

## HUMAN RIGHTS AND WOMEN EMPOWERMENT

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### ABSTRACT

*Human rights can be defined literally as the rights that one has because one is human. The Preamble of the Universal Declaration of Human Rights states that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”. In the present World, India has recognised that human rights and progress are inseparably linked and India has been an important member of the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The commitment of India for human rights is also depicted in Constitution of India, where incorporation of Fundamental Rights, is the best example of this. But mere recognition of the significance of human rights is, however, not adequate because many times we have experienced failures in the implementation of policies like gender equality which safeguard human rights of women. In India, one of the most common types of discrimination is based on gender. Throughout history there has never been a time or place where women collectively enjoyed complete equality with men. Although the current situations concerning this controversy have improved from ancient times, it is still devastatingly imbalanced, considering this aspect the gender equity became part of India’s strategy for eradicating poverty and human misery. The policy makers strongly believed that a positive commitment to gender equality and equity will strengthen every area of action to reduce poverty because women can bring new energy and new insights. A lot of debate is going on women and development since last few decades. Several interventions had taken place both at national and international level leading to passing of several laws including, but not limited to the laws against gender violence provided under IPC Section 498 (a), Domestic Violence Act 2005, and Section 125 CrPc for maintenance. The importance of feminist approach towards the idea of justice has been steadily growing and gaining intellectual legitimacy.*

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**KEY WORDS:** CONSTITUTION OF INDIA, HUMAN RIGHTS, LAWS, WOMEN EMPOWERMENT.

## **“HUMAN RIGHTS AND WOMEN EMPOWERMENT”**

Human rights can be defined literally as the rights that one has because one is human.<sup>2</sup> The Preamble of the Universal Declaration of Human Rights states that “recognition of the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world”.<sup>3</sup> It further states that everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.<sup>4</sup>

Furthermore, disregard and contempt for human rights have resulted in barbarous acts which have outraged the conscience of mankind, and the advent of a world in which human beings shall enjoy freedom of speech and belief and freedom from fear and want has been proclaimed as the highest aspiration of the common people.<sup>5</sup> From the universal acceptance of Universal Declaration of Human Rights, one can assume that human rights are of vital importance to the human race.

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of human rights. Drafted by representatives with different legal and cultural backgrounds from all regions of the world, the Declaration was proclaimed by the United Nations General Assembly in Paris on 10 December 1948 (General Assembly resolution 217 A) as a common standard of achievements for all peoples and all nations. It sets out, for the first time, fundamental human rights to be universally protected and it has been translated into over 500 languages.<sup>6</sup>

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2 Jack Donnelly, *Universal Human Rights in Theory and Practice*, 7 (3rd Ed. 2013).

3 *Universal Declaration of Human Rights*, Preamble, Dec 10, 1948.

4 *Universal Declaration of Human Rights*, Article 2, Dec. 10, 1948.

5 *Ibid.*

6 *UNITED NATIONS*, *Universal Declaration of Human Rights* available at <http://www.un.org/en/universal-declaration-human-rights/>, last seen on 06/12/2016.

In the present World, India has recognised that human rights and progress are inseparably linked and India has been an important member of the Universal Declaration of Human Rights, the Convention on the Elimination of All Forms of Discrimination against Women and the Convention on the Rights of the Child. The commitment of India for human rights is also depicted in The Constitution of India, where incorporation of Fundamental Rights, is the best example of this.

The Constitution of the Republic of India, which came into force on 26<sup>th</sup> January 1950 with 395 Articles and 8 Schedules and is one of the most elaborate fundamental laws ever adopted, declares India to be a Sovereign, Socialist, Secular and Democratic Republic where term 'democratic' denotes that the Government gets its authority from the will of the people and gives them a feeling that they all are equal "irrespective of their race, religion, language, sex and culture". The Preamble to the Constitution pledges justice, social, economic and political, liberty of thought, expression, belief, faith and worship, equality of status and of opportunity and fraternity assuring the dignity of the individual and the unity and integrity of the nation to ail its citizens.<sup>7</sup> India was a signatory to the Universal Declaration of Human Rights. A number of fundamental rights, including gender equality, guaranteed to the individuals in Part III of the Indian Constitution are similar to the provisions of the Universal Declaration of Human Rights.

