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WOMEN'S RIGHTS AS HUMAN RIGHTS IN CONTEMPORARY ERA: AN INDIAN APPROACH

AUTHORED BY - ASWATHI SUKUMARAN

ABSTRACT

Human rights and the status of women today are major issues that demand attention. Our culture is defined by a strong emphasis on human rights. Human rights are the basic freedoms and protections that everyone needs to live a dignified existence. These are the rights that every person on Earth has, regardless of their race, gender, sexual orientation, nationality, or any other identifying factor. The author aims to bring attention to issues related to human rights and women in this piece.

Indian law mandates gender parity and includes positive discrimination provisions in its Constitution. While women's human rights are being discussed in India, there is a significant gap between the two. In India, women frequently experience bias and unfair treatment. As the number of crimes committed against women in India continues to rise, it is clear that women's rights are being violated in some form or another. The violations of women's human rights cannot be overlooked by a civilised society. It must have strict measures in place to stop these kinds of infractions from happening and to punish those who do. Therefore, the purpose of this article is to investigate the status of Indian women in terms of their basic civil liberties. The evolution of women's rights and social standing in India is also documented. The purpose of this article is to analyse the various legal provisions, constitutional provisions, and International Conventions for the protection of women's rights, and to discuss the challenges women face in exercising those rights.

Some judicial interpretations are explained in this article. It's important to remember that we already have enough laws in place; what we really need to do is raise consciousness and put them into effect. The article ends with a set of recommendations for how to better protect and expand women's rights in India.

Key Words: Women Rights, Human Rights, Gender Equality, India

INTRODUCTION

Yatra Naryastu Pujyante Ramante Tatra Devata

Yatra itaastu Na Pujyante Sarvaastatrafalaah Kriyaah¹

The time has come to focus specifically on women's human rights, both in India and elsewhere around the globe. When we talk about human rights, we're referring to the rights that we, as humans, are all entitled to. All people everywhere are entitled to these protections as a matter of basic decency. It's a right that comes from God and can't be taken away. Thus, human rights are the fundamental liberties and protections that are the natural right of every person on Earth.

Access to life, liberty, equality, food, shelter, work, leisure, education, political participation, and an even distribution of power are all fundamental human rights that should be afforded to all members of society, regardless of gender. Women make up nearly half of India's population, but every day we hear about new ways in which their human rights are being violated. Women are essential to the well-being of our society². Throughout their lives, women take on many roles, from breadwinner to caretaker, mother to wife to daughter to friend. Although women contribute just as much as men do to a country's progress, they are held back from reaching their full potential by a number of obstacles³.

However, discrimination based on gender, and specifically discrimination against women, has emerged as the greatest challenge to and obstacle to the full realisation of women's human rights. It's important to remember that our country will flourish only if women are shielded from the ongoing struggles and violations of their human rights.⁴ Equal rights for women should be priority number one. True to what Swami Vivekanand said, "Just as a bird cannot fly with one wing only, a nation cannot march forward if the women are left behind."⁵

¹ Where Women are honoured, divinity blossoms there, and where ever women are dishonoured, all action no matter how noble it may be, remains unfruitful.

² Jogendra Kr. Das, "Reflections on Human Rights and the Position of Indian Women", The Indian Journal of Political Science, Vol.64, No.3/4,203-220 July-December, (2003).

³ Sutapa Saryal, "Women's Rights in India: Problems and Prospects", International Research Journal of Social Sciences, Vol. 3(7), 49-53, July (2014)

⁴ Id

⁵ <https://iasgatewayy.com/gender-equality-and-gender-parity/> visited on 8 February 2021.

Equal pay for equal work, freedom from discrimination in the workplace, education, personal freedom, political participation, property ownership, employment opportunities, freedom of profession selection, financial security, health care, etc. Some of the widespread violations of women's human rights are briefly discussed in this paper.

Disregard for Equal Treatment

Equal protection under the law is a guarantee of the Constitution. Article 14 states, "The State shall not deny to any person within the territory of India equality before law or the equal protection of laws." It is widely agreed that equality before the law is the most fundamental postulate of republicanism.⁶

While the phrase "equality before the law" can be seen as somewhat negative, since it implies that no special privilege is afforded to any particular individuals, the expression "equal protection of the law" is more positively construed, since it ensures that all individuals are treated equally under the law.⁷

However, in India, men are consistently favoured over women because of the country's traditional gender roles.

Gender Discrimination

One of the cornerstones of India's constitution is the abolition of gender-based discrimination. As a matter of fact, the constitution authorises the state to adopt discrimination in favour of women as a means of offsetting the accumulated bias and devaluation women experience.⁸

Gender equality is still far away for women in our patriarchal society, which is characterised by exclusive male dominance through male control of female sexuality, fertility, mobility, and productivity. Human rights are not a domain of man alone; they cover the entire mankind, and the constitution and the laws also make provisions for the protection of rights equally to both men and

⁶ Narendra Kumar, "Constitutional Law of India", Published by Allahabad Law Agency, Faridabad, Tenth Edn, 2018.

