

Criterion 3 - Research, Innovation and Extension

Key Indicator - 3.3 - Research Publication and Awards

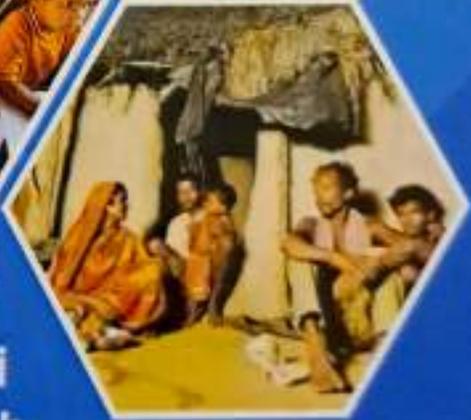
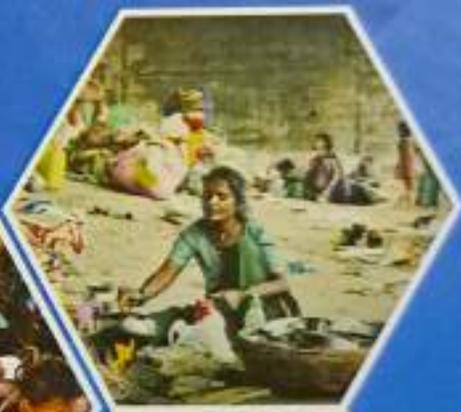
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SOCIAL PROBLEMS AND ISSUES IN INDIA

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- Informal Sector
- Education and Social Inequality
- Caste Identity
- Social Exclusion
- Social Movement
- Rape Laws in India
- Disability
- Community Issues
- Agriculture and Food Security
- Migration
- Culture and Globalization



EDITED BY
Pooja Kumari
Ravinder Singh
Priya A. Sondhi

The chapter titled **"Challenges Concerning Agricultural and Food Security in the face of Pandemic"** authored by **Manvendra Singh and Shovonita Acharjee** argues that food and the nutrition need to be a matter of greater concern in India where malnutrition and poverty rates are still in one of the most alarming rates. It is estimated that in 2021, around 33 lakhs children in India are severely malnourished especially in states like Bihar, Gujrat, Kolkata and Maharashtra. The Covid-19 pandemic has fuelled the prior imbalances, putting colossal strain on shaky frameworks; and plunging those in the most unsafe settings more profound into neediness and craving. Thus, this paper scrutinizes the aforementioned issues and its impacts in the long run progress post pandemic in the food and agricultural products along with its challenges faced implementing SDGs2 scheme and further propose recommendations towards effective policies that can be alternatively adopted to curb hunger and malnutrition level during similar event in near future.

In the chapter titled **"Caste System and Social Exclusion: Evidence from Musahar Community"** by **Harish Kumar** argues that the cultural heritage of India is dominated by one of the social institutions called caste which emerged in India many centuries ago. Caste being an inherent, unique as well as peculiar characteristic of Indian society became the base of all kinds of living attributes in people's lives. This not only divided human lives in many ways rather recorded the hoary history of exclusion, exploitation, and violence which is still continuing. It created a clear-cut class divide and the supremacy of upper castes over the lower castes. Even in the Present society, we can't imagine India out of it. **Principal** **Thakur Rajnarayan College of Law** S.V. Road, Dahisar(E), Mumbai-400068

it has been recorded that an exclusion and discriminatory approach towards lower castes is not limit to so-called upper castes only but also the same is being followed by the elite Dalits also. With reference to the Musahars, it has been noted that they have to face dual discrimination from those who are in the top order of caste hierarchy and lowest in the same due to not sound position on the

POLICIES VIS-A-VIS-PARANOIA *India's Challenges Concerning Agricultural and Food Security in the Face of Pandemic*

Manvendra Singh & Shovanita Acharjee

Introduction

Aristotle had very rightly said that with every crisis, there is an opportunity. The pandemic caused by corona virus is a tragic example of this statement. While India is ranked at the Third -highest number of cases across the globe following US and Brazil, yet we have put a lot of effort to handle the situation. The Indian political dynamics adapted itself to the new challenges, took quick action, and implemented them effectively. More than nine months of 2019-2020, the world human population is living under apprehension of death. Economy is in ventilation and human lives with cylinders and pipes. Certainty of Death is a well-founded truth, but its untimely attack in large numbers all over the world and every individual's life without discrimination as to age, religion, race, sex has forced the humankind to introspect. The pain and agony of people has only led to heart- wrenching days of burying the humans **Principal** number with the help of earthmovers is the comm **Thakur Ramnarayan College of Law** the day making the right to decent burial no more a part of law and order. The continuous shutdowns and lockdowns, social distance and travel ban though protected the lives of millions of people on one hand but the other hand it had a severe impact on one class of society who would contribute more in promoting the Nation's

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Social Problems And Issues In India Hardcover – 1 January 2023

by Pooja Kumari (Author), Ravinder Singh (Author), Priya A. Sandhi (Author), & 1 More

