

Protection of Indian Women through Criminal Laws

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Abstract – In ancient India, women had equal standing with males in all spheres of life. According to Rigvedic lyrics, women married at a mature age and were likely allowed to choose their own spouses. During the early Vedic period, women had equal position and rights. However, after 500 B.C., the position of women began to deteriorate, and the Islamic invasion of Babur and the Mughal empire, as well as Christianity, eventually harmed women's independence and rights. Although reform groups such as Jainism enabled women to join monastic organisations, women in India were generally confined and restricted. The practise of child marriage is said to have begun in the sixth century.[1] The Bhakti movements sought to restore women's position and challenged various types of tyranny. Some cultures' traditions, such as Sati, Jauhar, and Devadasi, have been outlawed and are practically extinct in modern India. However, some of these behaviours may still be seen in isolated areas of India. In some areas, Indian women still practise the purdah. Child marriage is still frequent in rural regions, despite the fact that it is banned under current Indian legislation.[2]

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During the British Raj, numerous reformers worked for the advancement of women, including Ram Mohan Roy, Ishwar Chandra Vidyasagar, and Jyotirao Phule. The Indian National Congress backed the first women's delegation to meet with the Secretary of State in 1917 to seek women's political rights. The All India Women's Education Conference was organised in Pune in 1927, and it quickly became a key organisation in the social reform movement.[3] The Child Marriage Restraint Act was established in 1929, establishing fourteen as the minimum age for a girl to marry. Despite the fact that Mahatma Gandhi married at the age of thirteen, he subsequently pushed people to reject child weddings and encouraged young men to marry child widows.[4]

Women are now completely participating in fields such as education, sports, politics, media, art and culture, service sectors, science and technology, and so on in India. Indira Gandhi is the world's longest-serving female Prime Minister, having served as Prime Minister of India for a total of fifteen years. The Indian Constitution not only guarantees women's equality, but also authorises the state to use measures of positive discrimination in their favour in order to offset the accumulated socioeconomic, educational, and political disadvantages they suffer. Among other things, Fundamental Rights promote

equality before the law and equal protection under the law; forbids discrimination against any citizen on the basis of religion, race, caste, sex, or place of birth; and guarantees equal job opportunities to all people.[5]

A. Laws related to women under Indian Penal Code :-

(i) Rape —

A rapist, shall be punished with rigorous imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life, and shall also be liable to fine.

In **Union of India v. V. Sriharan**[6], held that there is no statutory provision prescribing the extent of punishment provided in the IPC and that, the Court has not carved out a new punishment. The bench has noted that life imprisonment means imprisonment for the rest of the life. The bench also pointed out various case laws that provide that under IPC imprisonment for life is equivalent to 'imprisonment for the remaining life of the convict'. Thus, the bench found out no advantage in the argument that challenged the creation of a new category of punishment. With respect to the

argument concerning the absence of any mechanism to execute such a kind of sentence, the court observed that Section 428 of CRPC will be dealing with the execution of punishment laid down in Section 376-E of the IPC. The bench provided that the term imprisonment for life in Section 376-E in CRPC is same as imprisonment for the remainder of one's natural life. Thus, the bench found no issue regarding the execution of Section 376-E and didn't find said section to be violative of Article 21 of the Constitution.

- (ii) **Kidnapping & Abduction for different purposes** : Kidnapping means taking away a person against his/her will by force, threat or deceit. Usually, the purpose of kidnapping is to get a ransom, or for some political or other purposes etc. Kidnapping is classified into two categories in Section 359 of the Indian Penal Code and defined in Section 360 and 361 of the Indian Penal Code.

Any person who is abducting a minor for purpose of begging or kidnapping minor/women for prostitution or illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine. As per Section 359 of the Indian Penal Code, Kidnapping is of two types:

- Kidnapping from India,
- Kidnapping from lawful guardianship.

