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# The Role Of Human Rights In The Protection Of Women's Rights: Constitutional And Legal Provisions

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#### Abstract:

After independence, there has been a lot of improvement in the condition of Indian women. After 74 years of independence, if we discuss the laws made to prevent crimes against women from the legal point of view, then it is clearly visible that many laws have been made to maintain the dignified status of women in our country. But due to lack of adequate legal education, they do not get information about laws, even most of the women do not know which rights they have. In the present research paper, the rights made for the upliftment of women and to prevent crimes against them have been discussed.

**Key Word-** Human Right, Women, Constitutional and Legal Provisions

#### **Introduction:**

Women are that aspect without which the creation of any society is not possible. Women play the role of a producer in the society. One cannot even imagine a new life without a woman, that is, a woman is a surgeon, a creator. It is about half of the total population, yet in this patriarchal society, it is seen as inferior. Joy is expressed on the birth of a son and condolences on the birth of a daughter. In Indian society even today sons are given more importance than daughters. In some areas where these changes are respectable and positive, in most places these changes are proving to be unfavorable for women. There are many reasons for the backwardness of women today, one of the major reasons for which is their illiteracy. Sociologists have said that it is more important to educate one woman than ten men.

## Male and Female Literacy Rate in India - Census (1951 to 2011)

S.N.	Year	Male	Female	Person	Difference
1	1951	27.2	8.9	18.3	18.3
2	1961	40.4	15.4	28.3	25.0
3	1971	46.0	22.0	34.4	24.0
4	1981	56.4	29.8	43.6	26.6
5	1991	64.1	39.3	52.2	24.8
6	2001	75.3	53.7	64.8	21.6
7	2011	82.1	65.5	74.0	16.7

Source-census of India

It is known from this table that since independence till date, there is a great increase in literacy but it is still 16.7 percent less than men, which are the main reason for their backwardness, exploitation and oppression. Although many efforts have been made by the Central and State Governments in this regard, but they have not been completely successful in this. Obviously, for the success of the schemes, the cooperation of its beneficiaries is equally important as other things. Women are not weaker than men in any way but there is another side to it. Women's rights have been violated as much in the last years, perhaps never before. Despite adequate participation in various activities of the society and the state, there has been an increase in indecent behavior, domestic violence, violence at workplace, roads, public transport and other places, it also includes physical, mental and sexual abuse.

Day-to-day incidents are published in the daily newspapers which are related to women like- rape, burning of daughter-in-law for dowry, torture and feticide of girl child, kidnapping, kidnapping etc. It is true that today women have included themselves in the mainstream, but along with their strong will power, media and Indian films have also contributed immensely in this development, which has mentally made women move towards continuous development. In Indian culture, women are given the highest status in the society. In the Vedic age, the father used to bless his daughter at the time of her marriage that she would excel in public works and arts. Many important stages of civilization have been based on the same vigor and creativity of women. In fact, India is one of the few countries in the world where women have a respectable place in culture and history and where their contribution in making human beings has been acknowledged, but due to various reasons, women's family social status in Indian society over time. The situation is constantly weakening and men have been forced to accept the limitations and subordination imposed by the society.

Human rights is a subject that provides rights to all the people of the world as a member of the human community, that is, under human rights, all persons have equal rights without any discrimination. But similar to this, some sections of the society in which especially women, children, minorities and refugees can be kept, but from the point of view of the study, an attempt has been made to discuss in the context of women. Women constitute about half of the population of the society. The status and status of women not only in India but in all the countries of the world has been pathetic since ancient times. Women have always been subjected to atrocities. Various efforts are being made for women to be uneducated and at the economic level too, due to which the results are being seen positively. Today the percentage of female literacy in the world is increasing day by day.

