

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS



Open Access, Refereed Journal Multi-Disciplinary
Peer Reviewed

www.ijlra.com

DISCLAIMER

No part of this publication may be reproduced or copied in any form by any means without prior written permission of Managing Editor of IJLRA. The views expressed in this publication are purely personal opinions of the authors and do not reflect the views of the Editorial Team of IJLRA.

Though every effort has been made to ensure that the information in Volume II Issue 7 is accurate and appropriately cited/referenced, neither the Editorial Board nor IJLRA shall be held liable or responsible in any manner whatsoever for any consequences for any action taken by anyone on the basis of information in the Journal.

Copyright © International Journal for Legal Research & Analysis

EDITORIALTEAM

EDITORS

Dr. Samrat Datta

Dr. Samrat Datta Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Samrat Datta is currently associated with Seedling School of Law and Governance, Jaipur National University, Jaipur. Dr. Datta has completed his graduation i.e., B.A.LL.B. from Law College Dehradun, Hemvati Nandan Bahuguna Garhwal University, Srinagar, Uttarakhand. He is an alumnus of KIIT University, Bhubaneswar where he pursued his post-graduation (LL.M.) in Criminal Law and subsequently completed his Ph.D. in Police Law and Information Technology from the Pacific Academy of Higher Education and Research University, Udaipur in 2020. His area of interest and research is Criminal and Police Law. Dr. Datta has a teaching experience of 7 years in various law schools across North India and has held administrative positions like Academic Coordinator, Centre Superintendent for Examinations, Deputy Controller of Examinations, Member of the Proctorial Board



Dr. Namita Jain

Head & Associate Professor

School of Law, JECRC University, Jaipur Ph.D. (Commercial Law) LL.M., UGC -NET Post Graduation Diploma in Taxation law and Practice, Bachelor of Commerce.

Teaching Experience: 12 years, AWARDS AND RECOGNITION of Dr. Namita Jain are - ICF Global Excellence Award 2020 in the category of educationalist by I Can Foundation, India. India Women Empowerment Award in the category of "Emerging Excellence in Academics by Prime Time & Utkrisht Bharat Foundation, New Delhi.(2020). Conferred in FL Book of Top 21 Record Holders in the category of education by Fashion Lifestyle Magazine, New Delhi. (2020). Certificate of Appreciation for organizing and managing the Professional Development Training Program on IPR in Collaboration with Trade Innovations Services, Jaipur on March 14th, 2019



Mrs.S.Kalpana

Assistant professor of Law

Mrs.S.Kalpana, presently Assistant professor of Law, VelTech Rangarajan Dr.Sagunthala R & D Institute of Science and Technology, Avadi. Formerly Assistant professor of Law, Vels University in the year 2019 to 2020, Worked as Guest Faculty, Chennai Dr.Ambedkar Law College, Pudupakkam. Published one book. Published 8Articles in various reputed Law Journals. Conducted 1Moot court competition and participated in nearly 80 National and International seminars and webinars conducted on various subjects of Law. Did ML in Criminal Law and Criminal Justice Administration. 10 paper presentations in various National and International seminars. Attended more than 10 FDP programs. Ph.D. in Law pursuing.



Avinash Kumar



Avinash Kumar has completed his Ph.D. in International Investment Law from the Dept. of Law & Governance, Central University of South Bihar. His research work is on "International Investment Agreement and State's right to regulate Foreign Investment." He qualified UGC-NET and has been selected for the prestigious ICSSR Doctoral Fellowship. He is an alumnus of the Faculty of Law, University of Delhi. Formerly he has been elected as Students Union President of Law Centre-1, University of Delhi. Moreover, he completed his LL.M. from the University of Delhi (2014-16), dissertation on "Cross-border Merger & Acquisition"; LL.B. from the University of Delhi (2011-14), and B.A. (Hons.) from Maharaja Agrasen College, University of Delhi. He has also obtained P.G. Diploma in IPR from the Indian Society of International Law, New Delhi. He has qualified UGC – NET examination and has been awarded ICSSR – Doctoral Fellowship. He has published six-plus articles and presented 9 plus papers in national and international seminars/conferences. He participated in several workshops on research methodology and teaching and learning.

ABOUT US

INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS
ISSN

2582-6433 is an Online Journal is Monthly, Peer Review, Academic Journal, Published online, that seeks to provide an interactive platform for the publication of Short Articles, Long Articles, Book Review, Case Comments, Research Papers, Essay in the field of Law & Multidisciplinary issue. Our aim is to upgrade the level of interaction and discourse about contemporary issues of law. We are eager to become a highly cited academic publication, through quality contributions from students, academics, professionals from the industry, the bar and the bench. INTERNATIONAL JOURNAL FOR LEGAL RESEARCH & ANALYSIS ISSN 2582-6433 welcomes contributions from all legal branches, as long as the work is original, unpublished and is in consonance with the submission guidelines.

