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Conceptual Framework of Human Rights of Women with reference to the Indian Constitutional

ANITA VERMA¹

ABSTRACT

This abstract probes into the nuanced realm of human rights concerning women within the context of the Indian Constitution. The Constitution of India, enacted in 1950, serves as a bedrock for safeguarding and advancing women's rights, encapsulating a profound commitment to gender equality. Several articles within the Constitution explicitly address the rights of women and underscore the commitment to their empowerment. Human beings are born equal in dignity and rights. These are moral claims which are inalienable and inherent in all human individuals by virtue of their humanity alone. These claims are articulated and formulated in what we today call human rights and have been translated into legal rights established according to the law creating processes of societies both national and international level. Women is the basis of the human society. She is the direct agent of life and if the foundation is not firm or is neglected the whole building of human society is bound to crack and dismember. But sadly, femininity is devalued in the society except for the purpose of producing future generations. A woman has always treated as a wife, a sister, a daughter and a mother but never as an individual. The psychology of subjugation of women still reigns supreme in the minds of men. It has been even sanctifying over the ages by religion, myths and superstitions.

Despite these constitutional safeguards, India faces persistent challenges in translating these principles into action. Gender-based discrimination, violence against women, and disparities persist. Nevertheless, the Indian Constitution remains a resilient cornerstone for women's rights, continually inspiring legal and social advancements, and exemplifying India's unwavering commitment to nurturing a society where women's human rights are valued, protected, and realized.

Keywords: *Women, Human Rights, Constitution, society, Individuals.*

I. INTRODUCTION

Human Rights in simple language may be regarded as claims of the individuals for such conditions as are essential for the fullest realization of the innate characteristics which nature

¹ Author is an Assistant Professor at LR Group of Legal Studies Solan Himachal Pradesh, India.

has bestowed her with as a human being, in common parlance, they imply that there are inherent and inalienable rights which are due to an individuals by virtue of her being a human being and that they are necessary to assume the dignity of every person as a human being irrespective of one's race, religion, nationality, language sex or any other factor.²

Human rights and fundamental freedoms allow the citizen to develop fully and use human qualities, intelligence or talents. It further develops one's conscience, satisfy spiritual and other needs. They are based on mankind increasing mankind's increasing demands for a life in which the inherent dignity and worth of each human beings will receive respect and protection.³ To have human rights one need not do anything special then be born a human being. They are based upon the belief that all person is born free and with equal dignity. In brief "Human rights comprise rights of Individual or group in a society in all spheres of life since inception up-to the last i.e., from birth to death. They may be exercised individually or collectively. Hence human rights are those minimum set of rights of, man kinds available in all spheres of life to all individuals or groups of societies individually or collectively which is expected to be permanently inalienable since birth up-to last of man or society, for the purpose of survival or benefit of mankind, individuals or society.⁴ The Concept of Human Rights as it is understood today has gradually evolved over the centuries. It has, in fact, varied from generation to generation and evolved with the changing times and under the constantly shifting conditions, they are the part and parcel of life in society and they concern humanity.

The term human rights are comparatively recent in origin, but the idea of human Rights is an old as the history of Human Civilization⁵ the term 'human rights' covers in its ambit those essential rights defined or undefined which led and contribute to balanced development of human individuals. The new phase 'human rights' was adopted in the present century from the expression previously known as 'natural rights or rights of Men.⁶ The natural law philosophers propounded these rights to protect individuals against the excesses of the state introducing the concept of human rights a well-known scholar says, "human rights is a twentieth century name for what has been traditionally known as naturally rights or, in a more exhilarating phrase, the rights of men."

² Parveen Vodkar, Concepts theories and Practice of Human Rights, 7(2000).

