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INTERNATIONAL JOURNAL OF ADVANCED RESEARCH (IJAR)

Article DOI: 10.21474/IJAR01/14346

DOI URL: <http://dx.doi.org/10.21474/IJAR01/14346>



RESEARCH ARTICLE

LEGISLATIVE INSTRUMENTS: MECHANISMS FOR ADVANCING WOMEN'S HUMAN RIGHTS

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Manuscript Info

Manuscript History

Received: 25 December 2021

Final Accepted: 30 January 2022

Published: February 2022

Abstract

This paper examines the applicability and relevance of status of women human rights and their development by improving their position who are experiencing violations of their rights to seek redress for alleged violations, calling for treatment of women's issues by improving their status and assisting in their sustainable development, growth, and the accomplishment of all the millennium development goals. Women often face discrimination and gender inequalities because of factors such as race, sex, language, or religion. The economic, social, political, and environmental participation and empowerment are fundamental to strengthen their rights and allowing them to have control over their lives and exert influence in society generating just and equitable societies. The researcher concluded that unless women are empowered and gender equality is achieved, the nation will not achieve sustainable development with the recognition of only men's participation in all potential areas. Hence, this paper calls for the strong onus on the government to empower women and addressing gender-based discrimination and providing specific protections for women's rights to attain secure and sustainable livelihoods after all, human rights are about ensuring dignity, equality, and security for all human beings.

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Introduction:-

Across the world, women are being beaten, trafficked, raped, and killed. Women's poorer status is represented in women's lower wage rates than males in all occupational sectors and industries, their limited upward mobility, and their heavier family responsibilities due to divorce, abandonment and other factors in industrialized countries.¹ These human rights exploitations not only inflict harm and damage on individuals, but they also tear at the fabric of entire societies. The comprehensive legislation is essential for an effective and coordinated response for the protection and promotion of women human rights. Under International law the States have the duties and responsibilities to enact, implement and monitor legislation to address all forms of violence against women and for the protection and promotion of women human rights. Many States have adopted or revised legislation on violence against women over the past few decades. However, significant gaps remain or is often limited in scope and coverage, or is not enforced, therefore, many States still do not have in place legislative provisions that explicitly address violence

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¹ Mohiuddin, Yasmeen (1995). Country Rankings of Women's Status: an Alternative Index, *Pakistan Development Review*, Winter.

against women. The adoption and enforcement of national laws to address and punish all forms of violence against women and girls, in line with international human rights standards, is one of the key outcomes for tackling the scourge of violence against women. It is important that legal frameworks move beyond this restricted approach to make effective use of a range of areas of the law, including civil, criminal, administrative and constitutional law, and address prevention of violence, and protection and support of victims, and highlight the importance of collaboration between the police, social services and health-care providers.

Legislation should acknowledge that violence against women is a form of discrimination, a manifestation of historically unequal power relations between men and women, and a violation of women's human rights. It should frame laws which should not have any effect of impairing or nullifying the recognition, enjoyment or exercise by women, and to provide that no custom, tradition or religious consideration may be invoked to justify violence against women.

Women are entitled to enjoy the same human rights and fundamental freedoms as other individuals. As a vulnerable group, they have special status and protection within the United Nations and regional human rights systems. The International human rights treaties require State parties to take proactive steps to ensure that women's human rights are respected by law and to eliminate discrimination, inequalities, and practices that negatively affect women's rights and also require States to ensure the protection and realization of women's rights in all areas – from property ownership and freedom from violence to equal access to education and participation in government.

The human rights treaty system is one of the fundamental mechanisms of the United Nations (U.N.). It is considered "one of the greatest achievements in the history of the global struggle for human rights". Gender equality is thus at the heart of the U.N. human rights treaty system. State parties that have ratified U.N. treaties are obligated to submit periodical reports to the treaty bodies which review State action, including legislation and policies, to assess its compliance with treaty provisions and the implementation of international human rights at the domestic level. Despite the recognized recognition of women's human rights within several U.N. treaties, the enforcement of women's rights is still a major concern under the U.N. system as women around the world still continue to suffer violations of their rights.

In modern times, legislations started recognizing the rights of women and the region has made substantial progress ensuring the integration of women into economic and social development. These legislations can be divided into two parts first is pre-independence legislations and second is post-independence legislations.

