

ANALYSE CONDITION OF HUMAN RIGHTS WITH SPECIAL REFERENCE TO WOMEN

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ABSTRACT

We are able to notice that every day, in every paper News, on all television channels, and on all technological devices, there is a presentation to the violation of the human rights of women in India. The term "human rights" refers to the fundamental entitlements that are owed to every member of the human family as a result of their membership in the species. Additionally, the Constitution of India upholds the principle that male and female citizens are endowed with equal legal protections. On the other hand, when it comes to the issue of women's human rights in India, there is a significant disconnect between theory and practise. Our culture is predicated on the idea that men are inherently more capable than women and as a result, our society is predominately male-dominated. This is India. Discrimination, unfairness, and dishonour are all things that women must contend with in today's society. Despite the fact that women in India have been granted additional rights in comparison to men, the current state of affairs for women in India is deplorable. This paper will shed light on the human rights of women in India and how all of the essential rights given to women are being abused in India. The topic of this paper is human rights of women in India.

Keywords: *Women's Human Rights, Indian Constitution, legislations.*

INTRODUCTION

India is home to one of the earliest known civilizations in the world. In ancient India, during the period known as the Rig Vedic, women enjoyed a privileged position in society. It was during this time that they were married at an adult age, given the option to take part in religious ceremonies, and given the right to choose their own husbands. The position of women in society increasingly deteriorated over the course of time, and by the later Vedic period, women were forced to contend with discrimination. The deteriorating situation of women can be traced back to the analysis of Smritis. Therefore, no woman of any age, even a girl, a young lady, or an old woman was to be given the freedom to act independently. During her upbringing, her father was supposed to be in charge of her, but once she got married, her husbands and then her son were supposed to have that responsibility. As a result, the Manu Smriti is an excellent illustration of both respect for women and disdain of their rights. The author of the Mitaksra, Yajhavalkya, is quoted as saying, "The father shall watch her while she is a virgin, the husband when she is married, and the son in old age; in the absence of these, her relations, a woman has no independence at any time." Therefore, life was difficult for women during that age since they did not have adequate rights and also had to live under the rule of the patriarchal system that was in place in society.

After the Vedic time, in the mediaeval age, numerous conventions had a negative impact on their independence and rights, which exacerbated their situation within the society. The veil, also known as the

purdah system, is a harmful form of social behaviour that originated as an attempt to shield women from the gaze of Muslim conquerors. During that time period, the practises of Sati and Child Marriage also began to emerge as social norms. As a result of such unethical actions in society, women were deprived of all of their freedom, which was completely in violation of their rights. During the time of British control in India, the influence of western culture brought a breath of fresh air in the form of greater freedom for women. The ideas of equality, fairness, and having a clear conscience were brought to the United States from Britain. During that time period, numerous social reformers such as Raja Ram Mohan Roy, Swami Dayanand Saraswati, and Ishwar Chandra Vidhyasagar worked to improve the condition of women by shielding them from the practise of Sati, preventing child marriage, and encouraging education among women in order to empower them. After India achieved its independence, its new Constitution ensured that men and women shared the same rights and were protected from any form of discrimination. The constitutional dream of gender equality is still a very long way from becoming a reality in India, despite the numerous efforts that have been made to enhance the status of women in the country.

Women's Human Rights at International Level

It is possible to define human rights as the minimum set of rights that are both equal and inalienable, and that must be obtained by every human in order to be considered a member of the global human community. This is true regardless of a person's gender, ethnicity, language, race, religion, nationality, or any other basis. The right to life, the right to equality, the right to live with human dignity, the right to freedom of speech and expression, the right to live in an environment that is free from discrimination, and the right to a safe environment are all examples of universal rights. All of these fundamental civil and political liberties were enshrined in the Universal Declaration of Human Rights, which was adopted by the international community in 1948 and signed by India. Additionally, India is a member to the United Nations Convention on the Elimination of all Forms of Discrimination against Women, which was ratified in 1979. The International Covenant on Economic, Social, and Cultural Rights was ratified in 1966. These all-United Nations Conventions advocate for the Human Rights philosophy and support the premise that all humans should be treated equally without discrimination of any kind.

Women's Human Rights in India

The Constitution of India, which was ratified in 1949, includes a number of articles that incorporate the idea of equality and non-discrimination on the basis of sex. These articles may be found throughout the document. The Constitution recognises human rights in the form of several fundamental rights and provides that men and women have equal rights without any exceptions. The Protection of Human Rights Act was also enacted by the Parliament of India in the year 1993. The National Human Rights Commission was founded as a result of the provisions outlined in the statute. In the event that their human rights have been violated in any way, women who have been wronged can file complaints with the National Human Rights Commission.

