



A STUDY OF INDIAN LEGAL SYSTEM WITH RESPECT OF PROTECTION OF WOMAN'S HUMAN RIGHT

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ABSTRACT

There may not be a dearth of laws protecting women in India. For their own protection and advancement, our Constitution grants women special protections. In addition, the IPC, CrPC, and Evidence Act all have active provisions concerning women's protection. The Protection of Women from Domestic Violence Act of 2005, the Immoral Traffic (Prevention) Act of 1956, the Dowry Prohibition Act of 1961, the Indecent Representation of Women (Prohibition) Act of 1986, and the Sexual Harassment of Women at the Workplace (PREVENTION, PROHIBITION, and REDRESSA) Act of 1997 are just a few of the laws we have in place to ensure that women's rights are effectively enforced.

Humans are awarded rights by society not only because they are citizens of a state, but also because they are human; nonetheless, women's rights are frequently violated not just in the political sphere, but also in daily life, in the family, in households, and in the public sphere. Through the ages, women have always been a part of literature. Unfortunately, they have frequently been portrayed as weaker, inferior, unable to subsist on their own and unable to do

In India, however, these objectives are far from being accomplished. In truth, women in India are frequently denied their fundamental right to dignity, let alone gender equality. As a result of India's patriarchal society in which men are always viewed as superior to their female counterparts, the condition of Indian women is inferior to that of men.

In every aspect of life, they have faced prejudice, unfairness, and dishonour due to their gender. Despite the fact that the Indian Constitution provides some special provisions for women's empowerment and overall development, the condition of women in India is quite miserable due to the fact that the vast majority of Indian women are unaware of their rights; consequently, they face discrimination, harassment, and various forms of exploitation.

The legislature and policymakers of India have enacted numerous laws, rules, and regulations protecting the rights of women, but they are ineffective because they are limited to 'Act' rather than 'Action'; this is the reason why Indian women are mistreated and subjected to physical and psychological harassment. Regardless, the purpose of this study is to examine the significance of women's rights in India in relation to the Human Rights applicable to women.

Key word: Women, Human Rights, Constitution, UDHR, Women Rights

INTRODUCTION

Women do not need to be polite to someone who is making them feel uncomfortable. You know, what I mean right?

• If a woman is reading this, I've probably achieved my goal. In India, it is evident that women are not well-versed in their legal rights, and this aspect of Indian culture continues to be marginalised. This essay can help you become more just, as only a person with a high level of awareness can effectively distinguish between just and unjust behavior.

- Maintenance privilege
- Equal pay rights
- The right to respect and courtesy
- Correctly opposing domestic violence
- Occupational rights
- Correct versus dower
- Right to free legal counsel
- Private defense rights

1. *Right to maintenance*

Maintenance encompasses the essentials of existence, such as food, shelter, clothing, education, and medical facilities, among others. A divorced woman is entitled to maintenance payments from her former spouse until she remarries. The amount of spousal support is determined by the wife's standard of living and the husband's circumstances and income. Section 125 of the Code of Criminal Procedure, 1973, imposes an obligation on the husband to support his estranged wife, unless the wife is living in adultery, refuses to live with her husband for no good reason, or they both agree to live apart. According to the aforementioned section, any Indian woman, regardless of her caste or religion, is entitled to maintenance from her spouse. In addition, the Hindu Marriage Act of 1955 permits maintenance, but only for Hindu women. The Dissolution of Muslim Marriage Act of 1939, however, only applies to Muslim women.

2. *Right to equal pay*

There is now gender-neutral laws. Both men and women are entitled to equal pay for the same work. The Equitable Remuneration Act ensures parity. It ensures that men and women receive equal compensation for performing the same or comparable labour. In terms of recruitment and service conditions, there will be no gender-based discrimination.

