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THE JUDICIAL SYSTEM IN PROTECTING THE RIGHTS OF WOMEN IN INDIA

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Abstract

The United Nations Millennium Summit established the eight universal improvement goals for 2015, known as the Millennium Development Goals (MDGs), including the promotion of gender equality and women's empowerment as the third goal. These goals are still far from being recognized in a country like India. In actuality, women in India routinely lack access to their basic rights, such as the right to dignity, let alone the issue of gender parity. Empowering women is one of the most critical issues of the twenty-first century. Practically speaking, though, women's empowerment remains a fantasy; we witness daily how a variety of social ills oppress women.

A key instrument for increasing women's capacity to have resources and make thoughtful, calculated decisions in life is women's empowerment. Women's empowerment is particularly important when women, traditionally marginalized in society, are working to improve their social and political standing.

The first step in protecting kids against all forms of violence and viciousness is empowerment. The secondary resources serve as the study's foundation. According to the survey, Indian women have a considerably lower status than men and are comparatively less zealous, regardless of the government's multiple efforts. It is found that women continue to acknowledge the existence of unfair gender norms in society. The study concludes with the belief that women's empowerment is primarily influenced by changes in social structure, employment opportunities, and access to education.

In light of this, the current paper examines the judiciary's role in defending women's rights in India. It specifically focuses on the Supreme Court's role in interpreting international instruments for women's empowerment, the Court's role in protecting crime victims, and the problems and obstacles associated with women's empowerment. The article makes an effort to address the few issues that Indian women experience, such as female feticide, being denied inheritance rights, having to pay a dowry, selling and trafficking in

females, etc. This paper aims to advance the methods of empowering women in a manner consistent with that of males.

Keywords: Crime against Women, Women Empowerment, Socio-economic status, Challenges.

Introduction

In recent times, the Indian judiciary has been flooded with an enormous backlog of cases involving dowry-related crimes against women, with disastrous consequences and constituting a significant concern regarding the human rights of women. Hence, in light of the concerning rise in domestic violence incidents and the distressing circumstances endured by women subjected to torture and harassment by their in-laws or their parent's household, the Indian judiciary has taken a stance of extreme strictness regarding these matters, delivering resolute verdicts against the culpable parties and dispensing justice to the victimized party. This is because women are held in higher regard and dignity in our nation, and instances of domestic violence against women are taken very seriously. In the case of *Chandra Prakash Kewal Chand Jain v. State of Maharashtra*¹, the Supreme Court expressed its sentiments as follows: "Unfortunately, there is a decline in the regard for womanhood in our nation. The current global standard of decency and morality in public life is also present in our country. Therefore, if the judiciary rigorously prosecutes individuals who violate societal norms, decency, and morality in public life can be safeguarded and promoted.

A welcome instance of judicial activism has been demonstrated by the Indian judiciary, under the leadership of the Supreme Court of India, regarding domestic violence against women. Domestic violence encompasses various forms of maltreatment, such as dowry-related death, rape, adultery, and physical or mental abuse of the wife. The Supreme Court, in the case of *Ram Narayan Gupta v. Ramaswami Gupta*², rendered a significant inference that acts of domestic violence are frequently perpetrated in fits of rage motivated by sexual envy. The mistreatment and frequent abuse of women demonstrate a profound and extreme antipathy towards social sentiments. Since the day of our independence, both the Indian legislature and the judiciary have endeavored to enhance the status of women.

The judiciary construed the diverse legal provisions intended to safeguard women in a manner that maximized the advantages for our female population. The Indian Constitution ensures equality for all women in India through Article 14. The aforementioned provisions safeguard the dignity of women under Article 51(A)(e), prohibit state discrimination as outlined in Article 15.1, ensure equality of opportunity and pay for equal work as stipulated in Article 16, and provide maternity relief and provisions for securing humane working conditions and maternity leave for women as outlined in Article 42.

¹ AIR 1990 SC 658.

² AIR 1988 SC 2268.

Objective Of Research:

1. To examine the judiciary's role in the protection of women's rights in India.
2. To emphasize the Supreme Court's responsibility in interpreting international instruments about the empowerment of women,
3. To evaluate the Supreme Court's Functionality in Safeguarding Crime Victims, as well as the Concerns and Obstacles Encountered in the Empowerment of Women.