Pre-Independence Legislations

The Bengal Sati Regulation 1829

Sati, also spelled as Suttee, is a practice among Hindu communities where a widowed woman (either voluntarily or by force), immolates herself on her deceased husband's pyre. There have been many occasions of how the widows were shunned or ignored in India and therefore, the only resolution for a life without husband was to practice Sati as it was considered to be the highest countenance of wifely devotion and commitment to a dead husband. Raja Ram Mohan Roy made the decision to rid Hindu civilization of all foolish practises and bad customs. He was against all forms of prejudice and bad behaviour directed at women. Raja Ram Mohan Roy was a big supporter of western education. Raja Ram Mohan Roy grew in popularity as a result of his efforts to abolish Sati. Lord William Bentick, the then Governor General of British India, passed the famous Regulation XVII in 1829, which declared Sati to be illegal and penalised by the courts, thanks to active persuasion of Raja Ram Mohan Roy. By this regulation burning or burying alive of Hindu widow declared as illegal and punishable by criminal Courts.

The Hindu Women's Right to Property Act, 1937

Prior to 1937, there were no written laws dealing explicitly with Hindu women's property rights, and any conflicts were resolved according to customary traditions. The Hindu Women's Right to Property Act was passed in 1937 in response to widespread dissatisfaction with the state of women's rights. This Act was a breath of fresh air for supporters of female emancipation in the dominant socio-legal climate of the time. "A Hindu man's widow, his widowed daughter in law, and his widowed granddaughter in law are entitled to inherit from his estate, not only in failure of but also in addition to his male issues," according to the Act. In a Hindu coparcenary, the widow inherits her husband's claim regardless of whether or not there are male heirs. As a result, his collaterals' right of survivorship is nullified. However, the widow's claim is limited, and it is because of this limited stake that it is referred to as a Hindu woman's estate. It is a common misconception that a widow has a life interest in the estate she

receives. The Hindu Mitakshara law does not calculate the value of an estate in terms of time, but rather on the basis of its use. As long as she is not guilty of wilful waste, a Hindu widow in possession of the inheritance is entitled to entire beneficial enjoyment and is liable to no one. The uniqueness of this estate is that, upon the widow's death, the estate passes to the heirs of the last male owner or, in the case of stridhan property, the last full female owner, whichever is the case. The widow is unable to become "new stock of descent."²

Rights Conferred by the Constitution of India to Women

Women are equally entitled to the ideals set in the Constitution which is reflected in the preamble to the Constitution these are justice, social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and opportunity and to promote among them all Fraternity assuring dignity of the individual.³ There is long history of suppression of women so certain general as well as specific provisions has been made for upliftment of the status of the women. Gender equality in a society must be enjoyed by both women and men with respect to opportunities, rights and obligations in different spheres of life, equality in decision making, economic and social freedom, equal right to education and right to practice an occupation of one's choice. In order to promote gender equality, we need the empowerment of women, and concentrate on areas which are most crucial to her well-being and for the growth and evolution of any nation. The Constitution contains a set of fundamental principles which governs our rights and lays down the structure by which we are governed. Dr. B.R. Ambedkar is referred to as the Father of the Indian Constitution as he headed the Constituent Assembly and played an important part in including individual and political rights against the state as well as group rights and socio-cultural rights of the vulnerable or the marginalized section. Within the territory of India, Article 14 guarantees everyone the right to equality before the law or equal protection under the law. The first expression, 'equality before the law,' is a proclamation of equality of all persons within the territory of India, meaning the lack of any special privilege in favour of any individual. It is derived from English Common Law. The second statement, 'equal protection of the laws,' is the substance and core of the right to equality, under which the State is required to take all necessary means to ensure that every individual, man or woman, is accorded the respect to which he or she is entitled as a human being.

Even though Article 14 allows for reasonable classification, classification based on sex is not permitted. In the case of *AIR India v. NergeshMeerza*⁴, the Supreme Court held that while the fixation of different retirement ages for male and female employees and the provision prohibiting female employees from having children does not suffer from any irregularity or arbitrariness, the retirement of air hostesses in the event of marriage occurring within four years of service does, but the retirement of air hostesses on first pregnancy is unconscionable. Such a provision was thought to be heartless, cruel, and an affront to Indian womanhood. As a result, such a limitation undermines the Constitution's and judicial system's cornerstone of equal protection of the law and opportunity.

Article 14 has also been used to justify the payment of equal pay for equal effort. It is impossible to justify unequal remuneration for materially equal effort on the basis of a fictitious distinction between the two types of job and employment. The issue in *Mackinnon Mackenzie and Co. Ltd. v. Andrey (D) Casta*⁵ was whether or not equal remuneration for equal work should be required. Their Lordships found that discrimination existed when female stenographers and male stenographers were not paid equally, and that no settlement could remedy the issue. Their Lordships further stated the opinion that discrimination between male and female stenographers was solely based on sex, and that because this was not acceptable, the employer was obligated to give the same payment to both when they were performing almost similar work. The Chotanagpur Tenancy Act, 1908 was challenged in *Madhu Kishwar v. State of Bihar*⁶ on the grounds that it denied scheduled tribe women the right to succession to tenancy lands, therefore violating Articles 14, 15 and 21 of the Constitution. By accepting the petition, the Supreme Court overturned the Act's discriminatory clauses, paving the way for indigenous women to have equal access to tenancy lands as men.

