



RIGHTS OF WOMEN IN LAW

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Abstract: “Shathamnam Bhavathi” – which means a blessing given by elders in Sanskrit, “let you live for hundred years, i.e. a full span of life. To begin with the right to life in Art.21 would include livelihood. Right to health and medical right is fundamental right which merges in Art.21 by way of delivering Supreme Court Judgements in various landmark cases. The Supreme Court has emphasized that a healthy body is the very foundation of all human activities. Art.47, a Directive Principle, lays stress on improvement of public health and prohibition of drugs injurious to health as one of the primary duties of the state. The professional obligation of all doctors, whether government or private, to extend medical aid to the injured immediately to preserve life without waiting legal formalities to be complied with by the police under Cr.P.C. Art.21 of the constitution casts the obligation on the state to preserve life. It is the obligation of those who are in charge of the health of the community to preserve life so that the innocent may be punished. Social laws do not contemplate death by negligence which amounts legal punishment. No law or state action can intervene to delay the discharge of this paramount obligation of the members of the medical profession. The right to health and medical care is a fundamental right under Art.21 of the workman meaningful and purposeful with dignity of person. Right to life in Art.21 does not connote mere animal existence. It has a much wider meaning which includes right to livelihood, better standard of life, hygienic conditions in works place and leisure. A close look at the text of the constitution that the right to health has not been directly incorporates as a fundamental right. Therefore some legislations made for the protection of environment which leads to live in a healthy environment. Some Directive principles of state policy i.e. Art.39 which speaks about the protection of health of workers and Art.41 to providing public assistance by the state in special circumstances such as sickness, disability, oblage etc. Art.42 protects the health of the infant and the mothers, i.e. in a way, it pertains to maternity benefit. For the very reason of Directive Principles holding only persuasive value, the state used this is a weapon to escape. Therefore rescue and brought the right under the purview of Art.21. The scope of Art.21 has, thus been widened, it ensures right to health and medical care along with right to life.

Introduction:

“Human Rights are Women’s Rights and Women’s Rights are Human Rights, one and for all”- Hillary Clinton. Every day, in every country in the world women are fighting for their rights they are confronted by discrimination and inequality. There are so many slokas in

Manu script praises women for example “Yatra naryastu pujanya tathra ramanthe devatha” which means where the women are respected their the God’s reside. Generally the rights of women we can classified into two types namely constitutional rights and legal rights. The Indian Constitution has embodied within



itself grounds for gender equality but some Articles provided for the protection of women rights and welfare of the women and children. For example under Art.15(1), 15(3), Art.16(2), Art.23(1), Art.39(a), 39(b), 39(e), Art.42, these are few examples of women's rights under the Constitution of India. Some legislation are under the protection of women rights that is legal rights. For example Protection of Women from Domestic Violence Act 2005, Immoral Traffic (Prevention) Act 1956, Dowry Prohibition Act 1961, Equal Remuneration Act 1976, Indian Penal Code 1860, Hindu Marriage Act 1955, National Commission For Women Act 1990, are few examples of legal rights of women which are by the way of new laws made by the Parliament. In the present scenario women enjoyed equal status and rights with men in all fields of life, they were educated, they are participating politics Military, Navy, Air Force and what not. Women enjoyed complete freedom in household matters, in the religious fields, women are today are empowered, self-consciousness. As Jawaharlal Nehru said that "You can tell the condition of the Nation by looking at the status of its women". But some incidents like Nirbhaya and Disha seems to be horrible fact of how more protection is need for the women from sexual violence, that's why so many legislation takes place to protect women rights at any age.

A detailed Analysis:

Art.15(3) recognises the fact that the women in India have been socially and economically handicapped to centuries and as a result there of, they can't fully participate in the socio-economic Art.15(3) recognises the fact that the women in India have been socially and economically handicapped to

centuries and as a result there of, they can't fully participate in the socio-economic activities of the nation on a footing of equality. The purpose of Art.15(3) is to eliminate socio-economic backwardness of women and to empower them in such a manner as to bring about effective equality between men and women.¹ The scope of Art 15(3) is wide enough to cover the entire range of state activity including that of employment. Art.15(3) is a special provision in the nature of a proviso qualifying the general guarantees contained in Art.14, 15(1), 15(2), 16(1) and 16(2). A doubt has been raised whether Art. 15(3) saves any such a provision as is in their favour.² The better view would appear to be that while the state can make laws containing special provisions for women & children. Sex is a sound classification and although there can be no discrimination in general on that ground the constitution itself provides for special provisions in the case of women and children by 15(3) and Art.14, Art.15 thus read together validate the last sentence of Sec. 497 of I.P.C., which prohibits the women from being punished as an abettor of the offence of adultery.³ Art.16(2) – According to this Article, No citizen on grounds only of religion, race caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect or any employment or office under the state. Art.19 states as follows which include both women, men, men & third gender, the right to freedom, which among other things guarantees freedom

¹ Directive Principles, Ch. XXXIV, Safeguards to Minorities, Pg.992 of M.P. Jain Indian Constitutional Law

² Mukharji J. In Mahadeb V. Dr. Sen AIR 1951 Cal 563.

