
CULTURAL RELATIVISM VIS-A-VIS WOMAN'S HUMAN RIGHTS IN INDIA: LEGAL AND CONSTITUTIONAL PERSPECTIVE

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1. ABSTRACT

Cultural relativism is the idea that whatever a person does is supposed to be understood relative to their cultural context. It gives us warning that our actions and preferences should be according to the standard set by culture. In the human rights context, cultural relativism, pushes back on this concept of universality of human rights, and says that some cultural variations to rights are legitimately exempt from criticism by outsiders. Closely allied is the idea that the rights we understand today to be 'Universal' are really Western Constructs, and thus should not be used to judge norms and practices in other countries. The world is still trying to figure out how cultural patterns interact with universal human rights. These issues come up again and again, while discussing the right of women to enter temples or other places of religious worship, the **exemption to marital rape** in criminal law (for which cultural justifications are given), the question of women's access to abortion and contraception, wearing **religious symbols** and of course in **rituals that may cause violence to women's bodies (genital cutting or mutilation)**.

2. INTRODUCTION

human rights abuses toward women are often justified on the grounds of Hindu and Muslim religious teachings and scriptures, in fact, the original, authoritative scriptures of both religions hold women in equal respect to men. I will utilize Hindu passages from the Vedas, the Upanishads, and the Mahabharata and Muslim passages from the Qur 'an to present the argument that when these two religions began in 3000 B.C. and 610 AD., respectively, women were considered an essential part of the community, the family unit and religion. The tremendous gender bias that exists today in Islamic and Hindu cultures does not reflect the original interpretations of the scriptures, but rather subsequent male interpretations of these texts.

3. CULTURAL RELATIVISM

Language, religion, food, social customs, music, and the arts are all examples of cultural features and knowledge of a particular group of people. Religion, cuisine, clothing, how we dress, our language, marriage, music, what we feel is right or wrong, how we sit down and eat, how we welcome visitors, how we treat our loved ones, and so many things are all part of culture. The word "culture" comes from a French phrase that comes from the Latin "colere," which means "to tend to the ground and flourish," as well as "cultivation and nurturing."¹

The concept of cultural relativism states that whatever a person does should be interpreted in light of their cultural background. It cautions us against viewing our actions and choices through the lens of a strictly objective criterion. Cultural relativism, in the context of human rights, opposes the concept of universality of human rights, claiming that some cultural variants on rights are rightfully immune from outside scrutiny. Closely related is the notion that the rights we now regard as "universal" are actually Western constructs that should not be applied to norms and practises in other countries.

4. CULTURAL RELATIVISM AND VIOLATION OF WOMAN HUMAN RIGHTS AROUND THE WORLD

i) Female genital mutilation in certain African countries

Despite the fact that most governments do not authorise or encourage the practise, female

¹ <https://www.livescience.com/21478-what-is-culture-definition-of-culture.html>

genital mutilation, or FGM as it is generally known, is nevertheless practised in many African and Middle Eastern cultures today. FGM consists of a variety of procedures ranging in severity from clitoris snipping to full-scale infibulations. Infibulations entails removing the clitoris and neighbouring labia, as well as uniting the scraped sides of the vulva across the vagina and securing them with thorns. A little hole is retained to allow urine and menstrual blood to pass through. This hole is frequently kept with a sliver of wood.²

ii) Women denied to participate in sports activities

Women and girls in Saudi Arabia are denied the same opportunity to exercise and participate in sports as men and boys. Saudi Arabian authorities refuse to allow women and girls to participate in sports activities, citing cultural norms and religious beliefs as justifications. Women's engagement in sports was viewed as "steps of the devil" on the road to immorality.³

iii) Female infanticide in china

Female infanticide (the killing at birth or intentional fatal neglect of female infants) in China is a practice that grows out of deep patriarchal cultural traditions of dependence on male heirs for subsistence in later life. For centuries, daughters left the Chinese home upon marriage, leaving birth parents - mothers and fathers - little incentive to invest in daughters' well being. Sons, on the other hand, especially eldest sons, remained at home after marriage, following time-honoured notions of filial piety by serving and caring for their parents needs as they aged. For this reason, a preference for male children developed in China, as it has in many other countries.⁴

iv) Honour killing

Murders of women in the name of "honour" of the family are an age-old practice across the Arab world in Egypt, Jordan, Syria, Lebanon, Yemen and Israeli-Arab and India and Pakistan.

² An infibulated woman must be cut open to allow intercourse on the wedding night and is closed again afterwards to secure fidelity to the husband. She is cut open and stitched closed again many times throughout her life for intercourse and child birth. Each time she is cut open and stitched closed, there is an increased risk of infection, loss of blood or even death.

