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Indian & International Contribution Towards Women Empowerment

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ABSTRACT

“You can tell the condition of nation by looking at the status of its women”

- Pandit Jawaharlal Nehru

Women in our country almost constitutes one half of total population. We can measure development of a state by position of its women. However, in modern times, women are considered as weaker section because of their economic, political and social backwardness. In previous years, the footing and position of women in society has changed considerably. Undoubtedly, women empowerment and gender equality plays an important role in national as well as international progress. Variety of legal reforms and grassroots initiatives played an important part in strengthening status of women especially in India.

From satisfying International Conventions to implementing National policies, India has its share of highs and lows in terms of Women Empowerment. However, Constitution of India has express provisions favouring gender justice but Indian judiciary over the years tried to fill gaps in between.

With changing times, there is a continuous need to protect women rights without any discrimination. In many instances, Indian judiciary acted as a guardian or protector of women rights in circumstances where legislation fails to administer justice. Many judicial precedents have been established by the Superior Courts to secure women rights at work place or at home or at any sphere of society.

Unlike Legislations, Judicial precedents helped in tackling gross gender injustice problems in hand. Courts on various occasions has strike down legal provisions in conflict with gender justice. For instance, Indian judiciary has always opted for equal inheritance rights of properties in succession.

India possess a variety of Legislations framed especially focussing on women empowerment. But these legislations can be easily violated due to their lack of implementation and due to prevalence of male dominated society. In such scenarios, role of Indian Judiciary comes into picture as a watchdog or guardian.

Indian Judiciary tries its best to implement these legislations in its full extent. Indian judiciary from time to time, exercised and evolved its jurisdiction with creativity to achieve goal of women empowerment. Powers of SC are of widest amplitude when it comes for

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implementation of constitutional rights. Recently, President Ram Nath Kovind also stressed on increasing involvement of women in judiciary.

Keywords: *women empowerment, gender justice, right to equality, human rights.*

I. INTRODUCTION

With the advent of Indian Constitution, many pro women legislations have been enacted in this country. Indian Constitution is highly Inspired by Universal Declaration of Human Rights (UDHR). Indian constitution has various provisions which can be termed as women empowering provisions. Indian Constitution enshrined many rights especially for weaker sections. Women and children got protection through various Indian Constitutional provisions. Constitution empowered parliament to make special legislations for interest of children and women. Since independence, the success regarding women's rights are various in number. Indian Constitutional makers gave equal footing in employment rights to both men and women.

Indian Judiciary also played its part in upholding women's right from time to time, Indian judiciary has interpreted constitutional provisions in such a manner to uphold equal justice. Indian Constitution and judiciary also executed a much required part in providing deserved footing to women in political arena. Participation of Indian women can be seen in Every area such as Politics, media, art, education, culture etc. Indian constitution has enshrined various liberties and rights for both the gender Such as right to education, freedoms regarding occupation, expression, right to equality etc.

Today Indian legal system is continuously fighting against social evils such as Sex selective abortion, female infanticide, dowry death, domestic violence etc. Post-independence, Indian legal system has taken strict Steps for abolishing practices like bride burning.

Apart from constitutional provision many Legislations have been passed by union as well as state legislature to protect right of women. Post-independence legislations like dowry prohibition act², protection of women from domestic violence act³, immoral traffic prevention act⁴, the maternity benefit act⁵ are working solely to protect interest of women.

Newly Independent India has seen many programs and schemes with the objective to enhance position of Indian women.

However, after Independence, there were many challenge for women in India. Newly

² 1961

³ 2005

⁴ 1956

⁵ 1961

Independent India focused on education, health, safety etc. In 1985, as a division of the “Ministry of Human Resource Development”, the “Ministry of Women and Child Development” was founded. In 2006, this department received the position of Ministry. Ministry established keeping in mind the women and child development, focuses on health and safety of women and children in country. Many schemes and programs has been initiated by this Ministry for overall development of women and the little ones.

On International Women's Day in 2010, the Indian government established the “National Commission for Women”. It was established to strengthen and facilitate the coordinate women welfare programs across ministries. Over the decades, the concept of women upliftment is supported by various laws, plans policies, programs etc.

“Medical Termination of Pregnancy Act” was enacted in 1971 to provide choice to women regarding abortion. However, the obsolete Concept of females being inferior to male is still prevalent even after independence. Large number of women are still ignorant and poor. The number of economically active working females in country is very less than global average⁶.

Our founding fathers indeed contemplated the urgency for positive discrimination for female Population. Indian constitution was imbued with equality provisions⁷ as well as it provides for anti-discriminatory policies in areas regarding “Religion, race, caste, sex or place of birth” under Art.15. Specific provisions have been provided for protection of women under Article 15(3) of Constitution.

Article 21 also provide for Right to Life. The term life under Article 22 has been expanded by Indian judiciary to include all horizons which gives meaning to person’s life for the purpose of Article 21 every women is entitled to raise voice against gender based discrimination. Article 21 Empower females to get economic, social, political and cultural rights without resistance. Article 23 also provides special protection against trafficking in human beings. ⁸Constitution also provides for directives to state under par 4 to improve status of women.

Indian Constitution also provides for reservation policies in favor of females regarding panchayat and municipal elections⁹. India after independence has signed and ratified variety of international declaration and Convention for Protection of women¹⁰ and children¹¹. The change

⁶ <https://indianexpress.com/article/explained/why-india-is-no-country-for-working-women-explainspeaking-7249928/lite/>

⁷ Article 14

⁸ Article 39(a) , 39(e), 42, 144

⁹ 73rd and 74th Constitutional Amendment

¹⁰ CEDAW

¹¹ UN CRC

witnessed during previous years in India are largely influence by worldwide Movements for women rights. Women write movement was witnessed on international level around late 19th century.

International “Women's Day” was originally observed on March 19, 1911, in Austria, Denmark, Germany, and Switzerland. Before UDHR, Women’s International League for peace and freedom was held in 1915. Indian constitution is highly influenced by UDHR and promotes variety of right which were already provided in UDHR 1948. India has been an active assembly participant of CEDAW. Preamble of CEDAW provides for equal rights of women. Apart from this, Contribution of Indian judiciary in this field is so powerful and valuable. Judicial activism in India on women related problems can be seen as largely liberal and progressive. Through judicial activism, necessary framework for empowerment of women has been enhanced.

Through positive discrimination an affirmative action & participation of judiciary is impeccable. “Judicial Activism” in independent India helped Law to keep its promise. Judicial activism has expanded the law in favor of women from time to time since independence. Through various humiliations deprivation and social negligence, women's have been forced to demean their share of justice. Various women empowerment movements helped the world to change its attitude and to take further steps towards securing gender justice.

II. INTERNATIONAL EFFORTS FOR WOMEN EMPOWERMENT

Thanks to united nation woman delegates, gender justice along with human rights were inscribed in the core documents of united nation.

Latin American woman’s right activist, Bertha Lutz, exercised crucial role in including Article 8¹² on the time of the adoption of UN charter in 1945. Bertha Lutz was one of Only for women among 156 members to sign the un charter. Even during adoption of UDHR in 1948, Indian based social activist Hansa Jivral mehta Managed to change the words of UDHR from the right of man to human rights. Various conventions and gatherings play the crucial role in establishing gender justice one global level. The First ever convention dedicated to women rights was Seneca falls convention.¹³ It was led by a group of activists¹⁴ focusing on women’s right . The convention consists of 12 resolutions especially tailored to Secure rights and privileges for women.

¹² Ensures women to hold office in UN bodies

¹³ July 19-20,1848

¹⁴ Elizabeth Lady Stanton and Lucretia Mott

As per the idea suggested at international conference of working women in Copenhagen¹⁵, first international women's day was acknowledged (1911). It was inaugurated by Denmark, Germany, Switzerland and Austria. After 1917, 8th March was regarded as "International Women's Day" because on this aforesaid day the Russian women gained right to vote after a long strike.

Newly established UN adopted the "Universal Declaration of Human Rights" in 1948. This document asserted equivalent rights for both men and women. In 1975, we witnessed world's first UN conference on women. It was undertaken by "UN General Assembly" and "Commission on Status of Women". In Mexico City, representatives from 133 member states were gathered – as a result of this conference, action plan to achieve advancement of women till the next decade was discussed.

The UN general assembly indicated the decade 1976- 1985 as the UN "Decade for Women" for promotion of equal treatment and worldwide peace and further advancement. Year 1979 called for adoption of one of the most important conventions on women: "CEDAW". It is also known as the "International Bill of Women's Rights". Through this convention legal obligations against the parties' state were prescribed. CEDAW is the second most ratified UN convention.

Beijing in 1995 hosted Fourth global conference of UN. It was attended by 17 thousand officials participated and 30 thousand activists. The main subject of this conference were gender based violence, human rights issues, poverty etc. As a fruit of this conference, 189 countries adopted "Beijing Declaration and Platform for Action". Another advancement for women rights can be seen during 2017 in Washington. Women's march was organized in city Washington on 21st January 2017, to demonstrate international support for women's right. Marches had several several hundred thousand people from various cities namely Paris, Belgrade, Bangkok, Nairobi, Antarctica.

