

# Human Rights of Women in India

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## Abstract

*Human Rights are the basic rights which are compulsorily by every individual as a member of human family. Indian society is a male dominated society where men are always considered to be superior than the women. The women in India very often have to face discrimination, injustice and dishonor. Women in India have been given more rights as compared to men and the condition of women in India is miserable. Violation of Human Rights leads to face discrimination, injustice and dishonor. Indian constitution accords special status to women in certain areas. The Directive Principles of State Policy laid down provide some Human Rights to women.*

**Key words:** *Human Rights, Convention, Women's rights*

## I. Introduction

The basic right is to cast vote, women in India at an advantage, the constitution has granted equal rights to the men and women. The State shall not deny to any person equality before law or the equal protection of laws within the territory of India<sup>1</sup> The women in India have always been considered subordinate to men. Various provisions relating to women in the Indian constitution mandates for equality and non-discrimination on the grounds of sex, as they were discriminated and dishonoured.

Today in rapidly changing social and economic environment, women are exposed to non-traditional tasks to share the burden of male members in the family. Even to maintain a reasonable minimum standard of living, many women are driven to the necessity of leaving the home and turn as working women. At different levels of employment, the working women are exposed to the two dimensional problems. On the one hand they have to face adverse publicity and problem of adjustment in family due to lack of time.

Women represents the half of the world population are subjected to violence, humiliation, discrimination throughout the world. A majority of women suffers from social, and economical in equality which adds upto political inequality also. Women who were respected and worshipped as incarnation of shakti, are today the targets at crimes and are victimized in their own family, own community and in their own society from womb to tomb.

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<sup>1</sup> . Article 14 of Constitution of India.

Women are exposed to various types of violence like pre-birth elimination of females or female infanticide, differential access to care, nutrition, health care, education, child marriage, rape, sexual harassment in work place, prostitution, molestations, trafficking, domestic violence, dowry related abuse and in old age abuse of the elderly women and abuse of widows etc.

In addition of all these women face inequality in work areas, many women are still struck in the lowest paying jobs in agriculture and service sectors and receive less money than their male counterparts for the same task with insufficient legal protection, little or no social protection and a high degree of insufficiency. Women all over the world not only suffer with socio-economic sanctions but also face many psychological consequences and in many cases deprivations and abuse causing emotional disturbance to them.

## II. Rights protected under Criminal Law

Special provisions under the Indian Penal Code to protect and promote Human Rights of the women in India. Some of them are as follows:

**Causing miscarriage** : “Whoever voluntarily causes a woman with child to miscarry shall, if such miscarriage be not caused in good faith for the purpose of saving life of the woman, be punished with imprisonment of either description for a term which may extend to three years, or with fine or with both and if the woman be quick with child, shall be punished with imprisonment of either description for a term which may extend to seven years and shall also be liable to fine”.<sup>2</sup>

**Outraging of the modesty of woman**: Punishment upto two years imprisonment and fine for assaulting or using criminal force against any woman with an intention to outrage her modesty.<sup>3</sup>

**Kidnapping from Lawful Guardianship**: Kidnapping of minors is prohibited. The object is to protect children of tender age from being abducted or seduced for improper purposes.<sup>4</sup>

**Kidnapping to compel marriage** : If a woman is kidnapped or abducted to compel her to marry any person against her will or seduced to have illicit intercourse, person committing such person is punished with a maximum of ten years imprisonment and fine.<sup>5</sup>

**Procuring Minor girl** : A minor girl for illicit intercourse or such other activities attracts the punishment of upto ten years imprisonment along with fine. It also protects from the girls under the age of eighteen years.

**Importing Girls**: Below the age of 21 years for illicit intercourse is also punishable with imprisonment which may extend to ten years.<sup>6</sup>

**Rape**: “ A sexual intercourse with a woman against her will, or without her consent, or with her consent if it is taken under force, or with her consent by misrepresentation that the person is her husband, or consent is given due to unsoundness of mind or if she is below sixteen years”<sup>7</sup>.

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<sup>2</sup> Section 312 of the IPC

<sup>3</sup> . Section 354 of the IPC

<sup>4</sup> . Naiker, Lohit, D. *The Law relating to Human Rights*, 2004, 520.

<sup>5</sup> . Section 366 of the IPC

<sup>6</sup> . Section 366-B of the IPC

<sup>7</sup> . Section 375 of the IPC

**Selling Minors for Prostitution:** Selling and buying minor girls for the purpose of prostitution is punishable with a maximum of ten years imprisonment.<sup>8</sup>

**Enticing or taking a Married woman:** A person taking or Enticing a Married woman for illicit intercourse is punishable with imprisonment of two years.<sup>9</sup>

**Cruelty :** Cruelty is described as (a) any willful conduct which is such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health of the woman or (b) harassment of the woman where such harassment is with a view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security is on account of failure by her or any person related to her to meet such demand.