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in NCCNS-2021 with ISBN; 978-81-952307-7-8

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AN ANALYTICAL STUDY ON SOME ASPECTS OF POLITICAL PARTICIPATION OF WOMEN

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ABSTRACT

Democracy suggests balance for all residents either men or women. At present this very idea of democracy when it is elaborately seen in this sense may for the most part learned from various different backgrounds and all the more obviously in India. The UN sees that women statistics "world's biggest learned classification". In this paper an attempt has been made to analyze the nature of the requirements or some important aspects related to the political participation of women viz. Factors contributing to political participation of women, grievances faced by women while in politics, reservation for women in politics, barriers in political participation of women, priorities of women political activists, and suggestions to enhance women's participation in politics.

Keywords: Democracy, Women, Participation, Harass, Politics

1. INTRODUCTION

Indian democracy was a biggest democracy in the worldwide world. It suggests balance for all people, regardless of gender, caste, religion and so forth. Democracy is a political framework dependent on agent government, individual's participation in the political interaction, opportunities for residents, straightforwardness of political acts and cycle by and large. Democracy urges to individuals to participate in choosing individuals per se in the country. Political race bears the cost of individuals; the chance to communicate by choosing their agents. Political participation is another idea of the democracy. Political participation can freely characterize as residents' activities influencing politics. Political participation "arranges the cost of residents in a democracy self freedom to impact data to government authorities about their interests and inclination to separate at that point to react". It implies individuals have option to pick the democratic government and option to communicate their perspectives and mentalities towards nearly everything occurring in the open arena. Political participation "gives from the opportunity to stand up, gather and partner; the capacity to partake in the direct of public issues; and the chance to elect as a competitor, to battle, to be elected and to hold office at all degrees of government. Under worldwide guidelines, people have an equivalent option to participate completely in all parts of the political interaction. In practical setting, notwithstanding, it is regularly harder for women to practice this right. In post-state nations there are often additional hindrances to women's participation, and exceptional consideration is needed to guarantee their rights are regarded in such manner".



2. LITERATURE REVIEW

Oguadimma Joy et al (2021) This particular analysis learned things militating against female's participation in politics in Enugu state using 4 communities (Amokwe, Ikpanodo, Ndeaboh as well as EhaAmofia) drawn from 3 senatorial zones as case study 'websites. The study strategy employed was Community Familiarization Visits, Focus Group Discussion (FGD) and In-Depth Interview (IDI). The FGD (composed of females as well as males' leaders in the selected towns that served as the respondents while in the situation of IDI the selected female's group leaders served as the respondents. The study revealed along with other items that females from the analysis areas haven't been actively involved in politics after the return of Democracy in 1999 primarily thanks to poor finance, lack of training, lack of support from fellow females as well as an unfavorable political setting. The analysis thereby suggests totally different steps to end female's intimidation and discrimination, as well as the construction of a favorable setting for the improvement of female's political involvement of Enugu state.

Rosa Roig et al (2020) the gender gap in political information is actually a classical issue of Western democracies. In the 21st century, political awareness is still unequally distributed between females & males, as a lot of cross section scientific studies show. This is a sign of female's disempowerment and also the distance which remains to be included to attain a sustainable and inclusive society. Could public policies as well as gender equality laws replace the circumstances? With a longitudinal database in which 600,000 survey responses are actually analyzed from 1996 to 2017, this particular case study of Spain is designed to shed a bit of light on this particular question. It includes political and sociological methods in line with the improvement concept of the gender gap of Norris and Inglehart (2000, 2003), whose core argument is the fact that modernization shifts cultural attitudes toward gender equality. From this particular perspective, this particular paper proposes the following hypothesis: the modernization activity of Spain (from a dictatorship to a democracy) has given rise to changes in conventional sex roles, driving female's access to political understanding and diminishing the gender gap. This's a step towards obtaining unbiased number five of the 2030 United Nations Agenda for Sustainable Development (gender equality in addition to empowerment of females and females), according to which gender equality isn't just a fundamental human being right though a primary foundation for a peaceful, sustainable and prosperous world.

Dr. Hamoon Khelghat Doost (2020) Patriarchy recommends a domesticized set of roles for females. These roles have been accomplished through improving the dichotomous discourse of public (for males) and private (for females) spheres in which females must be restricted to home. By the conclusion of the 20th century and with the fast expansion of globalization and globally moves towards democracy, female's attempts to challenge the dominant patriarchal program via a lot more active involvement in political decision-making activity in levels that are different increased accordingly. While as a worldwide trend, female's participation in politics is actually increasing, nonetheless, the quality as well as amount of such increasing trend differ in various societies. Through the use of secondary literature, this particular paper seeks to explain the reason why despite facing really minimal authorized obstacles against participation in various levels of political tasks, female's



political roles & participation are usually less substantial compared to the male counterparts of theirs. In order to respond to this question, this particular paper develops 3 structural categories, by which patriarchy obstructs female's participation in politics in training.

