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Status of Women in the Present Scenario with reference to Hindu Law

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ABSTRACT

India is known for spirituality and mysticism but at the same time instances one can observe provocation, sexual maltreatment and different barbarities and violations against women add a sorry picture to its image. The Government of India gives a bunch of privileges to women which are critical for each woman to become secured. This paper work follows the fundamental freedoms and some rights regarding the women. A portion of the privileges of women incorporated with equivalent compensation for equal work, right to poise and goodness, rights regarding provocation at employment sector, right against aggressive behaviour at home, right to support, right of reception, right of progression and furthermore regenerative right, and maternity benefits. Women have exceptional situation in each general public whether created, creating or immature. Notwithstanding of this one-of-a-kind position delighted in by the ladies socially and genuinely they are dealt with independently from men. The battle isn't so much for women's right however for human worth. The case isn't to end imbalance of women however to restore general equity. In India, the main development for women's freedom based on three significant issues, of infant relationships, implemented widowhood and property privileges for women. The subsequent significant discussion was on Hindu code Bill which perceives that women were not acknowledged as men's social, monetary or political equivalents however the advanced and autonomous India understanding the imbalance and victimization women has consolidated in the constitution, the rule that everyone must follow, a few arrangements which unequivocally proclaim that ladies ought to be no segregation and explicit arrangements are set down for their upliftment. Family regulations have corrected, new arrangements are consolidated in our criminal regulations, work and modern regulations have reasonable set women giving need to their government assistance measures and a few other social government assistance regulations to safeguard the nobility of women have been ordered. Legal executive is likewise putting the women at high places and emerging with milestone choices to safeguard the interest of ladies in this manner embracing a delicate methodology towards the different issues in the general public. The regulatory machinery is likewise completely outfitted to adapt issues connecting with women and any infringement of their freedoms is unequivocally managed.

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Keywords: *hindu law, rights, maintenance, art, surrogate.*

I. INTRODUCTION

Human rights are women's rights and women's rights are human rights, once and for all." – "Hillary Clinton. Swami Vivekananda, India's patriotic saint, quoted that," "There is no chance for the welfare of the world unless the condition of women is improved, and it is not possible for a bird to fly on only one wing." Henceforth, to accomplish the situation with a more economically developed country, India requires to empower the women force by accumulated knowledge and skills that makes into a viable advantage and this is conceivable just through legitimate consciousness of women's freedom. India, the place that is known for goddesses where women regarded with high regard witnesses badgering, misuse and different monstrosities and violations against women. Authentic concentrate obviously uncovers that the situation with women has been debased on many changes over a decade. "During the Indo-Aryan" time of antiquated time frame of India, women are gone through subjection. Practices and restrictions like "female child murder", "youngster marriage," and no to widow marriage had a long length to clearing a path for tough spot in uncovering of Hindu culture. A remarkable swap occurred during the British rule when they sanctioned precautions which pointed toward eliminating communal restrictions, including" Bengal Sati Guideline, 1829", "Hindu Widow's Remarriage Act, 1856", "Female infanticide prevention Act, 1870", and "Age of consent Act, 1891". According to the Constitution of India, the privileges of women chiefly incorporate balance, nobility, and freedom from segregation. Our country has different resolutions to take care the freedoms of women. One saw more noteworthy revolutionary reversal in the situation of women.

(A) Need of the study

The subject of women's rights has been dealt with extensively in the past by researchers and social thinkers having a keen interest in the feminist jurisprudence. In the present work, an attempt has been made to undertake an analysis of the rights of Women under Hindu Law. Thus, when we talk of Hindu Law, it simply means to assess the position from the Vedic ages to the modern times. The term 'right', means "that which is so directed for the protection and advantage of an individual. Black's law dictionary puts it as "something that is due to a person by just claim, legal guarantee, or moral principle, a power, privilege or immunity secured to a person by law, a recognized and protected interest the violation of which is a wrong.

Thus, the present work focuses on the claims, privileges, immunities etc. granted to women

under the Hindu Law. Thus, rights of women mean rights of all women to whom Hindu Law is applicable. The term right encompasses a variety of rights like Women in India, irrespective of any religion they belong to have been granted certain basic rights by the constitution. Article 14 of the Constitution provides that the state shall not deny to any person equality before the law or equal protection of the laws within the territory of India. Article 15 prohibits discrimination on grounds of religion, race, caste, sex or place of birth and Article 16(2) of constitution provides that no citizen shall on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of any employment or office under the state. Thus, formal equality for women is explicitly enshrined within Indian Law.