³ Yash Pal Singh, Human Rights of Women in India: Legal Percepts and Judicial response, 2003

⁴ Karan Gahrana, Human rights: A Conceptual Perspective, 367(Journal Of Indian Law Institute, Dec 1987, vol. 29 Nos. 3&4

⁵ Ibid.,

⁶ Attar Chand, politics of human rights and Civil Liberties- A global Survey, 1985, p.45

II. MEANING & DEFINITION OF HUMAN RIGHTS

Human Rights mean those rights which belong to an individual as a consequence of being human. In other words, it can be said that human rights are those rights available to human beings only on the grounds that he or she is a human being. Human rights are those rights possessed by all human beings irrespective of their caste, creed, sex, religion, language, place of birth, nationality etc. Human rights are also called as basic rights or fundamental rights or natural rights or common rights or inherent right or universal rights or birth rights. Human rights are basic rights which cannot be taken away by any legislature or any act of the Government.⁷ There rights are always set out in the constitution as basic rights. Human rights are sometimes called as fundamental rights because these rights are fundamentally important and significant for the overall development of the human personality up to the fullest extent or maximum possible extent. Human rights may be described a moral and legal rights, which aim to ensure human dignity and are established through law creating process. It is generally believed that the state is the protector and guarantor of human rights through national legal system.⁸

(A) Definitions

According to Louis Henkin “Human rights are rights of individuals in society. Every human beings has legitimate, valid, justified claims upon his or her Society to various ‘goods’ and ‘benefits’ They are defined particular claims listed in international instruments. Deemed essential for well beings, dignity and fulfilment and that reflects a common sense of justice, fairness and decency.

According to D D Basu, “Human rights are those minimum rights which every individual must have against the state or other public authority by virtue of his being a member of human family irrespective of any other consideration.

According to Section 2(1) of the Protection of Bhuman Rights Act, 1993, “Human rights are the rights relating to life, liberty, equality and dignity of the individuals guaranteed by the constitutional or embodied in the international covenants and enforcement by the courts in India.

III. HISTORICAL STATUS OF WOMEN

History as a rule should start with the start of life of universe itself. Since the art of writing or printing came much latter, we have to rely on oral history passed down ages.⁹ Despite the

⁷ Manjula Batra's, Women & Law 7 (Allahabad Law Agency, 1st Edn., 2001).

⁸ Dr. Bhagyashree A. Deshpande, Human rights Law and Practice 1 (Central Law Agency, 1st Edn., 2017).

⁹ Beg Tara Ali, India's women power,3 (S. Chand & Co. (pvt) Ltd, 1976).

novelty of nomenclature, human rights in different forms has its roots in the through process of ancient Indian civilization and utterances of thinkers. It is important to note that, though the philosophy of human rights in India has come long weary way yet the progress through the historical path has always remained gradual and never last its link with past.¹⁰

There has been a change in the status of women in the society from time to time. In the primitive age sex life was absolutely free. There was no institution of marriage. Since sex relationship was unregulated., it was maternity along which could be ascertained. The females commanded a position of respect and reverence. But with the emergence of the ideas of possession and ownership man wanted to know the paternity of his children. Gradually when the society came into the patriarchal stage women was laced at man's absolute power. Men attained the economic power and women was wholly dependent upon him for food, clothing and shelter. She was treated like a chattel¹¹.

In the Aryan age,¹² however, women enjoyed a proud and a respectable position. The women enjoyed equal freedom with men in all matters, social and religious. It was this feeling of equality and freedom that evoked the highest virtues of Aryans women hood and lifted society to high state of culture.¹³

The concept and equality of freedom vanished in the Shastric era.¹⁴In this era women's status declined and they were confined within the four walls of the house. Manu was very harsh to women According to him, "a women is merely an appendage to a man, father protect a woman during her maidenhood, her husband protects her during coverture, sons protect her during widowhood and thus a woman is never free".¹⁵

Women have always been regarded as second-class citizen in almost all spheres. They have been at the receiving end of life. Sex discrimination against women is also discern able from numerous other factors like inadequate educational opportunities, ill health mal nutrition, sexual exploitation at work places etc. however the present century has witnessed the emancipation of women and they are allowed equality in economic, social and political fields. Women have made a mark for themselves in almost all spheres of life and walk shoulder to shoulder with men. Indian women under the constitution and the laws have an impressive array of rights. Most

¹⁰ Indra Mohan Jha, "Human Rights and India's Foreign Policy" in Abdullah P. Bijapur, (ed) *Perspective on Human Rights*, (1999) 375.