But mere recognition of the significance of human rights is, however, not adequate because many times we have experienced failures in the implementation of policies like gender equality which safeguard human rights of women. In India, one of the most common types of discrimination is based on gender. Although the constitution of India has granted men and women equal rights, gender disparity still remains. Gender discrimination violates not only human rights but also fundamental rights. Rights are given to all human beings not only for men but also for women.<sup>8</sup> Throughout history there has never been a time or place where women collectively enjoyed

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7 A.B.M. Mafizul Islam Patwaris, *Fundamental Rights and Personal Liberty in India, Pakistan and Bangladesh*, 1st ed. (New Delhi: Deep and Deep Publications, 1991) 63.

8 *Gender Discrimination in India*, WIKIPEDIA, available at [https://en.wikipedia.org/wiki/Gender\\_discrimination\\_in\\_India](https://en.wikipedia.org/wiki/Gender_discrimination_in_India), last seen on 10/03/2017.

complete equality with men. As Belle S. Spafford confirms, “Since ancient times women have been considered men’s inferiors – physically, morally, and intellectually”.<sup>9</sup>

Gender inequality in India refers to health, education, economic and political inequalities between men and women in India. Gender inequalities and its social causes; impact India’s sex ratio, women’s health over their lifetimes, their educational attainment, and economic conditions.<sup>10</sup> Gender discrimination against women in the market place reduces the available talent in an economy, which has negative economic consequences. Gender discrimination takes many forms. Many social practices seen as *normal* from a religious or cultural point of view (which may have deep historical roots) leave women out of the economic mainstream. These social practices may have profound economic consequences because they do not allow society to take advantage of the talent inherent in women.<sup>11</sup>

Lorber states that gender inequality has been a historic worldwide phenomenon, a human invention and based on gender assumptions. It is linked to kinship rules rooted in cultures and gender norms that organises human social life, human relations, as well as promotes subordination of women in a form of social strata.<sup>12</sup> Amartya Sen highlighted the need to consider the socio-cultural influences that promote gender inequalities.<sup>13</sup> In India, cultural influences favour the preference for sons for reasons related to kinship, lineage, inheritance, identity, status, and economic security. This preference cuts across class and caste lines, and it discriminates against girls.<sup>14</sup> In extreme cases, the discrimination takes the form of honour killings where families kill daughters or daughter in laws who fail to conform to gender expectations about marriage and sexuality.<sup>15</sup> These discriminations evolved over a period of time.

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9 *Research Paper on Gender Discrimination*, EFFECTIVE PAPERS, available at <http://effectivepapers.blogspot.in/2011/05/research-paper-on-gender-discrimination.html>, last seen on 10/03/2017.

10 *Gender Inequality in India*, WIKIPEDIA, available at [https://en.wikipedia.org/wiki/Gender\\_discrimination\\_in\\_India](https://en.wikipedia.org/wiki/Gender_discrimination_in_India), last seen on 10/03/2017.

11 Berta Esteve-Volart (2004), *Gender Discrimination and Growth: Theory and Evidence from India*, London: The Suntory Centre, Suntory and Toyota International Centres for Economics and Related Disciplines, London School of Economics and Political Science, Houghton Street.

12 Lorber, J. (1994). *Paradoxes of Gender*. Yale University Press, page 2-6, 126-143, 285-290

13 Sen, Amartya (2001). “Many Faces of Gender Inequality”. *Frontline, India's National Magazine*. **18** (22): 1–17.

14 “India - Restoring the Sex-ratio Balance”. *UNDP*. Retrieved 12 April 2014.

15 Appiah, Kwame Anthony. 2010. “Wars Against Women”, in *The Honor Code: How Moral Revolutions Happen*. New York: W.W. Norton and Co., Chapter 4, pp. 137–72.