(A) Meaning and Concept of Women Empowerment under International Conventions

"Enhancing a person's or group's capacity to make decisions and translate those decisions into desired actions and outcomes is the process of empowerment. People who are empowered have the freedom to make decisions and take action. They are then better equipped to shape the direction of their lives and the decisions that have an impact on them as a result."¹⁶

Empowerment can be understood as a condition where individual is empowered to think/act freely and to enjoy their rights and choices without any bondage.

¹⁵ 1910

¹⁶ Online available from <http://www.worldbank.org>

In 2030, “Agenda for Sustainable Development” which was adopted by 193 member states at UN General Assembly Summit (September 2015), adopted goals for sustainable development. Out of these 17 goals 5th goal¹⁷ is to achieve gender impartiality and women advancement.

“Empowerment – refers to the expansion in people’s ability to make strategic life choices in context where this ability was previously denied to them.”¹⁸

In modern times the word empowerment can be termed as a process where one has power to gain authority over their lives. Just like authority over material resources enjoyment of rights etc. However somewhere the term women empowerment is also defined as mere awareness process and increased participation in decision making.

As per the guidelines by UNFPA¹⁹, the concept of Women empowerment consists of 5 components:

- Right to opportunity and resources.
- Their right to dominate own lives.
- To create social change.
- Self-worth of women.
- The right to have choices.

One another paramount hindrance in path of women empowerment is gender inequality. General equality and women upliftment can be considered as two sides of the same coin. Gender inequality is a major obstacle in path of gender justice. There is an urgent need of women empowerment in today’s scenario as expressed by Helen Clark²⁰ - “Development cannot be achieved if 50% of population is excluded from the opportunities it brings”

As per Christine Laggard (2014), then managing director of IMF²¹, there are 3L’s of women’s empowerment.²² These are namely :

- Learning

Include need and importance of women education. According to an old proverb, educating a boy will train a man, but educating a female will train an entire town. Women education must be dealt as a global responsibility.

¹⁷ <https://www.un.org/sustainabledevelopment/gender-equality>

¹⁸ Kabir, Naila 2001 “Reflection on measurements of women empowerment”

¹⁹ <https://www.unfpa.org/resources/issue-7-women-empowerment>

²⁰ Administrator UNDP

²¹ Int. Monetary Fund

²² <https://www.imf.org/en/News/Articles/2015/09/28/04/53/sp051914>

- Labor

The second L Indicate women's right to achieve their true potential in work field. It promotes equal share of economic activities by women

- Leadership

The third L means empowering women to strengthen their abilities and talents. Every moment deserves a chance to lead. Women are actually good leaders only if world allow them to lead. ILO²³ also provides for various goals for government laws and policies for promoting women empowerment at work .

(B) Efforts by United Nation Organization

United Nations is one such organization which advocated in favor of women empowerment since very beginning. Moments like intergovernmental women suffrage alliance²⁴, Int. congress of women²⁵, Equal rights international²⁶, coalition of international women's organization²⁷, the United Nations 4th world conference on women²⁸ are some global moments for protection of women rights.

In list of efforts by UN, we can include:

1. UDHR (1948).
2. Discrimination Convention 1958.
3. Convention against discrimination in education (1960).
4. Marriage Related Convention (1962).
5. UN Conference in Mexico City (1971).
6. CEDAW 1979 and its optional protocol.
7. Beijing conference (1998)
8. UN security council Resolution 1325 (2000)
9. UN women 2010.
10. Millennium Development Goals by UN.

²³https://www.ilo.org/wcmsp5/groups/public/---ed_emp/---emp_ent/-multi/documents/publication/wcms_773233.pdf

²⁴ 1904

²⁵ 1888

²⁶ 1930s

²⁷ 1935

²⁸ 1995

Beijing global summit 1995, was one of the milestone aimed at transforming the lives of humanity. Beijing 1995 focused on reproductive rights, political representation, social repression, forced marriage, maternal rights.

Among 17,000 participants, Beijing summit at some of the most influential woman For example : Benazir Bhutto, Hillary Clinton, Wangari maathai²⁹, Madeline aebright³⁰ etc. The Beijing Declaration was endorsed by 189 countries. Few years later in 2010, united nation woman was established as a global champion in women and girls. United nation woman brought together for UN offices promoting gender equality:

UNIFEM³¹, DAW³², UN-INSTRAW³³ and “The Office of Special Action on General Issues”.

“UN Women” promotes its member countries to achieve universal excellence for gender equality. It focuses on sustainable development goals ³⁴which were to be attained by 2030. 17 new SDG’s³⁵ and 169 to be achieved by 2030. These seventeen goals include gender equality as its 5th goal.

Every year HLPF³⁶ review the 2030 Agenda and the SDG’s. For year 2022, the Sustainable development goal number 5 was under review. Theme for HLPF 2022 was “Building back better from the coronoucious disease and full implementation of 2030 agenda” One of the UN women's jewel program – “Making every woman and girl Count” ³⁷ aims to increase reach of accurate statistical data on gender equality. Major focus areas under UN women are: peace and security leadership and governance, humanitarian action, ending violence against women, economic empowerment innovation and technology, women with disabilities HIV and AIDS in youth. CSW is another primal global intergovernmental body established by ECOSOC³⁸. CSW plays its instrumental role in promoting women’s right.

From 10 major areas under UN woman, women empowerment is an important field of concern. Many 2030 Agenda goals, under for sustainable development focuses on women empowerment such as Goal 8 promotes full and productive employment goal to focuses on food security for all, Goal 10 focuses on reducing inequalities.

²⁹ Env Activist

³⁰ Political Activist

³¹ UN Development Fund For Women

³² “Division for Advancement of Women”

³³ “UN Int. Research and Training Institution for Advancement of Women”

³⁴ <https://www.unwomen.org/en/what-we-do/2030-agenda-for-sustainable-development>

³⁵ Sustainable Development Goals

³⁶ “High Level Political Forum on Sustainable Development”

³⁷ <https://www.unwomen.org/en/how-we-work/flagship-programmes/making-every-woman-and-girl-count>

³⁸ ECOSOC Resolution 11 of 21 June 1946

Over 2.7 billion women across the globe do not have similar option for employment as men. Out of 189 countries, 104 countries have specific legislation preventing women to work under specific jobs. As per 2018 data, 59 countries³⁹ have no laws to prevent sexual harassment at workplace. Most shocking practice that in handful countries the partner lawfully halt their other half from going to work.

As per ILO⁴⁰, females are more likely to be unemployed than males. Unemployment ranges for both males and females were 5.5% and 6.2% respectively. The emolument interval both the gender is 23%⁴¹. As compared to men, women has less access to financial institutions⁴² & they r likely to achieve less leadership positions⁴³, females carry possibly more the burden of social evils like poverty than men. Goal 1 of 2030 agenda focuses on ending poverty. Un woman help many countries in achieving gender responsive policies. United nation women bring polyclinic and feminist and economist together to acquire gender quality.

United nation women worked with Albania and help its government to review its laws to recognize economically vulnerable women. UN women helped Cote d' Ivoire to advocate women rights and their recent National agriculture investment plan. UN women has more than 2000 staff in 90 countries with mean objective to improve women participation in public life. In past 25 years' maternal mortality rate has fallen globally by 45%. For China, UN women provides small grants for women empowerment programs in workplace.

(C) International Conferences and Declarations Concerning Women Rights

If we talk about conference UN has organized total four world conferences. Mean focus of these conferences were women. This conferences took place in Mexico City (1975), Copenhagen (1980), Nairobi (1985) and Beijing (1995).

Beijing (1995), where fourth world conference was held was a turning point in history of gender equality. In 1975, through CSW⁴⁴ world first conference in Mexico city took place.

Almost 133 countries participated along with 6000 NGOs. This conference call for implementation of world action plan for advancement of women through 1985.

The 1975 conference focused on following objectives:

³⁹ World Bank , Women, Business and Law 2018

⁴⁰ ILO, WORLD EMPLOYMENT AND SOCIAL OUTLOOK : TRENDS FOR WOMEN 2018 global Snapshot "Geneva 2018"

⁴¹ Ibid

⁴² Available at www.worldbank.org

⁴³ www.gemconsortium.org

⁴⁴ "Commission on Status of Women"

- Gender equality and Reduction of gender unfairness.
- Women engagement in development.
- Contribution of women in world peace.

This conference urged various economies to add National strategies which are not anti-women. One of the important contribution of 1975 conference was that it leads to establishment of NSTRAW and UNIFEM. However, in 2010 the both were merged to form UN women. At 1975 conference, 113 delegations from member states were headed by women.

In 1980, Global Conference for women took place in Copenhagen. It was attended by 145 member states. 1980 Conference focused on implementation of goals of first World conference.

The 1980 conference adopted various resolution. These resolutions and decisions adopted by the conferences focused on elderly women, migrant women, disabled women, battered women, woman refugees, young women etc. It all so focus done progress made in implementation of world plan of action⁴⁵.