¹¹ Dr Paras Diwan, *Modern Hindu Law* 56 (Allahabad Law Agency, 1997).

¹² Dr Y. K. Tiwari, *Trade Union Democracy and Participation of Women workers* presented in All seminar on implementation and Enforcement of Women's rights 1985, Punjab University Chandigarh.

¹³ Radha Binod pal Tagore Law lectures, 292 (*History of Hindu law* , 1930).

¹⁴ See *Supra* 11.

¹⁵ Manu, V, 146, quoted in Dr. Y.K. Tiwari.

importantly women are now being made aware of their rights. Rights per se printed in black and white have little significance till they are exercised.¹⁶

IV. HUMAN RIGHTS: IMPORTANCE

Human rights recognise the dignity and worth of a human person. Human rights are essentially immunities to an individual that certain things would not be done to him against his will. These rights provide a guarantee to a person that he would be protected against unjust and degrading treatment. However, such rights are available only in a civilized society. In other words, only an organized community can guarantee human rights to its residents. A civilized society may be described as a society where law and order prevail and where individual freedom is sacrificed for social good. A state under the rule of dictate does not provide any such rights. These rights are exemptions from the operation of arbitrary power. No one can imagine to invoke them in a state of anarchy where there is hardly any just power to which a citizen can appeal against the violations of rights.

Human rights are essential for all around development of the personality of the individual. Therefore, these rights ought to be recognized and protected by the state. The need for the protection has arisen because of inevitable increase in the control over man's action by the government. Besides awareness on the part of human beings as regards their rights has also necessitated the protection by the states. It is an important function of the law to protect human rights in the interest of humanity. Human rights in relation women are known as women's rights. A society can protect the rights of its women moves towards progress. Similarly, a society that denies its women their basic rights would remain stagnant.

V. WOMEN'S RIGHTS- INTERNATIONAL RECOGNITION

Women rights are those rights which should be available to every individual human being. Hence, human rights not only know no boundaries but also are non-discriminatory on the basis of sex. This conceptual equality in real life is hypothetical. During 19th century when international law became a necessary of nations, the positivism led by Austinian though was at its zenith. Hence, state sovereignty checked the application of International Law in the national spheres. Never the less, international efforts were on to have a bill of rights operative at international level.¹⁷ The objective of this mandate is the actual achievement of human rights and fundamental freedoms. The purpose is to achieve international cooperations in promoting and encouraging respect for human rights and fundamental freedom, is one of the pillars on

¹⁶ Dr. T. P. Tripathi, AN Introduction to the Study of Human Rights 4(Allahabad Law Agency, 1st Edn., 2008).

¹⁷ K.C. Joshi, universalization of Human rights of women: Supreme Court Set the pace 60 (Journal Section)

which the international organizations has been raised. At the international level the large provision relating to human rights are set forth in U.N. Charter and universal declaration of human rights.¹⁸

(A) United Nations Charter 1945¹⁹

The Charter of the United Nations is the first international instruments to mention equal rights of men and women in specific terms. In its preamble, the charter proclaims the determinations of the people of the United Nations “to reaffirms faith in the fundamental human rights, in the dignity and worth of the human person, in equal rights of men and women” and “to employ international machinery for the promotion of the economic and social advancement of all peoples. One of the purposes of the United Nations is, “to achieve international Cooperations in solving international problem of an economic, social, cultural or humanitarian character and in promoting and encouraging respect for human rights and fundamental freedom for all without distinction as to race, language or religion.”²⁰ Thus, the principle of equality of men and women in the matter of promotion and observance of human rights and fundamental freedom has been fully established under the charter of the United Nations. This principle of equality has been further emphasised under various major international human rights instruments, prepared and adopted under the auspices of the United Nations.²¹

(B) Commission on the Status of Women, 1946²²

In 1946, The United Nations appointed a Commission on the Status of Women in 1946. The Commission worked towards the recognition of the rights of the women and also made an attempt to bring about a change in the traditional mental attitudes which seek to limit the exercise of such rights.²³

¹⁸ *Ibid.*,

¹⁹ The Charter of the United Nations is the founding document of the United Nations. It was signed on 26 June 1945, in San Francisco, at the conclusion of the United Nations Conference on International Organization, and came into force on 24 October 1945. also available at: <https://www.un.org/en/academic-impact/un-charter> (Last visited on 20.08.2023).

