

# **A Study On Human Rights and Constitutional Protection To Women**

**Nakul Bhatnagar<sup>1</sup>, Shailesh Sharma<sup>2</sup>**

*<sup>1,2</sup>School of Legal Studies and Governance, Career Point University, Kota*

**ABSTRACT:** *This paper is all about human rights and constitutional protection to women. Researchers have conducted a research on the meaning of human rights and discrimination on women in India. The constitution of India prohibits discrimination on the basis of religion, race, cast, sex and place of birth. The researcher argues that discrimination is a form of discrimination and should be denounced. In the second part of this paper, it talks about how women are to be treated equally on all fronts. This means that all the laws for both will be applied to them. To give reasons for this section is a very difficult task because it does not talk about anything else but about giving equality to the woman. Thus, giving them equality means making laws which are applicable to everyone.*

*Keywords: Discrimination, Victim blaming, Gender-based violence, Trauma, Domestic violence.*

## **I INTRODUCTION:**

According to the Constitution, "all persons are equal before the law and entitled without any discrimination to the equal protection of the law" (clause 1). The same idea is echoed in clause 5. The Constitution also prohibits discrimination on the basis of religion, race, cast, sex and place of birth.

In all societies the individual usually has the right to practice any religious belief that he or she chooses without anything being imposed on them by society. The privilege that this gives is often abused however as individuals can then discriminate against others based on these religions and ethnicities- thus leading to racism and prejudice which is a

form of discrimination too. Many religions are now becoming the cause of this prejudice as they preach hatred.

The constitution of India has a chapter titled “fundamental rights.” Article 15 of the constitution holds that “the State shall not deny to any person equality of the law or the equal protection of the laws within the territory of India” and that “any discrimination on the grounds of religion, race, cast, sex and place of birth or economic status will be an offence punishable in accordance with law”. Human rights are the basic freedoms and legal entitlements that every person has simply because they are human beings. They include freedom from slavery or servitude, freedom of movement, freedom of expression, freedom of religion, equality before the law and protection against discrimination.

The most extreme example of this is when people become terrorists and start to fight with other countries and kill innocent civilians just because they belong to a different religion or nation. Religion often influences people drastically- the world is divided into two groups; those who believe in God and those who don't. There is no point in trying to argue about opinions,

This will always be labeled as an extremist due to religious belief. If all of us truly believed in God, then there would be no discrimination against anyone, but see how many people are killed just because they are a different religion? Terrorism must stop and these extremist beliefs should be denounced.

Discrimination is a deep rooted problem that has been around for generations. People have either judged you or even attacked you continuously because of it. They might have also done the same towards someone else based on their race, religion or beliefs. People should be able to express their opinions and do what they want without being intimidated. The government should take action against all these acts of discrimination and take the necessary steps to stop it from happening again and again.

Racial discrimination is a major problem in many societies. There are various incidents of race related crimes that occur every year. People often hurt others who are from a different race; they attack them and beat them up just because of their skin colour. This

behaviour should not be allowed to carry on and the government should take suitable measures against it. Racism is social problem that has an effect on communities, politics and society as a whole. It has been around for years, but still no concrete actions are taken against the perpetrators of racism.

It starts with a very interesting, informative discussion on the meaning of Human Rights and Constitutional Protection to women. The first section has an overview of what it means to be a human, the rights of a human, and the basic conception that everyone is born free and equal in dignity. Moreover, people are entitled to these rights without any discrimination on grounds like sex, race color. This is because they are endowed with life and liberty. These rights cannot be taken away from any individual by any person whether public officials or other individuals without their consent or infringement of articles by constitutions and laws which protect them against that infringement.

## **II LITERATURE REVIEW:**

The researcher has made a thorough research on these existing literature and the following literature sources are as followed:

**1.According to Thomas Jefferson** in 1776 during the beginning of American Revolution it is said that “all are equal before law and are entitled without any discrimination to equal protection of law.

**2.According to Mr. Kotwal on** 18 november 1952 it is said that Article 15 Clause (3) must not be read as a proviso, then it would completely nullify one of the important ingredients of Article 15 Clause (1). It is said that discrimination on the ground of sex is not permissible under article 15 clause (1).

**3.According to Rasida Begum** in 2009 The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the state to adopt measures of positive discrimination in favour of women.

Violation of women rights is one of the most direct expressions of the power imbalance between men and women.

**4.According to Devare** Suresh on 5<sup>th</sup> july 1986 Gender equality is enshrined within the Indian Constitution in its Preambl, elementary rights, elementary Duties and Directive principles. However, additionaly empowers states to adopt measures of positive discrimination in favour of women.