Situation of women in Lebanese, Sabel, Chile, El Salvador, South Africa, Namibia, Bolivia was also taken in consideration⁴⁶. In 1985 Nairobi conference, for reviewing the achievements of UN decade for woman was held with 1900 delegates participants from 157 member states. Various countries adopted strategies lay down by 1985 conference to achieve generally quality at National level. Major areas of concern of 1985 conference were :⁴⁷

“Women in areas affected by drought, Urban poor woman, Elderly women, Young women, abused woman, Destitute women, Women victims of trafficking and involuntary prostitution, Women deprived of their traditional means of level, Women who are sole supporters of families, Women with physical and mental disabilities, Women in detention and subject to penal law, Refugee and displaced women, Migrant women, Minority and indigenous women.”⁴⁸

The 1985 conference also focuses on involvement of women in deciding at global level and regional level. Beijing conference was the most attended conference with 17000 participants. It consists of 6000 governmental delegates with 4 000 NGOs representatives and 4000 media representatives.

The mission statement of 1995⁴⁹ Beijing conference focuses on women upliftment and

⁴⁵<https://www.un.org/womenwatch/daw/beijing/otherconferences/Copenhagen/Copenhagen%20Full%20Optimized.pdf>

⁴⁶ <https://www.un.org/womenwatch/daw/beijing/copenhagen.html>

⁴⁷ <https://www.un.org/womenwatch/daw/beijing/nairobi.html>

⁴⁸ <https://www.un.org/womenwatch/daw/beijing/nairobi.html>

⁴⁹ <https://www.un.org/womenwatch/daw/beijing/fwcwn.html>

implementation of Nairobi based strategies. The critical areas of concern under Beijing declaration include “Women in poverty, education and training for women, health related goals, violence against women, armed conflict, economic rights, rights of girl child” etc. In 2000, the UN General assembly organized 5 year review of implementation of 1995 Beijing conference.⁵⁰

It results in political declarations and other initiative to implement Beijing commitment in New York. In 2005,2010,2015 and 2020 a 10 yrs., 15 yrs., 20 yrs. and 25 yrs. review and appraisal of Beijing action took place to address implementations. Many member states have adjusted National declarations to achieve gender equality. In its report on implementation of Beijing declaration, India pointed “Ministry of Women and Child” and various other organizations working under aforesaid ministry.⁵¹

In 1948, the union declaration of Human rights was adopted by UN. The declaration adopted the term all human beings and replaced all men. After UDHR, “Commission on Human Rights” drafted “International convenient on civil and political rights” and “International convenient on economic, social and cultural rights”.

In 1967, “Declaration on elimination of discrimination against Women” was an adopted and it forced states to curb violate existing laws, customs, practices etc. Less than a year later⁵², CEDAW was adopted by convention of Right of Women. A7 also deals with gender based discrimination. Among various UN bodies, the human rights council, security council and commission on state of women are main bodies of UN contributing in women empowerment.

UDHR as one such breakthrough in history of human rights was manifested by the General assembly on 10th December 1948⁵³. For the first time fundamental rights were brought and translated into over 500 languages. UDHR led to adoption of more than 70 treaties on international and national level. Article 2 of UDHR provides impartial rights and freedoms for both gender. UDHR under A2 also prohibits gender based discrimination and provide for equal pay for equal working, right to education and health etc. Inclusion of women rights and freedoms in UDHR led to measure developments like UNCEDAW. Each article of UDHR talks about both men and women equally. UDHR sets “Right to life, right against slavery & cruelty, right to recognition, right to privacy, Freedom of movement, right to marry, right to property, right to work, right to education etc.”. Under various issues of focus gender equality is one such global issue within the vision of UDHR.

⁵⁰ 23rd Special Session 5-9 June, 2000

⁵¹ The Int. Bill of HRs

⁵² 1979

⁵³ General Assembly Resolution 217A

(D) CEDAW and Commission on Status of Women

CEDAW was adopted in 1979 as a major treaty insuring women rights. Called as an “International bill of women rights”. CEDAW in its 30 articles sets up an agenda for member states for such type of discrimination. As a sub commission of commission of HR, “Commission on status of women” resulted in establishment of various declaration and conventions.

CSW was originally established as a sub power of HR commission in 1946. CSW also elaborated “Convention on political rights of women”, 1952 “Convention on consent to marriage” etc. “Convention on political rights of women” was adopted in 1953 on March 31st.

In 1946, CSW was originally established as a sub power of human rights commission due to pressure by various women activists. Many conventions like “Convention on political rights of women”, “Convention on nationality of married women”, “Convention on consent to marriage” failed to deal with problems regarding to general justice. Thus on 5th December 1963, CSW was invited by the General Assembly to draw a draft for “Declaration on elimination of discrimination against women” which was adopted in 1967. 5 years later in 1972, CSW also prepared a binding treaty to give a normative force to 1967 declaration. In 1976, CEDAW was prepared by commission with the help of its working groups.

CEDAW is only conventions which provides reproductive rights and targets culture and its shapes gender roles in society. CEDAW also have body of 23 experts from around the globe. This independent body of experts please with implementation of convention. CEDAW was enforced in 1981 and its article can be divided into 3 groups. First category of articles deals with state obligations. Second category of articles deals with specific forms of discrimination and provides few state measures. Last category of articles deals with administrative matters. Till now CEDAW has been ratified by 90% of countries having its membership. CEDAW focus is more on gender equality. It clearly deals with sex based discrimination. The term sex with discrimination has been defined by CEDAW⁵⁴.

CEDAW has a binding force on all member parties in respect to women human rights. Through ratification, CEDAW imposed responsibilities on states discrimination and its focuses on curbing different varieties of discrimination in every sphere. According to Article 2-5 of convention, state member is legally obliging to eliminate discrimination on national level. CEDAW find the state to prevent such discrimination by private person also.⁵⁵ CEDAW is watched by “Committee on discrimination against women”. The committee comprises of 23

⁵⁴ Article 1

⁵⁵ Article 2

experts.

CSW is a commission under ECOSOC (economic and social council) commission handles multi-year programs to check the progress and implementation. CSW also contributes in “2030 agenda for Sustainable Development” which also concentrates on empowerment of women. Commission during its annual two-week session engages in general discussion on status of gender equality. Commission also celebrates International Women day on 8th March in its session.

III. INDIAN CONSTITUTIONAL SAFEGUARDS FOR WOMEN EMPOWERMENT

For purpose of women upliftment of any segment of a society, the inclination towards “Equality before Law” is a necessity. The foundation of Indian constitution is freedom, justice, fraternity inherent Dignity and equal inalienable rights to each person.

UDHR Incorporated equal rights and freedom for all under Article 2. Indian constitution was same during the initial period of UDHR. UDHR influenced Indian constitution framers and help them to incorporate the ideals of gender based justice in the Indian constitution. In India 15th August 1947, was a milestone in record of women upliftment with the advent of Indian constitution, upgrade consciousness in our society woke up prompting gender justice.

Are constitution framers give special attention to the vision of equal treatment under law. This is evidence from various provisions in corporate by constitutional famous.

Mrs. Hansa Mehta⁵⁶ in one of her debates supported the incorporation of FRs. And explain how it will mean equality of status and opportunities to all.

She explained⁵⁷ how fundamental rights will help to curb inequalities, anti women customs and Practices in future. The ways to fulfill aspirations written in the preamble are provided under part 3 and part 4 of constitution.

Part 3 of our constitution provides FR’s from article 12 to article 35 , part 3 is considered as a heart of our constitution. Part 3 in our constitution contains most important provisions for attainment of moral, spiritual and intellectual status. Justice PN Bhagwati in *Maneka Gandhi v/s UOI*⁵⁸ rightly pointed out the essence of fundamental rights.

Art. 23 of the Indian constitution gives protection against trafficking and similar forms of forced labour.

⁵⁶ Member of Constituent Assembly

⁵⁷ Parliamentary Debates

⁵⁸ AIR 1978 SC597

Parliament has also introduced in Moral traffic prevention act 1956 in this regard. It prevents social evils like selling and buying female infants and girls in exchange of money.

Art. 23 also protects children regardless of the year gender against employment in hazardous factories. It's for employing of children below 14 yrs. of age to protect and safeguard their childhood.

The framers of Constitution also preserve the Equality doctrine⁵⁹. However, it doesn't stop state to draft a policy of positive favoritism for both children and women to increase their participation in economic, political and educational spheres⁶⁰. Article 14 to article 18 under part 3 of our constitution deals with the doctrine of equality. Article 14 prohibits unreasonable discrimination and its states that "the state shall not have denied to any person equality before the law or equal protection of law with a territories of India."

"In practical application of article 14, it must be read to infer substantial equality and not formal equality" as stated in *Mackinon Mackenzie and co. Ltd v/s Aundrey D'Costa*⁶¹. 14 embodies that like shall be treated alike and unlikes shall not be treated alike. This allows the government indirectly to create positive discrimination by creating special provisions like reservations for weaker section of society.