FREEDOM & DIGNITY DELAYED: 200 YEARS TO INDEPENDENCE, 200 MORE FOR WOMEN'S RIGHTS

AUTHORED BY - PALAK NIMESH

B.B.A.LLB

Meri Professional And Law Institute

ABSTRACT

India gained independence in 1947, it took us 200 years to earn our dignity, freedom & rights back from the colonial rule. However, Indian women's rights were violated and they are still being oppressed by the Indian society. Despite having many laws & rights that have evolved over the past decades, they didn't help enough to improve the women's status in the Indian society. This paper argues that national independence was achieved but women still face patriarchal norms, gender inequality & restrictive laws that limits their freedom. By examining some surveys conducted in 2019-2020 by the people of India, we got to know about how the citizens of India thinks about women safety, them getting jobs and their rights being same as men or not. Also, it took India 200 years to come out of colonialism, I guess it will take another 200 for women within India to get freedom and respect as it still remains a dream & a distant goal to many of them.

KEYWORDS: Women Rights, Society, Patriarchy, Gender Equality, Discrimination, Independence, Feminists

INTRODUCTION:

SWAMI VIVEKANAND once said "There is no chance for the welfare of the world unless the condition of women is improved and it is not possible for a bird to fly only on one wing." India a country which has been called a country of goddesses, whose citizens worship cows & rivers as their mother nature but fails to give decent human respect to women. Women from the past centuries have been facing patriarchy at regional, state, national and international levels. It does not spare them at their houses, workplaces and even at religious institutions. Women have been restricted from wearing certain types of clothes, getting a job, voicing their thoughts and even stepping out of their houses. Apart from this, women for a long time were not allowed to vote, forced to do child marriage, treated as maids and were victims of marital rapes, domestic

violence, sexual harassment, murders and even suicides. The government took many steps by making gender neutral laws, women safety laws and rights which women needed, even after all this women's status in the society did not have enough positive growth.

Patriarchy, patriarchal society, patriarchal norms and patriarchal thoughts are root cause of women facing gender inequality and a threat to their freedom. This can only be treated when we will start considering women as humans and not someone upon whom we can rule and treat them as we want. As said by HILLIARY CLINTON "Human's rights are women's rights and women's rights are human's rights once and for all." [1] (Clinton, 1995)

STATUS OF WOMEN THROUGHOUT

Ancient Period

The ancient period is considered from 3000 BCE- 500 AD. During this time some women in the society had rights to own property, work in trading, work in businesses, had the right to get education, work in religious institutions like men and also they were treated equal as men. Although in some places their main job was considered to be looking after families and doing house chores. Only few influential women could join the armies, becomes soldiers, warriors and scholars. Some cultures treated women and men equally like the Egyptian culture and others like Chinese culture had restrictions on women.

Medieval Period

The medieval period is considered from 500 AD- 1500AD. This came as nightmare to women as the restrictions on women started to take place more often. Women now could only run businesses when their husbands died, they had no right to own property, were denied taking part in politics, military and the practices like sati, foot binding, veiling and child marriages started taking place. Women at home were in control of their fathers and sons, and had no academic education but were teach on subjects like music, paintings and manners. There were only a few women like Razia Sultan and Wu Zetian who fought against these norms. [2] (Kapur)

Modern Period

The modern period is considered as 1450 AD- Present. This period is a little different but still disappointing for women. Women were allowed to have education but were expected to marry, take care of kids and do household chores. Many rights have been introduced but even after that the discrimination stays right there. Women were allowed to do jobs but faced gender

discrimination, unequal pays and their safety became a distant goal at every sector of their lives. In many parts of India women are still not educated and do not have basic health facilities. Many of them face sexual harassment, violence and societal restriction which comes in way of their freedom and dignity. Today women are active in all fields but the struggle for equality still continues.

GENDER-BASED DISCRIMINATION FACED BY WOMEN

It refers to the ill treatment that women face just because of their gender. Gender based discrimination against women is deeply rooted in the norms that are followed by the society which violates their fundamental rights and limits their opportunities. Women from a very long time have been deprived of many important things that every human should get access to like the right to vote, right to life, voicing their opinions, right to choose their religion and many more things. Women are treated as a liability because they are considered to be less valuable than men and that they should always be dependent on a man for everything they want to do, get, wear, cook and even if they should live or not, every decision of women lives are taken by either their father, son or brother. These things form a patriarchal society which is a threat to development of a country, world and humanity.