The position enjoyed by women in the Rig–Vedic period deteriorated in the later Vedic civilization. Women during the early Vedic period enjoyed equal status with men in all aspects of life. Works by ancient Indian grammarians such as Patanjali and Katyayana suggest that women were educated in the early Vedic period.<sup>16</sup> Rigvedic verses suggest that women married at a mature age and were probably free to select their own husbands in a practice called SWAYAMVAR or live-in relationship called GANDHARVA marriage.<sup>17</sup>

Indian women's position in society further deteriorated during the medieval period, when child marriages and a ban on remarriage by widows became part of social life in some communities in India.<sup>18</sup> The Muslim conquest in the Indian subcontinent brought PURDAH to Indian society. Among the Rajputs of Rajasthan, the JAUHAR was practised. In some parts of India, some of DEVADASIS were sexually exploited. Polygamy was practised among Hindu Kshatriya rulers for some political reasons.<sup>19</sup> In many Muslim families, women were restricted to ZENANA areas of the house. In spite of these conditions, women often became prominent in the fields of politics, literature, education and religion.

During the British Raj, many social reformers such as Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar and Jyoti Rao Phule, influenced by the modern concept of freedom, liberty, equality and justice, started agitations for the empowerment of women by questioning the prevailing discriminatory practices against women. Their unrelenting efforts, forced British Raj to abolish the ill-practice of Sati and formulation of the Widow Remarriage Act, 1856. The Child Marriage Restraint Act in 1929 was passed due to the efforts of Mohammad Ali Jinnah. Later, stalwarts like Mahatma Gandhi and Pt. Nehru advocated women rights. As a result of their concentrated efforts, the status of women in social, economic and political life began to elevate in the Indian

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16 Varttika by Katyayana, 125, 2477

17 Majumdar, R.C.; Pusalker, A.D. (1951), "Chapter XX: Language and literature", in Majumdar, R.C.; Pusalker, A.D., *The history and culture of the Indian people, volume I, the Vedic age*, Bombay: Bharatiya Vidya Bhavan, p. 394, OCLC 500545168.

18 Mishra, R. C. (2006). *Women in India: towards gender equality*. New Delhi: Authorspress. ISBN 9788172733063.

19 Kamat, Jyotsana (January 2006). "Status of women in medieval Karnataka (blog)". *kamat.com*. Kamat's Potpourri. Retrieved 24 December 2006.

society.<sup>20</sup> Many women reformers such as Pandita Ramabai also helped the cause of women. As a result of their concentrated efforts, the status of women in social, economic and political life began to elevate in the Indian society.

***“You can tell the condition of a nation by looking at the status of its women”***

**– Pt. Jawaharlal Nehru**

After Independence, based on the ideas championed by our founding fathers for women empowerment, many social, economic and political provisions were incorporated in the Indian Constitution. Women in India now participate in areas such as education, sports, politics, media, art and culture, service sector and science and technology. But due to the deep-rooted patriarchal mentality in the Indian society, women are still victimized, humiliated, tortured and exploited. Even after almost seven decades of Independence, women are still subjected to discrimination in the social, economic and educational field.<sup>21</sup>

Swami Vivekananda, one of the greatest sons of India, quoted that, ***“There is no chance for the welfare of the world unless the condition of women is improved, It is not possible for a bird to fly on only one wing.”*** Therefore, the inclusion of “Women Empowerment’ as one of the prime goals in the eight Millennium Development Goals underscores the relevance of this fact. Thus, in order to achieve the status of a developed country, India needs to transform its colossal women force into an effective human resource and this is possible only through the empowerment of women.

Women empowerment<sup>22</sup> in simple words can be understood as giving power to women to decide for their own lives or inculcating such abilities in them so that they could be able to find their rightful place in the society or emancipation of women from the vicious grips of social, economical, political, caste and gender-based discrimination.

