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Women Rights and Legislations

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ABSTRACT

The status of women's rights in our society has been changing with the advent of globalisation and changed economic order. Women have always been playing a definite role in their domestic affairs as well as in society. Her role as a mother and homemaker cannot be substituted, still the status of a woman in the socio-political system has not been given adequate space. There have been voices from all corners of society to provide her with adequate rights and also an environment in which she can not only groom herself but could also contribute to the best of her abilities. In order to address this issue and also to achieve inclusivity of women in all the sectors, several laws have been introduced in different legislations. Our Constitution has envisaged various provisions for women to protect them from any kind of dominance, oppression or other kinds of injustices. It is however seen that the veiled struggle of women has continued to exist in some or the other form. Women who constitute a large portion of a human populace have been separated, hassled and misused independent of the nation to which they have a place, un-mind of the religion which they declare and careless of the time allotment in which they live . The agony faced by them can be witnessed from the news reports all over the country. It is not that women in other countries are not vulnerable to atrocities, but in asian countries the situation is even worse. To look into the problems faced by women and also identify the laws specially designed to protect their rights, the writer has tried to discuss and highlight the various Constitutional and Criminal law provisions, so as to understand the gray areas, if any, and bring about the suggestions where needed.

Keywords: *Globalisation, Amelioration, Agony, Atrocities, Vulnerable*

I. INTRODUCTION

Jawaharlal Nehru, the greatest emancipator of women in India, played a significant role for the amelioration of the socio - economic condition of women in India. His speech during Women and the freedom movement in India quoted:

"One can tell the condition of a nation by looking the status of its women"[2]

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[2] https://www.shethepeople.tv/news/remembering-jawaharlal-nehru-through-quotes/

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Violence against women and girls in India is widespread. Despite some progressive legislative measures in recent years, brought about due to pressure from women's rights movements, the media and public campaigns, many women continue to experience discrimination and violence in their everyday lives. Gender-based violence takes place in both public and private spheres. It is often under-reported as a result of systemic and social barriers, and formal mechanisms to address it remain ineffective. To examine the problems faced by women, their need for special legislations and also to check the available mechanisms and remedies addressing their issues, the writer is trying to go through various legislations, analyse them and also to give necessary suggestion where needed.

II. CONSTITUTIONAL PROVISIONS

The Constitution is the law of the land and as such it gives enough safeguard to the rights of women, but ironically the rights allotted in these sacrosanct provisions have somehow failed to reach her in real sense.

Article 14 To begin with Article 14 of the Constitution, which reads as "***The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India***"[3], specifically calls for an equal treatment to combat the gender inequality deep rooted in our society. But it is sad to note that throughout every point of her life women face gender inequality. India has some of the highest rates of birth discrimination with respect to sex. The startling ratio of 918 girls to 1000 boys according to census 2011 prompted the central government to deliver the Beti Bachao, Beti Padhao initiative to administer the girl child with security, health and education[4].

Article 15 (1) is another such provision which mandates the state not to discriminate against any citizen on the ground of religion, race, caste, sex, place of birth or any of them. In furtherance to this, under sub-clause 3 of Article 15 there is a provision which runs as ' Nothing in this article shall prevent the state from making any special provision for women and children. Thus the constitution has made elaborate arrangements to not only take care of the rights of women but also to make special laws for them keeping in view their special needs. It was decided by the Supreme Court in the case of ***Rajesh Kumar Gupta v State of Uttar Pradesh***[5], where the reservation of 50% seats for women for the post of primary school teacher was challenged, that the reservation of 50% of posts in favour of female candidates is

[3] Constitution of India

[4] Beti Bachao, Beti Padhao: Caring For The Girl Child, https//www.pmindia.gov.in/n/government_tr_rec/beti-bachao-beti-padhao-caring-for-the-girl-child/

[5] AIR 2005, SC 2540

not arbitrary . The Supreme Court opined that the view taken by the Division Bench that Article 15(3) of the Constitution enables the State's government to make special provision for women and children notwithstanding the prohibition contained in Article 15(1) is correct. Particularly viewed in the background of the fact that a large number of young girls below the age of 10 years were taught in the primary school and recognizing that it would be preferable that such young girls are taught by women, the reservation of 50% of the posts in favour of female candidates was held to be justified. The classification made was justified and cannot be styled as arbitrary or liable to be hit by Article 14.