The rights of women and gender inequality are inalienable concepts which can be seen in different spheres in Indian society and the Hindu society has not been able to keep itself aloof from the same. India is a land of many religions and being wedded to the tenets of secularism, each religion has its own set of personal laws distinct from each other. Thus, in the area of personal laws, women in India continue to be governed by these different laws. A study of Hindu Women's rights thus necessarily falls under the purview of personal law of the Hindus. Thus, the rights granted by the personal laws of Hindus have been dealt with in this work like marital rights, parental rights, and proprietary rights. During the course of study it was felt that a discussion of some related laws was also necessary as they had a direct impact on the rights granted to Hindu Women under the personal law.

The aforesaid study reveals that after independence many Acts have been passed for empowering and improving the conditions of women but these Acts remain only on the paper. Thus, in the present research, an attempt has been made to map the changing facets of Hindu Law with regard to Hindu women's rights and the question of gender inequality has also been evaluated. For this purpose, the existing framework of statutes and the extent of reform brought about by them has also been traced. The need for more effective legislation and its implementation is the rallying point of the present work. Moreover, the scope of the legislative provisions, their impact on Hindu women's status, their efficacy and failures is also examined.

(B) Literature review:

This writing survey looks to assess the Indian individual regulation framework through an orientation focal point. As indicated by this framework, certain family and property matters (marriage, separate, support, guardianship, reception, progression and legacy) of Hindus administered by their individual strict regulations. Despite the discussions about a supplanting

of this framework with a Uniform Common Code. Constitution's order rule to "try to get for the residents a uniform common code" (Article 44) stays unfulfilled.

The key inquiry that lies at the focal point of this survey is the accompanying: Which parts of the individual regulation framework are tricky from a ladies' rights viewpoint and how might these risky perspectives be tended to and transformed?

The writing that this outline connects with which gets from three expansive fields of examination. The primary strand of writing comes from women's activist legitimate investigations and takes a gander at family regulation and law from a women's activist or gendered viewpoint. It manages those standards among the individual regulation framework that are unfair from a ladies' rights viewpoint as well similarly as with the deficiencies in the use of individual regulations by the legal executive and the chief. From one viewpoint, the way that individual regulations frequently oppress ladies has driven them to scrutinize these regulations as male centric and needing change. Then again, they don't be guaranteed to respect the centralization.

(C) Object of the study

1. To appreciate the privileges of women.
2. To break down the different women's freedoms in India.
3. To various establishments which guarantees ladies freedoms.
4. To distinguish the issues and difficulties of women privileges.

The present different regulations contain a few rights and freedoms for women.

The principal objective of study is to acknowledge different privileges given to Hindu ladies under different regulations. To concentrate on different protected arrangements and official institutions which unequivocally pronounce that ladies ought to be treated according to men at varying backgrounds and their ought to be no separation. Different regulations uncommonly coordinated towards women and their assurance remembering the different necessities and offices they expect for their upliftment. Ultimately, the job of ladies at home or at work.

The women's right in India can be arranged into two parts which are religious freedoms and legitimate freedoms. The secured privileges are cherished inside the religious arrangements. The legitimate privileges given by the parliament as well as by the state. The Established Freedoms which are made to safeguard women privileges. These are the present privileges and freedoms which revered in the constitution of India for security of women. The state will not discriminate any citizen of India on the ground of sex, race and caste [Article 15(1)]. The state

will not make any exceptional arrangement for ladies. No citizen will be discriminate on any work place or office on the ground of their gender [Article 16(2)]. The provision of [Article 39(a)] deals with equal justice and legal aid. [Article 39(d)] deals with equal pay for equal work in matter of both men and women. The state is expected to guarantee that the wellbeing and strength of women laborers. The state give guarantee for getting maternity benefit under [Article 42]. It will be the obligation of every citizen of India to repudiate the pride of women which the constitutional provision gives guarantee [Article 51-A (e)].

(D) Limitation of the study

The present study was confined to only Hindu women and it excluded the other religious groups.