Gender-based discrimination result in several other discriminations faced by women like:

- 1- **Social Discrimination:** It means the cultural, societal & religious norms that are followed by the citizens of the society which are against women. There are many norms which are based on patriarchal interpretation of religious texts. While the religious norms give moral values to people they are also used to justify & create gender inequality which in result restrict women's freedom. Many gender roles and expectations limit women's opportunities. They are always dominated and expected to obey the male authorities whether it is their father, son or brother. Women are forced to do and believe that they can only perform household activities like cleaning the house, washing dishes, taking care of the child & the family. If any woman ever tries to step out of this cycle and disobey the male authorities and fight for their social & economic independence they end up facing violence & death threats. Many religions impose strict dress codes on girls like veiling or modest clothing which limits their personal choice. Also, from the past centuries women are not allowed to participate in ceremonies and rituals because they are considered to be "impure". Women at many places are forced to be married at a very young age which leads to the practice of "Sati" being imposed on them if their husband dies and it violates their "Right to life". Dowry system is illegal in India but is still

exercised by most of the families. Women do not have a choice to live their life on their own terms rather they are forced to be a part of the inhumane practices that are formed by the humans themselves because of which women face domestic violence, exploitation of their freedom and sexual harassment.[3] (Michael)

- 2- **Educational Discrimination:** Education is a fundamental right and a path or a powerful tool through which one can be empowered, we are living in 21st century, even today discrimination and inequality for studying, getting quality education and it is yet to be tackled. This happens because of economic barriers and societal norms and biases within the thoughts and beliefs of the Indian society because of patriarchy. Educational discrimination leads to gender-biasness, social, economic & political limitation for women. From a very young age women are subjected to stereotypes that influence their education and career paths. Girls are often suggested to learn about cooking, arts, manners and are restricted to learn subjects like science, math, economics & technology. Many textbooks have stories and plays about women being dominated by the men and can only work under them. This influences the young children to believe in such kind of patriarchal mindset being normal and common. Teachers in classroom may unintentionally favor or choose boys over girls for the position like class monitor and other leadership opportunities which creates another reason for the children to believe in stereotypes of men being better leaders and are above women. Other reason for the limited participation of women in educational institutions is that in many cases the educational institutions are built far away from their houses and the parents don't allow girls to travel long distances because they give more priority to their child safety and not their education. Also restroom facilities, girls are denied access to a women's washroom because in schools because there are no washrooms for girls in many areas. On the other hand, in village areas girls are often forced to marry at a very young age which results in their loss of studies because the in-laws don't allow the girl to study after the marriage.[4] (Women, n.d.)
- 3- **Economic & Workplace Discrimination:** It means that women face economic, financial and professional challenges at their workplaces because of gender-bias. From the past centuries women are dependent on their father, brother, son or husband for the financial needs which violates their independency. This neglects the personal needs of women, restricts their financial freedom & limits the growth of their career. There are many issues that lead to economic & workplace discrimination like "Gender pay gap", women are often paid less than men even if they are at the same position as the male candidate,

it is considered that a woman will give less outcome and contribution than a man if they are given the same role. Apart from this, men are preferred by the companies to work at their places because they think that women due to periods every month would not work efficiently and effectively which might result in company's losses. It is even experienced by females in the entertainment industry, successful actress Priyanka Chopra has said several times in her interviews that she, as a lead actress of a movie, has never received the same amount of check as the male lead, she got it after 10 years for working in the entertainment industry. Motherhood penalty is also one of the reasons, women who take maternity leaves and have caregiving responsibilities towards their families receive lower salaries and fewer promotions. Women have limited access to jobs as they are given job offers for lower paying jobs like teaching and men on the other hand get jobs opportunities from finance and tech companies. Most of the unpaid laborers are women which is result of lack of financial support or retirement facilities. Women are told to look after their child and the household responsibilities rather than getting a job. Women experience sexual harassment by the people at workplace which can either be staff member or someone working at an authoritative position. [5] (Chopra, 2016-2020)

- 4- **Political Discrimination:** It refers the biased participation and attention towards one in opposition of the another. Political discrimination against women is another gender-based discrimination which is being exercised from many centuries. This form of discrimination weakens the government and slow down the development process of the country. If we take a look in the history we have seen men being the warriors, kings, leaders and monarchs but women had less involvement in the roles of being at an authoritative and leadership position because they are seen as a less valuable human who doesn't have the ability to take responsibility of managing a large group of people. Women are not given enough opportunities to even take part in the politics for a country, they are just simply denied because they are a women and it's not their cup of tea and they won't be able to do it just because they are a female human being. When women are given a chance to be a part of politics they are assigned with soft topics like health & family rather than defense and economic issues. There are stereotypes that women are very emotional species and they can't manage their emotions and politics at the same time, it is said that women are too emotional for politics. Also, women are forced to prioritize their family over politics and other things.

