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WOMEN RIGHTS

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ABSTRACT

In the past, human rights have been conceptualized in a way that did not take account of women's lives and the fact that they experienced violence, crime, discrimination and coercion. In the past, women followed certain norms and traditions that put many restraints upon them, primarily in the male dominated society. The work of activists, human rights mechanisms and States has been critical in ensuring that the human rights framework has developed and adjusted to summarize the gender specific dimensions of human rights violations to safeguard women in a better way. Efficiently ensuring women's human rights requires a wide-ranging understanding of the fundamental societal structures and power relations that define and stimulate the ability of the women to enjoy human rights. These power structures have an impact on all aspects of life, from law and politics, to economic and social policy, family and community life, education, training, skill development and attainment of employment opportunities.

Keywords: Women, Empowerment, Rights, Violations, Education, Development

INTRODUCTION

Achieving equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values. Women all over the world, however, commonly experience violations of their human rights throughout their lives, and human rights of women have not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are deprived of equality so as to develop appropriate strategies and norms to eliminate such discrimination. Some groups of women experience additional forms of discrimination, based on their age,

ethnicity, nationality, religion, health status, marital status, education, disability and socio-economic status. These interconnecting forms of discrimination must be taken into account when formulating measures and responses to combat discrimination against women.¹ Combating against discriminatory treatments is essential for the progress of women. Besides these, one should give priority to the rights of women and promote their effective implementation.²

Women have an important role to play in the society. They are regarded as primary sources that raise and nurture the family. In spite the fact that the women's contribution to the progress of the country is equal to that of their male counterpart, still they experience a number of limitations that restrict them from realizing their potential for growth.³ It was against this perspective that the governments all over the world felt the need to prioritize the needs and interests of women and recognize their contribution in various stages and overcoming impediments that would take place within the course of their empowerment.⁴ The term, women's empowerment implies the capacity of the women⁵ in taking all the important decisions on an independent basis that are related to her, throughout her life span that will lead to her success in all phases of life.⁶

VIOLATION OF WOMEN'S RIGHT

The areas that violate the rights of women in India have been stated as follows:⁷

1. Missing of Women and Girls –

In many developing countries, the idiom of “missing women” has been used, when it was found, the proportion of women as compared to men is low in population. In many states of India, women and girls go missing.⁸ One of the primary reasons that lead to their missing is trafficking. When girls are trafficked, they are severely exploited and are deprived of food and other basic necessities.⁹ The girls belonging to the poverty stricken families are sold by the brokers to men in northern India, where the problem of imbalanced gender ratio is much apparent. Besides, there

¹ Women's Rights are Human Rights, 2014

² The Indian Experience, Saroj Pandey (Senior lecturer, DTEE, NCERT, New Delhi) , Social Action, Vol. 46, Jan-Mar.1996, p.p. 340-347

³ Mishra, Sweta , Women and 73 rd Constitutional Amendment Act: A Critical Appraisal , Social Action, Vol.44, 16-30, (1997)

⁴ Na Shariram Nadhi, My Body is Mine, by Sabala and Kranti, edited by Mira Sadgopal, 2 nd Edition 1996.

⁵ Gender equality through reservation in decision-making Bodies, By Shashi. S. Narayana. Social Action 1998, Pg 147

⁶Saryal, 2014

⁷ Ibid no 2

⁸ Mental health from a gender perspective, Edited by Bhargavi.V.Davar, New Delhi, Sage pub, 2001, pp. 427.

⁹ Law and Gender Inequality : The Politics of Women's Rights in India., Flavia Agnes, Oxford University Press, 1999,

have been cases of women, who go missing from their marital homes.¹⁰ The occurrence of violent and criminal acts against women within the house and outside, primarily lead to their absence.¹¹

2. Dowry Deaths –

In India, there has been an increase in the dowry deaths of women in their matrimonial homes. Disputes relating to dowry have become a serious problem.¹² The National Crime Records Bureau reported, in 2012, around 8233 newlywed women were killed for dowry. The taking and giving of dowry is observed as a crime within the country.¹³ The Dowry Prohibition Act' has not been put into operation in India in an appropriate manner.¹⁴ It has been discovered that mostly number of states neither have a Dowry Prohibition Officers nor do they made it mandatory to keep the record of things given and received.¹⁵

3. Domestic Violence –

There has been prevalence of domestic violence in India, in spite of the Protection of Women from Domestic Violence Act, 2005. Domestic violence is, when a woman experiences violent and criminal acts at the hands of their husbands, in-laws, fathers, brothers or other family members. These include verbal abuse, physical abuse, and inflicting various forms of mistreatment.¹⁶ There are numerous reasons for women experiencing domestic violence within their marital homes, these are inability to carry out the household tasks in an appropriate manner, financial problems, desire for a male child, unawareness and illiteracy on the part of women, experiencing problems in meeting essential needs and requirements, health problems and feelings of antagonism and resentment.¹⁷