Article 14 only permits reasonable classification. Apex Court in *Air India v/s Nargesh Meerza*⁶² considered involuntary retiral of air hostess on her pregnancy as not upright with the constitution. Under Art. 14 and 16, the apex court while expressing its views held their practice as cruel. Calls it as an insult to Indian motherhood. Indian judiciary always took a strict action in cases where a principal of equal production of law has been violated. Doctrine of equality is a gem of this country's legal system.

Article 14 also articulates "Equal pay for equal work" notion for wages. In *State of MP v/s Pramod Bhartiya*⁶³, apex court strike again artificial classification between kind of work and employment. It was decided that such categorisation could not be used to justify uneven remuneration. Apex court in *Mackinon Mackenzie and co. V/s Andrey D'Costa*⁶⁴ " held that discriminatory remuneration on the basis of stenographers sex is not permissible. Both male and female stenographers are and title to be paid equal remuneration if they are doing exact kind of labour.

⁵⁹ Art.14

⁶⁰ Article 15(3)

⁶¹ 1987 AIR SC 1281

⁶² AIR 1981 SC 1829

⁶³ AIR 1993 SC 286

⁶⁴ AIR 1987 SC 1281

Apex Court in *Madhu kishwar v/s State of Bihar*⁶⁵ quashed some discriminative provisions. The act denied the “Right to succession” to scheduled tribal women in fringing article 14 article 15 and article 21 of constitution. In *Charu khanna v/s UOI*⁶⁶ (2015), the court held that membership as makeup artist in line costume makeup artist and hair dresses occasionally cannot be denied on the grounds of gender. As it was against Article 14 and Article 21 of the Indian constitution.

In a landmark judgement of *State of Jammu and Kashmir and others v/s Susheela sawhney and ors.*⁶⁷ Supreme court held that daughters need not to lose their permanent resident status upon their marriage to a person from outside Jammu and Kashmir. In Babita Puniya case⁶⁸, supreme court allowed permanent commission for women in army.

In *MCD v/s Female Workers*⁶⁹, special leave petition, supreme court focused on maternity benefits to daily wage workers.

Art. 15 of Indian constitution is against gender based discrimination. Art15 also prohibits state as well as the individual under clause and to respectively to engage in such discrimination. However Art.15 authorizes the nationhood to engage in positive discrimination by making “special provision for women and children”. Article 15 (3) authorisation the state to improve social will been of both children and women by passing special legislation for them.

State under article 15 (3) is permitted to establish educational institutions for women only⁷⁰. Both states and judicial system can justify protective discriminate tree provisions in favour of women in field like criminal law, labour law, service law etc.

Apex Court in recent landmark judgement upheld equal coparcenary rights of daughter as a birthright respective of whrther they were born before 2005 or not. ⁷¹Supreme court has also formulated guidelines for “Sexual Harassment of Women at Workplace” in *Vishakha v/s State of Rajasthan 1997*.⁷²

In case of guardianship, the apex court has retired that only father cannot claim to be a natural guardian⁷³. Mothers right to be identified as a natural guardian was up held by the supreme court. Article 15 and 16 carry forward the rule laid down under article 14. Article 16 (1)&(2)

⁶⁵ AIR 1996 SC 1864

⁶⁶ AIR 2015 1 SCC 192

⁶⁷ AIR 2003

⁶⁸ 2020

⁶⁹ 1998

⁷⁰ Dattatraya vs State of Bombay AIR 1952 SC181

⁷¹ Vineeta Sharma vs Rakesh Sharma 2018

⁷² AIR 1997

⁷³ Gita Hariharan vs Reserve Bank of India

provides discrimination free public employment. Article 16 is against impartiality on basis of “race, religion, caste, sex, place of birth, resident, descents” or any of them. Apex Court in **Ranveer Singh v/s Union of India**⁷⁴ contended that article 16 also covers the notion of “Equal pay for Equal work”. Supreme court in government of **Andhra Pradesh v/s PB Vijaya Kumar**⁷⁵, up held that the validity of legal legislation providing 30% reservation to girls in education institutions and in local bodies. Article 15 and 16 allow peculiar treatment of women in a positive manner. Discrimination on basis of gender for employment purpose is prohibited. Although state can make provisions for positive discrimination in terms of employment.⁷⁶

Supreme court in **CB Mutthamma v/s UOI & ors.**⁷⁷, Held that women officer did not need permission of government before getting married. Apex Court in **Rajesh Kumar Gupta vs State of UP**⁷⁸ upheld the reservation for female candidates.

DHC in **Laxmi Mandal v/s Deep Dayal**,⁷⁹ **Hari Nagar hospital**, held that the freedom to access minimum level of treatment is implicit in right to hold. Supreme court has also dealt with reproductive rights of mentally challenged women⁸⁰ and right of a woman to make choices regarding sterilization⁸¹.

Supreme court in **Vijayalakshmi v/s Punjab University**⁸², held that appointment of lady principal as per “Rule 5 and 8 of Punjab University Calendar” is not a transgression of article 14 and article 16. Article 14 and 16 permits reasonable classification has the Nexus with the object.

Article 19(1)(g) of Consti. assures freedom to practice any occupation or trade. Article 19(1)(g) is only accessible by the citizens. Apex Court in **Delhi Domestic Working Women's forum vs Union of India**⁸³ provided protection in favour of working women against sexual violence. Supreme court extensively lay down the guidelines for gender equality in **Visakha vs State of Rajasthan** against “Sexual harassment at workplace”. In this case, According to the Apex Court, it is the answerability of the employer to avert sexual harassment at work and to manifest a shielded ambience for women. Article 21 on the other hand is framed in a negative language as an obligation to secure a person the fundamental “right to life and personal liberty”.

⁷⁴ AIR 1982 SC 879

⁷⁵ AIR 1995

⁷⁶ Air India Cabin Crew Association vs Yeshaswinee Merchant AIR 2004 SC 187

⁷⁷ 1979

⁷⁸ AIR 2005 SC 2540

⁷⁹ 2008

⁸⁰ Suchita Srivastav vs Chandigarh Administration 2009

⁸¹ Devika Biswas vs UOI 2006

⁸² AIR 2003 SC 333

⁸³ 1995 SC 14

However, Indian judiciary gave a very wide and positive interception. Many times the apex court has utilized Art. 21 to uphold gender justice.

In *State of Maharashtra v/s Madhukar Narayan*⁸⁴, the apex court said that privacy rights for women is prerequisite for dignified life. Article 21 of the Constitution has been used by the apex court to confirm various rights like right to clean air, water, roads, food, privacy rights, livelihood rights, shelter and housing rights etc. In *Lata Singh v/s state of UP*⁸⁵ 2006, apex court dealt with freedom of choice in case of marriage. In recent case supreme court dismissed the order of Kerala High court⁸⁶, where marriage of a 24 yrs. old girl was countermanded by the court. Apex Court in this aforesaid matter marked that each individual has a choice of partner and it is a matter of privacy. Supreme court also held that personal liberty holds an important place under our constitution.

In 2014, the apex court took cognizance⁸⁷ of a newspaper report regarding “Rape of young woman on orders of village court”⁸⁸. In this case, the court included freedom of choice regarding nuptials as a part of Article 21.⁸⁹

Apex court in *Gurney Singh v/s State of Punjab* 2013⁹⁰ upheld the rights of daughter in law and the code illustrated how daughter in laws must be treated as a family member with affection and not as a housemaid.

In a famous case of *Shayara Bano v/s Union of India*⁹¹, the court condemned the operation of triple talaq (talaq e biddat) as not acceptable and against the notion mentioned in article 14, article 15, article 21 and article 25 of the constitution of India. While establishing general equality, the apex court also held article 497 as violation of Indian constitution as it treats men and women unequally⁹². In *ABC v/s State of Delhi* (NCT)⁹³, apex court held the guardianship rights of an unviewed mother towards her offspring's. Part 4 of Indian constitution which incorporates “Directive principles of State policy” also contains provisions for empowerment of women. Not to include important rights securing gender justice such as violation right, employment rights, maternity rights etc.

⁸⁴ AIR 1991 SC 207,211

⁸⁵ 5 SCC 475

⁸⁶ Shafin Jahan vs Ashok Kumar AIR 2018

⁸⁷ Suo Motu Writ Petition no. 24 of 2014

⁸⁸ IN RE: Indian women says gang raped on orders of village court published in Business and Financial News dated 2014

⁸⁹ ibid

⁹⁰ 2013 7 SCC 108

⁹¹ 2017

⁹² Joseph Shine vs UOI 2018

⁹³ 2015

The court on various occasions has reiterated that special maternity leave under article 42 is not a violation of article 15(1)⁹⁴. The apex court in *Municipal corporation of Delhi v/s Female workers*⁹⁵, extended maternity assurances to the employees of municipal corporation.

