

Discrimination against Women: Legal Provisions versus Social Reality

Ms. Neha Saini

Assistant Professor (Law),

Visiting Faculty

The Northcap University, Gurgaon, India.

-"Girls are supposed to be in the custody of their father when they are children, women must be under the custody of their husband when married and under the custody of her son as widows. In no circumstances is she allowed to assert herself independently"

"A female child, young woman or old woman is not supposed to work independently even at her place of residence."

-MANUSMRITI

In our society there is a deep rooted prejudice against women and they are considered as inferior beings. Women are, in general, discriminated against in every field like education, employment, property rights etc. They have to face this kind of discrimination from the time of their birth. The cultural construct of Indian society which reinforces gender bias against men and women, with varying degrees and variable contexts against the opposite sex, has led to the continuation of India's strong preference for male children. Female infanticide, a sex-selective abortion, is adopted and strongly reflects the low status of Indian women. Education is not widely attained by Indian women. Discrimination against women has led to their lack of autonomy and authority.

Women are still viewed as dowry burdens, the weaker gender, and worthy of a lower social status compared to men. This has led to social and economic problems. The key

factor driving gender inequality is the preference for boys. This is because boys are deemed to be more useful than girls. Boys are given the exclusive rights to inherit the family name and properties and they are viewed as additional status for their family. Not only that, they are also believed to have a higher economic utility as they can provide additional labor in agriculture. Another factor is that of religious practices, which can only be performed by males for their parents' afterlife. All these factors make sons more attractive. Moreover, expensive dowry of daughters further discourages parents from having daughters. Thus, a combination of factors has resulted in this biased attitude towards girls.

To overcome this discrimination against women many legislations have been passed. Although equal rights are given to women, equality may not be well implemented. In practice, land and property rights are weakly enforced, with customary laws widely practiced in rural areas. Women do not own property under their own names and usually do not have any inheritance rights to obtain a share of parental property. Despite a plethora of legislations passed from time to time women in India continue to face atrocities such as rape, acid throwing, dowry killings, forced prostitution of young girls. According to a global poll conducted by Thomson Reuters, India is the "fourth most dangerous country" in the world for women, and the worst country for women among the G20 countries

So, the question before us is whether these legislations are sufficient to improve the status of women in our society. Or is it only the duty of the government to work towards the emancipation of women.

MEANING OF DISCREMINATION AGAINST WOMEN

Discrimination is the prejudicial treatment of an individual based on their actual or perceived membership in a certain group or category, "in a way that is worse than the way people are usually treated. It involves the group's initial reaction or interaction, influencing the individual's actual behavior towards the group or the group leader, restricting members of one group from opportunities or privileges that are available to another group, leading to the exclusion of the individual or entities based on logical or irrational decision making.¹ Discrimination means any distinction made on the basis of sex, which has the purpose or effect of denying equal exercise of human rights and fundamental freedoms in all fields of human endeavour.

Discrimination against women means shall mean any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing

1 "discrimination, definition". Cambridge Dictionaries Online. Cambridge University. Retrieved 29 March 2013

or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women, of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. ²

Discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women, on equal terms with men, in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity.

Women face discrimination in social, political and economic field. They are not given equal rights in a marriage or in matters related to custody of their children or adoption. They face discrimination in land and proprietary rights. Even in matters related to inheritance and succession women are denied equal rights. Women are not given proper representation in political field. Women face discrimination in employment opportunities as well.

The status of women in India has been subject to many great changes over the past few millennia. From equal status with men in ancient times through the low points of the medieval period, to the promotion of equal rights by many reformers, the history of women in India has been eventful. In modern India, women have held high offices in India including that of the President, Prime Minister, Speaker of the Lok Sabha and Leader of the Opposition. But even now the girl and women in our country are lagging behind as compared to women in developed countries. Women are denied access to educational or employment opportunities and health facilities.

LEGISLATIVE PROVISIONS FOR PROTECTION AND EMPOWERMENT OF WOMEN

Various laws have been passed at **international and national level to prevent discrimination against women.**

(I) INTERNATIONAL LEGAL INSTRUMENTS PROTECTING WOMEN'S RIGHTS

² Convention on the Elimination of All Forms of Discrimination against Women, G.A. res. 34/180, 34 U.N. GAOR Supp. (No. 46) at 193, U.N. Doc. A/34/46, entered into force Sept. 3, 1981.

