

## AN ERA TOWARDS EMPOWERMENT OF WOMEN THROUGH PROTECTION BY SPECIAL LAWS OF THE LAND<sup>1</sup>

### INTRODUCTION

The subject of women empowerment encompasses a lot of issues and needs deliberations by thinking men and women and intellectuals of the society, to remove the barriers of gender disparity and gender discrimination. Inequalities between men and women and discrimination against women have constantly troubled the societies all over the world. Whether back at home i.e. in Indian context or in global context, women due to their vulnerable position need some extra protection from the laws and the law enforcement agencies.

There is a famous quote from Pt. JawaharLal Nehru,

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

In our country since ancient times, different practises or customs were followed which were against the well- being of the women in general. For eg. Practise of Sati, female infanticide, child marriage, dowry system etc. In this paper we will discuss some evils rampant in our society against the feminine gender and the Laws enacted by our Parliamentarians from time to time to get rid of the society of the menace of such evils.

**Gender Injustice** – Gender based discrimination presents the ugly face of the society. This issue is global with varying degrees and very old. There is discrimination based on gender be it in workplace or within the confines of the four walls of the domestic set up. Wage

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<sup>1</sup> Swati Gandhi, Asst. Professor Law, Maharishi Law School, Maharishi University of Information Technology, Noida.

discrimination among the genders can be an example of gender discrimination in the workplaces. Families are far less likely to educate girls than boys, and far more likely to pull them out of education stream, either to help in domestic chores or there is a fear of violence against women and social stigma attached to it. Rapes committed against females bring shame to the whole family. We have seen and come across various reports and surveys in different newspapers and social media platforms, where the women being paid less for the same amount of work and skill required, in comparison with the male gender. We have read articles in newspapers, wherein Hollywood actresses time and again complain about being paid less to the male actors.

**Pre-natal sex-selective abortions** – The most extreme oppression against women is pre-natal sex selection and thereafter doing female foeticide. Foetal sex determination and sex selective abortions have become rampant in the society. The female child is killed in the womb itself before it sees the light of the day. Female child is considered as an economic burden on the parents and practise of dowry is one of the causes behind such thinking. Even in modern times, male child is considered as the torch bearer to the family. The Pre-Conception and Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 is enacted to stop female infanticide and arrest the declining sex ratio in India by providing strict punishments. Female foeticide is violence against women and violation of their basic human rights. The main objective behind the enactment of this Act is to ban the use of sex selection techniques after conception and prevent the misuse of prenatal diagnostic

technique for sex selective abortion. The Act mandates compulsory registration of all diagnostic Laboratories, centres, ultrasound clinics, machines etc. It is an offence to reveal the nature of the sex of the foetus in the womb. Neither the Lab Technician nor the Doctors/Nurses or any other person associated with it can reveal the sex identity of the child before birth. It involves penal punishment under the Act. Sex selection is identifying the sex of the foetus and thereafter elimination it by abortion if it is of unwanted sex. This disturbs the flow of nature by which the nature decides the balance of the genders. Due to this malpractice in one of the States of our country, Haryana, there is acute shortage of prospective female brides. This has led to human trafficking and young girls or women are kept as bondage and slaves and forced to marry the men against their wishes. Sometimes they are forced by beatings to sleep with

different men. Such is outcome of sex selective abortions which we are witnessing in today's times.

**Sexual harassment at Work Places** – It is unlawful to harass a person in a work settings because of that person's sex. The Hon'ble Supreme Court has laid down such guidelines in Vishaka' Case known as Vishaka guidelines. The Supreme Court in its landmark judgment in Vishaka v. State of Rajasthan in 1997 held that every act of sexual harassment in workplace is violation of fundamental rights under Articles 14,15 and 21 of the Constitution of India and amounts to violation of freedom as enshrined in Article 19 (1) (g). The Supreme Court of India defined sexual harassment as any unwelcome sexually determined behaviour whether direct or an over act such as :

1. Physical contact and advances
2. Demand or request for sexual favours
3. Sexually coloured remarks
4. Showing pornography
5. Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

Pursuant to these guidelines the Parliament have enacted The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The Act provides redressal of complaints against sexual harassment by women in their workplace. The Act provides for formation of Internal Complaints Committee in the organisation if employing 10 or more workers, for redressal of such complaints. Sexual harassment at workplace is a widespread problem in the world as a whole. Whether it is in entertainment industry viz a viz Hollywood or Bollywood or pure white collar jobs or jobs requiring skilled or unskilled labour. Harassment can include sexual advances, coloured or double meaning remarks, verbal or a physical harassment of sexual in nature.

