ABSTRACT

Law can be an effective instrument for bringing social change. Law is power. It has been used successfully to achieve equilibrium by regulating socio-legal relationships, particularly by enacting specific laws for women employees. The policy of reservations in favour of the weaker sections in respect of employment and education are examples of social justice, which have been achieved through the instrumentality of law.

Men and women are like two wheels of the chariot of life. Just like a house needs a beam as well as a pillar, the world needs men and women. Since about half of the population of the world comprises of women, the neglect of women implies that humanity is deprived of about half of its energy and creativity. For this reason, the progress of any country is unthinkable unless women move forward in all fields.

The women rights are nationally accepted and constitutionally guaranteed to uplift women through socio-economic and educational opportunities to satisfy the constitutional goal and social Justice for historical reasons.

The history of labour legislation in India is more than a century old. However, early labour legislation aimed mainly at governing the relationship between employers and employees. The measures enacted before India's independence for women employees were limited in their scope and were not adequate to meet the social and economic needs of the vast number of women workers of the country.

The notion of social justice and economic equality, as regards women, was not even thought of by the government.

After independence, our government enacted laws for the benefit of women employees such as provisions that prohibit their employment during
night hours; in the underground mines and hazardous occupations; restrict them from carrying heavy loads; provide for equal pay to men and women for identical work; prevent discrimination in their recruitment and promotion opportunities; provide maternity relief; welfare measures such as crèches, separate toilets, rest-rooms, washing facilities, and free legal-aid for women employees.

More importantly, the Constitution of India, through Article 14, provides for equal status to all in the eyes of the law, that is, not only between men and men, women and women, but also between men and women. Apart from this, the Constitution, under Article 15, specifically prohibits discrimination on the basis of religion, race, caste, sex, place of birth, or any of them.

Further, our Constitution provides, by virtue of Article 15(3), that the State is empowered to make special laws in favour of women. The logic behind this provision is that women are understood as a historically disadvantaged group and as such, in need of compensatory or corrective treatment. Under this approach, rules or practices that treat women differently from men can be upheld, if such rules are designed to improve the status of women.

In addition to these Fundamental Rights, the Directive Principles enshrined in the Constitution of India provide, through Article 39(d), that the State shall endeavour to provide all men and women an adequate means of livelihood and that there shall be equal pay for equal work for both men and women. Above and beyond, Article 42 enunciates that the labour must be provided just and humane conditions of work and maternity relief.

Apart from economic exploitation, there is widespread sexual abuse of women workers in establishments cutting across industries. Sexual harassment is sex discrimination as it undercuts women's equality at work. Further, when
sexual harassment occurs, an unsafe and hostile working environment is created. The harmful effect of sexual harassment at the workplace is so much that it alone is capable of undoing the little that women have achieved and also hampering their onward march. Candidly speaking, the entire concept of gender equality enshrined in the Constitution is futile if a woman's right to live with dignity or right to work in a conducive environment or her right to be treated on an equal footing with her male counterpart is not ensured by the law enforcement agencies and also by society. Inspire of the Supreme Courts guidelines in the Vishaka case for combating sexual harassment at the workplace, women employees, frequently do face this menace, Women continue to suffer denial of justice, delay in justice and distortions in the delivery of justice. Consequently, the need for a separate law on the prevention of sexual harassment at the workplace has been duly stressed. In this regard, the Draft prepared by the Ministry of Women and Child Development, on the Protection of Women against Sexual Harassment at Workplace Bill, 2007, is of paramount significance and therefore, the same has also been dealt with at the appropriate places.

The role of working women today is a necessary characteristic of modern society although women's work is activity for her and her family's empowerment vis-à-vis the development of society. But the reality is that there is very less recognition and economic valuation of her work in market because it is assumed that “she performs her work for love and affection of her family members.”