It is well known that mutual participation and partnership of both men and women is very necessary in the construction and development of any society. Women and men are considered as two wheels of the society's cart. Therefore, the participation of women and men is essential for the development and construction of society. Along with development, it is very important to maintain natural principles and balance the environment. The lack of women's rights has gone with human civilization and with the passage

of time there has been economic and educational backwardness of women. It is a proven fact that most crimes and atrocities in the world have been committed against women. In this context both women and human rights become very important. Women have been given special rights in almost all countries of the world, so that they can live their lives with dignity. Women are considered to be specially treated from the perspective of human rights. In this era of women's movement, on the one hand, efforts are being made to give more and more rights to women, on the other hand, awareness has also increased among women about their rights. Not only do criminals violate the human rights of women, but the police and security forces are also not far behind in this matter. Women are generally considered to be very easy targets from the point of view of crime, that is why crimes against women are increasing all over the world. Whether it is at home or outside, school or workplace, women have to face different types of crimes everywhere. The United Nations has also made a lot of efforts from time to time to provide protection to women. The Preamble to the United Nations Charter states that "We the people of the United Nations express our faith in the fundamental human rights, in the dignity and values of the human person and in the equal rights of men and women. Thus it can be said that the rights of equality of women have been declared in the United Nations Charter. Apart from this, in the "Universal Declaration of Human Rights" of the United Nations, women have also been considered to be entitled to the rights without discrimination.

# **Historical Perspective of Human Rights:-**

Changes started coming in the 19th century when many reformist personalities became active on the Indian scene during the Renaissance period. In Bengal, where Raja Rammohun Roy campaigned against the practice of Sati, Ishwar Chandra Vidyasagar and Dayanand Saraswati in Gujarat worked on issues like women's education and widow marriage. In Maharashtra, in 1848, Savitri Bai Phule opened the first school for girls in Pune. This was a special effort in the direction of women's upliftment, as a result of which a new consciousness started awakening among women all over India. In the 20th century, this process got solid ground and devotion in India after independence. The Constitution of India considered women as an important unit of society and granted them equal status and equal rights with men on the basis of citizenship, adult suffrage and fundamental rights, but the real power was and is still far away from women. According to the provision made in Article 39 of the Constitution, the State shall conduct its policy in such a way that all citizens, men and women, are equally entitled to an adequate means of livelihood. Therefore, the Indian government decided to celebrate the year 2001 as the National Women's Empowerment Year.

The first commission on the condition of women was set up in 1946. The General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women on 7 November 1967. In 1981 and 1999, a voluntary innovation was adopted on the Act that would disable women suffering from gender discrimination, sexual abuse and other abuse. In order to protect human rights and keeping in view the purpose of the United Nations Declaration, Human Rights Commission has been constituted in India. India has actively participated in the United Nations Human Rights Conferences, the Economic and Social Council and the General Assembly sessions on human rights issues. Section 30 of the Protection of Human Rights Act, 1993 envisages notifying Human Rights Courts to provide speedy trial for violation of human rights. Such courts have also been established in Andhra Pradesh, Assam, Sikkim, Tamil Nadu and Uttar Pradesh. It would be fair to say here that ever since the Human Rights Protection Act has been enacted and the National Commission for Women has been constituted, the status of women has started to become more and more strong in the society. Now the incidents of harassment of women have also come down relatively. Our judicial system has also made proper facilities for women's human rights. Today women have also come forward in the field of work. They have started foraying into various services, but when the incidents of sexual harassment started happening with working women, the judiciary intervened and considered it their responsibility to curb the incidents of sexual harassment. Vishaka Vs State of Rajasthan, a. I. R. 1997

s. C. Uma has an important opinion in this regard. It is worth mentioning that cruelty towards women has been considered by the Supreme Court as a continuing crime. A case of criminal act has been registered by the husband for ousting his wife from his house and forcing her to live in the maternal house. Considers the civil and constitutional rights of women. Article 15 of the Constitution provides that no citizen shall be discriminated against on grounds of religion, race, race, caste, sex or place of birth. Article 16 also provides equal opportunities to women in public employment. Equal pay has been provided for equal work. Women being mere women cannot be denied equal pay for equal work as men. Uttarakhand Mahila Kalyan Parishad Vs State of Uttar Pradesh, a. I. R. 1992 s. In the case of C. 1965, directions have been given by the Supreme Court to provide women equal pay for equal work and equal opportunities for promotion as men. Section 18 of the Hindu Succession Act 1956 provides ownership of property to women. Labor laws prohibit women in distress and work at night. The Maternity Benefit Act provides for maternity benefits to working women. Under Section 125 of the Code of Criminal Procedure, 1973, provision for maintenance has been made for neglected women. In this way, overall human rights regarding women have been given adequate protection in various laws and judicial decisions. In the changing environment, by the 12th amendment in the Constitution, women's respect has been given place under Article 51 and the ideal of giving up practices against women's honor has been adopted. The National Human Rights Commission and the National Commission for Women are constantly trying to protect women's honor.

