limitation and operation of legal system promotes justice, on the basis of equal opportunities. Subsequently with the enactment of the Legal Service Authority Act, 1987, women is entitled for free legal aid.

Article 42 emphasized on fair and humane conditions for labor and maternity support. Maternity Benefit Act and other provisions of Industrial Dispute Act and so some other acts have been enacted to effectuate the directive principles for protection and upliftment of women.

Promotion of education and economic interest of weaker section, including women is a constitutional direction under Article 44. Consequently, free education is also provided by the state up to a particular level .

Article 47 mandates the State to improve living standard and look after the health of the public and elevate the nutritional standards , Government has also took initiative in introducing numerous schemes for welfare of women .

Article 51A(e) of such fundamental duties mandates renunciation of practices belittling the dignity of women .²

By way of the Indian Constitution ,74th Amendment Act ,1992 Article 243-D and 243-T were inserted in the Constitution, making special provisions for representation of women in various public offices. ³

² The Indian Constitution, Act of Parliament,

³ Indian Constitution, art.243, amended by the constitution (74th amendment)

NATIONAL COMMISSION FOR WOMEN ,1990

For safeguarding the rights of women and providing them with equal status in the society ,prior to the enactment of Human Rights Act, The National Commission for Women Act,1990 was enacted by the Government of India. National Commission for Women was constituted on 31st January 1992 with an object of protecting rights of women Instances of violating the provisions outlined in the constitution and other laws pertaining to women can be taken up with appropriate authority set up under the Act .The Commission is authorized to independently investigate the matters concerning the infringement of women's rights ,failure in implementing laws that is designed to safeguard the women's rights, achieving equality and development objectives ,disregarding policy decisions ,guidelines or instructions aimed at alleviating hardships and ensuring the welfare and relief of women .

HUMAN RIGHTS ACT ,1993

With the enactment of Human rights Act,1993 the Constitution guarantees life, liberty ,equality and dignity guaranteed by the Constitution, reflecting principles enshrined in other international conventions enforceable by courts in India stand acknowledged. Principles embodied in the convention for elimination of discrimination against women have now become an vital part of the Constitution and the Human Rights Act. Section 12 of the Protection of Human Rights Act obligates authority so established with an obligation ensure proper implementation and prevent the infringement of their fundamental freedom human rights.

THE PRE -NATAL DIAGNOSTIC TECHNIQUES (REGULATION AND PREVENTION OF MISUSE) ACT,1994

The Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse)Act ,1994 was enacted to check females ,foeticides ,regulating ,amongst others ,use of pre-natal diagnostic techniques with the aim of detecting genetic disorders or chromosomal abnormalities or certain congenital malformations or sex linked disorders and prevent using of such techniques for the purpose of pre -natal gender sex determination leading to female foeticide.

THE MEDICAL TERMINATION OF PREGNANACY ACT,1971

The Indian Penal Code implemented more than a century ago, which is based on British Law , contained certain provisions regarding Abortion. Termination of pregnancy was a crime ,for which mother as well as the abortionist could be penalised except induction is necessary to save the mother . This breach of law, which went overlooked, was a major factor in untimely death of pregnant mothers. Moreover, during the then prevailing circumstances medical facilities were not adequate. This law as a measure acknowledges termination of certain pregnancies by registered medical practitioners but only ensuring safety and health of women.

THE LEGAL SERVICE AUTHORITY ACT ,1987

The Legal Services Authorities Act implemented to provide free and competent legal aids to weaker sections of the society ensuring opportunities to access justice are not withheld from any citizen due to economic or other disadvantages .Also to secure that operation of legal system promotes justice on the basis of equal opportunities .Section 12 and 13 of the act entitle a woman for getting legal aid services if she has a prime facie basis to prosecute or defend.

THE PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT,2005

The Protection of Women from Domestic Violence Act ,2005 was enacted to provide for more effective protection of rights of women who are victims of violence of any kind occurring within the family and for matters connected therewith. The aim is to shield women from becoming victims of domestic violence and pro actively deter such occurrences in the society. The remedies provided by the legislation supplement the existing statutory measures addressing the acts cruelty which is punishable under the Penal Code.

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

Infringement on the women's right to life and liberty and equality is finest version of sexual harassment at work place. It creates an unstable and unfriendly work place environment which does not encourage women in engaging in work. Subsequently it affects the social economic empowerment , decrease in women's participation in work. Harassment constitutes a breach of women's fundamental to equality under Article 14 and 15 of the constitution and her right to

life and dignity under Article 21 of the constitution as also her right of freedom under Article 19 of the constitution.