There has been a great impact of liberalization on women workers. Liberalization implies privatization of public sector, lifting of restrictions of imports, free entry of multinational corporations, abolishing subsides for the erstwhile priority sector, mergers, takeovers, etc. The structural changes have caused a large scale “Shedding of labour.” Certain studies have shown that structural adjustment polices have adverse effect on women's employment.
It is also said that these structural changes have curtailed job opportunity in the organized sector. The distress sale of female labour, is predicted. Export based industrialization using cheap labour, is increasingly used a’ competitive strategy.

Recently, the Ministry of Women and Child Development has prepared a draft entitled the protection of Women against Sexual Harassment at Workplace Bill 2007, to Provide for the prevention and redressal of sexual harassment of women at the workplace and for matters connected therewith or incidental thereto.

**AIM OF RESEARCH**

The aim of this research is to find out the causes for the sexual harassment, exploitation and increase in crime against working women.

Her human rights are also to be protected which she is entitled under different Conventions, Laws, Conferences. Utmost important is to protect the women employees from sexual harassment at work place which is one of the basis human rights violations of women employees.

Though the present women participation in workforce of the country is encouraging still more participation can certainly bring a radical change in the economic progress this could only be possible when the women is protected at her workplace.

In the present day society criminal victimization of working class women is rampant in domestic sphere and in outer world. While adjusting to her world of work, she is victimized in family either due to her future as good wife or an ideal mother, or victimized at her workplace as an uncommitted worker which is violation of her human right and against her dignity as she required a workplace which is helpful, cordial so that she can work with her full potential. When she ventures to come out from the traditional family
boundary without any protection to work in the outer world, she is threatened
by fear of variety of crime. She is being doubly squeezed due to her dual role
of house wife and working woman. Thus while encouraging women
participation, which consists of about half of total population into the work force
in India, their protection and responsibility is now ultimately cast on
government.

To encourage large number of women to join the workforce first of all
sexual harassment is to be eradicated from the workplace by enforcing string
law and awarding huge sum of compensation to the victim by the harasser
then only she will feel safe at the workplace.

Hypothesis

The position of working class women in present day society is found to
be precarious. In the new role while adjusting to her world of works, she is
failing in all her dimensions and proves to be a fiasco. In society, either in
domestic sphere or in the outer world, she is encountering varieties of crimes
due to her inferior social position. Organizations, social workers and
government has proved to be fruitless. Criminal exploitation of working class
women that is sexual harassment can neither be prevented only by new
enactments nor by enlarging the law enforcing agency but mindset of the
society has to be changed with regard to woman because several other
contributing factor are also responsible for the act of sexual harassment at
workplace.

Hence in the modern age, in spite of many women oriented enactments
programmes and policies, the societal outlook could not be changed in favour
of working class women. They are still in one form or other victimized in all
walks of their lives.

Various conventions, covenants, protocols on human right have assumed
the responsibility to provide and protect human rights of women but are not used in latter and spirit.

Methodology

Law is a normative science that is a science which lays down norms and standard for human behaviour in a specified situation or situations enforceable through the sanctions of the state. What distinguishes law from other social sciences is its normative character. This fact along with the fact that stability and certainty of law, desirable goals and social values to be of primary concern to a legal researcher. Doctrinal research of course, involves analysis of case law, arranging, ordering and systematizing legal propositions and study of legal institutions, but it does more it creates law and its major tools to do so is through legal reasoning or rational deduction.

The present study is based on the doctrinal method of research. The researcher has drawn help from various books, articles, newspaper, reports, conventions, commissions committee and judicial decisions.

Chapter wise Introduction

Introduction – It gives an insight on rights which have been given to women in Constitution and other different social security legislations where women are deprived and treated inhumanly. It also talks about the pending bill which is related to sexual harassment at workplace. Women rights are nationality accepted and constitutionally guaranteed to uplift the status of women in all sphere of life.