**Insulting the modesty :** The modesty of insulting of a woman by word, sound, gesture, exhibition of any object etc. is an offense punishable with one year's imprisonment.<sup>10</sup>

**Criminal Procedure Code: U/s. 51 (2),** when an accused is a woman, another woman should make search with strict regard to decency. If the accused hides in the house of a female who according to the custom does not appear in the public, the police cannot enter the house or break it open unless notice is given to such female to withdraw and give her reasonable facility to withdraw herself.<sup>11</sup>

### III. Constitutional Mandates of Human Rights

#### A. Indian National Human Rights

On 29<sup>th</sup> September, 1993 the National Human Rights Commission, India came into existence. As the ordinance promulgated by the President by the Act of Parliament provided that it is a statutory body. During the last few decades the concept of Human Rights has assumed importance globally and has international significance as every country is subject to international scrutiny by the world body which indicates member states for violations. While there is increasingly widespread concern for universal respect and observance of human rights, gross violation of internationally recognized norms continue unabated in almost all parts of the world.

- Right to equality
- Right to freedom
- Right against exploitation
- Right to freedom of Religion
- Cultural and Education Rights
- Right to constitutional remedies

#### B. International Human Rights

The International Human Rights play a very important role for the domestic legal systems throughout the world. The legal situation for a century now effective implementation of the State's Human Rights obligations is secured.

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<sup>8</sup> . Section 372 and 373 of IPC

<sup>9</sup> . Section 498 of the IPC.

<sup>10</sup> . Section 509 of the IPC.

<sup>11</sup> . Section 47(2) of the IPC.

### **The Role of UDHR**

The Universal Declaration of Human Rights (UDHR) is a milestone document in the history of Human Rights. The main objective is to different legal and cultural backgrounds from all regions of the World and the Declaration was proclaimed by the United Nations General on 10<sup>th</sup> December 1948.

### **III. Importance of Women**

Women in India has the equal right with civil and legal matters including contracts, administering property, practicing in the law courts or administering justice. Women also serve as assessors, receivers and Jurors. Any man or woman in India can sue or be sued in his / her name. India woman enjoyed equal status with man in all fields of life, she received the same education like man. The legal status of women was determined by the National Commission for Women with the responsibility of overseeing the working of constitutional safeguards for women.

In order to protect women from violence and to safeguard their rights many National and international standards are laid down to provide and promote social justice to women and to protect their private and civil life. At the international level, various conferences, conventions and declarations are made to improve the status of women which reaffirmed that the women rights. The empirical survey of crimes against women brought into focus the pathetic condition of law enforcement agencies and the ineffectiveness of the protective laws to curb the growing incidents of crime against women.

Comprehensive survey of the general crimes and the celebration of womenhood on international women's day every year on a global scale and the exposure by the media of innumerable cases of crimes against women specially the growing incidents of heinous crimes like rape, bride burning and domestic violence had forced the law makers, governments statistics to reexamine the laws on crimes against women and to find out the reasons for the failure to protective legislation. It also compelled them to think more seriously about the socio-legal problem and to devise better ways of combating this evil. The Constitution of India not only grants the equal rights to women, it empowers state to adopt measures of positive discrimination in favour of women for socio-economic, education and political disadvantages faced by them. The Constitution of India give specific importance to the following Articles 14, 15, 15 (3), 16, 39 (a), 39(b), 39 (c) and 42.

1. Quality before law for women (Article 14)
2. The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them [(Article 15 (i)]
3. The State to make any special provision in favour of women and children (Article 15 (3) )
4. Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
5. The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39 (a)); and equal pay for equal work for both men and women (Article 39 (d)).

6. To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Article 39 A).
7. The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42).
8. The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46).
9. The State to raise the level of nutrition and the standard of living of its people (Article 47).
10. To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51(A) (e))
11. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (Article 243 D (3)).
12. Not less than one-third of the total number of offices of Chairpersons in the Panchayat at each level to be reserved for Women (Article 243 D (4)).
13. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (Article 243 T (3)).
14. Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and Women in such manner as the legislature of a State may bylaw provide (Article 243 T (4)).

#### **IV. Rights under other laws**

Under the Indian constitution to be realized by making series of laws and bringing amendments to the existing ones. Introducing monogamy strengthens the institution of marriage. The Muslims, Daughter, widow and mother were given the right to inherit property along with son under Hindu Succession Act. Under the Hindu Adoption and Maintenance Act, 1956, consent of wife for adoption of a child by married man, right to adopt a child by woman and the right to claim maintenance after separation are some of the additional measures taken to support the women. Under the labour laws, women were given various rights such as right to minimum wages under the Minimum Wages Act, 1948; Maternity leave and benefits under the Maternity Benefits Act, 1961; Right not to be placed on right work and the work not suited to their health under the Factories Act, 1948; right to get equal pay under the Equal Remuneration Act, 1976. The law to award death penalty to those

convicted of raping children below 12 years of age has come into effect under the Criminal Law Amendment Ordinance, 2018

