



## INDIAN LAWS, WOMEN EMPOWERMENT: MYTH AND REALITY

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**Abstract:**

There are numerous reasons for the increasing incidences of violence against women in India. The basic reason lies with the attitude of Indian male toward female especially in the rural areas where the social atmosphere is full of conservatism ignorance, and poverty. In urban area the autocratic nature of the male person is mostly responsible for violence and possess an attitude of domination, with female members in family. Even the educated urbanites are not exception though considerable changes have been occurring in the past few decades. therefore violence has continued to be a major problem in Indian society. The pathetic picture expose by the U.N. Population Fund report which on basis of its survey claimed that up to 70% of married women aged 15-49 in India are victims of beatings or coerced sex.

*“The afflicted world in which we live is characterized by deeply unequal sharing of the burden of adversities between women & men. Gender inequality is not one of the phenomenon but a collection of disparate and interlinked problems”...Amartya Sen*

**Present Scenario:**

Although there is a formal recognition of women's rights and a legal acceptance of women's equality with men, extensive data gathered by the UN and other sources show that women continued to face discrimination and marginalization. They have less money, less education, lower status, lower self-esteem and less power. They are less represented in public life. They are still segregated mostly in women's job, which are low paid, face violence sexual harassment at work place, face violence at home and at public place. But the issue of women's equality is now acquiring a new significance and a dynamic feminist movement has created an ideological mandate for moving towards substantial equality between sexes.

Liberal feminists create and support acts of legislation that remove the barriers for women. These acts of legislation demand equal opportunities and rights for women including equal access to jobs. Feminist believe that removing these barriers directly challenges the ideologies of patriarchy, as well as women. Liberal feminists are responsible for many important acts of legislation that have greatly increased the status of women, including the reforms in welfare, education and health.

**CEDAW: The International Bill of Women's Rights:**

In 1979, the United Nations adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). This is known as the International Bill of Women's Rights. The bill has been signed by India along

with many other nations. Not only it is the most widely ratified international human rights treaty, it is a great landmark because for the first time, there was formal recognition of the fact that existing social practices often serve to restrict women's fundamental rights because they include elements of discrimination against women.

Another significant development took place in October, 1999, when the UN General Assembly adopted the Optional Protocol to CEDAW. This instrument enables individual women or groups of women who have exhausted domestic remedies, to petition to the UN Committee on Elimination of all Discrimination against Women about violations of the Convention by their respective state governments. The Committee can inquire into abuse of women's human rights in states that are party to the Convention and the Protocol.

**Constitutional and Legal Provisions for Women's Rights in India:**

The basic right and freedoms of men and women are laid down in the Preamble of the Indian Constitution. The Preamble says, “Indian Constitution secures for all its citizens: justice, social economic and political: liberty of thoughts, expression, belief, faith and worship: equality of status and of opportunity, and the dignity of the individual and the integrity of the nation”

The Indian Constitution is known to be very comprehensive that recognizes the ideal of equality, regards keeping in view their age old discrimination. The following fundamental rights in the Constitution are particularly important from the perspective of human rights of women.

Though formal equality for women is enshrined in Indian law system, in the male-

dominated Indian society women's lives continue to be discriminated. Therefore, besides fundamental rights and Directive Principles of State Policy, the Indian Government has made a number of significant legislations that serve to protect women's human rights directly or indirectly. These laws have been enacted from time to time to improve the status of women. These legislations include:

- Child Marriage (Restraint) Act, 1929
- Minimum Wages Act, 1948
- Immoral Traffic (Prevention) Act, 1956
- Hindu Succession Act, 1956, Amendment Act 2005
- Dowry Prohibition Act, 1961, Section 498A of Cr PC
- Maternity Benefit Act, 1961
- Medical Termination of Pregnancy Act, 1971
- Equal Remuneration Act, 1976
- Contract Labor (Regulation and Abolition) Act, 1976
- Family Court Act, 1984
- Indecent Representation of Women Act, 1986
- Child Labor (Prohibition and Regulation) Act, 1986
- Prevention of Sati Act, 1987
- Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994
- 73<sup>rd</sup> and 74<sup>th</sup> Constitutional Amendment Acts, 1993
- The Protection of Domestic Violence Act 2005
- Protection of Women from Sexual Harassment at Workplace Act 2012.

