
HUMAN RIGHTS OF WOMEN IN INDIA IN THE PRESENT SCENARIO

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ABSTRACT

It is true that only legal and constitutional rights cannot change the stereotype attitude of the society. In the longer term these attitudes are conditioned by economic, social, political and geographical pressures. Such conditions of the society may ultimately lead to improvement in the status of women. In the Indian context, developmental planning and urbanization have a specific role for the improvement of the status of women. Consequently the development and urbanization has led to very uneven improvement of the status of the women of various categories in India. In rural India, the poor women are left behind; and on other hand, the middle class educated women are able to improve their economic and social status as a result of urbanization and development. Again, Muslim women are unable to make as much social progress as did the Christian and Hindu women.

Keywords: Status, Women, Rights, Equality.

INTRODUCTION

It is observed that the Universal Declaration of Human Rights which was adopted by the United Nations General Assembly in 1948 is considered in all over world a basic charter of human rights for all people in world¹. It has acquired universal acceptance and fundamental consensus all over world for the protection of human rights of all. It protects the variety of rights of human being irrespective of their caste, creed sex, religion etc. All the basic interest of the people such as security of person, protection against slavery, protection against torture, equal protection of law, freedom of movement & speech, religion, assembly, rights to social security, right to work, right to health, right to education, protection of cultural identity, & citizenship etc. The marginalization of women in the world and their human rights is a clear reflection of gender inequity and discrimination in the world at large and has also a formidable impact on lives of women. It has controlled the extent of what was viewed as an administrative obligation, and in this manner making a review for human rights infringement is troublesome for women's or incomprehensible. While women have been able to invoke international human rights machinery when they have found themselves in such situations, some of their specifically gender experiences of such human rights abuse-for example, rape in detention is visible within the prevailing definitions of abuse. This is because young women have verifiably been consigned to the private circle of the house and family; the standard national has been portrayed as male, and hence the prevailing ideas of human rights misuse have certainly had an individual as their model. It is essentially indispensable to see that sex could be a significant consideration the choices of governments to intercede inside the alleged non-open circle to indict human rights infringement.

THE CONCEPT OF HUMAN RIGHTS

Human Rights are the basic right and these rights are essential for physical, mental and intellectual development of every individual and every individual is entitled of these rights as a human being². These rights are the bare minimum rights of individual, which are necessarily obtainable by every individual. The Constitution of India also protects and guarantees the equality of rights of men and women in all sphere of life. However, in relation to the rights of the women in India, there is a very big difference in existence between theory and practice.

¹Universal Declaration of Human Rights, <https://www.un.org/en/about-us/universal-declaration-of-human-rights>. Last visited on 31.07.2021.

² The Universality of the Concept of Human Rights, <https://journals.sagepub.com/doi/abs/10.1177/0002716289506001002> (Last visited on 31.07.2021).

Indian society is a male dominated society where men are always considered to superior from women. In Indian society the women are often bound to face discrimination, injustice and dishonor from male members of the society³. Though under the our legal framework the women in India have been given more rights as compared to men, even then the condition of women in India is miserable. The effort has been made in this research work to analyze the present legal framework regarding the protection of the human rights of women in India and also on how all the fundamental rights given to the women are being violated in India, by focusing on the various crimes done against them.

INTERNATIONAL REGIME FOR PROTECTION OF WOMEN RIGHTS

During the United Nations Decade for Women (1976-1985), women from various background such as geographical, racial, religious, cultural, and class took up the task for organizing this wonderful event to improve the status of women in all over the world. The United Nations also sponsored the end number of women's conferences; some of them took place in Mexico City in 1975, Copenhagen in 1980, and Nairobi in 1985⁴. All of these conferences and events were convened to evaluate the status of women and to formulate strategies for the advancement of women's status in all over the world⁵. These event and gatherings from all over the world were seen very basic for the advancement of women because it was the time and a plate from where the women met to each other and discussed their disparities and also found their commonalities, and slowly started figuring out how to connect contrasts to make a worldwide development. In the mid-nineties, women in different nations took up the human rights structure and started building up the logical and political devices that comprise the thoughts and practices of women's human rights. The Universal Declaration of Human Rights defines human rights as universal, inalienable, and indivisible. These are very significant and important for women's human rights. The concept of inclusiveness indicates that human rights are applicable to everyone by the rationality of righteousness to all human being. Similarly being a human each individual irrespective of their caste, race, sex or religion is entitled to avail these rights because without these rights no one can move forward in his life. Somehow, the concept of

³Human Rights and Slavery;

http://www.endslaverynow.org/act/educate/human-rights-and-slavery?gclid=CjwKCAjw3riIBhAwEiwAzD3TiSyBT_nPHIwoOU2SHiANHCSyRFRO4UwtT3fbgo1WgC1NFrtH4wxEXhoCtd4QAvD_BwE (Last visited on 30.07.2021).