³ Information available at ; <https://www.hrw.org/news/2016/08/04/saudi-arabia-women-are-changing-game>

⁴ However, unlike other countries, China's population control policies limiting parents to one child per family has drastically exacerbated the problem of female infanticide in China. Constrained to having only one child, the traditional preference for male children has caused a drastic increase in female infanticide in China. The pressure on women created by this official government policy creates an enormous burden to have sons. The practice is now evident in China's unequal gender population, with 121 males to every 100 females.

Women may be hunted and killed by family members for adultery, sexual misconduct, or any other non sanctioned behaviour. One of the aspects of "honour" killings that distinguishes it from the murder of female family members in other countries is that the criminal justice systems of the countries in which it occurs often tolerate honour killings.⁵

v) Atrocities on women in Afghanistan in the name of culture

Afghanis women were under house arrest for many years because of merciless political movement called the Taliban. The numerous horror stories escaping from that country bear witness to the extreme violations of the rights of women. Women were forced to cover every inch of bare skin and are threatened with death if they venture from their homes without the requisite amount of coverage, or the requisite male escort. The Taliban did not allow woman to be doctors, lawyers, teachers, and other professionals and in cruel irony, restricted women from seeking medical attention, personal help, or services from men. Taliban rigidly follow the cultural which do not allow women to work outside their houses .Even today condition of woman are not good.⁶

vi) Trafficking of women

Trafficking in women and girls is a global problem that highlights the extent of sex discrimination and government complicity all over the world. East-Asian sex tourism has established notorious markets in the sex trade in which because of AIDS, the victims sold into it are getting younger and younger. Women in Eastern Europe have increasingly been marketed into forced prostitution. The U.S. Department of Justice has conducted several targeted raids on prostitution rings in which it has been discovered that women were trafficked illegally (and unknowingly to the women) into this country for the sex trade. Women are often tricked into sex trafficking by the promise of employment opportunities in another country, and go there only to learn that they have been sold into some type of prostitution arrangement. Sometimes they can buy their freedom by turning 'tricks'. But the often wind up in countries where they

⁵ An honor killing or shame killin is the homicide of a member of a family, due to the perpetrators' belief that the victim has brought shame or dishonor upon the family, or has violated the principles of a community or a religion, usually for reasons such as refusing to enter an arranged marriage, being in a relationship that is disapproved by their family, having sex outside marriage, becoming the victim of rape, dressing in ways which are deemed inappropriate, engaging in non-heterosexual relations or renouncing a faith taken from https://en.wikipedia.org/wiki/Honor_killing

⁶ Girls were prohibited from seeking education, so they do so secretly in abandoned buildings with blankets on the floor. So far, international efforts to remedy the horrors inflicted on women by the Taliban movement have failed to pierce the wall of cultural relativism amidst anti-Western sentiment.

do not speak the language, have uncertain immigration status, and do not feel they can access any help through law enforcement to escape their imprisonment. Some governments receive direct benefits (financial) from maintaining an active sex tourism trade.⁷

5. CULTURAL RELATIVISM AND VIOLATION OF WOMEN'S HUMAN RIGHTS IN INDIA

i) Violation of woman human right in the past in the name of tradition and culture

Women's exploitation in India is not a new occurrence. Rather, she has been exploited since the beginning. In Indian society, women have never fought for equal rights. In the past, the following crimes were committed against women.

a) Devadasis - Devadasis was a religious ritual in which women were wedded to a god or temple in various regions of southern India. In some parts of the nation, illicit sexual exploitation of devadasis became the norm later on.

b) Jauhar- Jauhar refers to the habit of all vanquished soldiers' wives and daughters voluntarily immolating themselves in order to prevent capture and subsequent abuse by the enemy. The women of Rajput monarchs, who are noted for their strong regard for honour, adopted the tradition.

c) Purdah- is a tradition in which women are required to cover their bodies in order to hide their shape and cover their skin. It restricts their freedom of interaction and serves as a symbol of women's servitude..

d) Sati- Sati is an old Indian tradition in which widows are burned alive on their husband's funeral pyre. Despite the fact that the act was intended to be consensual on the widow's side, it is thought to have been forced on her at times.

ii) Preference of son over girl child

⁷ "During the last couple of decades, prostitution and sex trafficking have reached an alarming magnitude the world over. Each year around 5,000 to 6,000 Nepali women and children, some as young as 9, are trafficked across the border into India. There are around 200,000 Bangladeshi women and girls in sex bondage in Pakistan. It is estimated that Thailand has around 2 million women and children in prostitution. About 100,000 Filipina women and girls are annually trafficked as "entertainers" into Japans booming sex industry. So too, prostitution and sex trafficking have acquired new and pernicious forms Information available at; <http://www.ohchr.org/Documents/Publications/FactSheet23en.pdf>