While article 15(1) prohibits discrimination on the basis of religion, race, caste, sex, or birthplace, article 15(3) allows the state to make special provisions for women and children. The state is not prohibited from establishing

² **Ayushi Singhal**, 'The Right to Property of Hindu Women', online web: <https://www.lawctopus.com/academike/right-property-hindu-women/>, visited on October 20, 2021.

³ The Preamble to the Constitution of India 1949.

⁴ AIR 1981 SC 1829

⁵ AIR 1987 SC 1281.

⁶ AIR 1996 SC 1864.

"special provisions" for women and children under Article 15(3). Articles 15(1) and 15(2) prohibit the state from enacting discriminatory legislation based only on gender. As a result, the Constitution is founded on the principle of gender equality. The Constitution demands equality of status, yet it forbids gender discrimination. Nonetheless, despite Article 15(1), the state is authorised to make any specific provision for women under Article 15(3). Articles 15 and 16 do not bar women from receiving preferential treatment. Article 15(3) recognises that women in India have been socially and economically disadvantaged for generations, and as a result, they are unable to fully engage in the nation's socio-economic activities on an equal footing. The goal of Article 15(3) is to eradicate women's socio-economic inequity and empower them in such a way that effective equality between men and women is achieved. The goal of 15(3) is to strengthen and improve women's standing.

Article 16(2) expressly prohibits any discrimination on the basis of sex, among other factors, in government employment. Despite the fact that art 16 does not contain any explicit provisions for women, the Supreme Court concluded in *State of AP v. P B Vijayakumar* AIR 1995 that a regulation 22A introduced by the AP government that provided precedence to women over men was legal. The Supreme Court concluded that a particular provision in Art 16 is unnecessary because one can be made under Art 15(3). It went on to say that art 15(3) is a recognition of the fact that women in this country have been socially and economically disadvantaged for generations. As a result, they are unable to engage on an equal footing in the country's socioeconomic development.

It was contended that under Art. 16(2), reservation of posts or appointments for any backward class is acceptable, but not for women, and thus no reservation may be granted in favour of women because it would constitute to sex discrimination in public employment, which would be a violation of Art. 16(2). The Supreme Court rejected this argument, ruling that posts can be reserved for women under Art 15(3) because it is substantially broader in scope and covers all governmental activities. While Art.15(1) prevents the government from discriminating solely on the basis of gender, Art.15(3) allows the government to establish special arrangements for women.

The link between Articles 15 and 16 has been explained by the Supreme Court as follows. Article 15 deals with all forms of government action involving Indian residents. Article 15(1) regulates every aspect of governmental activity, hence there is no reason to exclude work under the state from the scope of Article 15(1). Special provisions for women are allowed under Article 15(3). Art 15(1) and 15(3) go hand in hand. In addition to Article 15(1), Art. 16(1) imposes further restrictions on a specific sector of governmental activity, namely, state employment. These are in addition to the prohibition grounds listed in Art 15(1), which are also covered by Art 16. (2).

The constitutional validity of Rule 8(2) of the Indian Foreign Service (Conduct and Discipline) Rules, 1961, and Rule 18 (4) of the Indian Foreign Service (Recruitment, Cadre, Seniority, and Promotion) Rules, 1961 were challenged before the Supreme Court in *Miss C. B. Muthamma, IFS v. Union of India and others.*⁷ Rule 8 (2), as amended, requires a woman member of the service to obtain written permission from the government before her marriage is solemnised, and a woman member of her service may be required to resign from the service at any time after the marriage if the government determines that her family and domestic commitments are likely to interfere with the due and efficient discharge of her duties as a member of the service.

Article 21 provides all men and women has a right to life and personal liberty as a fundamental right. Despite its negative language, Article 21 grants everyone the fundamental right to life and personal liberty, and it has been given a positive interpretation by the courts. Article 21 defines "life" as more than just the act of breathing. Considering recent global advances in the field of human rights, judicial rulings have played an increasingly important role in establishing an affirmative right to basic requirements of life under Article 21. The Supreme Court ruled in the case of *State of Maharashtra v. Madhukar Narayan Mandikar*⁸ that even a woman of easy virtue has the right to privacy, and that no one can breach her privacy at any time. This piece has also been used to advocate for the uplift and dignity of prostitutes. The Supreme Court has emphasised the importance of providing prostitutes with educational and training options in order to aid their rehabilitation.⁹ Sexual harassment at work is a breach of Article 21 of the Constitution, and as a result, the Supreme Court of India, in the case of *Vishaka v. State of Rajasthan*¹⁰, has issued extensive directions and rules on the matter, which must be followed by all employers, public and private.