### **III Research Methodology**

#### **Research Question:**

The researcher intends todo an exploratory investigation on the following research topic after evaluating the gaps in the existing literature review. The research question are as follows:

- 1.Is it possible to realize human rights when resources are limited?
- 2.Whether India has suficient legal provisions to protect women’s basic rights?

#### **Research Objective:**

- 1.Knowledge about the human rights and deep insights about the provisions.
2. Aware women’s about their basic rights and protection.
- 3.Human rights are the rights inherent to all human beings, regards race, sex, nationality,language , religion or any other status .
- 4.Human rights include right of life and liberty , freedom from torture,freedom of opinion and expressions and many more.

### **Chapterization:**

The research paper was prepared on the non-doctrine basic they are of two types primary and secondary. The research was based on the secondary data. Secondary data have been collected from The Gazette of India, journals, websites, articles, blogs and so on.

It believe that human rights can be observed if there is more than enough money and resources for all people. But is this really tre/ This question was asked by the human rights law firm Adalah in a study about whether or not it is possible for human rights to exist in a world with too much money and resources. The answer is no> It does not seem that there are any international laws stating how to provide for anyone despite the fact that there is more than enough money and resources available to do so. The study says this because the wealthiest people are greedy, selfish, avaricious individuals who only care about themselves. They do not care about other humans, so they will not donate their money to help the cause of human rights. These people benefit from war and genocide, so who can blame them for keeping their money?

In the past few years, India has been the subject of much attention-its growing economy and global influence have made it a visible presence on global news networks. One issue that has long been discussed in India's role on women's rights in comparison to other nations. While they seeing many more programs supporting female education and health, there is still debate over whether or not strict legal provisions exist to protect women in India. There is no question that the rights of women are a hot button issue in India. There has been a push recently to make laws more favourable towards women, but it's important to remember that historically, individual states have been able to amend colonial-era laws regarding marriage and divorce. Additionally, there is still a great discrepancy between the rights of men and women in regards to property ownership. In effort to understand how India treats its women legally. It begins by looking at recent reforms which are intended to make women safer.

1.In 2005 Indian parliament passed the law Criminal Law (Amendment) Act – commonly known as The Anti-Rape Law.



2.The law made stricter penalties for sexual assault and rape. A particularly controversial part of the law increased the length of a crime called “Culpable Homicide” to twenty years, which include rape.

3.Prior to this law, a rape charge had only brought life imprisonment.This new law was introduced in an effort to reduce what is called “insider attacks”-sexual assaults committed by individuals who are acquainted with the victim.Under this law it became easier for women who were assaulted by others they knew(which comprises 98% of all sexual violence cases in India).

4.To press charge against their attacks.

5.In 2013 India made more amendments to the law, including a new definition of rape which expanded the age of girls who are able to be considered victims.

6.But in 2014,a serious flaw was found in the law when four judges in the Delhi High Court ruled that a rape victim was not eligible for compensation. This put women seeking justice at risk as compensation is seen as incentive for reporting crimes.

7.The burden of proof falls on the victim and that does not always result in fair treatment. India has approximately 19413,rape cases pending from 2013-2016.

#### **PROHIBITS THE PRACTICE OF HUMAN TRAFFICKING IN INDIA:**

India is one of the most populated and economically prosperous countries in the world. In 2013, India doubled its GDP as people took to a variety of new jobs and opportunities. However, despite India’s growing success, human trafficking has created many challenges to its economy that should not be ignored. For example, human trafficking often forces women into prostitution which affects the Indian economy by slowing productivity rates and discouraging investment into the country. Because of this, the government of India has officially sought to prohibit human trafficking in an effort to

better their economy as well as save some lives from being taken advantage of by these terrible practices.

Human trafficking is a global issue that affects countries all over the world with similar issues occurring elsewhere in Asia and Africa. Many of the victims are either orphans or from poor families who need the money to survive. Although many traffickers come from countries where prostitution is legal and there are frequent reports of child sex trafficking, these acts often go unreported due to trust issues and fear of other repercussions. These situations can cause many social issues that ripple throughout a country such as family separations, divorce, disease and poverty. India has suffered some of the worst effects caused by human trafficking locally with an estimated 300,000 people in India being held in slavery-like conditions. In comparison to other countries, India is currently one of the top destinations for victims rescued worldwide due to its high population growth rate which ranks among the highest in the world right now.