According to the United Nations, women’s empowerment mainly has five components:

- Generating women’s sense of self-worth;

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20 Prof. V. P. Gupta, Essay on Women Empowerment In India, available at <https://www.iaspaper.net/women-empowerment-in-india/amp>, last seen on 12/03/2017.

21 *Ibid.*

22 Namit K Srivastava, *Women Empowerment in India*, INDIACELEBRATING.COM, available at <http://www.indiacelebrating.com/social-issues/women-empowerment/>, last seen at 11/03/2017.

- Women's right to have and to determine their choices;
- Women's right to have access to equal opportunities and all kinds of resources;
- Women's right to have the power to regulate and control their own lives, within and outside the home; and
- Women's ability to contribute in creating a more just social and economic order.

Thus, women empowerment is nothing but recognition of women's basic human rights and creating an environment where they are treated as equals to men.

***“Empowerment is an aid to help women to achieve equality with men or at least to reduce gender gap considerably.”***

**– P. K. B. Nayar**

Empowering women to participate fully in economic life across all sectors is essential to building stronger economies, achieve internationally agreed goals for development and sustainability, and improve the quality of life for women, men, families, and communities.<sup>23</sup>

The need of women empowerment arose because of the gender discrimination and male domination in the Indian society since ancient time. Women are being suppressed by their family members and society for many reasons. They have been targeted for many types of violence and discriminatory practices by the male members in the family and society in India and other countries as well. Wrong and old practices for the women in the society from ancient time have taken the form of well developed customs and traditions. There is a tradition of worshipping many female goddesses in India including giving honour to the women forms in the society like mother, sister, daughter, wife and other female relatives or friends. But, it does not mean that only respecting or honouring women can fulfil the need of development in the country. It needs the empowerment of the rest half population of the country in every walk of life.<sup>24</sup>

The subject of empowerment of women has becoming a burning issue all over the world including India since last few decades. Many agencies of United Nations in

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<sup>23</sup> Supra 19.

<sup>24</sup> Essay on Women Empowerment in India, available at <http://www.indiacelebrating.com/essay/women-empowerment-essay/>, last seen at 10/03/2017.

their reports have emphasized that gender issue is to be given utmost priority. It is held that women now cannot be asked to wait for any more for equality. They have demanded equality with men in matters of education, employment, inheritance, marriage, politics and recently in the field of religion also to serve as cleric (in Hinduism and Islam). Women want to have for themselves the same strategies of change which men folk have had over the centuries such as equal pay for equal work. Their quest for equality has given birth to the formation of many women's associations and launching of movements.<sup>25</sup>

India's Constitution makers and our founding fathers were very determined to provide equal rights to both women and men. The Constitution of India is one of the finest equality documents in the world. It provides provisions to secure equality in general and gender equality in particular. Various articles in the Constitution safeguard women's rights by putting them at par with men socially, politically and economically. The Preamble, the Fundamental Rights, Directive Principles of State Policies and other constitutional provisions provide several general and special safeguards to secure women's human rights. Besides these there are specific laws which were enacted by the Parliament in order to fulfil Constitutional obligation of women empowerment:<sup>26</sup>

- The Equal Remuneration Act, 1976.
- The Dowry Prohibition Act, 1961.
- The Immoral Traffic (Prevention) Act, 1956.
- The Maternity Benefit Act, 1961.
- The Medical termination of Pregnancy Act, 1971.
- The Commission of Sati (Prevention) Act, 1987.
- The Prohibition of Child Marriage Act, 2006.
- The Pre-Conception & Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994.
- The Sexual Harassment of Women at Work Place (Prevention, Protection and) Act, 2013.

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<sup>25</sup> Puja Mondal, *Essay on Women Empowerment in India*, available at <http://www.yourarticlelibrary.com/essay/essay-on-women-empowerment-in-india/31317/>, last seen at 10/03/2017.

<sup>26</sup> Supra 21.

Above mentioned and several other laws are there which not only provide specific legal rights to women but also gives them a sense of security and empowerment.