4. Sati –

¹⁰ Women and Sexual Exploitation: Harassment at Work by Rehana Sikri, Kanishka Publishers, New Delhi: 1999

¹¹ Off the Beaten Track: Rethinking Gender Justice for Indian Women by Madhu Kishwar OUP, New Delhi: 1999

¹² Kishwar, Madhu, Sex Harassment and Slander as weapons of subjugation , Manushi, no.62, jan-feb-92, pg-2-15

¹³ Identifying Gender Backward Districts using selected Indicators, Preet Rustagi, Economic and Political Weekly, Vol. XXXV, No. 48, November 25 — December 1, 2000, pp. 4276-4286

¹⁴ Exploitation of Domestic Women Workers : Case Studies from Karnataka, Kerala and Tamilnadu, Social Action, Vol.43, April-June 1993, p.p. 235-241

¹⁵ Women's health and human rights: Monitoring the implementation of CEDAW. (2007). World Health Organization. Retrieved October 02, 2017.

¹⁶ Gender gap in Literacy in Uttar Pradesh : Questions for Decentralised Educational Planning, Lori Mcdougall, Economic and Political Weekly, Vol. XXXV, No. 19, May 6-12, 2000, pp. 1649

¹⁷ Representation for women, should Feminists Support Quotas, Meena Dhanda, Economic and Political Weekly, Vol. XXV, No. 33, August 12, 2000, pp. 2969-2976

Sati is a practice, when the widows were placed in the funeral pyres of their husbands. This practice was abolished by the social reformer Raja Ram Mohan Roy.¹⁸ It continues to prevail in the post-colonial India.¹⁹ The Sati Prevention Act was passed which declared the practice of Sati as a crime for which death penalty can also be given to the perpetrators.²⁰ The act also declared that the veneration of Sati by erecting a temple and worshipping of the deceased women as a God is also prohibited. However, certain sections of individuals perceives this law as intervention in their right to practice the dictates of their religion.

5. Child Marriage –

Child marriage is when the marriage of girls takes place, when they are below 18 years of age and when boys are below 21 years of age. Child marriage is regarded as a practice that deprives the girls of their childhood. They experience problems in the acquisition of education, getting enrolled in school, taking pleasure in other childhood activities and in enhancing their skills and abilities.²¹ It also effects the social, psychological and emotional development of the child in a negative way. When girl children experience domestic violence within their marital homes, they feel vulnerable and apprehensive. Child Marriage Act 2006 prohibits child marriage and declares 18 as the marriageable age for girls and 21 for boys.²²

6. Preference for a Male Child –

The individuals, who belong to rural communities and socio-economically backward sections of the society, normally give preference to the male child. They regard males to be the assets of the family and possess the viewpoint that they will contribute in generating welfare and enhancing reputation of their families.²³ The preference for the male child is a phenomenon, which is historically rooted in the patriarchal system of the Indian society.²⁴ The strong preference for having a son, took place with the transformation of the Indian society from the primitive stage, which used to be

¹⁸ Chatterji, Angana , Women in Search of Human Equality , Social Action, Vol.40, 46-56, (1990)

¹⁹ Women Making a Meaningful Choice — Technology and New Economic Order, Nirmala Banerjee & Swasti Mitter, Economic and Political Weekly, Vol. XXXIII, No. 51, December 19, 1998, pp. 3247-3256

²⁰ Equality of Opportunities vs Equality of Results, Improving Women's Reservation Bill, Madhu Kishwar, Economic and Political Weekly, Vol. XXXV, No. 47, November 18, 2000, pp. 4151-4156

²¹ Employment of Women and reproductive hazards in Work Places , By Neeru Sehgal, research scholar(Delhi university), in Journal India Law Institute, Vol. 29, (1987), pp. 201-215.

²² Widows in India: Social Neglect and Public Action by Martha Alter Chen (ed.) Sage Publications, New Delhi: 1999.

²³ Enslaved Daughters, Sudhir Chandra, Oxford University Press, Delhi, 1998;

²⁴ Status of Women and Social change, By B. Sivaramayya in Journal of Indian law institute, Vol. 25, 1983, pp. 270.

mainly a matrilineal to feudal stage, where agriculture emerged as the primary recognized occupation of the people to be controlled by males.²⁵

7. Female Foeticide and Female Infanticide –

Female foeticide is referred to the killing of the girl child; before she is born and female infanticide is killing of the girl child, after she is born. These practices, deny the basic right from the girl child, i.e. the right to live. There have been communities of individuals, who have a strong preference for the male children.²⁶ They possessed this viewpoint that families with male children were seen with pride, when they have control over the larger part of land. They regarded females as liabilities, who would not generate any wealth for their families.

