



CRITICAL EVALUATION OF INDIAN WOMEN'S HUMAN RIGHTS ABUSES IN INDIA

Manoj Kumar, Research Scholar, Dept of Law, Kalinga University

Dr. Subhash Chandra Yadav, Associate Professor, Dept of Law, Kalinga University

ABSTRACT

Human rights are the minimum, equal, and unalienable privileges that each and every person has as a result of being a part of the global human family, regardless of gender, ethnicity, language, race, religion, nationality, or any other distinction. Even though the Indian Constitution recognizes these rights as various essential freedoms and provides that men and women are entitled to the same protections against discrimination, the actual state of women's human rights in India cannot be deemed sufficient. Due to the current makeup of Indian culture and the customs that are followed there, there is a significant difference between the de facto and de jure conditions. Because of the patriarchal nature of Indian society, where men predominate and are consistently regarded as superior to their female counterparts, women's conditions are not as favorable as those of men. In every sphere of life, they must contend with gender-based prejudice, injustice, and dishonor. Even though the Indian Constitution makes some unique provisions for women solely for their empowerment and general growth, the majority of Indian women are still unaware of their rights, and as a result, they must deal with numerous sorts of discrimination, harassment, and exploitation. The legislature and policy makers of India have created numerous laws, rules, and regulations ensuring the rights of women, but these laws, rules, and regulations are ineffective because they only take the form of "acts" rather than "actions," which is why Indian women are mistreated and subjected to physical and mental harassment. Through this essay, an effort has been made to educate women on the rights that are guaranteed to them by the constitution and other pertinent legislation. This essay is based on secondary data that was gathered from a variety of books, newspaper articles, and reports.

KEYWORDS: Legislation, Harassment, Exploitation, Constitution, Human rights



INTRODUCTION

One of the oldest civilizations in the world is found in India. Women were granted a high place in society during the Rig Vedic period in ancient India. It was a time when they could choose their husbands freely, were married at an older age, and had the chance to take part in religious ceremonies¹. Women's status increasingly declined over time, and in the later Vedic period, they had to contend with discrimination. Smritis analysis reveals the deteriorated status of women. In contrast to Vedic literature, Smritis also produce a lot of misunderstanding regarding many theories and notions. For instance, Manu Smiriti views women as the most respectable while saying "Naryastu Yatra Pujyante, Ramante Tatra Devta" (Where women are honoured, there very gods are pleased)². It also states, "Pita Raksati Kaumare Bharta Raksati Yauvane, Raksanti Sthavire Putra Na Stri Svatantryamarhati," in opposition to this³. (The woman is never ready for independence; the father guards her during her virginity, the spouse guards her during her youth, the son guards her during her senior years.) Therefore, no female—girl, young woman, or old woman—was to be given the freedom to act independently. She was to be under the authority of her father when she was a child, her husband after they were married, and her son after she became widowed⁴. Therefore, the Manu Smiriti can be used as an illustration of how to treat women with respect and disregard. "The father shall watch her while she is a virgin, the husband when she is married, and the son in old age," writes Yajhavalkya, the author of Mitakshra. "In the absence of these, her relations, a woman has no independence at any time⁵." As a result, women in that time period struggled to survive since they lacked appropriate rights and had to submit to society's rigid patriarchal structure.

Following the Vedic era in the medieval age, a number of conventions negatively impacted their independence and rights and deteriorated their social status. In an effort to keep women

¹ Anjani Kant, Women and the Law 48 (Awishkar Publication House, Delhi, 2008).

² Neelam Upadhyay & Rekha Pandey, Women In India: Past And Present 109 (APH Publishing House, New Delhi 1990).

³ Manu Smriti, verse 9.3.

⁴ Vrinda Nabar, Caste As Women 65 (Penguin Books 1995).