²⁰ *Ibid.*, Article 8.

²¹ Jyotsna Mishra, Women and Human Rights, 217-218(2000).

²² The Commission on the Status of Women is a functional commission of the United Nations Economic and Social Council (ECOSOC), dedicated exclusively to gender equality and advancement of women. It is the principal global policy-making body. Every year, representatives of Member States gather at United Nations Headquarters in New York to evaluate progress on gender equality, identify challenges, set global standards and formulate concrete policies to promote gender equality and advancement of women worldwide.

²³ [https://www.un.org/womenwatch/daw/CSW60YRS/index.htm#:~:text=In%201946%20the%20Commission%20on,New%20York%2C%20in%20February%201947.\(last visited on 21.08.2023\).](https://www.un.org/womenwatch/daw/CSW60YRS/index.htm#:~:text=In%201946%20the%20Commission%20on,New%20York%2C%20in%20February%201947.(last%20visited%20on%2021.08.2023).)

(C) Universal Declaration of Human Right, 1948²⁴

The principle of equal rights of men and women has been incorporated in the Universal Declaration of Human Rights. This declaration lays down that “all human beings are born free and equal in dignity and rights,” the declaration further lays down that “everyone is entitled to all the rights and freedom set forth in this declaration, without distinction of any kind” including sex.²⁵ It clearly provides that all the rights and fundamental freedoms incorporated in the Universal declarations of Human Rights are available equally to both men and women without any distinction.²⁶

(D) The Convention on the Elimination of All Forms of Discrimination against Women, 1979²⁷

The Convention on the Elimination of All Forms of Discrimination against Women, 1979²⁸ which followed the UN Declaration on Elimination of Discrimination Against Women, 1967, re-emphasizes discrimination against women. It lays down that discrimination against women violated the principles of equality of rights and respect for human dignity. It is also an obstacle to the participation of women on equal terms with men in the political, social, economic and cultural life of their countries. It hampers the growth of the prosperity of society and the family and make more difficult the full development of the potentialities of women in the service of their countries and humanity. It therefore urges that a change in the traditional role of men as well as the role of women in society and in the family is needed to achieve full equality between men and women. There is thus a wide gap between the traditional Indian view on women and the modern ideas about their status and rights.²⁹

²⁴ The Universal Declaration of Human Rights (UDHR) is an international document adopted by the United Nations General Assembly that enshrines the rights and freedoms of all human beings. Drafted by a UN committee chaired by Eleanor Roosevelt, it was accepted by the General Assembly as Resolution 217 during its third session on 10 December 1948 at the Palais de Chaillot in Paris, France.

²⁵ Universal Declaration of Human Rights 1948, Article 1.

²⁶ *Ibid.*, Article 2.

²⁷ On 18 December 1979, the Convention on the Elimination of All Forms of Discrimination against Women was adopted by the United Nations General Assembly. It entered into force as an international treaty on 3 September 1981 after the twentieth country had ratified it. By the tenth anniversary of the Convention in 1989, almost one hundred nations have agreed to be bound by its provisions.

²⁸ The Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW) is an international treaty adopted in 1979 by the United Nations General Assembly. Described as an international bill of rights for women, it was instituted on 3 September 1981 and has been ratified by 189 states

²⁹ All about Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), 1979, available at: <https://blog.ipleaders.in/convention-elimination-forms-discrimination-women-cedaw-1979/> (last visited on 12.07.2023).