Article 16 Article 16 provides for equality of opportunity of all in matters relating to public employment or appointment to any office; it specifically forbids discrimination on the grounds of sex. Article 16 (2) reads: "***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 or, any employment or office under the State.***"

Article 19 The Constitution of India provides the right of freedom, given in article 19 with the view of guaranteeing individual rights that were considered vital by the framers of the constitution. The right to freedom in Article 19 guarantees the freedom of speech and expression, as one of its six freedoms.[6]

Article 23 The constitutional mandate under Article 23 prohibits traffic in human beings and begar and other forms of forced labour, and any contravention of which shall be treated as an offence. The state can however impose compulsory service for public purposes without any discrimination based on the grounds only of religion, race, caste or class. In view of this constitutional mandate directions were issued by the Supreme Court in Public Interest Litigation as to the children of prostitutes.[7]

Article 39 Certain principles of policy to be followed by the State: The State shall, in particular, direct its policy towards securing

(a) that the citizens, men and women equally, have the right to an adequate means to livelihood;

(b) that the ownership and control of the material resources of the community are so distributed as best to subserve the common good;

(c) that the operation of the economic system does not result in the concentration of wealth and means of production to the common detriment;

[6] Part III, Indian Constitution

[7] Vishal Jeet v Union of India, AIR 1990 SC 1412, Gaurav Jain v Union of India, AIR 1990 SC 292

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(d) that there is equal pay for equal work for both men and women;

(e) that the health and strength of workers, men and women, and the tender age of children are not abused and that citizens are not forced by economic necessity to enter avocations unsuited to their age or strength;

(f) that children are given opportunities and facilities to develop in a healthy manner and in conditions of freedom and dignity and that childhood and youth are protected against exploitation and against moral and material abandonment.

In the case of ***Savitaben Somabhai Bhatia v State of Gujarat & others*** the Supreme court decided that a legally wedded wife only and not the woman who is treated like one, is entitled to get maintenance from her husband.

The principle of Equal Pay for Equal Work was first considered in Kishori Mohan Bakshi v Union of India[8], where the Supreme Court declared it incapable of being enforced in the court of law, however it received due recognition only in 1987 through Mackinnon Mackenzie's case.[9]

Article 51 A (e):- It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women[10].

Article 243-D(3):- One-third of the total number of seats to be filled by direct election in every Panchayat shall be reAIR 2005,

served for women .

Article 243-D (4) :-One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women[11].

Article 243-T(3):- One-third of the total number of seats to be filled by direct election in every Municipal shall be reserved for women[12].

Article 243-T(4):- The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide.

Article 325[11] and 326[12]:- The elections to the House of the People and to the Legislative Assembly of every State shall be on the basis of adult suffrage; that is to say, every person who is a citizen of India and who is not less than eighteen years of age

[8] Kishorilal Mohanlal Bakshi v Union of India, AIR 1962 SC 1139
[9] Mackinnon Mackenzie and Co.Ltd. v Audrey D'Costa & Others(1987) 2SCC 469
[10] Constitution of India
[11] Ibid
[12] Ibid

irrespective of gender, status etc is entitled to be a voter[13].

In spite of the endeavours made by the Supreme Court and various High Courts in their judgements, the plight of the women have not yet been addressed enough, and the amelioration is seen rampant in their status in our society.