³ Yusuf Abdul Aziz V. State of Maharastra AIR 1954 SC 321



of speech & expression, freedom of movement, freedom of practicing trade and profession etc. These various freedoms are necessary not only to promote certain basic rights of citizens men and women and all. Art.19 guarantees some of the basic valued and natural rights inherent in a person.⁴

Art.21 states as follows: “No person except according to the procedure established by law shall be deprived of his life (or) personal liberty. Fundamental right under Art.21 of the object personal liberty except according to the procedure established by law is to prevent encroachment on and loss of life” – anyone, including women, can seek protection under this Article. There is no doubt that a women’s right to make reproductive choices is also dimension of ‘personal liberty’ as understood under Art.21 of the Constitution of India. It is important to recognize that reproductive choices can be exercised to procreate as well as to abstain from procreating. The crucial consideration is that a woman’s right to privacy dignity and bodily integrity should be respected.⁵ Art.32 of the constitution provides remedies, where any of the fundamental right is violated. A Right without remedy does not have much substance. The Fundamental Rights guaranteed by this constitution would have been worth nothing had the constitution not provided an effective mechanism for their enforcement. Right to access to the Supreme Court under Art.32 is a Fundamental Right itself.⁶ Art.32 (1) provided a very important

safeguard for the protection of the Fundamental Rights of the citizens of India. Art.32 provides a guaranteed, quick and summary remedy for enforcing the Fundamental Rights because a person can go straight to the Supreme Court without having undergo the dilatory process of proceeding from the lower to the higher court as she has to do in other ordinary litigation.

Art. 43D provides that in every Panchayats seats shall be reserved for the scheduled castes and schedule tribes. The number of seats so reserved shall be, as nearly as may be, in the same proportion to the total number of seats to be filled by direct election in that panchayat, as the population of SC’s and ST’s in that panchayat area bears to the total population of that area and such seats may be allotted by rotation to different constituencies in a panchayat. Art. 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. Art.243-D(4) one-third of the total number of offices of chairpersons in the panchayats at each level shall be reserved for women. As per Art. 243-T(3) one third of total member of seats to be filled by direct election in every Municipality shall be reserved for women. Art.243-T (4) offices of chairpersons in Municipalities shall be reserved for women in such manner as the state Legislature may provide along with constitutional safeguards.

Some legal rights are for women under legislations (Laws) made by the Parliament of India. Let us discuss about those.1. The Immoral Traffic (Prevention) Act, 1906 – In 1950 the Government of India ratified an International convention for the suppression of Immoral Traffic in persons and the Exploitation of the

⁴ Manekha Gandhi V. Union of India, AIR 1978 SC 597

⁵ Suchita Srivastava V. Chandigarh Administration (2009 9 SCC 1

⁶ Bodhisattwa V. Subhra Chakraborti, AIR 1996 SC 922.



Prostitution of others. Under Art.23 of the Constitution, traffic in human beings is prohibition is an offence punishable by law. Under Art.85 such a law has to be passed by parliament i.e. Immoral traffic Act – 1956 to rescue of women and girls, starting protective Homes, punishment to detaining a women or a girl in premises where prostitution is carried on.⁷ 2. Code of criminal procedures – 1973 – generally it is procedural law in this code provides compensation for women victims i.e. under Sec. 357B – Compensation payable by the State Government in addition to the payment to the victim of acid attack u/e 326 of I.P.C., and u/s/ 376 AB & 376D, 376DA, 376DB of I.P.C. And also this code provides treatment of victims u/s 357 of Cr. P.C.⁸ And indecent – representation of women (Prohibition) Act-1986 – A few provisions of the IPC deal with the law relating to obscenity. They are Sec.292, 293, 294 in respect of obscene books, obscene objects, obscene acts and songs. Specially publications and advertisements etc. Indecent representation of women or references to women started affecting the morality of the society and had the effect of denigrating women.⁹ Dowry Prohibition Act, 1961 – The evil of dowry system has been a matter of serious concern to everyone in view of its ever – increasing and disturbing proportions. This Act have been made to eradicate evil of dowry. The minimum punishment for taking or abetting dowry is punishable under this Act. It prohibits the giving and taking of dowry at or before or any

time after the marriage from women.¹⁰ Maternity Benefit Act, 1861 – This Act ensures that women working in establishments for decided time both before or after the child birth are entitled to maternity and other benefits. Medical Termination of Pregnancy Act, 1971 the termination of certain cases of pregnancies by registered doctors on humanitarian and medical grounds.¹¹