- (iii) **Homicide for Dowry, Dowry Deaths or their attempts**: Where the death of a women is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or harassment by her in laws or husband, for or in connection with, any demand of dowry, such death shall be called —dowry deathll. Whoever commits dowry death shall be punished with imprisonment of either description for a term which shall not be less than seven years, but which may extend to imprisonment for life.[7]

- (iv) **Torture, both mental and physical**: Husband or relative of husband of a women subjecting her to cruelty, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.[8]

- (v) **Molestation**: Whoever assaults or uses criminal force to any women, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with imprisonment of either

description for a term which may extend to five years, and shall also be liable to fine.[9]

- (vi) **Sexual Harassment**: Whoever, intending to insult the modesty of a woman, utters any word, makes any sound or gesture, or exhibits any object, intending that such gestures or object shall be seen, by such woman, or intrudes upon the privacy of such woman, shall be punished with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine.[10]

B. Special Criminal Laws

Although not all laws are gender specific, the elements of legislation that have a substantial impact on women have been evaluated on a regular basis and amended to keep up with evolving requirements. Some acts that include particular provisions to protect women and their interests are as follows:

- (i) **The Dowry Prohibition Act of 1961** forbids the demand, payment, or acceptance of a dowry "as consideration for the marriage," with "dowry" defined as a gift demanded or provided as a prerequisite for marriage. Gifts provided without a precondition are not considered dowry and are thus permissible, according to Section 3. (2). Dowry-seeking or dowry-giving is punishable by imprisonment for up to six months, a fine of up to Rs. 15000 or the amount of dowry (whichever is more), or imprisonment for up to five years. It superseded many pieces of anti-dowry laws issued by several Indian states.

- (ii) **The Immoral Traffic (Suppression) Act (SITA) (1956)** is the key piece of legislation governing the legal status of sex workers. Prostitutes can practise their profession privately but cannot lawfully solicit consumers in public, according to this legislation. Organized prostitution (brothels, prostitution rings, pimping, and so on) is prohibited. A woman can utilise her body for monetary gain as long as it is done individually and willingly. The legislation specifically prohibits a sex worker from working within 200 yards of a public location. Unlike other occupations, sex workers are not protected under standard labour regulations, although they do have the right to rescue and rehabilitation if they so wish, as well as all other citizens' rights.

- (iii) **The Protection of Women from Domestic Abuse Act 2005** is an Act

passed by the Indian Parliament to protect women from domestic violence. The legislation is primarily intended to protect the wife or female live-in partner from domestic abuse at the hands of the husband or male live-in partner or his family, but it also protects women living in a home such as sisters, widows, or mothers. Domestic violence, as defined under the act, includes real or threatened physical, sexual, verbal, emotional, or economic abuse. Harassment of the lady or her family through illicit dowry demands is also included in this description.

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 is an Act to protect women from sexual harassment at their work place. The Act would ensure that women are protected from sexual harassment in all workplaces, public and private. This will help to realise their right to gender equality, to life and liberty, and to equitable working conditions worldwide. A sense of security at work will increase women's involvement in the labour force, resulting in economic empowerment and inclusive growth. Employers and local governments would be required to set up grievance committees to investigate all complaints under the Act, which also applies to students in schools and colleges as well as patients in hospitals. Employers that do not comply may face a punishment of up to 50,000 rupees.

CONCLUSION

Thus our laws, development strategies, plans, and programmes have all attempted to progress women in many domains within the framework of a democratic democracy. The approach to women's affairs has shifted from welfare to development since the Fifth Five Year Plan (1974-78). In recent years, women's empowerment has been identified as a critical factor in establishing women's status. The National Commission for Women was established by an Act of Parliament in 1990 to protect women's rights and legal entitlements. However, there is still a significant disparity between the aspirations enshrined in the Constitution, laws, policies, plans, programmes, and associated procedures on the one hand, and the actual reality of women's position in India on the other.

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