1. The Charter of the United Nations (1945)

The Charter of the United Nations came into force in 1945. The preamble of the Charter of the United Nations sets as a basic goal to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women. Article 1 provides that one of the purposes of the United Nations is to achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion

2. The Universal Declaration of Human Rights (1948)

The Universal Declaration gave birth to the major human rights instruments. It also prohibits discrimination on the basis of sex.

3. Convention for the Suppression of the Traffic in Persons and of the Exploitation of the Prostitution of Others (1949)

The convention sets out provisions for the prevention of abuse of prostitutes and the punishment of those procuring others for the purposes of prostitution.

4. International Covenant on Civil and Political Rights (1966)

The International Covenant on Civil and Political Rights (ICCPR) identifies rights which are equally applicable to men and women. It also contains special provisions for women.

5. International Covenant on Economic, Social and Cultural Rights (1966)

This Covenant recognizes that rights must be afforded to women and men on an equal basis.

6. Declaration on the Elimination of Discrimination against Women (1967)

The Declaration on the Elimination of Discrimination against Women stated in 1967 that "discrimination against women, denying or limiting as it does their equality of rights with men, is fundamentally unjust and constitutes an offence against human

dignity".

7. Declaration on the Protection of Women and Children in Emergency and Armed Conflict (1974)

The Declaration urges to protect women and children during conflicts.

8. Convention on the Elimination of All Forms of Discrimination against Women (1979)

The Convention on the Elimination of All Forms of Discrimination against Women (1979) often described as an International Bill of Rights for Women came into force in 1981. Presently, the Convention has 187 parties. The Convention under Article 17 made a provision for the establishment of a Committee on the Elimination of Discrimination Against Women (CEDAW) for the purpose of considering the progress made in the implementation of the provisions of the Convention. Signatory states commit themselves to ending all forms of discrimination against women: by persons, by organisations or by enterprises. Sufficient legal protection must include the abolishment of discriminatory laws, along with the establishment of tribunals and public laws institutions.

In 1992, the Committee adopted General Recommendation 19, which includes violence in the prohibition of gender-based discrimination: "violence that is directed at a woman because she is a woman or that affects women disproportionately is discrimination". It includes acts that inflict physical, mental or sexual harm or suffering, threats of such acts, coercion and other deprivations of liberty". Violence against women is an internationally recognized human rights violation when either a public official or a private person commits the violence. State participating to the CEDAW must take all the necessary measures to eliminate violence, including legal sanctions, civil remedies, preventative measures, (such as public information and education campaigns) and protective measures (such as support services for victims).

9. Declaration on the Elimination of Violence Against Women (1993) (DEVAW)

The Declaration states that "violence against women constitutes a violation of the rights and fundamental freedoms of women and impairs or nullifies their enjoyment of those rights and freedoms .The DEVAW, although it is not binding, is the first significant legal instrument that highlights sex discrimination, and advocates for "all measures" to be taken to "abolish existing laws, custom regulations and practices that are discriminatory against women, and to establish adequate legal protection for equal rights of men and women" (Article 2).

10. Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (also known as the Convention of Belém do Pará) (1994)

The Convention declares that every woman has the right to be free from violence in both public and private spheres. In particular, the standard of due diligence (i.e., the efforts made by a state to implement a right in practice) has been implicitly incorporated in the Convention.

11. Optional Protocol to the Convention on the Elimination of Discrimination against Women, December (1999)

In the absence of an adequate enforcement mechanism for the Convention on the Elimination of All Forms of Discrimination, an Optional Protocol was signed in 1999. It provides women with more efficient tools to bring to justice the violators of their rights, as defined by the Committee on the Elimination of Discrimination Against Women. The Committee can now receive complaints from both individual citizens and State party groups. Once a complaint has been filed, the CEDAW has the authority to adopt provisional measures to protect the victim from further harm.

12. United Nations Resolution 1325 (2000)

The Resolution emphasizes states' responsibility to end impunity for crimes against humanity, war crimes including sexual and other forms of violence against women and girls.

13. Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, Supplementing The United Nations Convention Against Transnational Organized Crime (2000)

The Protocol defines trafficking as "at a minimum, the exploitation, forced labour services or practices similar to slavery, servitude or the removal of organs".

14. Protocol to the African Charter on Human and Peoples Rights on the Rights of Women in Africa (2003) of the African Union

The Protocol aims at making the participants take measures to suppress all forms of

violence against women, identify the causes, punish the perpetrators and ensure effective rehabilitation and reparation for victims.