(E) United Nation Development Fund for Women (UNIFEM)³⁰

United Nations development Fund for Women a body created to work for the empowerment of women and gender equality, has launched a global campaign to fight violence against women. UNIFEM is trying out a new idea called a zero-violence zone. The plan is to create a locality model to tackle violence. Idea is to sensitize entire communities about the problem. Literacy and awareness campaigns are also doing their bit. They are also stressing on the legal aspect connected to the entire issue. It is amazing to know that only 44 countries have laws against domestic violence. Only 17 countries have made marital rape a criminal offence and only 27 countries have passed laws on sexual harassment. In the Indian sub-continent 90% of 109 judges questioned in a survey said that they would not opt for legal redress in a case of domestic violence involving their own daughter or other female relative.³¹

VI. HUMAN RIGHTS-HUMAN DEVELOPMENT

The Integration of human rights and development policies can bring about significant improvement in human society, thereby facilitating the dignity, well being and freedom of the individual. A democracy that respects human rights makes its citizen fit and worthy, from a development perspective human rights have three aspects:

1. Their intrinsic importance.
2. Their consequential role in providing political incentives for economic security.
3. Their constructive role in the genesis of values and priorities.³²

Human rights have an intrinsic and an instrumental importance. Without freedom there is no development and with freedom the, role of development in uplifting the personality of the individual is enhanced. A state that intends to move towards development cannot afford to ignore the significance of political liberties and democratic freedoms. Further, the rights-based approach to development enquires twin efforts, capacity building within existing institutions of administration and providing support to the protection and promotion of human rights through the creation of human rights mechanism and organizations.³³

The declaration on the right to development ³⁴ which stated unequivocally that the right to

³⁰ The United Nations Development Fund for Women was established in December 1976 originally as the Voluntary Fund for the United Nations Decade for Women in the International Women's Year.

³¹ United Nations Development Fund for Women (UNIFEM) also available at: https://www.un.org/development/desa/pd/sites/www.un.org.development.desa.pd/files/unpd-cm7-2008-11_p06_unifem.pdf. (last visited on 22.07.2023).

³² Frontline, Vol 19. Issue March 15.02.2002.

³³ *Ibid.*,

³⁴ UN General Assembly Resolution 41/128, 1986.

development is a human right, was adopted by the UN in 1986 by an overwhelming majority.³⁵ The first Article of the text of the declaration on the right to development lucidly delineates the concept of the right to development. It states: “the right to development is an inalienable human right by virtue of which every human person and all peoples are entitled to participate in, contribute to, and enjoy economic, social, cultural and political development, in which all human rights and fundamental freedom can be fully realized.”³⁶

VII. RIGHTS OF WOMEN UNDER THE CONSTITUTION OF INDIA

Indian women under the Constitution and the laws have a wide range of impressive rights. Mrs Indira Gandhi, our prime minister once remarked, “Our women have more rights than women of other countries. But there are large areas where in women are suffering. Where maybe they are not conscious of their rights”. The Indian Constitution on one hand guarantees equality and on the other hand forbids discrimination on the grounds of sex.³⁷ women have equal opportunities in public employment.³⁸ The framers of the Constitution were aware of the need to improve and uplift the status of women in India. thereby they incorporated various provisions in the Constitution of India to secure equality and dignity of life to the women in India. AN attempt has been made in this chapter to study and analyse these provisions

(A) The Preamble

The Preamble to the Constitution of India does not make any distinction between men and women. it opens with the words, “we, the people of India” this phrase suggests that this Constitution has been adopted and enacted by the people of India. in their aggregate capacity without making any distinction on the basis of caste, creed, sex or religion. The preamble secures to all citizens “justice-social, economic and political”, “equality of status and of opportunity”. Assuring the dignity of the individual”. Certain provision in part III and Part IV of the Constitution further amplifies these objectives contained in the preamble.³⁹

(B) Fundamental Rights

Women’s right in India present a paradox. On one hand, our culture gives greater respect to women then even to men. The Constitution⁴⁰ has placed women on a footing of perfect equality

³⁵ *Ibid.*,

³⁶ *Id.*,

³⁷ Article 14, 15&16.

³⁸ Article 16.