⁴ World Conferences on Women; Available on: <https://www.unwomen.org/en/how-we-work/intergovernmental-support/world-conferences-on-women>. (Last visited on 23.07.2021).

⁵Women Rights are Human Rights: United Nations Office of Human Rights Commission; Available on <https://www.ohchr.org/documents/events/whrd/womenrightsarehr.pdf>. (Last visited on 28.07.2021).

inclusiveness may appear to be self-evident; because the Declaration of Human Rights is an International and Universal document which gives the protection to all human being of world. The concept of women's human rights has opened the way for women around the world to ask hard questions about the official inattention and general indifference to the widespread discrimination and violence that women experience every day. Taking the benefit and utilizing this legal instrument women from all over world have brought up issues about their rights being subordinate to human rights and violation thereof. They have organized the various events to change this behavior for maximum utilizing a human rights system which increased the specific enforcement since the mid-1990s all over the world. Before the finish of the Cold War the opening of new discussions had encouraged the trading of thoughts and encountered among women around the globe to make women human rights viewpoints very obvious in all sphere of life all over the world. Due to growing involvement of women's for the effective implementation of their rights and conducting various activities like conferences etc. The number of issues was brought up before world community and was argued very vehemently that why the issue of women's rights and women's lives has been regarded optional to the human rights as of men. Since the previous decade, a development around women's human rights has risen and challenged the confined and narrow thoughts of human rights. Now the discourse of the protection of women rights and execution thereof has taken an important place in each and every legal system. The very basic thought and normative heart of feminism lays the belief that nobody should be discriminated and put in disadvantageous situation because of their sex. It is proposed to defend a very basic principle of gender justice which is meant to capture the nature of a very wide range of injustices based on gender inequality in the society. In a shell, the standard says that in an exceedingly sexual orientation just world, an impartial way of life would be the least expensive choice for the two women's and men. Gendered ways of life needn't be overwhelmed out; anyway, it shouldn't be accomplishable at lower costs than a sexually impartial way. This standard is grounded inside the qualities at the center of liberal populist equity correspondence of access and furthermore the brilliant of individual option.

It is not possible to say that women and men are not equally entitled to just and equal treatment. When someone suffers injustice because of their sex, he or she becomes a victim of gender injustice. A few sorts of gender inequality or gender discrimination become a clear black spot for humanity. In various countries different kind of brutality against women are very high. Frequently, women get lower pay than men for a similar work or not having equivalent lawful rights. Generally supported by all the origin and broad acceptance of liberal view of thought

and concept of equity maintained the individual's ethical rights. It has given the opportunity for the better treatment and physical uprightness of women in all over the world. In many legal systems they started to make approach equal remuneration for equivalent work and to uniformity before the law. Consequently, they have accepted their demand and put forth the legal mechanism for the protection of women rights equal to the men in all sphere of life in the societal front. The principle of gender justice is capable of accounting for cases where the injustice lies at the very deep level of determining agency by shaping the vested interest of individuals. In the meantime, the standard clarifies probably a portion of the sexual orientation shamefulness of the whole scope of models given up until this point: savagery against women, monetary and legitimate separation, household abuse and the gendered division of work. There are three distinctive manners by which sexual orientation standards can meddle with only results through restricting individual decision, all represented by the unreasonable impediment impact in women's professions.

The UN Declaration on the Elimination of Violence against Women expresses that brutality against women is an appearance of truly unequal power relations among people and that viciousness against women is one of the critical social instruments by which women are constrained into a subordinate position to men in society. Violence against women is a manifestation of historically unequal power relations between men and women and that violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men. Various types of brutality against women executed by male members of society are assault, aggressive and violent behavior at home, rude behavior for women, coercive use of contraceptives, female child murder, sex determination before birth, obstetric savagery and crowd viciousness etc. Some other harmful customary practices against women are prevalent in society for example honour killings, settlement viciousness, female genital mutilation, marriage by kidnapping and constrained marriages etc. A few types of savagery are executed or supported by the State too for example, war assault, sexual viciousness and sexual hopelessness amid strife, constrained cleansing, constrained fetus removal, brutality by the police and definitive staff, stoning and whipping etc. Numerous other types of violence against women are regularly executed by criminal elements in systems for example, dealing in women and constrained prostitution. Many forms of violence against women such as trafficking in women and forced prostitution are often perpetrated by organized criminal networks. The historical backdrop of brutality against

women is firmly identified with the chronicled perspective on women as property and a sex job of subservience.