⁷ AIR 1979 SC 1868.

⁸ AIR 1991 SC 207, 211

⁹ *Gaurav Jain v. Union of India*, AIR 1997 SC 3021.

¹⁰ AIR 1997 SC 3011.

Women have been physically, emotionally, and sexually humiliated, exploited, abused, and harassed for millennia in all sectors of life. Article 23 (1) of the Indian Constitution bans human trafficking, beggarism, and other types of forced labour to safeguard and protect women from exploitation. "Traffic in human beings" refers to the sale and purchase of human beings as slaves, as well as the illegal trafficking of women and children for immoral or other reasons. The Immoral Traffic (Prevention) Act, 1956¹¹ was passed by Parliament to combat the deep-rooted societal evil of prostitution and to give effect to this Article. This Act protects persons, both men and women, not only from the actions of the government, but also from the actions of private individuals, and places a positive obligation on the government to take all necessary steps to eliminate these immoral practices. The Supreme Court has also ruled that human trafficking includes devadasis, and that brothelkeepers should face swift and effective legal action.¹²

Under part-IV of the Constitution 'Welfare State,' is supposed to establish for this purpose they set particular social and economic goals for the Union and State governments to meet immediately while creating policy or implementing legislation. According to Article 39(a), the government must direct its policies toward ensuring that all citizens, men and women alike, have access to a sufficient means of subsistence. The State is required under Article 39(d) to direct its policies toward ensuring equal pay for equal labour for men and women.¹³ The major goal of this Article, which is supported by Articles 14 and 16, is to construct a welfare society and an equalitarian social order in the Indian Union. The Equal Remuneration Act of 1976, established by Parliament to give effect to this Article, allows for equal remuneration for men and women workers and prohibits discrimination on the basis of gender.

Furthermore, Article 39(e) aims to protect the health and strength of both men and women workers. Article 42 requires the government to establish measures for reasonable and humane working conditions, as well as maternity leave. The Workmen's Compensation Act of 1923, the Employees State Insurance Act of 1948, the Minimum Wages Act of 1948, the Maternity Benefit Act of 1961, the Payment of Bonus Act of 1965, and others are examples of legislation that advanced the goals of this article. The Supreme Court concluded in *Dattatraya v. State of Bombay*¹⁴ that legal provisions granting special maternity relief to women workers under Article 42 of the Constitution do not violate Article 15 of the Constitution (1).

Different personal laws have addressed and placed women on different levels when it comes to marriage, divorce, adoption, maintenance, and succession. People are being persuaded to change from one religion to another to benefit from those personal rules because of these differences. The Supreme Court's reliance on Article 44 in maintaining a Muslim divorcee's entitlement to maintenance under Section 125 of the Criminal Procedure Code has backfired, resulting in a separate statute of maintenance for Muslim female divorcee. Later, the Court reminded the State of its commitment under this Article and directed it to take adequate steps to implement it and report back to the Court on its progress. In *SarlaMundgal v. Union of India*¹⁵, a Hindu husband married under Hindu Law and then married a second time after converting to Islam. Article 51-A imposes obligations on citizens, but it should also be invoked by courts when considering cases and observed by the state when establishing statutes and enforcing laws.

Articles 243 D and 243 T of the Indian Constitution provide for the reservation of seats for women in Panchayats and Municipalities. With Articles 243, 243 A through 243 D and Articles 243 P, the 73rd and 74th Amendment Acts added Part IX and IX A to the Constitution. According to Article 243 D (3), "not less than one-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women, including the number of seats reserved for women belonging to the Scheduled Castes and Scheduled Tribes, and such seats may be allotted by rotation to different constituencies in a Panchayat." In every Municipality, Article 243 T (3) of the Constitution provides comparable rules for the reservation of seats for women in direct elections. As a result, 33 percent of seats will be reserved for female candidates in Panchayats and Municipalities.¹⁶ Various other Acts which protect and empower women includes The Employees State Insurance Act, 1948, The Plantation Labour Act, 1951,

¹¹ Formerly known as the Suppression of Immoral Traffic in Women and Girls Act, 1956.

¹² Vishal Jeet v. Union of India, AIR 1990 SC 1412.

¹³ Randhir Singh v. Union of India, AIR 1982 SC 879; Mackinnon Mackenzie and Co. Ltd. v. Andrey D'Kosta, AIR 1987 SC 1281.

¹⁴ AIR 1952 SC 181.

¹⁵ AIR 1995 SC 1531.

¹⁶ Mitra, Amrita, Affirmative Action for Women in Indian Constitution (August 15, 2012). Available at SSRN: <https://ssrn.com/abstract=2129663>.