One of the most widespread forms of discrimination is the preference for boy offspring over girl children, which has far-reaching consequences for women. This practise denies the female child adequate health, education, enjoyment, economic opportunity, and the freedom to pick her spouse, infringing on her rights under Articles 2, 6, 12, 19, 24, 27, and 28 of Convention on the Rights of the Child.⁸ Son preference refers to a set of beliefs and attitudes that may be found in a variety of Indian cultural traditions. The son is responsible for the family name's preservation (s). A girl, with the exception of a few nations (e.g. Ethiopia), inherits her husband's family name rather than her own. Families desire a son because they are afraid of losing their surname. In India, the custom of choosing a male over a girl kid is deeply established in the society.⁹

iii) Dowry tradition

The dowry practise in India, in which the bride's family pays the groom's family money and/or gifts, is responsible for most of the discrimination against women. In India, dowries were declared illegal in 1961, but the law is very hard to implement, hence the process continues in most weddings.¹⁰ Unfortunately, because dowry is occasionally utilised as a tool to climb the social ladder, obtain economic security, and collect material riches, the iniquitous dowry system has expanded to communities that have not previously practised it.¹¹ The bridegroom's education and future earning potential are factored into the dowry calculation formula, but the bride's education and earning potential are solely important to her society position as a better wife and mother. Every year, thousands of brides are burned to death to satisfy dowry demands.¹²

⁸Information available at ; <https://www.ohchr.org/documents/publications/factsheet23en.pdf>

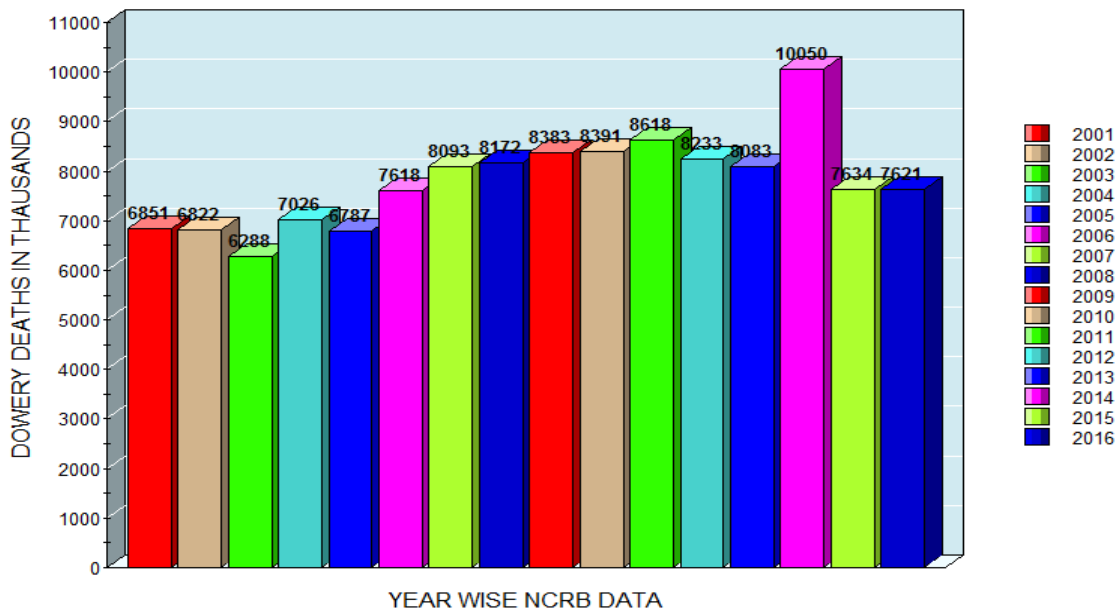
⁹ Ibid

¹⁰ Information available at http://saarthakindia.org/womens_situation_India.html

¹¹ http://elib.bvuict.in/moodle/pluginfile.php/172/mod_resource/content/0/Valentine%20Kukas.pdf

¹²Information available at; http://saarthakindia.org/womens_situation_India.html. The bridegroom's demand for a dowry can easily exceed the annual salary of a typical Indian family, and consequently be economically disastrous especially in families with more than one or two daughters.