Women are much more likely than men to be murdered by an intimate partner. Women are considerably more likely than men to be killed by a close accomplice. In 2005, 1181 women were executed by their close partners in the United States America. In England and Wales around 100 women are slaughtered by accomplices or previous accomplices every year. In 2008, 156 women in correlation with 27 men were murdered by their cozy partner in France. Respect killing is a typical type of ferociousness against women in specific pieces of the world. Honor killings are a common form of violence against women in certain parts of the world. The custom of dowry which is common in South Asia. Especially in India it is a trigger of many forms of violence against women. This is a type of brutality against women in which a woman is killed at home by her better half because of his disappointment over the endowment given by her family. A constrained marriage is a marriage in which either of the gatherings is hitched without wanting to other. Constrained unions are regular in South Asia, the Middle East Asia and Africa. In some countries, notably Mauritania, young girls are forcibly fattened to prepare them for marriage because obesity is seen as desirable. Human trafficking refers to the acquisition of persons by improper means such as force, fraud or deception with the aim of exploiting them. Sexual harassment is abusive, uninvited and unwelcome behavior of sexual nature.

It may include intimidation, bullying or coercion of a sexual nature or the inappropriate promise of rewards in exchange for sexual favors. A widow is a woman whose spouse has died. In certain part of the world widows are exposed to genuine types of maltreatment. In present, there are many part of the world where faith in black magic is being followed by numerous individuals. The women are blamed for being witches and they are exposed to genuine violence. Amnesty International, the United Nations Committee against Torture and different other associations, both legislative and non-governmental, have discovered that the custodial sexual wrongdoing is a major problem of women all over the world. According to an UN report sexual wrongdoing by male staff against women detainees including a wide scope of harsh sexual practices with regards to guardianship is a very big problem in the USA. The Department of Justice's Bureau of Justice Statistics (BJS) reports that in 2004, claims of staff sexual offense were made in everything except one state jail and in 41% of the neighborhood correctional facilities and private detainment facilities and prisons that it overviewed. In the overview

attempted as per PREA details, the Bureau of Justice Statistics analyzed in excess of 2,700 remedial offices holding 79% all things considered and adolescents in care and, utilizing factual testing strategies, found an aggregate of 2,298 claims of staff sexual unfortunate behavior against male and female detainees and 624 charges of staff inappropriate behavior. The Bureau of Justice Statistics showed that 30% of these were substantiated and that the greater part of the substantiated cases included women as unfortunate casualties. The issue of custodial sexual wrongdoing takes on included earnestness when considered in light of the way that numerous women in guardianship have endured sexual maltreatment preceding their detainment. An examination by the US Department of Justice found that women in jail are substantially more likely than those in the all-inclusive community to have been casualties of sexual maltreatment.

It is likewise critical to take note of that universal law ensures casualties of human rights infringement, incorporating women in care who are casualties of sexual unfortunate behavior, a privilege to a solution for the infringement they have endured. A greater part of female detainees have kids, most have essential obligation regarding kid rising, and most have legitimate guardianship. It is reported that about 66% of women in jail had youngsters under the age of 18 years old. Along these lines, an extraordinary need basically portraying female prisoners is the upkeep of holding with kids and family. Impressive pressure and uneasiness happen among female detainees if this bond is compromised. Austin et al. portrayed this need as the chief trouble female detainee's experience. So as to conquer the hesitance of unfortunate casualties to report sexual maltreatment by restorative staff, it is basic to grow clear and available detailing frameworks that don't put the injured individual in danger of striking back. It is similarly significant for detainees to comprehend what these frameworks are. It is significant for there to be various channels for answering to guarantee that exploited people don't need to report the occurrence to somebody who makes them awkward as well as risky. Dread of striking back may make it hard for staff to answer to individual officers or a manager. Amnesty International trusts the most suitable arrangement is to give the chance to answer to a free office outside to the division of amendments, see beneath. Without enactment to secure the privileges of pregnant women, Amnesty International trusts that a state's express contemplations of what might establish others conscious and appropriate treatment of pregnant detainees is fundamental to guarantee their prosperity in penitentiaries and correctional facilities. Amnesty International urges every remedial division to grow clear composed strategies and methods to control practice.