In addition to the above Conventions **three Conferences** held during the **U.N. Sponsored International Women's decade(1976-1985) Mexico City, 1975; Copenhagen , 1980; and Nairobi, 1985 and the Fourth World Conference on Women held in Beijing in 1995**, have greatly enhanced international awareness of the concerns of women and provided the groundwork for invaluable links between the national women movements and the international community. Similarly, the UN World Conference on Human Rights in Vienna(1993) generated a platform for women via the Global Campaign for Human Rights - which resulted in the Vienna Declaration and Programme of Action which state that women's rights are human rights.

(II) LAWS RELATED TO WOMEN IN INDIA

A. CONSTITUTION OF INDDIA

- India has given equal status to women under its Constitution under Article 14.
- Article 15 enables the State to make special provisions for women.
- Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State is provided under Article 16.
- The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood(Article 39(a));and equal pay for equal work for both men and women (Article 39(d))
- The State to make provision for securing just and humane conditions of work and for maternity relief(Article 42).
- The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46)
-
- To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51(A) (e))
-
- Not less than one-third (including the number of seats reserved for women

belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (Article 243 D(3)). Not less than one- third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women (Article 243 D (4))

-
- Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (Article 243 T (3)). Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide(Article 243 T (4))

B. WOMEN-SPECIFIC LEGISLATIONS

1. The Immoral Traffic (Prevention) Act, 1956

In India, the legal regime on sex work in India is laid down under the Immoral Traffic (Prevention) Act, 1956 (“ITPA”). ITPA does not proscribe sex work per se but penalises specific activities related to commercial sex. It also provides for rescue & rehabilitation of persons in sex work. The Act is implemented through Police & the Magistracy. Acts punishable under ITPA include Brothel keeping (Section 3) ; Living on earnings of sex work (Section 4) ;Procuring, inducing or detaining for prostitution (Section 5 & 6); Penalties are higher where offences involve children (<16 yrs) & minors (< 18 yrs); Prostitution in areas notified by Police & near public places (Section 7);Soliciting (Section 8)

2. The Dowry Prohibition Act, 1961

This law was passed to prohibit the giving or taking of dowry. This Act prescribes penalty for demanding dowry. If any person demands, directly or indirectly, from the parents or guardian of a bride or bridegroom or from any other person, as the case

may be, any dowry, he shall be punishable with imprisonment which may extend to one year and with fine which may extend to five thousand rupees.

3. The Indecent Representation of Women (Prohibition) Act, 1986

This legislation prohibits indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner.

4. The Commission of Sati (Prevention) Act, 1987

This Act provides for the more effective prevention of the commission of sati and its glorification.

5. The Protection of Women from Domestic Violence Act, 2005

Primarily meant to provide protection to the wife or female live-in partner from domestic violence at the hands of the husband or male live-in partner or his relatives, the law also extends its protection to women living in a household such as sisters, widows or mothers. Domestic violence under the act includes actual abuse or the threat of abuse whether physical, sexual, verbal, emotional or economic. Harassment by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition .

6. The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013

This Act provides for protection against sexual harassment of women at workplace and for the prevention and redressal of complaints of sexual harassment. Sexual harassment results in violation of the fundamental rights of a woman to equality under articles 14 and 15 of the Constitution of India and her right to life and to live with dignity under article 21 of the Constitution and right to practice any profession or to carry on any occupation, trade or business which includes a right to a safe environment free from sexual harassment. The protection against sexual harassment and the right to work with dignity are universally recognised human rights by international conventions and instruments such as Convention on the Elimination of all Forms of Discrimination against Women.

WOMEN-RELATED LEGISLATIONS

1. The Indian Penal Code, 1860

Although women may be victims of any of the crimes such as 'Murder', 'Robbery',

'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women. These crimes are:

- Kidnapping & Abduction for different purposes (Sec. 363-373)
- Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
- Torture, both mental and physical (Sec. 498-A IPC)
- Molestation (Sec. 354 IPC)
- Sexual Harassment (Sec. 509 IPC)
- Importation of girls (up to 21 years of age)
- Rape (Sec 376)

2.Code of Criminal Procedure, 1973

Under S. 125, Code of Criminal Procedure, a woman has got right to maintenance.

3. Indian Evidence Act, 1872

Sections 113(a), 113(b) and 114(c) provide for presumptions as to abetment of suicide by a married woman within 7 years of marriage, as dowry death of a woman and as to absence of consent of woman for sexual intercourse.

4. Hindu Adoption Maintenance Act, 1956

Section 18-A provides for obligations of husband to maintain his wife. Section 18(2) provides right of wife to live separately and S. 19 provides for maintenance of widow by her father-in-law.

