Social & Some Important Legislation:

The Protection of Human Rights Act, 1993

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The United Nations Educational Scientific and Cultural Organization (UNESCO) mooted the idea 01 the creation of an impartial institution for the protection of human rigfits in the States as early as 1946. In pursuance of the resolution of the General Assembly adopted in 1966,' the Economic and Social Council requested the Human Rights Commission of the United Nations to consider the question of creating a National Commission of Human Rights to perform certain functions related to the observance of the International Covenants on Human Rights. The question was taken up by the Commission in 1970 and it recommended that the question of establishment of National Commission of Human Rights in each Member State of the United Nations ought to be decided by each Government of the Member State keeping in view the traditions and institutions of each country. The Commission in 1978 again emphasized the need for the creation of a National Institution. But all these attempts, however, were fruitless.

Realising the importance of such an institution or commission, the World Conference on Human Rights in 1993 urged Governments to strengthen national structures ,and institutions of society, which play a role in promoting and safeguarding human rights. The Vienna Declaration and Programme of Action adopted by the World Conference prompted a number of States to establish such institutions.

The Human Rights Commission Bill introduced in the Lok Sabha on May 14, 1992 was referred to the Standing Committee on Home Affairs of the Parliament. The President of lndia promulgated an Ordinance, which established a National Commission on Human Rights on September 27, 1993, owinc to pressure from foreign countries as well as from the domestic front. Thereafter, a Bill on Human Rights was passed in the Lok Sabha on Dlxember 18, 1993 to replace the ordinance promulgated by the President The Bill became an Act, having received the assent of the President, or January 8, 1994 (Act 10 of 1994) and was published in the Gazette of lndia.

National Human Rights Commission (N.H.R.C.)

Chapter II of the Act deals with the constitution of the National Human Rights Commission (N.H.R.C.). Section 3 of the Act lays down that the Central Government shall constitute a body known as the National Human Rights Commission. N.H.R.C. is an eight-member body. The Commission consists of:

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- A Chairperson who has been a Chief Justice of the Supreme Court



- One Member who is, or has been a judge of the Supreme Court 100
- One Member who is, or has been, the Chief Justice of a High Court
- Two Members to be appointed from amongst persons having knowledge of, or practical experience in, matters relating to human rights.

Procedure for Dealing with Complaints

Regulation 8 of the National Human Rights Commission (Procedure) Regulations, 1994 lays down the following procedure for dealing with complaints of alleged violation of 'human rights':

- All complaints in whatever form received by the Commission shall be registered and assigred a number and placed for admission before a bench of two niembers constituted for the purpose not later than two weeks of receipt thereof.
- No fee is chargeable on complaints.
- Every attempt should be made to disclose a complete picture of the matter leading to the complaint and the same may be made in English or Hindi to enable the Commission to take immediate action. To facilitate the ,;iling of the complaints, the Commission shall, however, entertain complaints in any language included in the Eighth Schedule of the Constitution. It shall be open to the Commission to ask for further information and affidavits to be filed in support of allegations whenever considered necessary.
- The Commission may, in its discretion, accept telegraphic complaints and complainl:~ conveyed through fax.
- The Commission shall lave the power to dismiss a complaint in limine.
- Upon admission of a coniplaint, the ChairpersonlCommission shall direct whether the matter could be set down for inquiry by it or should be investigated into.

State Human Rights Commissions (S.H.R.C's)

The Protection of Human Rights Act under Chapter V also provides for the setting up of State Human Rights commission in States consisting of a Chairperson whois or has been a Chief Justice of a High Court, one member who is, or has been, a Judge of a High Court, one member who is, or has been a District Judge in that State and two members to be appointed from amongst persons having knowledge of or practical experience in matten; relating to human rights. The Governor shall appoint the Chairperson and other members of the Commission.

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The State Commission is empowered to perform all those functions, which have been entrusted to the National Human Rights Commission. However, paragraph C of Section 29 excludes the study of treaties and other lnternational Instruments on human rights from the purview of S.H.R.C. The study of such treaties and the eligibility to make recommendations for their effective implementation are the exclusive domain of the N.H.R.C. The state Commission may inquire into violations of human rights only in respect of matters related to any of the entries enumerated in List II and Ill in the Seventh Schedule of the constitution.' Section 36(1) of the Act, states that the State Human Rights Commission shall not enquire into any matter which is pending before a National Commission or any other statutory Commission duly constituted under any law in force.