8. Education –

Education is regarded as one of the most imperative aspects that would lead to empowerment of women. The right to education under Article 21 of the Indian Constitution has made it obligatory for the government to provide free education to all the individuals. In rural areas, the retention rate of girls in schools is lower as compared to males and there are number of reasons that lead to drop-out of girls, as they move to higher classes.²⁷ In higher education, the primary reason that lead to their drop-out is, parents are unable to afford education, due to financial problems. Parents expect their girls to take care of their younger siblings, as they go to work, they train them regarding the performance of the household chores, increasing cost of education and parents feel that girls would be married off, hence, they will not be able to utilize their learning.²⁸

9. Forced Evictions and Exclusions –

In India, widows are evicted from their marital homes and they are meant to look after their needs and requirements on their own, after the death of their husbands. Their children too get evicted along with them. Women headed households and women in general are less secure as compared to men. When a woman loses her spouse, there are various types of detrimental consequences that they are supposed to go through. When they are evicted from homes,

²⁵ Chowdhary Prem, Widow Remarriage in Haryana, Manushi, no.82, May-June 1994, pg-12-18

²⁶ Dutt, Anuradha, *In the name of the mother*, Manushi, no.79, pg-23-26, nov-dec,1993

²⁷ Dalit women's search for identity, Dr.Sukla Deb Kanungo (Reader, Dept. of Social Work, Vishwa-Bharati, Sriniketan, West Bengal, Social Action, Vol.43, Oct.Dec.1993, p.p. 481-494

²⁸ South Asians and the Dowry Problem, Edited by Werner Menski, New Delhi, vistaar Publishers.

they are required to face all hardships and difficulties in order to provide for their sustenance. A single woman, with no land or family to take care of, often ends up in an urban slum.²⁹

10. **Sexual Harassment at the Workplace** –

The occurrence of sexual harassment at the workplace is considered as the most detrimental problem that imposes barriers within the course of their progression. In India, women are discriminated against in terms of pay and remuneration for their jobs. This is a fact for both urban and rural areas; they are mistreated in concerns of promotion and advancement within the employment setting. Women entrepreneurs often have to deal with more problems in obtaining finances and resources to commence any kind of business.³⁰ Sexual harassment at the workplace hampers the psychological approach of a woman. She even gets compelled to leave her job, even though she is not financially strong and is in need of a job.³¹

11. **Rape** –

In India, there has been a significant increase in the numbers of rape cases in the past 10 years. Rape normally takes place out of animosity, enmity, resentment or any other reason. According to the National Crime Records Bureau, in 2012, 25000 rape cases were reported. In India, within the rural areas, particularly in Northern India, the upper caste people use mass rapes as a strategy to exercise power over the members of the lower caste groups.³² The vicious gang rape case in Delhi in December, 2012 had led to the passage of a stricter Law i.e. The Criminal Law (Amendment) Act 2013 to deal with the rape cases within the country.³³

12. **Societal Violence against Women** –

The communities and the societies in India in most of the places are bound up with the patriarchal normative structure. In these types of societies, it becomes difficult for women to establish their position and obtain justice. The religious communities, village communities or the artificial communities like professional bodies are barely epitome

²⁹ Sheth, Surabhi D, *Women's Sexuality: A Portrayal from Ancient Indian Literature* Manushi, no.71,jul-aug 92, pg-14-23

³⁰ Ghadially.R, "*All for Izzat*", Manushi, no.66, sept-oct'91, pg-17-20

³¹ Raju.K.N.M. and Bhat.T.N , *Gender issues in the choice and adoption of family planning methods* , Indian journal of gender studies, vol.3-4, 57-70, (96-97)

³² Law, Woman and Population in India, By Berendrapal Singh Sehgal (LL.M), in Indian Socio-legal Journal, Vol-12, (86-89), pp. 88.

³³ Violence against Women: New Movements and New Theories in India By Gail Omvedt, Kali for Women, New Delhi 1997 (Third Impression) (42 pages - 192 words)

of equality between men and women.³⁴ Quite often the religious communities have made the life of women miserable by forcing them to adopt conservative practices that would lead to negative effects.³⁵

EMPOWERMENT OF WOMEN

Empowerment in the present existence has become one of the most comprehensively used terms that indicates progress and development of women. Women's groups, non-governmental development organizations, activists, politicians, governments and international agencies refer to empowerment as one of their main objectives. Empowerment leads to generation of awareness and understanding amongst women regarding programs,³⁶ schemes, measures, strategies, policies, and rules. It is considered as a project, which normally individuals undergo, which eventually leads to changes and transformations. Empowerment is referred to as a process to change the distribution of power, both in interpersonal relations and in institutions throughout the society.³⁷ Another meaning signifies, the process of acquiring, providing, bestowing the resources and the means or enabling access to a control over such means and resources. Given the above, the term is therefore, more relevant to the marginalized groups, the poor, the illiterates, the indigenous communities, and those women, who are struggling to acquire their rights within the society.³⁸

Empowerment is a complex issue, with varying interpretations in social, economic, cultural, and political frameworks.³⁹ With empowerment of women, they began to acquire understanding of number of areas,⁴⁰ these are participation in the decision making processes; domestic work should be carried out by both males and females and not just females by themselves;⁴¹ women should take control of the reproductive functions and decide on the size of the family; women should be allowed to spend the income, she has earned, according to her own needs and desires;

³⁴ Violence against Women by Ram Ahuja, Rawat Publications, Jaipur and New Delhi: 1998.