Nadja Bommel (2020) A sizable number of research indicates a powerful connection between factors and education of political participation and interest. Just a little body of literature, nonetheless, addresses if these patterns represent causal consequences. We add to this particular investigation and reexamine the question in the German context. For identification, we exploit an exogenous rise in lower secondary compulsory schooling between 1949 as well as 1969 in former West Germany, as well as use information from the National Educational Panel Study (NEPS) to recognize individuals' instructional biographies a lot more exactly than prior studies. Our outcomes reinforce findings from Siedler (2010): several regression analyses initially indicate a good, statistically significant correlation between schooling as well as the methods of ours of political pursuits. IV estimates, nonetheless, are actually all simple, for both compliers as well as the complete sample, indicating that the reform didn't activate long term changes in political participation and interest.

Aulia Sholichah Iman Nurhotimah (2020) Democracy as a government process of Indonesia is unquestionably strongly associated with the General Election. Taking part in the implementation of a democratic system is actually a kind of participation as citizens. Any activity which pertains to participation of politics could be manifested in numerous styles. A novice voter is actually an individual that foremost participates in general election tasks whether it's in the legislative election, presidential election, and local leader elections. Newbie voters become parties which should be considered or perhaps should be really paid attention to since they influence decision making. Beginner's voters are additionally parties that have powerful individual qualities that will affect the types of theirs of political involvement. The goal of this particular analysis was exploring types of political participation of newbie voters in general elections. Researcher used a qualitative tactic and descriptive qualitative when the information analysis method. The information which was used in this specific analysis were secondary and primary details. Data collection methods had been documentation, interviews, and observation. The results demonstrated that the types of political participation of newbie voters in the common election had been voting, joining campaign tasks, taking part in political conversation, understanding a variety of political as well as community problems by following political news both externally and internally over the mass media, obeying the government, accepting, and using government choices, submitting criticisms, and making enhancements to rectify policies.

3. RESEARCH METHODOLOGY

The determination of the study area will purposive as in these two districts of the State, having their own distinct socio-cultural, economic and political characteristics have bearing on political cycles and advancement. Hence, it will get significant and pertinent to analyze the political participation of women in these two districts of the state and a similar analysis of these two selected districts will be made on the various parts of the research issue. The present research will be a micro-level relative study confined to the women political activists of Mumbai

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POLITICAL STATUS OF WOMEN AND THEIR PARTICIPATION IN DIFFERENT PERIODS OF INDEPENDENCE

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ABSTRACT

Political participation of citizens is actually a fundamental component of every democratic political system. It's the involvement of people of a wide section of political activities which are created to influence governmental decision making and actions. But females, around the globe, are actually treated as marginalized and one of probably the most important marginalized places for females is actually politics. Independence, strength or well as hope are actually the harvest of existence, though females are generally being denied of the experience of the change. Political participation of women increases that when contrasted with men, women's participation in politics will be restricted. So this study will comparatively assess the consideration of different thinkers, politicians, academicians and women organizations too. In other way, a unique consideration would be given to improve women's participation in politics.

KEYWORDS: Political, Participation, Women, Democratic, Marginalized.

• INTRODUCTION

Political participation is a crucial part of a democratic political system, which assumes great significance in contemporary societies. It's the involvement of people plus groups at different levels of political process in the political system. Hence, it refers to activity which is actually created to influence governmental decision making and actions. Additionally, it comes with the extent to which citizens avail themselves of those standard democratic rights to which they're constitutionally entitled. Based on H.M.C. Joshi, "Participation, will be the principal means by which concern is actually given or perhaps withdrawn in a democracy as well as rulers are actually made accountable to the ruled." While political culture is actually the analysis of people's values and perceptions towards the political system, political involvement is actually the study of legitimate involvement of individuals of the political process. The idea of political involvement is as early as the Greek civilization. Both Aristotle and Plaut made a distinction between citizens, slaves and aliens by conferring the energy to take part in governing the



community since just in the circles. The Declaration of French Revolution of 1789 may be pointed out as one of the main incidents in world history which says that all people have the right to take part in the formulation of law and in the development of the authorities.

Participation is observed in phrases of receiving developmental advantages. When individuals are denied of such benefits, they take so motivational styles to voice the dissatisfaction of theirs with development. People's expression of dissatisfaction through various modes is additionally one of the ways of political participation, as it has an effect on the decision-making procedure. This particular kind of participation takes the democratic form, through mass rallies and in campaigns for improved production, revised objectives and charitable objective. Rash & Ashhoff have drawn a hierarchy which covers the entire range of political involvement readily available in all kinds of political systems. They've holding as well as seeking administrative and political office, passive or active club membership of a political or maybe quasi political organization, participation in meetings that are public, demonstration, and casual political discussions, voting etc. There's a symbiotic relationship between political participation as well as strength.