REASONS FOR VIOLATION OF WOMEN RIGHTS

- 1- *Deeply-Rooted Patriarchy*
- 2- *Gender Discrimination & Stereotypes*
- 3- *Lack of Education & Awareness*
- 4- *Economic Dependence on Men & Delayed Justice*
- 5- *Workplace Discrimination*
- 6- *Violence Against Women (Domestic, Sexual, and Honor Crimes)*
- 7- *Dowry System & Marital Exploitation*
- 8- *Child Marriage & Forced Marriages*
- 9- *Sexual Harassment & Objectification of Women*
- 10- *Cyber Harassment & Digital Exploitation*
- 11- *Religious & Cultural Constraints*
- 12- *Caste-Based Discrimination Against Women*
- 13- *Political Underrepresentation & Suppression*
- 14- *Female Foeticide & Infanticide*
- 15- *Unequal Property & Inheritance Rights*
- 16- *Limited Access to Healthcare & Sanitation*
- 17- *Restrictions on Freedom of Movement & Clothing*
- 18- *Media & Pop Culture Reinforcing Gender Bias*

ACTS FORMED FOR WOMEN'S SECURITY [6] (Women N. C., n.d.)

- 1- *The Bengal Sati Regulation, 1829*
- 2- *The Hindu Widow Remarriage Act, 1856*
- 3- *The Age of Consent Act, 1891*
- 4- *The Child Marriage Restraint Act (Sarda Act), 1929*
- 5- *The Constitution of India, 1950*
- 6- *The Special Marriage Act, 1954*
- 7- *The Hindu Marriage Act, 1955*
- 8- *The Hindu Succession Act, 1956*
- 9- *The Immoral Traffic (Prevention) Act, 1956*
- 10- *The Maternity Benefit Act, 1961*
- 11- *The Dowry Prohibition Act, 1961*
- 12- *The Medical Termination of Pregnancy (MTP) Act, 1971*
- 13- *The Equal Remuneration Act, 1976*

- 14- *The Factories Act, 1948 (Amended in 1987)*
- 15- *The Commission of Sati (Prevention) Act, 1987*
- 16- *The Indecent Representation of Women (Prohibition) Act, 1986*
- 17- *The National Commission for Women (NCW) Act, 1990*
- 18- *The Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994*
- 19- *The Protection of Women from Domestic Violence Act, 2005*
- 20- *The Prohibition of Child Marriage Act, 2006*
- 21- *The Criminal Law (Amendment) Act, 2013 (Nirbhaya Act)*
- 22- *The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)*
- 23- *The Maternity Benefit (Amendment) Act, 2017*
- 24- *The Muslim Women (Protection of Rights on Marriage) Act, 2019*
- 25- *The Surrogacy (Regulation) Act, 2021*
- 26- *The Medical Termination of Pregnancy (Amendment) Act, 2021*
- 27- *The Women's Reservation Bill, 2023 (Nari Shakti Vandan Adhiniyam)*

LET’S SEE WHAT THE SURVEYS SAY ABOUT: [7] (Centre, n.d.)

- **Teaching boys to treat all women with respect will lead to women’s safety...**

Roughly half of Indians prefer to improve safety of women by teaching boys to respect all women

% of Indian adults who say to improve the safety of women in their community, it is more important to ...

	Teach boys to respect all women	Teach girls to behave appropriately	Women are already safe*	Improve law and order/policing*	Both/depends/other*
General population	51%	26%	2%	7%	13%
Hindus	52	26	2	6	13
Muslims	47	27	2	9	13
Christians	41	22	2	11	21
Sikhs	40	20	2	12	23
Buddhists	56	22	1	10	10
Jains	51	25	1	6	17
Men	48	27	2	8	14
Women	53	24	1	6	13
Ages 18-34	52	25	2	7	12
35+	50	26	2	6	14
Less than college	51	26	2	6	13
College graduate	49	23	2	11	15
General Category	50	26	2	10	11
Lower castes	51	25	2	5	15
Religion very important	52	26	2	6	13
Religion less important	43	25	2	11	16