Even though the majority of women in India still aren't aware of their legal entitlements, including the right to equal treatment, the right to property, the right to work, and maintenance, they continue to be subjected to sexual assault, economic exploitation, and other forms of injustice. The status of Indian women has undergone significant changes in recent years due to the rise in the country's literacy rate, which has given them a greater sense of independence and increased their awareness of their rights. Following the Nirbhaya case in 2012, some changes were made to the Indian Penal Code, the Code of Criminal Procedure, and the

Indian Evidence Act. These changes were implemented to ensure that women are protected and that their interests are protected. In addition, a number of laws that focus specifically on women's issues have been passed in order to safeguard the fundamental civil liberties of women. These types of laws establish the penalties that are to be imposed on those who breach the socially acceptable norms of human behaviour and go beyond the bounds of the law in order to assault women or their dignity. Women are afforded the following human rights in the form of legal rights as a consequence of the provisions of these laws.

Women's Human Rights under Constitutional Framework:

The Indian Constitution is the highest and most authoritative law in India; the provisions of the Constitution are the source of authority for all other laws. "Justice" is social, economic, and political justice. "Liberty" is freedom of thought, expression, belief, faith, and worship. "Equality" is equality of status and opportunity.....and dignity of the individual and the integrity of the nation." These are the things that the Indian constitution guarantees to all of India's citizens. The preamble of the Indian Constitution contains such wordings, which ensure that the fundamental human rights of all people, including men and women, are protected. The Indian constitution is well-known for its commitment to the principle that men and women should be treated on an equal footing. Nevertheless, in accordance with the provisions of the constitution and from the point of view of women's human rights, a unique safeguard has been established for the protection of women.

- 1. Right to Equality under Article 14:** Article 1 of the Universal Declaration of Human Rights states that all human beings are born free and equal in dignity and rights, and article 7 of the same document ensures that everyone is treated equally before the law. Because the state cannot deny any person equality before the law or the equal protection of laws inside the territory of India, the status of women is the same as the position of males in the eyes of the law. This is because the constitutional framework that governs India mandates that it must do so.
- 2. Right against Discrimination:** Article 2 of the Universal Declaration of Human Rights guarantees that no individual will be subject to discrimination of any kind. Equal protection against discrimination is another topic covered in Article 7 of the constitution. ARTICLE 15(1) states that Indian citizens cannot be discriminated against by any government authority on the basis of their sex. This is due to the fact that the state is not allowed to discriminate against any citizen on the basis of only their religion, race, caste, sex, or place of birth, or any combination of these factors. In addition, no citizen should, solely on the basis of their religion, race, caste, sex, place of birth, or any combination of these factors, be subject to any kind of handicap, liability, or restriction.
- 3. Right to Equal opportunity in Public Employment:** ARTICLE 16 There is equality of opportunity for all citizens, whether males or females, in matters relating to employment or appointment to any office under state, and no citizen can, on grounds only of religion, race, caste, sex, descent, place of birth, residence, or any of them, be ineligible for or discriminated against in respect to any employment or office under state. This means that women are able to get equal opportunity when it comes to public employment. Nevertheless, the government has the power to establish guidelines for reservations.
- 4. Right to Freedom of Speech and Expression:** Article 19 of the Universal Declaration of Human Rights states that everyone has the right to freedom of thought and expression. By using the right

granted to them in Article 19 (1) (a) of the Indian Constitution, which ensures that all citizens have the right to freedom of speech and expression, Indian women are able to speak out on any issue that may impact them.