• POLITICAL PARTICIPATION BEFORE INDEPENDENCE

In India, women have been given a commended position in the public arena. During old occasions they were treated at standard with men even in political and philosophical circles. In any case, as the scenario progressed, the situation of women in the public eye disintegrated and politically they were pushed to the foundation. It was distinctly in the 20th century, especially during the opportunity development under the altering administration of Mahatma Gandhi, that involvement of women was acknowledged as the regular course in India. In fact, Gandhi's thoughts and approach towards the part of women in the opportunity battle remained in sharp differentiation to the well-established biases against them ingrained in the Indian mind. The social state of women was very appalling in those occasions and it was fundamentally because of the cognizant endeavors of the initiative, at the front line of the opportunity battle that women battled against the might of the British Empire in organization with men. Gandhi accepted that women need to assume a much meaningful part in politics, making it more responsible, straightforward and defensible first. Writing in Harijan on 21 April 1916, he underlined the need to "select women as voters, give or have conferred to them practical education, inured them to think independently, discharge them from the chains of caste that hold them to bring about an adjustment in them... If they will do this, they will decontaminate the present messy air." He prophetically said, "As long as the women of India don't participate in open life, there can be no salvation for the country." Our opportunity battle was seen by the public chiefs in a more extensive viewpoint of restructuring the socio-economic and future political set up, to give in it, in addition to other things, balance of the two people. That was of the view that political action with respect to women could be independent of their social status and that political action was considerably more significant than social change in empowering women.

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• PARTICIPATION OF WOMEN IN POST-INDEPENDENT PERIOD

In post-independence India, enormous number of women's self-ruled gatherings has jumped up challenging man-controlled society and taking up an assortment of issues, for example, viciousness against women more noteworthy offer for women in political active and so on both at the activist and scholarly level. India has a rich and energetic women's development yet it has still far to go to accomplish gender fairness and gender equity. Women's empowerment is as yet an easily proven wrong issue in India. She is as yet treated as a peasant and the explanation other than are lack of education, customs, conventions, destitution, obliviousness, her own absence of interest in her own political empowerment prompts such government arrangements, which need legitimate insight and course. It is significant for the empowerment of women that the women actively participate in the political cycle of country.

- **Constitutional Provisions:** The Constitution of India received a parliamentary type of government and ensures equity, freedom and equity to all residents (people). The Constitution awards balance of treatment to women as well as calls upon the state to embrace measures favoring women neutralizing the socioeconomic, educational and political inconveniences that they face. Consequently selection of our Constitution proclaimed another period of equity for women of India. It ensures equivalent political rights including the option to vote to women. Practically all the provisions contained in the UN Convention on the 'Elimination of All Forms of Discrimination against Women' are there in the Indian Constitution. Not exclusively does the Constitution ensure equivalent political status to women, there is even an extension for 'positive discrimination' in support of themselves as is obvious in Article 15(3) of the Constitution. There are numerous different provisions in the Constitution which lay weight on balance among people. Article 14 ensures correspondence before law and equivalent insurance of law within the domain of India. Craftsmanship 15 disallows discrimination based on religion, race, caste, sex, and spot of birth. It is an assurance against each type of discrimination. According to article 15(3), nothing will keep the state from making uncommon provisions for the advantage women and youngsters. Article 16 ensures fairness of chance for all residents in issue relating to work or appointment to any office under state. Also no resident will, on ground of religion, race, cast, sex, good, spot of birth home or any of them, be qualified for, or discriminated against in regard of any business or office under the state and strength of laborers, people, and the young period of youngsters are not mishandled and that resident are not constrained by economic need to enter occupations unacceptable for their age or strength. Article 39 (a), states that the State will coordinate its strategy towards securing similarly to people the privilege to sufficient methods for vocation, and 39(d) enjoins the State to coordinate its approach towards securing equivalent compensation for equivalent work for the two people.

• POLITICAL STATUS OF INDIAN WOMEN

Political participation of Indian females though in a miniature form began with the independence movement. Mahatma Gandhi was mainly important for arousing political consciousness in bad, illiterate females and making them engage in the independence movement. Political participation described as participation that is voluntary in political affairs via membership, taking part and voting in the activities

LEGAL DYNAMICS

A Compilation of Recent
Developing Trends in Law
and Society

Edited by
Dr. A.K. SINGH & RAJWANT RAO



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This edition published in 2018
by

INFINITY PUBLISHING

4574/15, Ansari Road, Opp. Happy School
Daryaganj, New Delhi - 110002 (India)
Phone No: +91-11- 40115111, 23264395, 9899982737
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Title: LEGAL AUDIT
ISBN: 978-93-87910-46-1
Author: Various
Subject: Law

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MESSAGE



It is a matter of great pleasure that THAKUR RANARAYAN COLLEGE OF LAW, MUMBAI is publishing its 1st edited book on "Recent Developing Trends in Law & Society" which, inter alia, contains its detailed report on efforts made by the law school in organizing various programmes and events. The objective of the book is to prepare a stage where the current research discoveries can be introduced and examined. I am informed that the scholars, academicians and law students have contributed informative articles on the subjects related to law and interdisciplinary issues. TRCL is an important platform for shaping and sharpening of the professional skill of students for right application and interpretation of law. The TRCL can play an important role to meet new challenges emerging from the fast growing technologies and ever changing socio- economic scenario of the society. The Book provides a good medium to express, share and communicate empirical knowledge on various subjects of law and contemporaneous issues. I am sure that this book will serve as a valuable and useful handbook for legal fraternity. I extend my heartiest congratulations and best wishes to the TRCL and its book for all success.