**Protection of Women from Domestic Violence Act** – Domestic violence is not new kind of violence but now protected by legislation. The definition of domestic violence is a wide ranging concept. It covers mental as well as physical abuse and also threats to do the same. Economic abuse means and includes deprivation of financial resources required for survival of the victim and her children, disposal of any assets which the victim has an interest or has a stake over the same, restriction of the financial resources which the victim is used to in a

domestic relationship or set up. Protection Orders under S. 18 can be issued for the victim's safety against the respondent. The protection under the Act is available to those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household. The cohabitation may be consanguinity, marriage, or a relationship in the nature of marriage or adoption. Widening the scope, the legislators also included the women living together as a joint family like sisters, widows, mothers, single women etc.

### **Protection against dowry—**

The problem of dowry has become a serious social evil in today's times and is in existence in our Indian Culture since ages. Young brides are burnt brutally in the name of dowry. There is no end to the greed of the bridegroom or his parents or his relatives in seeking gifts/cash/vehicles or in some extreme cases land parcels and immovable properties in consideration of groom marrying the bride. To curb this menace of dowry practise, the Parliament has enacted the Dowry Prohibition Act, with amendments and modifications and framing of Rules from time to time.

**Dowry Prohibition Act, 1961** was enacted to prohibit the giving or taking of dowry. The Act provides penal punishment for violation of the provisions of the Act. It provides civil implications also when it enumerates when it provides that any agreement for giving or taking of dowry to be void. For effective implementation of the Act, the State Government may appoint as many Dowry Prohibition Officers and specify the areas in respect of which they shall exercise their jurisdiction and powers under this Act. As per the Act, the word dowry means any property or valuable article given in connection with marriage either directly or indirectly by one party to the marriage to the other party to the marriage. The act prohibits the request, payment or acceptance of a dowry as a consideration for the marriage where dowry is defined as a gift demanded or given as a precondition for a marriage. To provide more teeth to the dowry prohibition laws, The Dowry Prohibition (Maintenance of list of present to the bride and the bridegroom) Rules were framed. It is mandatory for couples to make a list of gifts exchanged during the ceremonies of marriage. The list of presents which are given to the bride at the time of marriage shall be maintained by the bride. The list of presents which are given to the bridegroom at the time of marriage shall be maintained by the bridegroom. The list shall contain :

- (a) a brief description of each present.
  - (b) the approximate value of the present.
  - (c) the name of the person who has given the present
  - (d) where the person giving the present is related to the bride or bridegroom, a description of each relationship
- and the list shall be signed by both the bride and the bridegroom.

### **Right to Maintenance:**

Right to maintenance is the subject matter of personal laws, which is part of civil laws. Civil suits take a long time before the cases are finally decided by the courts in fact so long that in one of the cases the Supreme Court held that while filing a civil suit, the party must also file the name of the nominee.

The Code of Criminal Procedure, 1973 is basically a procedural enactment, but it also confers certain substantive rights like right to maintenance to wife, children and parents.