3. *Right to respect and dignity*

Dignity and decency are the crown jewels of women. Whoever attempts to deprive a woman of her decorum is considered a sinner, and the law requires that he or she be punished accordingly. Every woman has the right to live a life devoid of dread, coercion, violence, and discrimination, with the utmost respect. The law highly respects the dignity and modesty of women. The criminal law provides punishments for crimes committed against women, such as Sexual Harassment (Section 354A), assault with the intent to disrobe her (Section 354B) or outrage her modesty (Section 354), Voyeurism (Section 354C), and Stalking (354D), among others. If the woman is herself accused of an offense and detained, she is treated with respect. Her arrest and search should be conducted with utmost decency by a female police officer, and her medical examination should be conducted by a female medical officer or under her supervision. Whenever possible, a female police officer should file the FIR in rape cases. In addition, she cannot be apprehended between the hours of sunset and sunrise without the Magistrate's special permission and the presence of a female police officer.

4. *Prohibition of Domestic Violence*

Due to the passage of the Preservation of Women from Domestic Violence Act in 2005, every woman has the right to protection against domestic violence. Domestic violence encompasses not only physical abuse, but also psychological, sexual, and economic abuse.

Consequently, if you are a daughter, a wife, or a live-in partner who has been subjected to any of these abuses by your partner or husband or his relatives or by a person related to you by blood or adoption who lives or has lived with you in a shared household, you are protected by the provisions of the Domestic Violence Act and may seek the various remedies provided therein. You may call the women's helpline number (1091) to file a complaint. They will notify law enforcement about your case. You may also contact the local women's cell, which you can locate using Google. After properly composing their complaints, they assist these women in bringing their cases before the magistrate and providing them with special services. You may also register your case with the police. Since domestic violence is a cognizable offense, the police are required to file a First Information Report (FIR) and investigate the incident. However, if the police refuse to do so, you can write a letter to the superintendent of police outlining your case. If the superintendent believes that the information reveals a cognizable offense, he will either investigate himself or direct a subordinate police officer to file a FIR and investigate the incident. In the event that the SP also denies your request, you may directly approach the Magistrate with jurisdiction in your area and move your application under section 12 of the Domestic Violence Act with the assistance of an attorney to seek the desired relief(s) against domestic

violence, including protection, custody, and compensation orders. Under Section 498A of the Indian Penal Code, the spouse or his relatives are punished with a maximum three-year prison sentence and a fine if they are convicted of domestic violence against a woman.

5. Rights on the job

You have the access to a women's restroom at your place of employment. At workplaces with more than 30 female employees, it is required to provide facilities for the care and nourishment of children. In addition, the Supreme Court and the government had taken measures to assure the protection of women in the workplace. In 2013, the government passed the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act in response to the Supreme Court's ruling in Vishaka v. State of Rajasthan, which established exclusive guidelines for the protection of women from sexual harassment in the workplace. Therefore, if a co-worker asks you for sexual favors, makes sexually charged remarks, whistles or sings obscene songs while looking at you, touches you inappropriately, or displays pornographic material, this constitutes Sexual Harassment, and you may file a complaint with the Internal complaints committee, which is required to be established by the employer at each office or branch with 10 or more employees. The District Officer must also form a Local Complaints Committee in each district, and at the block level if necessary. In addition, under section 354A of the Indian Penal Code, sexual harassment is punishable by imprisonment for one to three years.

6. The right to oppose dowry

Dowry system, that is, the giving and receiving of dowry by the bride, the groom, or their parents at, before, or after marriage, is prohibited by the Dowry Prohibition Act of 1961. The Act defines "dowry" as any property or valuable security given or committed to be given directly or indirectly by one party to another, but excludes dower and mahr in the case of individuals to whom the Muslim Personal Law (Shariat) applies. If you give, receive, or aid in the giving or receiving of dowry, you will be punished with a minimum sentence of five years in prison and a minimum fine of Rs. 15,000. The dowry system fosters violence.

7. Right to legal aid at no cost

If you are a woman who has been wronged, you are entitled to receive gratis legal services from the legal services authorities recognized under the Legal Services Authorities Act of 1987, regardless of your financial situation. At the district, state, and national levels, there are District, State, and National legal Services Authorities, respectively. Legal services consist of assisting in the conduct of any case or other legal proceedings before any Court, tribunal, or authority, as well as providing advice on legal matters.