5. Hindu Succession Act, 1956 as amended by the The Hindu Succession (Amendment) Act, 2005

The Hindu Succession (Amendment) Act, 2005 amended Section 6 of the Hindu Succession Act, 1956, allowing daughters of the deceased equal rights with sons. In the case of coparcenary property, or a case in which two people inherit property equally between them, the daughter and son are subject to the same liabilities and disabilities. The amendment essentially furthers equal rights between males and females in the legal system. Section 14 of the Act provides for property of female Hindu to be her absolute property. Section 23 provides right of female legal heirs in the dwelling house.

6. The Hindu Minority and Guardianship Act, 1956

Section 6 of the Act provides for mother as a natural guardian for minors below 5 years.

7. The Hindu Marriage Act, 1955

Section 13(2) of the Act provides for wife to present a petition for divorce. Section 13(b) provides equal right for wife for getting divorce by mutual consent. Section 24 of the Act provides for relief for interim maintenance and expenses. Section 25 of the Act provides for right to a wife to seek permanent alimony and maintenance and S. 26 of the Act provides right to claim custody of children.

8. The Muslim Women (Protection of Right on Divorce) Act, 1986

Under the provisions of the Act provides for maintenance of women by the relatives after the iddat period.

9. The Factories Act, 1948

The provisions of this Act provides for health, safety, welfare, and working hours for women labourer working in factories.

10. The Equal Remuneration Act, 1976

It provides for payment of equal wages to both men and women workers for the same work or work of similar nature. It also prohibits discrimination against women in the matter of recruitment.

11. The Family Courts Act, 1984

The Act provides for setting up a Family Court for in-camera proceedings for women.

12. The Employees State Insurance Act, 1948

The Act provides for insurance pension and maternity benefits to women workers.

13. The Maternity Benefit Act, 1961

It provides for maternity benefit with full wages for women workers.

14. The Medical Termination of Pregnancy Act, 1971

The Act safeguards women from unnecessary and compulsory abortions.

15. The Child Marriage Restraint Act, 1976

The Act provides safeguards for girls from child marriage.

16. The Prenatal Diagnostic Technique (Regulation and Prevention of Measure) Act, 1994

This Act prohibits diagnosing of pregnant women and also identification of child in the womb whether it is male or female.

17. Criminal Law (Amendment) Act, 2013

This new Act has expressly recognised certain acts as offences which were dealt under related laws. These new offences like, acid attack, sexual harassment, voyeurism, stalking have been incorporated into the Indian Penal Code. The most important change that has been made is the change in definition of rape under IPC. Although the Ordinance sought to change the word *rape* to sexual assault, in the Act the word 'rape' has been retained in Section 375, and was extended to include acts in addition to vaginal penetration. The definition is broadly worded with acts like penetration of penis, or any object or any part of body to any extent, into the vagina, mouth, urethra or anus of another person or making another person do so, apply of mouth or touching private parts constitutes the offence of sexual assault. The section has also clarified that penetration means "penetration to any extent", and lack of physical resistance is immaterial for constituting an offence. Except in certain aggravated situation the punishment will be imprisonment not less than seven years but which may extend to imprisonment for life, and shall also be liable to fine. In aggravated situations, punishment will be rigorous imprisonment for a term which shall not be less than ten years but which may extend to imprisonment for life, and shall also be liable to fine. A new section, 376A has been added which states that if a person committing the offence of sexual assault, "inflicts an injury which causes the death of the person or causes the person to be in a persistent vegetative state, shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to imprisonment for life, which shall mean the remainder of that person's natural life, or with death. In case of "gang rape", persons involved regardless of their gender shall be punished with rigorous imprisonment for a term which shall not be less than twenty years, but which may extend to life and shall pay compensation to the victim which shall be reasonable to meet the medical expenses and rehabilitation of the victim. The age of consent in India has been increased to 18 years.

Certain changes has been introduced in the CrPC and Evidence Act, like the process of recording the statement of the victim has been made more victim friendly and easy. The two critical changes are. That the 'character of the victim' is now rendered totally irrelevant, and there is now a presumption of 'no consent' in a case where sexual intercourse is proved and the victim states in the court that she did not consent.

SPECIAL INITIATIVES FOR WOMEN

(i) National Commission for Women

In January 1992, the Government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.

(ii) Reservation for Women in Local Self -Government

The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.