II. LEGAL RIGHTS OF WOMEN

The going with various guideline's contains a couple of privileges and safeguards for women: "Domestic violence Act (2005)" is a careful guideline to give protection to women from harmful way of behaving at home. "Dowry prohibition Act (1961)" prohibits for giving or taking of dowry from women which is an offence. "Maternity Benefit Act (1961)" coordinates crafted by women in unambiguous starting points for explicit period when work and obliges maternity benefit and certain various benefits. "Equal Remuneration Act (1976)" obliges portion of comparable pay to a wide range of individuals workers for same work. "Hindu Marriage Act (1955)" guarantees for monogamy and allowed separation on grounds of bigamy. It gave identical opportunities to both man and woman on the ground of marriage and divorce. The "Hindu succession Act (1956)" protect the women's right to secure ancestral property. There are a couple of troubles are unsolved by the legislation regarding the rights of women in the country. These are the present issues which will have create great concept on fortifying the women's rights which are necessary to notice. Apart from these I have only focuses on right of women under personal law, right under employment sector, and reproductive rights.

Right of women under personal law—

Individual regulation oversees and controls subjects or areas of private circle, for example, marriage, separate, support, progression and guardianship. The Constitution has given many privileges to the spouse. A portion of the key freedoms are:

(A) Rights of married women:

Stridhan is the property which a lady gets at the hour of her marriage.

Right to home: A spouse has without a doubt the option to dwell in a wedding family where his significant other lives, regardless of whether it is a tribal house, a joint family home, a self-

obtained home or an investment property.

- **Right to a serious relationship:** A Hindu male is bound not to wed some other young lady or have an unsanctioned romance with any other person except if he is legitimately separated. In the event that in the event that the spouse having a relationship with some other lady, he will be charged of infidelity under segment 497 of IPC. His better half has the privilege to document separate from on the ground of having an extra-conjugal relationship with some other lady.
- **Right to upkeep by spouse:** Under segment 18 of the Hindu Reception and Support Act, 1956 a Hindu wife is qualified for guarantee upkeep from her better half in the event that in the event that he is at legitimate fault for mercilessness, renunciation, polygamy or has a venereal sickness, consequently upholding her privileges in separate. Under section 25 of this act accommodates extremely durable Support and Upkeep.
- **Right to live with pride and confidence.**
- **Right to kid upkeep:** A couple should accommodate their minor kid. On the off chance that the spouse is unequipped for procuring, the husband should offer her monetary help.
- **Aggressive behaviour at home (domestic violence Act 2005):** This act sanctioned by the parliament to shield the spouse or women from abusive behaviour at home by her husband or family members of her husband.

(B) Property rights of women:

In India, property privileges of women are in many cases ignored, right after which, the Public authority of India has executed a few moderate moves toward advance property holding among women. With expanding urbanization, openness to schooling and mindfulness, the job of women have developed in India generally over the most recent couple of years. The cognisance of her status equivalent to men has made women an equivalent stage in all aspects including the home, calling and even property holding. This expanded mindfulness about having comparative privileges for women has constrained the public authority to change its well-established regulations which confined ladies from guaranteeing their portion in the parental property. In 2005, revisions were made to the Hindu succession Act, according to which, women were permitted equivalent privileges as coparceners. on August 11, 2020, the Supreme court of India in a milestone judgment, decided that women have equivalent privileges as coparceners under the Hindu succession Act. The Supreme Court guarantees that women accept her coparcenary privileges by birth,

the marriage doesn't influence her freedoms to coparcenary property.

(C) Laws for Married Women's Rights in India

By and by, a little girl has equivalent privileges of legacy to her father's property as the child. She further ties down the option to get an offer in her mother's domain.

According to the modification of the Hindu succession Act in 2005, separation based on orientation is disallowed. The correction offered a few different rights to the daughter.

She needs to bear equivalent liabilities as the son.

- Right to Reside in Marital Home

The legal rights of a wife over husband also include the right to reside in the matrimonial home. Regardless of whether the property belongs to the husband, or in-laws.

- Right of maintenance by the wife

It is the obligatory duty of a husband to maintain his wife and their children. If he fails to maintain his wife without any reasonable ground the wife can approach to the court of law for getting maintenance.