8. Privilege to self-defences/private defence

This is a defensive privilege. In defending your body or the body of another individual from an attacker, you can cause harm, severe harm, or even death. You may kill the assailant without incurring liability or

punishment only under certain circumstances, such as if you believe the assailant is about to cause you death or serious bodily harm, commit rape, kidnapping, or abduction, or if he intends to lock you in a room or throws or attempts to throw acid at you.

Rights of Women under different Indian Legislations:

While discussing women's rights in India, we may examine both constitutional and legal rights. The constitution's clauses define constitutional rights. Legal rights are those in Parliament's and state legislatures' Acts. Let's explore rights in greater detail:

1. The Protection of Women from Domestic Violence Act (2005) protects Indian women from all types of husband-inflicted domestic abuse. Physical, sexual, mental, verbal, or emotional abuse constitutes domestic violence.
2. The Immoral Traffic (Prevention) Act, 1986 (PITA) revised the 1956 Act (SITA). This Act prohibits commercial sexual exploitation and prostitution for women and girls. The Ministry of Women and Child Development introduced the Immoral Traffic (Prevention) Amendment Bill, 2006, in 2006.
3. The 1986 Indecent Representation of Women (Prohibition) Act forbids indecent portrayal of women in ads, publications, writings, paintings, figures, and other media.
4. The Commission of Sati (Prevention) Act (1987) prevents widows from being burned or buried alive and prohibits ceremonies that glorify this practice.
5. The 1961 Dowry Prohibition Act prevents women from paying or receiving dowry before or after marriage.
6. The 1961 Maternity Benefit Act protects women's work and provides maternity benefits and other advantages. The 1961 Maternity Benefit Act was amended by the 2017 Maternity Benefit (Amendment) Act. Contractual or consultant women workers and women on maternity leave at the time of the Amendment Act's execution are covered by the Act.
7. The Medical Termination of Pregnancy Act (1971) allows certified medical practitioners to terminate some pregnancies for humanitarian and medical reasons.
8. The Pre-conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act (1994) outlaws sex selection before or after conception and restricts pre-natal diagnostic procedures from being used for female foeticide.
9. The Equal Remuneration Act (1976) requires equal compensation for men and women doing the same or equivalent work. It also prohibits gender discrimination in hiring and working circumstances.

10. Muslim women's rights are protected under the 1986 Muslim Women (Protection of Rights on Divorce) Act.

11. Women can inherit parental property equally under the 1956 Hindu Succession Act. After that, the Hindu Succession (Amendment) Act 2005 allowed girls to inherit ancestral property alongside their male relatives.

12. The Minimum Wages Act (1948) prohibits gender-based minimum wages.

13. The Mines Act (1952) and Factories Act (1948) restrict women from working in mines and factories from 7 PM to 6 AM and ensure their safety and wellbeing.

14. The Sexual Harassment of Women at Work Place (Prevention and Protection) Act (2013) protects women against sexual harassment in all workplaces, public and private, organized or unorganized.

15. The Child Employment (Prohibition and Regulation) Amendment Act, 2016 prevents children and adolescents under 18 from working in hazardous occupations and procedures.

16. To combat child sexual abuse and exploitation, the Protection of Children from Sexual Offences Act of 2012 was created. The law protects youngsters under 18 against sexual assault, harassment, and pornography.

WOMEN RIGHTS AS HUMAN RIGHT

Human rights are the minimal equal and inalienable rights everyone has as a part of the global human community, regardless of gender, ethnicity, language, race, religion, nationality, or other factors. [8] These universal rights include the right to life, equality, dignity, freedom of speech and expression, anti-discrimination, and a safe environment. India signed the 1948 universal declaration of human rights, which recognized these all-human rights.

At the 1993 UN World Conference on Human Rights in Vienna, the motto "human rights are women's rights and women's rights are human rights" may seem banal or true, but a deeper look reveals its serious overtones. First, it means that women have suffered centuries of intolerance, persecution, and exploitation. Yet, a true support of human rights requires the exponent to also support and preserve women's rights, such as equality with men, maternal health and sexual and reproductive rights, freedom from gender-based violence, and access to safe, high-quality education. [10] Republics cannot neglect women's rights and support human rights. Women have human and gender-specific rights. India signed the 1966 international covenant on economic, social, and cultural rights and 1979 U.N. Convention on the eradication of all kinds of discrimination against women. All UN Conventions promote human rights and equality without discrimination.

