

LEGAL EFFORTS TOWARDS WOMEN PROTECTION

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ABSTRACT

People's basic equal and inalienable rights as members of the global human community, regardless of gender, ethnicity, language, race, religion, nationality, or any other factor, can be summed up in the phrase "human rights." While India's Constitution provides equality for both sexes, the actual state of women's human rights in the country cannot be described as adequate despite these rights being recognised in the form of multiple fundamental rights. Due to the current structure and practises of Indian society, there is a significant discrepancy between the de facto and de jure conditions. As a result of India's patriarchal system, the status of Indian women is lower than that of men. In every aspect of their lives, they are subject to prejudice, injustice, and shame because of their gender.

KEYWORDS: *Women, Discrimination, Harassment, Crimes, Human Rights, Violation.*

INTRODUCTION

Since the dawn of time, women have been subjected to oppression in our country. They've been unfairly slapped on the wrist. It's particularly heartbreaking because this country is home to countless deities. Since independence, the government has worked hard to ensure equal rights for men and women. Dictionary definition: "The practise of unfairly treating a person or a group differently from other people and/or other groups," according to Marriam-Webster Dictionary Discrimination goes to the very core of what it means to be human. When someone is treated unfairly just because of their religious or political beliefs, this is called discrimination. Race, ethnicity, nationality; class; caste; religion; sexual orientation; gender identity; age; health or other status are all factors that must be taken into consideration when determining a person's treatment. There are far too many examples of people who have been subjected to brutality because they're from a "different" group than those in authority.

LITERATURE REVIEW

Norman Loayzatea Trumbic (2021) the global economic catastrophe triggered by the COVID-19 pandemic is wreaking havoc on the lives of the majority of people. However, men and women have reacted to it in different ways. The COVID-19 pandemic has a greater impact on women since they are more likely to work in the health care, unpaid care, and domestic sectors. Women are still paid less than males for the same work, are responsible for more child care, and are more likely to be victims of domestic violence. As a result of the epidemic, women's involvement in the workforce has decreased, putting decades of progress at jeopardy. Despite the fact that the COVID-19 pandemic is still claiming lives and livelihoods at the time of this writing, efforts by the government to address the pandemic's gender consequences have fallen short.

Bhartiya Stree Shakti (2017) India's Ministry of Women and Child Development (MoWCD) has agreed to conduct an investigation of the impact of new policies and laws. Researchers working on a study titled "Tackling Violence Against Women: A Study of State Intervention Measures" hoped to assess the impact of new laws on crime and reporting rates, as well as changes in public awareness of the problem. Involved parties in the investigation included police stations and government social cells as well as counselling centres, non-profits, and medical and legal professionals. Maharashtra, Kerala, Uttar Pradesh, and Delhi are the four Indian states that we selected for this project. Two districts from each state have been selected depending on the level of violence against women in those areas. Each state has two districts, one of the highest and one of the lowest, in terms of violence against women.

Titan Alon, Matthias Doepke Jane Olmstead-Rumsey and Michèle Tertilt (2020) Women's rights and equality are profoundly affected by Covid-19's economic downturn and subsequent recovery. Distancing regulations have a greater impact on companies with high female workforces than on industries with lower female workforces during 'regular' recessions. School and daycare closures have increased the need for child care, particularly for working mothers. The crisis' consequences on working mothers are anticipated to continue for some time due to the high rates of experience-based compensation on the labour market.

Oriana Bandiera, Niklas Buehren, Markus Goldstein, Imran Rasul, Andrea Smurray(2019) A programme to improve the economic well-being of young women in Sierra Leone, where women are regularly abused and face numerous economic disadvantages, is being studied. There is a safe haven (a club) set aside for them where they can get help and information on health and reproductive issues in addition to vocational training. The epidemic of Ebola in 2014 coincided with the post-baseline period, which was unexpected. The impact of the Ebola 700 women tracked over the crisis and any ameliorating epidemic on the economic life of four villages were documented using quasi-random

across-village variance in the intensity of Ebola-related disruption and random assignment of villages to the intervention.

Rocío E. Hernández-Ruiz, corresponding author¹ Cristina Benavides-Reyes,¹ Santiago González-López,¹ and M^a Victoria Bolaños-Carmona (2019) We ran chi-squared tests ($p < 0.05$). A total of 422 participants, the average age of whom was 41, and 66% of whom were female dentists, provided thoughtful comments. However, 72.3 percent of dentists reported that the profession has "deteriorated" over the past year. When it came to gender fairness, women and men had quite different views, and the pay discrepancy between them was clearly evident (29.4 percent of males earned more of 4000 euros a month, while only 15.1 percent female dentists did). As a result, 49.5 percent of Spanish female dentists felt they were underrepresented in the highest dental association in the country (Consejo General de Dentistas - General Council of Dentists). Respondents had a generally poor view of dentists' work quality. In addition, men and women's views on critical components of professional development diverged.