III. INDIAN PENAL CODE PROVISIONS

Special provisions relating to women were carved in the original Indian Penal Code when it was enacted in 1860. But later at different intervals various other crimes were defined and added in the Penal Code to accommodate the need of the time. It is pertinent to mention here that out of these crimes that were subsequently added to the penal code, crime against women was a prominent motive. During the 1970s there was a huge influx of bride burning in the society. Dowry death is violence by the husband and his family with a motive of extortion of gifts and other demands from time to time against a woman. The unnatural death of a recently married woman vital to women's moment in the Indian society through the meaning of dowry has changed over time but harassment and cruelty have remained the same to some extent. Protection of women from this social evil is the responsibility of the state. Government has enacted many laws regarding the prohibition of dowry like the Dowry Prohibition Act, 1961 and so on. On the recommendation of the 21st law commission report certain Penal provisions were inserted. Many educational and awareness programmes were run by the government and non- governmental organisations with the intent to lower the rate of dowry death. To deal with this brutal kind of social evil Section 304 B Dowry death, Section 498A (Cruelty by Husband or in-laws i.e. domestic violence) 113 B (Presumption as to dowry death) was incorporated in Indian penal laws around 1986 to eradicate the nuisance of dowry death. and therefore a special provision under Section 304 B was added in the Indian Penal Code in the year 1986[14]

304B. Dowry death.—

(1) Where the death of a woman is caused by any burns or bodily injury or occurs otherwise than under normal circumstances within seven years of her marriage and it is shown that soon before her death she was subjected to cruelty or har-assment by her husband or any relative of her husband for, or in connection with, any demand for dowry, such death shall be called "dowry death", and such husband or relative shall be deemed to have caused her death. Explanation.—For the purpose of this sub-section, "dowry" shall have the same meaning as

[13] Ibid

[14] W.e.f. 19th November 1986

in Section 2 of the Dowry Prohibition Act, 1961 (28 of 1961).

(2) Whoever commits dowry death shall be punished with imprison-ment for a term which shall not be less than seven years but which may extend to imprisonment for life.]

In case of **Sanjay Kumar Jain v. State of Delhi**[15] it was said that "The dowry system is a big slur and curse on our society, democracy and the country. It is incomprehensible how such unfortunate and condemnable instances of dowry deaths are frequently occurring in our society. All efforts must be made to combat and curb the increasing menace of dowry death. The legislature was seriously concerned about this unfortunate reality of our society and to curb combat the increasing menace of dowry deaths with a firm hand the Dowry Prohibition Act, 1961 was enacted.

Nirbhaya case and the subsequent changes in Indian Penal Code

On December 16th, 2012 a young paramedical intern was beaten, brutalized and raped by five men and a juvenile on a moving bus. They threw her out afterwards and thereafter, she died due to her injuries and internal bleeding. This case sparked a whole new nationwide protest to ensure women's safety and laws to prevent such incidents in the future. The death of Nirbhaya, or the fearless, as she was reported to have fought against her assaulters, forced the union to set up enquires into the plight of women safety, amend rape laws and ensure the fast track trial of rape cases in India.

Section 326: Section 326 which runs as " *Whoever, except in the case provided for by section 335, voluntarily causing grievous hurt by means of any instrument for shooting, stabbing or cutting, or any instrument which, used as a weapon of offence, is likely to cause death, or by means of fire or any heated substance, or by means of any poison or any corrosive substance, or by means of any explosive substance, or by means of any substance which it is deleterious to the human body to inhale, to swallow, or to re-ceive into the blood, or by means of any animal, shall be pun-ished with imprisonment for life, or with imprisonment of either description for a term which may extend to ten years, or with both"*. This section was further added with more serious punishments considering the acid attacks against women.