5. **Right to work:** In its article 23(1), the UDHR affirms that everyone has the right to work, the right to free choice of job, the right to reasonable and favourable working conditions, and the right to protection from unemployment.
6. **Right to Life and Personal Liberty:** Article 3 of the Universal Declaration of Human Rights acknowledges a person's inherent right to their own life, liberty, and security. Article 21 of the Indian Constitution guarantees that no person shall be deprived of his or her life or personal liberty except in accordance with the process that has been established by law. This constitutional guarantee ensures that all women and men in India have the right to live their lives according to their own preferences.
7. **Right against Exploitation:** Article 5 of the Universal Declaration of Human Rights provides protection against torture as well as other cruel, inhuman, or degrading treatment. Article 23 of the Indian Constitution provides protection against human trafficking and bonded labour. This serves as a barrier for the protection of women and ensures that they have the right to work. The Suppression of Immoral Trafficking in Women and Girls Act, 1956, which was later renamed the Immoral Trafficking (prevention) Act, 1956, was enacted by the Indian parliament with the intention of putting the ideas presented in this article into practise. The state is obligated, according to the Constitutional Scheme of Directive Principles of State Policy, to uphold the principle that women's rights should be respected in society. These are the articles that are pertinent to this discussion.
8. **Right to Livelihood:** According to paragraph an of Article 39, every citizen, regardless of whether they are a man or a woman, has the same entitlement to basic means of subsistence. Article 23(3) of the UDHR, which states that everyone who works has the right to just and favourable remuneration, has recognised this right as well.
9. **Equal Pay for Equal Work:** Article 39 d of the Indian Constitution mandates that the state must, in particular, direct its policy towards ensuring that there is equal pay for equal work for both men and women. This provision applies to both the public sector and the private sector. In accordance with article 23(2) of the UDHR, this right is likewise guaranteed.
10. **Right to Health:** The Constitution of India guarantees in article 39(e) that the state will, in particular, direct its policy towards securing that the health and strength of workers, men as well as women, and the tender age of children will not be abused, and that none of them will be forced by economic necessity to enter avocations that are unsuited to their age or strength. This protection applies to all workers, regardless of gender or age. In addition, everyone has the right to a quality of living that is sufficient for their health and well-being, as stated in paragraph one of Article 25 of the UDHR.
11. **Equal Justice and Free Legal Aid:** Those individuals who are unable to afford the costs of legal representation under article 39A of the Constitution are eligible for financial help. Therefore, the state must ensure that the operation of the legal system promotes justice, on the basis of equal opportunity, and must, in particular, provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen due to economic or other

disabilities. This is to ensure that opportunities for securing justice are not denied to any citizen due to the fact that the legal system promotes equal opportunity.

12. Just and Human Conditions of Work and Maternity Relief: According to Article 42 of the Constitution, the state is obligated to take the necessary steps to ensure that workers are afforded reasonable and humane working conditions, as well as maternity respite.

13. Right of Constitutional Remedies: In the event that any of these fundamental rights are violated, the woman who was wronged has the ability to seek redress by moving the Supreme Court or the High Court and filing a writ petition under Article 32 or Article 226. However, there is no such mechanism available in the event that Directive Principles of State Policy are violated, as these are not enforceable by any court that has writ jurisdiction. The state has a responsibility to put such ideals into practise through the policies it enacts. As a result, the Directive Principles of State Policy place an ethical obligation on the state to ensure that they are put into practice.

Objectives

1. To study human rights for women's
2. To study Indian Constitution and legislations

Women's Human Rights protected under various Legislations

There are a number of laws in India that recognise women's human rights in the form of their legal rights and that protect them. These laws can be found throughout the country. These rules are extremely significant in ensuring that women will achieve full equality in all aspects of society.

1. Right to live with Dignity: In accordance with the provisions of article 51 A e, it is a constitutional requirement that every citizen of India abstain from engaging in activities that are disrespectful to the dignity of women. Article 21 reaffirms that every person possesses the right to live a life that is honourable and full of dignity. Therefore, women too have such a right under which they can resist the activities that are detrimental to their sense of self-respect. Consequently, If a woman is depicted in an indecent manner in any publication, painting, writing, advertisement, or in any other medium, it is a violation of the Indecent Representation of Women (Prohibition) Act, which was passed into law in 1986. If this violation occurs, the perpetrator will be guilty of a criminal offence.

Under Section 354 of the Indian Penal Code, 1860, a person has the right to file a complaint if another person pulls on their dupatta, sari, or any other part of their attire. She has the right to file a complaint under the Sexual Harassment of Women at Work Place (Prevention, Prohibition, and Redressal) Act in the event that the incident in question takes place at her place of employment. In cases of rape, a First Information Report can be filed under Section 376, in which the name and identity of the victim woman will be kept under secrecy and not to be disclosed. This is because, according to section 228-A of the Indian Penal Code, 1860, the disclosure of the identity of such aggrieved women is itself an offence that can result in a fine and/or imprisonment of up to two years.

2. Right to Use Earnings: Earned money belongs to the woman, and she should be able to spend it however she sees fit. In previous centuries, women only had the right to the property known as

"Stridhan." However, with the passage of the Married Women's Right on Property Act in 1834, the definition of women's personal property was expanded to include the following: (a) earnings or salaries from business, profession, or service; (b) earnings from scientific, literary, or artistic skills; (c) savings from salary or capital gain; and (d) insurance policies held by women. All of these properties are considered part of their profits and can be utilised by the women in any way that they want.