⁵ Dwarka Nath Mitter, The Position Of Women In Hindu Law 69 (Cosmo Publication, New Delhi, 2006).



hidden from Muslim invaders, the veil (purdah) system—a social evil—was created. In that time, child marriage and the practice of sati also became common. Women lost all of their independence as a result of such societal injustices, which was blatantly against their constitutional rights. Under the influence of western culture on Indian society during British rule, women enjoyed a newfound sense of freedom. Britain was the source of the idea of equality, fairness, and morality. During that time, social reformers like Raja Ram Mohan Roy, Swami Dayanand Saraswati, and Ishwar Chandra Vidhyasagar tried to improve the condition of women by preventing child marriage and sati, as well as by promoting education among them to give them more authority. When India gained its independence, the Indian Constitution guaranteed men and women equal rights without any kind of discrimination. Unfortunately, despite several initiatives to raise women's standing in India, the constitutional goal of gender equality remains a long way off.

In India, there are more crimes against women every day. Data from the National Crime Record Bureau (NCRB) show that 1,215 cases of rape, 11 cases of attempted rape, 3,416 cases of husband or relative cruelty, 3,715 cases of women being abducted, 2,705 cases of outraging modesty, 18 cases of women-related cybercrime, and 153 cases of dowry deaths occurred in Delhi in 2018. In comparison to the previous year, the number of crimes against girls climbed to 8,246 cases, according to NCRB data. Of these, 1,839 POCSO cases, 52 murder cases, 72 incidents of human trafficking, and 687 cases of insulting a girl child's modesty were reported. The Delhi Police reported a total of 13,640 cases of crime against women in 2018⁶. When things are this awful in the capital city, we can only imagine how things are throughout the rest of India. The rights of women must be discussed separately since although making up approximately half of India's population, they are still subjected to discrimination and have their rights violated in every aspect of society. Some crimes, such as rape, sexual assault, dowry demands, bride burning, prostitution, selling and importing, and sexual exploitation, are solely committed against women. Men cannot be victims of any of these crimes. The question of how this Human Rights protection, which women are granted

⁶ Delhi: Crime against women up nearly 5%, TIMES OF INDIA, Jan. 10, 2020, (Mar. 14, 2020, 09:16 AM), http://www.timesofindia.com/city/delhi/crime-against-women-up-nearly-5/amp_articleshow/73179754.cms.



under different laws and constitutional requirements, benefits them now becomes crucial. There is no doubt that the government of India is working hard to empower women, but there is still more work to be done.

CHALLENGES TO WOMEN RIGHTS IN INDIA

The problems with women's rights in India are complicated by a number of factors. These problems will directly affect how empowered women are in India.

Education: There is a significant gender discrepancy. In India, just 65.46% of adult women are known to be literate, compared to 82.14% of adult men. Threatened by the gender bias in higher education and specialized professional training

Poverty: The elimination of poverty should be a national aim on par with eliminating illiteracy because it is thought to be the biggest threat to world peace. Women are abused as domestic helpers as a result.

Sexual assault and harassment: "Eve-teasing," a slang term for molestation or harassment of a sexual nature in public settings, is often unreported. Many commentators blame the government's lax prosecution of such assault offenses and a complicit culture. Rape, kidnapping and abduction, molestation, sexual harassment, torture, homicide for dowry, and the importation of girls are all considered crimes against women under the Indian Penal Code. Analysts claim that India's delayed, overloaded, and underfunded criminal justice system has made matters worse for female victims. The majority of rapes go undetected, in large part due to societal stigmas associated with such crimes that could embarrass victims and their families.

Health and Safety: Women's health and safety issues are crucial for a nation's well-being and a key indicator of how empowered women are in a nation. But when it comes to maternity healthcare, there are grave worries.

Professional inequality: This imbalance manifests itself in hiring practices and promotion practices. The environment that is tailored to and dominated by men in government offices and private businesses places women at a significant disadvantage.



Household Inequality: In India, for example, the division of labor system is used to share the burden of household duties, child care, and menial labor. Work is more closely tied to women than to males, making it a barrier to equal rights enjoyment.