³⁵ Chahar Surendra , Offence of rape: The marital exception , Indian social legal journal, vol.32-34.Pg-35-42,(1996-1998)

³⁶ Rape: A human rights versus a patriarchal interpretation by Latika Sarkar, Indian journal of gender studies V I (1) 1994, Pg 69. .

³⁷ Empowerment of women, K.Shanthi 1998 (Ed.), Anmol Publications pvt.ltd. (Professor, Dept. of Econometrics & Co-ordinator, Centre for Gender Studies, University of Madras, Chennai)

³⁸ Anonuevo, 1995

³⁹ Khandai, Hemanta, The role of university in empowering women , University news. Vol.39(6), February 5 ,2001 pg-9-11

⁴⁰ Joshi, Sneha and Pushpanadham K., Empowering women for educational management , University news,vol 39,no.;4, January 22,2001 pg-1-4

⁴¹ Economic Empowerment through State Benevolence , Shobita Rajagopal and Kanchan Mathur, Economic and Political Weekly, Vol. XXXV, No. 33, August 12, 2000, pp. 2908-2910

working women should value and take pleasure in the performance of their job duties;⁴² they should be self-confident and learn to speak for their rights and should possess the ability to prevent criminal and violent acts.⁴³

The measures that have been formulated to promote empowerment at the community or the organizational levels are, existence of women's organizations, allocation of funds to women and women projects, increase in the number of women leaders in village, district, provincial and national levels, involvement of women in the design, strategy, development and application of technology, participation in the community programs, productive enterprises, politics and arts, involvement of women in non-traditional tasks, increase in the training programs for women and exercising the legal rights, where required. At the national level, these are, awareness of the social and political rights, incorporation of women in the general national development plan, existence of women's networks and publications, extent to which women are publically noticeable and acknowledged and the extent to which women's issues can be addressed to the media.⁴⁴

There are many factors that facilitate empowerment of women and these are, formations of women's organizations,⁴⁵ availability of support systems for women, availability of women specific data and other pertinent information, availability of funds, feminist leadership, networking, positive media coverage, constructive policy climate, promotion of education and skill development amongst them, helping them to stand for themselves, encouraging them towards attainment of employment opportunities and generating awareness amongst them regarding all important areas, so that they are able to live their lives in an efficient way. On the other hand, factors that constrain the empowerment of women include, work pressure, isolation of women from each other as well as from the community, low education or lack of literacy skills, traditional viewpoints that limit the participation of women in various functions and events, shortage of finances, occurrence of conflicts, disputes, wars, internal strife and militarization, unstructured policies and disagreements, policy environment that promotes discriminatory treatment against women, negative coverage of media and inability to raise their voice against violent and criminal acts.

⁴² Social Action, Vol.41, 1991, p.p. 367-381

⁴³ Ibid no 5

⁴⁴ Women's Rights are Human Rights. (2014). United Nations. Retrieved October 02, 2017

⁴⁵ Urbanisation, coping mechanisms and slum women's status., Walter Fernandes. (Dept. of Research, Indian Social Institute, New Delhi and Editor, Social Action.), Social Action, Vol.41, 1991, p.p. 382-398

FUNDAMENTAL RIGHTS TO UPLIFT THE STATUS

OF WOMEN

The Articles under Part III of the constitution of India, relating to the Fundamental Rights which try to improve the status of women and provide equal opportunities for them are stated as follows:

i. Article 14 of the Constitution of India-

All individuals, including women are equal in the eyes of the law and they are also entitled to enjoy equal protection of laws within the territorial jurisdiction of India. It signifies that all persons irrespective of gender, should be treated equally in similar circumstances. The State should not make any discrimination between one person and another, and the law should be administered equally.

ii. Article 15 of the Constitution of India-

It deals with prohibition against discrimination. It prohibits the state to make any types of discrimination against any citizen including women on grounds of race, caste, gender, ethnicity, religion, place of birth and socio-economic background. It states that all citizens are entitled to enjoy equal rights regarding access to shops, hotels, restaurants, banks, infrastructure, public places etc. But the state has the right to make any special provisions for women and children and also for, scheduled castes, scheduled tribes and other backward classes.