In *Sarla Mudgal v/s Union of India*⁹⁶ higher court ruled on Art. 44, which deals with implementation of “Uniform civil code” for the sake of unity, women's wellbeing, and overall good. Fundamental duties under part 4A also imposes a duty to prohibit such evil practices which are against the wellbeing of women.⁹⁷

(A) Women Empowerment Schemes by Indian Government

The Government of India has undertaken several policy interventions to manifest a progressive environment for women and adolescent girls. In order to accelerate social, economical and political development of women, various flagship policies and programs of Indian government have been initiated. Few examples of these programs and policies include “Beti Bachao Beti Padhao (BBBP)” , “Swachh Bharat Mission” , “Pradhan Mantri Awas Yojna(PMAY)” , “Pradhan Mantri Jan Dhan Yojna(PMJDY)” , “Deen Dayal Upadhyay Gram Jyoti Yojna(DDUGJY)” , “Pradhan Mantri Ujjwala Yojna” and many more. In order to ensure proper sanitation facilities and to secure dignity of women , construction of gender specific latrines in public area has been done .

This work was conducted under “Swachh Bharat Mission” in order to eliminate gender disparity. This mission leads to improvement in health standards and sanitation facilities across the country. In order to protect adolescents from malnutrition, government has implemented Anganwadi Services , “Pradhan Mantri Matru Vandana Yojna” and schemes like “Anaemia Mukh Bharat” . Poshan Abhiyan was launched to curb malnutrition in India by 2022. In order to accelerate the involvement of girls in education sector, “Beti Bachao Beti Padhao Adolan” was initiated in 2015 to increase child sex ratio. The major focus of “Pradhan Mantri Ujjwala Yojna” was to provide Free LPG connections.

The Indian Gov. has imparted number of schemes to achieve 100% literacy rate irrespective of gender. Various schemes have been initiated to boost admission of girls in education institutions such as “Rashtriya Madhyamik Shiksha Abhiyan(RMSA)” , “Swachh Vidyalay Mission , Sarva Shiksha Abhiyan” (now Samagra Shiksha Abhiyan) etc. These programs and schemes provides various facilities to promote participation of girl child in educational

⁹⁴ Dattaraya vs State of Bombay AIR 1952

⁹⁵ AIR 2000 SC 1274

⁹⁶ AIR 1995 SC1531

⁹⁷ Article 51e

institutions . Facilities include free books , uniforms , meals , travel , gender sensitive teaching materials etc. National Policy on Farmers 2007 Contributed to “*Recognition and mainstreaming of women’s role in agriculture*” for achieving the ultimate level of women empowerment in agricultural sector. For increasing the present footing of women in agricultural sector the Gov. of India has activated various schemes such as “Mahila Kisan Sashakti Karan Pariyojna (MKSP)” , “DeenDayal Antodaya Yojna-National Rural Livelihood Mission (DAY-NRLM)” etc.

To improve health conditions under National Health Policy 2017, the indian government announced “Ayushman Bharat Program and the Pradhan Mantri Jan Arogya Yojna(PMJAY)” in september,2018. To ensure equal access to healthcare facilities and to protect reproductive rights of women , government has instilled Janani “Shishu Suraksha Karaykram and Janani Suraksha Yojna(JSY)” as a part of National Health Mission. Programs such as “Pradhan Mantri Matru Vandana Yojna” primarily focuses on pregnant women and various maternity benefits. Furthermore in 2014, “Rashtrya Krishor Swasthya Karyakram (RKSK)” was launched to provide counselling on sexual and reproductive health matters . Counselling under this scheme was initiated at Adolescent Friendly Health Clinics (AFHC). In order to secure gender justice , it is vital to address problems regarding menstrual hygiene among young girls. The 73rd amendment of Indian Constitution was another major step towards achieving gender justice. It provided active participation of women in “Panchayati Raj Institutions” (PRI). Till now , more than 20 stategov. have imparted 50% reservation for women in PRIs.

The Gov. of India has also contributed for protection of widowed women and women who are victim of horrific offences. One such scheme for empowerment of such women is establishment of Swadhar Greh , which provides means of food , clothing and shelter. To shield older women and to make available food , clothing and shelter for them , the government has implemented “Integrated programme for senior citizens(IPSRC)” , “Senior citizens home for 50 elderly women” , “Indira Gandhi national old age pension scheme(IGNOAPS)” , “Rashtriya Vayoshri Yojna (RVY)” , “Pradhan Mantri Vyay Vandana Yojana (PMVVY)” etc. Pradhan Mantri Mudra Yojna was implemented with the objective to support self employment. Only Women accounts for 76% of all the beneficiaries of this scheme. In last five years over 9.45 lakh crore has been given to over 19 crore beneficiaries.

Schemes like Pradhan Mantri Ujwala Yojna were launched to ensure women’s empowerment at rural level. Till March 2019, more than 7crore LPG connections for BPL households have been established under this yojna. In order to focus on economic empowerment of women, “Mahila e-Haat – Portal” has been established to support women entrepreneurs and to make

them economically independent. In order to generate economic opportunities through self employment, “NaiRoshni” scheme has been implemented. Under this scheme , training sessions are conducted for alleviation of women in economic arena.

One of the major objective of MANREGA 2005 is to provide at least one third jobs to women. MANREGA Guidelines also encourages and promotes the participation of women in employment opportunities. These various programmes and schemes launched by Indian government provided social protection in areas like minimum wages,pension schemes, health insurance, maternity leave, Health Protection ,skill development, employment generation etc. Employment generation for women is key priority in order to secure gender justice in Indian society. Anganwadi services provides Benefits to children below “6 years of age & pregnant women” .

In order to tackle the cyber crimes effectively especially against vulnerablewomen and children, scheme like “Cyber crime Prevention against women and children CCPWC” was implemented by Indian government. Ministry of Women and Child Development is also focusing on two major schemes from Nirbhya Fund : One Stop Center and Universalisation of Women Helpline . One stop centre of Sakhi centre Provides facilities to women victims affected by domestic violence and other such offences. The women helpline scheme is to give 24 hours emergency response to women victims by connecting them with police , hospital etc. Under this women helpline scheme various counselling services and rescue van is also provided for women in distress.Ujjwala scheme focuses on rehabilitation and rescue operations for victims regarding trafficking.

In 2017 the “Mahila Shakti Kendra (MSK)” scheme was approved in order to empower rural women and to facilitate various schemes and programs for them.Recently A program called “Mission Shakti” has been launched by the “Ministry of Women And Child Development” for security safety and strenghtening of women. This program provides for impartial engagement of women in different level of governance and making them equal partners in nation building. This program a dresses various issues effecting women empowerment in the country.⁹⁸

In 2016 this Ministry for women & children also introduced the “Mahila police volunteers scheme(MPV)” in order to combat crime against women such as household abuse, child nuptials, sexual harassment etc and to encourage females to join police force to ensure women participation. Mahila shakti Kendra MSK is one such popular initiative in order to support digital literacy, women talent etc. In past few years we have noticed various schemes and

⁹⁸ <https://pib.gov.in/Pressreleaseshare.aspx?PRID=1795471>

programs initiated by Indian government in order to ensure gender justice. These schemes plays an important role in ensuring well being and safety of women. These government schemes and various programmes also ensures political, social and financial wellbeing of women across the country. Recently on 25th anniversary of “4th World Conference on Women” , the “Indian Minister for Women and child development” , Shremati Smriti Irani has highlighted that how India recognises gender equality and is working continuously to achieve all spheres of women empowerment. She also highlighted that how more than 200 million women in India have been brought into formal banking system through these various governmental initiatives. Such schemes are backbone of women empowerment in India and continuously contributing in women welfare.

IV. ROLE OF INDIAN JUDICIARY IN WOMEN EMPOWERMENT

During the prior decades, Indian judiciary have imparted a cardinal bitpart in making justice obtainable to all in prevailing times.

Since the legislation cannot alone impart justice, judicial evaluation is necessary. Performance of Indian judiciary in implementing constitutional mandate of justice to women is impeccable. As we know, Indian constitution has paved away to secure gender justice and there are various number of Indian legislations which also provides protection to women.

However, The legislation cannot secure gender justice alone. The Indian justice delivery system delivered a cardinal role in providing widest interpretation in order to fulfill constitutional demand for gender justice. As a guardian of justice, Indian judiciary has stretched the purview of prevailing law in order to secure gender justice. The engagement of Indian judiciary is not just to elucidate the law but also to interpret it in such a manner in order to change social and economic scenario of society., In order to deal with the speedily altering society, Time to time interpretation of such laws is necessary.

Due to such judicial intervention the footing of women in our realm has inclined which can be said as satisfactory. In order to accelerate legal development time to time interpretation of statutes is an important role of judge.

Judiciary in current moment has filled up gap created by the legislations. Through Judicial Activism, Legislations got their true and widest possible meaning. In past few years, judiciary proved itself as so innovational in disposing matters related to “Gender justice, right to life, right to equality, right against exploitation” and many such other rights have been interpreted by Indian judiciary in favor of women.