WOMEN'S HUMAN RIGHTS UNDER CONSTITUTIONAL FRAMEWORK:

The provisions of the Indian Constitution are the authority for all other laws in India. As stated in the Indian constitution, "Justice" (social, economic, and political) is guaranteed to all citizens together with "Liberty" (freedom of speech), "Equality" (equal access to resources and opportunities), and "Dignity" (individual and national dignity). The preamble of the Indian constitution guarantees the fundamental human rights of both men and women with these words. The equality of men and women is a central theme of India's constitution. However, women have been given specific protection under the constitution's provisions on human rights for women.

- **Right to Equality under Article 14:**

All human beings are born free and equal in dignity and rights, and Article 7 of the Universal Declaration of Human Rights guarantees equality before the law. Because the state cannot refuse anyone in India's territory equality before the law or equal protection of the laws, women have the same legal standing as males under India's constitution.

- **Right against Discrimination:**

Everyone has equal rights and freedoms guaranteed by Article 2 of the United Nations Declaration of Human Rights. Article 7 also discusses the protection of equal rights. It is illegal for any official authority in India to discriminate against citizens since the state cannot discriminate against any citizen on the basis of their sex, race, caste or place of birth. No citizen shall be subject to any disability, liability or restriction with respect to: (a) Assessing shops, public restriction or hotels and

public entertainment places or (b) The use of wells, tanks, bathing Ghats, roads and public resorts maintained wholly or partly out of state funds or dedicated to the general public. This applies to all citizens equally. Under the article's clause (3), the state can provide exceptions to the norm of non-discrimination for women.

- **Right to Equal opportunity in Public Employment:** All citizens, male or female, have the same opportunity to work in government because of equality of opportunity for all citizens, regardless of gender, in matters relating to employment or appointment to any office under state, and no citizen can be excluded from or discriminated against solely on the basis of religious affiliation, race, caste, sex, descent, place of birth, or residence. The government, on the other hand, has the power to establish regulations regarding reservations.
- **Right to Freedom of Speech and Expression:** UDHR article 19 guarantees the right to freedom of thought and expression to everyone. Women can use Article 19 (a) of the Indian Constitution, which provides freedom of speech and expression to all people, to speak out on any issue that affects them.
- **Right to work:** In Article 23(1) of the United Nations Declaration of Human Rights, everyone is guaranteed the right to work, the freedom to choose a job, and the protection against unemployment. Indian women have the right to work because of Article 19 (g), which recognises such a right and ensures that all citizens are free to practise any occupation or business they choose.
- **Right to Life and Personal Liberty:** Article 3 of the Universal Declaration of Human Rights guarantees the right to life, liberty, and security of the individual. No one can be deprived of their life or freedom except in accordance with the procedures provided by law, as stipulated in Article 21 of the Indian Constitution. Article 21 of the Indian Constitution guarantees the right to life to all women and men.
- **Right against Exploitation:** Article 5 of the UDHR prohibits torture and other cruel, inhuman, or degrading treatment or punishment. Women's safety and the freedom to work are protected by Article 23 of the Indian Constitution, which prohibits human trafficking and bonded labour. The Indian parliament enacted the Suppression of Immoral Trafficking in Women and Girls Act, 1956, which was renamed the Immoral Trafficking (prevention) Act, 1956, to execute this article's idea. State policy should be based on constitutionally mandated principles to ensure that women's equality is protected. In this context, these are the pertinent articles:
- **Right to Livelihood:** Regardless of gender, every person is guaranteed the right to an adequate standard of living under Article 39(a). Article 23(3) of the United Nations Declaration of Human Rights states that everyone who works has the right to a fair and adequate compensation.