iii. Article 16 of the Constitution of India –

All citizens including, women will enjoy equality of opportunity in matters of public employment, irrespective of their gender, races, castes, ethnicity, religions and socio-economic backgrounds. There are certain exceptions, i.e. Parliament may prescribe by law that residence within the state is required for a particular employment. The State is empowered to reserve certain posts for backward classes and also for the scheduled castes and scheduled tribes and appointment in connection with a religious organization may be reserved for persons belonging to that religion.

iv. Article 17 of the Constitution of India –

The System of untouchability is eliminated and Untouchability (offence) Act of 1955 was enacted by the parliament. This Act was amended by Untouchability (offence) Amendment Act 1976, to make the law more stringent to remove untouchability from the society.

v. Article 19 of the Constitution of India-

Every citizen including women have the right to freedom of speech and expression, to assemble peacefully and without arms, to form unions or associations, to move freely throughout the country, to reside or settle down in any part of the country and to practice any profession or to carry on any lawful trade or business in accordance to one's own aspirations.

vi. Article 21 of the Constitution of India –

No person shall be deprived of life or personal liberty, except according to the procedure established by law.⁴⁶ This right to life, includes right to live with dignity, right to privacy etc. Domestic violence against women is also derogatory to Article 21 of the Indian Constitution, because it weakens the self-respect and dignity of women, who are victims.

vii. Article 21A of the Constitution of India –

The State shall provide free and compulsory education to all children, who are between the ages of six to fourteen years in a manner, as the state may determine by law.

viii. Article 20 of the Constitution of India-

To provide facility to the women accused - No person including women shall be convicted of any offence except for violation of a law and any person shall not be prosecuted and punished for the same offence more than once. Any person should not be accused of any offence, he or she shall be compelled to be a witness against himself or herself.

ix. Article 23 of the Constitution of India -

To prevent immoral trafficking in women and girl child Prohibits the traffic in human beings and forced labour. In pursuance of this Article, Parliament has passed the Suppression of Immoral Trafficking in women and Girls Act, 1956, which is now renamed as the immoral Trafficking (Prevention) Act 1956, for punishing the actions, which result in trafficking in human beings.

x. Article 24 of the Constitution of India -

To prohibit child labour, especially girl child. Employment of children, below the age of fourteen years in factory or mine or engaged in any other hazardous employment is prohibited.

⁴⁶ Saryal, S. (2014). Women's Rights in India: Problems and Prospects. International Research Journal of Social Sciences, 3(7), 49-53. Retrieved October 02, 2017

xi. Article 25 of the Constitution of India –

All persons including women are equally entitled to freedom of conscience and the right of freedom to profess, practice, and propagate religion.

LEGAL FRAMEWORK FOR WOMEN & WORK

Women in India represent over 32 percent of the economically active population of the second most populated country in the world. The Indian constitution guarantees equality for women before the law, and institutional support for women seems advanced, with many laws to protect the right of women at work. The labour laws in India, can be industry specific, region specific or centralized. The Acts have been stated as follows⁴⁷:

1. Equal Remuneration Act, 1976 –

This law aims to prevent gender discrimination of wages, hiring, promotion, or training, and can be circumvented through wage reclassification of skilled and unskilled workers. Often, regardless of the type or skill level of a job, women are placed in the unskilled, lower paid wage category, while men are placed in the skilled, higher wage category. The Act includes, equal pay to men and women workers for same or similar work performed. There should not be any discrimination in recruitment and service conditions, except where employment of women is restricted by the law, such as night hours or industry specific constraints.

2. National Commission for Women Act, 1990 (Act of Parliament) –

Creates a National Commission for Women to review existing statutory protection of women, prepare periodic reports to the Central Government on matters relating to protections for women's rights, scrutinize grievances relating to the deprivation of these rights, and financially assist in the litigation of issues affecting women.

3. Constitutional (74th Amendment) Act, 1992 –

Women in political power at the local level have struggled for mass literacy programs and for control over resources such as, water. Because the functioning of the office has become progressively affluent, parties only put forth a few women candidates, and these are often relatives. While these women are getting promoted, overall there are still not many women in national politics. The Amendment mandates one-third reservations or quotas for women in local governing bodies in state or public institutions.

⁴⁷ The Legal Framework for Women and Work, 2012

4. The Protection against Sexual Harassment of Women at the Workplace Bill, 2010 –

This bill, would create a definition of sexual harassment within the workplace, and make it mandatory for every organization with over 10 employees to create committees, headed by women to administer sexual harassment grievances. These committees could gather evidence and would be equivalent to Civil Courts, although problematically, members do not need to have a legal background. In addition, penalties would be created for employers that include fines.⁴⁸

5. Maternity Benefits Act, 1961 –

This act permits a woman to 12 weeks of leave with full pay associated with the birth of a child and there is no adoption benefit. It is unlawful for an employer to discharge or suspend a woman during or because of maternity leave. A woman worker must be permitted to take two nursing breaks, in addition to normal breaks, until her child is 15 months old.