In changing society, law cannot remain static. Time to Time interpretation of law is need of an hour for legal developments. Judges mould laws as per changing need of society and interpret it in such a way to give it a meaningful reality. Be it daughters right or protection at workplace or discriminatory personal laws against women or participation in defense, Indian judiciary has always upholder justice for women. Recently in 2020, Indian judiciary upheld the eligibility of women in permanent commission in defense forces.

Various Personal laws have been trucked by the the supreme court which were discriminatory against women. In 2021 , court also slammed Indian Army for Disallowing women to appear in National Defence Academy examination. The code regarded is as a form of gender discrimination on the part of Indian army. Not only in defence sector but in education sector, the engagement of judiciary in upholding justice for women is impeccable.

Adequate and equal rights in education sector is incumbent for wholesome development of a living entity. The Patna High court in *Padmaraj Samarendra vs State of Bihar*⁹⁹ rules in the favour for “allotment of seats for girls in medical college”. High court in this matter imparted that requirement for lady doctors is need of an hour. In *Rajesh Kumar vs State of UP*¹⁰⁰ , Supreme court rules in favour of providing 50% reservation to female candidates for special basic teachers certificate (BTC) training course . In *P Sagar vs State of Andra Pradesh*¹⁰¹ , The Andhra Pradesh HC in this case opined that women cannot be denied the “Right of Reservation” under Art. 15(3) of the Constitution.

Apex Bench in *CB Muthamma vs Union Of India*¹⁰² , Held that taking permission before marriage for government employees is discriminatory. The court observed that right to employment cannot be denied to a married women. The court upheld the principle of equality and observed that inhand impartiality is transgression of art. 14. The court also observed that demanding resignation of a married woman is also transgression of art. 24 of the consti. . In similar case, the Orissa HC observed that disqualification of a married woman in Orissa service rules is clear cut violation of article 14¹⁰³. Such rules allows discrimination against married women and thus they are violating notion of equality.

In this regard in a landmark case in *Air India vs Nargesh Meerza*¹⁰⁴ , The bench declared few regulations of AirIndia employees service as transgression of Art.14 of Consti. As per these

⁹⁹ 1979

¹⁰⁰ 2005

¹⁰¹ 1968

¹⁰² 1979

¹⁰³ 1969

¹⁰⁴ 1981

regulations the air Hostess was required to resign after marriage or after the first pregnancy or after attaining the age of 35 years, whichever occurs earliest. The Supreme Court in this regard observed that these regulations are against the spirit of article 14 of constitution. The court contended these regulations to be cruel and inhumane and an insult against womanhood. Judges observed that such a course of action is grossly unethical and such provisions are unreasonable and arbitrary and contains unfairness. In a similar case , ***Bombay Labour Union Vs International Franchises Pvt Ltd*** ¹⁰⁵ , The bench observed that such regulations of a corporation which required an married women to resign from the services is highly unconstitutional and unethical.

In ***CB Muthamma vs Union of India*** ¹⁰⁶ , In this matter the apex bench declared “Rule 8(2) of Indian foreign Services rules 1961” as impartial and violative of principle of equality. The court observed that this rule which demands assent of public undertaking on paper before marrying is violative of article 14 . As per this rule if the government is satisfied that marriage will decrease the efficiency in discharging duties then the woman is conditioned to leave the service. In this case justice Krishna Iyer observed that such kind of discrimination against women is traumatic and such rules are against the “Principle of Equality”. Apex Bench in ***Vijay Laxmi vs Punjab University*** ¹⁰⁷ , observed that Installation of female principal in girlscollege as per the rules of Punjab university calendar cannot be observed as transgression of article 14 and 16 of constitution .

The Supreme Court imparted aforementioned type of Classification is “Reasonable and it has a Nexus with the object”.

The apex court in ***Uttarakhand Mahila Kalyan Parishad vs State of Uttar Pradesh***¹⁰⁸ , Observed that equal remuneration for lady teachers for the homogenous effort exerted out by them is important for gender justice. An another important case ¹⁰⁹ wherein the SC apprehend the “Right to Privacy of Female Employees”. In this case a female employee was terminated because she kept the info. regarding her pregnancy to herself. In this case the bench was astonished and observed that providing information about menstrual cycles and past pregnancy is a transgression of privacy of a person and clear infringement of art. 21 of Indian Consti. The Apex Bench in this case also imparted that “It is duty of employer to pay equal remuneration to both male and female employees”.

¹⁰⁵ 1966

¹⁰⁶ 1979

¹⁰⁷ 2003

¹⁰⁸ Air 1992 SC 1695

¹⁰⁹ Neera Mathur vs Life Insurance Corporation 1992 AIR

In *Maya Devi Vs State of Maharashtra*¹¹⁰, The bench settled that consent of husband for employment application of wife is not a requirement and such discriminatory requirements are an obstacle against gender justice and economic justice.

In *B Shah Vs Presiding Officer*, Labour Court, 1978, The bench observed the manner of computing the maternity benefit must be in such methodology as to boost the goal of the act. In another important judgement,¹¹¹ the Supreme Court observed that maternity benefit must be given to both “Casual workers and Daily wage” workers. Maternity benefit act provides maternity benefits to not just regular women employees but also to them who hustle on daily/casual wage basis.

The Indian judiciary also portrays an impeccable part in necessitating “equal pay for equal work”. In variety of cases such as *Democratic Rights vs Union Of India* (1982), *Sanjit Roy vs State of Rajasthan* (1983), *Randhir Singh Vs UOI* (1982), the Apex bench retreated the principle of “Equal pay for Equal work” inshrined in Art. 39(a).

IPC is the leading piece of law dealing with wrongdoings against women. Apart from this there are special statutes for domestic violence and dowry related crime. In *State Of Punjab vs Gurneet singh*, The bench observed that we are admiring women’s prerogatives in our realm although crime against women is on increase. In this case the court contented that judiciary should take higher responsibility while trying cases involving children and women. The “Criminal law Amendment 2013” was a result of 2012 Delhi gang rape case. Similarly the “Sexual Harassment of Women at Workplace Act 2013” was the fruit of Vishakha ruling. This shows that Indian judiciary at many times plays a role of an Eye opener regarding gender justice.

In *Re. vs. UOI and others*,¹¹² The bench considered how to tackle of sexual transgression of children. In this case, the court pointed out minimum standard of care to be taken by the juvenile Justice Act in order to uphold interest of children. In *Ravinder singh vs State of Harayana*, The court retreated few guidelines regarding compensation in acid attack cases. After Lakshmi Agarwal case various guidelines for providing reassurance to victims were laid down. *Tukaram vs State of Maharashtra*¹¹³ is one such case where the role of judiciary regarding crime against women can be appreciated. After this particular case, the “Criminal law Amendment Act 1983” was passed and sec. 114A of Evidence Act was amended. After this judgement the detention

¹¹⁰ 1986

¹¹¹ MCD Vs Female Workers, 2003

¹¹² 2017

¹¹³ AIR185 1979

for custodial rape was extended to 7 yrs. and also the onus to proof was thrust on the wrongdoer. The Vishaka Case was one such another landmark case where the court recognised “Right to work in safe environment”. The court pointed out various guidelines for a “healthy and safe working environment” for women. In this case court ordered central government to enforce these guidelines via legislation. After this case , Sexual Harassment of Women at workplace (Prevention Prohibition and Redressal) Act 2013 was enacted.

In response to *Laxmi vs UOI*¹¹⁴ , ample directions were furnished by the SC for protection of acid attack survivors. After this case a few amendments in IPC were made for redressal of such acid attack survivors.

In 2001, Ritu Kohli case was the first case regarding cyber bullying. In this case Ritu Kohli filed a complaint against accused for stalking her on internet. As a result of this, amendment to the Information Technology act was made in form of section 66E. With the help of these landmark judgements , the state took such cases in consideration and amended various legislations from time to time.

Only because of these landmark judgements, we have noticed various amendments in criminal legislation.

Recently in *State of Rajasthan vs S*, The Supreme Court stated that right of women to make reproductive choices is a right under personal liberty article 21.

(A) Recent Indian Judicial Developments

In recent years we have seen some major steps taken by judiciary in favour of women empowerment. Recently in 2022 itself, SC furnished various landmark judgment regarding “Medical Termination Of Pregnancy Act (MTP) Act,197” . In this case¹¹⁵The Supreme Court observed right of women to guarded and lawful abortion. The court also observed that both married and unmarried women are legally entitled to a safe abortion. In this matter SC also imparted that forcing unwanted pregnancies is violation of right to dignity. In another Landmark case, KamalaNeti (dead) through *LRs vs The special Land Acquisition Officer &ors.*¹¹⁶, The court held right of equal share of property for tribal women

In this matter the bench also took recourse that denying equal property rights to tribal women after period of 70 years of constitution of India is highly violative of right to equality.

¹¹⁴ 2006

¹¹⁵ X Vs Priciple Secretatry health and Fmily Welfare Department, gov. of Nct of Delhi

¹¹⁶ 2022

In *Akella Lalitha Vs Sri Konda Hanumantha Rao & Anr*¹¹⁷, the supreme court stated that “**Mother as a natural guardian of child has a right to decide the surname of child**”. Recently in 2022, Supreme Court held that the two finger test must not be conducted as it neither proves or disproves the allegations of rape¹¹⁸.