III. ADOPTION RIGHTS OF HINDU WOMEN

Here it is to be noticed that under HAMA 1956, without even a trace of the over three preclusions of the spouse, a married women was legitimately unequipped for taking of adoption without the consent of her husband. So she could be just a consentor of her husband and she was unable to adopt alone. This orientation predisposition was emphasized by the "High Court in a milestone judgment, *Malti Roy Chowdary v. Sudhindranath Majumdar* (AIR 2007 Cal 4)" In this case a married women adopted a child with the consent of her spouse, who mentioned no criticism at the time of adoption, during the question of legality of adoption, the supreme court held that, the wife has no capacity to adopt the child without the consent of her husband. His consent is mandatory if he is of sound mind.

The law of adoption undergoes many changes. At the current review, it tends to be concentrated under two heads, to be specific, position under traditional Hindu Regulation "Under HAMA 1956", any person who isn't a minor or unsound mind shall adopt a child. Assuming that a married person required his wife's consent for adoption.

Comparatively any Hindu woman can adopt a child. It allows a single woman, a divorced men and a widow to make adoption. In case of a married woman the consent of her husband is necessary if he is alive and has not ceased to be a Hindu or has not repudiated the world; or has

not been proclaimed as unsound mind. Here it is to be noticed that “under HAMA 1956,” without these three exclusions of the women, a married women were legitimately eligible to adopt a child even without the consent of her husband.

“The Juvenile Justice (Protection and care) Act, 2000, as amended in 2006” somewhat, is a stage towards that journey and removes the boundaries which was existed under “HAM Act” and makes adoption easier for a Hindu, however it is quiet on the issue of taking on opposite way denies children to the couples choosing to embrace life as a parent. Further, there are gender child, the age gap of 21 years is as yet a hindrance.

IV. REPRODUCTIVE RIGHTS OF WOMEN IN INDIA

By and large, the regenerative privileges development in the U.S. has seen numerous debates because of the moral, moral, and strict feelings of contraception, fetus removal, and family arranging. Today, the subject of regenerative privileges keeps on being a sincerely and politically charged issue, particularly considering new innovations and late regulations.

(A) Reproductive freedom of surrogacy in women’s perspective:

The reproductive rights that also includes in the woman privilege to bear a pregnancy for the complete period to give a birth and eventually give raise to the children and these rights are part of the woman’s right of privacy in the manner of dignity and bodily integrity. The reproductive autonomy of a woman can be exercised to procreate as well as to abstain from procreating. The above right of women has been time and again acknowledged by the Honourable Supreme Court of India. The Apex Court of India has held that a woman has the right under Article 21 to make her own reproductive choices.

Hence, the reproductive right is a piece of basic right and security for women. subsequently the equity must be delivered for surrogate mothers in propagation. In this manner, the supreme Court of India” has perceived the connective freedoms of women is a fundamental right and subsequently has delivered regenerative reasonableness for women.

“Article 21 of the Indian Constitution” is considered as the the power of principal privileges from where different subordinate freedoms have emerged. “Article 21” safeguard the “right to life”, where this provision incorporates the idea of coexistence with to all the requirement for endurance. “Right to security” is one of the subordinate privileges of “right to life” and individual freedom under “Article 21”. “In the new milestone judgement in the case of K S Puttaswamy v Association of India,” held that the right to protection is a crucial right enshrined “under Article 21 of the Constitution of India”. Hence, the “reproduction right” of woman.

subsequently the equity must be delivered for the surrogates in propagation. In this manner, “the apex court” has perceived the reproductive freedoms of women under the “right to security” as a piece of principal right and subsequently has delivered regenerative reasonableness for women.

The conceptive independence of a women can be practiced to multiply as well as to swear off reproducing. The above right of women has been on numerous occasions recognized by the Court of law. “The supreme Court of India “has held that a woman has the right under” Article 21” to go with her own conceptive decisions. In the new milestone case, the apex Court held that two primary regenerative privileges connecting with surrogacy and reproductive opportunity. “The supreme Court “has held that right to security is a crucial right and a woman has the right under” Article 21 “to pursue her own conceptive decisions though the Clinical End of Pregnancy Act puts the decision of early termination inside the satisfaction of the clinical experts. There are different protection concerns embroiled during the time spent surrogacy.” Article 21 of the India Constitution guarantees reproductive freedom”.

The Altruistic surrogacy expects ladies to conceive an offspring out of sympathy, which is unreasonable.