Chapter -I

It deals with the concept of human rights. They, by virtue of their being human, possess certain basic and inalienable rights which are commonly known as human rights. Since these rights belong to them because of their very
existence these become operative with their birth. It also covers different declarations and conventions which are supposed to be the backbone of human rights particularly with reference to women who are being discriminated in every sphere of life.

Chapter-II

It deals with the position of women in different periods and position in the historical perspective in the course of history from prehistoric to modern times. It covers Vedic period, Medieval Period, Pre-independence and Post-independence. Because if you have to judge, the status of a nation, first you have to study the status of its women.

Chapter-III

It deals with the provisions of Constitution. Being a signatory to various international conventions, covenants and protocols on human rights India has assumed the responsibility to provide and protect various rights of women. Therefore, as regards the Indian Constitution it guarantees not only the equality before law and equal protection of laws to women but also confers certain affirmative rights. Articles 14, 15, 16 have been provided with equality provisions.

The expression “Equality before law” finds a place in almost all written Constitution that guarantees fundamental rights and also has been used in the Universal Declaration of Human Rights.

The Directive principles of state policy contained in part IV of the Constitution directs the state to protect the human rights of women including the right to equal pay for equal work for men and women both, the right to health and work in hygienic condition, the right to maternity benefit and right to gender justice etc.
Chapter-IV

It is relegated to the position and the important problems concerning life and work of the women workers and what are the offences common to the working women. To improve the position of women workers recommendations are also made for the improvement of existing conditions it also gives an insight on what are the factors responsible for the decorating position of working women. Lastly, it deals with the provisions of Indian Penal Code which are related to offences against women.

Chapter-V

It is related to sexual harassment at work place. First it defines sexual harassment and then judicial response in protecting women against sexual harassment at work place.

It is not only a crime against the society and the individual but it also a bar to achieve and exercise women's right to work in a way it is symptomatic of a larger problem of gender violence.

Conclusion Suggestion:

Towards its obligation to eliminate discrimination against women, a state is to pursue all appropriate means by undertaking, among other things, to embody the principal of equality of men and women in its national Constitution.” to adopt appropriate legislative and other measures including sanctions,” to establish legal protection of all right of women on equal basis with men. Through competent national tribunals and other public institutions, and to take all appropriate measures, to modify or abolish existing laws, regulations customs and practices, constituting discrimination. It also mandates appropriate measures to eliminate discrimination against women by any person, organization or enterprise.
The concept of "equality and non-discrimination" find its due place in the Constitution of India and many other legal documents, but it is the social and cultural factors which impede the realization of this concept and in some cases, even in enacting the legal prescriptions to eradicate discrimination against women since India is a party to the Discrimination against women convention, it is obliged to give effect to conventions provision and eliminate discrimination against women in all its manifestations. There are many areas, viz, legal, cultural and social friend where necessary action is required by the Government.

The elimination of discrimination at work is central to social justice. But discrimination at work will not vanish by itself, neither with the market on its own take care of its elimination. As a matter of fact elimination of discrimination requires deliberate, focused, and consistent efforts by all parties concerned. Apart from the duty of the government to combat discrimination it is also the responsibility of employers, workers' organizations and NGOs to play an active role in achieving equality at work. Sexual harassment violates human dignity and undermines the woman worker's self esteem. But these are widespread sexual abuse of women employees in establishments cutting across all kind of industries.

Bearing in mind the far reaching and dangerous consequence of sexual harassment at the workplace, the punishment provided either under Section 354 or Section 509 of the Indian penal code, 1860 is not adequate and deterrent enough. Hence the punishment under these sections should be increased considerably. Further offence under Section 354 of the Indian Penal Code, 1860, should be non-bail able and non-compoundable. Besides if a person is found guilty more than once for the same offence, then he must be awarded the maximum punishment provided under the Section coupled with heavy fine. In this backdrop, it is of great consequence to point out that the stringent penal provision and exemplary large compensation will be helpful to control the
problem significantly.

