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Rights of Women in the constitution of India and some Laws/Acts for Female in India: A brief study

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Abstract:

The Indian Constitution has time and again propagated the values of equality among the citizens and has empowered women in all social, cultural and economic spheres. It prohibits discrimination based on caste, religion, sex etc. These laws were enacted for the upliftment of women so that they live an honourable and dignified life. Only when a woman has equal occupational rights, educational rights, decision-making rights, freedom and the right to choose what's good for herself, she is said to be equal to that of men. Gender equality is the essence of the Indian Constitution and thus, the following are the laws enacted for the protection of women's rights.

Women in India face myriad cultural challenges that impede social advancement, analysts say. Discriminatory family codes, lack of education, and cultural stigmas are only a few examples. Heightened media attention given to such inequities has raised pressure on the government to not just reform the institutional treatment of women, but also raise the level of dialogue on the larger issue of women's rights in a rapidly modernizing society. This paper briefly shows rights of Women in the constitution of India and some Laws/Acts for Females justices in India

I. Introduction:

India is a country known for its rich beautiful culture and tradition. Women are given the place of goddess Lakshmi in the Indian culture. But by seeing the last few year crimes against women, there seems the safety and security of women are at stake. As we can literally observe that crimes against women occur every minute in India. There has been a decline in the women status from ancient to medieval period which is continued in such an advanced era.

Each day a single woman, a girl child, a young girl, a mother and women from all walks of life are being assaulted, molested, and violated. The streets, public transport, public spaces, in particular, have become the territory of the hunters. There are certain common crimes against women are rape, dowry deaths, sexual harassment at home or workplace, kidnapping and abduction, cruelty by husband, relatives, assault on a woman, child and sex, trafficking, attack, child marriages and many more.

The Indian constitution prohibits discrimination on the basis of sex, but the position of women remains unequal, according to a United Nations report. Women in India have long been subject to entrenched cultural biases that perpetuate the valuing of sons over daughters, who are often seen as an economic burden to families that fear high dowries and wedding costs, experts say.

Though the Constitution of India has given the equal rights of dignity, equality, and freedom from gender discrimination but in practical filed no one bothers to follow such law until and unless the peoples mindset towards a woman does not change. All individuals, including women are equal inthe eyes of the law and they are also entitled to enjoy equal protection of laws within theterritorial jurisdiction of India. It signifies that all persons irrespective of gender, should betreated equally in similar circumstances. The State should not make any discrimination betweenone person and another, and the law should be administered equally.

Objectives:

- To identify gaps in the empowerment of women, development of children and adolescents;
- Create a national network of pubic, private and NGO centres for delivering reproductive and child health services free to any client;

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- To increase awareness in women, for their development to use their talent optimally not only for themselves, but also for the society as a whole;
- To develop the skills for self-decision-taking capabilities in women and to allow them to present their point of view effectively in society;
- To create awareness among women to be truly ambitious and to dream for betterment;

Rights of Woman enshrined in the Constitution of India:

- Article 15(1) provides that the state shall not discriminate against any citizen of India on the ground of sex
- Article 15(3) provides that the state is empowered to make any special provision for women i.e. the state can make affirmative discrimination in favour of women.
- Article 16(2) provides that no citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex.
- Article 23(1) provides that traffic in human beings and forced labour is prohibited.
- Article 39(a) provides the state to secure for men and women equally the right to an adequate means of livelihood
- Article 39(d) provides the state to secure equal pay for equal work for both Indian men and women.
- Article 39(e) provides that the state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength.
- Article 42 provides that the state shall make provision for securing just and humane conditions of work and maternity relief.

- Article 51-A (e) provides that it shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women
- Article 243-D(3) provides that one-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women.
- Article 243-D(4) provides that one-third of the total number of offices of Chairpersons in the Panchayats at each level shall be reserved for women.
- Article 243-T(3) provides that one-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women.
- Article 243-T(4) provides that the offices of Chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide.