In famous Sabrimala Judgement, the court declared the practice of prohibiting women in their menstruating years from entering into temple is unconstitutional. While focusing on mental and physical health of female, the court in *Independent Thought vs UOI* (2017) observed that Sexual intercourse with wife who is below 18 years will be seen as committing rape. In *Vineeta Sharma vs Rakesh Sharma (2020)*, the Supreme Court held impartial coparcenary rights for daughters in Hindu family.

In 2020, Supreme Court on *Punjab and Sind Bank & Ors vs Mrs Durgesh Kuwar*, observed offenses like sexual transgression at workplace are opposed to the Doctrine of Equality and against dignified life rights and suppress profession related rights. Recently, the DHC while responding to a matter presented by 26 yrs. old observed that forcing women to get married against her will by parents is not acceptable. In 2020, the Division Bench in *Kush Kalra vs UOI*, observed that women candidates are permitted to take part in National Defence Academy examination (NDA). In *Satbir Singh Vs State of Harayana*¹¹⁹, Supreme Court drafted few guidelines for dowry death trials in the lower courts. In 2021, the SC reiterated that the consent of family members is not required if both the adults are willing to marry each other.¹²⁰

For pertaining maintenance laws for women, the supreme court in *Abhilasha vs Prakash & ors* observed that an unmarried Hindu daughter has right of maintenance from father until she gets married.

In other series landmark cases, the apex bench established the notion of gender impartiality. In *Gita Hariharan vs RBI*¹²¹, the court held “Mother to be a natural guardian even during the presence of father”. In *Neera Mathur Vs LIC*¹²², supreme court established right to privacy in respect of information regarding reproductive functions. The court observed that asking questions based on menstrual periods and past pregnancies is violation of right to privacy. Apex bench in matters like *Union of India vs KP Prabhakaran*, upheld the validity of protective discrimination under Article 15(3).

¹¹⁷ 2015

¹¹⁸ State of Jharkhand vs Shailandra Kumar, 2010

¹¹⁹ 2010

¹²⁰ Laxmi Bai Vs The State of Karnataka 2020

¹²¹ 1992

¹²² 1993 1 SCC 286

V. INDIAN STATUTORY BODIES IN REGARD TO WOMEN EMPOWERMENT

As a result of national and international pressure the Indian government have constituted various statutory bodies and other institutional mechanism in way to uphold gender impartiality. In 1985 the Indian govt. established “Department of women and Child Development” under the “Ministry of Human Resource Development” in order to focus on women protection and growth . The first step of Indian government regarding welfare of women was bringing of “Central Social Welfare Board” in 1953 which led to imparting schemes for women and little ones. Apart from this “National Commission for women” , the Rashtriye mahila kosh national children’s fund was established for advancement of women in our society . In the year 1975 we have seen major development focusing on gender justice. After few suggestions of “Committee on Status of Women” CSWI , the Indian government enacted “National Commission for women” in 1992 under “National Commission for women act 1990” . It was manifested with the main aim to shield the wellbeing and interest of women.

In year 1997 a parliamentary committee for women empowerment was also established consisting 30 members, 20 from Lok Sabha and 10 from Rajya Sabha. The centre focus of this committee was to scrutinize and consider reports forwarded by “National Commission for Women” and to examine footsteps grasp by Union govt. for women advancement. The “Ministry of women and child development” which was established in 1985 a parcel of “Ministry of human Resource Development” focus is solely on furtherance of women and little ones. Over the past few years this ministry has formulated various programmes policies and legislations for women advancement & childcare. This ministry has six freestanding organizations which are up & running under it such as “National Institute Of Public Corporation and Child Development(NIPCCD), National Commission for women(NCW), National Commission for Protection of Child Rights (NCPCR), Central Adoption Resource Authority (CARA), Central Social Welfare Board (CSWB) and Rashtriya Mahila Kosh(RMK)” .

(A) NCW – “National Commission for Women”

After the guidance of “Committee on Status of women” in India (CSWI), the “National Commission for Women” was established in 1992 under the “National Commission for women act 1990” . In 1992, The foremost Commission was constituted with chairperson Mrs Jayanti Patnaik. As per Sec 3 of 1990 Act, The Commission will consists of a chairperson and 5 other members selected by central government with a member secretary. The on cammand chairperson of NCW is Mrs Rekha Sharma . She assumed charge on August 7th 2018. As per sec. 10 of Act of 1990, The Commission is liable to perform the following functions:

- To examine and investigate various matters concerning women protection under constitution and other laws.
- To deal with cases regarding transgression of consti. and other laws.
- To deal with various problems standing out of impartiality and barbarity against women and to conduct special studies and investigation to look into these problems.
- To provide union gov., the advice regarding the running of Commission.
- To review the existing laws for upliftment of women and to advise alterations in order to dodge any imperfections.
- To consider the progress and upliftment of women in recent years .
- To take up educational research and suggest ways for uplifting footing of women in the realm.

Apart from this the aforementioned Commission also fund litigation concerning issue of women empowerment and it also participates in socio economy development. The Aforementioned Commission can also investigate any matter by thrusting attendance of any person or by receiving evidence and is also empowered to conduct examination of witness and document. The major objective of Commission Is to protect the rights of women in India and to handle various complications countering women empowerment such as “Dowry related offences”, “Equal pay for equal work”, exploitation of women for labour, Sexual violence at workstation, household violence etc.

In 2020-21 this Commission touched various milestones in taking new initiatives for women empowerment.¹²³

The Commission has also initiated the practice of “Mahila Jan sunvai” for hearing complaints and to facilitate speedy disposal of such complaints. The Commission can also take cognizance in its own motion of atrocities publicize in electronic or print media . This power was inferred upon the Commission by Sec10 of act 1990. The Commission also deals with “Training of Protection officers appointed under Protection of women from domestic violence Act 2005 under Lal bahadur Shastri National Academy of Administration program” (LBSNAA) .

During COVID pandemic, the Commission issued an advisory in way to shield the fundamental rights of migrant women workers across the country. This Commission has also contributed in legal awareness programs. Recently it has initiated a legal awareness plan of action in

¹²³ https://ncwapps.nic.in/pdfReports/Annual_Report_2020_21_English_Full.pdf

collaboration with NALSA¹²⁴. The main aim of this program is to spread awareness regarding shields and redressals entrusted under copious laws.

The Commission Is also working in direct partnership with “Ministry of External Affairs” in way to assist the aforesaid ministry in resolving NRI marriages related issues. When it comes to economic empowerment of women, the Commission is also working in close contact with Indian Institute of Management , Bengaluru in order to train more than 5000 aspiring women entrepreneurs.

The Commission has also conducted many outreach programs for women advancement in northeastern states. In such programs, the Commission also create awareness about various issues faced by northeastern in metropolitan cities. With the help of its global digital literacy program – We Think Digital, the Commission is also working towards creating awareness regarding cyber crimes. The Commission is also working in coordination with “Ministry of Women and Child Development” and other state wise commissions for women in way to impart equality and noble life to all women across nation.

The “Complaints and Investigation Cell” of the Commission also delivers an un ignorable role in implementation of women related rights. The complaint and investigation cell Receives various complaints regarding non implementation of women’s right. This cell receives complaints online and speedy redressal is assured .

In order to deal with such complaints, the Commission is continuously working with “National legal service authority” , “State legal service authority” , “District legal service authority” etc. This close coordination helps the Commission to handle complaints in a smooth manner. In 2005 the mechanism for online complaints was launched by the commission. With the help of Mahila Jana Sunvai initiative, The Commission takes matters in presence of Commissioner of Police and other senior officers including investigating officer. For serious crimes the Commission has also established inquiry committees in order to examine evidence and witnesses which in turn provides immediate relief to sufferer of transgression and atrocities.

In the complaint and the Investigation Cell , there are total 23 categories under which aggrieved person can initiate complaint. These categories include: Rape, Acid attack, sexual assault,, sexual harassment, cyber crimes against women, prostitution of women, the crime of stalking and trafficking, dowry related harassment of married women, the issues of polygamy, gender discrimination and “Right to live with dignity” , “Sexual harassment at workplace” , sex selective abortion, free legal aid for women, right to choice in marriage etc. During 2020 to

¹²⁴ “National Legal Service Authority”

2021 alone , the complaint and investigation cell recorded around 26,513 complaints from various states. Among this, large number of complaints were received from Uttar Pradesh, delhi, Bihar , Haryana and Maharashtra.¹²⁵

When it comes to the nature of complaints received during 2021, the Complaint and Investigation cell received large number of complaints regarding domestic violence, sexual harassment, dowry related harassment and complaints regarding right to live with dignity. This cell also received 1293 complaints for rape related offences and 9 complaints regarding acid attack during 2020-2021.