Methodology Of Research:

The essence of this paper is primarily descriptive and analytical. This paper undertakes an analysis of the judiciary's role in safeguarding the rights of women in India. It specifically emphasizes the Supreme Court's responsibility in interpreting international instruments about women's empowerment, its role in protecting crime victims, and the issues and challenges associated with women's empowerment. The article endeavors to address the limited obstacles that women in India encounter, including female feticide, denial of inheritance rights, dowry, and the trafficking and sale of girls, among others. The purpose of this paper is to advance methods for empowering women in the same manner as males.

The Role of the Judiciary in Granting Women Equal Status.

Law is typically enacted by the legislature, implemented by the executive, and interpreted by the judiciary. However, the judiciary has recently taken on an additional role or characteristic. However, the law is no longer a passive observer or interpreter; rather, it has become an active participant. Although this change in role has sparked numerous debates, it has ultimately benefited women. The new law has established numerous rules and guidelines that are favorable to women, thus making a significant contribution to the empowerment of women. Presently, when the legislative and judicial branches of government have failed to fulfill their respective responsibilities in lawmaking and implementation, the judiciary is assuming the role of constitutional affirmation keeper and operating following international conventions and treaties.

The Supreme Court stated in the seminal case *Randhir Singh v. Union of India*³ that while the principle of equal employment does not constitute a fundamental right, it is undeniably a constitutional objective. According to Article 39 (d) of the Constitution, "equal pay for equal work is guaranteed to men and women." In a similar vein, the court ruled in *Grihakalyan V. Union of India*⁴ that a classification that denies equal pay for equal labor constitutes an irrational classification as defined in Article 14. The Court ruled in *Air India v. Nargesh Meerza*⁵ that a pregnancy-based termination of service was capricious and arbitrary, and thus in violation of Article 14.

The context of *Vishakha V. State of Rajasthan*, in pursuit of gender equality, the petitioner, a non-governmental organization (NGO) affiliated with the State of Rajasthan, Vishoka, initiated a writ petition to

³ AIR 1982 SC 879.

⁴ (1991) 1 SCC 619

⁵ AIR 1981 SC 1829

obtain the recognition of the fundamental rights of working women as enshrined in Article 21 of the Indian constitution. The petition was promptly filed in response to the 1992 gang rape of a saathin from Rajasthan, who was employed in women's development programs as a social worker. As a retaliatory action, the assault occurred after the Saathin intervened to avert a child marriage. A seminal ruling was rendered by the Supreme Court of India concerning sexual harassment directed at women.

The Honourable Court determined in the *Noor Saba Khatoun v. Mohd. Quasim's* case is that we have chosen to live in a secular republic, where secularism legally signifies that the state has no obligation of allegiance to any specific religion and that no state religion exists. That further, Following the Muslim Women (Protection on Divorce) Act of 1986, the Honourable High Court of Calcutta extended the iddat period until the woman remarries to grant Muslim women a maintenance allowance above the customary three-and-a-half-month iddat period.

In the case of *Deelip Singh v. State of Bihar*, the Honourable Court determined that a man's promise to marry a woman to make her believe that they are married would qualify as "without her consent" under clause (ii) of section 375 of the Indian Penal Code, provided that it could be proven that the man never intended to marry the woman from the outset and that the promise was merely a hoax. In a scenario where a prosecutrix made a deliberate decision to engage in a sexual demonstration after being captivated by the accused's promise to marry her, and subsequently renounced that promise as truth to lure her into the sexual act, Clause (ii) of section 375 of the Indian Penal Code applies. It has already been established and is not attractive. In the given scenario, if a man enters into a matrimonial agreement with a woman, the accused would be held accountable for violation of the promise to marry. As compensation for this breach of promise, the accused would be subject to civil law damages. An individual is not automatically liable for rape based on a false vow to wed if the prosecutrix is at least 16 years old and implicitly consented to the act or demonstration.

Madhukar Narayan Mardikar vs State of Maharashtra, The Honourable Maharashtra High Court notes that it would be highly precarious to base the reputation and professional standing of a government official on the unverified testimony of Banubi, who openly admits to having extramarital affairs, given that she is an immoral woman. She was candid in disclosing the negative aspects of her existence. Even an effortlessly virtuous woman has the right to privacy, and no one may arbitrarily pry into it. Likewise, it is impermissible for any individual to violate her at their discretion. If an endeavor is made to infringe upon her person against her will, she has the right to defend herself. She possesses an equivalent entitlement to legal protection. Consequently, because she embodies uncomplicated virtue and integrity, her evidence cannot be dismissed.