Protection to Women Women Under Indian Constitution & Criminal Law (Under Indian Constitution Law and Criminal Procedure Code)

Protection to Women Under Indian Constitution & Criminal Law (Under Indian Constitution Law and Criminal Procedure Code)

Violence against women is present in every country, cutting across boundaries of culture, class, education, income, ethnicity and age. Since time immemorial India is · particularly a male dominated society and prevalence of illiteracy among women has resulted in wide spread violence against women. Therefore, Indian women like women world over have suffered from domestic violence like purdah system, satipratha, Female feoticide, Female infanticide, different kinds of physical, emotional and mental abuse, dowry death, cruelty, polygamy etc. In India, family is considered to be a sacred institution and it acts as a source of furtherance of mental, social and spiritual well being of its members. Family creates bonds and a sense of belonging and stability of relation among its members which is now weakening because today domestic violence has been identified as a major cause of injuries to women in India.

Constitutional provisions

The Articles under Part III of the constitution of India relating to the Fundamental rights which try to uplift the status of women and provide equal 130 opportunities for women irrespective of sex are stated below :

Article 14 of the Constitution

All persons including women are equal in the eyes of the law and they are also entitled to enjoy equal protection of laws within the territorial jurisdiction of India It signifies that all persons irrespective of sex should be treated equally in similar circumstances. In other words, the State should not make any discrimination between one person and another, and amongst equals the law should be administered equally.

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Article 15 of the Constitution

It deals with prohibition against discrimination. It prohibits the state to make any discrimination against any citizen including women on grounds of race, caste, sex, religion, place of birth etc. It states that all citizens irrespective of race, caste, sex etc. are entitled to enjoy equal rights in regard to access to shops, hotels, bathing ghats etc. But the state has the right to make any special provisions for women and children and also for the scheduled castes and the scheduled tribes.

Article 16 of the Constitution



All citizens including women will enjoy equality of opportunity in matters of public employment irrespective of their sex, races, castes, religions etc.

To prevent immoral traffic in Women and Girlchild Article 23 of the Constitution – It prohibits the traffic in human-being and forced labour. In pursuance of this Article, Parliament has passed the Suppression of Immoral Traffic in women and Girls Act, 1956 which is now renamed as "The immoral Traffic (Prevention) Act 1956" for punishing the actions which result in traffic in human beings.

According to Article 39 of the Constitution of India, the State shall direct its policy towards securing - (a) that the citizen, ·men and women shall equally have the right to an adequate means of livelihood, and (b) that there is equal pay for equal work for both men and women.

Article 42 of the Constitution of India states that, the State shall make provision ·for securing just and human conditions of work and for maternity relief.

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Criminal laws related to domestic violence

The incidents of domestic violence against women have been increasing over the years. Women are subjected to violences like cruelty by husband and his relatives, · dowrydeath, grievous hurt, murder, marital rape by husband etc. There aie some criminal laws in India dealing with domestic violence cases which are stated below :

Indian penal code

The criminal law in India is contained primarily in the Indian penal code, 1860 (I.P.C). The I.P,C is supplemented by special laws, which define and punish specific offences. There are some sections in Indian penal code, 1860 which deals with different domestic violences.

In the case of domestiC violence, Culpable homicide amounts to murder, ' . unless it is committed without premeditation in a sudden fight or in the heat of passion upon a sudden quarrel and without the offenders having taken undue advantage or acted in a cruel or unusual manner.

Therefore, culpable homicide is murder, if any act of the husband by which the death of a victim woman is caused is done with the intention of causing death, or, if it is done with the intention of causing such bodily injury as the husband of the victim woman knows that it might cause death of his wife. As for example - If any husband shoots his wife with the intention of killing her and the woman dies in consequence. Then the husband of that woman commits murder. Some other ipc provisions are as follows:

Rape (Sec. 376 IPC)

Kidnapping & Abduction for different purposes (Sec. 363-373)

Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)

Torture, both mental and physical (Sec. 498-A IPC)

Molestation (Sec. 354 IPC) Sexual Harassment (Sec. 509 IPC)

Importation of girls (up to 21 years of age)

Provisions under code of criminal procedure (Crpc)

Right to Privacy while recording statement- Under section 164 of CrPC, a woman who has been raped can record her statement before District Magistrate when the case is under trial and no one else needs to be present. Alternatively, she can record the statement with only one police officer and woman constable in a convenient place that is no crowded and does not provide any possibility of the statement being overheard by the third person.

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