Prohibiting business surrogacy denies proxies a wellspring of money, diminishing the quantity of willing substitutes. This step verifiably denies guardians kids. The limitation on business surrogacy disregards ladies' basic freedoms. "Right to go with regenerative decisions" is a protected right. The equivalent was noted in *Devika Biswas v. Association of India*. Regenerative choices like conceiving an offspring are a lady's very own independence. The Indian High Court held in *Purchaser Schooling and Exploration Centre and or s. v. Association of India* that the limitation on business surrogacy is unlawful in light of the fact that it encroaches the right to job ensured by Article 21 of the constitution Prohibiting business surrogacy likewise prevents a real source from getting pay of the intermediaries, further confining the number of women to enthusiastically intermediary. As a general rule, this moves toward a traffic circle various damage of altruistic surrogacy. Having a buddy or relative as a substitute mother could incite up close and personal traps for the arranging watchmen as well concerning the proxy youngster. There is phenomenal plan of taking a risk with the **of separation**, relationship all through surrogacy period and post birth. Articles 15 and 16 preclude all types including sex segregation. Everybody, rich or poor, will be dealt with similarly, however just in comparative circumstances.

Altruistic surrogacy likewise has various burdens. Involving a nearby special interaction as a

proxy mother can be sincerely burdening on all gatherings included, including the planned guardians and the substitute youngster, because of the serious level of relationship risk innate in the surrogacy strategy and in the years after the birth. Philanthropic surrogacy further confines the choices accessible to the planned guardians as far as choosing a proxy mother on the grounds that not many relatives will actually want to partake simultaneously. The Bill likewise determines the prerequisites for qualification for couples thinking about surrogacy.

V. WOMEN'S RIGHT UNDER LABOUR LAW

“Labour law” is applicable to those who are working under an agreement of business. Employed ladies structure a significant broad culmination of society. The female laborers required unique assurance and equivalent coverage. To safeguard the right of women, which addresses the issues of women workers in their business circumstance. The regulation connects with guideline of work in hazardous occupations, denial of night work, limitations on carriage of profound weights, remuneration, prosperity, tip, maternity help, comparable pay for identical work, government upheld retirement, etc.

The insurance are given through various Plans, Program, Approaches and Plans of the Public authority. “Constitution of India (Article 14, 15, 16, 23, 39, 43 and 46)” which accommodated the assurance and guarantee to women laborers. The government of India attempted different administrative measures for assurance to female laborers”: The Plants Act,” “The Mines Act, 1952”, “The Maternity benefit Act, 1961”, “The Equivalent Compensation Act, 1976,” “The minimum of Wages Act, 1936”,” The Workers' Remuneration Act, 1923” and so on.

The best thing that ever dealing with the issue connecting with the women are the freedoms and honours. From ancient times women are battling to discover their economic wellbeing and a good place in the general public. On the present situation Indian ladies needed a regulation to advance their position and to guarantee legitimate security against mental and actual torment. It applies to each foundation being an industrial facility, a mine or including any such foundation having a place with Government. It remembers limitation for work of pregnant women. It gives that a lady will be qualified for “maternity benefit” for a time of “12 weeks of which is not over about a month and a half will go before the date of her normal conveyance”.

“The Maternity benefit Act, 2017” permits maternity leave for quite some time for natural mothers as well as surrogate mothers who could got a leave for quite a long time. The “Commission” has proposed improvement of “maternity leave.” “Article 39 of the Constitution” visualizes that “the state” will coordinate its strategy under a legitimate commitment to pay similar wages for similar work or work of a comparable sort. Regardless of

whether it is being performed at better places, the compensation must be something similar. A business can't victimize ladies while enrolling except if work of women is precluded or confined by regulation. Consequently, in issues of enlistment, advancements, preparing or move, the business is disallowed from oppressing women.

VI. CONCLUSION

Over and above decoction which escort the end, that the pride of every woman in the public arena gives a careful proportion of the improvement of society. "The Constitution of India" has offered unique consideration regarding the requirements of women to empower them to practice their privileges on neutral ground with men and partake in public turn of events. It likewise means to production of an altogether new friendly request where all residents are given open doors for development and improvement and where no separation happens based on race, religion, sex, station, variety, and so on, Ladies address around 50% of the total population and adaptation of unevenness exists in each country in the world. As late as women are given the same facility that men are, whole society will be bound to gone beneath their actual probability. The best need of present situation is change of social disposition.

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