- 3. Right to own Property:** Under section 14 of the Hindu Succession Act of 1956, Hindu women were granted absolute ownership of any properties they possessed. This was a landmark piece of legislation (1). In the case of Harak Singh v. Kailash Singh and Anr., the Supreme Court confirmed the validity of section 14(1). This Act largely eliminated reversionary rights while at the same time increasing the size of the little inheritance that was available to Hindu women. Therefore, Hindu women enjoy complete ownership rights to any properties they have earned or received through gifts or bequests.
- 4. Right to Private Defence:** Many times, a woman will find herself in extremely precarious circumstances that place her in immediate danger of being assaulted. The law gives woman the authority to defend herself in the event that there is no one to save her or rescue her from such an assault, and this authority is referred to as the "Right to Private Defense." In ancient India, people had the right to protect themselves, and the concept of self-help formed the basis for the first rule of criminal law. At the present time, women have been granted this right in accordance with sections 96, 98, 100, 102, and 103 of the Indian penal code, 1860. This right enables women to exercise their agency in the face of adversity.
- 5. Right against Discrimination in Employment:** Everyone has the right to work according to Article 23 (1) of the UDHR, and they have the freedom to choose an occupation that provides them with just and favourable working circumstances. The Sex Discrimination Act of 1975 made it illegal in India for any employer, public or private, to discriminate against a person based on their sexual orientation or marital status. This law applies to all forms of work. The statute is applicable to each and every employee in both the public and private sectors. The Sex Discrimination Act of 1975 was passed into law to protect women from being subjected to sexual discrimination. However, the provisions of the act are also applicable to men, with the exception of the provisions relating to pregnancy, which were added to the act so that they would only apply to women. In the event that someone is discriminated against due to their marital or sex status, a complaint can be filed by either a woman or a male.
- 6. Right to get Equal Pay:** In Article 39(d) of the Constitution, the right to receive equal compensation for equal work, which is recognised in Article 23(2) of the UDHR, is reaffirmed, and the state is obligated to create policies that promote equal work opportunities for both men and women. The apex court in the case of Pramod Bhartiya v. State of Madhya Pradesh ruled that directive principles of state policy are not subject to judicial enforcement, but it also stated that Part IV and Part III of the Constitution are not designed to be mutually exclusive of one another. In point of fact, they complete one another in useful ways. Equal compensation for equal work is a requirement that can be found in both Article 14 and clause (1) of Article 16 of the Constitution. In the case of D.S. Nakara v. Union of India, the Supreme Court of India came to the conclusion that if Articles 14 and 15 of the Constitution are interpreted in conjunction with the Preamble of the Constitution and Article 39 (d), then equal pay for equal work is expressly declared by these provisions.
- 7. Right to get Minimum Pay:** Women, like everyone else, have the right under Article 23(3) of the Universal Declaration of Human Rights (UDHR) to receive equitable and favourable remuneration for

their job. This remuneration should be sufficient to allow women to maintain themselves and their families with human dignity. At the national level, this entitlement was recognised in the Minimum Wages Act of 1948, which was passed into law to establish minimum wage rates for specific types of employment. Women who work in low-paying jobs have the right, according to the Minimum Wage Act, to receive minimum wage for the labour that they do.

8. Right against Sexual Harassment at Work Place: Sexual harassment is a significant issue for all working women, regardless of whether they are employed in the public or private sector, organised or unorganised business, or any combination of these. The vast majority of female workers are confronted with this issue at least once during the course of their careers. Some of the male equivalents in the workplace believe that their female colleagues lack self-respect and dignity; as a result, they attempt to take advantage of them. To be deemed sexual harassment, actions such as inappropriately touching female coworkers against their will, showing them pornographic content or literature, compelling them to perform any indecent favours or for making sexual contact, etc., are all examples of inappropriate touching.

9. Right of Maternity Benefit: For a woman to fulfil her biological obligation to produce children, she must stop working for a certain amount of time. During this time, she will need financial help not only to pay for her basic needs but also for any necessary medical care. Therefore, in order for working women to maintain their livelihoods and safeguard their health, the law provides them with maternity benefits. The Maternity Benefit Act of 1961 is a piece of legislation that controls the employment of female workers in specific businesses immediately before and after the birth of a child. It also provides these women with a maternity benefit as well as other advantages. The statute covers all factories, mines, and plantations, regardless of whether or not they are publicly owned. The jurisdiction of the state government may be expanded to include commercial, agricultural, industrial, and any other types of establishments. The act makes it illegal for women to work for the first six weeks following the day of their delivery, abortion, or other medical procedure that ends their pregnancy.