This article talks about how the Indian constitution has a provision to protect women. This is one of those provisions which is not a part of the civil, criminal, or procedural laws that are enforced in India. What it does is gives protection to classes who will be protected because they have been denied their basic rights by these laws. However while this is a good provision it has some negative effects on society as well. If look at the first reason given in the article, it simply means that women should not be discriminated against. This is a good provision but it has one problem. By giving this equality to women we are making it more difficult for the country because both the women and men will have to play by equal rules which means that both will be bound by some of these laws. <sup>1</sup>According to Yusuf Abdul Aziz v. State of Bombay, In this case it was said that section 497 of the Indian Penal Code states that the adultery can be committed by man only an women cannot be punished even as an abettor.

---

<sup>1</sup>Yusuf Abdul Aziz vs The State Of Bombay on 10 March, 1954 1954 AIR 321, 1954 SCR 930



This may sound good in theory but in practical terms it is a different story altogether. For instance, if a man abuses a woman he will be given his just punishment. But what if the same man beats his child? Will the same punishment be given to him? The answer is no because when it comes to children the laws are not applicable for them. <sup>2</sup>According to Paramjit Singh v. state of Punjab the court held that if the seat of sarpanch of a village is reserved for schedule cast, then both men and women belonging to schedule cast category can contest for the election for the said post as the eligibility for the schedule cast and the nature of constituency as they represent them panches.

In the second part of this article, it talks about how women are to be treated equally on all fronts. This means that all the laws for both will be applied to them. This would mean that one of the people who were denied their basic rights by these laws will now be given equality and therefore the laws will apply to them. To give reasons for this section is a very difficult task because it does not talk about anything else but about giving equality to the woman. Thus, giving them equality means making laws which are applicable to everyone.

#### DOCTRINE:

The doctrine of reasonable classification is mere judicial test to determine whether there is arbitrariness in the state action if the state action in question does not pass the test as laid down by the doctrine it is considered arbitrary and since it is arbitrary it will be unconstitutional as per the principle of article 14. This ensures that people similarly situated are tested equally. Doctrine of reasonable classification is important in this respect, but, at the same time, the courts and the Government must ensure that such classification is reasonable and free from any arbitrariness.

#### IV Suggestions:

Women are a silent minority in the world. The constitution is our weapon against sexism and injustice. The best way to keep fighting is by educating ourselves on what's going on

---

<sup>2</sup>Paramjit Singh vs State Of Punjab in 2009



in this country and across the globe. It is the duty of the state to make special provisions for women and provide job opportunity and should be equally treated as men. One suggestion that has been put into use by the government and police officers is protection on women that are visible during night time hours. This strategy has definitely helped increase the amount of crimes being attempted against women, but it can cause some problems as well. One problem with police officers placing protection on women and children that are under high risk of being victims of crime is that it covers everyone. This means that lower risk people by picking out one person at random and then attacking them. It's possible to limit this problem by putting a code on which areas the protection will be given to certain people. This would ensure the safety of those in need during night time hours. Safety measures like these can be important, especially for women who want to feel safer while outside of their homes.

#### **V Conclusion:**

According to the constitution, all persons are equal before the law and entitled without any discrimination to the equal protection of the law. The constitution of India has a chapter entitled "fundamental rights". Article 15 of the constitution holds that "the state shall not deny to any person equality of the law or the equal protection of the laws within the territory of India" and that "any discrimination on the grounds of religion, race, cast, sex and place of birth or economic status will be an offence punishable with law". They include freedom from slavery or servitude, freedom of religion, equality before the law and protection against discrimination. The research paper was prepared on the non-doctrine basis they are of two types primary and secondary. You may believe that human rights can be observed if there is more than enough money and resources for all people. One issue that has long been discussed in India's role on women's rights in comparison to other nations. Additionally, there is still a great discrepancy between the rights of men and women in regards to property ownership. The law made stricter penalties for sexual assault and rape. A particularly controversial part of the law increased the length of a crime called "Culpable Homicide" to twenty years, which include rape. But in 2014, a serious flaw was found in the law when four judges in the

Delhi High court ruled that a rape victim was not eligible for compensation is seen as incentive for reporting crimes. The burden of victim and that does not always result in fair treatment. This is one of those provisions which is not a part of the civil, criminal, or procedural laws that are enforced in India. If we look at first reason given in the article, it simply means that women should not be discriminated against. This may sound good in theory but in practical terms it is a different story altogether. In the second part of this article, it talks about how women are to be treated equally on all fronts.

#### **VI References:**

1. <https://www.ohchr.org>
2. <https://www.researchgate.net>
3. <https://hrlibrary.umn.edu>
4. <https://www.indiankanoon.org>