⁷ *Id*

⁸ Raghuvir K Devani, "An Analysis – Rights of Women Under the Indian Constitution", Academic Journals, Vol 1/ Issue (1) 2013

women⁹.

Discrimination against the girl child starts the moment she enters into the mother's womb.¹⁰

The violence against girls starts on the day a girl is conceived and continues throughout her life, until she is pregnant, old, and destitute¹¹. Since birth, and more recently even before birth, the child has been exposed to gender differences through sex determination tests that result in female infanticide and foeticide¹². The practise of infanticide, foeticide, sex-selective abortion, which has become widespread due to amniocentesis technology, and undernutrition among girl children are all examples of how low women's status is¹³. Thus, the very important right to life is denied to women.

Violation of Right to Education

One of the most significant human rights is the right to an education. While comparing the right to education for women and men in India, it is comparatively underwhelming. Girls are raised primarily in rural areas to believe that their only roles are that of wives and mothers. Due to poverty, old age, ethnicity, etc., girls and women face numerous obstacles. In order to combat poverty, lessen inequality, and promote economic growth, basic education is essential¹⁴. Despite the rise in literacy rates after independence, there is still a significant gap between men and women's literacy levels¹⁵. In actuality, women's illiteracy prevents them from even knowing their fundamental human rights. Education from 6 to 14 years old is now considered a fundamental right within the meaning of Part III of the Constitution thanks to Article 21 A, which was added to the constitution as part of the 86th Amendment Act of 2002.

⁹ Jogendra Kr. Das," Reflections on Human Rights and the Position of Indian Women", The Indian Journal of Political Science, Vol. 64, No.3/4, 203-220, July-December,2003

¹⁰ Dr. B Prabhakara Rao, "Violation of Women Human Rights in India", International Journal of Research in Social Sciences, Vol. 7 Issue 8, August 2017, ISSN: 2249-2496.

¹¹ R.P. Kataria, Alok Saxena,". Law of Protection of Women from Domestic Violence", Orient Publishing Company, New Delhi,2012.

¹² Ritu Dhanoa, "Violation of Women Human Rights in India", International Journal in Multidisciplinary and Academic Research (SSIJMAR) Vol. 1, No. 4, November-December (ISSN 2278 – 5973).

¹³ Dr. T.R Maruthi, Sridevi Krishna, "Violation of Human Rights of Women in India", JSS Journal for Legal Studies and Research, Volume-II, Issue-II (July-2014 to December – 2014)

¹⁴ Ritu Dhanoa, "Violation of Women Human Rights in India", International Journal in Multidisciplinary and Academic Research (SSIJMAR) Vol. 1, No. 4, November-December (ISSN 2278 – 5973)

¹⁵ Ritu Dhanoa, "Violation of Women Human Rights in India", International Journal in Multidisciplinary and Academic Research (SSIJMAR) Vol. 1, No. 4, November-December (ISSN 2278 – 5973).

Violation of Political Right

Women had equal political rights and participated equally in the freedom struggle, allowing them to effectively administer the country. Since they're underrepresented in politics, it doesn't matter. Parliament and provincial legislation are underrepresented, hindering their ability to influence government initiatives and policies on women's welfare and development¹⁶.

Their Lok Sabha representation is below 10%. Thus, it is clear that: a) Indian politics is dominated by men, and almost all parties support 33% reservation of seats for women in Parliament and Provincial Legislation but do not support women in elections. b) Women have attempted political participation but have been rejected¹⁷. Illiteracy, political apathy, physical violence, and economic dependence prevent women from participating in politics.

Violation of Right to Property

Indian women face property violations. Women may not own property or receive parental property. Women face land and property access discrimination. Women became absolute property owners after the Indian Succession Act 1925. Land and property laws discriminate against women¹⁸. Though women have inheritance rights, they are still treated unequally. The landmark case Mary Roy V Union¹⁹ of India established women's property inheritance rights.

Violation of Right to Health

All people have equal access to health care and services when they need them. Health encompasses physical, mental, and social well-being²⁰. Women need more healthcare than men. Women are low-status in India, where half the population is female. It shows that devaluing women often denies their health rights, including information, nutrition, and family planning. Children are malnourished due

¹⁶ *Id*

¹⁷ Dr. B Prabhakara Rao, "Violation of Women Human Rights in India", International Journal of Research in Social Sciences, Vol. 7 Issue 8, August 2017, (ISSN: 2249-2496).