DOWERY DEATH IN INDIA 2001 TO 2016



iv) Male child is given more nutritious food than female child

As a child, girls are often treated differently from male children in terms of nutrition and health care. When there is a scarcity of food or money, the scarce resources are more likely to be distributed unequally in favour of the male offspring. This imbalance leads to insufficient care for girls and women, and is the primary cause of high levels of child malnutrition. For women, dietary deficiency has two negative outcomes. They never reach their full development potential and stay weak, which increases the risk of pregnancy complications, complicating childbirth and leading to mother and newborn fatalities, as well as low birth weight babies.¹³

v) Education

Up to the age of 14, India's constitution offers both girls and boys free primary school education. This has been frequently proved, yet basic education is not ubiquitous in India, and it is often not considered as particularly important for girls. Their parents may believe that learning household tasks is more essential since it will help them in the future when they marry. Another reason for not sending daughters to school is the fear of losing their virginity.

When schools are located at a distance, when teachers are male, and when girls are expected to study along with boys, parents are often unwilling to expose their daughters to the potential

¹³ Ibid

assault on their virginity, that would ultimately result in an insult to the girl's family's honor.¹⁴

As a result, the female literacy rate in the country is among the lowest in the world. In India, women have a literacy rate of 54 percent, while males have a literacy rate of 76 percent. As a point of comparison, female literacy in 2009 was as follows: Pakistan has 60%, Peru has 89 percent, and Indonesia has 93 percent. Children are adversely harmed by their mothers' illiteracy and lack of education. Because women with limited education are less likely to adopt appropriate health-promoting practice such as getting early children inoculated, low schooling translates to poor quality of care for children, resulting in greater newborn and child mortality and malnutrition.¹⁵

vi) Women as a liability

The Indian constitution guarantees women the same rights as males, yet strong patriarchal traditions still exist in many regions of the country, with women's lives affected by centuries-old practices. As a result, girls are frequently considered as a liability in these strata, and they are socialised to believe that women are inferior and submissive to males, whereas sons may be worshipped and praised.¹⁶ A boy is often seen as a valuable asset, as a future breadwinner and caretaker, who will care for his ageing parents.

vii) Child Marriages

The Prohibition of Child Marriage Act 2006 bans marriage below age 18 for girls and age 21 for boys, but some 80 % of Indians live in villages where family, caste and community pressures are more effective than any legislature. According to UNICEF's "State of the World's

¹⁴K.G. Santhya, A.J. Francis Xavier, Shireen J. Jejeebhoy, School quality and its association with agency and academic achievements in girls and boys in secondary schools: Evidence from Bihar, India, International Journal of Educational Development, Issue : 2015, P 35-46. Overall, girls' school attendance still lags severely behind that of boys. One of the major reasons why so many girls do not attend school is because of their workload, both within and outside the household. Daughters are often kept at home to help the family because the social and economic value of educating girls is not recognized. It is a little known fact that among the world's exploited child workers, girls outnumber boys. Without access to education, girls are denied the knowledge and skills needed to advance their status. By educating girls, societies stand to gain economically. In addition, educated mothers usually have smaller families, with healthier and better-educated children.

¹⁵Information available at; http://saarthakindia.org/womens_situation_India.html.

¹⁶ Ibid .On the other hand, there are a couple of reasons why women might be regarded more of a liability for a family. They are not considered capable of earning money, seen as economically and emotionally dependent on men, while they help with domestic duties during childhood and adolescence, they go to live with their husband's family after marriage, which means less help in the household of their originating family, and most importantly loss of money due to the dowry tradition. This might explain why the birth of a daughter may not always be perceived as equally blissful as the birth of a son, and why "May you be blessed with a hundred sons" is a common Hindu wedding blessing.

Children 2009" report, 47% of India's women aged 20–24 were married before the legal age of 18, with 56% in rural areas. The report also showed that 40% of the world's child marriages occur in India. Due to the dowry tradition women are prone to be a (financial) burden for their families, thus seen as a liability. If the match is made at an early age, the dowry is usually much lower, as the dowry is calculated on the future husband's societal status and education, which – obviously – would be much lower at an early age. Common Hindu phrase: “The younger the groom, the cheaper the Dowry”

In addition marrying off girls at an early age, ensures, that they marry as virgins, thus protecting the girl's and their family's honour.¹⁷

viii) Traditionally man is considered superior in marital relationships

While women should be revered, safeguarded, and kept happy by their husbands – their happiness being crucial for the prosperity, peace, and happiness of the entire family - they should also be kept under continual monitoring, as they cannot be entirely trusted or left alone. She is the duty of her parents before marriage, and after marriage, she is the property of her husband, who is responsible for her care and custody. A married girl or woman is no longer considered a part of her birth family in India's present cultural and social ethos; instead, she is considered a member of the groom's family. As a result, the woman leaves her parents' home after marriage and moves in with her husband's family, where she is expected to handle all household work and domestic activities.¹⁸

ix) Discrimination against women: after marriage

There is no cultural or religious tradition behind one of the most heinous acts of female oppression, but the dowry tradition has allegedly led to the "Bride Burning" (or other form of murder) of the newly-wed wife by the husband and his family, who would claim that she died in a domestic accident so that the widowed husband could marry again and collect another dowry. When a freshly married lady dies during the first seven years of marriage, Indian law