- **Equal Pay for Equal Work:** Article 39 (d) of the Indian Constitution mandates that the government focus its policies on ensuring that men and women receive equal pay for equal work. Article 23(2) of the United Nations Declaration of Human Rights offers such a right.
- **Right to Health:** It is guaranteed by Article 39 (e) of the Constitution of India that the state's policy should be geared toward ensuring that employees, men and women as well as children of all ages, are not abused or forced by economic necessity into avocations that are not appropriate for their age or strength. Additionally, Article 25(1) of the United Nations Declaration of Human Rights states that all people have the right to a standard of living suitable for their health and well-being.
- **Equal Justice and Free Legal Aid:** Under Article 39A of the Constitution, persons who cannot pay the fees of a lawyer are given financial aid. This means that in order to provide equal access to justice for all citizens, the state must ensure that legal systems operate in a way that promotes fairness and equal opportunity for all citizens, including by providing free legal aid through appropriate legislation or programmes.
- **Just and Human Conditions of Work and Maternity Relief:** A constitutional provision mandates that the state provide for reasonable and human working conditions including maternity benefits.
- **Right of Constitutional Remedies:** A woman who has been wronged can take her case to the Supreme Court or the High Court and file a writ petition under Article 32 or Article 226 to get justice, but there is no such mechanism in place for Directive Principles of State Policy, which are not enforceable by any court with writ jurisdiction. Through its policies, the state is obligated to uphold these values. As a result, the state bears a moral responsibility to put Directive Principles of State Policy into action.

WOMEN'S HUMAN RIGHTS PROTECTED UNDER VARIOUS LEGISLATIONS:

In India, different laws recognize and safeguard the human rights of women in the form of legal rights. These rules are critical if we are to secure the full equality of women in all spheres of society.

1. Right to live with Dignity: Article 51 (A) (e) of the Indian Constitution mandates that every Indian citizen forsake behaviors that degrade women's dignity. A person's right to a dignity-filled existence is likewise guaranteed by Article 21. As a result, women have the ability to speak out against practices that violate their sense of worth and dignity. The Indecent Representation of Women (Prohibition) Act, passed in 1986, states that no woman may be depicted in an indecent manner in any publication, painting, writing, or advertisement. It is possible to file a complaint against someone who pulls on your dupatta, Sari, or any other article of clothing under Section 354

of the Indian Penal Code (1860). The Sexual Harassment of Women at Work (Prevention, Prohibition, and Redress) 237 Act gives her the right to file a complaint if such an incidence occurs at work. Rape victims' names and identities can be protected under Section 376 of the Indian Penal Code, 1860 by lodging a First Information Report, which is punishable by imprisonment for up to two years and a fine if the identity of the rapist is made public, as it is an offence under Section 228-A of the Indian Penal Code, 1860.

2 Right to Use Earnings: A woman has the right to spend the money she earns in whatever way she sees fit. The Married Women's Right on Property Act, 1834, expanded the definition of women's personal property to include: (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) women's insurance policies. All of these assets are included in their income, and the women can make use of them as they see fit.

3. Right to own Property: Section 14 of the Hindu Succession Act, 1956, gave Hindu women full ownership of the assets they owned (1). Section 14(1) was maintained by the Supreme Court in *Harak Singh v. Kailash Singh and Anr.* The reversionary rights of Hindu women were greatly reduced as a result of this Act. As a result, Hindu women enjoy complete ownership rights to any property they own outright or have received as a gift or inheritance.

4. Right to Private Defence: Many times a woman finds herself in very difficult situations that apprehend immediate assault on her. If there is no one to save her or rescue her from such assault, the law empowers her to defend herself in form of 'Right to Private Defence'. Right of self-preservation existed during ancient India and self-help was the first rule of criminal law. At present, such right has been given to women under sections 96, 98, 100, 102 and 103 of Indian penal code, 1860, which can be practised by women in adverse situations.

5. Right against Discrimination in Employment: Article 23 (1) of UDHR provides everyone the right to work with free choice of securing a job in a fair and equitable manner. The Sex Discrimination Act, 1975, prohibits discrimination on the basis of sex or marital status in any employment, public or private, in India. All governmental and private sector personnel are covered by the law. Sex Discrimination Act, 1975 was passed to protect women from sexual discrimination, although its provisions are also apply to men, with the exception of measures for pregnant women that were put into the act. In the event of sex or marital status discrimination, any woman or man can file a complaint. Existing employees, former employees, and job applicants are all covered by the law. In addition, women are safeguarded by the Constitution's provisions 14, 15, and 16 from state discrimination.