Protection of Crime Victims by the Judiciary

In favor of the protection of women, the Supreme Court established liberal judicial trends by rendering favorable decisions not only in constitutional issues but also in cases involving customary laws; this is illustrated by the *Shah Bano Case*⁶, in which the apex Court overturned personal law and brought Muslim women under the jurisdiction of Section 125 Cr.p.c. Similarly, the Supreme Court ruled in the *Shamim Ara*

⁶ AIR 1985 SC 945

Case that triple talaq is invalid. The judiciary's interpretations in this regard introduce fresh aspects to the notion of women's liberty and create opportunities for the advancement and personal growth of women. The Supreme Court ruled in the case of *State Of Maharashtra And Another v. Madhukar Narayan Mardikar*⁷ that a woman, regardless of her easy virtue, has the right to privacy and that no one may intrude upon it at will. Consequently, her testimony cannot be thrown out solely on the basis that she possesses easy virtue; in doing so, the Court reclassifies her as "a free human being with an independent will" and dispels the conventional notion that ladies of simple virtue lack individuality. The Indian judiciary demonstrates praiseworthy endeavors by consistently adapting legal interpretations to the evolving societal requirements. This was exemplified in the *Githa Hariharan V. Reserve Bank of India* case⁸, wherein it interpreted Section 6(a) of the Hindu Minority and Guardianship Act, 1956, and Section 19(b) of the Guardians and Wards Act, 1890 to establish equivalent guardianship status for the father and mother of a minor.

The Supreme Court of India, in the case of *Cehat and Ors. v. Union of India*⁹, oversaw the implementation of the Prenatal Diagnostic Techniques Act and released useful directives. The matter of gender choice and sex-selective abortion was prominently featured in this petition, prompting numerous initiatives from governmental and non-governmental organizations to address this concern.

In *R. Ruppayee v. Raja Gounde*¹⁰, a case involving gift-related property, the Supreme Court ruled that a father may bequeath to his daughter ancestral immovable property within reasonable boundaries.

Regarding the widow's claim to property, the Supreme Court ruled in the *Kalawatibai V. Soiryabai* case that a female Hindu who owned the property as of the effective date of the Hindu Succession Act of 1956 could only acquire absolute ownership if she were a limited owner. The legislature did not intend to grant the benefit of estate enlargement to every female Hindu, regardless of her status as a limited proprietor.

The highest legal authority in India has interpreted several fundamental human rights of women under the rights guaranteed in Part III of the Constitution. These fundamental liberties have existed long before the American Bill of Liberties. Over a series of cases, the Supreme Judicial Branch has established extraordinary benchmarks for defining the relationship between women's human rights and their sexual orientation. In the case of *Rupan Deal Bajaj v. K.P.S. Gill*, the Supreme Court of India upheld the dignity of women. The A.P. High Court, in *T. Saritha v. Thnkata Subbaiath*, highlighted how this case overturned Section 9 of the Hindu Marriage Act, 1955 and violated the right to security and human nobility guaranteed in Article 21 of our Constitution. The case established the standard of reasonableness in wedding matters.

The Honourable Punjab and Haryana Court ruled in *Ranghubans Saudagor Singh v. State of Punjab* that while discrimination based solely on sex is prohibited by the Constitution, the constitutional bar cannot be drawn when a variety of other factors and consideration from a reasonable connection with the object of classification are taken into account in addition to the peculiarities of sex.

⁷ AIR 1991 SC 207

⁸ AIR 1999 SC 1149

⁹ (2003) 8 SCC 412.

¹⁰ AIR 2004 SC 1284

The case of *Air India v. Nargesh Mirza* highlights the invalidity and arbitrary nature of the service rules established by Indian Airlines and Air India. These rules mandated that Air Hostesses retire from service at the earlier of 35 years of age or upon marriage, or if they married within four years of confirmation or upon their first pregnancy, whichever occurred first.

It was noted in the case of *Lalitha Sundari v. R. Kethar Nathan* that the female descendants of the trustees were required to fill two positions on the Education Committee of a family trust. The appointing authority, the scheme court, appointed two male members and noted that the female candidates who participated in the interview lacked practical experience and were male descendants as well.