The Family Courts Act, 1954, The Special Marriage Act, 1954, The Hindu Marriage Act, 1955, The Hindu Succession Act, 1956 with amendment in 2005, Immoral Traffic (Prevention) Act, 1956, The Maternity Benefit Act, 1961 (Amended in 1995), The Dowry Prohibition Act, 1961, The Medical Termination of Pregnancy Act, 1971, The Contract Labour (Regulation and Abolition) Act, 1976, The Equal Remuneration Act, 1976, The Prohibition of Child Marriage Act, 2006, The Criminal Law (Amendment) Act, 1983, The Factories (Amendment) Act, 1986, Indecent Representation of Women (Prohibition) Act, 1986, Commission of Sati (Prevention) Act, 1987 and The Protection of Women from Domestic Violence Act, 2005,

The Hindu Succession Act, 1956

The Hindu Succession Act, 1956 lays down a comprehensive and uniform system incorporating succession and inheritance of property and also deals with intestate or unwilled (testamentary) succession of property. Section 14 of this Act allows a Hindu woman's restricted interests to be converted into absolute rights. If she inherits property from her husband, she can sell it and the buyer will have total ownership, but before this Act, she could only sell it for family needs or to execute religious ceremonies for the benefit of her deceased spouse. Women's property has been defined in the broadest sense permissible under the legislation. The property includes both movable and immovable property acquired by a female through inheritance, partition, in lieu of maintenance, arrears of maintenance, gift from any person, relative or not, before or after marriage, or by her own skill, exertion, purchase or prescription, or in any other manner whatsoever, as well as any such property held by her as stridhanam immediately before the Act's commencement. Women were denied the right to property alienation prior to the passage of this statute.

While addressing the inherent gender discrimination in Mitakshara Coparcenary. Women should be treated equally in both the economic and social spheres, according to social justice. It is wrong to exclude daughters from participating in coparcenary property ownership only because of their gender. When a male Hindu dies after the beginning of the Hindu Succession Act 1956 and has an interest in a Mitakshara coparcenary property at the time of his death, his interest in the property devolves by survivorship to the surviving members of the coparcenary and not in accordance with this Act. If there are female relatives, such as a daughter, widow, mother, daughter of a predeceased son, daughter of a predeceased daughter, widow of a predeceased son, or widow of a predeceased son, the deceased co-parcenary will pass to his heirs by succession rather than through survivorship.

The Hindu Succession (Amendment) Act, 2005 amended Section 6 of the Hindu Succession Act, providing that in a joint Hindu family governed by Mitakshara law, the daughter of a coparcener shall (a) by birth become a coparcener in her own right in the same manner as the son; (b) have the same rights in the coparcenary property as she would have had if she had been a son; and (c) be subject to the same liabilities. Any property that a female Hindu acquires as a result of this Amendment Act 2005 is capable of being disposed of by her through testamentary disposition, i.e. through a Will. If a Hindu dies after the Amendment Act 2005 takes effect, his interest in the property of the joint Hindu family governed by the Mitakshara Law will pass through testamentary or intestate succession rather than survivorship, and the coparcenary property will be divided as if a partition had taken place. In terms of property rights in coparcenary property, there is no longer any distinction between son and daughter.

The Dowry Prohibition Act, 1961

The Dowry Prohibition Act was passed on July 1st, 1961. It prohibits the giving or receiving of Dowry. In legal term dowry is defined as property or valuable security given by either party to a marriage, or by the parents of either party, or by anybody else in connection with marriage. Furthermore, certain forms of violence against women linked to failing to meet dowry demands necessitated stronger bans than those already in place. As a result, amendments to the language of the Dowry Prohibition Act and other critical portions of the Indian Penal Code were introduced to protect female victims of dowry-related violence because of legislative campaigning. Despite these rules, dowry is still practiced in India today, and it can be found in many forms among various communities and socioeconomic classes.¹⁷

In India, the Dowry Prohibition Act of 1961 applies to persons of all religions. The Act's initial text merely barred dowry provided "in consideration of marriage," which was a narrow definition that left a wide range of dowry-related activities uncontrolled. The phrasing was changed in 1984 to prohibit dowry given "in connection with the marriage," in the hopes of covering a larger range of agreements. The original act was revised to include minimum

¹⁷Lodhia, Sharmila. "Dowry Prohibition Act." (2009).

and maximum penalties for providing and receiving dowry, as well as a punishment for demanding dowry or publicizing money or property offers in connection with a marriage. In 1983, the Indian Penal Code was amended to include specific offences of dowry-related cruelty, dowry death, and suicide abetment. to criminalize violence against women by their husbands or family.¹⁸