Legal Rights of Women enshrined under various Indian Legislations:

- Muslim Women (Protection of Rights on Divorce) Act (1986) protects the rights of Muslim women who have been divorced by or have obtained divorce from their husbands.
- Hindu Succession Act (1956) recognizes the right of women to inherit parental property equally with men. Then there came the Hindu Succession (Amendment) Act 2005 granting daughters the right to inherit ancestral property along with their male relatives.
- Minimum Wages Act (1948) does not allow discrimination between male and female workers or different minimum wages for them.
- Mines Act (1952) and Factories Act (1948) prohibits the employment of women between 7 P.M. to 6 A.M. in mines and factories and provides for their safety and welfare.
- The Sexual Harassment of Women at Work Place (Prevention and Protection) Act (2013) provides protection to women from sexual harassment at all workplaces both in public and private sector, whether organised or unorganized.
- Child Labour (Prohibition and Regulation) Amendment Act, 2016 prohibits the engagement of children in all occupations and of adolescents in hazardous occupations and processes, where adolescents refer to those under 18 years and children to those under 14 years.
- The Protection of Children from Sexual Offences (POCSO Act) 2012 was formulated in order to effectively address sexual abuse and sexual exploitation of children. It defines a child as any person below the age of 18 years and provides protection to all children under the age of 18 years from the offences of sexual assault, sexual harassment, and pornography.
- Right Against Female Foeticide: As female foeticide, that is, killing of a female foetus in the womb itself, rose to an all-time high, the government banned pre-natal sex determination. Therefore, one cannot find out the sex of their unborn child till birth.
- Right To Education : The Right to Education Act, 2009, provides all children between the ages of six and 14 years the right to free and compulsory elementary education. Although this law is gender-neutral, it gives a push to the

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education of girl children, by giving them enhanced access to schooling.

- Right To Be Raised In A Safe Environment: All children, including female children, have the right to be brought up in a safe and protected environment. The Juvenile Justice Act makes it illegal for parents and guardians of children to abuse, assault, neglect, or abandon a child.
- Right Against Abusive Family Members: The Domestic Violence Act protects all females from any kind of physical, emotional, sexual, or financial abuse by family members. The protection extends to all family members with whom the female shares a house—including her own family like parents, siblings, uncles, aunts, etc. Therefore, this law protects female children from being abused at home.
- Right To Stridhan: 'Stridhan' is the property of a female, both movable and immovable, which is her own. It can be a gift, inheritance, maintenance, or even her own earnings. Only she has rights over her 'stridhan' and she can exclusively decide what she wants to do with it. This law applies only to Hindus.
- Right To Inherit Property: Since 2005, Hindu women have equal rights as men to inherit property. Therefore, a girl can inherit the same amount of property as her brother. Inheritance can be through a Will or through succession (if the deceased person does not leave a Will, the property will pass on to legal heirs according to the law).
- Right Against Child Marriage: the minimum age of marriage for girls is 18 years (and for boys, it's 21 years). Any adult responsible for marrying a female child under the age of 18 can be punished by law. Interestingly, the Parliament is now looking to increase the marriageable age for girls to 21 years now (on par with boys).
- Right Against Sexual Harassment: Sexual harassment broadly means any kind of unwelcome physical contact, sexual gestures, comments, sexual advances, requests for sexual favour, etc. by a man to a woman. Indian law protects all women from sexual harassment by men. By virtue of this law, every girl child in India is protected against sexual harassment.
- Right Against Sexual Harassment At The Workplace: It is common for young girls these days to intern or work in offices, while they are still studying. The Prevention of Sexual Harassment at Workplace Act protects all female workers, whether they are full-time, part-time, consultants, or even interns, against any kind of sexual harassment at work.
- Right to Abortion: A female child has the right to abortion to terminate an unwanted pregnancy. The Medical Termination of Pregnancy Act, 1971 permits a minor girl to have an abortion, with the written consent of her guardian. However, abortion is only permitted under special conditions like if the pregnancy is 'likely to cause injury to the physical or mental health of the pregnant women'.

General laws that every woman should know:

- Right to free aid: When a woman goes to the police station without being accompanied by a lawyer she should be aware of the fact that she has a right to get the legal aid and that she should demand it.

- Right to privacy: A woman who has been raped has a right to record her statement in private in front of the magistrate without being overheard by anyone else or with a lady constable or a police officer in person. Under section 164 of the Criminal Procedure Code, the cops will have to give the privacy to the victim without stressing her in front of masses.

- Right to Zero FIR: As according to the Supreme Court ruling a rape victim can register her police complaint from any police station under the Zero FIR.

- Right to no arrest: According to a Supreme Court ruling, a woman cannot be arrested after sunset and before sunrise. Except, in case the woman has committed a serious crime, the police require to get it in writing from the magistrate explaining why the arrest is necessary during the night.