10. Right to claim Maintenance: The right of a woman to receive maintenance from her husband is recognised in section 125 of the Code of Criminal Procedure, which was enacted in 1973. In addition, women have the right to receive support from their former husbands under Section 18 of the Hindu Adoption and Maintenance Act of 1956. Women have the ability to claim maintenance even if they are divorced or separated if they utilise these rules.

Other Legislations for the Protection of Women's Human Rights:

The Pre-Conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection) Act, which was passed in 1994, is a piece of legislation that prevents female foeticide and prohibits the use of pre-natal and pre-conception diagnostic techniques for the purpose of sex determination. This law was enacted to ensure that women are able to give birth without being subjected to any form of discrimination and to safeguard their right to life. The Immoral Traffic (Prevention) Act of 1956 was passed into law with the intention of putting an end to the practise of selling women and young girls into prostitution so that they can be exploited sexually.

The Indian society has a significant problem with domestic violence. The Protection of Women from Domestic Violence Act, 2005 was passed by the Indian legislative in 2005 with the intention of protecting

women from any and all forms of domestic violence, including physical, mental, sexual, emotional, and verbal forms of abuse. Dowry was made illegal by the Dowry Prohibition Act of 1961, which makes it illegal to ask for or give dowry at any point before, during, or after the wedding ceremony. The Commission of Sati (Prevention) Act of 1987 makes it illegal to engage in the practise of Sati as well as to glorify it.

The Prohibition of Kid Marriage Act, which was passed in 2006, makes it illegal to marry a child and makes it a crime that can be punished. In this way, it safeguards women's independence and their ability to make their own decisions about who they will spend their lives with. The National Commission for Women Act of 1990 established a National Commission for Women, which is where women can send their complaints about the deprivation of their rights. Additionally, the commission reviews the framework for the protection of women and sends its periodic reports to the Central Government. Additionally, the Women's Commission offers financial assistance to women who are pursuing their legal rights in court.

Violations of Women's Human Rights in India

Although it is asserted that Indian women have been granted the same rights as their male counterparts and that there is no discrimination on the basis of sex, it is not possible to say that the actual status of Indian women is satisfactory. Because of the current composition of Indian society and the customs that are widely practised within it, there is a significant disconnect between the de facto and the de jure conditions. Because India is a patriarchal society in which men predominate and are always viewed as superior to their female counterparts, the position of Indian women is not as favourable as the condition of Indian men. Since the beginning of time, they have been forced to endure a life of hardship and discrimination. The circumstances of women have not changed significantly from the middle ages all the way up until the present day. In every aspect of their lives, they are subjected to inequality, unfairness, and dishonour due to the fact that they are women. Now that we have that out of the way, let's talk about the ways in which women's rights are violated by examining the ways in which women are denied their womanhood and the ways in which society works against their rights. To this end, the entire conversation can be broken down into two parts: (1) the exploitation of women and the abuses of their human rights that have occurred over the course of the previous many centuries; and (2) the current state of affairs regarding women's human rights in India.

Present Situation of Women's Human Rights in India

The attitude of Indian society is still the same as it was during ancient and mediaeval times, which has a negative impact on women and their rights. Despite the fact that there are numerous laws in place that protect the rights of women and encourage them to do their best in all aspects of life, this is one area in which Indian society falls short. Despite the fact that we have been independent for 73 years, women continue to have their rights violated in the following ways:

Violation of Right to Equality and Protection against Gender Discrimination:

In India's traditionally patriarchal society, men are almost universally given higher status than women and receive greater preference. In India, a woman is subjected to prejudice from the moment she is conceived inside her mother's womb. This takes the form of sex determination tests, which can lead to the termination of an unborn female child as well as foeticide. In many regions of India, a girl child is put to death as soon as she is born if she shows any sign of opening her eyes, including blinking or yawning. The home, which is supposed to be the safest place for women, has instead become a place where they are at risk of being

exploited and violently assaulted by their closest and most loved family and friends. Under these conditions, people are being denied their "Right to life," which is a violation of international law.

CONCLUSION

The results of the Census conducted in 2011 show that there are 940 females for every 1000 males; to put that another way, women make up 48% of India's overall population. Women fill very essential roles in our lives and contribute to the fullness of those roles by being our mothers, sisters, wives, and daughters. In spite of the fact that they are entitled to equality and respect in every aspect of life, women in India continue to have their human rights violated for a variety of reasons, the most significant of which are the indifference of society, the ignorance of families, and outmoded laws.

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