(iii) The National Plan of Action for the Girl Child (1991-2000)

The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

(iv) The National Policy for the Empowerment of Women, 2001

The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a “**National Policy for the Empowerment of Women**” in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

ROLE OF JUDICIARY IN PROTECTION OF WOMEN'S RIGHTS

Due to the failure of the legislations to protect women, judiciary has come forward to protect women. In protecting the women, the Indian Judiciary has removed all the procedural shackles and has completely revolutionized constitutional litigation. The judiciary has encouraged widest possible coverage of the legislations by liberal interpreting the terms. The Courts have shown greater enthusiasm in granting the constitutional provisions for all women. The judiciary by its landmark judgments had filled up the gap created by the Legislative machinery. The judiciary had extended helping hands to women. when the legislature had denied it. The higher judiciary has shown concern for women’s right in recent times; it also had been greatly influenced by the international declaration and covenants on women’s rights.

In **C. B. Muthamma v. Union of India**³ a service rule whereby marriage was a

³ (AIR 1979 SC 1868) : 1979 Lab IC 1307)

disability for appointment to foreign service was declared unconstitutional by the Supreme Court. In **Bodhisathwa Gowtham v. Subhra Chakaraborty**⁴, the Supreme Court observed that rape was not only an offence under the criminal law, but it was a violation of the fundamental right to life and liberty guaranteed by Article 21 of Indian Constitution. In **Gourav Jain v. Union of India**⁵, the Supreme Court laid down guidelines including the necessity of counselling, cajoling, and coercing the women to retrieve from prostitution and rehabilitate them.

114

In **Vishakha v. State of Rajasthan**⁶ the Supreme Court took a serious note of the increasing menace of sexual harassment at workplace and elsewhere. Considering the inadequacy of legislation on the point, the Court even assumed the role of legislature and defined sexual harassment and laid down instruction for the employers. In *Apparel Export Promotion Council v. A. K. Chopra* (AIR 1999 SC 625), the Supreme Court found all facets of gender equality including prevention of sexual harassment in the fundamental rights granted by the Constitution.

In **Municipal Corporation of Delhi v. Female Workers**⁷, the Supreme Court held that a just social order could be achieved only when inequalities are obliterated and women, which constitute almost half of the segment of our society, are honoured and treated with dignity.

The judicial decisions rendered by the Indian Courts depicts the active role played by the judiciary to protect women from exploitation at a stage where legislations are uniformed due to lack of adequacy of enforcement machinery.

SOCIAL REALITY

The main issue before us is whether these Conventions and legislations passed at national and international level have been effective to prevent discrimination against women. Women's human rights are still disregarded and violated worldwide in different ways. Violence against women remains a global phenomenon against which no country, no society and no community is immune.

Despite these plethora of legislation women are still exploited in our male dominated society. Lets us consider the various factors which are responsible for such discrimination against women.

FACTORS RESPONSIBLE FOR DISCRIMINATION AGAINT WOMEN

4 _____ (AIR 1996 SC 622)

5 _____ (AIR 1997 SC 3012)

6 _____ (AIR 1997 SC 301)

7 _____ (AIR 2000 SC 1274, 1281)

There are various causes because of which women are not treated on par with their male counterparts. Such factors are:

A. HISTORICAL FACTORS

Women have been treated as inferior beings since time immemorial. During ancient period women's status in society was somewhat better but with the passage of time their position deteriorated. Child marriage, purdah system etc were prevalent which led to downfall in the status of women in society.

B. RELIGIOUS FACTORS

In most of the religions of the world, whether it is Hinduism, Islam, Christianity etc. various restrictions have been imposed upon a woman. Her position is inferior to that of a man. For example, Manu, Shukra and Chanakya, the ancient law givers confirm the barring of women from any responsibilities. Let alone being considered worthy of any positions of power in society, women were

not even considered fit to be witnesses. Such religious attitudes systematically nurtured various crude ideas about women's incapacities. Now some people think that giving equal rights to women would mean going against the teachings of their religion

C. PHYSICAL FACTORS

It is presumed that a woman is physically weaker as compared to her male counterpart. So her role should be limited to household. She should not participate in activities which involve physical strength such as sports.

D. BIOLOGICAL FACTORS

In many parts of the world a woman's role is limited to giving birth to a child. A woman is sometimes denied employment opportunities or promotion presuming that after having a child she will slow down.

E. POLITICAL FACTORS

The decision making power in a country lies with the people who control the political system of the country. Even now women are not given equal representation in political field. In some places they are not even given the right to vote.