¹⁷The child marriages started during the invasions of Northern India around 1,000 years ago, when unmarried girls were raped by invaders. To protect their women from abuse, family members began marrying their daughters at young ages. Religious origin copying the myth that the goddess Parvati had decided to marry god Shiva when she was only eight, girls were married off as young as eight or common Hindu wedding blessing nine years old.

¹⁸ In certain parts of Indian society, women are conditioned from birth to be subservient not only to their future husbands, but also to the females in their husband's family especially, their mother-in-law. Accordingly, the surrounding society mandates a woman's obedience to her husband and her in-laws. Any disobedience would bring disgrace to both, the wife herself and her originating family, and might lead to the woman being ostracized and neglected by her very own family and in her own home.

mandates a formal criminal inquiry.¹⁹

x) Traditional practices often considered widow's presence inauspicious.

Widow is still considered as liability in Indian society. She is totally abandoned by Her in-laws . She may be left on her own, without any education, skills, or financial support, because her biological family is generally unable to accept her back. Instead, she is subjected to a slew of restrictions, including the possibility of being forced to shave her head or wear white clothing for the rest of her life; she is barred from participating in any celebration, such as weddings, because her presence is deemed unlucky. Furthermore, a widow may have difficulty retaining her property rights following her husband's death; she is not permitted to remarry, regardless of her age at the time of her husband's death.²⁰

xi) Discrimination against women: for inheritance

While women's rights are improving among the educated, urban middle class, there is still a substantial discrimination against women's rights in India's patriarchal societies. As a result, under these strata, a deceased husband or father's property would be passed on to the oldest son, but his wife and daughters would be left out financially. There are laws in existence to safeguard women's rights to inheritance, but enforcing them is difficult when the woman's right to inheritance is denied by her family, or when she lacks the confidence or education to exercise her claim.²¹

xii) Caste system and violation of woman's human rights

Women from lower castes are subjected to sexual harassment. Women from the Dalit or pariah

¹⁹ According to Indian National Crime Record Bureau, there were 8,239 dowry death cases, 1,285 cases of attempted dowry deaths, and another 4,890 cases with pending investigations in 2009. The punishment for dowry deaths is a term of 7 years, which may extend to life imprisonment. Indian law clearly distinguishes the offence of dowry deaths from the offence of murder, for which a death sentence might be declared.

²⁰ Indian government has enacted numerous laws to protect widow's rights, including prohibitions against traditional practices for which India has been discredited, such as the burning of widows (Sati). Whereas in India's contemporary culture, especially in the modern urban middle-class, these societal norms have given way to a more righteous conduct, the enforcement of the law continues to be challenging, where there are regional, religious or caste variants of family law, which tend to escape government jurisdiction

²¹ Jawaharlal Nehru once quoted "*You can tell the condition of a Nation by looking at the status of its Women.*" The concluding questions are: which nation can claim to be a free and prosperous society, where half of its population is being oppressed? And which striving nation can afford to oppress half of its population? Obviously, the answer to that question is: none! Sustainable and long-term development is not possible without the participation and empowerment of women, only if they participate in the economic and societal development, the full potential of a society of India's society will be unfolded quoted from http://www.sarthakindia.org/womens_situation_india.html

caste are abused for sex because their bodies are considered as "accessible," and they are seen as characterless. Atrocities against Dalit women are well-publicized and carried out with complete impunity. They become voiceless due to the internalisation of their social status.²²

6. CONSTITUTIONAL PROTECTION TO TACKLE CULTURAL AND RELIGIOUS RELATIVISM AGAINST WOMAN'S HUMAN RIGHT

i) Preamble

The Preamble contains the essence of the Constitution and reflects the ideals and aims of the people. The Preamble starts by saying that we, the people of India, give to ourselves the Constitution. The source of the Constitution is thus traced to the people, i.e. men and women of India, irrespective of caste, community, religion or sex. The makers of the Constitution were not satisfied with mere territorial unity and integrity. If the unity is to be lasting, it should be based on social, economic and political justice. Such justice should be equal for all. The Preamble contains the goal of equality of status and opportunity to all citizens. This particular goal has been incorporated to give equal rights to women and men in terms of status and opportunity²³

ii) Fundamental right to protect human rights of woman

Part III of the Constitution consisting of Articles 12-35 is the heart of the Constitution. Human Rights which are the entitlement of every man, woman and child because they are human beings have been made enforceable as constitutional or fundamental rights in India. Because the framers of the Constitution were aware of the uneven treatment and discrimination meted out to the fairer sex from the beginning of time, they inserted general as well as particular measures for the advancement of women's status.²⁴