SIGNIFICANCE OF THE STUDY

One of the fundamental rights that the Constitution guarantees to all of its inhabitants without exception is the right to life. However, a person can only exercise this fundamental right provided his or her civil, social, economic, political, and cultural rights are all respected. However, it is also fairly frequent for these rights to be violated. Typically, women are the main targets of various human rights violations committed across India by various institutions, including the state apparatus. A number of problems affect, including a lack of basic amenities, poor transportation and communication, hospitals, the use of birth control pills, poverty, illiteracy, and ignorance of one's rights. Although rape and sexual harassment occurrences are not documented there, other grave human rights violations are discernible. These same infractions, on which this study focuses, also affect the women of the tribes. According to earlier research, there is a clear pattern of human rights abuses. However, the researcher was unable to locate any specific research about the same topic. As a result, the researcher decided to conduct the study in this topic.

OBJECTIVES OF THE STUDY

- To understand the concept of Human Rights and its genesis
- To recognize various constitutional provisions for the safeguard women's human rights in India

RESEARCH METHODOLOGY

The descriptive technique of research has been used to write this research paper, and the data gathered and interpreted for it are of a secondary character. This essay's main focus is on the human rights of women in India, and it also discusses how those rights—which were granted to women as constitutional fundamentals—are frequently infringed. An effort has been made to raise awareness of this issue by focusing on the many crimes that are committed against them.



DISCUSSION

PRESENT SITUATION OF WOMEN'S HUMAN RIGHTS IN INDIA

There are many laws protecting women's rights today and encouraging them to give their all in every aspect of life, but Indian society's mindset hasn't changed from the ancient and medieval eras, negatively harming women and their rights. Even now, more than 70 years after we gained our independence, women continue to experience the following rights violations:

A. Violation of Right to Equality and Protection against Gender Discrimination

India is a patriarchal society in which men are constantly given primacy and are viewed as being superior to women. In India, prejudice against women begins at the moment of conception, when sex determination tests that result in foeticide and female infanticide are practiced. In some regions of India, a girl infant is killed shortly after birth by various harsh techniques if she even so much as opens her eyes. The area where women should feel the safest is at home, but in reality, here is where they often experience abuse and exploitation at the hands of their loved ones. They are being denied their "Right to life" in such situations.

B. Violation of Right to Live with Human Dignity

The right to live with dignity is affirmed in the preambles of both the UDHR of 1948 and the Indian Constitution. However, at the present time, due to incidents of eve teasing, sexual harassment, rape, and exploitation, this right is no longer present in the lives of Indian women, posing a threat to our social structure, constitutional system, and state of law and order.

C. Violation of Right to Health

Article 25(1) of the UDHR, 1948, states that everyone has the right to health. In India, where 60% of women are anemic, malnutrition is a quiet emergency, claims a new World Bank report. 48 In a traditional Indian household, the male family members typically eat before the female ones and are given food of varying quality. Furthermore, numerous studies have demonstrated that the quality and quantity of the food for women are lower to those for men.



Compared to women, men are given access to more nutrient-dense foods such milk, eggs, butter, ghee, fruits, and vegetables. The distribution of food between male and female family members differs at the intra-family level, which causes more severe malnutrition in females than in males. Economic hardship and natural disasters like floods, droughts, and earthquakes can sometimes increase discrimination against women. Women are more susceptible to illnesses and ailments as a result of their diet's low nutritional quality. Because families spend less on women's prescription drugs than on men's, they are forced to live with poor health. For both young and old people, there is widespread discrimination based on gender in terms of nutrition, immunization, care seeking behavior, and living conditions.

D. Violation of Right to Liberty

Both the UDHR and the Indian Constitution guarantee everyone, including women, the right to liberty. However, in the current Indian context, the demand for dowry, bride burning that follows, and domestic abuse occurrences pose serious obstacles to women's freedom.

1. Demand of Dowry and Bride Burning

A social infection known as "dowry" refers to the possessions a bride brings to her marriage⁷. The bride's family has been paying dowry to the bridegroom's family since ancient times, and this tradition is still commonly practiced today in India. It could be considered payment to the bridegroom's family for housing the bride in their residence. It can also be seen as the idea of Varadakshina, which is Sanskrit for "gift to the bridegroom as a mark of respect." It could also be viewed as a third payment made to Streedhan in place of the bride's inheritance from her family's wealth⁸. A common crime today is the husband and his family's demand for dowry in arranged marriages, followed by the homicide of the bride because she brought an inadequate dowry. Despite the government's passage of the Dowry Prohibition Act, which made dowry requests in marriage unlawful, dowry occurrences are on the rise.