¹⁸ Ritu Dhanoa, "Violation of Women Human Rights in India", International Journal in Multidisciplinary and Academic Research (SSIJMAR) Vol. 1, No. 4, November-December (ISSN 2278 – 5973).

¹⁹ 1986 AIR 1011, 1986 SCR (1) 371.

²⁰ The Preamble of the Constitution of the World Health Organization, available at [https://www.who.int/bulletin/archives/80\(12\)981.pdf](https://www.who.int/bulletin/archives/80(12)981.pdf), accessed on 7 Nov 2022

to female infertility. Female children are more malnourished than male children due to intrafamily food allocation differences²¹. Girls' medication is also cheaper for families. In most rural areas, women are only valued for their childbearing ability.

Violation of Right to Equal Opportunity for Employment

In the field of industrial law, women have been given a distinct position due to the fact that their physical and mental characteristics are distinct from those of men²². The preamble of our constitution states that it seeks social, economic, and political justice and equality of status and opportunity for all citizens. Current technology automates specific manual labour. As manual labourers, women lose their jobs due to new technologies. Studies have shown that technological change has eliminated many jobs traditionally performed by women and has not created alternative job opportunities at the same rate as men²³.

Violation of Right to get Equal Wages for Equal Work

Women have a unique challenge to overcome in the field of employment, and that challenge is discrimination and pay disparity, both of which are a direct result of their biological function of bearing children²⁴.

The legislature outlined the scope of the issue, which ultimately resulted in the passage of the Equal Remuneration Act in 1976. The Equal Remuneration Act of 1976 was enacted in order to prevent discrimination against women in employment on the basis of sex and to ensure that male and female workers are paid equally for their labour. Additionally, the act was designed to ensure that male and female workers receive equal remuneration.

This article provides a further look at a brief period in the history of women's rights and the status

²¹ Ritu Dhanoa, "Violation of Women Human Rights in India", International Journal in Multidisciplinary and Academic Research (SSIJMAR) Vol. 1, No. 4, November-December (ISSN 2278 – 5973)

²² Dr. G.B. Reddy, "Women and The Law", (Bharat Gogia Publications, Hyderabad, 2018) Pg.116.

²³ <http://www.legalserviceindia.com/legal/article-3425-women-rights-under-indian-labour-laws-a-socio-economic-study.html>, accessed on 10 Nov 2022

²⁴ Mamta Rao, "Law relating to Women and children", Eastern Book Company Publications, Lucknow, 2018, Pg 512.

of women in India during the Vedic period, the Post Vedic period, the Medieval period, the British period, and the Contemporary period.

Position of women in Vedic period

Vedic women were free and equal. It was the era of women. Women participated like men. Gurukuls provided equal Vedic education. Higher-class girls could undergo Upanayana²⁵. They excelled in music, dance, and war. Upanishads called wives husbands' companions.

The Rigveda blesses the wife to rule her husband's household. Vedic word "Dampati" emphasises wife-husband unity. Men and women shared religious and other duties. Dharma and prosperity stem from the wife in Mahabharata. Only married men could perform religious duties. Thus, like Western women, Indian women had liberty, equality, and cooperation.

Position of women in post-Vedic period

Manu's Manusmriti restrictions on women's rights and privileges hurt their status after the Vedic period. Human authority soared. The father considered a girl child a disaster. Girls were denied education and neglected. Women were barred from upanayana, the Vedic study initiation ceremony.²⁶ The marriageable age of girls was lowered to 9 or 10 years, which ended women's education and started pre-puberty marriages.

Manu's Manusmriti said women should never be independent. She is supervised by her father, her husband, and her son as a daughter, wife, and widow. Women were granted Stridhana²⁷ property despite social and cultural subordination.

²⁵ Mamta Rao, "Law relating to Women and children", Eastern Book Company Publications, Lucknow, 2018, Pg 26

²⁶ Mamta Rao, "Law relating to Women and children", Eastern Book Company Publications, Lucknow, 2018, Pg 26

²⁷ Manu defined *stridhana* as "that which is given to a woman before her nuptial fire in bridal procession as a token of love from her brother, mother father or husband."

Position of women in Medieval period

Alexander and Hun invasions of India further degraded women. Education and training were denied. Invaders restricted women's movement and community participation. Women were veiled due to invading armies. Women were property. Sati, child marriage, and female infanticide emerged. Dowry's evil spread. Polygamy and devadasi existed. Medieval patriarchs oppressed women²⁸.