6. Factories Act, 1948 –

According to the act, the employer must provide child care facilities for children, below the age of six years at the workplaces, where more than 30 women workers are employed. Prosecutions against an employer for violating the Factories Act is infrequent, and supervisors seldom examine the number of women workers employed or the mandatory creche or child care centres. In fact, on record, there is not a single case known, where an observer or a supervisor went to a worksite to check on the number of women employees. Also, employers bypass the Factories Act by employing less than 30 women or using part time and or contract labour.

7. Beedi and Cigar Workers (Conditions of Employment) Act, 1966 –

Provides for the well-being of the workers in beedi and cigar factories by regulating the conditions of work, including maximum hours and the safety of the working environment. In addition, child care facilities must be available for working mothers. This act requires the mandatory appointment of women to the advisory and central advisory committees.

8. The Plantation Labour Act, 1951 –

Every plantation with more than fifty women workers must provide child care, including for those women workers, employed by a contractor. The plantation must also provide child care, when women employees have in aggregate more than twenty children. Women workers get breaks in between work to feed their children.

⁴⁸ Thukral, E.G., & Ali, B. (n.d.). Child Marriage in India: Achievements, Gaps and Challenges. Retrieved October 02, 2017 from

9. Employee's State Insurance (General) Regulation, 1950 –

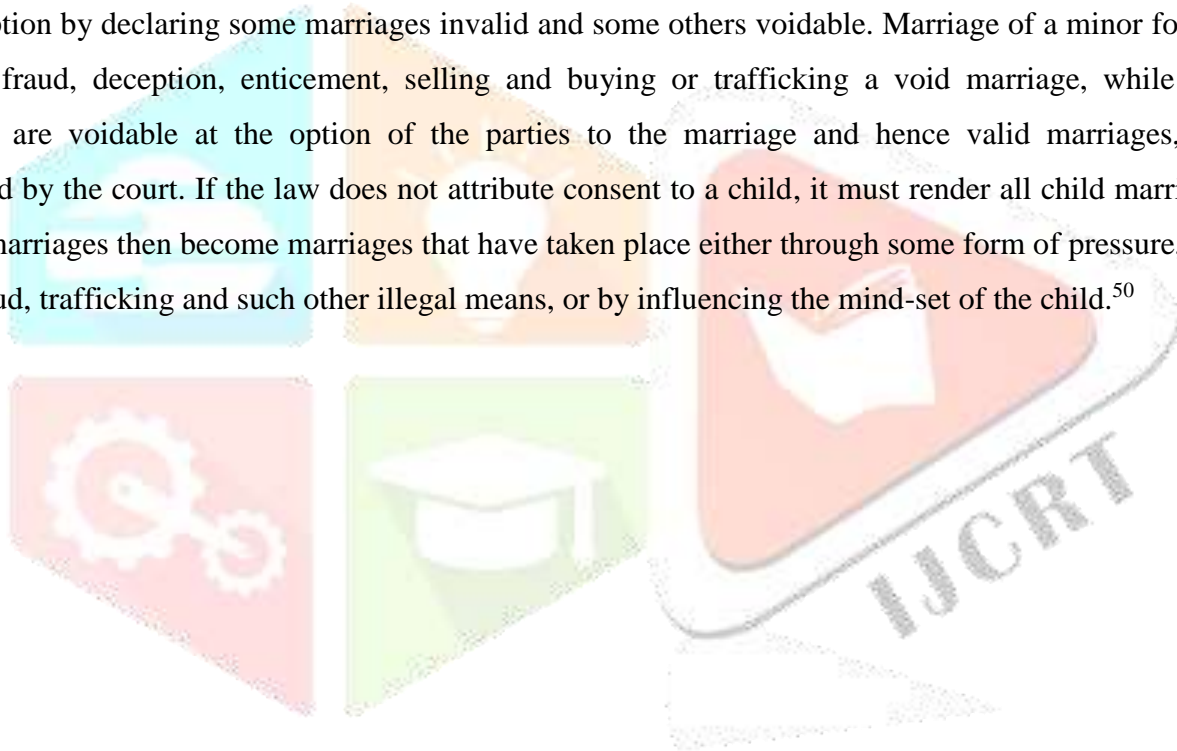
Maternity benefits are made available on the date a medical certificate is issued for miscarriage, pregnancy-related, sickness, bed rest, or pre-term birth.

10. The Contract Labour (Regulation & Abolition) Act, 1970 –

Day care must be provided, where 20 or more women work on contract regularly.