The International documents such as International Covenant on Civil and Political Rights, International Covenant on Social, Economic and Cultural Rights, Universal Declaration of Human Rights, UN Convention on Complete Elimination of all forms of Discrimination against Women (CEDAW) provide international legal framework for the protection of rights of women. Under these instruments the women have been given the equal rights to the men. Under Article 14 to 18 the equality principles are enshrined in the Constitution of India. The fundamental rights which are given in part third of the Constitution of India have been given to all men or women equally. Under Article 15 (3) State is empowered to make specific laws for the protection or welfare of women in India. Directive Principles of State Policy which have been given under part four of the Constitution also describes and makes the provision for the wellbeing and welfare of women. All of these Constitutional provisions describes and protects the human rights of the women. Despite this, there are several legislative provisions and social security laws under which the provisions have been made for the protection of human rights of women in India. In this regards the Protection of Human Rights Act, 1993 is enacted by the Parliament. National Human Rights Commission was constituted under the Protection of Human Rights Act 1993 by the government of India. Specifically, for the protection of human rights of women the National Commission for Women is constituted. Both, National Human Rights Commission as well as National Commission for Women is actively working for the protection of the rights of women in India.

CONSTITUTIONAL FRAMEWORK FOR THE PROTECTION OF RIGHTS OF WOMEN

Rights of women are protected under the Constitution of India. Under the Constitutional framework of India we have a different resolution for administering the privileges of women⁶. In the beginning of the year of 2011, the President of India, the Speaker of the Lok Sabha and the Leader of the Opposition in the Lok Sabha were women in India. But at the same time women in India keep on confronting various issues including fierce exploitation through assault, corrosive tossing, share killings, the constrained prostitution of young women and honour killing etc. The Constitution of India gifts fairness to women as well as engages the State to receive proportions of positive segregation for women and provides the tools for removing the economic, social and political hindrances which traditionally have been emerged

⁶ Important Constitutional and Legal Provision for Women in India, Available on: http://mospi.nic.in/sites/default/files/reports_and_publication/cso_social_stactices_division/Constitutional&Legal_Rights.pdf. (Last visited on 25.07.2021).

against the equal status in society. In this regard, Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of explicit example and significant provisions for them. In spite of such Constitutional guarantee and special laws which are enacted to give the protection and ameliorate the status of women for bringing them equal to men but still the condition of women is not good in society. Still, a lot of things are required to be done for bringing the women equal to men in society. For example Article 44 of the Constitution under which the Constitution makers have given an important duty and responsibility to State to make and implement the law for Uniform Civil Code for all the residents of India. The State is made responsible for making for all the natives a Uniform Civil Code through all over the domain of India. It is just a Directive Principle of the State policy and therefore it can't be implemented by a Court of Law. It is the privilege of the State to present a Uniform Civil Code for all the Indians which is still left to be done⁷. It is distressing to note that there has been growing incidence of domestic violence by the in-laws and husband of married women and dowry demand, torture and sexual harassment of women. Protection of women from the Domestic Violence Act, 2005 has not been able to respond to growing menace of crimes committed against women because the punishment is not exemplary so that it can create any impact upon thinking of individual and upon the society at large. In this context it is necessary to highlight the various amendments made in the Criminal Law like IPC, Cr.P.C, Evidence Act etc. and other legislative provisions for combating crime against women in India in the wake of Nirvaya case at Delhi. It is observed that in South Asian countries one in every two women experiences violence in her daily life. Violence against women is socially, culturally, politically, economically, and legally accepted norms in the region of South Asian Countries. It leads to leave women vulnerable to community sanctioned violence⁸. In a region affected by a high level of volatile human conflict, violence against women is viewed as just another form of violence. There is no acceptance that violence against women is a serious human rights issue and its impacts on women's socio-economic well-being, health, sexual and reproductive rights. Significantly, it reduces women's contribution to the gross domestic product.

In a historical judgment which is popularly known as *Vishaka case*⁹, the Supreme Court has issued the guideline for the protection of women from sexual harassment of women at

⁷ Uniform Civil Code: What it is and Why it Matters;

Available on: <https://www.thequint.com/explainers/uniform-civil-code-explained-what-it-is-and-why-it-matters>. (Last visited on 21.07.2021).

⁸ Tackling Violence against Women: A Study of State Intervention Measures; Available on: https://wcd.nic.in/sites/default/files/Final%20Draft%20report%20BSS_0.pdf . (Last visited on 21.07.2021).