Position of women in the British period

British education and Western influence changed Indian society's attitude and lifestyle. The 19th-century social reform movement and 20th-century nationalist movement occurred during this time. Both movements addressed gender equality. Social reformers focused on sati, widow abuse, widow remarriage bans, polygamy, child marriage, property rights, and women's education. Famous social reformers like Raja Ram Mohan Roy, Ishwar Chandra Vidya Sagar, M.G Ranade, and Aurbindo spoke out against injustice. Swamy Dayananda Saraswati, Swami Vivekananda, and Annie Besant wanted to revive the ideal Vedic society for women.²⁹

Nationalist politics attracted women. It also empowered women. The 1927 founding of the All-India Women's Conference was pivotal in women's equality. Gandhiji denounced child marriage, widow remarriage, temple prostitution, and purdah.

Social evils were addressed by many laws. Child Marriage Restraint Act 1929, Hindu Women's Right to Property Act.

After independence, the Constitution enshrining equality, liberty, and social justice was India's most significant event. The state protected women from exploitation and provided social justice.

Women are subordinate in India. Although the constitution guarantees gender equality and non-discrimination, Indian society still degrades women. India's constitutional dream of gender equality is far from reality, despite efforts to improve women's status.

²⁸ Mamta Rao, "Law relating to Women and children", Eastern Book Company Publications, Lucknow, 2018, Pg 26,27

²⁹ Mamta Rao, "Law relating to Women and children", Eastern Book Company Publications, Lucknow, 2018, Pg 26,27.

Major issues and legislations in India

The State has passed laws to ensure equal rights, combat social discrimination, violence, and atrocities, and support working women to uphold the Constitutional mandate³⁰. This article examines women's human rights issues and India's legislation. This article discusses sati, rape, dowry deaths, prostitution, female foeticide, workplace sex harassment, domestic violence, indecent representation, outraging women's modesty, termination of pregnancy, and acid attack. These crimes harm women physically and psychologically.

Sati

Sati was the Hindu practise of burning widows alive on their husbands' funeral pyres. The widow was supposed to consent, but it was sometimes forced in India. In 1986, Rajasthani bride Roop Kanwar was burned on her husband's pyre, reigniting the debate on sati³¹. The Commission of Sati Prevention Act 1987 outlawed the evil practise of sati. Criminals received capital punishment and life imprisonment.

Rape

Rape is a horrendous crime against women. Sexually assaulting women without their consent is a crime. Chapter XV1 of the Indian Penal Code 1860 covers rape offences from Section 375 to 376 E. The Delhi gang rape led to the Criminal Law Amendment Act 2013. The Criminal Law Amendment Act 2013 added new anti-sexual abuse provisions.

Dowry Death

The most pious rule associated with Hindu marriage is Kanyadaan which literally mean the gift of virgin³². The underlying philosophy that guided the practise of dowry was the notion that it was a

³⁰ http://mospi.nic.in/sites/default/files/reports_and_publication/cso_social_statitics_division/Constitutional&Legal_Rights.pdf , accessed on 15 Nov 2022

³¹ Sutapa Saryal, "Women's Rights in India: Problems and Prospects", International Research Journal of Social Sciences, Vol. 3(7), 49-53, July (2014),

³² Mamta Rao, "Law relating to Women and children" (Eastern Book Company Publications, Lucknow, 2018)

form of pre-mortem inheritance for the girl from her wealthy parents³³. Dowry homicide is a crime in its own right, and it occurs when the elimination of the daughter-in-law becomes an immediate necessity. This occurs when the daughter-in-law or her parents are unable to satiate the avarice and greed of the daughter-in-law and his family members in order to make the boy available in the money market once more³⁴. Dowry-related fatalities are the subject of the Indian Penal Code's Section 304B. The Dowry Prohibition Act of 1961 addresses all of the various issues that are associated with dowries.

Prostitution

In a complex social system where parents and relatives force girls into prostitution, prostitution is a necessary evil. Their own people sell young girls to brothels. Most sex trade is caused by poverty, religion, and greed. Article 23 of our Constitution prohibits trafficking and exploitation. It sought to end human trafficking, including prostitution and beggary. The 1956 Immoral Traffic (Prevention) Act outlawed the commercial trafficking of women, men, and children for prostitution.

Domestic Violence

Domestic violence is a human rights issue, and understanding its causes is crucial³⁵. Violence violates another's autonomy and identity³⁶. The 2005 Protection of Women from Domestic Violence Act prevented women from being excluded from their homes.

Female Foeticide

Blindly killing female fetuses has put the male-female ratio in danger³⁷. The Preconception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act 1994 regulates the use of prenatal diagnostic techniques for detecting genetic or metabolic disorders, chromosomal abnormalities, certain congenital malformations, or sex-linked disorders, and for preventing and misusing such

³³ *Id*

³⁴ Dr. G.B. Reddy, "Women and The Law", (Bharat Gogia Publications, Hyderabad, 2018) Pg.74.

