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## RESEARCH ARTICLE

### A BRIEF STUDY ON CONSTITUTIONAL RIGHTS AND LEGAL RIGHTS TO WOMEN

**\*<sup>1</sup>Dr. Rashmi Rani Agnihotri, H.R. and <sup>2</sup>Dr. K. S. Malipatil**

<sup>1</sup>PDF(Post Doctoral Fellow)Department of Studies and Research in Social Work, P.G Centre Raichur, Gulbarga University, Kalburgi, Karnataka, India

<sup>2</sup>Chairman, Department of Studies and Research in Social Work, Gulbarga University, Kalburgi, Karnataka, India

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#### ABSTRACT

The culture and tradition of India is considered as old and great all over the world where people used to worship various female goddesses, saints and poets. India is also a powerful nation and famous worldwide for being the largest democracy in the world however, women backwardness is also very clear in the Indian society because of the social issues, problems and lots of restrictions against women. Women belong to the lower and middle class family suffers more than the women of higher class family. Women in the Indian society generally face problems of sex discrimination, high percentage of illiteracy, female infanticide, dowry system, etc. Taking birth as a woman in the Indian society can be said as curse for the women. Women in India face lots of social issues and problems all through the life which are big struggle for them right from their beginning of life. Female infanticide is the most common practice of killing girl child in mother's womb in the Indian society. Women in India are considered as burden for their parents and husbands as they think that women are here only to consume money whole life without earning a little bit. Another common problem for women is sex discrimination which they face from their birth and continues till their death. Illiteracy, lack of proper education, responsible for household works, rape, sexual harassment at workplace, etc are some big issues for the women in India. However, a lot of positive changes have occurred in the women status as the number of educated people is increasing in the country. Here the Researcher discussed the Constitutional Rights and Legal Rights to Women The constitution and Laws are instrument of welfare. Thus through Constitutional Rights and Legal Rights to solve the Women Problems. The Study is Purely Theoretical. The Study is based on secondary data sources. The necessary information about the Constitutional Rights and Legal Rights to Women and its various components are collected from Books, Journals, Internet Source or related topic. The Researcher study about the Constitutional Rights and Legal Rights to Women. The Research Work includes I. Introduction II. Methodology III. The Constitutional Rights and Legal Rights to Women. IV Conclusion.etc.

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## INTRODUCTION

In the ancient Indian society women were adored and worshiped as goddesses. However in the middle age, the status of women got down to a great extent. Women are considered in the society only to perform duties like bring up children, caring every family member, and other household activities. There are old and traditional faith of people coming out for years that men are for thy field whereas women are only for the home. Now-a-days, women are breaking all the barriers of social issues and problems against them in the society. They are getting ahead and enjoying equality of status in almost all

**\*Corresponding author: Dr. Rashmi Rani Agnihotri, H.R.**

PDF(Post Doctoral Fellow)Department of Studies and Research in Social Work, P.G Centre Raichur, Gulbarga University, Kalburgi, Karnataka, India

fields because of being financially independent and economically sound. Earlier to this women were facing a lot of problems because of male dominated, patriarchal society system, practice of old traditional believes, etc. Women were only responsible to the traditional roles like child bearing and child rearing. In the modern world, where women status has been improved a little while, still they are facing problems. They have to perform both family and professional responsibilities together without the help of their husbands. In some cases, the conditions of women become more embarrassed when they get tortured by their family members instead of getting help. Sexual harassment is more common at homes as well as in the offices by the family members, relatives, neighbors, friends, boss, etc. They have to suffer a lot in their daily life to nourish their career as well as saving their family relationships.

## MATERIALS AND METHODS

The Study is Purely Theoretical. The Study is based on secondary data sources. The necessary information about the Constitutional Rights and Legal Rights to Women and its various components are collected from Books, Journals, Internet Source or related topic.

### Constitutional Rights and Legal Rights to Women

**Constitutional Rights to Women:** The rights and safeguards enshrined in the constitution for women in India are listed below:

- The state shall not discriminate against any citizen of India on the ground of sex [Article 15(1)].
- The state is empowered to make any special provision for women. In other words, this provision enables the state to make affirmative discrimination in favor of women [Article 15(3)].
- No citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex [Article 16(2)].
- Traffic in human beings and forced labour are prohibited [Article 23(1)].
- The state to secure for men and women equally the right to an adequate means of livelihood [Article 39(a)].
- The state to secure equal pay for equal work for both Indian men and women [Article 39(d)].
- The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength [Article 39(e)].
- The state shall make provision for securing just and humane conditions of work and maternity relief [Article 42].
- It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women [Article 51-A(e)].
- One-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women [Article 243-D(3)].
- One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women [Article 243-D(4)].
- One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women [Article 243-T(3)].
- The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide [Article 243-T(4)].