²² **Virginia Saldanha**, The power of religion over women in India, available at <https://www.globalsistersreport.org/column/equality/power-religion-over-women-india-43236>

²³ For providing social justice to women, the most important step has been codification of some of the personal laws in our country which pose the biggest challenge in this context. In the area of criminal justice, the gender neutrality of law worked to the disadvantage of a woman accused because in some of the cases it imposed a heavy burden on the prosecutor, for e.g. in cases of rape and dowry. Certain areas like domestic violence and sexual harassment of women at the workplace were untouched, unthought of. These examples of gender insensitivity were tackled by the judiciary and incorporated into binding decisional laws to provide social justice in void spheres.

²⁴ Justice Bhagwati in **Maneka Gandhi v. Union of India** (AIR 1978 SC 597)4'3 said: "These fundamental rights represent the basic values cherished by the people of this country since the Vedic times and they are calculated to protect the dignity of the individual and create conditions in which every human being can develop his personality to the fullest extent."

iii) Article 14 equality before law

Since its formation, the Indian Constitution has provided equal justice for all people of the nation, whether through the provision of voting rights to all citizens regardless of gender or the provision of equality to all citizens regardless of race, caste, or gender. Sati and child marriage have been abolished, and women now have the opportunity to vote and discuss their views openly. There are also regulations ensuring that women receive reservations in education and work, as well as legislation addressing women's fundamental needs.²⁵

iv) Article 15 prohibition of discrimination on grounds of religion, race, cast, sex, or place of birth.

Article 15(1) forbids gender discrimination, whereas Article 15(3) allows the state to affirmatively discriminate in favour of women by making particular arrangements to improve their social situation and provide political, economic, and social fairness. Article 15(3) has been used by the state in criminal law, service law, labour law, and other areas, and the courts have supported the constitutional legitimacy of these protective discriminatory measures.²⁶

v) Article 16 Equality of opportunity in matters of public employment

The Constitution provides equal opportunities for women implicitly as they are applicable to all persons irrespective of sex. However, the Courts realize that these Articles reflect only de jure equality to women. They have not been able to accelerate de facto equality to the extent the Constitution intended.²⁷

vi) Article 21 Protection of life and personal liberty

No one shall be deprived of his or her life or personal liberty unless the procedure prescribed by law is followed. Denial of the right of succession to women from Scheduled Tribes is a violation of their right to livelihood under Article 21.²⁸ Supreme Court set rules for working women's protection in the absence of law in the sphere of sexual harassment at work. According

²⁵ Information available at <https://lawcorner.in/how-article-14-of-indian-constitution-is-helpful-in-maintaining-equality-in-gender-justice>

²⁶ Article 15 (1) -The state shall not discriminate against any citizen on grounds only of religion, race, cast, sex, or place of birth or any of them and Article 15(3) state that nothing in this article shall prevent the State from making any special provision for women and children.

²⁷ Article 16(1) provides that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state. Article 16(2) provides that no citizens shall, on grounds only of religion, race, cast, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect of, any employment or office under the state.

²⁸ Madhu Kishwar v. State of Bihar, ((1196) 5 SCC 125)

to the Court: "Gender equality encompasses sexual harassment protection and the right to work with dignity, both of which are widely recognised basic human rights."²⁹

vii) Article 23 prohibits trafficking in human beings and forced labour

Human trafficking is expressly prohibited under Article 23 of the Constitution. Human trafficking has long been a problem in India, manifesting itself through prostitution, as well as the sale and purchase of human beings. Human trafficking and forced labour are prohibited. Human trafficking, beggaring, and other similar types of forced labour are forbidden, and any violation of this provision is a criminal offense punishable by law. Nothing in this article prevents the State from imposing obligatory service for public purposes, and in doing so, the State must not discriminate on the basis of religion, race, caste, or class, or any of them.³⁰

viii) Directive Principles of State policy

Despite the fact that Directive Principles of State Policy are not enforceable in any court of law, they are important to the country's governance and provide for the welfare of its citizens, especially women. Part IV of the Constitution contains these provisions. Individual rights are provided by Fundamental Rights, while societal needs are met by Directive Principles of State Policy. Article 39 -The State shall, in particular, direct its policy towards ensuring: (a) that all citizens, men and women alike, have the right to an adequate means of livelihood; (d) that equal pay for equal work is provided for both men and women; (e) that the health and strength of workers, men and women, and the tender age of children are not abused, and that citizens are not forced by economic necessity to engage in any work unsuited to their age or strength; Article 39(d) requires the state to ensure that men and women get equal remuneration for equal labour..³¹