³⁵ Dr. T.R Maruthi, Sridevi Krishna, "Violation of Human Rights of Women in India", JSS Journal for Legal Studies and Research , Volume-II, Issue-II (July-2014 to December – 2014)

³⁶ Mamta Rao, "Law relating to Women and children", (Eastern Book Company Publications, Lucknow, 2018) Pg.233

³⁷ Mamta Rao, "Law relating to Women and children" , (Eastern Book Company Publications, Lucknow, 2018)

Pg. 201

techniques for prenatal sex determination leading to female foeticide.

Sexual harassment at workplaces

Sexual harassment at work is a major violation of women's rights, gender inequality, and injustice. It violates women's basic rights, including equality under articles 14 and 15 of the Indian constitution and life and dignity under article 21. The Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 builds on the Vishakha Guidelines and preserves their spirit³⁸. It includes clients, customers, and domestic workers as "aggrieved women" regardless of age or employment status. It redefines "workplace" to include all types of organisations across sectors, including telecommuting workplaces and places where employees work³⁹. Section 354A of the Indian Penal Code 1860 defines and punishes sexual harassment.

Indecent Representation,

Obscenity provisions in the Indian Penal Code 1860, Section 292 to 294, depict women in a respectful and beautiful manner. They have suffered indecent, vulgar, and obscene depictions on both sides⁴⁰. Parliament passed the Indecent Representation of Women (Prohibition) Act 1986. The act banned indecent depictions of women in advertisements, publications, writings, paintings, figures, and other media.

Outraging the Modesty of Women

Females are born modest. This mischief includes any act done to or in front of a woman that suggests sex according to human standards. Indian Penal Code Section 354 covers Outraging Women's Modesty.

³⁸ Rouf Ahmad Bhat and Prof. Dr. Anita Deshpand, "Overview of Sexual Harassment of Women at Workplace in India: An Analytical Research", International Journal of Innovative Research in Science, Engineering, and Technology, Vol. 6, Issue 7, July 2017

³⁹ *Id*

⁴⁰ Mamta Rao, "Law relating to Women and children", (Eastern Book Company Publications, Lucknow, 2018) Pg. 247.

Termination of Pregnancy

In patriarchal India, families want a son⁴¹. India has a history of killing girls. Scientific technologies were developed to diagnose the foetus's condition and sex. The Medical Termination of Pregnancy Act 1971 allows registered medical practitioners to terminate pregnancies that pose a life-threatening risk to pregnant women. Indian Penal Code Section 312-318 covers causing miscarriage with or without consent.

Acid Attack

Acid or corrosive substances are deliberately applied to another's body. Sulfuric, hydrofluoric, and phosphoric acids are commonly used. Attackers target the head and face to maim, disfigure, torture, blind, and kill. Most victims are women and children. Attackers target the head and face to maim, disfigure, torture, blind, and kill⁴². Most victims are women and children. Attackers target the head and face to maim, disfigure, torture, blind, and kill. Most acid attack cases are filed under IPC sections 320, 322, 325, 326A, and 326B for grievous hurt⁴³.

Numerous laws addressed marriage, succession, and divorce. Maternity benefit, ban on dangerous work, and creche for working women's children were also passed. Despite several laws, the rate of women's human rights violations has not decreased.

Constitutional provisions

Indian law protects women. The constitution has many pro- and anti-women provisions that promote gender justice. Women have equal rights to men and sometimes receive special provisions⁴⁴.

The Constitution's Preamble seeks social, economic, and political justice for all and equal status and opportunity. This goal ensures gender equality in status and opportunity. Part III of the constitution's fundamental rights, from Article 12 to 35, guarantees these rights to all citizens, with special

⁴¹ *Id*, Pg 255

⁴² Dr. Anu Prasannan, "Acid Attack on Women: Repercussions and Need for Law", JSS Journal for Legal Studies and Research, Volume-II, Issue-II (July-2014 to December – 2014)

⁴³ *Id*

⁴⁴ Dr. Anu Prasannan, "Acid Attack on Women: Repercussions and Need for Law", JSS Journal for Legal Studies and Research, Volume-II, Issue-II (July-2014 to December – 2014)

protections for women. Article 15 of the constitution lists a specific application of Article 14.

Article 15 of the Constitution prohibits sex discrimination in addition to religion, race, caste, and birthplace. Article 15(3) allows the state to make special provisions for women and children. Their nature necessitates special treatment. The Supreme Court upheld certain Punjab University calendar rules that reserved principal and teacher positions in lady's colleges for women in *Vijay Lakshmi vs Punjab University*⁴⁵, citing Article 15(3)'s principles of protective discrimination in favour of women.