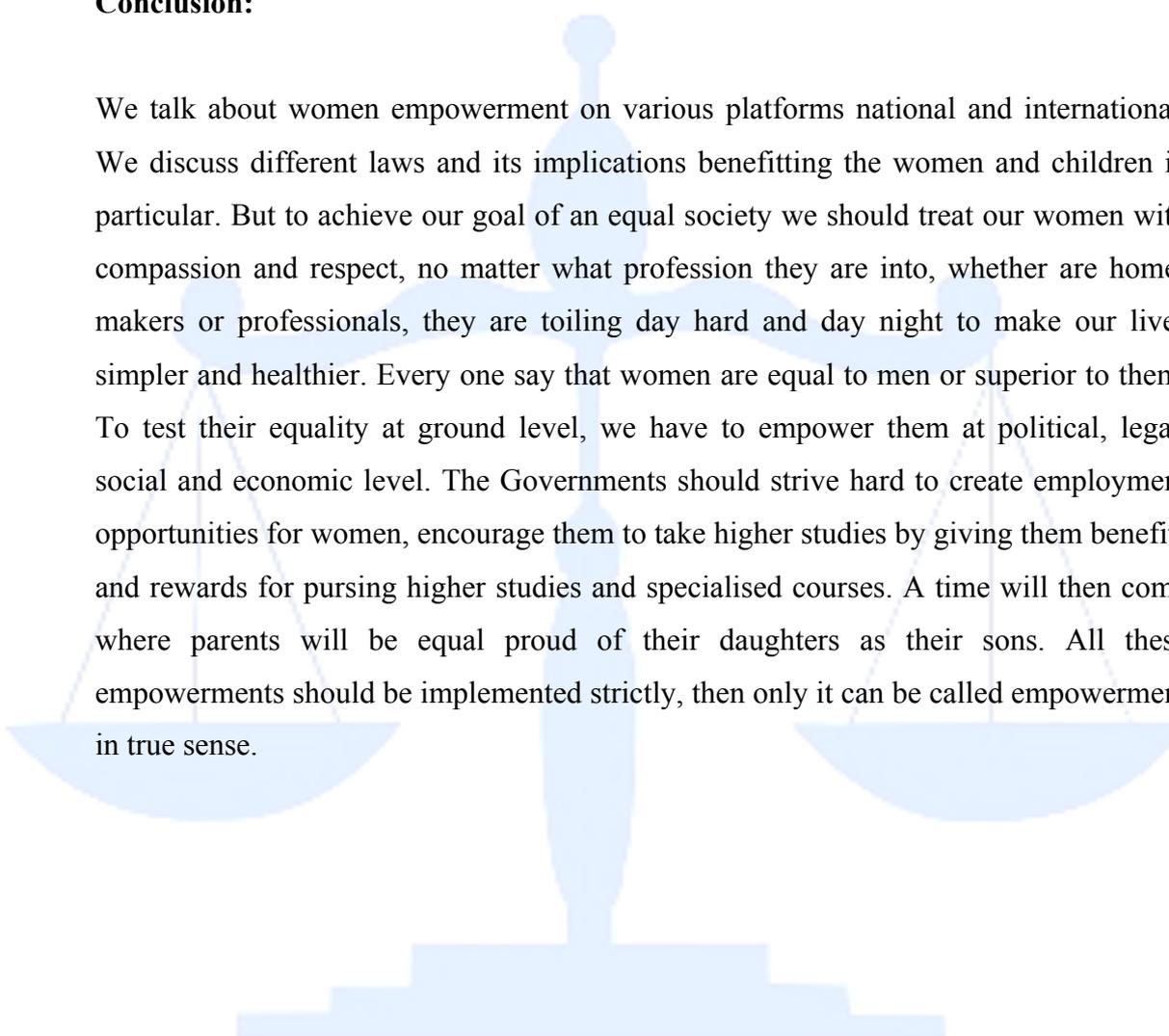
In *Savitaben Somabhai Bhatiya v. State of Gujarat*, 2005 (2) Supreme 503, the Supreme Court discussed the scope and ambit of Section 125 of the Criminal Procedure Code, 1973 while adjudicating the dispute. The Court held that provision of Section 125 Criminal Procedure Code cannot be utilized for defeating the rights conferred by the legislature on the destitute women, children or parents who are victims of social environment. The provision is a measure of social justice and as noted above as specially enacted to protect women and children and falls within the Constitutional sweep of Article 15(3) reinforced by Article 39 of the Constitution.

The object of maintenance proceedings is not to punish a person for his past neglect, but to prevent vagrancy by compelling those who can provide support to those whom he or she is legally bound to maintain and those people have no means to support and

maintain themselves. This is a measure of social justice and is specially enacted to protect women and children who are vulnerable in nature.

**Conclusion:**

We talk about women empowerment on various platforms national and international. We discuss different laws and its implications benefitting the women and children in particular. But to achieve our goal of an equal society we should treat our women with compassion and respect, no matter what profession they are into, whether are home-makers or professionals, they are toiling day hard and day night to make our lives simpler and healthier. Every one say that women are equal to men or superior to them. To test their equality at ground level, we have to empower them at political, legal, social and economic level. The Governments should strive hard to create employment opportunities for women, encourage them to take higher studies by giving them benefits and rewards for pursuing higher studies and specialised courses. A time will then come where parents will be equal proud of their daughters as their sons. All these empowerments should be implemented strictly, then only it can be called empowerment in true sense.



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