Whoever causes permanent or partial damage or deformity to, or burns or maims or disfigures or disables, any part or parts of the body of a person or causes grievous hurt by throwing acid on or by administering acid to that person, or by using any other means with the intention of causing or with the knowledge that he is likely to cause such injury or hurt,

[15] 2011 (11) SCC 733

shall be punished with imprisonment of either description for a term which shall not be less than ten years but which may extend to imprisonment for life, and with fine:

Provided that such fine shall be just and reasonable to meet the medical expenses of the treatment of the victim .Provided further that any fine imposed under this section shall be paid to the victim.[16]

Section 354 *Assault or criminal force to woman with intent to outrage her modesty.—Whoever assaults or uses criminal force to any woman, intending to outrage or knowing it to be likely that he will thereby outrage her modesty, shall be punished with impris-onment of either description for a term which may extend to two years, or with fine, or with both.*

Section 354 was also further supplemented by a few more sub sections by the amendment Act of 2013[17] in order to define new crimes which were witnessed and needed inclusion in the category of crime.

Section 354 (a) Sexual Harassment and Punishment for Sexual Harassment

A man committing any of the following acts—

1. *physical contact and advances involving unwelcome and explicit sexual overtures; or*
2. *a demand or request for sexual favours; or*
3. *showing pornography against the will of a woman; or*
4. *making sexually coloured remarks, shall be guilty of the offence of sexual harassment.*

2. Any man who commits the offence specified in clause 9 (i) or clause (ii) or clause (iii) of sub-section (1) shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

3. Any man who commits the offence specified in clause (iv) of sub section (1) shall be punished with imprisonment of either description for a term which may extend to one year, or with fine, or with both.

354 (b) Assault or use of Criminal Force to Women with intent to disrobe

Any man who assaults or uses criminal force to any woman or abets such act with the

[16] Ins. by Act 13 of 2013. S. 5 (w.e.f. 3/2/2013)
[17] Ibid

intention of disrobing or compelling her to be naked, shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

354-C. Voyeurism.—*Any man who watches, or captures the image of a woman engaging in a private act in circumstances where she would usually have the expectation of not being observed either by the perpetrator or by any other person at the behest of the perpetrator or disseminates such image shall be punished on first conviction with imprisonment of either description for a term which shall not be less than one year, but which may extend to three years, and shall also be liable to fine, and be punished on a second or subsequent conviction, with imprisonment of either description for a term which shall not be less than three years, but which may extend to seven years, and shall also be liable to fine.*

Explanation 1.—For the purpose of this section, "private act" includes an act of watching carried out in a place which, in the circumstances, would reasonably be expected to provide privacy and where the victim's genitals, posterior or breasts are exposed or covered only in underwear; or the victim is using a lavatory; or the victim is doing a sexual act that is not of a kind ordinarily done in public.

Explanation 2.—Where the victim consents to the capture of the images or any act, but not to their dissemination to third persons and where such image or act is disseminated, such dissemination shall be considered an offence under this section.

354 (d) Stalking

(1) Any man who--

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, email or any other form of electronic communication,

commits the offence of stalking:

Provided that such conduct shall not amount to stalking if the man who pursued it proves that--

(i) it was pursued for the purpose of preventing or detecting crime and the man accused of stalking had been entrusted with the responsibility of prevention and detection of crime by the State; or

(ii) it was pursued under any law or to comply with any condition or requirement imposed by

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any person under any law; or

(iii) in the particular circumstances such conduct was reasonable and justified.

(2) Whoever commits the offence of stalking shall be punished on first conviction with imprisonment of either description for a term which may extend to three years, and shall also be liable to fine; and be punished on a second or subsequent conviction, with imprisonment of either description for a term which may extend to five years, and shall also be liable to fine.

Section 376 The rape laws of the country were amended in the year 2013 after the Justice J.S. Verma Committee Report, to address the prevalent inadequacies.

Taking note of the inadequacy of law of rape and its failure to safeguard the rights of the innocent victims against the heinous crime, the Parliament in 1983 and 2013 extensively amended the law of rape so as to make the law more realistic.

OLD PROVISION

"375. Rape. A man is said to commit "rape" who, except in the case hereinafter excepted, has sexual intercourse with a woman under circumstances falling under any of the six following descriptions:-

First.- Against her will.