At present, Indian women are participating enough in various activities of the society and the state, but this has led to an increase in violence against them in addition to domestic violence in the workplace, in the streets and in public transport and at other places of the society. This includes all forms of violence, physical, mental and sexual. Torture, molestation, kidnapping, rape, feticide (sexual harassment, dowry death, dowry prohibition and others) these injustices happen at the entire national level but Uttar Pradesh is at the forefront. The Universal Declaration of Human Rights reaffirmed the principle by not excluding discrimination and declaring that all human beings are born free and equal in dignity and rights and that all persons are without discrimination, including discrimination based on gender. Yet there has been a lot of discrimination against women.

# Concept of Human Rights:-

The concept of human rights is as old as the ancient theory of natural rights based on natural law, however, the concept of "human rights" in new forms originated from international charters and conventions after the Second World War. First, American then-President Roosevelt used the word "human rights" in his famous message addressed to Congress on January 16, 1941, in which he declared a world based on four fundamental freedoms, he listed them as follows Tha- Freedom of speech, freedom of religion, freedom from poverty and freedom from fear, in succession to these four freedoms in the country, the President declared, "Freedom means the supremacy of human rights everywhere." We support those who fight to get or maintain those rights. Explaining the importance of human rights, the Universal Declaration of Human Rights was unanimously adopted by the General Assembly of the United Nations on 10 December 1948. Which is known as Human Rights Day.

#### Meaning of Human Rights:-

Human rights refers to the rights necessary for human beings to be human, that is, human rights refers to those minimum rights of human beings, which every person must have, because he is a member of the human family. There is a close relationship between the concept of human rights and human dignity, that is, those rights which are necessary to maintain human dignity, they are called human rights. In this, there is no discrimination of any kind on the basis of caste, sex, social status, economic, political, national

and occupation of a person. Due to human rights, men and women living in a society can develop their personality and can also fulfill social and economic needs.

#### Nature of Human Rights:-

Human rights are such rights which are mandatory to be respected by the states. At the same time, these rights are such criteria through which it is possible to evaluate the works of the states. After the Second World War, human rights can be divided on the basis of nature of use as follows:-

- 1. Negative form of the state in the protection of human rights: It refers to the rights by which the states are prevented from doing something. Under which no person can be imprisoned without violating the law. No person can be stopped from expressing his views without any reason. A person cannot be stopped from following any religious sect. If the limits of these negative rights vary depending on the socio-economic and political conditions of any country.
- 2. Positive form of the state in the protection of human rights: The positive form of human rights refers to such rights under which the state provides certain facilities and freedoms to its citizens, that is, it will create such conditions in itself by which every freedom and live with dignity. For example, providing opportunities for equality and all-round development for women, management of food and living of the poor by governments, provision of exemption for farmers etc.

#### **Meaning of Human Duties:-**

The meaning of human duty is to help human beings as human beings in providing opportunities for living and development to other people and living beings of the society on moral grounds. Under human duty, man should accept other human beings as a part of this society as well as his importance and give his cooperation in ensuring that he also gets the same opportunities and facilities, so that he gets equal opportunities. Happens. That is, human duty is the opposite concept of monopoly in which man wants to dominate himself. By performing human duty, not only does one protect his own rights but indirectly the rights of others. According to Gandhi, the rights of liberty and fraternity can be achieved both at the individual and collective level by fulfilling the duties driven by non-violence, satyagraha, constructive programs and universal religion. Human duties are directly related to humanity. Man can be encouraged to perform human duties only by humanity.