- Right to not being called to the police station: According to section 160 of the Criminal Procedure Code, women cannot be called to the police station for interrogation. The police can interrogate a woman at her residence in the presence of a woman constable and family members or friends.

- Right to confidentiality: Under no conditions a rape victim's identity of can be revealed. Neither the police nor media can make known the name of the victim in public. Section 228-A of the Indian Penal Code makes the disclosure of a victim's identity a punishable offence.

- Recent amendments to certain laws:The gang rape that took place on the night of 16th December 2012 took the entire nation in such a outrage stage that it forced to give a new shape to the criminal law by the enactment of the most awaited Act i.e. the Criminal Law (Amendment) Act, 2013 Thus the Act has included the following sections:
- The Muslim Women (Protection of Rights on Marriage) Bill 2017 makes instant Triple Talaq in any form illegal and void. The proposed law would also give the woman the right to approach a magistrate seeking subsistence allowance for herself and her minor children.

After eighteen years Every girls should Knows:

- Every girl who is eighteen years and above has the freedom to choose a partner of her choice. Free consent is absolutely necessary for a valid marriage. No one can compel her to marry against her wishes.

- Right to monogamous marriage :Under the law, marriage has to be monogamous (except for Muslims), thus one cannot remarry during the lifetime of an existing spouse. Such act is punishable under Section 494 of the Indian Penal Code (IPC).

- Right to say 'No': Every woman has absolute autonomy over her body and no one can compel her to establish sexual relations without her consent. That would amount to rape. A husband has presumed matrimonial consent to cohabit with his wife who is above 18 years of age, but if he sexually abuses his wife, the woman has a right to get protection orders under Section 18 of the Domestic Violence Act, 2005.

- Right to protection against violence :If any woman in a domestic relationship faces violence i.e. she is subjected to physical, verbal, emotional, sexual or economic abuse, she has the right to seek relief under the Domestic Violence Act. Domestic relationship means a relationship between two persons who live together or have, at any point of time, lived together in a shared household, when they are related by consanguinity, marriage, joint family, adoption or through a relationship in the nature of marriage.
- Right to matrimonial remedies: If any married woman wants to seek judicial separation, maintenance or divorce from her husband she can do so under the respective law. In addition to common grounds of divorce such as cruelty, adultery, mental disorder, renunciation of the world, communicable venereal disease and unheard of for seven years, there are certain special grounds that are available to a wife alone such as bigamy or husband being guilty of rape, sodomy or bestiality. Any girl who is married before attaining 15 years of age has a special right. This is called 'option of repudiation', which she can exercise between 15-18 years of marriage in order to repudiate the marriage. Irrespective of her personal law she can also seek maintenance under Section 125 of the CrPC.

- Right to private defence: Everyone has the right to use force against an aggressor in order to defend oneself. This right extends to even causing the death of the aggressor where the assault causes a reasonable apprehension that the woman would be otherwise subjected to rape, unnatural sex, kidnapping/abduction or acid attack.

- Right to privacy: She has a right to complain if anyone follows her physically, monitors her activities online or repeatedly tries to foster interaction with her despite a clear indication of disinterest from her side. This amounts to stalking which is punishable under 354D of the IPC. In addition to this if anyone watches, captures or disseminates the image of a woman engaging in a private act without her consent than such person is guilty of voyeurism under Section 354C of the IPC.

- Right to equal pay for equal work: Equal Remuneration Act makes it illegal to discriminate against women and they are entitled to equal wages for equal work.

- Right to maternity benefit: Every working woman is entitled to full paid absence from her work for a period of 26 weeks to take care of her new-born child. This is available for two surviving children. For more than two children the duration of leave would be twelve weeks. This leave is available to all women working in the private sector or the public sector.

- Right to adopt: Every woman whether married or single has the right to adopt. Consent of both the spouses is required for the adoption in case of a married couple. A single woman can adopt a child of any gender; however, a minimum age difference of 21 years between the single mother and the adopted child is required if they're of opposite sexes. Also, any woman who adopts a

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child under the age of 3 months is entitled to adoption leave of 12 weeks under the Maternity Benefits Act.