Secondly.- Without her consent.

Thirdly.- With her consent, when her consent has been obtained by putting her or any person in whom she is interested in fear of death or of hurt.

Fourthly.- With her consent, when the man knows that he is not her husband, and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.- With her consent, when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.- With or without her consent, when she is under sixteen years of age.

Explanation.- Penetration is sufficient to constitute the sexual intercourse necessary to the offence of rape.

Exception.- Sexual intercourse by a man with his own wife, the wife not being under fifteen

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years of age, is not rape."

AFTER AMENDMENT[18]

A man is said to commit "rape" if he-—

penetrates his penis, to any extent, into the vagina, mouth, urethra or anus of a woman or makes her to do so with him or any other person; or

inserts, to any extent, any object or a part of the body, not being the penis, into the vagina, the urethra or anus of a woman or makes her to do so with him or any other person; or

manipulates any part of the body of a woman so as to cause penetration into the vagina, urethra, anus or any of body of such woman or makes her to do so with him or any other person; or

applies his mouth to the vagina, anus, urethra of a woman or makes her to do so with him or any other person, under the circumstances falling under any of the following seven descriptions:—

First.—Against her will.

Secondly.—Without her consent.

Thirdly.—With her consent, when her consent has been obtained by putting her or any person in whom she is interested, in fear of death or of hurt.

Fourthly.—With her consent, when the man knows that he is not her husband and that her consent is given because she believes that he is another man to whom she is or believes herself to be lawfully married.

Fifthly.—With her consent when, at the time of giving such consent, by reason of unsoundness of mind or intoxication or the administration by him personally or through another of any stupefying or unwholesome Substance, she is unable to understand the nature and consequences of that to which she gives consent.

Sixthly.—With or without her consent, when she is under eighteen years of age.

Seventhly.—When she is unable to communicate consent.

Explanation I.—For the purposes of this section, "vagina" shall also include labia majora.

Explanation 2.—Consent means an unequivocal voluntary agreement when the woman by words, gestures or any form of verbal or non-verbal communication, communicates

[18] Ibid

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willingness to participate in the specific sexual act:

Provided that a woman who does not physically resist to the act of penetration shall not by the reason only of that fact, be regarded as consenting to the sexual activity.

Exception I.—A medical procedure or intervention shall not constitute rape.

Exception 2.—Sexual intercourse or sexual acts by a man with his own wife, the wife not being under fifteen years of age, is not rape.'

Section 366 Kidnapping, Abducting or inducing women to compel her marriage etc.

Kidnapping, abducting or inducing woman to compel her mar-riage, etc.—Whoever kidnaps or abducts any woman with intent that she may be compelled, or knowing it to be likely that she will be compelled, to marry any person against her will, or in order that she may be forced or seduced to illicit intercourse, or knowing it to be likely that she will be forced or seduced to illicit intercourse, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine; and whoever, by means of criminal intimidation as defined in this Code or of abuse of authority or any other method of compulsion, induces any woman to go from any place with intent that she may be, or knowing that it is likely that she will be, forced or seduced to illicit intercourse with another person shall be punished as aforesaid.

Section 372 Selling minor girl for purpose of prostitution, etc.

Whoever sells, lets to hire, or otherwise disposes of any person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, or knowing it to be likely that such person will at any age be employed or used for any such purpose, shall be punished with imprisonment of either description for a term which may extend to ten years, and shall be liable to fine.

Section 373 Buying minor for the purpose of prostitution, etc.

Whoever buys, hires or otherwise obtains possession of anyone[person under the age of eighteen years with intent that such person shall at any age be employed or used for the purpose of prostitution or illicit intercourse with any person or for any unlawful and immoral purpose, of knowing it to be likely that such person will at any age be] employed or used for any purpose, shall be pun-ished with imprisonment of either description for a term which may extend to ten years, and shall also be liable to fine.