The existing laws have not successfully been enforced in the unorganized sector which constitutes a fairly major position of the workforce. That is why in the unorganized sector of employment, there is excessive exploitation of women employees resulting in long working hours, no overtime, carrying heavy loads, and unsafe working conditions further women employees in the unorganized sector are more vulnerable as they continue to do hazardous jobs without any protection. Apart from this they are not getting the most needed welfare facilities at the workplace.

1. The cases of sexual harassment at work place and that sexual discrimination on the basis of sex need to be distinguished very carefully.
2. The personal engaged in the administration of criminal justice be trained and educated about the nature of violence against women, violation of their human rights at workplace and gender equality.
3. A grievance redressal cell for women employees should be established which may hear and try all cases of sexual harassment of women at workplace like a criminal court. They must be autonomous in nature.
4. The women employees must be educated about the legal provisions and procedure relating to the offence of sexual harassment at workplace and they be provided a copy of such rules and regulations.
5. Some protective measures are also necessary like counselling to and rehabilitation of victims of sexual harassment at workplace.
6. To shed the myth of feminism and masculinism public awareness and educational programs, gender sensitive training of judges/ magistrate and other enforcement agencies is to be made.
7. Strengthening of women cells in Women Police Station, Counseling Centers, Legal Aid Centre, Nyaya Nanchayats to eliminate the violence against women.
8. Express prohibition of sexual harassment which includes physical contact and advances, a demand or request for sexual favour, sexually coloured remark, showing pornography or any other unwelcome physical, verbal/non-verbal conduct of sexual nature should be noticed, published and circulated in appropriate ways.

9. The rules and regulation of government and public sector bodies relating to conduct and discipline should include prohibiting sexual harassment and provide appropriate penalties in such rules against the offender.

10. As regards private employers, steps should be taken to include the aforesaid prohibition in the standing orders under the industrial employment (Standing Order) Act 1946.

11. Appropriate work conditions should be provided in respect of work leisure, health, hygiene, to further ensure that there is no hostile environment towards women and no woman should have reasonable ground to believe that she is disadvantaged in connection with her employment.

12. Where such conduct amounts to specific offence under Indian Penal Code or any other law the employer shall initiate appropriate action in accordance with the law, by making a complaint with the appropriate authority.

13. Victims of sexual harassment should have the option to seek transfer of the perpetrator or their own transfer.

14. Sexual harassment should be discussed at worker’s meeting, employer – employers meeting and at other appropriate forums.

15. To make the victim feel more comfortable and free there should be special courts to deal with cases of sexual harassment by women prosecutors and Judges. This will prevent male point of view determining sexual harassment of women.

16. Court should award high sums of damages especially against multinational because of fear of high compensatory and punitive damages most of the multinational companies will prefer to settle sexual harassment claim soon.
17. The definition of sexual harassment must specifically declare that it is for a person to create a sexually hostile or intimidating work environment.

18. Sexual harassment should be declared tort and the court should be empowered to award not only ordinary, but also exemplary and punitive damages. This would deter not only the wrong doer from repeating his conduct but also other like minded people.

19. Women employees must be educated about their rights because, in most of the cases of sexual harassment they do not report the matter due to fear of loss of reputation, loss of job, consequent hostile work environment, and fear of retaliation in public places.

20. Employer should ensure confidentiality, protection of the complainant from victimization, timely redressal of the complaint, and a work environment. They empower women to raise their concerns.

21. Law relating to indecent representation of women by the media should be sternly enforced to stop women being shown as sexual objects in films, advertisement, and hoardings.

22. Law should be framed in such a manner that it not only gives a weapon in the hands of women only.

23. It should be legally ensured that Women who abstain from work or are inefficient in their work do not misuse it.

24. It should also be ensured that Women employees do not use the law to get them transferred.

25. Employer and senior officer at workplace should be given sufficient rights to defend themselves against the charges of sexual harassment.

26. If it is found that the charges are false then complainant women should also be punished.

27. At the time of framing the laws in favour of women it should be maintained that natural justice is not violated.