**Legal Rights to Women:** The following various legislation's contain several rights and safeguards for women:

1. Protection of Women from Domestic Violence Act (2005) is a comprehensive legislation to protect women in India from all forms of domestic violence. It also covers women who have been/are in a relationship with the abuser and are subjected to violence of any kind—physical, sexual, mental, verbal or emotional.
2. Immoral Traffic (Prevention) Act (1956) is the premier legislation for prevention of trafficking for commercial sexual exploitation. In other words, it prevents

trafficking in women and girls for the purpose of prostitution as an organised means of living.

3. Indecent Representation of Women (Prohibition) Act (1986) prohibits indecent representation of women through advertisements or in publications, writings, paintings, figures or in any other manner.
4. Commission of Sati (Prevention) Act (1987) provides for the more effective prevention of the commission of sati and its glorification on women.
5. Dowry Prohibition Act (1961) prohibits the giving or taking of dowry at or before or any time after the marriage from women.
6. Maternity Benefit Act (1961) regulates the employment of women in certain establishments for certain period before and after child-birth and provides for maternity benefit and certain other benefits.
7. Medical Termination of Pregnancy Act (1971) provides for the termination of certain pregnancies by registered medical practitioners on humanitarian and medical grounds.
8. Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994) prohibits sex selection before or after conception and prevents the misuse of pre-natal diagnostic techniques for sex determination leading to female foeticide.
9. Equal Remuneration Act (1976) provides for payment of equal remuneration to both men and women workers for same work or work of a similar nature. It also prevents discrimination on the ground of sex, against women in recruitment and service conditions.
10. Dissolution of Muslim Marriages Act (1939) grants a Muslim wife the right to seek the dissolution of her marriage.
11. Muslim Women (Protection of Rights on Divorce) Act (1986) protects the rights of Muslim women who have been divorced by or have obtained divorce from their husbands.
12. Family Courts Act (1984) provides for the establishment of Family Courts for speedy settlement of family disputes.
13. Indian Penal Code (1860) contains provisions to protect Indian women from dowry death, rape, kidnapping, cruelty and other offences.
14. Code of Criminal Procedure (1973) has certain safeguards for women like obligation of a person to maintain his wife, arrest of woman by female police and so on.
15. Indian Christian Marriage Act (1872) contain provisions relating to marriage and divorce among the Christian community.
16. Legal Services Authorities Act (1987) provides for free legal services to Indian women.
17. Hindu Marriage Act (1955) introduced monogamy and allowed divorce on certain specified grounds. It provided equal rights to Indian man and woman in respect of marriage and divorce.
18. Hindu Succession Act (1956) recognizes the right of women to inherit parental property equally with men.
19. Minimum Wages Act (1948) does not allow discrimination between male and female workers or different minimum wages for them.
20. Mines Act (1952) and Factories Act (1948) prohibits the employment of women between 7 P.M. to 6 A.M. in mines and factories and provides for their safety and welfare.

21. The following other legislation's also contain certain rights and safeguards for women:
- Employees' State Insurance Act (1948)
  - Plantation Labour Act (1951)
  - Bonded Labour System (Abolition) Act (1976)
  - Legal Practitioners (Women) Act (1923)
  - Indian Succession Act (1925)
  - Indian Divorce Act (1869)
  - Parsi Marriage and Divorce Act (1936)
  - Special Marriage Act (1954)
  - Foreign Marriage Act (1969)
  - Indian Evidence Act (1872)
  - Hindu Adoptions and Maintenance Act (1956).
22. National Commission for Women Act (1990) provided for the establishment of a National Commission for Women to study and monitor all matters relating to the constitutional and legal rights and safeguards of women.
23. Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013) provides protection to women from sexual harassment at all workplaces both in public and private sector, whether organised or unorganized.

#### Constitutional Provisions and Privileges

- (i) Equality before law for women (Article 14)
- (ii) The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (Article 15 (i))
- (iii) The State to make any special provision in favour of women and children (Article 15 (3))
- (iv) Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
- (v) 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))
- (vi) To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Article 39 a)
- (vii) The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
- (viii) 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)
- (ix) The State to raise the level of nutrition and the standard of living of its people (Article 47)
- (x) 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))
- (xi) 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))

- (xii) 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))
- (xiii)(ix) 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))
- (xiv)(x) 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))

#### Laws relating to women

1. Commission of Sati (Prevention) Act, 1987
2. Criminal Law (Amendment) Act, 1983
3. Dowry Prohibition Act, 1961
4. Immoral Traffic (Prevention) Act, 1956
5. Indecent Representation of Women (Prohibition) Act, 1986
6. National Commission for Women Act, 1990
7. Prohibition of Sexual Harassment of Women at the Workplace Bill, 2010
8. Protection of Women from Domestic Violence Act, 2005

#### Laws relating to working women

- Contract Labour (Regulation and Abolition) Act, 1976
- Employees State Insurance Act, 1948
- Equal Remuneration Act, 1976
- Factories (Amendment) Act, 1948
- Maternity Benefit Act, 1961 (Amended in 1995)
- Plantation Labour Act, 1951