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Section 498 A Husband or Relative of husband of a woman subjecting her to cruelty

Section 498 A is a criminal offence that came into existence to combat domestic violence and protect women from dowry harassment. The history of this law goes back to 1980s. The cases of dowry deaths were steadily rising in India. A dowry death is the murder of a woman, committed by her in-laws, when she is unable to fulfill their demands for money, articles or property of any sort, which is characterised a dowry. There was a huge pressure on the Government to make laws to curb the menace of this crime against women. As a result of this pressure the Government introduced various amendments in the Penal Code, Indian Evidence Act and a new legislation called Dowry Prohibition Act 2005 was introduced. The most important of these amendments is section 498 A in Indian Penal Code. this section runs as under:-

498A. Husband or relative of husband of a woman subjecting her to cruelty.—Whoever, being the husband or the relative of the husband of a woman, subjects such woman to cruelty shall be pun-ished with imprisonment for a term which may extend to three years and shall also be liable to fine. Explanation.—For the purpose of this section, "cruelty" means—

(a) any wilful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman; or

(b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to her to meet such demands.

Section 498 A of IPC is a cognizable, non-bailable and non-compoundable offence, but recently due to the analysis of this section being hugely misused the Supreme Court had directed the Government to make necessary amendments with regard to the application of this section. These sections were modified in amendment to CrPC (Criminal Procedure Code) in 2010 to minimize abuse of powers of arrest by police, especially in cases like IPC 498a, which being a cognizable offence didn't need a warrant for arrest. With the latest judgment by Supreme Court to curb automatic arrests under IPC 498a (and other crimes punishable up to 7 years), scope for such penalties has been opened. Section 41 after amendments stands as hereunder:-

41. When police may arrest without warrant .- (1) Any police officer may without an order from a Magistrate and without a warrant, arrest any person—

**[(a) who commits, in the presence of a police officer, a cognizable offence;*

(b) against whom a reasonable complaint has been made, or credible information has been received, or a reasonable suspicion exists that he has committed a cognizable offence punishable with imprisonment for a term which may be less than seven years or which may extend to seven years whether with or without fine, if the following conditions are satisfied, namely:-

(i) the police officer has reason to believe on the basis of such complaint, information, or suspicion that such person has committed the said offence;

(ii) the police officer is satisfied that such arrest is necessary- (a) to prevent such person from committing any further offence; or (b) for proper investigation of the offence; or (c) to prevent such person from causing the evidence of the offence to disappear or tampering with such evidence in any manner; or (d) to prevent such person from making any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to the police officer; or (e) as unless such person is arrested, his presence in the Court whenever required cannot be ensured, and the police officer shall record while making such arrest, his reasons in writing.

***[Provided that a police officer shall, in all cases where the arrest of a person is not Required under the provisions of this sub-section, record the reasons in writing for not making the arrest.]*

(ba) against whom credible information has been received that he has committed a cognizable offence punishable with imprisonment for a term which may extend to more than seven years whether with or without fine or with death sentence and the police officer has reason to believe on the basis of that information that such person has committed the said offence;"

Section 509 -Word, Gesture or Act intended to insult the modesty of a woman- Whoever, intending to insult the modesty of any woman, utters any words, makes any sound or gesture, or exhibits any object, intending that such word or sound shall be heard, or that such gesture or object shall be seen, by such woman, or intrudes upon the privacy of such woman, (shall be punished with simple imprisonment for a term which may extend to three years, and also with fine[19])

Section 228-A of the Indian Penal Code makes the disclosure of a victim's identity a punishable offence. To ensure that her privacy is protected, under Section 164 of Code of

[19] Subs. by Act 13 of 2013, s. 10, for "shall be punished with simple imprisonment for a term which may extend to one year, or with fine, or with both" (w.e.f. 3-2-2013).