11. Prohibition of Child Marriage Act, 2006 –

The Prohibition of Child Marriage Act, 2006, which is the national law against child marriage, does not allow the question of consent in case of minors and treats child marriage as a punishable offence⁴⁹. However, it creates misperception by declaring some marriages invalid and some others voidable. Marriage of a minor formalized by use of force, fraud, deception, enticement, selling and buying or trafficking a void marriage, while all other child marriages are voidable at the option of the parties to the marriage and hence valid marriages, until they are invalidated by the court. If the law does not attribute consent to a child, it must render all child marriages invalid, as all child marriages then become marriages that have taken place either through some form of pressure, intimidation or use of fraud, trafficking and such other illegal means, or by influencing the mind-set of the child.⁵⁰



⁴⁹ Klaveren, M.V., Tijdens, K., Hughie-Williams, M., & Martin, N.R. (2010). An Overview of Women's Work and Employment in India. Decisions for Life MDG3 Project Country Report No. 13. University of Amsterdam. Retrieved October 02, 2017 from

⁵⁰ Thukral, & Ali, n.d

WOMEN'S RIGHT WITH RELATION TO

HUMAN RIGHTS

Human rights are generally understood as being those rights that are intrinsic to all human beings. The concept of human rights acknowledges that each individual is entitled to exercise his or her rights without any forms of discrimination regarding areas such as, caste, creed, race, colour, gender, language, religion, political or other opinion, national or social origin, property, birth, background and status. Human rights are lawfully guaranteed by the national constitutions and laws, regional and international treaties and documents. They safeguard the individuals and groups against activities that impede within the course of their fundamental freedom and human dignity.⁵¹

Significance of human rights have been acknowledged with respect to the following aspects, these are initiated on respect for the self-esteem and worth of each person. They are universal and are thus applied equally without any type of discriminatory treatment against anybody on the basis of factors such as, caste, creed, race, religion, occupation and socio- economic background. Human rights are indisputable, in that they cannot be taken away, except in specific situations, for example, the right to liberty can be restricted, if a person is found guilty of a crime by the court of law. Human rights are inseparable, interrelated and interdependent, thus, it is inappropriate to respect some human rights and not others. In practice, the violation of one right often affects the dignity of several other rights. All human rights should therefore, be viewed as of equal importance and equally vital for the respect and worth of each person.⁵² It is necessary for the progress and development of the individual, society and the entire nation that human rights should be recognized and exercised in an appropriate manner.

Human rights provide a beneficial, lawful and normative framework, vocabulary and form of direction for public health actions, while improving the accountability of governments. Human rights and public health have the common objective of encouraging and safeguarding the welfare of all individuals. Human rights must be promoted and protected to report the fundamental elements of health, including the empowerment of individuals and communities to respond to health challenges and ensuring justifiable and operative delivery of services.⁵³

Approval of the Universal Declaration of Human Rights in 1948 was the first step towards liberal and advanced codification of international human rights. The principles of the Universal Declaration were translated into treaties,

⁵¹ Women's health and human rights, 2007

⁵² Ibid no 8

⁵³ Ibid no 8

thus States that ratified them are legally bound by the terms and conditions of the treaties. Eight international human right treaties have been adopted up to 2007:⁵⁴

- International Convention on the Elimination of All Forms of Racial Discrimination (1965).
- International Covenant on Economic, Social and Cultural Rights (1966).
- International Covenant on Civil and Political Rights (1966).
- International Convention on the Elimination of All Forms of Discrimination against Women (1979).
- Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (1984).
- Convention on the Rights of the Child (1989).
- International Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families (2002).
- Convention on the Protection and Promotion of the Rights and Dignity of Persons with Disabilities (2006).

Every World Health Organization (WHO) Member State has sanctioned, formally consented to be legally bound by at least one human rights treaty, all of which have a direct or an indirect impact on the promotion and safeguarding of the right to health and health-related rights.⁵⁵

BARRIER IN THE COURSE OF EXERCISING

RIGHTS

Barriers that take place within the course of exercising rights have been stated as follows:

1. Poverty –

Poverty is a condition, when the individuals experience scarcity of resources, due to which they are unable to satisfy their needs and requirements. In 2005, it has been estimated that 76% of the population lived under the poverty line of USD two per day, and that 42% had to make ends meet with an income below USD 1.25 per day. The poverty gap remains comparatively large. In and through the nationwide liberalization process, seven states with the lowest incomes are lagging behind.⁵⁶ In 2006, India ranked 132nd on the human development index (HDI), six places below its GDP per capita rank. The conditions of poverty and backwardness are the major impediments within the course of recognition and practicing of rights.

⁵⁴ Ibid no 8

⁵⁵ India: The Legal Framework for Women and Work. (2012). Retrieved October 02, 2017

⁵⁶ Klaveren, Tijdens, Hughie-Williams, & Martin, 2010

2. Illiteracy –

When the girls are discouraged to study and the acquisition of education is not given recognition with regards to girls and women, then it is a major barrier within the course of exercising rights. Illiteracy imposes numerous disadvantages for the individuals. Through illiteracy, one usually remains unaware regarding how to sustain their living conditions in an effective way. They are not able to generate awareness regarding important areas, they remain uninformative and experience problems in carrying out all important activities of life. Unawareness and lack of knowledge and information does not enable individuals to recognize their rights and they remain secluded. This is particularly true with respect to rural areas. When the individuals migrate to urban areas in search for a better livelihood, then usually they are able to recognize their rights.