Shri Jitendra R. Singh
Secretary, Thakur Trust,
Mumbai, Maharashtra

MESSAGE



A civilization is a bundle of political, economic and general cultural life. Law governing it's people in a civilization is dynamic in nature and is affected with the changing needs of the society. The conference "Recent Developing trends in Law and society" is an aptly chosen topic by "Thakur Ramnarayan College of Law" which would bring out the contemporary changes in law.

Shri Sadashiv S. Deshmukh
Vice Chancellor (EC),
MNLU Mumbai

EDITORIAL PREFACE



We are delighted to introduce "LEGAL DYNAMICS, A COMPILATION OF RECENT DEVELOPING TRENDS IN LAW AND SOCIETY". This book is the collection of exchange of ideas. It's provides a really exciting opportunity to the quest for clarity and has wittingly pushed some out of the purview of an inquiry from socio-legal lens. This book has focused on different areas that in recent times have found compelling reasons to interact with the shape society.

We hope that this book provokes our readers to think about the questions that we think are extremely relevant in today's context. The publication of this book has been a congenial and prolific experience for us on the board owing to numerous authors. We are immensely grateful for the time the devoted to the evaluation.

Special thanks to the editorial members of this book. It is they who burned the midnight oil to bring this book in its present state. The job of the editor is to make the book as reader friendly as possible. Therefore their task is herculean to read every single material offered to them and put forward the best from among the best.

As being Editors, We have honor to feel indebted for the assistance given in routine tasks rendered by our editorial team who have given their utmost effort for making this book a success. The authors who have contributed their articles /papers deserve special thanks for their contributions. We have tried to assemble all quality articles in this book. We wish a bright future and a great success to this book and hope that it will make an impressive mark in legal erudition.

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II. LEGAL AID: AN ANALYSIS

Ms. Hansa M. Bhargav¹ & Mr. Subhash Pathak²

INTRODUCTION

The Legal Aid is an important right of an individual who due to his poverty or indigence is not capable of getting the legal aid at his own expenses. The Rule of Law requires that the legal aid shall be made available to every person whether rich or poor. The poor can get legal aid at the expense of the State. Legal aid is necessary to everybody, who is confronted with the legal complexities in any civil or criminal matter. Some persons are so economically sound that they may engage the best law experts but some may not even be in a position to engage even an ordinary legal expert to help them. The Law Commission of India in its 14th Report emphasized the obligation of State to make available funds for providing legal aid to poor and persons of limited means.³

MEANING OF LEGAL AID

According to Black's Law Dictionary, "Legal Aid is a free or inexpensive advice, assistance or representation concerning the law. It is given to those who cannot afford it."⁴

LEGAL PROVISIONS IN INDIA REGARDING LEGAL AID

- i. Article 22 (1) of the Constitution provides that "No person who is arrested shall be detained in custody without being informed, as soon as may be, of the grounds of such arrest nor shall be denied the right to consult, and to be defended by, a legal practitioner of his choice."⁵
- ii. Article 39 - A was inserted by virtue of 42nd Amendment Act, 1976 to ensure legal aid. It provides: "The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities."⁶
- iii. Section 303 of Criminal Procedure Code states that an accused has a right to be defended by a pleader of his choice. It provides: "Any person accused of an offence before a Criminal Court, or against whom proceedings are instituted under this Code, may of right be pleaded by a pleader of his choice."⁷
- iv. Section 304 of Code of Criminal Procedure makes the provision of legal aid to accused at State expense in certain cases. It provides: "Where, in a trial before the Court of Session, the accused is not represented by a pleader, and where it appears to the Court of Session, the accused is not represented by the pleader, and where it appears to the Court that the accused has not sufficient means to engage a pleader, the Court shall assign a pleader for his defence at the expense of the State." Further the High Court is also empowered to make rules with the prior approval of the State Government regulating the mode of selection of pleaders, facilities and fees to be provided to them. The State Government by a notification extend the application of this Section to trials of other Courts.⁸

THE LEGAL SERVICES AUTHORITIES ACT, 1987

The Parliament has enacted the Legal Services Authorities Act, 1987 for providing free legal aid to the weaker sections of the society and to provide statutory support to Lok Adalats to not only reduce the burden of arrears of work in regular Courts but would also take justice to the door-steps of the poor and the

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³ 19th Law Commission Report

⁴ <https://thelawdictionary.org/legal-aid/> (last accessed on 20/10/2018)