The Maternity Benefits Act, 1961

The Maternity Benefit Act of 1961 assists women in coping with the demands of motherhood. Section 5 of the legislation prohibits an employer from hiring a woman for six weeks after her delivery or miscarriage for any physically demanding or long-term employment that affects her pregnancy or the growth of her fetus or is likely to cause miscarriage or harm her health. A woman who has worked for 160 days or more is entitled to a maternity benefit of 26 weeks for up to two children and 12 weeks for more than two children under Section 5(3).¹⁹In the event that the entitled woman dies, Section 7 gives the legal representative or nominee the authority to receive maternity benefits. If the employer does not provide free pre-natal or post-natal care, Section 8 provides a maternity medical bonus of Rs. 3500/- in addition to the maternity payment.²⁰

On production of proof, Section 9 provides 6 weeks of leave for miscarriage or medical termination of pregnancy, and 2 weeks for women undergoing tubectomy the next day after miscarriage. Section 10 provides for an additional four weeks of maternity leave in the event of illness related to pregnancy, delivery, early birth, miscarriage, medical termination of pregnancy, or tubectomy operation with medical proof. Where 50 or more women are employed, Section 11A (1) mandates the installation of a crèche, and any woman who returns to work following the birth of her child must be entitled to visit the crèche four times during the day, including the customary rest period.²¹Section 12 prevents a woman from being fired or discharged if she skips work in compliance with the terms of this act.

The Indecent Representation of Women Act, 1986

The Indecent Representation of Women Act, 1986 is an act to prohibit indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner and for matters connected therewith or incidental thereto. The Act punishes "the depiction in any manner of the figure of a woman; her form or body or any part thereof in such a way as to have the effect of being obscene, insulting to, or demeaning women, or is likely to deprive, corrupt, or impair the public morality or morals." It stipulates that no one shall print, cause to be published, or participate in the publication or exhibition of any advertisement that contains indecent representations of women in any form. Any notice, circular, label, wrapper, or other document is considered an advertisement under the act, as is any visual representation presented by means of light, sound, smoke, or gas. The National Commission for Women proposes changing the definition of "advertisement" to include any notification, circular, label, poster, or package.

The Protection of Women from Domestic Violence Act, 2005

The Protection of Women from Domestic Violence Act of 2005 came into effect on October 26, 2006 promising civil remedies with criminal procedures to ensure effective protection and immediate relief to victims of violence of any kind occurring within the family. It provided access to a variety of remedies and offered clarity and simplicity in court procedures as a formal infrastructure available to victims of violence. There are five chapters and 37 provisions in the new Act. The phrase "domestic violence" has been enlarged under Section 3 to include all forms of physical, sexual, verbal, emotional, and financial abuse that can injure, cause injury to, or jeopardise the aggrieved person's health, safety, life, limb, or well-being, whether mental or physical. This broad definition appears to cover every scenario. The Act also applies to women who have shared a home with the abuser, regardless of whether they are related by blood, marriage, or adoption. It also applies to women who are in a relationship that is "in the nature

¹⁸ *Ibid.*

¹⁹ Noronha, S., & Aithal, P. Organizational Strategic Approach, towards Work Life Balance of Women in India. *IJMETS*, 2(1), (2017). 18-24

²⁰ Sonia Delrose Noronha, P.S. Aithal & M. D. Pradeep, "Study on the Policy Framework towards Work Life Balance in India," *International Journal of Multidisciplinary Research and Modern Education*, Volume 3, Issue 2, Page Number 2017, 11-16.

²¹ The Maternity Benefit (Amendment) Act, 2017, Ministry of Law and Justice, New Delhi, www.labour.gov.in on 28.09.2021.

of marriage."²²In other words, the term "aggrieved individual" has a broad definition yet is gender-specific. It includes not only the wife, but any woman who is the male's sexual partner, whether or not she is his legal wife. The Act also applies to the respondent's daughter, mother, sister, kid (male or female), widowed relative, and any other woman resident in the household who is related to the respondent in some way. According to section 2(q) of the Act, the respondent is "any adult male person who is, or has been, in a domestic relationship with the aggrieved person." A complaint may also be filed 'against a relative of the spouse or the male partner', according to the proviso to that sub-section, so that his mother, sister, and other relatives do not escape free. According to Section 4(1) of the 2005 Act, "any person who has cause to think that an act of domestic violence has been, is being, or is likely to be committed" may report an act or acts of domestic violence.²³

The Hindu Succession (Amendment) Act, 2005

The Hindu Succession (Amendment) Act, 2005 was passed to amend the Hindu Succession Act, 1956, to eliminate gender discriminating elements. According to the amendment, a coparcener's daughter, like his son, becomes a coparcener in her own right upon birth. However, the daughter will now have the same rights as that of a son in the coparcenary property (ancestral property of the Hindu undivided family). This amendment also repeals Section 23 of the Hindu Succession Act, which prevented a female heir from requesting division of a dwelling house that was entirely occupied by a joint family unless the male heirs agreed to divide their parts. The Act's Section 24, which prevented a widow from inheriting her husband's property if she remarried, has been repealed. This Act has resulted in a central amendment that applies to all state governments.

