

“Women’s Rights Are Human Rights”

**Ayush Shankar
Amity Law School,
Amity University, Noida*

***Kavya Arora
School of Law,
UPES Dehradun*

Introduction

“It is impossible to think about the welfare of the world until and unless the condition of women is improved. Same as it is impossible for a bird to fly only on one wing.”

-Swamy Vivekananda

Human rights are the basic rights which every individual is entitled to receive. Yet, there are certain sections of the society that are still incapable of receiving these particular set of rights. As the now-famous saying goes, “women’s rights are human rights”, it is to say that women too are entitled of all these rights which they have been deprived off for a long period of time just because of their gender. If equality between both men and women is to be ensured in all aspects and in all walk of life regardless of the differences in their natural functions is required then, as per Justice V.R. Krishna Iyer, “The heritage of human wrongs” must be replaced by the “estate of human rights”. Put simply, this discrimination against women has to be outlawed in order to provide support and opportunities to women to shape a just and fair society.¹

Despite the changes made by different countries, Women have not yet been given an equal set of rights as of men. They are still being deprived of their basic rights like right to life or right to education. In countries where women are given an opportunity to work, there as well they are not being paid equal to the men who do the same job. These issues relating to women are global and universal. That is why in order to progress as a society or as a country it is very important that we as a nation recognize these rights and make sure that these rights are implemented in order as well.

¹ The Times of India, 13th Feb, 1979

Human Rights are the great ethical instruments that are used to measure the working of the government for its people. Throughout the history the preservation of human rights have always been cherished in a civilised society, the need of the preservation of human rights started after the unprecedented misery, death and destruction kindled the conscience of the world placed during the World War II. The view of protecting the rights of the human all over the world made a serious issue to imply on it by the every government of the world for the safety of the human being living in the territory.

Protection of women Under National Human Right Law

"If women are expected to do the same work as men, we must teach them the same things."

-Plato

According to the earlier trace of human society, the women were always traced as thrall and had no rights of living in a society full which is of male domination, but after some great stride people started building sentiments for women, starting from the Gandhian era to the modern society the needs for the protection of women's rights is being evolved day by day.

Despite a number of policies and programs and their implementation for improvement of the status of women at international level, commitment of the States to do away gender discrimination, no one should hesitate to accept the disparity between men and women in every sphere of life in society persists and they are still in a disadvantageous position all over the world over even in advanced countries.

Since Independence, The Government of India has made several efforts towards removing various gender biases to ensure that women enjoy equal status vis-à-vis men in the real sense as enshrined in the Constitution of India.

Constitution of India envisioned a just society, where there is no discrimination based on sex (gender just society) and pledged to ensure social, economic and political justice to everyone. Not only that, it resolved to ensure equality of status and of opportunity for everyone and the dignity of individual.² In order to implement these objectives the Constitution made elaborate provisions. In order to ensure civil and political rights or political justice, citizens have been guaranteed Fundamental rights in Part III of the Constitution. Similarly, to ensure economic

² See preamble of the Constitution of India

and social justice, provisions have been made in Part IV, which are popularly known as Directive Principles of State Policy.

The Government of India's determination to build a gender just society drew its inspiration from the countless struggle of women for their rights all over the world and their advances in the fields as diverse as literature, mountaineering and space. The movement of the underprivileged and deprived sections for securing a place for themselves under the sun strengthened the resolve of the Government of India and the States to make a gender just society. And, it would be appropriate here to have a look over those policies, programmes and activities, which have a material bearing on gender just society.

The view of protecting the rights of the people of India was spot by Bal Gangadhar tilak under his swaraj bill which emphasised the importance of fundamental rights. In 1921 at the madras session, Indian national congress passed a resolution stating that the constitution of India must contain a declaration of fundamental human rights.³

The constitution has laid down all the provision for the equal status of both men and women. A very quick and important legislation has been made for the status of women, the constitution of India guarantees the fundamental rights and freedom such as protection of life and personal liberty. Under:-

Article 15(3): This Article does not Prevent the state from making any provision which is benefit for women and children, the state is free from every hinders to make any law which benefits the women and children of the country

Article 16: Equality of opportunity to all the citizen in matters of public employment

Article 16(1) says that there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any state office

Article 16(2) says that in India No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them can be disqualified or can distinguished against state office

Article 43: The state shall encourage and secure weaker section by the legislation or any economic organisation to all the works in the field of agriculture, industrial or any other or

³ The Constitution of India, Article 32

else to provide a decent standard of living with decent amount of wages in rural areas. **Article 51A(e)** this article encourages the state to promote harmony and the spirit of common brotherhood amongst all the people of India without any discrimination on the basis of religious, linguistic and regional or sectional diversities, and also go promote the dignity of the women in the country

Under **Section 354** of Indian Penal Code it is stated that, any person who assault or by criminal force tries to outrage the modesty of the women will accused of 5 years of imprisonment or more or fine or both

Under **Section of 366** Under the section 366 of Indian Penal Code it is stated that no person can kidnap or abduct a women to marry him forcefully or without the consent of the girl then the person will be accused of 5 years of imprisonment or more or fine or both

Under **Section of 366A** Under The section 366A of Indian Penal Code it is stated that, any person who by any means induce a minor girl (below 18) to go from any place or to induce herself in such activity which is beyond her limits or modesty then that person will be accused of 10 years of imprisonment or more or fine or both

Under **Section of 304(b)** If the woman by cruelty or harassment has been subjected to death or any bodily injury within the seven years of her marriage by her husband or relatives, because of the dowry then such death will be termed as dowry death which directly is the consequences of dowry, any person who commits the dowry death shall be accused of imprisonment of seven years not less than or fine or both

Under **Section of 312** If a women voluntarily miscarry a child, if such miscarriage is not caused in good faith for the purpose of saving the life of the woman, then the person will be held liable and to be punished with imprisonment of either description for a term which may extend to three years, or with fine, or with both.