- Right to renounce all practices that are derogatory to womanhood: We have laws that have declared derogatory practices such as dowry system, sati pratha, Devadasi pratha etc. as illegal and punishable. We also have a law that prohibits indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other form. We have laws that protect women against trafficking and prostitution.
- Right to free legal aid:Every woman regardless of her income is entitled to free legal aid.
- Right to register FIR: It is mandatory to register an FIR in cases of crimes against women. Any police officer refusing to register an FIR when the information discloses the commission of a cognizable offence against a woman shall be punishable under Section 166 A of the IPC.
- Right to have investigation conducted in a dignified manner: No female witness shall be asked to attend any place other than her residence for any purpose of investigation. In case the statement of a woman victim is to be recorded, it has to be done by a woman officer. Wherever the woman is to be subjected to medical examination, this has to be done by a female doctor or in the presence of another woman with strict regard to decency. Two finger test to determine rape is illegal.
- Right against arrest at night: Unless there are exceptional circumstances justifying immediate action, no woman is to be arrested at night and where such exceptional circumstances exist than the arrest is to be made by a woman police officer, who shall make a written report to the concerned judicial magistrate of first class and obtain prior permission to arrest.

laws against common injustices against women

1. **Eve Teasing**: Sections 294 and 509 of the Indian Penal Code (IPC) prohibit any individual or group of people pass any kind of offensive comment or execute any such gesture towards a girl of any age.
2. **Child Marriage:** This is not just for girls. However, the incidents reported indicate towards the underage girls. The Child Marriage Restraint Act, 1929, prohibits a girl who is not 18 (age defined by the Hindu Marriage Act) to get married.
3. **Improper Police Procedure:** Under the high court directive, every police station must have a lady officer, not of a post below that of Head Constable, available round-the-clock and the police shall also help the victim of sexual assault of any degree with counseling assistance and further aid towards the betterment of the victim. Besides, a woman can only be searched by a lady officer and can be arrested only in the presence of a lady officer. A woman cannot be arrested before sunrise or after sunset, however, exceptions can be made under the directive of the magistrate.
4. **Minimum Wage:** According to the Minimum Wages Act, 1948, the Government of India has set minimum wages for every section of profession that must be paid to any skilled, semi-skilled and unskilled workers. The minimum wage for a skilled worker in Delhi is Rs 423, be it a man or a woman.
5. **Succession of Property:** Under the clause of the Hindu Succession Act, 1956, any person who is entitled to be the heir of a property of ancestor, should get the property regardless of gender
6. **Dowry:** Dowry Prohibition Act, 1961, says that if any one gives or receives or even helps the exchange, he or she will face a jail term five years or more and a fine of Rs 15,000 or the sum of dowry, whichever is more.
7. **Domestic Violence:** This falls under Section 498A of the IPC. According to this law, any person can complain about any incident where a family member has offended him or her cruelly or with the intention of cruelty. This law is applicable for or against any member regardless of gender.
8. **Offensive Propaganda**: The Indecent Representation of Women (Prohibition) Act, 1986, prohibits any individual or organisation to publish or help post, publish, exhibit or advertise - online or offline - any kind of representation of women that can be considered to be indecent.

II. Conclusion:

A proper awareness of the rights of women can ensure safety and protection of women along with its social control. It is essential as their thought and their value systems lead the development of a good family, good society and ultimately a good nation. True equality can ensure better democratic system and values and best rights ensuring the protection and welfare of women is the need of the hour.

Some good training that have increased women's access to justice have been so-called one-stop shops. They integrate services and offer women victims everything from health care and

counselling to legal aid and collection of evidence in one place, reducing barriers and cost. Specialized and mobile courts are another successful example of how women's access to justice can be improved in practice. These courts can bring justice closer to victims, especially women living in remote areas, to address issues such as gender-based violence effectively.

Religion is wrongly interpreted and women are at the receiving end not from today but from earlier ages. However, being human they have same rights at par with men. Some of the basic human rights such as right to equality, right to education, right to live with dignity, right to liberty, right to politics, right to property, right to equal opportunity for employment, right to free choice of profession and right to livelihood.

Increased representation of women within the police and the judicial system as well as mainstreaming gender within the judiciary can also improve their responsiveness to gender issues and make it easier for women to seek assistance or report their cases.

Our Recommendation:

- This topic should be included in school and college curriculum
- Create awareness among students and employees
- Encourage women to express or to speak their problems
- Make internal complaints committee (ICC)on women's sefty in school, college and workplace
- Encourage vocational training among women
- Arranging counselling session for women
- Arranging teacher training course in this regard

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