The Prohibition of Child Marriage Act, 2006

Child marriage, defined by UNICEF as marriage before the age of 18, affects more than 60 million women around the world. The practice has becoming widely recognized as a violation of human rights and has declined globally during the last 20 years. Despite this, child marriage is still common in South Asia, where it accounts for more than half of all child marriages.²⁴The Child Marriage Prohibition Act of 2006 prohibits the marriage of minors. The Act makes it easier to prevent child marriages by imposing harsher penalties such as two years in prison and/or a fine of INR 1 lakh. A child is defined as a male under the age of 21 and a female under the age of 18. In India, Muslim law is not codified. As a result, its regulations are dependent on academics' interpretations of the Quran. Child marriage is not prohibited under Islamic law. A guardian has the legal authority to marry a kid. The couple does, however, have the 'option of puberty' known as khayar-ul-bulugh, which allows them to repudiate the marriage once they reach puberty. They must, however, do so before reaching the age of 18 and only if the marriage has not yet been completed. Under Muslim law, marriage begins at the age of puberty, which is 15 years old. Marriage before the age of seven, even if contracted by a legal guardian, is void from the start.²⁵The prevalence of child marriage, as well as its link to high fertility and poor fertility control—factors connected to a slew of negative mother and child health outcomes—suggests the urgent need for more family-planning interventions targeted at married adolescents.

The Protection of Women Child under POCSO Act, 2012

To effectively address the heinous crimes of sexual abuse and sexual exploitation of children through less ambiguous and more stringent legal provisions, the Ministry of Women and Child Development has introduced a new Act to better effectively combat horrific sexual crimes and offences committed against children. The Indian Parliament passed the Protection of Children from Sexual Offences (POCSO) Act, 2012. This Act is a series of legislation designed to protect children against sexual abuse, pornography, and harassment. This Act also provides children with a more straightforward yet effective judicial procedure as well as child-friendly mechanisms for reporting, investigating, and gathering evidence, among other things. The Act also establishes special courts to hear such cases.

²² P.K. Das, *Universal's Handbook on Protection of Women from Domestic Violence Act & Rules*, Third edition. (2009) New Delhi: Universal.

²³ Bhatia, Manjeet. "Domestic violence in India: Cases under the protection of women from domestic violence act, 2005." *South Asia Research* 32, no. 2 (2012): 103-122.

²⁴ UNICEF. Progress for children: a world fit for children statistical review. Protecting against abuse, exploitation and violence: child marriage. http://www.unicef.org/progressforchildren/2007n6/index_41848.htm (accessed on September 13, 2021)

²⁵ <https://blog.ipleaders.in/laws-child-marriage-india/> (accessed on September 14, 2021).

The Criminal Law Amendment 2013: Sexual Offences

This amendment in criminal law was brought in backdrop of a 23-year-old female physiotherapy intern who was attacked and gang raped in a private bus in which she was travelling with a male acquaintance on December 16, 2012 in Munirka, a neighbourhood located in the southern portion of New Delhi resulting in the death of the victim. The episode received enormous national and international attention, as well as strong condemnation, both in India and beyond. Following that, public protests in New Delhi against the Indian government and the Delhi government for failing to provide proper security to women, with thousands of protestors clashing with security personnel.²⁶ The Act recognizes the wide spectrum of sexual crimes to which women may be subjected, as well as the various forms of gender discrimination. It also recognizes that minor breaches of bodily integrity frequently evolve into more serious offences. It aims to regard situations as the "rarest of the rare," with judges having the authority to impose capital punishment if they so choose. The Act defines and broadens the definition of sexual assault or rape committed as a result of a breach of trust. According to the Act, police officers would be fined if they fail to file FIRs, making it simpler for rape victims to submit their cases. Following amendments were made in existing criminal law relating to the protection of women.

Section 354A – Sexual harassment has been made a gender-neutral offence, whereas previously, a man who makes unwanted sexual advances, forcefully shows pornography, or demands/requests sexual favours from a woman committed the offence of sexual harassment simpliciter, which is punishable by up to three years in prison. Making sexually tinged remarks is also considered sexual harassment, which is punishable by up to a year in prison.

Section 354B - If a man assaults or uses criminal force against a woman, or aids or abets such an act with the goal of disrobing or compelling her to remain naked in a public place, he commits an offence under section 354B, which carries a sentence of three to seven years in prison.