⁵ Article 22(1) The Constitution of India, 1950

⁶ Article 39(A) The Constitution of India, 1950

⁷ Section 303 of Code of Criminal Procedure, 1973

⁸ Section 304 of Code of Criminal Procedure, 1973

needy and make justice quicker and less expensive. Chapter IV which has only two sections, i.e., Sections 12 and 13, it lays down the list of persons entitled to legal services. These sections are as follows:

• *Criteria for giving legal services⁹*

Every person who has to file or defend a case shall be entitled to legal services under this Act if that person is

- (a) a member of the Scheduled Caste or Scheduled Tribe;
- (b) a victim of trafficking in human being or beggar as referred to in Article 21 of the Constitution;
- (c) a woman or a child;
- (d) a person with disability as defined in clause (i) of Section 2 of the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995;
- (e) a person under circumstances of undeserved want such as being a victim of mass disasters, ethnic violence, caste atrocity, flood, drought, earthquake or industrial disaster; or
- (f) an industrial workman; or
- (g) in custody, including custody in a protective home within the meaning of clause (g) of Section 2 of the Immoral Traffic (Prevention) Act, 1956 (104 of 1956) or in a juvenile home within the meaning of clause (j) of Section 2 of the Juvenile Justice Act, 1986 (53 of 1986) or in a psychiatric hospital or psychiatric nursing home within the meaning of clause (g) of Section 2 of the Mental Health Act, 1987 (14 of 1987); or
- (h) in respect of annual income less than rupees nine thousand or such other higher amount as may be prescribed by the State Government, if the case is before a Court other than the Supreme Court, and less than rupees twelve thousand of such other higher amount as may be prescribed by the Central Government, if the case is before the Supreme Court.

• *Entitlement to legal services¹⁰*

- (1) Persons who satisfy all or any of the criteria specified in Section 12 shall be entitled to receive legal services provided that the concerned authority is satisfied that such person has a prima facie case to prosecute or defend.
- (2) An affidavit made by a person as to his income may be regarded as sufficient for making him eligible to the entitlement of legal services under this Act unless the concerned authority has reason to disbelieve such affidavit.

LEGAL AID IN POLICE CUSTODY

A person is entitled to legal aid during police custody also. In *Joginder Kumar v. State of U.P.*,¹¹ a lawyer was called to the police station for certain inquiry. When his whereabouts were not known, a writ petition of habeas corpus was filed and thereupon he was produced before the Supreme Court, it was pleaded from the side of police that the lawyer was assisting the police in a case and that he was not under its detention.

⁹ Section 12 of The Legal Services Authorities Act, 1987

¹⁰ Section 13 of The Legal Services Authorities Act, 1987

¹¹ (1994) 4 SCC 260

The concept of Law and Rights have become a necessity in current global scenario. With the belief in virtues of existence and humanity, every individual is entitled to certain rights, is the ideology that began to shape in the 18th century. Earlier to this, the concept of right was already existing as natural laws, natural rights, inherent rights, minimal rights, individual rights etc. The Magna Carta introduced in the year 1215 is considered to be the first ever document in the history of human rights followed by The English Bill of Rights (1689), The American Declaration of Independence (1776), The American Bill of Rights (1791), The French Declaration of the Rights of Man and Citizen (1789).

The Universal Declaration of Human Rights (UDHR) was adopted on 10th December 1948 under the United Nations Charter which proclaims the most authoritative and extensive set of guidelines of International human rights norms. It's Preamble asserts that:

"Recognition of the inherent dignity and of equal and inalienable rights of all members of the human family are the foundation of freedom, justice and peace in the world."

Every society and its culture evolves through various stages, passing through which, quality survival of human life remains the ultimate aim. For fulfilment of this aim a certain set of moral, social and cultural structure is created with the belief in the just, honest, rational, responsible and moral character of humans. The need for rights emerges due to non- fulfilment of basic needs, inhuman and undignified treatment given by one human to another in the form of suppression, torture, conflict, absence of tolerance, crime, immorality, discrimination, injustice, terrorism etc. The social, economic and philosophical crisis, if faced for longer period, leads to ethical deterioration of society. In such cases need for social control arises to maintain order and harmony in society through implementation of law. But legal control is mere an immediate solution, to address the problems more rigorously, one needs to inculcate individual conscience of humanistic principles viz. moral norms, values, ethics, rights etc. For doing the same, it becomes essential to go back to the ancient roots of individual society to understand the value system, the harmony that it was either already existing with or inculcated through conscious and continuous awareness.