Equal Remuneration Act, 1976 – prevents discrimination in terms of remuneration. It provides to payment of equal recompense to men and women workers. It is necessary to know these and other laws in place to protect the interests of women. Only if you are aware of your rights can you fight against any injustice meted out to you at home, at the workplace, or in the society.¹² Special Marriage Act, 1954 the objectives of this act is to provide a special form of marriage in certain cases, provide for registration of certain marriages and, to provide for divorce. In a country like India and with the diverse religions and cast, when people from different faiths and caste chose to get married they do it under the Special Marriage Act. Indian Divorce Act – 1969. It allows the dissolution of marriage, judicial separation and restitution of conjugal rights. Family Courts are established to file, hear, and dispose of such cases.¹³ National Commission for Women Act – 1990 – It is statutory body of the Government of India, established in January, 1992. The National Commission for Women represents the rights of Women in India and provides a

⁷ Pg. No:147 of Padala Rama Reddy Public Prosecutors exam material.

⁸ Criminal Major Acts by Padala Rama Reddy, pg No:264

⁹ Pg Nos 121 of Prosecuting Officer's Course Material – Padala Rama Reddy

¹⁰ The Dowry Prohibition Act – 1962 (bare act of Asia Law House Publications)

¹¹ Salient features – Maternity Benefit Act (Bare Act).

¹² www. Googleshare.adm



voice for their issues and concerns. The National Commission for Women aims to improve the status of women and worked for their economic empowerment.¹³ The Prohibition of child Marriage Act, 2006 – According to the International Research Centre for Women, almost 47 percent of girls are marriage before the age of 18. Currently, India ranks 13 in the world when it comes to child marriages. Since child marriage has been steeped into the Indian Culture and tradition since centuries, it has been taught eliminating it. The Prohibition of Child Marriage Act was made effective in 2007. This act defines child marriage as a marriage where the groom or the bride are underage, that is, the bride is under 18 years of age or the boy is younger than 21 years. Parents trying to marry underage girls are subject to action under this law. Since the law makes these marriage illegal, it acts as a mayor deterrent.¹⁴ Domestic Violence Act – 2005 – the nature of protection given to women, subconsciously takes varied forms that range from simple admonishing to other complex control mechanism, such as emotional and physical abuse battering or material rape, such as a control then liberty as persons relegates them slowly to a subordinate position, which manifests itself to the existing the unequal power relation between genders, within and outside the home. The death of 18 lakh girl children in India in past two decades have for the first time been linked domestic violence against their mothers.¹⁵ This Act acts effectively to eradicate

domestic violence. Sexual Harassment of Women at work place (Prevention, Prohibition and Redressal) Act, 2013 – To ensure women’s safety at workplace, this Act seeks to protect them from sexual harassment at their place of work, it also includes the use of language with sexual overtones, invasion of private space with male colleagues hovering too close for comfort, subtle touches and innuendoes.

The Criminal Law (Amendment) Act, 2013 (Nirbaya Act). It is popularly called the Anti – Rape Bill, is now law. The outrage of entire nation behind the homicidal gang rape took place in New Delhi. The Act recognizes the broad range of sexual crimes to which women may fall victim, and a number of ways in which gender based discrimination manifest itself.

The Act introduced unprecedented provisions in the IPC which criminalises sexual voyeurism and staking and amends legal provisions to protect the privacy of individuals, such discontinuing the practice of examination of the sexual history of the victim of a sexual assault for evidence. It provides severe punishments to the offenders to stop sexual offences against women.¹⁶ Disha Bill, 2019 Andhra Pradesh Criminal Law (amendment) Bill-2019 which provides for death sentence for offences of rape and gang rape has been passed recently. It Reduces the judgement period for 21 working days from date of offence in case of rape (Nirbaya is for 4 months) Punishment for harassment of women through email, social media, digital mode or any other form, the guilty shall be punishable with imprisoned. The Bill provides Exclusive Special Courts and Special Police steams to ensure the safety

¹³ Bare Acts of Special Marriage Act & Hindu Laws.

¹⁴ Prosecuting Officer’s Course material Pg.No.128.

¹⁵ Francis Coralie Mullin V. Administrator, Union Territory of Delhi & Others

¹⁶ Criminal Criminal Major Acts, by Padala Rama Reddy



of women.¹⁷

Conclusion: “Ubijus ibi remedium” – where there is a right, there is a remedy. The constitution not only grants equality to women, but also encourages the empowerment of women. The evidence is everywhere the women is increasingly getting good position in all over all departments. They are participating politics, defence and what not. Sec. 160 of Cr. P.C. – Women cannot be called to the police station for interrogation, the police can interrogate a woman at her residence and a zero FIR can be lodged at any police station irrespective of its jurisdiction. These are privileged rights available to in favour of women. They can empowered, enlightened in their own fields.

¹⁷ Major Acts, by Padala Rama Reddy