³⁹ The Preamble to the Constitution of India presents the principles of the Constitution and indicates the sources of its authority.[1] It was adopted on 26 November 1949 by the Constituent Assembly and came into effect on 26 January 1950, celebrated as the Republic Day of India. It was amended during the Indian emergency by Indira Gandhi where the words "socialist" and "secular" were added.

⁴⁰ See supra-25.

with men. Constitution forms a code of equality of women with men and forbid the state from discrimination against women on the ground of sex alone. The Constitution specifically says that nothing shall prevent the state from making any special provision for women and children.⁴¹ Several laws have been made to give effect to the provision of the Constitution not only to assure equality to women but in order to bring about equality between men and women where present equality exists.

(C) Right To Equality

Today, no one denies the necessity of equality of status and right of personal liberty to women. The framers of the Constitution bestowed sufficient thought on the position of women and guaranteed them equal rights and liberties vis-s-vis men by incorporating special provision in the Constitution.⁴² A general principle of “equality before law” and “Equal Protection of Laws” to all guaranteed in Constitution of India.⁴³ various other countries of the world have also recognised women’s right to have personal liberties and the right to equality in their statutory books. For example. The Constitution of the German Democratic Republic confers on men and women equal rights.⁴⁴ The preamble of the UN Charter reaffirms faith in the dignity and worth of the human person and equal rights of men and women.

(D) Prohibition Against Discrimination⁴⁵

Article 14 contains the general principle of equality. But Article 15⁴⁶ contains provisions for a particular application of the general principle laid in Article 14. Besides positive guarantees of equality, Constitution forbids discrimination on grounds of sex. The word “discrimination” means to make an adverse distinction or distinguish unfavourable from others. If a law makes discrimination on any of the above grounds it can be declared invalid. So, where a amen and

⁴¹ Article 15(3).

⁴² Right to Equality : A Fundamental Right, available at : <https://blog.ipleaders.in/right-to-equality-a-fundamental-right/> (last visited on 17.07.2023).

⁴³ Article 14.

⁴⁴ Article 7.

⁴⁵ Article 15.

⁴⁶ 15. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them

(2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to

(a) access to shops, public restaurants, hotels and palaces of public entertainment; or

(b) the use of wells, tanks, bathing ghats, roads and places of public resort maintained wholly or partly out of State funds or dedicated to the use of the general public

(3) Nothing in this article shall prevent the State from making any special provision for women and children

(4) Nothing in this article or in clause (2) of Article 29 shall prevent the State from making any special provision for the advancement of any socially and educationally backward classes of citizens or for the Scheduled Castes and the Scheduled Tribes

women are similarly placed in all respects, any state actions, which is to the prejudice of the women, can be struck down⁴⁷. Apart from other 5 grounds impose an obligation on the state not to discriminate between a man and women where they are equally placed. Hence, Article 15 also comes to the rescue of women when they are subject to discrimination at the hands of the government.⁴⁸

(E) Equality of opportunity in public employment⁴⁹

Yet another instance of particular application of the general principle of equality embodied in Article 14 is Article 16. Clause (!) of Article 16 guarantees equality of opportunity for all citizen in the matters of appointment to any office or any other employment under the state.

(F) Right To Freedom⁵⁰

Constitution guarantees to the women a right to form their independent opinion and to express themselves.⁵¹ It gives them an opportunity to express themselves openly. They have been gives the liberty to speak out, either in public or through writing in paper or through media. The right to freedom of opinion and expression guaranteed to women by Constitution⁵² presumes that the person clothed with this right is well educated or well informed. For, unless the mind is capable of thinking rightly a correct opinion cannot be formed by it. therefore, education is a pre requisite for the exercise of this right. The first benefit of the exercise of right to education would be cultivation of the mind, which is capable of forming correct opinion. Hence, Freedom of Speech and Expression may not hold any significance if the women are not educated enough to be able to exercise this right.

(G)Right To Life and Personal Liberty⁵³

The right to life thus guarantees to each individual the right to live and enjoy human existence. The right to life does not merely mean animal existence. It ensures fullest opportunity to develop one's personality and potentiality to the highest possible level. It means the right to live decently as a member of a civilized society. This right is also available to the women in India. it guarantees to them the right to live their life fully and an opportunity to develop their faculties. This right comes in handy when women are deprived of protect health facilities, food, education,

⁴⁷ See Supra 43.