⁹ (1997) 6 SCC 241

workplace. The guidelines of Supreme Court of India which are issued in Vishaka judgment has to be followed by all establishments or institutions for preventing sexual harassment of working women in India. The national policy for women and national mission for empowerment of women and national awards for eminent women working for protection of rights of women enables and inspires to women herself for the protection of their Human Rights. The greatness of a civilization is to be judged by the place which has been given to women in the society. It is the greatness of India's ancient culture that in ancient time women have been given very honorable place in society. This justifies the greatness of our ancient culture. The influence of foreign culture and lifestyle on the Indian culture and lifestyle has considerably deteriorated the status of women in India. They were deprived of their rights of equality with men. The great philosopher and social reformer, Raja Ram Mohan Roy started a movement against inequality of women and their subjugation in society. Due to the political and economic reasons, the interaction of Indians with the Britishers and exchange of political, legal, economic and cultural ideology and thoughts brought changes and improvement in the status of women in India.

Influence of Mahatma Gandhi is another factor for the revival of women's position in India. He was the leader of general public who influenced Indian women to participate in the freedom struggle of India¹⁰. Overall development and upliftment of women have a great importance for the development and prosperity of any nation. To set the pace for overall development of nation there is a need for addressing the gaps in State action which is required for promoting the welfare women. To create gender equitable environment and to make women centric policies and programs for the overall upliftment of women, it is necessary to promote inter-ministerial and inter sector convergence. The Ministry of Women and Child Development has prime responsibility to promote the human rights and all other concerns of women in India. We must have a clear vision for empowering women with human dignity and contributing as equal partners in development in an environment free from all type of violence and discrimination. The government and society must promote social, economic and political empowerment of women through policies, programs and create awareness about their rights and facilitate institutional and legislative support for enabling them to realize their human rights and develop their full potential of human personality.

¹⁰ The Women who Heeded Gandhi's Call; Available on: <https://www.livemint.com/mint-lounge/features/the-women-who-heeded-gandhi-s-call-1554530300409.html> (Last visited: 26.07.2021).

ROLE OF JUDICIARY

In this respect the judiciary has an important role to play for the upliftment of women in society¹¹. The judiciary is responsible to interpret the law by applying the principle of equity, justice and good conscience in such a manner to give justice to the women so that it can easily meet the changing circumstances of society and nation at large. The judges have two separate tasks to fulfil. Firstly, it is the judiciary which is responsible for the interpretation of law for the sake of justice and implements it in a proper manner for the progress of society and nation at large. Secondly, while administering the law, Judges must be compassionate otherwise the object of the legislations would be frustrated. In the words of Justice V. R. Krishna Iyer, “Case-law, creative, imaginative and gender-friendly, has its logic and limitation. Judges cannot make law but only interpret it and decide specific cases and controversies within defined bounds although in that process they do make law interstitially. But legislation is essentially a wider function covering vaster spaces and free to weave fabrics of fundamental mutation¹².”

CONCLUSION AND SUGGESTIONS

It is concluded that women constitute almost half of the population in human society. It is said that man is incomplete without women. It is very shocking that around the world at least one woman in everywhere in every movement has been beaten, forced to sell, or otherwise abused in her life. Every year, violence in the home as well as in community of their surroundings devastates the lives of millions of women. Violence against women which is rooted in our global culture of discrimination is regarded for denial of equal rights of women with men. Further the Violence against women is a major factor which is responsible for the misappropriation of women bodies for individual gratification or political ends. Even the position and status of women in matrimonial home has never been observed equal of men. It is observed that since Vedic times, women enjoyed equal rights and honorable position in our society. In India, women were worshiped as goddesses but gradually their status and position become very vulnerable in society. It is suggested that a separate classification system for male and female inmates should be implemented and for female inmates a behavior-based classification system should be introduced. It is also suggested that research should be

¹¹Mohan Raj T.P., Judicial Activism and Women Empowerment in India, <http://www.legalservicesindia.com/article/1862/Judicial-Activism-and-Women-Empowerment-In-India.html> (Last visited on 24.07.2021)

¹²Justice R.C. Lohati, Women’s Empowerment- Role of Judiciary and Legislature; Available on: http://www.ebc-india.com/lawyer/articles/2005_2_49.htm. (Last visited on 24.07.2021)

promoted to identify factors of classification which are more appropriate to female jail inmates. Further, classification and implementation of key services for treatment of women should be expanded. A Gender-Neutral System should be introduced in the all sphere of life.