#### Human rights classes:-

Human rights include various types of natural, constitutional and legal rights. In this context, scholars have tried to divide them in their own way. There are two main bases for classifying human rights-1. Various spheres of life and 2. Laws upholding the rights. On this basis, the main categories of human rights are as follows:-

- 1. Natural Rights: These rights are those rights which are inherent in human nature itself. The right to self-knowledge, the right to mental level, the basis of life, etc. come in this category, they are considered very important.
- **2. Fundamental Rights:** Fundamental Rights are those rights without which human development cannot take place. As right to life is a fundamental right of human life. It is the fundamental duty of every society to protect these rights.
- **3. Moral Rights:** This principle is based on the general principles of fairness and justice. Human beings in the society have the ideal to get these rights. These rights are very necessary in the social system.

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- **4. Legal Rights:** It means that every person shall be treated equal before the law without any discrimination and at the same time should be given equal protection of the laws. These have been changed from time to time.
- **5.** Civil and Political Rights: These are the rights which are accepted by the state.
- **6. Economic, Social and Cultural Rights:** The Directive Principles of Policy in Part Four of the Indian Constitution demand social, economic and cultural rights of man, but it is difficult to determine which right is more important and which is less.

#### **Human Rights and Duties:-**

Modern era is the era of constitution and democracy. Every progressive and civilized state tries to provide maximum rights to its citizens, which have to be exercised by the citizens within the legal limits. The document of rights decides the nature of the state and gives a proper representation of the relationship between the state and the citizens. It is difficult to imagine a good life in the absence of the opportunities provided by rights. Whenever we talk about human rights or human rights, the belief is embedded in them, that rights are society's creation, state provides them and their basis is welfare. For the protection of human rights, work is done on the basis of the spirit of transaction, whatever we want for ourselves, let others also do it. This thing is inherent in the concept of rights, and it can be called human duty. In essence, rights and duties are related to each other, that is, two sides of the same coin. Although the moral power of the society lies behind them, yet it is the duty of the state authority to ensure that the rights are enforced, it is not enough to provide rights in writing, that is, the meaning of rights is only when the state is appropriate for their use. The environment should prepare human beings morally for the implementation of laws.

#### **Human rights commission:**

The United Nations has been striving for the protection of the human rights of the individual for a long time. The United Nations firmly believes that if the world progresses with social progress, freedom, equality, peace, etc., the dignity and human rights of human beings can be easily protected. Today, the United Nations is playing a central role for the people fighting for human rights in the contemporary world. The United Nations in its declaration had said that a national human rights body should be established.

National Human Rights Commissions were first discussed in the Economic Social Council in 1846. Two years before this, in the Human Rights Declaration, a general declaration was made for human rights at the world level. The question was raised again after 14 years. The Secretary-General of the United Nations expressed the possibility that the organizations of nations that have been formed for human rights do important work in this area. In the 1960s and 1970s, this context began to be discussed in detail. In 1978, the United Nations Commission organized an international symposium on the Human Rights Commission and in 1978 in Geneva also, policy discussions were held to set up a national commission. In the 1980s, the United Nations showed keen interest in this area and the Secretary-General submitted all the reports to the General Assembly. At the same time, many countries of the world formed the National Human Rights Commission with the help of the United Nations Human Rights Commission.

# **Human Rights Commission in India:**

Human Rights Commission in India has a long history. In modern times, the struggle for human rights in India started long before independence. When India got freedom from the slavery of the British, people started putting forward many demands for human rights, after that the government made many provisions in the law to protect the human rights of the common people. Gradually the situation of human rights started improving but around 1975 human rights in India suffered a major setback. Between 1975 and 1977, human rights were severely violated in the state of emergency. In 1991, around 14 years, the Congress government, in its election manifesto council, promised the formation of a National Human Rights Commission to the voters. In 1992, the Chief Ministers' Conference recommended the establishment of a National Human Rights Commission. Despite protests in the context of the establishment of the National Human Rights Commission in this conference, the demand was raised repeatedly that the National Human Rights Commission should be established at the earliest.

#### **Functions of National Human Rights Commission:**

- 1. To take action on any violation of human rights in any situation,
- 2. Interference by the Commission on pending cases,
- 3. Visit and suggest remedial measures for the well being of prisoners in any jail in India or any State,
- **4.** To study and recommend implementation of international treaties and measures,
- 5. To do research work on human rights,
- **6.** To inform people about human rights and make them aware about its development,
- 7. To encourage voluntary organizations working in this direction, etc.