Section 354C - Any man who views or takes the image of a woman engaged in a private act in circumstances where she would normally expect not to be viewed either by the perpetrator or by any other person at the perpetrator's command, and then disseminates such image is guilty. Such a person is liable under Section 354C.

Section 354D — Under this new section, stalking has been designated as a specific offence. If a male stalks a woman, he could face a sentence of up to three years in jail for the first offence and up to five years for consecutive offences. However, there are some exceptions, such as if a person can establish that the actions were taken in accordance with the law, were reasonable, or were necessary to avoid a crime.

The 2013 Act broadens the definition of rape to include oral sex and the insertion of an item or other bodily part into a woman's vagina, urethra, or anus. Rape carries a minimum sentence of seven years in jail and a maximum sentence of life in prison. If a police officer, medical officer, army member, jail officer, public officer, or public servant commits rape, he faces a minimum sentence of ten years in prison. If the victim dies or goes into a vegetative state as a result of the rape, the victim is sentenced to life in prison, with the possibility of death. Under the newly revised clauses, gang rape now carries a minimum sentence of 20 years in prison. The new amendment clarifies that "consent" is an unequivocal agreement to engage in a specific sexual act; it also clarifies that "consent" does not entail "no resistance." Non-consent is a crucial component in the commission of rape. As a result, the notion of consent is crucial to the outcome of a rape trial, and it has been used to humiliate and discredit rape victims.

The Criminal Amendment Act, 2018

It was passed by the legislature on July 30, 2018 to prohibit violence against young girls who are raped at such a young age and are either killed or forced to lose their limbs if that is not enough. According to sub-clause 1A of the newly updated Section 173 of the Criminal Procedure Code, 1973, an inquiry into a child's sexual assault must be completed within two months. Section 309, on the other hand, has been revised to require that the inquiry or prosecution be completed within two months, although the condition is "as long as possible."

If the accused is already in judicial custody rather than seeking bail under section 439, a bail notice shall be required to be issued to the public prosecutor within 15 days if the offense falls within the scope of section 376, 376 DA, 376 DB and the presence of the informant or the person authorized by him is also mandatory. The reforms found in

²⁶ "What happened on the night of 16th December 2012?" available on <http://ibnlive.in.com/news/delhi-gangrape-what-happened-on-the-night-of-december-16-2012/420729-3-244.html>; (accessed on September 15, 2021).

Indian Penal Code 1860 reintroduced a list of new offences in which the victim is again a female human being and the accused is a male and is: -

- 1) Section 376AB- punishment of rape against a woman under 12 years of age — not less than 20 years of life or death and fine
- 2) Section 376 DA- gang rape of a woman under 16 years of age — life and fine
- 3) Section 376 DB- gang rape.²⁷

Conclusion:-

Although women's rights are one of the most serious concerns in the world today, especially in the socio-political milieu of India, the number games depict a rather gloomy picture. Globally, women make up only approximately 9% of corporate board memberships. Women's share of wages of paid employment worldwide is 41%. Although 117 countries have equal pay law, in many cases women are still paid up to 30% less than men for similar work. Women do most of the informal or un-monetized work in all regions representing only 50.5% of the 1.52 billion workers in vulnerable employment, often lacking legal and economic protection. About 70% of people in poverty are women, most of them in rural areas. While representing a large share of the agricultural workforce, women farmers benefit from only 5% of agricultural extension services. Microcredit institutions report that in 1999–2010, the number of poor women reached has increased from 10.3 million to 113.1 million, representing 82% of microloans. Despite important gains, the UNESCO reports that in 2010 the basic literacy rate for young females was 87%, compared with 92% for young males. Although maternal mortality decreased 47% over the past two decades, in 2010 about 287,000 women died of pregnancy-related complications. In other words thus, women's empowerment faces several massive challenges across the globe generally and in India more specifically. These challenges can be contended if women's conditions are considered imperative in the society. A series of legislations has been passed to ameliorate the condition of women. The condition of women and protection has been increased now days. By way of various penal provisions protection of women has been secured. By enabling provisions such as property rights to women, succession rights and reservation in Panchayat's women are empowered to some extent. Certainly, the efforts made by the government is admirable. But no efforts taken by the government would be productive unless and until there is an active participation of public. No legislations and no rules will be required if we start appreciating other people's right and women would be feeling empowered the day she starts receiving her existence and human treatment i.e., the right to live freely and in the safe environment.

²⁷ParulYadav and Dr.KomalVig."Criminal Law (Amendment) Act, 2018-A Critical Evaluation."Availableat:https://ijrar.com/upload_issue/ijrar_issue_1538.pdf, (Accessed on September 20,2021).