Indian Judiciary has played crucial role in the protection of women's rights and their empowerment under the provisions of different laws. But, still the concept of comprehensive gender justice has yet to wait to be achieved in real and true sense.

#### **Landmark Judicial Pronouncements Of Supreme Court of India:**

In Kharat Singh the supreme court held that "The personal liberty" was not only limited to bodily restraint to confinement to prison only but was used as a compendious term including within itself all the varieties of rights which go to make up the personal liberty of the man other than those dealt within Article 19(1).

In Maneka Gandhi Justice Bhagwati observed as "These Fundamental rights represents the basic values cherished by the people of this country (India) since the Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop this personality to the fullest extent"

In C.B. Muthamma the constitutional validity of rule \*(2) of the Indian foreign service (conduct and discipline) Rules 1961 and rules 18(4) of the Indian foreign service (Recruitment, cadre, Seniority and promotion and promotion) Rules 1961 was challenged before the court. The petitioner was denied promotion to grade I of the Indian foreign service only on this ground not only that as per the provision of these rules a woman member of the service may be required to resign from the service if the government satisfied that her family and domestic commitments are likely to come in the way of the due and efficient discharge of her duties as a member of the service.

In Nargesh Meerza the supreme court struck down the air India and Indian airlines regulations on the retirements and pregnancy bar on the service of air hostesses as unconditional on the ground that the conditions laid down therein were entirely unreasonable and arbitrary. In Randhir Singh the principle of Constitutional law under Article 14, 16, 39(1) was upheld. In Pratibha Rani the supreme court held that the stridhan property cannot be placed in the custody of her husband. In Maya Devi it was held by the apex court that of India held the requirement that a married woman should obtain her husband's consent before applying for public employment observed that such a requirement is an unreasonable obstacle to women's equality. The Madhukar, it has been held that the 'rights to privacy' is available even to a woman of easy virtue and no one can invade her privacy. In Mohini Jain, it was held by the supreme court that right to education is commitment to fundamental right enshrined in the part III of the constitution and that every citizen has the right to education. In 'Uttarakhand Mahila Kalyan Parishad' an issue of sex discrimination was involved related to enquire of pay scales between male and female employees. A PIL filed by NGO for brutal gang rape of a social worker the apex court laid down exhaustive guidelines for protection of working women. Now it has become a law. (Protection of Women from Sexual Harassment at Workplace Act 2012)

The Indian Judiciary tried hard to uphold the dignity and to achieve comprehensive gender justice, unfortunately there is an every possibility that this figure must have been increased now in spite of various legislations applicable since freedom in the country, because in most of the cases women would not like to speak, instead they suffer and maintain silence. The main concern or hurdle in

gender inequalities which erode women's rights at large, although there is a formal recognition of women's rights.

### Conclusion:-

The Indian laws related to women have been always aimed at removing inequities in the process of all, it is increasingly evident the women are lagging behind. Due to several social, economic, cultural and political impediments, the participation of women leaves much to be desired. Since women comprise nearly half of our population, on tasks of development will be complete, until and unless women are brought into the mainstream of economic development. The strategy after the 90,s has shifted to empowerment of women and giving them a voice.

Empirical findings have shown that wherever developmental efforts have emancipated women, such effort have been more sustainable and better, Men and women are the two wheels of the vehicle called "progress. Whatever little progress may have taken place, it is too less for so big a new challenge poses before us. In fact, we should take it up as a challenge and get the best deal out of it. The great challenge is to tackle the institutional structures of countries that continue to marginaliz, discriminate against vulnerable sections of society. The law, the bureaucrats, religion, customs and traditions, all play a part. The state has a role to play in helping to empower women. Depriving women of their developmental rights amounts to violation of human right. Let; us not forget that a nation's destiny depends on the Mother's (female population) \_"The hand that rocks the cradle, rules the world"

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