Article 16 of the Constitution guarantees all citizens equal opportunity for employment and state office. In *Govt of A.P Vs Vijay Kumar*⁴⁶, it was held that Articles 15(1) and 15(3) go together, so Article 15(3) protection applies to state employment under Article 16(1) and (2). Article 23 prohibits human trafficking. *Vishal Jeet vs. Union of India*⁴⁷ involved human trafficking and devadasi. The Suppression of Immoral Traffic Act, 1956, later renamed the Immoral Traffic(Prevention) Act 1956, outlawed prostitution and other forms of trafficking under Article 23 (1) of the Constitution.

Part VI of the Constitution's Directive Principles of State Policy includes many state directives to improve women's status and protect them. Article 39(a) requires the state to ensure that men and women have equal access to adequate livelihoods. Article 39(d) requires equal pay for equal work for men and women. The Equal Remuneration Act 1976 implements this Directive Principle.

Article 39(e) prohibits the state from abusing worker health and strength. Article 42 requires the state to provide maternity relief and fair working conditions. The 1961 Maternity Act followed. Article 44 mandates a uniform civil code for all Indians. This article sought gender justice. In *Sarala Mudgal Vs Union of India*,⁴⁸ the judiciary recognised the need for uniformity in civil laws like marriage, succession, adaptation, maintenance, etc. Article 51-A (e) states that every Indian citizen must renounce practises that degrade women. For Article 51-A implementation, the Indian Parliament passed the 1993 Protection of Human Rights Act⁴⁹.

⁴⁵ AIR 2003 SC 3331.

⁴⁶ AIR 1990 SC 1412

⁴⁷ AIR 2003 SC 3331.

⁴⁸ AIR 1995 SC 1531, (1995) 3 SCC 635.

⁴⁹ Sutapa Saryal, "Women's Rights in India: Problems and Prospects", *International Research Journal of Social Sciences*, Vol. 3(7), 49-53, July (2014),

The 1992 73rd and 74th Amendments to the Indian Constitution guarantee women seats in panchayat and municipal elections. Parliament's first attempt at legislative reservation for women. In addition, Article 243D (3), 243D(4), 243T provisions for reserving not less than one third elections of local bodies, viz Panchayat and the Municipalities⁵⁰.

International Conventions for the protection of women

Women empowerment has grown worldwide in the 20th century. The Universal Declaration of Human Rights 1948 reaffirms faith in fundamental human rights, the dignity and worth of the human person, and equal rights for men and women. The International Covenant on Economic, Social, and Cultural Rights 1966 emphasises gender equality⁵¹.

United Nations Charter

The Charter reaffirmed the global community's commitment to fundamental human rights, dignity, and gender equality⁵². The UN Charter also states that its goals are to achieve international cooperation in solving economic, social, cultural, and humanitarian issues and to promote and encourage respect for human rights and fundamental freedoms for all without regard to race, sex, language, or religion⁵³. They emphasise gender equality. Article 8 of the UN Charter states that men and women can participate equally in its principal and subsidiary organs. However, the League Covenant required that all League positions, including the secretariat, be open to men and women⁵⁴.

Convention on the Nationality of Married Women 1958

In 1949, the commission on the status of women recommended that a convention on the Nationality of Married Women be prepared and concluded as soon as possible to ensure women's equality with men, especially in nationality, and prevent them from becoming stateless after marriage or divorce⁵⁵.

⁵⁰ Sukhpal Kaur Women's Rights: A Historical Perspective, The Indian Journal of Political Science, Vol. 70, No. 1 (JAN. - MAR. 2009), pp. 121-130.

⁵¹ Raghuvir K Devani, "An Analysis - Rights of Women Under the Indian Constitution", Academic Journals, Vol 1/ Issue (1)2013

⁵² United Nations Charter, Preamble.

⁵³ Art 1(3) of United Nations Charter.

⁵⁴ Covenant of the League of Nations, 1919, Art. 7.

⁵⁵ Mamta Rao, "Law relating to Women and children", (Eastern Book Company Publications, Lucknow, 2018)

Convention on the Nationality of Married Women opened for signature and ratification by General Assembly resolution 1040 (XI) of 29 January 1957; entered into force 11 August 1958⁵⁶.

Universal Declaration of Human Rights

The Universal Declaration of Human Rights expands the Charter's equal rights and promotes equality. The preamble affirms that freedom, justice, and peace are based on the inherent dignity and equal and inalienable rights of all human beings⁵⁷.

International Covenant on Civil and Political Rights

The Covenant on Civil and Political Rights prohibits discrimination and guarantees equal and effective protection against discrimination based on race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status. The law protects everyone equally. They also incorporated equality and non-discrimination to elevate women⁵⁸.

International Covenant on Economic, Social and Cultural Rights

The Covenant on Economic, Social, and Cultural Rights prohibits sex discrimination and guarantees fair and equal remuneration for work to improve women's economic conditions⁵⁹.