#### The worrisome status of women's human rights:

- 1. **Before birth:** Forced pregnancy, abortion, assault during pregnancy, mental harassment, female feticide.
- 2. During infancy: infanticide, food discrimination by parents, beatings, lack of attention to personality development.
- 3. During adolescence: Early marriage, sexual abuse by family and strangers, child prostitution, lack of basic facilities.
- **4. During puberty:** workplace exploitation, sexual harassment, trafficking, rape, kidnapping, molestation.
- 5. During Femininity: Demand for dowry for marriage, beating and killing for dowry after marriage and forcing suicide, mental and physical abuse, domestic violence etc.

# Constitution, Law and Women:-

The prestige of human rights in Indian culture and way of life has been established since ancient times. In the literature of Mahabharata and Kautilya etc., attacking women, torturing innocents, humiliating state representatives, was considered taboo. Respect for human rights in society and family has been considered a natural part of Indian traditions and faith. During the days of British slavery, feudalist tendencies prevailed in many areas of India, especially in rural areas, the working class used to get more work done from the poor laborers for less wages. Sometimes the animals were treated badly. But after independence some changes took place. The provisions of the Indian Constitution tried to establish order and social security by eliminating inhuman conditions. Human rights have been mentioned in the constitution, which are as follows:-

- 1. Under Article 14, men and women have equal rights economically, politically and socially.
- 2. Under Article 15, the State shall not discriminate against any citizen on the basis of religion, race, caste, place of birth. It is the fundamental duty of every citizen not to allow atrocities on women.
- **3.** Under Article 16, men and women have the right to equal opportunities in relation to public employment and employment without discrimination.
- **4.** According to Article-23, women should be protected from prostitution. In this view, the Compression of Immoral Traffic in Women and Girls Act 1956 was passed.
- **5.** Article 39 entitles men and women equally to adequate means of subsistence.
- **6.** The provision of maternity aid in article 42.
- 7. Article-51 under this, to abandon all those things which are against the respect of women.
- **8.** Article 243D provides for one-third reservation of seats for women in Panchayati Raj Institutions and after amendment in Article 243D of the Constitution, 50 percent reservation has been made for women in Panchayats instead of 33 percent.

#### Rules and Acts for Women:-

Many such rules, regulations and acts etc. have been made in the Indian Constitution and various penal codes, with the help of which the interests of women can be protected. Apart from this, some women related acts were also made during the British rule, due to which there has been a lot of improvement in the condition of women. Like- Sati Abolition Act, Widow Remarriage, Civil Marriage Act, Child Marriage Prohibition Act etc. Following are some of the major Acts related to women:-

- 1. Indian Penal Code, 1860: In this, a comprehensive arrangement has been made for punishment against the atrocities and cruelty on women.
- 2. Dowry Prohibition Act 1961: In 1961, the then Prime Minister Pandit Javaharlal Nehru got this law passed considering dowry as a problem and a stigma and evil practice on human beings. Through this, an attempt was made to curb the serious problem of dowry.
- 3. Hindu Succession Act 1956: This Act directs that today a girl child has the same right as a boy in the property of her parents. As far as the son, that is, as far as the property of the father is concerned, both the boy and the girl are equal heirs. But as far as the property received by way of paternal property is concerned, even today the status of women is not the same as that of man.
- **4. Muslim Succession Law:** According to the imports of Quran Sharif, the law is a bit strict in respect of women, although there is no discrimination between self acquired and paternal property in this law.
- **5. Criminal Procedure 1973:** In this process, it will be mandatory for any woman to be searched or other related investigation through women or women police.
- **6. Hindu Marriage Act 1956:** In this act, the marriage life of husband and wife like marriage, marriage, divorce and punishment etc. has been discussed in detail.
- 7. Muslim Divorce Act, 1939: Before this act the condition of Muslim women was very pathetic, but after the enactment of this Act, the wife was also given some rights to divorce.
- **8. Hindu Minority and Protection Act, 1956:** In case of divorce between husband and wife or due to any other circumstance, if the husband and wife live separately, the loss which they have to suffer, even more pitiable condition would have been those children. Whose parents live separately, because there is a dispute between the two about who should live with the minor children.
- **9.** The Indian Evidence Act, 1982: The Ordinary Act of Evidence provides that the burden of proof shall lie on the person by whom the charge is made, and so was the case of atrocities against women.
- **10. Child Marriage Prohibition Act, 1929:** Even in the 21st century, in some rural and some urban areas of India, small children are being arranged in a pavilion and their marriages are being arranged,

to determine the age of marriage in this act and to violate the rule. Provision has been made for punishment, fine etc.