F. ECONOMIC FACTORS

Till 19th century the role of a woman has been limited to household only. She had no means to attain education or earn her livelihood. So financially she was dependent on her family members. As a result of which even if she was treated badly there was nothing she could do about it.

Thus, these are the multiple factors responsible for discrimination against women and various offences are committed against women.

OFFENCES COMMITTED AGAINST WOMEN

1. FEMALE FOETICIDE

Female foeticide is the act of aborting a foetus because it is female. This is a major social problem in India and has cultural connections with the dowry system that is ingrained in Indian culture. In India a strong preference for sons over daughters exists, unlike in Western cultures.

The government passed the Prenatal Diagnostic Technique (Regulation and Prevention of Measure) Act, 1994 to curb the menace of female foeticide. But this legislation is full of loopholes and cannot be effectively implemented. Authorities often let the unlawful parents and doctors off with light punishment. Often, when the mothers disobey the husband's family decision to abort the female foetus and report it to the authorities, the suits are ignored or given a light sentence: The mother is targeted for bearing girls and disobeying the family's decision to abort the child. She may even lose her job, be

116

expose to constant death threats, and be left with unresolved cases. In addition, others who give birth to girls are prone to violence. Even if she is able to give birth to the baby girls, the family is likely to not report the births and even murder them.

According to Census of India 2001, Indian sex ratio has shown some improvement in the last 10 years. It has gone up from 933 in 2001 to 940 in 2011 census of India. There has been some improvement in the Sex Ratio of India but it has gone down badly in some states like Haryana. The state of Kerala with 1084 females for every 1000 males has the best sex ratio in India. It has shown a tremendous improvement in the last 10 years. Haryana has the lowest sex ratio of 877 females per 1000 males. ***In, 2011, government stated India was missing three million girls and there are now 48 less girls per 1,000 boys.***

2. CHILD MARRIAGE

Child marriage has been traditionally prevalent in India and continues to this day. Historically, child brides would live with their parents until they reached puberty.

According to UNICEF's "State of the World's Children-2009" report, 47% of India's women aged 20-24 were married before the legal age of 18, rising to 56% in rural areas. The report also showed that 40% of the world's child marriages occur in India.

3. DOWRY

The Government of India passed the Dowry Prohibition Act, 1961 making dowry demands in wedding arrangements illegal. However, many cases of dowry-related domestic violence, suicides and murders have been reported. In the 1980s, numerous such cases were reported. A 1997 report claimed that each year at least 5,000 women in India die dowry-related deaths, and at least a dozen die each day in 'kitchen fires' or bride burning thought to be intentional.

4. DOMESTIC VIOLENCE

Domestic violence in India is widespread predominantly against women. Around 70% of women in India are victims of domestic violence. **National Crime Records Bureau reveal that a crime against a woman is committed every three minutes, a woman is raped every 29 minutes, a dowry death occurs every 77 minutes, and one case of cruelty committed by either the husband or relative of the victim occurs every nine minutes. This all occurs despite the fact that women in India are legally protected from domestic abuse under the Protection of Women from Domestic Violence Act.**

5. ACID ATTACK

Women belonging to any class, caste, creed or religion can be victims of this cruel form of violence and disfigurement, a premeditated crime intended to kill or maim permanently and act as a lesson to put a woman in her place. In India, acid attacks on women who dared to refuse a man's proposal of marriage

or asked for a divorce are a form of revenge. Acid is cheap, easily available, and the quickest way to destroy a woman's life. The number of acid attacks have been rising.

6. TRAFFICKING OF GIRLS

The Immoral Traffic (Prevention) Act was passed in 1956. However many cases of trafficking of young girls and women have been reported. These women are either

forced into prostitution, domestic work or child labour.

7. SEXUAL HARASSMENT

Of the total number of crimes against women reported in 1990, half related to molestation and harassment in the workplace. In 1997, in Vishakha Case the Supreme Court of India took a strong stand against sexual harassment of women in the workplace. The Court also laid down detailed guidelines for prevention and redressal of grievances.

8. RAPE

The most common offence committed against women is rape. In India, Marital rape is still not a criminal offence. While per-capita reported incidents are quite low compared to other countries, even developed countries, a new case is reported every 20 minutes. New Delhi has the highest rate of rape-reports among Indian cities. Sources show that rape cases in India have doubled between 1990 and 2008. According to the National Crime Records Bureau, 24,206 rape cases were registered in India in 2011, although experts agree that the cases of unreported sexual assault is higher.

