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THE CONSTITUTION OF INDIA – PROTECTION OF WOMEN’S HUMAN RIGHTS ANALYTICAL STUDY

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Abstract:

This abstract examines the foundational role of the Indian Constitution in safeguarding the human rights of women. Recognizing the historical and societal disadvantages faced by women, the Constitution incorporates specific provisions and principles aimed at promoting gender equality and ensuring their dignity. This paper analyzes key articles, including Article 14 (equality before law), Article 15 (prohibition of discrimination), and Article 15(3) (special provisions for women and children), which form the bedrock of women’s rights in India. Furthermore, it explores Directive Principles of State Policy, such as Article 39 (equal pay for equal work) and Article 42 (maternity relief), which guide state action towards women’s empowerment. The abstract will also discuss the impact of fundamental duties, particularly Article 51-A(e), which mandates the renunciation of practices derogatory to women’s dignity. It will highlight significant legislative enactments like the Dowry Prohibition Act, the Protection of Women from Domestic Violence Act, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, demonstrating the state’s commitment to translating constitutional ideals into tangible protections. The 73rd and 74th Constitutional Amendments, ensuring women’s representation in local governance, will also be considered as crucial steps towards their political empowerment.

Keywords: Indian Constitution, Women’s Human Rights, Gender Equality, Non-discrimination, Affirmative Action, Social Justice, Legislative Framework, Empowerment, Fundamental Rights, Directive Principles.

I. Introduction:-

The term Women’s empowerment implies the ability of the women take all the important decisions independently related to her throughout her life span that will ensure her success in all aspects of life. However these goals are far from being realized in a country like India. In fact often women in India are deprived of their fundamental right to dignity also leave alone the question of gender equality. The present paper explores the questions central to women’s right in India that is fundamentally patriarchal in nature. The article attempts to grapple with the marriage

on subsequent experience of marital violence. The substantially reduced risk of experiencing physical and sexual violence among women whose husbands were satisfied with the dowry reflects the strong influence of dowry in determining women’s position within the household”. In spite of the fact that Section 498A of the Indian Penal code strongly deals with the person responsible for marital cruelty and has declared taking and giving of dowry as a crime it is still been widely practised in India. In fact ‘The Dowry Prohibition Act’ has not been adequately put into operation in India. It has been discovered that mostly a number of states

neither have a Dowry Prohibition Officers nor do they made it obligatory to keep the record of things given and received.

II. Protection of Women's Human Rights Analytical Study:

The Indian Constitution enshrines specific rights for women, recognizing their historical subordination and aiming for their societal upliftment. The framers consciously included provisions to address this imbalance. Article 42 mandates the State to ensure maternity relief for female workers, while Article 51-A(e) establishes the fundamental duty of every Indian citizen to renounce practices derogatory to the dignity of women. Further, the Protection of Human Rights Act, 1993, was enacted by the Indian Parliament to facilitate the implementation of Article 51-A. Over the years, the Indian Parliament has enacted significant legislation to empower women. Notable examples include the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Prevention) Act, and the Dowry Prohibition Act. Beyond these, the landmark 73rd and 74th Constitutional Amendment Acts² provided for a substantial 33% reservation for women in both Panchayat and Nagarpalika institutions, extending this reservation to the positions of chairpersons within these bodies. These constitutional and legislative measures collectively demonstrate India's commitment to addressing historical inequalities and promoting the empowerment of women.

These two amendments removed the bottlenecks from the paths of women empowerment at the local level. In fact it has been found that the Karnataka sends maximum number of women to the PRIs followed by Kerala and Manipur. In order to facilitate equal participation of women at the national and state level politics, the bill providing for 33% reservation of seats for women in national and States legislatures has been introduced in Parliament³. Besides this, the government in India have enacted a variety of laws like Dowry

Prohibition Act, Sati prevention Act etc to guarantee the rights of the women.