⁴⁸ Article 15 of the Constitution of India also available at: https://en.wikipedia.org/wiki/Article_15_of_the_Constitution_of_India (last visited on 20.08.2023).

⁴⁹ Article 16.

⁵⁰ Article 19

⁵¹ Article 19.

⁵² Article 19(1)(a)

⁵³ Article 21.

health etc. The right implies a reasonable standard of comfort and decency.⁵⁴

(H) Right To Life with Human Dignity

Majority of women in India is denied their independent existence. They are not treated with respect; especially among the lower sections of the society and the backward classes and tribes various forms of exploitation are practiced against women. The Supreme Court has expressly laid down that the right to life including the right to live with full human dignity.⁵⁵

(I) Right To Health

The “Right to Health” is central to all human rights, and denial of health right would mean denial of all human rights. The Constitution of India guarantees the right to health through the provisions made in the Constitution.⁵⁶ It further imbibes equality in the respect irrespective of the sex, caste and age. The framers of the Constitution also emphasize that the state can make special provisions for women and children. It guarantees the right to life which would be meaningless unless it also guarantees the right to live a healthy life and enjoy all the faculties of the human body.⁵⁷ Women health status is extremely poor.

(J) Right To Education

As has been analyzed, over the years the arena and ambit of the right to life has been expanding. The court in India are still in the process of enlarging the scope of the right to life. Recently the courts in a number of cases have held that the right to life includes the right to education. In Indian females have been denied the right to be educated. Education was considered to be a field where only man could enter. Education for women was considered as a waste of time. Women belonging to very high class or upper castes were given some basic education but, majority of the women was illiterate. The Supreme Court held that the right to education was a fundamental right under Article 21 and that “it directly flows from the right to life.”⁵⁸

(K) Right To Shelter

Another protection available to the women under the right to life is the right to shelter. Right to life guaranteed in any civilized society implies that the right to food, water decent environment, education and medical care and shelter. These are the basic human rights known to any civilized society. Shelter for human being, therefore, is met a mere protection of his life and limb. It is

⁵⁴ Article 21: Meaning & Scope of Protection of Life & Personal Liberty. Also available at: <https://blog.ipleaders.in/article-21/>. (last visited on 20.07.2023).

⁵⁵ Francis Coralie vs Union Territory of Delhi, AIR 1981 SC 746

⁵⁶ Article 21 and the Article 47.

⁵⁷ See Supra 49.

⁵⁸ Unni Kridhanan Vs State of Andhra Pradesh AIR 1993 SC 2178

home where he has opportunities to grown physically, mentally, intellectually and spiritually. The right to shelter, does not mean a mere right to a roof over one's head but right to the entire infrastructure necessary to enable them to live and develop as a human being.

VIII. DIRECTIVE PRINCIPLES OF STATE POLICY

Part IV of the Constitution contains the Directive Principle of State Policy. They are the ideals and objectives set forth by the framers of the Constitution to be achieved by the propective government, it is to be borne in mind that these directives do not confer any right on the women and they are not enforceable by a court of law. However, it is duty of the state to apply these Directive Principles while making laws.⁵⁹

(A) Promote Social Order⁶⁰

It is a reflection of the objectives enshrined in the preamble. it directs the state to frame its policies in such a manner so as to promote social order where there are no inequalities between men and women. this article makes an attempt to establish a society in which there are no inequalities in income and status. Constitution provides that “the state share strive to promote the welfare of the people by securing and protecting the effectively as it may, a social order in which justice, social economic and political shall inform all the institutions of the national life”.