- 11. Prevention of Sati Act, 1987 and Rajasthan Prevention of Sati Act, 1987: By this Act, strict steps were taken to stop the practice of Sati and its glorification.
- **12.** Immoral Traffic Prevention Act, 1956, amended 1978 and 1986: According to this Act, sexual exploitation of women has been considered as a cognizable offense.
- 13. The "Suppression of Immoral Traffic in Women and Girls Act" 1950 amended 1978 and the Immoral Traffic Prevention Act 1986: Prevention of Immoral Traffic Act, 1956 is similar.
- **14. Termination of Pregnancy Act, 1971:** Initially in our country both abortion and abortion were offenses as per Article 312-316 of Indian Penal Code-1860. This act has been made keeping in view the health of women.
- **15. Movies Act, 1952:** Films have a deep impact on the society, so it is the responsibility of the Censor Board to stop such films, which show women in obscene form and violate the dignity of women.
- 16. Indecent Prohibition of Women Act, 1986: Through this act, the obscene depiction of the body of a woman has been completely banned. It states that no woman shall be depicted in such a way as to outrage her public morals or degrade her dignity. Related to this are the Prevention of Tampering Act, 1978, Cinematography Act, 1952, Incident Representation of Women Prohibition Act, 1986 etc.
- 17. Special Marriage Act, 1954: Through this act women have been provided with marital freedom as well as religious freedom. Through this act, any woman can marry a person who believes in any other religion without converting her religion.
- 18. Factories Act, 1948, Amendment-1976: This Act states that if the number of women in any factory or industry is more than 30, then the management will have to arrange a crche there. So that women can leave their children in the crche during working hours.
- 19. Criminal Law Act, 1961: Under this Act, such rights and special concessions have been given to women that women are

It is well known that in the Indian Constitution, women have equal status as men, but the reality is being seen even today that there is no such area in the name of marriage, divorce, work, property, alimony etc. Don't make fun of women. Continuous efforts are being made to diagnose the crime and atrocities on women through the Indian Constitution, State and Central Government, Panchayati Raj system etc. But atrocities on women are flourishing smoothly in the state of Maharashtra. In the year 2009-10, 16620 thousand women have taken the help of police department. Evidence of atrocities was found in well educated and urban part as compared to rural society. From the study of law reports and published newspapers of this state, it was found that cases have been found in Marathwada region regarding demand of dowry against women. Public awareness programs are implemented by the state government at various levels to control domestic violence of women. Provision has been made for legal action against dowry takers in the country.

Violence against women remains a worldwide phenomenon from which no society or community is free. Discrimination against women exists because it is rooted in social norms and values. By the way, without eliminating the causes of violence against women, its complete solution is not possible, but if we look at the western and developed countries, it seems that due to its inherent in human structure and nature, its elimination is not possible from the root. Every place and every type of violence against women, both the society and the society and the state will have to fulfill their moral and legal responsibility. The practical nature demands that there should be such a social initiative that changes the thinking of the whole society towards women.

A massive campaign should be launched in India to fight against the horrific nature of violence against women and to create public awareness. In a developing country like India, the issue of human rights is an issue that requires long-term policy and cooperation from the government and non-governmental organizations. Newspaper groups, All India Radio and Doordarshan can play an effective and active role in bringing awareness to human rights. Walk alone from Kashmir to Kanyakumari and let no indecent incident happen to him". And at the same time, women should be accepted as a part of their life. There is no dearth of women's rights in principle, but in practice it is being seen far away. Certain rights are required for the development of the personality of man in the society, in the absence of which the development of his personality is impossible in the society, these are called human rights which are otherwise non-transitive. Therefore, the rule of the international community for the individual and human rights is an international law. In the international community, along with the state, the individual has also become a subject of international law. Where Aristotle considered man as a social animal, they are applicable even in today's era, but now human rights cannot be encroached by action, because they impose restrictions on state action.

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