²⁹ Vishaka v. State of Rajasthan (AIR 1997 SC 3011)4'9. The common minimum requirement of this right has received global acceptance. In the absence of domestic law occupying the field, to formulate effective measures to check the evil of sexual harassment of working women at all workplaces, the contents of international conventions and norms are significant for the purpose of interpretation of the guarantee of gender equality, right to work with human dignity in articles 14, 15, 19(1)(g) and 21 of the Constitution and the safeguards against sexual harassment implicit therein and for the formulation of guidelines to achieve this purpose."

³⁰ In **Gaurav Jain v. Union of India** (1997 (8) SCC 114)410, the condition of prostitutes in general and the plight of their children in particular was highlighted. The Court issued directions for a multi-pronged approach and mixing the children of prostitutes with other children instead of making separate provisions for them. The Supreme Court issued directions for the prevention of induction of women in various forms of prostitution. It said that women should be viewed more as victims of adverse socio-economic circumstances than offenders in our society.

³¹ Article: 42 Provision for just and humane conditions of work and maternity relief.— The State shall make provision for securing just and humane conditions of work and for maternity relief.

ix) Fundamental Duties and protection of woman rights

Parts IV-A, which are made up of only one part, The 42nd Amendment, which was ratified in 1976, introduced Article 51-A to the constitution. This article establishes a code of eleven fundamental responsibilities for citizens for the first time. Women are mentioned in Article 51-A (e) states that " It should be the duty of every citizen of India to promote unity and the spirit of universal brotherhood among all the people of India, transcending religious, language, regional, or sectional differences; to abandon practises degrading to the dignity of women. "³²

x) Article 243 D Reservation of seats for woman.

In every Panchayat, the number of seats so reserved shall bear, as nearly as possible, the same fraction to the total number of seats to be filled by direct election in that Panchayat as the population of the Scheduled Castes or Scheduled Tribes in that Panchayat area bears to the total population of that area, and such seats may be allotted to different constituencies in a Panchayat by rotation.³³

7. LEGAL PROTECTION FOR WOMAN'S HUMAN RIGHTS

Protection of Women from Domestic Violence Act (2005) is a comprehensive legislation to protect women in India from all forms of domestic violence. It also covers women who have been/are in a relationship with the abuser and are subjected to violence of any kind—physical, sexual, mental, verbal or emotional.

i)Immoral Traffic (Prevention) Act (1956)

Article 42 of the Constitution incorporates a very important provision for the benefit of women. It directs the State to make provisions for securing just and humane conditions of work and for maternity relief. The State has implemented this directive by incorporating health provisions in the Factories Act, Maternity Benefit Act, Beedi and Cigar Workers (Conditions of Employment) Act, etc.

Article 44 Uniform civil code for the citizens. —The State shall Endeavour to secure for the citizens a uniform civil code throughout the territory of India. Article 44 directs the State to secure for citizens a Uniform Civil Code applicable throughout the territory of India. Its particular goal is towards the achievement of gender justice. Even though the State has not yet made any efforts to introduce a Uniform Civil Code in India, the judiciary has recognised the necessity of uniformity in the application of civil laws relating to marriage, succession, adoption, divorce, maintenance, etc. but as it is only a directive it cannot be enforced in a court of law. However, one of the most dynamic members of the Assembly, Shri K.M. Munshi, expressed his opinion that: "if the personal law of inheritance, succession, etc. is considered as a part of religion, the equality of women can never be achieved."

³² B. D. Singh, Issue of Sexual Harassment - A Legal Perspective, Indian Journal of Industrial Relations, Issue : 2000, 1

³³ Under 73rd Amendment state shall reserve seat for—(a) The Scheduled Castes; and (b) The Scheduled Tribes. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women and such seats may be allotted by rotation to different constituencies in a Panchayat

Trafficking in human beings is a global phenomenon, which has gained momentum in recent years. The reasons for the increase in this phenomenon are multiple and complex. Trafficking in general seems to have taken advantage of the globalization of the world economy that has led to increased movement of people, money, goods and services to extend its own international reach. It feeds on poverty, despair, war, crises, ignorance and women's unequal status in most societies. is the premier legislation for prevention of trafficking for commercial sexual exploitation. In other words, it prohibits the trafficking of women and girls for the purpose of prostitution as a legitimate source of income.³⁴

ii) Indecent Representation of Women (Prohibition) Act (1986)