Criminal Procedure, a woman who has been sexually assaulted may record her statement alone before the district magistrate when the case is under trial, or at a police station in the presence of a female police officer

IV. PROVISIONS UNDER THE CODE OF CRIMINAL PROCEDURE 1973

Right to get maintenance: A wife has a right to get maintenance from her husband under section 125 of criminal procedure code. The Supreme Court in the case of Shah Bano invoked section 125 of the Code of Criminal Procedure, which applies to everyone regardless of caste, creed, or religion and ruled that Shah Bano be given maintenance money, similar to alimony.

Right for not to be arrested at night: A woman cannot be arrested after sunset and before sunrise except in exceptional cases on orders of First Class Magistrate. This has been ensured by Criminal Procedure (Amendment) Act 2005 subsection 4 section 46 and also through a guideline by the National Huma..

The provision of Zero FIR : The ruling by Supreme Court mentioned that a woman who is a victim can register her complaint at any police station under the Zero FIR ruling. The Zero FIR is an FIR that can be filed at any police station irrespective of the location where the incident occurred or a specific jurisdiction it comes under. Once the FIR is lodged, submission of investigation report and forwarding of the case to a magistrate are done, it can be moved to the police station in whose jurisdiction the case falls under. This ruling was passed to save time that would impact a victim or might lead to an offender getting away scot free if delayed.

Right against being summoned for interrogation: Section 160 of Code of Criminal Procedure makes it clear that women cannot be called to the police station for investigation. If the police have to investigate they have to go to her residence and interrogate her there in the presence of a lady constable and her family or friends.In relation to commission of sexual crimes on women as amended in IPC provisions, the information under section 154 of Cr p.c. (FIR) regarding the offence shall be recorded by a women police officer. The statement of women regarding commission of the offences like outraging her modesty etc which are of sensitive nature with respect to the modesty of any woman, are to be recorded under section 161 of CrPC by a women police officer only. According to section 309 the enquiry or trial in relation to offence of rape, should be completed within two months from the date of filing of the charge sheet.

Right to get medical treatment: Section 357 of CrPC mandates that the victims of sexual

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offences are to be treated at all public and private hospitals who are under an obligation to report the matter immediately to the police.

V. PROVISIONS IN INDIAN EVIDENCE ACT, 1872

There are ample provisions in the evidence act safeguarding the special need of rights for women.

Section 113 A:- Presumption as to abetment of suicide by a married woman.—When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband. [113A. Presumption as to abetment of suicide by a married woman.—When the question is whether the commission of suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband had subjected her to cruelty, the Court may presume, having regard to all the other circumstances of the case, that such suicide had been abetted by her husband or by such relative of her husband." Explanation.—For the purposes of this section, "cruelty" shall have the same meaning as in section 498A of the Indian Penal Code (45 of 1860).][20]

Section 113 B:- Presumption as to dowry death.—When the question is whether a person has committed the dowry death of a woman and it is shown that soon before her death such woman has been subjected by such person to cruelty or harassment for, or in connection with, any demand for dowry, the Court shall presume that such person had caused the dowry death. Explanation.—For the purposes of this section, "dowry death" shall have the same meaning as in section 304B, of the Indian Penal Code, (45 of 1860).][21]

It appears from the above provisions given under the Indian Evidence Act 1872 that strict implementation of the laws is expected and therefore the presumption given is of the second category under section 113 A & B.

[20] Indian Evidence Act 1872
[21] Ibid

VI. LEGISLATIVE INITIATIVES FOR WOMEN EMPOWERMENT

There are a few specific legislations bearing with the special rights for the protection of women rights, they are given hereunder:-

1-: Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013

2- Dowry Prohibition Act 1961 Under the provisions of this Act demand of dowry either before marriage, during marriage and or after the marriage is an offence.

3- The Pre Conception and Pre-natal diagnostic Techniques (Prohibition of sex Selection) Act 1994 This Act prohibits diagnosing of pregnant women and also identification of child in the womb whether it is male or female.

4- Hindu Minority and Guardianship Act 1956 provides under section 6 that mother shall be the natural guardian of a child.