* Answer options not read aloud.
 Note: Don't know/Refused responses not shown. Lower castes include Scheduled Castes/Tribes as well as Other/Most Backward Classes.
 Source: Survey conducted Nov. 17, 2019-March 23, 2020, among adults in India. See Methodology for details.
 "How Indians View Gender Roles in Families and Society"

- **Women should have same rights as men...**

Indians overwhelmingly say they value gender equality

% of Indian adults who say it is very important for women to have the same rights as men

General population	80%
Hindus	81
Muslims	76
Christians	70
Sikhs	83
Buddhists	91
Jains	83
Men	79
Women	82
Ages 18-34	82
35+	79
Less than college	80
College graduate	84
General Category	80
Lower castes	81
Religion very important	83
Religion less important	65
Favorable view of BJP	83
Unfavorable view of BJP	76

Note: Lower castes include Scheduled Castes/Tribes as well as Other/Most Backward Classes.

Source: Survey conducted Nov. 17, 2019-March 23, 2020, among adults in India. See Methodology for details.

"How Indians View Gender Roles in Families and Society"



- Men should have more rights than women to scarce jobs...

Majority of Indians say men should have more rights than women to scarce jobs

% of Indian adults who _____ that, when there are few jobs, men should have more rights to a job than women

	Completely agree	Mostly agree	Mostly or completely disagree
General population	56%	23%	17%
Hindus	56	23	17
Muslims	64	22	12
Christians	34	28	34
Sikhs	52	29	15
Buddhists	49	24	27
Jains	42	27	29
Men	59	23	16
Women	54	23	19
Ages 18-34	55	23	19
35+	57	23	16
Less than college	57	23	17
College graduate	49	25	24
General Category	58	23	17
Lower castes	56	23	17
Religion very important	60	21	16
Religion less important	38	35	24
Urban	52	26	20
Rural	58	22	16
Favorable view of BJP	59	23	16
Unfavorable view of BJP	54	22	17

Note: Don't know/Refused responses not shown. Lower castes include Scheduled Castes/Tribes as well as Other/Most Backward Classes.

Source: Survey conducted Nov. 17, 2019-March 23, 2020, among adults in India. See Methodology for details.

"How Indians View Gender Roles in Families and Society"

BRIDGING THE GAP BETWEEN “HAVING THE RIGHTS” & “EXECUTING THEM”

After years of exploiting women, some people recognized that women’s need rights to survive too and many acts were introduced many movements were held by women so that they can get access to the rights they deserve. Now a new problem arises that even after introducing many rights for women on a national level the discrimination against women and violation of their rights has not stopped yet. The very reason for this problem is the society, people are still following the old patriarchal norms in name of their tradition which they cannot leave behind just for the sake of following the laws and rules made by the government. Many feminists have

made influential videos, podcasts and songs for promoting equal rights & opportunities for men and women. There is a lot of corruption, lack of awareness and deeply rooted patriarchal beliefs prevents them from being fully implemented. Women have the constant fear of being violated, assaulted, dominated whether in public places, home or workplaces which limits their freedom from asserting themselves. The legal process is also very slow, expensive and male dominated which make it very difficult for many women to access. However, some countries have narrowed this gap by enforcing strict policies, spreading awareness, promoting gender equality in education & political representation. Bridging the gap will require efforts of both the government's law, policies & the civic sense of people to ensure that women's rights are not just written in the constitution but are also actively practiced in everyday life.

CONCLUSION

Women have gone through so much in their even to achieve human rights and after they are made women are still not being able to live with freedom and dignity as the execution of these laws and policies made for women is very poor. While laws exist to protect women, Lack of awareness, civic sense of the Indian people, deeply rooted patriarchy & social stigma all are reasons for its ineffectiveness. Women safety still remains a critical issue because of sexual harassment, violence, gender biasness and trafficking because ensuring that women are safe can not only be done by the government and their policies but also the people of the society needs to take care of them and be accountable to their action, if they do something against women, as it is necessary.

REFERENCES

- [1] Hillary Clinton, Speech at the United Nations Fourth World Conference on Women, Beijing, 1995.
- [2] Radhika Kapur, *Women's Rights in India*, University of Delhi.
- [3] Prof. S.J. Michael, "A Study of Women Rights in India," IJCRT, Kristu Jayanti College, Bangalore.
- [4] National Commission for Women, *Laws Related to Women*, Government of India, <https://ncw.nic.in>.
- [5] Priyanka Chopra, Interview with BBC and Times of India (various sources, 2016–2020).
- [6] National Commission for Women, *Acts for Women's Security*, <https://ncw.nic.in>.
- [7] Pew Research Center, Gender Attitudes in India Survey, Nov 2019 - Mar 2020