(B) Equal Pay For Equal Work For Both Men And Women

Discrimination against women in wages is a universal phenomenon. But the role of women in the process of development can neither be undermined nor overlooked. The economy of any society rests on its working class. The worker is the vital force in the development process all over the world. The principle of equal pay for equal work implies that where both men and women are doing the same work qualitatively and quantitatively then they should be paid equally.⁶¹ The Constitution of India enjoins on the state to strive to secure to the worker, work, a living wage and conditions of work ensuring a decent standard of life and full enjoyment of leisure and social and cultural opportunities.⁶²

(C) Right To Work, Education And To Public Assistance⁶³

Constitution provides that “the state within the limits of its economic capacity and development make effective provisions for securing the right to work, to education and to public assistance

⁵⁹ Article 37

⁶⁰ Article 38

⁶¹ Article 39(d).

⁶² Article 43.

⁶³ Article 41.

in cases of unemployment, old age, sickness and disablement and in other cases of underserved want.”⁶⁴ Constitution requires the state to secure the right to public assistance in cases of unemployment, old age, sickness etc.⁶⁵ among these the right to education upto the age of 14 has already been declared as a fundamental rights as a part of right to life⁶⁶ by the Supreme Court in *Unni Krishnan vs State of Andhra Pradesh*.⁶⁷

(D) Maternity Relief

This article⁶⁸ requires that the state provide maternity relief to women workers besides providing them with just and human condition of work. The article imposes an obligation on the state to secure good working conditions for the workers and adequate maternity relief to the female workers. Consequently, the maternity Benefit Act was passed in the year 1961. The only drawback here is that the inability of the government to comply with the provisions of Article 42 cannot be questioned in a court as per Constitution.⁶⁹

(E) Promotion Of Education And Economic Interest Of Weaker⁷⁰

Though the term “weaker sections” of the people has not been defined in the Constitution but it includes women. The Supreme Court in *Indira Sawhney Vs Union of India*⁷¹ has held that the expression included all sections of the society, who were rendered weak due to various causes including poverty and natural and physical handicaps. Again Constitution requires the state to take special care of weaker sections.⁷² The constitution recently amended Article 334 and extended the period of reservation up-to 25th January 2010.⁷³

(F) Raise The Level Of Nutrition & Standard Of Living⁷⁴

This article impresses upon the need to improve the: Level of Nutrition, Standard of Living, Public Health. These three have been described as a primary duty of the state. The state pursuant to Article 47 has introduced various schemes and policies. The midday meal scheme has been started in various primary schools. Special programme has been formulated for the protection of health of women. At the village level also, various programme has been started which educated women about their health and regarding family planning. Recently, the government

⁶⁴ Article 41

⁶⁵ *Ibid.*,

⁶⁶ Article 21

⁶⁷ AIR 1993 SC 2178.

⁶⁸ Article 42.

⁶⁹ Article 37.

⁷⁰ Article 46.

⁷¹ AIR 1993 SC 477

⁷² Article 46.

⁷³ The Constitution (Seventy-Nine Amendment) Act, 2000.

⁷⁴ Article 47.

undertook the polio eradication programme at the national level with an aim to eradicate polio from the country.

IX. FUNDAMENTAL DUTIES⁷⁵

Part IV-A was added to the Constitution by the Constitution ⁷⁶it contains fundamental duties for the citizen of India. Just as the Constitution guarantees certain fundamental rights. It also imposes fundamental duties upon its citizen. Article 51A€ imposes a duty upon the citizens to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities to renounce practices derogatory to the dignity of women. ⁷⁷

X. SUM UP

The Constitution of India serves as a beacon of hope and a blueprint for a just and equitable society. This abstract explores the constitutional provisions pertaining to human rights and the status of women within the framework of this monumental document. India's Constitution, adopted in 1950, embraces the principles of equality, justice, and dignity for all citizens. Several articles within the Constitution explicitly address the rights of women and underscore the commitment to their empowerment. The status of women in India is no way different. But not the government has rarified the discrimination against women convention, hence, is obliged to bring gender-equality in all its facets. This requires a lot of pruning of its laws, particularly in the personal laws, where different communities have their laws, discrimination against women in different degrees. The government should adopt the policy and frame the laws which should make the social roles of men and women. With the exception of child bearing, as nearly interchangeable or equivalent as far as possible.

⁷⁵ Article 51A

⁷⁶ 42nd Amendment Act, 1976.

⁷⁷ *Ibid.*,