Interpretation of International Instruments for Women's Rights: The Role of the Supreme Court

The Supreme Court has consistently applied the international standard of gender justice when it did not find national law to conflict with its provisions. The formation of the National Human Rights Commission, the National Commission for Women, and the Human Rights Act followed a consideration of instruments of international law. Indeed, each of these commissions operates by the constraints imposed by the Constitution. Furthermore, these recommendations are duly considered during the formulation and execution of legislation about the status of women in Indian society. India accords international human rights organizations with the respect they merit. These organizations are authorized to travel to any location within India. Under this expansive framework of national and international law, Indian women are afforded complete legal protection. The report of the His Lordship Justice J S Verma Committee revealed that the underlying factors contributing to offenses against women were deficiencies on the parts of the Government and Police. The report cited, among other things, the necessity to reassess the Anti-Fraud Savings and Passport Act (AFSPA) in conflict zones (such as Manipur), the most severe penalty for rape being life imprisonment rather than the death penalty, and the evident ambiguity surrounding the control of the Delhi Police. On April 3, 2013, the Criminal Law (Amendment) Act, of 2013 went into effect. The modifications enacted in the Act concerning offenses including acid assaults, sexual harassment, voyeurism, stalking, human trafficking, and rape, in contrast with the Ordinance.

In general, rape is regarded as a grave sexual offense comparable in gravity to civil assault. The legal rights of women encompass their human and social liberties. An early declaration advocating for women's rights was known as the Declaration of Sentiments. Concerns commonly associated with notions of women's rights encompass, but are not limited to the following: the right to bodily autonomy and integrity; the right to vote (suffrage); the right to hold public office; the right to employment; the right to equitable or equivalent compensation; the right to property ownership; the right to education; the right to enlist in the military or serve in the armed forces; the right to enter into lawful contracts; and the right to conjugal, parental, and religious liberties.

The Constitution of India declares the judiciary to be independent. A division of powers exists between the executive and judicial branches. The judiciary, responsible for determining the legality of executive actions and the constitutional significance of laws, ought to maintain a distinct existence. Lord Bryce stated that the efficacy and independence of a government's judicial system is the only true metric of its excellence. The Indian constitution comprises numerous provisions that aim to safeguard the independence of the judiciary. In 2006, India reported over 19,000 rapes, 7500 dowry-related fatalities, 32,000 homicides, and 36,500 incidents of molestation committed against women and female children. The statistics, homicide rates, rapes, violence that impedes economic development, and threats to humanity are all well-known. Instead of counting offenses, a reductionist mindset is required. No one can claim to be safeguarding the area or its inhabitants while firearms and language remain unrestricted. "Culprits are our people" does not grant any side the right to perpetrate crimes against innocent women and girl children, regardless of whether they are dressed in uniform or civilian attire. These elements were emboldened by the fact that their heinous crimes against women were being disregarded. New data from the National Crime Records Bureau indicates that approximately two lakh incidents of violence have been documented. It is widely acknowledged that corrupt and discriminatory social attitudes, in addition to simple greed and prejudice, permeate the mindset of authorities, particularly the police. This is frequently the case when grave complaints remain uninvestigated or undergo inadequate investigations. A reduction in crimes against women is possible only through the implementation of free, fair, and prompt investigations, as well as an enhancement in the conviction rate for diverse forms of violence against women. The press must play a crucial role in combating any attempt at concealment in this area.

Conclusion

In favor of girls and women, the Supreme Court of India and high courts interpret constitutional provisions. In situations involving legislation, rules, or orders issued by the government or any other agency that are detrimental to women and female children, the judiciary is invoked to safeguard their rights. Despite being the last resort, it is thankfully also dedicated to promoting the well-being of girls and women. It is time to recognize that society faces a shared threat and that a unified response is urgently required to address this challenge. An expression of collective responsibility is urgently required in response to the increasing concern and acute sense of urgency surrounding the violence and criminality that disproportionately affect women. If societal crime is not eradicated, then no amount of voter turnout will be effective, especially when it comes to offenses against women and young girls. Combating crime is above all else of paramount importance. Women of all social classes are disclosing or reporting crimes such as assault and rape without feeling helpless or abandoned by society or family, in contrast to the previous prevailing sentiment. The transformation of society necessitates governmental intervention due to its failure to address pressing concerns such as societal mentality or class partition. The Supreme Court of India placed significant emphasis on the rights of children in several notable cases, including *M.C. Mehta vs State of Tamil Nadu* (1991), *Goodrocks Group Ltd vs Centre of West Bengal* (18), *Lakshmi Kant Pandey vs Union of India*, *Sheela Barse vs Union of India*, and *Unni Krishnana J.P vs Union of India* (2011). For the welfare of women and children, the Indian Government is obligated to execute practical measures that adhere to the principles established in

those cases. Child Labour Welfare, Child Welfare and the Right to Education, Adoption of Children, Sexual Exploitation of Children, and Rehabilitation of Child Prostitutes are issues that require our attention. The Indian Judiciary's proactive attitude on these concerns serves as a significant contribution towards safeguarding the rights of women.

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