Apart from this, in India, National Commission for Women had been established in 1990 to look into the women's problem. NCW have engaged them to deal with the cases relating to the violation of women's rights. They have pressurised the government to pass stricter laws to deal with the rape cases, domestic violence and to create a separate criminal code for the women etc.

III. Women Empowerment in India: A Study

The women in India are positioned at a receiving end primarily because they have remained ignorant of their fundamental civil and constitutional rights. Patriarchal system impinges on every sphere of a woman's life. In such a situation often a majority of them are forced to accept the traditional practices that are detrimental for both their and their children's development. Although women have acquired a level of financial and political autonomy and consciousness about their rights, yet they experience helplessness in bringing about basic changes for eliminating gender inequalities from the society⁰⁴.

The National Commission for Women have taken up the cudgels for women's right and have vociferously demanded a separate criminal code for women and enhanced punishment for offences against women. The proposal for creating a separate criminal code for women was designed to provide quick justice to the aggrieved women and speed up the conviction rate. However, this proposal failed to garner support among the government and have been shelved.

A multi-layered strategy need to be developed to assess the core causes of violence against women. The state and society must provide instantaneous support to victim-survivors to ensure that the victims can carry on with their daily life. In dealing with the problem of violence against women innovative levels of coordination and integration must be built up

between government, civil society and the family. The state occupies a central position in initiating positive policies to end discrimination against women. In India it was state which initiated the first reform measure when after lot of debate it reformed the Hindu Succession Act in 1956 in which women were given equal right to inheritance. Continuous extensive unconditional financial as well as emotional assistance must be provided to the women by both the formal set-up of the state like legal system, police, medical and health care sectors etc, as well as from the informal networks such as family, friends, fellow citizens, and local community groups. The idea of self reliant independent women taking independent decisions of her life can be achieved only by educating women that will help them in achieving economic independence, as well as knowledge and awareness about their rights. Special emphasis must be provided in educating women on the legal and Human rights provided to them by the constitution⁰⁵. A well known feminist writer Martha Nussbaum argued that the key to development of women is to provide them with the cover of justice.

The subsequent official organization under state that deals with the victimised women in India is the Police. Often the crimes against the women go unregistered because of the insensitive nature of the police in handling those issues. Therefore formal Training and gender sensitization of police a must be done so that there is no consequential oppression of women at their hands. The judiciary which is responsible for providing justice to the aggrieved women should also be sensitized on gender issues. The awareness of judges and the advocates on the sensitive gender issues is possible only if they are taught about them in law schools⁰⁶.

The women's organizations must try to empower women by changing the attitudes of the society towards the harmful traditional practices. One of the most vital tasks of the various women organizations and NGOs is to help women in rebuilding their lives and

confidence. These goals can be achieved only if the women are adequately educated about their legal rights and are economically independent enough to take independent decisions of their own life. Such programmes if done within shelter homes can provide both counselling and a connection among the women's who were victimised⁰⁷.

Violence against women can be curtailed only when cultural norms and attitudes towards the women can be changed for which change should be made in the school curriculum. Curriculum that educates the students at the school, college and university level on issues like human rights and gender issues should be included in their study material. "Curriculum reform that works towards eliminating the gender stereotyping in schools (teaching about women's contributions in history class, eliminating sex stereotypes in textbooks, promoting girls participation in sports) are important steps in achieving gender equality⁰⁸".

The violence against the women in India is often supported and perpetuated by the indigenous cultures and the religious leaders. Therefore the indigenous communities must try to put up mechanisms and strategies that eliminate such age old ruthless practices against the women. The religious leaders and researchers must review the sacred manuscripts and doctrines with an idea of to encourage egalitarianism and self-respect for women.

IV. Conclusion:

Gender equality and women's empowerment can be realised in India only when the traditional practices like female infanticide, dowry deaths, honour killings by khap panchayats, domestic violence, or sexual abuse is eliminated. It is only then that gender equality and women's empowerment can become a reality.

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