2. Domestic Violence

⁷ Wanda Teays, *The Burning Bride: The Dowry Problem in India*, 7 J. FST S. IN R. 29 (1991) (May 14, 2019, 11:50 PM), http://www.jstor.org/stable/25002154?seq=1#page_scan_tab_contents.

⁸ Jyoti Belur et al., *The social construction of 'dowry deaths'*, (May 13, 2020, 01:15 PM), <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4394358/#!po=0.454545>.



Gender-based violence was first acknowledged as a violation of human rights in 1993 at the "World Human Rights Conference in Vienna." Similar language was used in the 1993 "United Nations Declaration," which defined violence against women as "any act of gender-based violence which results in, or is likely to result in, physical, sexual, or psychological harm or suffering to a woman, including threats of such acts, coercion, or arbitrary deprivations of liberty, whether occurring in public or private life."⁹ The violence against women in India that is never officially addressed includes wife bashing and abuse by alcoholic husbands. The most frequent cause of such violence within the four walls of a woman's house is her husband's desire for the money she works so hard to acquire for his drinking. Indian women are ashamed to talk about such situations; hence they constantly strive to keep them hidden. Another reason for such violence is interference from in-laws and extramarital activities of the husbands¹⁰. Due to a lack of alternative support systems, the majority of victims who are women do not report such assault to the authorities.

E. Violation of Right to Education

Although education is regarded as the most important human right and is essential to a woman's whole personality and awareness development, Indian society's attitude toward women's education has not improved since the Middle Ages and continues to this day. Since early childhood, women are taught that they lack physical strength and are therefore only suited for particular occupations that need less physical power, or in other circumstances, just to function as spouses and mothers.

According to census data from 2011, the literacy rate for men is 82.14, while the rate for women is just 65.46¹¹. This substantial disparity in literacy levels between men and women is evident despite the country's continual progress since independence. Due to the high

⁹ Rakesh Choudhary et al., *Domestic Violence against Women's in India: A Study*, 1 PANACEA INT'L R. J. 50 (2014) (May 13, 2020, 02:15 PM), <http://www.researchgate.net/publication/315100638>.

¹⁰ Madhurima, *Readings in Sociology* 216-233 (New Academic Publishing Co. 2010).

¹¹ *Literacy in India* (May 13, 2020, 03:16 PM), <http://www.census2011.co.in/literacy.php>.



percentage of uneducated Indian women, they are not even aware of their fundamental human rights and are powerless to defend them.

F. Violation of Right to own Property

In many Indian families, women are not allowed to possess property in their own names or get a share of the family's assets. Women still have extremely restricted access to land and property due to the lax enforcement of the laws protecting them. In truth, there is discrimination against women in certain of the laws governing land and property rights. Two categories of property exist: Sons and daughters, regardless of their marital status, are entitled to inherited property that can be passed down through four generations of male lineage⁵⁶. Women did not, however, enjoy such rights prior to the 2005 change to the Hindu Succession Act. The second kind of property is that which the father has personally obtained, and he is free to transmit it by gift or will to anyone; neither the sons nor the daughters are permitted to object. Despite the fact that both married and unmarried women have the right to inherit, Due to the strict ideals of traditional Indian society, the majority of married girls have not received any rights to their fathers' or their ancestors' property.

G. Violation of Right to Equal Opportunity of Employment and Equal Pay for Equal Work

In India, the most employment prospects are in agriculture, micro, small, and medium-sized industries; however, the employment of women in these industries has been rapidly dropping in recent years. The adoption of new technical breakthroughs in these industries necessitates specialized training for the acquisition of necessary abilities and information. Women employees are being excluded from the industrial process and rendered jobless due to illiteracy and a lack of information and skills that are necessary. As a result, they receive lower pay than men do for the same amount of effort. Even in small-scale enterprises, women's participation is quite low. Their position in large-scale industries and technology-based businesses has become exceedingly constrained¹². Currently, they are only favoured for

¹² Susanne E. Jalbert, *Women Entrepreneurs in the Global Economy*, Mar. 17, 2000.



a small number of positions that demand feminine skills. In this regard, the employment landscape for women in India isn't any better.