#### Laws relating to marriage & divorce

- Anand Marriage Act, 1909
- Arya Marriage Validation Act, 1937
- Births, Deaths & Marriages Registration Act, 1886
- Bangalore Marriages Validating Act, 1936
- Converts' Marriage Dissolution Act, 1866
- Dissolution of Muslim Marriages Act, 1939
- Family Courts Act, 1984
- Foreign Marriage Act, 1969
- Hindu Marriage Act, 1955
- Hindu Marriages (Validation of Proceedings) Act, 1960
- Indian Christian Marriage Act, 1872
- Indian Divorce Act, 1869
- Indian Divorce Amendment Bill, 2001
- Indian Matrimonial Causes (War Marriages) Act, 1948
- Marriage Laws (Amendment) Act, 2001
- Marriages Validation Act, 1892
- Muslim Women (Protection of Rights on Divorce) Act, 1986
- Parsi Marriage & Divorce Act, 1936
- Prohibition of Child Marriage Act, 2006

- Special Marriages Act, 1954

#### Laws relating to maintenance

The Code of Criminal Procedure, 1973:

- Order for maintenance of wives, children and parents under section 125
- Procedure to be followed under section 125
- Alteration in allowance under section 125
- Enforcement of the order of maintenance

#### Laws relating to abortion

- Medical Termination of Pregnancy Act, 1971
- Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Act, 1994
- Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Amendment Act, 2001
- Pre-Natal Diagnostic Techniques (Regulation & Prevention of Misuse) Amendment Act, 2002

#### Laws relating to property, succession, inheritance, guardianship & adoption

- Guardians & Wards Act, 1890
- Hindu Adoptions & Maintenance Act, 1956
- Hindu Inheritance (Removal of Disabilities) Act, 1928
- Hindu Minority & Guardianship Act, 1956
- Hindu Succession Act, 1956
- Hindu Succession (Amendment) Act, 2005
- Indian Succession Act, 1925
- Indian Succession (Amendment) Act, 2002
- Married Women's Property Act, 1874
- Married Women's Property (Extension) Act, 1959

#### Laws relating to children

- Child Labour (Prohibition & Regulation) Act, 1986
- Child Marriage Restraint Act, 1929
- Children Act, 1960
- Children (Pledging of Labour) Act, 1933
- Commissions for the Protection of Child Rights Act, 2005
- Infant Milk Substitutes Act, 1992
- Infant Milk Substitutes Act, 2003
- Infant Milk Substitutes, Feeding Bottles & Infant Foods (Regulation of Production, Supply & Distribution) Act, 1992
- Infant Milk Substitutes, Feeding Bottles & Infant Foods (Regulation of Production, Supply & Distribution) Amendment Act, 2003
- Juvenile Justice (Care & Protection of Children) Act, 2000
- Juvenile Justice (Care & Protection of Children) Amendment Act, 2006
- Prohibition of Child Marriage Act, 2006
- Reformatory Schools Act, 1897
- Young Persons (Harmful Publications) Act, 1956

#### Offences against women and children in the Indian Penal Code The Indian Penal Code, 1860

- Abandoning of child under 12 years of age
- Adultery

- Assault or criminal force to a woman with intent to outrage her modesty
- Buying minor for purpose of prostitution
- Causing death of quick unborn child by act amounting to culpable homicide
- Causing miscarriage or miscarriage without the woman's consent
- Cohabitation caused by a man deceitfully inducing a belief of lawful marriage
- Concealment of birth by secret disposal of dead body
- Concealment of former marriage
- Death caused by act done with intent to cause miscarriage
- Dowry death
- Enticing, detaining or taking away with criminal intent a married woman
- Fraudulent marriage ceremony without lawful marriage
- Husband or relative of a husband of a woman subjecting her to cruelty
- Importation of girl from foreign country
- Intercourse by man with his wife during separation
- Intercourse by a member of management or staff of a hospital with any woman in that hospital
- Intercourse by public servant with a woman in his custody
- Intercourse by superintendent of jail, remand home, etc
- Kidnapping, abducting or inducing woman to compel her marriage
- Marriage ceremony fraudulently gone through without lawful marriage
- Marrying again during lifetime of spouse
- Preventing a child from being born alive or causing its death after birth
- Procreation of minor girl
- Rape
- Selling minor for purpose of prostitution
- Word, gesture or act intended to insult the modesty of a woman

#### Conclusion

The Constitution guarantees six fundamental rights to Indian citizens as follows: (i) right to equality, (ii) right to freedom, (iii) right against exploitation, (iv) right to freedom of religion, (v) cultural and educational rights, and (vi) right to constitutional remedies.

Legally guaranteed powers available to a legal entity in realization or defense of its just and lawful claims or interests (such as individual freedom) against 'The whole world.' Legal rights (like laws) affect every citizen, whether or not the existence such rights is publicly known. In this way We discussed important participation in our Indian constitution for women. Women's are most important role in our social, economical and political region in our country. Regarding these situations including time to time amended our constitution and empowerment of women. The Indian constitution to promote with special protection article 14, 15(1), 15(3), 16, 39(a), 39(d), 42, 46, 47, Article 51-A(e), 243-D(3) and 243-T(3) gives role of empowered women. We give such type social environment I assure that we are getting empowered and successful women.

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