VARIOUS FIELDS WHERE WOMEN FACE DISCRIMINATION

1. EDUCATION

Literacy for females stands at 65.46%, compared to 82.14% for males. An underlying factor for such low literacy rates are parents' perceptions that education for girls are a waste of resources as their daughters would eventually live with their husbands' families and they will not benefit directly from the education investment. Though the female literacy rate in India is gradually increasing far fewer girls than boys are enrolled in school, and many girls drop out. In urban India, girls are nearly on a par with boys in terms of education. However, in rural India girls continue to be less well-educated than boys.

2. EMPLOYMENT OPPORTUNITIES

Women are denied equal opportunities in matter of employment as well. Even now in some places a woman's role is limited to household only. In certain fields such as sports or military service a woman is not treated on par with her male counterparts. For example, Women are not allowed to have combat roles in the armed forces. According to a study carried out on this issue, a recommendation was made that female officers be excluded from induction in close combat arms, where chances of physical

contact with the enemy are high. The study also held that a permanent commission could not be granted to female officers since they have neither been trained for command nor have they been given the responsibility so far.

Discrimination against women has contributed to gender wage differentials, with Indian women on average earning 64% of what their male counterparts earn for the same occupation and level of qualification.

3. LAND AND PROPERTY RIGHTS

In most Indian families, women do not own any property in their own names, and do not get a share of parental property. Due to weak enforcement of laws protecting them, women continue to have little access to land and property. In fact, some of the laws discriminate against women, when it comes to land and property rights.

The Hindu personal laws of 1956 (applying to Hindus, Buddhists, Sikhs and Jains) gave women rights to inheritances. However, sons had an independent share in the ancestral property, while the daughters' shares were based on the share received by their father. Hence, a father could effectively disinherit a daughter by renouncing his share of the ancestral property, but a son would continue to have a share in his own right. Additionally, married daughters, even those facing marital harassment, had no residential rights in the ancestral home. Thanks to amendment of the Hindu laws in 2005, women now have the same status as men.

In 1986, the Supreme Court of India ruled that Shah Bano, an elderly divorced Muslim woman, was eligible for maintenance money. However, the decision was vociferously opposed by fundamentalist Muslim leaders, who alleged that the court was interfering in their personal law. The Union Government subsequently passed the Muslim Women's (Protection of Rights Upon Divorce) Act. Similarly, Christian women have struggled over years for equal rights in divorce and succession. In 1994, all churches, jointly with women's organisations, drew up a draft law called the Christian Marriage and Matrimonial Causes Bill. However, the government has still not amended the relevant laws.

4. HEALTH

The average female life expectancy today in India is low compared to many countries, but it has shown gradual improvement over the years. In many families, especially rural ones, girls and women face nutritional discrimination within the family, and are anaemic and malnourished. The maternal mortality in India is the 56th highest in the world. 42% of births in the country are supervised in Medical Institution. In rural areas, most of women deliver with the help of women in the family, contradictory to the fact that unprofessional or unskilled deliverer lacks the knowledge about pregnancy.

5. FAMILY PLANNING

The average woman living in a rural area in India has little or no control over becoming pregnant. Women, particularly women in rural areas, do not have access to safe and self-controlled methods of

contraception. The public health system emphasizes permanent methods like sterilization, or long-term methods like IUDs that do not need follow-up.

6. SANITATION

Due to lack of toilet facilities, in rural areas, women have to go fields. Women have been sexually assaulted while urinating in fields. Therefore, people should also be made aware of the necessity of building toilets in their own homes. There is a need to build public toilets, keep them clean, provide sanitary napkins and a trash can, and hire female attendants.

RECOMMENDATIONS AND SUGGESTIONS FOR THE IMPROVEMENT OF STATUS OF WOMEN

- The mindset of the people need towards girl child should be changed. A girl child should not be treated as a burden. She would be welcomed in a family in the same way as a son is welcomed.
- Proper emphasis should be laid on the education of the girl child. She should be allowed to complete her education so that she can have her own independent thinking process.
- A woman should be provided with equal employment opportunities so that she need not be financially dependent on anyone. She should also become a valuable asset for the nation by becoming a part of the workforce of the country.
- Women should be allowed to participate in the political field as well. They should be given a chance to contest elections and become a part of legislative bodies so that they can also take part in the decision making process of the country.
- A woman should be given equal legal rights. For example, in matters of

inheritance a woman should not be denied her rights. The law enforcing agencies like the police and judiciary should be sensitized towards the issues related to women. Women should be accorded in civil matters, a legal capacity identical to that of men and the same opportunities to exercise that capacity. In particular, they shall give women equal rights to conclude contracts and to administer property and shall treat them equally in all stages of procedure in courts and tribunals.