The Government of India is running various welfare schemes and policies, both at State and Central levels for the empowerment of woman. Some of the major programs and measures include Swadhar (1995), Swayam Siddha (2001), Support to Training and Employment Programme for Women (STEP-2003), Sabla Scheme (2010), National Mission for Empowerment of Women (2010) etc. The policy makers strongly believed that a positive commitment to gender equality and equity will strengthen every area of action to reduce poverty because women can bring new energy and new insights. All such policies and programs focus on social, economic and educational empowerment of women across various age groups. Thus, there has been no dearth of social, economic, political, legal and Constitutional efforts made for the empowerment of women both prior to and post-Independence. However, women in India continue to face atrocities such as rape, dowry killings, acid attacks, human trafficking, etc. According to a global poll conducted by Reuters, India is the “fourth most dangerous country in the world for women”. There are a lot of challenges ahead on the way of women empowerment<sup>27</sup>:-

**Perspective:** The most widespread and dehumanizing discriminations against women are on the basis of the biased perspective. The discrimination against the girl child begins from the birth itself. Boys are preferred over girls; hence, female infanticide is a common practice in India.

**Patriarchate Bottlenecks:** The traditional Indian society is a patriarchal society ruled by the diktats of self-proclaimed caste lords who are the guardians of archaic and unjust traditions. They put the burden of traditions, culture, and honor on the shoulders of women and mark their growth. The incidences of “honor killing” reveal the distorted social fiber in the male-dominated society.

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<sup>27</sup> Supra 19.

**Economic Backwardness:** Women constitute only 29% of the workforce but forms majority of the destitute in the country. There has been a failure in transforming the available women base into human resource.

**Implementation Gaps:** Through all these years, the attention is only on developing and devising new schemes, policies and programmes and have paid less attention to the proper monitoring system and implementation short-sightedness, for e.g. despite the presence of The Pre-Natal Diagnostic Technologies Act and various health programmes like Janani Suraksha Yojana and National Rural Health Mission (NHRM), our country has a skewed sex ratio and a high maternal mortality rate (MMR).

**Loopholes in the Legal Structure:** Although there are a number of laws to protect women against all sorts of violence yet there has been the significant increase in the episodes of rapes, extortions, acid, attacks etc. This is due to delay in legal procedures and the presence of several loopholes in the functioning of a judicial system.

**Lack of Political Will:** The still-pending Women's Reservation Bill underscores the lack of political will to empower women politically. The male dominance prevails in the politics of India and women are forced to remain mute spectators.

*“We cannot all succeed if half of this is held back.”*

—Malala Yousafzai

In conclusion, it can be said that empowering women socially, economically, educationally politically and legally is going to be a Herculean task but Indian women through their own unrelenting efforts and with the help of Constitutional and other legal provisions and also with the aid of Government's various welfare schemes, are trying to find their own place under the sun. The importance of feminist approach towards the idea of justice has been steadily growing and gaining intellectual legitimacy. The rapid pace of economic development has increased the demand for educated female labour force almost in all fields. Women are earning as much as their husbands do, their employment nonetheless adds substantially to family and gives family an economic advantage over the family with only one breadwinner.

It is not going to be easy to change the culture of disregard for women which are so deep-rooted in Indian society. But it does not mean that it is implausible. The only need of us is to educate and sensitize male members of the society regarding women issues and try to inculcate a feeling of togetherness and equality among them so that they would stop their discriminatory practices towards the fairer sex.

Only revolutions bring changes in a day, but reforms take their time. This one, in particular, will take its time as well. However, we are still far behind in achieving the equality and justice which the Preamble of our Constitution talks about. All we need is a concentrated effort focused in the right direction that would rest only with the liberation of women from all forms of evil. And first of all efforts should begin from our homes where we must empower female members of our family by providing them equal opportunities of education, health, nutrition and decision making without any discrimination.

Because India can become a powerful nation only if it truly empowers its women.

***‘There is no tool for development more effective than the empowerment of women.’***

**—Kofi Annan**