3. Unemployment –

Every individual desires to obtain employment or some means to generate income. The individuals, who are poverty stricken and belong to deprived and marginalized communities, usually feel that unemployment and lack of resources are the major barriers within the course of exercising rights. On the other hand, educated and literate individuals, when they experience problems in finding employment, they become depressed and frustrated. A depressed and a frustrated person will not take pleasure in exercising his rights. When they do not have a source of income, they are not able to sustain their living conditions. Aspects such as, housing, health, diet and nutrition, education and so forth remain unfulfilled. A woman, who is well educated or is literate, when she does not have employment opportunities available, she is concerned and sometimes does not acknowledge rights.

4. Crime and Violence –

In India, women have been subjected to various forms of violent and criminal acts within the household, workplace, educational institutions, and in other public places. These include, verbal abuse, physical abuse, rape, sexual harassment, acid attacks and other forms of mistreatments. Experiencing heinous and intimidating criminal and violent acts, hampers the psychological approach of the person. Criminal and violent acts against women can be hurting and result in serious injury. These are, permanent privation in the sight of the eye, permanent privation of the hearing of either ear, privation of any member or joint, destruction or impairing of the powers of any member or joint, permanent disfiguration of the head or face, fracture or dislocation of the bone, and any type of hurt, which endangers life or which causes the sufferer to be during the space of twenty days in a severe bodily pain or unable to carry out important life functions and activities.

5. Woman is severely injured and undergoes permanent health problems-

It has been stated above, then she also experiences problems in exercising rights. For instance, when a person is not ambulatory, he gives up various rights. When a woman is coerced or pressurized by someone, or undergoes abuse and

mistreatment, she is not able to recognize her rights or speak out for herself. She feels vulnerable and apprehensive to a great extent.⁵⁷ There are organizations that enable women to address their grievances and problems and seek solutions to them. Women, who have learned to speak for themselves against inappropriate conduct, generate empowerment and exercise their rights in an effective way.

6. Acquisition of Education –

In the present existence, there have been changes taking place within the rural and urban communities and individuals have begun to recognize the significance of education. Girls and women, normally in rural areas and particularly belonging to deprived, marginalized and socio-economically backward sections of the society do recognize the significance of education, but encounter numerous impediments within the course of its acquisition. Parents believe that girls should get trained regarding the implementation of household chores and if they get educated, they will be able to make use of their learning in marital homes and it would not be advantageous to the parents in any way. Education of boys is given more preference, in some cases, girls are meant to work and earn money to support education of their brothers.⁵⁸

7. Child marriage of the girls-

It enable them to give up education, as they need to be aware regarding domestic responsibilities, child development and in taking care of the needs and requirements of other family members. Within the rural communities, parents give preference to the education of their sons. In households with limited income, they feel that they should spend their resources in getting their sons educated. Girls are encouraged to work and get engaged in minority jobs to support their parents and siblings. In the present existence, there have been initiation of measures and schemes that education would be available free of cost up to the eighth standard, hence, this leads to an increase in the enrolment of girls in schools.

CONCLUSION

The main purpose of this research paper is to acquire understanding of human rights of women. The main reason, that the rights of women have been undermined is due to the existence of the patriarchal society. In the male dominant society, preference was given to the male children; there were practices of female foeticide and female infanticide. Females were considered as liabilities, which would lead to expenditure, whereas males were regarded to be the assets, which would generate wealth for their families. The decision making and other powers and authorities were

⁵⁷ Anonuevo, C.M. (Ed.). (1995). Women, Education and Empowerment: Pathways towards Autonomy. Retrieved October 02, 2017 from http://www.unesco.org/education/pdf/283_102.pdf

⁵⁸ Chapter III. Indian Laws for the Protection of Women's Rights against Domestic Violence. (n.d.). Retrieved October 02

vested in the hands of males. The responsibilities of the females were limited to performing of the household chores, child development and looking after the family members.

In the present existence, with the impact of modernization and use of innovative methods, the rights of women have been acknowledged. Girls and women from all categories and backgrounds are being enrolled in educational institutions. Women are emerging professionals such as, doctors, lawyers, teachers, educationists, managers, administrators and so forth. The girls, who belong to minority communities, are getting enrolled in educational institutions, so that they learn to exercise their rights for the well-being of their parents as well as the community. Education enables a person to differentiate between appropriate and inappropriate, learn to make wise decisions, work towards the welfare of the community and exercise rights in an efficient manner.