5- Hindu Succession Act 1956 Section 14 of the act provides that the property of a female hindu to be her absolute property. Section 23 provides for the right of a female legal heir in the dwelling house.

6- Hindu Adoption and Maintenance Act 1956- Section 18 A provides for the obligation of husband to maintain his wife. Section 18(2) provides the right to a wife to live separately, when circumstances require her to do so. Section 19 provides for maintenance to the widow from her father in law.

7-The Hindu Marriage Act, 1955: Section 13(2) of the Act provides for a wife to present a petition for divorce. Section 13(b) provides equal rights for wife for getting divorce by mutual consent. Section 24 of the Act provides for relief for interim maintenance and expenses. Section 25 of the Act provides for right to a wife to seek permanent alimony and maintenance and Section 26 of the Act provides right to claim custody of children.

8- The Muslim Women (Protection of Right on Divorce) Act, 1986: Under the provisions of the Act provides for maintenance of women by the relatives after the iddat period.

9- The Factories Act, 1948: The provisions of this Act provides for health, safety, welfare, and working hours for women laborers working in factories.

10- The Equal Remuneration Act, 1976: It provides for payment of equal wages to both men and women workers for the same work or work of similar nature. It also prohibits discrimination against women in the matter of recruitment.

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11- The Employees State Insurance Act, 1948: The Act provides for insurance pension and maternity benefits to women workers.

12- The Maternity Benefit Act, 1961: It provides for maternity benefit with full wages for women workers.

13- The Medical Termination of Pregnancy Act, 1971: The Act safeguards women from unnecessary and compulsory abortions.

14- The Child Marriage Restraint Act, 1976: The Act provides safeguards for girls from child marriage.

15- The Immoral Trafficking (Prevention) Act, 1986: The Act safeguards women from prostitution.

16- The Indecent Representation of Women (Prohibition) Act, 1986: The Act safeguards women from indecent representation.

VII. CONCLUSION

In spite of the above discussed so many beneficial legislations specially meant to protect women rights, the offences against them do not seem to be decreasing. In fact with the advent of awareness, education and the women taking much broader roles in all the sectors in society, the crime against them are growing more and more and are reported at much larger scale. In the criminal law amendment act the punishment for rape is extended, new crimes have been included in Indian Penal Code like voyerism and stalking. Acid attacks have been included in the category of grievous hurt and severe punishment can now be served on the perpetrator of the crime. But the crimes do not seem to be decreasing. For that matter we need to understand the very fact that just like the crime of dowry, which was a kind of custom, grown over centuries , any evil that comes into practice by the society can never be curbed just by stringent legislation. Honour Crimes are yet another category of crime which are rampant these days. When it comes to a girl child, the issue of love marriages become the matter of loss of social pride for the family members , on the contrary a boy is never considered to be causing any hurt to this so called reputation or pride of the family. This kind of dual mentality comes out of the divergent role that the different genders are allotted since time immemorial. This is high time for us to rethink the roles played by different genders. Because due to the advancement of globalisation, a vast playfield is now open for women to perform. Their roles are not limited to domestic affairs only. Equality can never be granted to two unequals, it can only be asserted by performance. An educated and self dependent

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woman can only assert her rights. We can not keep asking for maintenance for her, in a broken matrimonial alliance, because justice can not be served at all possible occasions. We can not protect them by keeping them far from the mainstream. In order to build a society where women have respectable and equal rights, there have to be an equal number of women to ask for their rights. All the practices that can be considered to be derogatory for women, or put them in unequal footing than a man, should be curbed. And it is the sincere belief of the writer that a woman only can change her status, not the legislation or any foreign source. When we say women empowerment, we also need to convey that empowerment does not come to a weak person. When she finds her power she can assert it, and that is what is women empowerment. And her power is education, her skills, her employment, her vocation, and last but not the least is that a woman is the only one who creates this universe. You can never undermine her role.

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