In 2021, The Commission has also organised a consultation regarding “how to handle rape victims”. This particular consultation was attended by large numbers of Police Officers and other senior officers . Moreover, on 27th July ,2021 the commission launched 24x7 “NCW Women Helpline-7827170170” in order to furnish online support to distress and aggrieved women . This helpline link these women with concerned hospitals and police authorities.

(B) NHRC

The “National Human Rights Commission” of India was established on 12 October 1993. The NHRC was adopted with the conformity with Paris principles 1991. This Commission was imparted under “Protection of Human Rights Act 1993” later revised by Amendment 2006. The NHRC was imparted by an act of parliament with the vision to deal with “Violation of human rights and prevention of such violation by public servant”. The Commission also plays an essential role In creating human rights awareness across the country. The NHRC works in close coordination with human rights establishments across the state in order to spread awareness from the perspective of human right..

Section 12 of the act allows the Commission do take suo Moto cognizance against transgression by public servant and the Commission can also take part in any courtproceedings with approval of bench dealing with transgression of human rights.

.The Commission Is also empowered to monitor custodial jurisprudence. The Commission is also dealing with improvement of prison conditions in India in order to secure prisoners right. The Commission can also review various safeguards mentioned in constitution or in any other law for securing humane rights and for their effectual execution. The Commission also deals with recommending implementation of international human rights instruments and a close study is conducted on these international treaties by this Commission.

The commission is empowered to work in close association with human rights NGOs and to encourage them in protecting human rights. Various methods have been embraced by Commission to implement national and global human rights norms. This aforementioned Commission also receive various complaints regarding human rights violation and also take *Suo Moto* action against such violations across the nation. For the sake of investigation the Commission is also empowered to summon witness and to examine documents in its proceedings. There are various divisions of the Commission dealing with different aspects such as Law Division , Administration Division, research division , training division and investigation division.

In research division, various international treaties and instruments on human rights are studied in order to implement those in an effective way. The training division of the Commission is responsible for creating awareness regarding human rights violation through seminars ,internship programs, publications , media etc. In order to celebrate the birth of “Universal Declaration of Human rights” , the human rights day is organised on 10 December every year. The human rights commission also organise, statutory full commission meeting in way to tackle various human rights hurdles and to formulate strategies for protection of human rights of various parts of territory. NHRC and SHRC meetings were also organised by the commission in order to increase coordination between them and to improve shielding and publications of human rights in all across country.

Even during Covid pandemic, various advisories were issued by the commission for implementation and compliance of human rights . these advisories include advisory for securing of shields of women, advisory for protection of rights of LGBT , advisory on mental health, prisoner’s rights , rights of elderly, persons, human trafficking, etc.

after the formation of court, the commission can also intervene in Judicial proceedings for uplifting human rights. For instance, in 2020, the Supreme Court allowed intervention of commission on miseries of migrant labourers.

Commission has taken suo motu cognizance of cases related to migrant issues, health care facilities, women and child issues etc. There are many examples where we can see active participation of national commission of human rights in protecting violation of human rights, for example in 2019, during the CAA protest, a team of investigation division visited Jamia Millia Islamia university against human rights violation, the commission also submitted a report in August 2020 and recommended compensation to injured students on humanitarian grounds. During CAA protest in Aligarh Muslim University, the human rights

Commission also submitted its report to honorable high court of Allahabad against grave violation of human rights. Various seminars, Webinars and virtual conferences are organized by the commission on various issues pertaining to human rights. Few examples of these conferences are virtual conference on rights of persons with disabilities, conferences on child sexual abuse, issues of bonded labour and other conferences on transnational organized crime. The national human rights Commission is working on various research projects such as rights of LGBTQ at workplace, causes of reduction of women participation in labour force, Right to education of little ones of migrant workers. The commission has a research division which focuses on National Action Plan on human rights and implementation of such rights across the nation. Section 12(h) also imparts the commission to undertake training initiatives and to publicize human rights literacy among numerous sectors of territory. In 2021 the commission has conducted a successful program on gender sensitization for cleaning staff and other employees.

From NCW to the “Ministry of women and child Development”, These institutions are working in close coordination for promoting gender empowerment in India. “Central Social Welfare board” was the first ever initiative empowered by Gov. of India in 1953 in order to implement numerous wellbeing plans of action for women and children. In later years, the development regarding establishment of NHRC, NCW took place.

Another such body is “Ministry of women and child development”. It was imparted as a separate ministry in 2006. Earlier it was working under “Ministry of Human Resources Development”. The underlying goal of this ministry is to “Empower women and protect them from violence and discrimination”. “The ministry of human and child development” formulates various plans in action, policies for advancement of women and children. The ministry implements these innovation programs for creating awareness regarding gender justice these programs and policies are initiated in the sectors of health, rural development, education women and children protection etc. In recent past, the policies like Kishori Shakti Yojna Launched for adolescent girls. Organizations like “National commission for women” (NCW), “National Institute of Public Corporation and child development” (NIPCCD), “National Commission for protection of child rights” (NCPCR), “Central Adoption Resource Agency” (CARA), “Central Social Welfare Board” (CSWB), “Rashtriya Mahila Kosh” (RMK) are functioning in assistance with “Ministry of Women and child development”. The ministry is dealing with subjects such as Nutrition policy, Religious policies, promotion and advancing of women and child rights, Family welfare programs. One another subject allocated to this ministry is “references from the UN Organization relating to

traffic in women and children.

This ministry also deals with implementation of various women related legislations.

VI. CONCLUSION

Empowerment of women in any society is based on implementation of the principle of “Equality before law” . Women in our society is considered as the centre of the family but despite of this woman in India has suffered a lot. However in post independence era we can notice various movement for establishing gender justice. In India the woman has also participated in freedom struggle and they shared responsibility of liberation of motherland. Therefore India’s political freedom was also a groundbreaking in the archives of gender justice in India. After independence we can notice great consciousness in our society regarding women empowerment.

Various initiatives in the form of ministries, policies, programs ,legislation commissions have been taken up by Indian government to protect gender justice. The framers of our constitution has also incorporated the provision of equality, dignity and liberty in our constitution. The framers of constitution already eliminated impartiality on the ground of sex as under Part 3rd of constitution. Many policies and programs initiated by Indian government were set down into working from time to time in favour of gender justice. The constitution of India insures gender justice by providing various provisions for protection of women. For instance article 15(3) entrust responsibility of legislature executive and judiciary towards women empowerment. Constitution of India also provides fundamental duties in protecting dignity and rights of women. In a democratic country like ours, equal opportunities for all without any discrimination is provided. However due to various socio economic reasons women are not considered as an effective players in our democracy.

To curtail the limitations set up by the patriarchal society and to include women in democratic participation, various initiatives has been taken up by the government. Also we have noticed a striking role played by Indian judiciary to upheld gender justice in various cases. Sometimes, judiciary is also working towards securing impartial say of women in governance and in generating settlement positions. In local bodies such as panchayati Raj institutions, India has provided 1/3 reservations to women according to “73rd and 74th Amendment to the Constitution” . Such amendments are a proof that Indian society is evolving continuously in favour of women empowerment.

Since the inception of reservation in PRIs , the percentage of women participation in political activity has increased. In recent times ,Various parliamentary legislations have passed in order to enforce women empowering provisions in the constitution. Till now the Indian government

has enacted more than 50 legislations effecting women directly or indirectly. Indian government , Indian judiciary and various other commissions are working in order to reduce crimes against women. Since the enactment of these women empowering legislations, womens are also approaching judiciary in order to get protection for their rights and interests .

Indian judiciary on many occasions has secured rights and interest of women in issues such as discrimination, sexual harassment of working women, rape, dowry related deaths, immoral trafficking and other such violation. Indian judiciary has acted very sensitively in women empowerment issues. The Apex Court of India while discharging its legal and constitutional obligations, establishes the rights of women on many occasions. The work of Indian judiciary towards women related issues is considered as very progressive in nature. Various landmark judgements delivered by Supreme Court has an indirect and direct effect or gender justice., With the help of various landmark judgements, Women in our society are becoming more aware regarding their rights and interests.

From time to time, the Indian judiciary and Indian legislations has provided redressal for various problems such as discrimination, violence, illiteracy, sexual abuse etc . However the law is only just one method to bring social change. It is difficult to entrusts legal prerogatives without any social change. Such changes in social realm, values and attitude are important in order to inforce legal rights smoothly. The findings of the study shows that Indian constitution provides ample provisions for upholding gender justice. Apart from this Indian judiciary has widened the scope of legal provisions in order to empower women in modern times. India has a large number of legislations in protecting women. Various commissions like NHRC, NCW are working towards protection and awareness of women related rights.

Apart from this this study shows that there is abundance of schemes and programs favouring women empowerment in India. In last 75 years women in our country have imparted an astonishing progression against patriarchal society. Be it personal laws or laws relating to marriage, the Indian judiciary and Indian government has supported women empowerment all along. Empowerment of women is a gradual process and it cannot be attained in just one day. Indian society is evolving continuously in interest of women and we can notice many effective changes in social ,economic and political footing of women in India.

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