Under **Section of 313** If any person commits any offences preceding in the section 312 without the consent of the women then that person shall be punished for life imprisonment

Under **Section of 494** if a person either wife or husbands marries to other person during the life of the husband or wife then that person will be punished with imprisonment of either description for a term which may be extend to seven years or fine or both

Under **Section of 498A** if a person who is husband or relative of the husband subjects the women to cruelty then the husband or the relative of the husband will be punished for three years of imprisonment or fine or both

Under **Section of 509** any person who insults the modesty of the women by utterance of word gesture or any other object in which the privacy of the women is harmed then that person will be held liable for simple imprisonment for a term which exceeds to three years or fine or both

The 73 & 74 constitutional amendment were passed by Parliament in December, 1992 whereby provisions for reservation of seats for women is made in Panchayats and Municipalities.

Enactments Relating to the Rights of Women

Some of the major enactments that have led to the empowerment of women are as follows:-

- The Commission of Sati (Prevention) Act, 1987
- Widow remarriage made legal in 1856
- Female infanticide banned in 1870
- Child Marriage Restraint Act, 1929
- Women get limited Right to Property in 1937
- Suppression Of immoral Traffic in Women and Girls Act, 1956
- Dowry Prohibition Act, 1961
- Immoral Traffic (Prevention) Act, 1956
- Indecent Representation of Women (Prohibition) Act, 1986
- The Medical Termination of Pregnancy Act, 1971
- The National Commission for Women Act, 1990
- The Protection of Women from Domestic Violence Act, 2005

Judicial System and Human Rights

The Judiciary in contributing to this movement:- In *Bodhisattwa Gautam v. Miss Subhra Chakraborty*⁴, a teacher exploited and raped his own pupil. The Supreme Court observed rape is not only a crime against the woman, it is a crime against the entire society.

⁴ *Gautam v. Miss Subhra Chakraborty*, AIR 1996 SC 922.

In *Vishaka v. State of Rajasthan*⁵, The Supreme Court held that sexual harassment of working women amounts to violation of gender equality and right to life and liberty.

In *Randhir Singh v. Union of India*⁶, The Supreme Court while holding that non-observance of the principle of “equal pay for equal work” for both men and women under Article 39(d) of the Constitution of India amounted to violation of art 14 and 16 which recognized that the principle of equal pay for equal work was expressly recognised by all socialist systems of law including the Preamble to the Constitution of the International Labour Organization.

In *Toguru Sudhakar Reddy and another v. The Govt. of Andhra Pradesh*⁷, The court held that there should be reservation for women in elections.

In *Dattatraya Motiram v. State of Bombay*⁸, The court held that there should be reservations for women in college.

In *Budhadev Karmaskar v. State of West Bengal*⁹, The Supreme Court emphasised the need to provide a life of dignity to the sex workers in our country by giving them some technical skills through which they can earn their livelihood instead of by selling their bodies.

The Supreme Court in *Government of Andhra Pradesh v. P.B. Vijaykumar*¹⁰, held that reservation of posts for women or special preferences given to them was constitutionally valid. Justifying the women reservation in the political processes the Supreme Court in *Rajesh Kumar Daria v. Rajasthan Public Service Commission*¹¹, pointed out that a special provision for women made under Article 15(3), in respect of employment, is a special reservation as contrasted from the social reservation under Article 16(4). The method of implementing special reservation is a horizontal reservation and cutting across vertical reservations. However, the special reservation under Article 15(3) is distinct from the reservation under Articles 243-D and 243-T.

⁵ *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

⁶ *Randhir Singh v. Union of India*, AIR 1982 SC 879.

⁷ *Toguru Sudhakar Reddy and another v. The Govt. of Andhra Pradesh*, AIR 1994 SC 544.

⁸ *Dattatraya Motiram v. State Of Bombay*, AIR 1953 Bom 311

⁹ *Budhadev Karmaskar v. State of West Bengal* AIR 2011 SC 361.

¹⁰ *Government of Andhra Pradesh v. P.B. Vijaykumar*, AIR 1995 SC 1648.

¹¹ *Rajesh Kumar Daria v. Rajasthan Public Service Commission*, AIR 2007 SC 3127.

Conclusion

"The education and empowerment of women throughout the world cannot fail to result in a more caring, tolerant, just and peaceful life for all."

-Aung San Suu Kyi

Human rights issues affecting women are part of the responsibility of the domestic countries parliament and the authorities and they are the responsibility of all the judges who have undertaken an appointment to the bench to do justice without fear or favour, affection or ill-will. Moreover, it is the responsibility of each and every one to ensure on their part that they are giving the respect and opportunity that women deserve.

Tragically, women are the ones who are deprived of their rights on a day to day basis. Even now, within the late twentieth century, the rape of women continue to take place on such a large scale. Laws have been made strict but their implementation still remains the same. Women forms a part of the majority of the world's refugees. And once women are excluded from the political process, they become even more vulnerable to abuse. Women should have the rights to participate in the social and political lives of their countries, if we want freedom and democracy to thrive and endure.

As long as discrimination and inequities remain so commonplace all over the world, as long as women and girls are valued less, fed less, fed last, overworked, underpaid, not schooled, and subjected to violence in and outside their homes -- the potential of the human family to create a peaceful, prosperous world will not be realized. Thus, in order to overcome this issue each one of us has to realize its importance and work towards it.