Convention on Elimination of All Forms of Discrimination against Women

The article of the Convention prohibits discrimination and promotes equality⁶⁰. The Convention also requires State parties to take all appropriate measures, including legislation, to ensure the full

Pg. 38.

⁵⁶ <http://www.legislationline.org/documents/id/7674>.

⁵⁷ Adopted by the General Assembly by its Resolution 217 A (III) 10th December 1948., Available at <https://www.un.org/en/sections/universal-declaration/history-document/index.html>, accessed on 21 Nov 2022

⁵⁸ International Covenant on Civil and Political Rights, 1966, Art. 26, available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/CCPR.aspx#:~:text=Article%2026&text=In%20this%20respect%2C%20the%20law,property%2C%20birth%20or%20other%20status.,> accessed on 21 Nov 2022

⁵⁹ *Id.*

⁶⁰ Convention on Elimination of All Forms of Discrimination Against Women, 1979, Preamble, Paras 4,5.

development and advancement of women in all fields, particularly in the political, social, economic, and cultural fields, to guarantee their equal enjoyment of human rights and fundamental freedoms⁶¹. The Convention also mandates that States eliminate discrimination against. The Convention also requires state parties to eliminate discrimination against women to enable their political and public participation⁶².

The Convention also requires State parties to eliminate employment discrimination against women to ensure equal rights for men and women: (a) the right to work as an inalienable right of all human beings; (b) the right to the same employment opportunities; (c) the right of free choice of profession and employment, the right to promotion, job security, and all benefits and conditions of service; (d) the right to equal remuneration and equal treatment in respect of work of equal value, as well as equality of treatment in the evaluation of work quality; and (e) the right to social security and paid leave⁶³.

Declaration on the Elimination of Violence Against Women

The 1993 UN General Assembly Declaration on the Elimination of Violence Against Women defines violence against women as “any act of gender-based violence that results in, or is likely to result in, physical, sexual, or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life”⁶⁴. The General Assembly declares that violence against women violates their rights and fundamental freedoms and impairs or nullifies them⁶⁵.

The state parties to the Protocol recalled the CEDAW, which condemned all forms of discrimination against women and pledged to eliminate it by all appropriate means and without delay. Since

⁶¹ Convention on Elimination of All Forms of Discrimination Against Women, 1979, Art. 3, available at <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx> , accessed on 21 Nov 2022.

⁶² Convention on Elimination of All Forms of Discrimination Against Women, 1979, Art.7.

⁶³ Convention on Elimination of All Forms of Discrimination Against Women, 1979, Part III, Art .11

⁶⁴ Declaration on the Elimination of Violence Against Women,1993, Art. 1 available at <https://www.ohchr.org/EN/ProfessionalInterest/Pages/ViolenceAgainstWomen.aspx>

⁶⁵ Ashwini P, Harshika Lalith Kumar, “A System of approach in combating Sexual harassment at Workplace Women at Workplace- A need for pragmatic planning”, JSS Journal for Legal Studies and Research, Volume-V, Issue-I (January-2017 to June-2017).

December 2000's optional protocol, systematic violations can be investigated and punished⁶⁶.

Judicial Interpretations

This article throw light on some judicial interpretations

Vineeta Sharma v Rakesh Sharma⁶⁷ (2020)

This landmark case protected family-related women's rights. Before the 2005 amendment, son and daughter inheritance rights were discriminated against. Sons had a right to Hindu Undivided Family property, while daughters lost their right upon marriage. This was considered because the daughter will become part of her husband's family after marriage. The Supreme Court ruled that daughters born before the 2005 Hindu Succession Act, 1956 amendment had equal coparcenary rights in Hindu Undivided Family (HUF) property and could not be excluded from inheritance.

Air India V Nargesh Mishra⁶⁸

In this case, Regulation 46 of the Air India and Indian Airlines Regulations required an Air Hostess to retire at 36 years old, on marriage if it occurred within four years of joining, or on first pregnancy, whichever came first. If an Air Hostess was medically fit at 45, Regulation 47 allowed the managing director to extend her retirement by one year. The Supreme Court declared both regulations unconstitutional, void, and violative of Article 14⁶⁹.

Surjeet Singh v. Kamaljit Kaur⁷⁰

The Supreme Court ruled that medical examinations to prove women's virginity violated Article 21's right to privacy and personal liberty.

Sarla Mudgal v. Union of India⁷¹

It was held that the second marriage of Hindu after his conversion to Islam was void in terms of Section 494 of I.P.C. and the husband was liable to be prosecuted for bigamy.