6. Right to get Equal Pay: According to Article 39(d) of the Constitution, equal pay for equal labour is guaranteed by the United Nations Declaration of Human Rights and the state is obligated to implement policies to provide equal pay for men and women. State policy directives cannot be enforced by the courts, but the Constitution's Parts IV and III are not meant to be exclusive of each other, the Supreme Court ruled in 'State of Madhya Pradesh v. Pramod Bharatiya'¹⁶. In truth, their strengths lie in their differences. It is as much a part of Article 14 as Article 16's clause (1), which states that equal compensation for equal effort. In D.S. Nakara v. Union of India¹⁷, the Supreme Court decided that Articles 14 and 15 of the Constitution, when read in conjunction with the Preamble and Article 39 (d), explicitly establish equal compensation for equal work for all citizens. By establishing the Equal Remuneration Act, 1976, the Parliament acknowledged that women had a right to equal compensation and that an employer cannot discriminate against women and men in terms of their employment contracts. As a result, the scope of the law goes well beyond the terms and circumstances of payment. All employees' contracts must include a "equality clause" to ensure that no one is treated less favourably because of their gender. When a woman's terms and conditions of employment are less favourable than those of her male coworkers, she is entitled to compensation under the Equal Pay Act. ¹⁸

7. Right to get Minimum Pay: Everyone, including women, has the right to a just and advantageous remuneration for their labour that is sufficient to support themselves and their families with dignity under Article 23(3) of the UDHR. The Minimum Wages Act of 1948, established to set minimum wage rates for specific types of employment, recognises such a right in the Indias. For women who labour in small jobs, the Minimum Wage Act ensures that they are paid the minimum wage for their efforts.

8. Right against Sexual Harassment at Work Place: Sexual harassment in the workplace is a major issue for all women, no matter where they work: in the public sector, the private sector, organised industry, or the unorganised industry. Almost all female workers have encountered this issue at some point in their careers. There are male coworkers that take advantage of the female coworkers because they believe the females lack self-respect and dignity, and so they take advantage of them. Sexual harassment is defined as inappropriately touching female coworkers against their will, distributing pornographic material or literature, or attempting to persuade them to engage in sexual intercourse. Under Article 142 of the Indian Constitution, the Supreme Court issued 12 guidelines in the landmark case of 'Vishakha and other v. State of Rajasthan and Others'¹⁹ and declared them to be law. An measure aimed at protecting women from workplace sexual harassment was finally passed in 2013 after a 16-year hiatus. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redress) Act, 2013. If an employer fails to set up an internal complaint

committee to deal with complaints from female employees about sexual harassment, they could be fined up to Rs 50,000. Section 354 of the Indian Penal Code (IPC) has been broadened to cover sexual harassment in the workplace, punishable by up to three years in prison and/or a fine, by the Criminal Law (Amendment) Act, 2013. A complaint under section 354 of the Indian Penal Code (IPC) can be filed by any offended woman for any unwanted touch or behaviour.

9. Right of Maternity Benefit: Every woman must take time out of work to carry a child, which need financial support for both her living and her medical care during this time. Working women need maternity benefits to stay afloat financially and to safeguard their health. Certain enterprises are subject to the Maternity Benefit Act, 1961, which governs the employment of women employees before and after the birth of a child and provides them with maternity benefit and other perks. All factories, mines, and plantations, public or private, are covered by the law. The scope of the state government's jurisdiction may be expanded to include industrial, commercial, agricultural, or any other establishments. The law forbids women from returning to work for six weeks following the date of their delivery, miscarriage, or medical termination of pregnancy.

10. Right to claim Maintenance: Section 125 of the Code of Criminal Procedure, 1973 recognises the right of a woman to receive support from her husband. It is also included in Section 18 of the Hindu Adoption and Maintenance Act, 1956. Using these regulations, women can get support even if they and their husbands are no longer living together. In *Bhagwan Dutt v. Kamla Devi and Anr*²¹, the Supreme Court declared that if a woman's monthly income is insufficient to support her, she has the right to seek maintenance. "Unable to maintain herself" does not necessitate a woman to be completely impoverished, as the court has stated. In the event of her remarriage or conversion to another religion, her right to support is limited.

CONCLUSION

Multiple Indian laws, rules, and regulations have been enacted to protect the rights of women. But these measures have been shown to be ineffectual since they all take the form of "Act" rather than "Action." This is why Indian women are subjected to physical and emotional abuse and harassment. What are the benefits of giving women particular rights? What are the advantages of passing such legislation for women? If so, how much of a benefit is it? Is it possible that women may one day be given the same status as men? The answers to all of these questions remain a mystery. Answers to these kinds of questions are still a long way off. It's time to reassess this issue and take action to create a more welcoming environment for women. Vivekananda correctly stated, "The welfare of the world cannot be achieved unless women's conditions are improved." A bird can't fly with just one wing since that would be impossible.

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