The world history is filled with different types of violations, stratification and slavery practices. The legal control through modern structure of law, order, armed forces, human rights etc. is definitely offering remedies which are products of European enlightenment and the concept of 'Human Rights' as a claim on authorities to protect human interest is a remarkable contribution made by western society to the human family. The story of Human Rights is the story of human wrongs.² In the words of Justice D.V. Madan:

"the concept of Human Rights is the result of man's inhumanity to man". The maxim of law is, "there is no right without a remedy". The maxim of history has been, "There is no right without a wrong". So the relation between law and right can be understood as: 'Human rights are ethical standards at the dawn of civilised society into fundamental of civil and political rights secured by highest law of land and enforced by its court of law'.³

Eventually, these concepts discovered by the West now, were already present in India's deep- rooted ancient tradition since time immemorial. In the multicultural nation, India, which is proudly demonstrating the strength of diversity due to its secular approach, the values such as dignity, equality, responsibility, justice, order, morality etc. are embedded in its cultural framework in the form of ancient principles of Swadharma, Purusharth, Rta, Rna etc.

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² Introduction to Human Rights, p.14, study material- post graduate programme in Human rights by Indian Institute of Human Rights

³ Principles and theories of human rights, p. 9, study material- post graduate programme in Human rights by Indian Institute of Human Rights

With this, the question arises "Despite the rich and sacred ancient humanitarian tradition, why is India a victim of violations, disorderliness, conflict?" and if this is the scenario, "what is the solution for this cultural crisis being faced in current context?"

The solutions to these different social, economic and cultural problems lie in this, one of the most ancient civilization of this world. The modern remedies will keep on providing solutions but what if the problem is addressed by every person at individual level through building up of one's own ethical character. If there are no violators then question of violation will end, if there are no victimizers then there will be no victims. As it is rightly believed and promoted that rights are not absolute rather it implies the inference duties and responsibilities. A conscious examination of ancient Indian constitutional and Legal system, would make one aware that it had been established as a duty- based system and not right- based.

The rich legacy of India believed in the 'welfare of all', i.e. "Vasudhaiva Kutumbakam" which is also the aim of modern concept of Human Rights. Human unity, universal brotherhood and creation of world free from any kind of conflict, misery, have always been the principle belief of this tradition. Similar idea is also promoted by the Universal Declaration of Human Rights years later –

"All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and shall act towards one another in a spirit of brotherhood."⁴

The basis of ancient human rights jurisprudence was Dharma- the ideal ancient Indian legal theory which was a social- legal order, free from influence of conflict, violation, miseries, possession, control, exploitation etc. and concept of supremacy of any individual over the other, in any form, have always been rejected. It was rather a universal legal and moral order. A principle that regulated the individual behaviour of every person including authorities i.e. the King. Panini, the great Sanskrit grammarian of the 5th century B.C., interprets Dharma as an act of religious merit, custom and usage. Dharma (Law) evolved and developed by the people meant to secure the welfare and happiness of the people as a whole. It constituted the blueprint and master plan for overall development of individuals and different sections of society. Vyavahar Dharma (Ordinary law) and Rajdharma (Constitutional law) which covers duties and obligations; i.e. rights, duties and liabilities (debt) of individuals and State.⁵ Few concepts summarizing the nature of law and rights in Indian tradition is discussed below:

1. Varna Dharma: It is basically set of professional (occupational) duties that identifies society as an organic unity of different functions which are represented by four varnas and which together constitute society at the empirical level. The varnas are namely, Brahmin, Kshatriya, Vaishya and Shudra which are the four dimensions of knowledge, power, wealth and labour⁶.
2. Ashram Dharma: These are the duties relating to different stages of life. Brahmacha- ryashram (student), Grihasthashram (householder), Vanaprasthashram (solitary) and Sanyashram (wandering monk) are the four stages of life.

Varna and Ashrama dharma together, are called as Varnashrama dharma.

3. Purusharth: It means goals i.e. supreme end of human life which consists of four principles, every man ought to pursue in order to attain one's complete well- being⁷:
 - i) Dharma (Virtue, duty, law): Fulfilment of one's duty in accordance to one's 'Swadharma'- self-duty which is determined by one's Varnashrama dharma.
 - ii) Artha (wealth, power): Wealth is means to many material ends which are necessary for survival but one shall possess wealth in accordance to dharma.

⁴ Art. 1 of Universal Declaration of Human Rights

⁵ Ibid, p.29

⁶ Daya Krishna, Indian Philosophy- a new approach, Sri Satguru pub., chp.22, p.255

⁷ Jadunath Sinha, A Manual of Ethics, ed. 13, Central pub., chp. 37, p.360

INTRODUCTION

The Indian society is growing as a global power but half of its population that is women in India are struggling to live life with dignity. Women are victims of all kind of exploitations since long time in different strata of life. They are exploited physically, socially, psychologically, sexually and economically.

Women status has been same in past, she is living in the same condition in today's time and also the future is in a question mark. Women as a mother, sister, wife and daughter plays an important role in the life of a family. Women are never allowed the freedom, they are expected to live under the shadow of father, brother, husband and son in their different stages of life. World will be incomplete without a women, but then too the importance of women is not felt by Indian patriarchal society. Indian women like women all over the world are victims of crimes like female feticide, eve teasing, dowry, bride burning, domestic violence, etc. After independence we adopted democratic system which does not discriminate between men and women in any democratic matters of the country, but then too we see women participation in politics in India is miserable.