WOMEN'S HUMAN RIGHTS IN INDIA

The 1949 Indian constitution has many sections on gender equality and non-discrimination. Human rights in the form of basic rights are guaranteed to men and women without distinction under the constitution. India passed the Protection of Human Rights Act in 1993. The act created the national human rights commission. Women can report human rights violations to the national human rights commission.

With the rise of literacy, Indian women have become more independent and aware of their rights to equal treatment, property, work, and maintenance. However, a majority of women are still unaware of their rights and face harassment, exploitation, and injustice. After the 2012 Nirbhaya case [11], the Indian penal law, code of criminal process, and evidence act were amended to protect women and their rights.

To preserve women's rights, several women-specific laws have been passed. These rules penalize individuals who breach social standards and abuse women's dignity. These laws grant women legal human rights.

WOMEN'S HUMAN RIGHTS PROTECTED UNDER VARIOUS LEGISLATIONS:

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services specially to working women. Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women' These are broadly classified under two categories.

(1) The Crimes Identified Under the Indian Penal Code (IPC)

- Rape (Sec. 376 IPC)
- Kidnapping & Abduction for different purposes (Sec. 363-373)
- Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
- Torture, both mental and physical (Sec. 498-A IPC)
- Molestation (Sec. 354 IPC)
- Sexual Harassment (Sec. 509 IPC)
- Importation of girls (up to 21 years of age)

(2) The Crimes identified under the Special Laws (SLL)

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements.^[19] Some acts which have special provisions to safeguard women and their interests are:

- The Employees State Insurance Act, 1948
- The Plantation Labour Act, 1951
- The Family Courts Act, 1954
- The Special Marriage Act, 1954
- The Hindu Marriage Act, 1955
- The Hindu Succession Act, 1956 with amendment in 2005
- Immoral Traffic (Prevention) Act, 1956
- The Maternity Benefit Act, 1961 (Amended in 1995)
- Dowry Prohibition Act, 1961
- The Medical Termination of Pregnancy Act, 1971
- The Contract Labour (Regulation and Abolition) Act, 1976
- The Equal Remuneration Act, 1976
- The Prohibition of Child Marriage Act, 2006
- The Criminal Law (Amendment) Act, 1983
- The Factories (Amendment) Act, 1986
- Indecent Representation of Women (Prohibition) Act, 1986
- Commission of Sati (Prevention) Act, 1987
- The Protection of Women from Domestic Violence Act, 2000

SPECIAL INITIATIVES FOR WOMEN

National Commission for Women: The Government established this statutory organization in January 1992 to investigate and monitor women's constitutional and legal safeguards, examine current laws to advise changes, etc.

Reservation for Women in Local Self-Government: Parliament's 1992 73rd Constitutional Amendment Acts provide one-third of all elected seats in local governments, whether rural or urban. The National Plan of Action for the Girl Child (1991–2000) ensures the survival, protection, and development of girls to build a brighter future.

2001 National Women's Empowerment Policy: The 2001 "National Policy for Women's Empowerment" was created by the Ministry of Human Resource Development's Directorate of Women & Child Development. This policy aims to empower and progress women.

SUGGESTION AND CONCLUSION

Mothers, sisters, wives, and daughters complete our lives. In India, society's unsupportive attitude, family ignorance, and antiquated laws violate women's human rights. In Valmiki's Ramayana, even Lord Rama needed an effigy of Sita to fulfil Ashvamedha Yagya procedures without her. Women enjoyed equal rights and prestige in bygone eras. Women had freedom to choose husbands, but now, women are the most vulnerable in Indian culture.

People can be harassed on highways, metros, buses, trains, cinemas, beaches, parks, and even in their own homes. India's legislature and policymakers have passed several laws, rules, and regulations protecting women's rights, but they are restricted to "Act" rather than "Action," which is why Indian women are mistreated, harassed, and abused. Human rights breaches against women pose important concerns. So, for a better society for women, the legislation should be changed.