⁶⁶ Raghuvir K Devani, "An Analysis – Rights of Women Under the Indian Constitution", Academic Journals, Vol 1/ Issue (1)2013

⁶⁷ 2019 6 SCC 162

⁶⁸ (1981) 4 SCC 335,

⁶⁹ Article 14 of the Indian Constitution

⁷⁰ AIR 2003 P & H. 354

⁷¹ AIR 2003 P & H. 354

***Vishakha v State of Rajasthan*⁷²**

A Rajasthani village gang raped a social worker. A three-judge Supreme Court bench ruled that sexual harassment of working women violates Article 19(1) of the Constitution (g). The court established detailed workplace rules for employers and others. This social evil was then addressed by law. Thus, the long-awaited Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, took effect.

***Shayra Bano v Union of India*⁷³**

The Supreme Court challenged Muslim instant triple talaq (talaq-e-biddat) in this case. Justice J.S. Kheler C.J., Kurian Joseph, J.R.F Nariman, Abdul Zazeer, and U.U.Lalit comprised the constitution bench. The Supreme Court bench ruled 3:2 that triple talaq violates Article 14 of the Constitution.

***Indian Young Lawyers Association V State of Kerala*⁷⁴**

The Sabarimala temple entry case has been controversial for restricting women of menstruating age (10-15 years) from entering. The Supreme Court ruled 4:1 that the temple's exclusion of women violated female worshippers' Article 25(1) right to freedom of religion. It declared Kerala Hindu Places of Public Worship Act Rule 3(b) unconstitutional. This allowed Hindu denominations to bar women from public worship. The court allowed women of all ages into the Sabarimala Temple.

***Joseph Shine v Union of India*⁷⁵**

Joseph Shine, a non-resident of Kerala, filed an Article 32 writ petition challenging Section 497 of the Indian Penal Code. The petitioner contended that the provision for adultery was arbitrary as well as discriminatory on gender basis. The petitioner further argued that it will undermine the dignity of women. The Supreme Court decriminalised the offence of adultery and made it a ground of matrimonial divorce.

⁷² (1997)6 SCC 241, 1997 SCC (Cri) 932

⁷³ 2017 SCC OnLine SC 963

⁷⁴ (2019) 11 SCC 1

⁷⁵ 2018 SCC OnLine SC 1676.

Conclusions and Suggestions

Women should hold a special place in society everywhere in the world. Throughout the various stages of their lives, they play a variety of roles, such as daughter, wife, mother, and sister, among many others. She still belongs to the group of society that is in a disadvantaged position due to several social barriers and impediments, despite the fact that they have contributed in the life of every individual person. This is regardless of the fact that they have contributed. Tyranny is perpetrated by men, who control most aspects of society, and women are the ones who suffer its effects. On the one hand, she is worshipped and regarded as the embodiment of tolerance and virtue. This leads many people to hold her in the highest regard possible. On the other hand, women are the ones who have to endure unimaginable suffering and tribulations. On every front, women continue to be significantly behind men's progress. They have always been subjected to discrimination in every aspect of life, and they have been the victims of all forms of inequality and humiliation since the beginning of time. As a result, many different acts were passed in order to deal with the personal matters such as marriage, divorce, and succession. A number of labour laws were also passed for the protection and welfare of women, such as maternity benefit, prohibition of employment in dangerous activities, and creche facility for the children of working women. These laws were enacted in response to the passage of a criminal law that included a number of provisions for dealing with crimes committed against women.

In spite of all of these laws and other actions taken by the government, it is clear to us that violations of human rights committed against women are still occurring at an alarmingly high rate.

Few Suggestions for the Protection of the Human Rights of Women

It is important to keep in mind that we already have a sufficient number of laws; what we need to do now is ensure that these laws are properly executed and implemented in the appropriate manner. This can be accomplished by launching an awareness programme targeted toward both males and females. To better prepare the next generation for the world they will inherit, it is imperative that all educational institutions begin teaching awareness classes as early as possible. Civil society has the ability to run awareness campaigns on issues pertaining to women's rights. In addition, we can

educate people about the many welfare policies and programmes that are being carried out by the state and various international organisations. Women should be given priority when it comes to job opportunities and promotions so that they can improve their standing in society and receive the benefits that come with it. For the sake of the advancement of working women, each and every organisational structure ought to incorporate a complaints committee and grievance cells for internal complaints. It is imperative that a scientific investigation and protection mechanism be implemented. Because so many victims are scarred while waiting for the court order that will bring them justice and compensation, swift execution is something that has to be incorporated. It is imperative that the perpetrators of the crime be subjected to harsh punishments and that they not be allowed to escape the grasp of the law under any circumstances. The victims need to receive appropriate care and treatment, including access to rehabilitation facilities, in order for them to be able to triumph over the mental anguish and miseries they have endured. The few ideas that are going to be presented here can, to some extent, speed up the process of women gaining their human rights.