## V. Convention and Women's Human Rights

The Convention on the Elimination of all forms of Discrimination against women (CEDAW) has the following objective is to bring equality between men and women by eliminating all forms of discrimination against women. The rights recognized under this convention are as follows:

1. Right to vote, elect, to be elected and hold offices at all levels of Government along with the right to participate in formulation of government policy.
2. The opportunity to represent their country at international level and to participate in international organization
3. Equal right to acquire, change and retain nationality
4. Equal access to educational opportunity and elimination of stereotyping in education and textbooks.
5. Equal right to employment, choice of profession, remuneration, and social security.
6. Guarantee of same legal capacity as men to contract, administer property and appear in court or before tribunals.
7. Freedom of movement and right to choose residence and domicile should be granted to women.
8. Contractual and other private restriction on legal capacity of women shall be declared null and void.
9. Equal right and responsibilities with men in marriage and family relationship.
10. Equality during marriage and its dissolution.
11. Equal right to choose to family name, profession or occupation.
12. Equal right to guardianship and adoption of children.
13. Equal rights and responsibilities regarding ownership, management and disposal of property.<sup>12</sup>

The Convention is empowered to invite specialized agencies to submit reports on the implementation on areas falling within the scope of their activities.

### 01. Organisation of American States (OAS)

The specific conventions for women's right relating to protection and promotion was :

1. Inter-American Convention on the Granting of Civil Rights to Women
2. Inter-American Convention on the Granting of Political Rights of Women
3. Inter-American Convention on the Prevention, punishment and Eradication of Violence against women.

### 02. Hague Conference

This conference was organized with the following objectives:

- Convention on the Law Applicable to Maintenance Obligations, 1973.
- Convention on the Law Applicable to Matrimonial Property Regimes, 1978
- Convention on Celebration and Recognition of the Validity of Marriages, 1978.
- Convention on the Recognition of Divorcees and Legal Separations, 1970.

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<sup>12</sup> Naiker, Lohit, D. Op. cit. 526-527

### 03. Council of Europe

This was organized with the following objectives to protect the women's rights.

- Convention for the protection of Human Rights and fundamental freedoms, 1950.
- European Social Charter (revised 1996)
- European code of Social Security (revised 1990)

### 04. The European system for the Enforcement of Human Rights and the European Union

Both in the court and in the employment discrimination and labour context of the European Union, cases on the gender discrimination exists with implications for the enforcement of international standards.

### 05. Role of the International Labour Organisation (ILO)

- LO sets standards for self-employment and working activities of women and are embodied in recommendations and instruments to which many countries are parties.
- It organized with the following specific conventions and recommendations for protection and promotion of Women's Rights.
- Underground work (Women) Convention, 1935.
- Night work (women) Convention revised, 1948
- Protocol to the Night work (Women) Convention, 1948.
- Equal Remuneration Convention, 1951.
- Maternity Protection Convention (revised), 1952
- Discrimination (Employment and Occupation), Convention, 1958.
- Workers with Family Responsibilities convention, 1981.
- Lead poisoning (Women and Children) Recommendation, 1919
- Maternity Protection (Agriculture) Recommendations, 1919 and 1921.
- Night work of women (Agriculture) Recommendations, 1921.

## VI. Violation of Women's Human Rights

Women in India are enjoying equal rights to men. Women have to face discrimination, injustice and dishonor. Following are some of the human rights of women in India. The Human Rights of women as collective rights for the woman as accepted a person with the capacity to decide or act to have equal access to resource and equitable social, economic and political support for the development of others.

Domestic violence have perpetrated against women right by partners and family members a matter of silent suffering within the four walls of the home. The basic understanding of domestic violence has limited to the extent to which legal resolution to the problem can be actively pursued.

The Indian women were treated as an appendage of man and various customs like marriage, religion, property, widowhood and dowry. The spread of education among women became conscious. Various Acts were passed with an aim to the status of women in India leading to the formation of some organizations. It has been observed that the human rights of

the women is being violated in many fields. Civil, political, economic or social, human rights of women are violated severely affecting their status and dignity.

## VII. Conclusion

Women are one of the pillars of the society and rights of women are very necessary. The above study shows that after independence many acts have been amended from time to time. Several policies and programmes have been implemented. Lots of provisions have been introduced in the Parliament through constitution for the dignity and self-respect of the women. Some statutory laws are implemented for the protection of the women by the constitutional provisions. Efforts are on across the globe to provide, protect and promote human rights for women. Several measures have been taken in India in this regard including the rights granted under the Constitution, labour laws, criminal laws and other social welfare legislations. The government of India makes certain laws through Parliament for the strong enough to protect her from any kind of harassment and torture. The high incidence of crime in India as per the National Crime Records Bureau shows that the growth of crimes against women would be higher.