INDIAN PENAL CODE,1860

A criminal offence, though affecting the person and/or property of individuals is always considered to be an transgression against the society at large .Indian Penal Code ,1860is a major statutory penal law in India. The victim always has right of making a compliant against the offence committed against him/her. There are certain provisions in the code which deals with crime against the women. Section 228 -A ,prevents social victimization or ostracism of the victim of sexual offence. Her right of privacy is protected. Printing or publishing any information that may reveal the identity of a person against whom an offence under Section 376,376-A,376-B,376-B,376-C 376-D and 376-E has been alleged to have been committed will be put in prison for up to two years with fine.. The women can be also a victim of indecent ,vulgar and obscene depictions .Section 292-294 deal with offences relating to obscenity .Section 304-B for punishing offender of causing dowry death ,section 306 provides punishment for abetment of suicide also covers cases where circumstances are created and woman is compelled to commit suicide. The offender can be punished for Sections 312,313 and 314 deal with cases relating to causing miscarriage to 10 years imprisonment with fine . Section 312 prohibits miscarriage except caused in good faith for the purpose of saving life of a woman. Offender can be punished for imprisonment up to three years with or without fine. Section 313 provided imprisonment for life or imprisonment extendable to 10 years with fine where miscarriage is caused without woman's consent. Section 354 entitles woman to make any complaint against assault or criminal force used with an intent of outraging her modesty .Such an offence is punishable with imprisonment not less than a year ,extendable for up to five years along with fine. Section 370 imposes penalties of 7 years to life imprisonment for the crime of trafficking of persons for exploitation ,which encompasses sexual exploitation , slavery or practises, slavery ,servitude or the forced removal of organs . Selling minor with the intention of prostitution or illicit intercourses with any person or any unlawful and immoral purposes is an offence under section 372 punishable with imprisonment extendable up to ten years with fine. Sexual offences against women are always taken seriously in all civilization and rape is the most heinous crime against women.⁴

⁴ Indian Penal Code, Sections 228,294,306,312,313.314,354,370,372 ,Act of Parliament ,1860(India)

THE IMMORAL TRAFFIC (PREVENTION) ACT ,1956

In our society, individuals caught in custom oriented -gender oriented prostitution are often perceived as amore of victims of challenging socio – economic conditions rather than offenders. while commercial sex exploitation is deed criminal those ensnared in these forms seen within the context of gender -oriented vulnerability.⁵

India being a party to the International Convention for the Suppression of Traffic in Persons and Exploitation ,1950 enacted a federal statute to enforce the provisions of the convention. In order to provide an effective and uniform law, the Immoral Traffic in women and Girls Act ,1956(known as SITA) was enacted .The primary goal is to penalise brothel owners ,procures and pimps and also to combat prostitution .It is a social policy with twin objectives both penal and betterment. The legislation provides for prohibiting the practice of prostitution and rehabilitation of prostitutes.

THE INDECENT REPRESENTATION OF WOMEN (PROHIBITION) ACT,1986

With an aim of preventing inappropriate portrayal of women in advertisement, publication ,writings, paintings or in any other manner in numerous forms. Thus this act was enacted.

THE PROHIBITION OF CHILD MARRIAGE ACT ,2006

The Child Marriage Restraint Act ,1929 was found to be ineffective. Thus National Commission for Women in its Annual Report for the year 1995-96 put forth certain recommendations .The National Human Rights Commission conducted a thorough examination of current provisions and offered recommendations in its Annual Report 2001-2002. After reviewing with state governments and other union territories, they repealed the existing Act and a new Act was implemented named ,Prohibition Of Child Marriage Act ,2006

MATERNITY BENEFIT ACT ,1961

Article 42 of the constitution mandates states to establish provisions for maternity leave. The Maternity Benefit Act ,1961 regulates employed women in certain establishments for certain periods before and after childbirth to provide for maternity leave and special other perks. This is an important place of labour legislation exclusively devoted to working women in factories, mines, plantation and other institution , including where women are hired for exhibition of

⁵ Gaurav Jain v. Union of India 1997(8) SCC 114

acrobatic and other performances. Every women is entitled to and her employer liable for payment of maternity benefit at the rate of the average daily wages.

EQUAL REMUNERATION ACT ,1976

This Act affords equal opportunities for women with payment of equal remuneration for equal work. Such duty is cast upon an employer under section 4&5.

CHALLENGING GENDER STEREOTYPES

A gender stereotype is an assumption about the characteristics or roles that are to be performed by women and men. These stereotype can be detrimental when they limit individuals from growing their personal abilities, pursue their careers or make choices about their lives.

Whether openly hostile or seemingly harmless, detrimental stereotype maintain inequalities. For example the conventional perception of women as primary caregivers often results in childcare duties disproportionately falling on them. Further, gender stereotypes combined and overlapping with other type of stereotypes face negative consequences by certain groups of women ,including minority or indigenous backgrounds, women with disabilities ,women from lower cast or economically disadvantage groups or with lower economic status ,migrant women etc.

Gender stereotyping involves assigning specific attributes, characteristics or roles to individuals based solely on their gender. Such stereotyping becomes unjust when leads to violations of human rights and fundamental freedoms.

The absence of legal penalties in marital rape and failing to address sexual violence against women due to victim -blaming attitudes are couple of examples that shows wrongful gender stereotyping. Gender stereotypes add to in discriminating against women and can lead to violations of various rights such as health , education ,work and freedom from gender -based violence.

International human rights treaties such as the Convention on the Elimination of All forms of discrimination against women and the Convention on the Rights of Persons with Disabilities are accountable to combat harmful and unlawful stereotype. Prevention of gender stereotype is essential in up lifting the rights to be free from discrimination and equality for all individuals, regardless based on their gender.⁶

A woman is an individual who is having her own identity is a non- debatable issue, though she may willingly assign to herself, role that of a mother, wife or daughter. She is no longer viewed as a tangible possession which can be traded based solely on the arbitrary desire of her male counterpart. All their rights and privileges, honour and dignity are to be protected in any circumstances. They are entitled to live a dignified and tranquil existence. They have the privilege to lead an honourable and peaceful life. Liberty, freedom and independence of thought and choice is their right.

⁶ OHCHR and women's human rights and gender equality, "Gender Stereotyping", <https://www.ohchr.org/en/women/genderstereotyping> (April 7.2024)