- In matters related to marriage and family relations women should be treated on par with men. A woman should have the same right to enter into marriage; the same right freely to choose a spouse and to enter into marriage only with their free and full consent; the same rights and responsibilities during marriage and at its dissolution; the same rights to decide freely and responsibly on the number and spacing of their children and to have access to the information, education and means to enable them to exercise these rights; the same rights and responsibilities with regard to guardianship, wardship, trusteeship and adoption of children.

CONCLUSION

Women are an inherent part of the society and can not be neglected. A nation can not be considered to be a developed nation if the women in that nation are ill treated. In our country a number of laws have been passed but they have not been very successful in improving the position of women in our society. For example, the The Prenatal Diagnostic Technique (Regulation and Prevention of Measure) Act, 1994 was passed to curb the menace of female foeticide but even now people are indulging in such heinous acts. The law has not had any deterrent effect on the minds of the people. Not only a girl child is denied her right to take birth but even if she takes birth they are dumped in dustbins. So we can see that just by passing stringent legislations we can not say that our work is complete. Mere laws are not going to bring about the desired change in the position of women. A popular Telugu saying from Andhra Pradesh is, "Bringing up a daughter is like watering a plant in another' courtyard". Due to this understanding she is considered as a liability and outside commodity. Girls are been given lesser food and health care than boys, especially in Northern India. Girls are breast fed for shorter periods, given less medical attention, fewer consultations and visit to a doctor, and in case of an emergency and or a major health concern are taken very late or not at all to the hospital. Because of some culturally assigned duties, many girls miss out on the chance to improve their overall health. Also, female children in general are given lesser food both in quality and quantity and therefore are undernourished compared to male children. This in turn leads to health issues like anaemia and intrauterine growth restriction during pregnancy. If in this malnourished state the woman gives birth to a female child then the possibility of the female child having survival issues, and salon nutritional issues becomes higher. The female child's status is the product of general societal attitude towards women at large in India. Girls

in India face higher risks of malnutrition, disease, disability and retardation of growth and development. They have no access to or control over the resources. Their work towards raising a family and in the household chores is undervalued. Some argue that due to the culture that has been in the society for so long that a girl child and her value to the family has been undervalued for long.

Therefore, what is required is that the attitude of the people should be changed. The society, as a whole, should take some strong steps to improve the position of women in our society. People should be educated about women related issues. A girl child should be allowed to take birth in our country. She should be given access to education and employment so that she can develop herself to her full potential. **PROPER ACCESS TO HEALTH FACILITIES, EDUCATIONAL AND EMPLOYMENT OPPORTUNITIES ARE THE MEANS BY WHICH DISCRIMINATION AGAINST WOMEN CAN BE PREVENTED.**

Lastly, I would like to conclude with these words by **Charlotte Bronte** :

"I am no bird; and no net ensnares me: I am a free human being with an independent will."

References

1. Dr. Devinder Singh, "Human rights Woman & law", Allahabad Law Agency, Second Edition, 2010
2. "Human Rights In India: Issues and Challenges", Edited by Aftab Alam, Raj publications, first published 2000
3. Dr. H.O. Aggarwal, "Human Rights", Central Law Publications, Seventh Edition, 2004
4. P.M. Bakshi, "The Constitution of India", Universal Law Publishing Co., Tenth Edition 2010
5. <http://ncw.nic.in/frmLLawsRelatedtoWomen.aspx> as accessed on 21.02.2014 at 20:08 hrs
6. Carol S. Coonrod (June 1998). "Chronic Hunger and the Status of Women in India". Retrieved .23.02.201
7. "[India's women: Rape and murder in Delhi](#)". Economist.com. Retrieved 2013-01-07.

8. <http://www.irinnews.org/indepthmain.aspx?InDepthId=20&ReportId=62846>
as accessed on 19.02.2014 at 15: 05 hrs
9. "[The World's 5 Most Dangerous Countries For Women: Thomson Reuters Foundation Survey](#)". Retrieved June 2011.
10. Legislative And Judicial Initiatives Towards Women Empowerment
by — R. Seyon, M.A., M.H.R., M.L., Advocate, 19 Mudliar Street, Mayiladuthurai 609001
11. Amartya Sen, MANY FACES OF GENDER INEQUALITY (Volume 18 - Issue 22,
Oct. 27-Nov. 09, 2001).