CONCLUSION

"When women advance, the family, the village, and the country advance." It is crucial because their worldviews and belief systems influence the growth of a healthy family, good society, and eventually a good country. Women's safety and protection can be ensured, as well as the upholding of their rights, with sufficient awareness of these rights. The necessity of the hour is for true equality, which may guarantee greater democratic principles, best rights, and the safety and wellbeing of women. According to the 2011 Census data, there are 940 females for every 1000 males, meaning 48% of all Indians are female. As mothers, sisters, wives, and daughters, women play crucial roles in our lives and complete us. They should be treated equally and with respect in every aspect of life, however in India, abuses of women's human rights are primarily due to antiquated laws, a patriarchal culture, and unsupportive social attitudes. The legislature and policy makers of India have created numerous laws, rules, and regulations ensuring the rights of women, but these laws, rules, and regulations are ineffective because they only take the form of "acts" rather than "actions," which is why Indian women are mistreated and subjected to physical and mental harassment. Women's human rights breaches bring up some interesting considerations for us, such as how beneficial it is for women to have particular rights. What are the advantages of passing laws that are so pro-women? Do they actually assist them? Will women one day have the same status as men? These are all still open questions. To fully address these inquiries, more work remains. In this regard, we need to reconsider our approach and get to work creating a better and safer environment for women. Swami Vivekananda correctly stated in this regard that "the welfare of the world has no hope unless the position of women is changed. A bird cannot go through the air on just one wing.

REFERENCES



1. Antony, Susan B. "From our Famous Women :An Authorized Record of the Lives and Deeds of Distinguished American women of our times." Wikipedia has an article about Elizabeth Cady Stanton , july 19-20, 1884: 1.
2. Awan, Zamir. Human Rights Violations in India bring Global Scrutiny. 26 June 2018. www.atimes.com (accessed August 17, 2018).
3. Azad, Smarika. "Article 21:Right to Life & Livelihood." Law Audience Journal ISSN, 2013: 2581-6705.
4. Azad, Smarika. "Article 21:Right to Life & Livelihood." Law Audience Journal ISSN, 2013: 2581-6705.
5. B, Chakravarthy. "Traditional and modern health care services in tribal areas." Kurushetra 56 (2008): 62.
6. Beteille, Andrew. Concept of Tribes with Special Refernce to India. Edited by Sumentra
7. Beteille, Andrew. Concept of Tribes with Special Refernce to India. Edited by Sumentra
8. Bhargava, Gopal. Meaning and Source of Human Rights. New Delhi: Kalpaz Publications, 2003.
9. Bhargava, Gopal. Meaning and source of Human Rights. New Delhi: Kalpaz Publications, 2003.
10. Bhatt, Savita. Women and Human rights. New Delhi: Alter Publishing House, 2010
11. Bhatt, Savita. Women and Human rights. New Delhi: Alter Publishing House, 2010
12. Birdal, Sevcan. "The Generations of Human Rights of women in the 20th century:An Analysis of Intrnational local Documents." Ankara: Ihsan Dogramci Bilkent Universitiesi, 2014.
13. Birdal, Sevcan. "The Generations of Human Rights of women in the 20th century:An Analysis of Intrnational local Documents." Ankara: Ihsan Dogramci Bilkent Universitiesi, 2014.
14. Bose, Nirmal Kumar. Tribal life In India. New Delhi: National Book Trust, 2002.



15. Bose, Nirmal Kumar. Tribal life In India. New Delhi: National Book Trust, 1971 Basu Ashok, Ranjan and Nijhawan, ed. Tribal Dvelopment Administration in India. New Delhi: Mittal Publications, 1994.
16. Bose, Nirmal Kumar. Tribal life In India. New Delhi: National Book Trust, 1971 Basu Ashok, Ranjan and Nijhawan, ed. Tribal Dvelopment Administration in India. New Delhi: Mittal Publications, 1994.
17. Chandra, Prakash. Development of Indian TRibes . New Delhi: Discovery Publishing House, 2006.