Since its inception gender equality is enshrined in different parts of constitution such as Fundamental Rights, Directive Principles of State Policy and Fundamental Duties. There are many more provision given in the Indian constitution to protect women against biases and discriminations. Unfortunately these all are just existing on paper but when it comes for reality women stands at the same place where she was 50 years back.³

WOMEN RIGHTS IN INDIA

Right to equality: Art 14 of Constitution deals with Equality before law, the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

Right to live with dignity: Art 21 reads as 'no person shall be deprived of his life or personal liberty except according to procedure established by law'. Right to dignity deals with protection against any kind of exploitation and violation inalienable rights.

Right to equal opportunity for employment: Article 16 guarantees that no citizen shall be discriminated against, in matters of public employment on the ground of sex, thus it guarantees freedom to choose any profession. Although there is a provision for equal pay for equal work still women in many countries of the world including India are paid less than men for doing the same work.⁴

Article 39 (a), directs the State to make policy towards securing adequate means of livelihood for men and women equally, further Article 39(e) says that the health and strength of workers should not be abused and the citizens are not forced by their economic necessity to enter avocations which are unsuited to their gender, age or strength.

Immoral Traffic (Prevention) Act (1956) it deals with the prevention of trafficking for commercial sexual exploitation and it prevents trafficking in women and girls for the purpose of prostitution.

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³ Dhanca R., "Violation of Women Human Rights in India" International Journal in Multidisciplinary and Academic Research (SSIJMAR), Vol. 1, No.4, November-December (ISSN 2278-5973)

⁴ Rout N., and Bez J., 2017. "Women's Rights and Violence in India: A Study of Constitutional Safeguards", Odisha Review, ISSN0970-8669.

Maternity Benefit: The Employment State Insurance Act, 1952 (Section 50) says that, an insured woman will get periodical payment, in case of confinement, miscarriage, sickness arising out of pregnancy, premature delivery and infants' death.

Dowry Prohibition Act (1961): prohibits the giving or taking of dowry in any form at or before or after the marriage from women. The dowry prohibition act make the offence punishable, to enhance the penalty to both fine and imprisonment minimum punishment for taking or abetting taking of dowry has been raised to 5 years and a fine of Rs. 15,000.

Medical Termination of Pregnancy Act (1971) provides for the termination of certain pregnancies by registered medical practitioners on humanitarian and medical grounds.

Section 312 says that if a miscarriage, if it is not done in good faith to save the life of the woman, shall be punished. Section 313 deals with abortion without the consent of the woman. In this case the punishment could even be life imprisonment.

Bonded Labour (1976): The Bonded Labour System (Abolition) Act, 1976, prohibits trafficking in human beings and different forms of forced labour.

The Child Marriage Restraint (Amendment) Act, 1976: The Act increased the age of marriage for girls from 15 to 18 years and for boys from 18 to 21 years. The offences under this Act are punishable.

Indecent Representation of Women (Prohibition) Act (1986): This act prohibits indecent representation of women in advertisements, publications, writings, paintings, figures etc.

Commission of Sati (Prevention) Act (1987): This act prohibits sati and its glorification on women.

Inheritance without a Will: Under the Hindu Succession Act both male and female heirs have equal right to inheritance.

Eve Teasing: Section 294, 350 and 504 of Indian Penal Code deals with eve teasing. Whoever involved in it will get punishment of 3 months imprisonment or fine of Rs.500 or both if the crime is severe.

Protection of Women from Domestic Violence Act (2005) this act is passed to protect women from all types of domestic violence. It also covers physical, sexual, mental, verbal or emotional violence against women.

Sunday Women should not work: Rajya Sabha member, Miss Saroj Khaparde introduced the Housewives (Compulsory weekly Holiday from Domestic Chores) Bills, 1996. Naturally the male member, were against this bill, the house dissolved into peals of laughter the men especially guffawing at the very idea. The end result? Her voice and message, was effectively drowned out.⁵

Further it was felt that 'Even if this Bill is passed, knowing our Indian culture and tradition, the housewife will do extra work the day before or the day after off day.'

Right against harassment at work: It deals with the Sexual Harassment of Women at Workplace Act gives women the right to file a complaint against sexual harassment.

Right to anonymity: Right to anonymity is guaranteed to women who have been sexually assaulted, it is done in order to ensure that her privacy is protected; a woman who has been sexually assaulted can record her statement alone before the district magistrate, or in the presence of a female police officer.⁶

⁵ Yunus S., and Varma S., 2015, "Legal Provisions for Women Empowerment in India", International Journal of Humanities and Management Sciences (IJHMS), Vol. 3, Issue 5, ISSN 2320-4044.

⁶ Divya M., 2017, "A Study on the Rights and Privileges of Women in India", IOST Journal of Humanities and Social Science, Vol. 22, Issue 7, Ver.13, e-ISSN: 2279-0837.