There has been a dramatic transformation in the realm of mass media and communication as a result of technical advancements, the growth of electronic media, and the advent of the Internet. As a result, it was decided that the Indecent Representation Of Women (Prohibition) Act, which governs the representation of women, needed to be amended to widen its reach and include all new types of media and publishing brought with the technological revolution. This law forbids obscene depictions of women in ads, publications, writings, paintings, figures, and other forms of media.³⁵

iii) Commission of Sati (Prevention) Act (1987)

In 1987, the Rajasthan government approved the Sati (Prevention) Act. When the Commission of Sati (Prevention) Act, 1987 was approved in 1988, it became an Act of Parliament. The Act tries to prohibit Sati practises such as widows being burned or buried alive, either willingly or unwillingly , as well as the glorification of this action through any ceremony, participation in any procession, the establishment of a financial trust, the construction of a temple, or any actions to commemorate or honour the memory of a widow who committed.³⁶

iv) Dowry Prohibition Act (1961)

The bride's family provides the bridegroom, his parents, or relatives durable items, cash, and real or movable property as a condition of the marriage. It is primarily a monetary payment or

³⁴ Information available at ; <http://www.legalserviceindia.com/article/1132-Victims-of-Trafficking.html>

³⁵ *Indecent representation of women* has been defined to mean the depiction in any manner of the figure of a woman, her form or body or any part thereof in such a way as to have the effect of being *indecent* or derogatory to or denigrating, *women* or is likely to deprave corrupt or inMure the public morality or morals.

³⁶ Information available at ; [https://en.wikipedia.org/wiki/Sati_\(Prevention\)_Act,_1987](https://en.wikipedia.org/wiki/Sati_(Prevention)_Act,_1987)

a present given to the bridegroom's family in addition to the bride, and it comprises cash, jewellery, electrical appliances, furniture, bedding, crockery, cutlery, and other household things that assist the newlyweds in setting up their home. In Arabic, dowry is referred to as Jahez (derived from Islamic jahez-e-fatimi). Dowry is referred to as Aaunnpot in India's far east. This Act forbids the giving or receiving of dowry from women before, during, or after their marriage.³⁷

vi) Equal Remuneration Act (1976)

Traditionally, Indian women did not receive equal pay for equal effort. This Act mandates that men and women workers be paid equally for the same or equivalent work. It also prohibits discrimination against women in recruiting and service conditions based on their gender.³⁸

vii) Indian Penal Code (1860)

Indian Penal Code contains provisions to protect Indian women from dowry death, rape, kidnapping, cruelty and other offences.³⁹

viii) Code of Criminal Procedure (1973)

Women are protected under the Code of Criminal Procedure, which includes provisions such as a person's responsibility to keep his wife, arrest of a woman by a female police officer, and so on.⁴⁰

ix) Sexual Harassment of Women at Workplace Act (2013)

This Act provides protection to women from sexual harassment at all workplaces both in public and private sector, whether organised or unorganized.⁴¹

x) National Commission for Women

The government established this constitutional institution in January 1992 with a special duty to examine and monitor all things relevant to the constitutional and legal safeguards granted

³⁷ Female foeticide is the practice of aborting a foetus when a person finds out that the foetus is female after undergoing a sex determination test known as prenatal diagnostic tests.

³⁸ Information available at ;www.labour.nic.in/womenlabour/equal-remuneration-acts-and-rules-1976

³⁹ https://en.wikipedia.org/wiki/Indian_Penal_Code

⁴⁰ Information available at; <https://www.oecd.org/site/adboecdanti-corruptioninitiative/46814340.pdf>

⁴¹ Information available at ;indiacode.nic.in/acts-in-pdf/142013.pdf

for women, examine current laws and suggest changes as needed..⁴²

8. CONCLUSION

Hindu and Islamic communities say that their religions command that women be submissive to males, and use this to excuse the aforementioned human rights violations. Women's violence is seen as a form of retaliation for their sins. Despite the fact that the Constitution offers rights for women, including equal pay for equal work, the government has taken little effort to put those guarantees into reality. Women face discrimination, particularly in rural regions, where religious and cultural traditions, a lack of education, and a lack of legal knowledge prevent them from exercising basic rights like as voting and owning property in their own names . It is really a shame that we worship woman as goddesses but we don't respect them in real sense. We put so many restrictions on them .We don't want them to go out for work as our cultural don't allow us .Though the situation of woman in India is now improving but still they are dominated by men in the name of traditions and culture .

⁴²Information available at; www.legalserviceindia.com/article/1318-National-Commission-For-Women.htm