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## EMPOWERING WOMEN UPHOLDING THEIR INHERENT RIGHTS

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### ABSTRACT:

Human rights are the rights inherent to all human beings, whatever our nationality, place of residence, sex, national or ethnic origin, colour, religion, language or any other status, we are all equally entitled to our human rights without discrimination". The concept of human rights is a very old phenomena and covers all aspects of human life. Human rights are concerned with the all round development of human beings in harmony with that of their fellow beings in the totality of the relations in a society. Therefore it covers a wide range of social, political, cultural and economic rights.



**KEY WORDS:** nationality, residence, sex, national or ethnic origin, colour, religion, language.

### INTRODUCTION

The struggle to preserve, protect and promote basic human rights of everyone continues in every generation and in each society. Depending upon the socio-economic conditions and development, new rights arise and old rights are widened. When we talk of basic rights of human beings it also includes women. But the reality is women do not enjoy the rights and freedoms of which they are entitled by the mere fact that they are human. There are problems or barriers in attaining the full recognition and enjoyment of all human rights and fundamental freedoms for women and this is only because of the socio-cultural structure of the society. Numerous socio-political and legal reforms have although removed some of the ill practices against women but failed to assign her equal status at par with men. The customs, which are derogatory to the position of women are still followed and the present society is still under the impression that woman is inferior to man. Taking advantage of the superior position, man or we can say the society has not given woman a chance to excel in the social, political, economic arena. Women have been at the receiving end right from her home to working place. Subsequently women's human rights have been frequently violated and crimes against women are on the rise.

Gender jurisprudence is new ordering of society to emancipate and liberate women from the shackles of ancient law, traditions and customs whereby the new claims, interests and needs of the women are promoted and readjusted through law with men folk on a footing of equality, dignity and non exploitation (Singh, 2010).

### International Efforts for the Protection of Rights of Women

Before 1945 the international efforts for the protection of individual human rights were centered around treaties to abolish slavery and to end wars. It was only after 1945 that international

law acknowledged the rights of all human beings as individuals. The Charter of the United Nations represents faith and respect for human rights. Its Preamble stated that it is determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person and in the equal rights of men and women. To achieve this the United Nations established the Commission on the Status of Women in 1946 to promote women's political, economic and social rights. Besides other efforts it drafted Universal Declaration of Human Rights in 1948. The Universal Declaration of Human Rights emerged after the Second World War as a reaction to the atrocities committed against human beings. It was the first international acknowledgement of the inherent dignity and of the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world (<http://www.un.org/overview/rights.html>). It was premised on the principle of universality and non-discrimination. It stated in Article-I that all human beings are born free and equal in dignity and rights. The rights and freedoms contained in the declaration were regarded as being available to all without distinctions of race, colour, sex, language, region, political or other opinion, national or social origin, property, birth or other status.

The Declaration paved the way for other human rights conventions and constitution of commissions and put forth that human rights of women are not different from human rights in general. The declaration dealt with civil, political, economic, social and cultural rights.

In 1979 the General Assembly of the United Nations adopted the most important international initiative specifically addressing women's human rights- the Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW). Reaffirming faith in the Universal Declaration of Human Rights and also the resolutions, declarations and recommendations adopted by the United Nations, it says that extensive discrimination against women continues to exist. Recalling that discrimination against women violates the principles of equality of rights and respect for human dignity, is an obstacle to the participation of women on equal terms with men in the political, social, economic and cultural life of their countries, hampers the growth of the prosperity of society and the family and makes more difficult the full development of the potentialities of women in the service of their countries and of humanity (CEDAW document).

The convention also showed its concern on the situation of poverty of women which has further caused least access to food, health, education, training and opportunities for employment and other needs and considered that the full and complete development of a country required the maximum participation of women on equal terms with men in all fields. It also acknowledged that a change in the traditional role of men as well as the role of women in society and in the family was needed to achieve full equality between men and women. Thus to implement the principle of equality and for elimination of discrimination in all its forms and manifestations, the states parties to the convention are responsible to take necessary measures.

It defined the term discrimination against women as any distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on a basis of equality of men and women of human rights and fundamental freedoms in the political, economic, social, cultural, civil or any other field. It is the responsibility of the states to condemn discrimination against women in all its forms and take appropriate measures and policies to protect rights of women.

The document of CEDAW, comprised of 30 Articles ensures the rights of women, some of these are:

- Political Rights- right to vote in all elections and be eligible for election to all publicly elected bodies, to participate in the formulation of Government policy and to participate in non-governmental organizations
- Equal rights with men to acquire, change or retain their nationality
- Right to education- Access to same opportunities as men
- Right to work- right to choose a profession
- Right to family benefits

- Right to enter a family and choose a spouse

The term 'women's human rights' does not refer simply to the theoretical approaches that women have used to transform human rights concepts, programmes and agendas. In addition to being instrumental in the formulation of the conceptual challenges and demands levied by women, the idea of women's human rights has had immense impact as a tool for political activism. The concept of women's human rights has opened the way for women around the world to talk about the widespread discrimination and violence against them. In Vienna in 1993, the United Nations conference on Human Rights was the first such meeting that highlights the new vision of human rights thinking and practice being developed by women. By the time, the world conference convened, the idea that "women's rights are human rights" had become the rallying call of thousands of people all over the world and one of the most discussed new human rights debates.

The Vienna Declaration and Programme of Action asserted that "the human rights of women and of the girl-child are an inalienable, integral and indivisible part of universal human rights". The human rights and fundamental freedoms would have to be respected and promoted by all states irrespective of their political, economic and cultural systems.

Subsequently women continued to lobby to gain wider recognition of women's human rights at the United Nations Conferences that followed thereafter. Like at the International Conference on Population and Development in Cairo in 1994, women's reproductive rights were explicitly recognized as human rights. In the Platform for Action at the 4th World Conference on women in Beijing in 1995 human rights of women was an important agenda. The international framework of women's human rights has been tremendously useful to bring out legislative and policy changes at local, national and international levels and to create a space in which the possibility for a different account of women's lives can be developed.

### Indian Constitution and Human Rights

A number of social reform movements have marked Indian history from the 1800s to bring social equality and the social reformers made successful efforts that made positive impact on groups that have historically been marginalized specially the women. New laws were enacted to end the practices like Sati and prohibition on widow remarriage.

After independence the constitution of India, guaranteed certain inalienable fundamental rights, heavily influenced by the Universal Declaration of Human Rights. The Constitution provides protection from evil practices against women and also the practice of untouchability. It also directs the State to set policies for the welfare of people. The Constitution in its Article 14 guarantees right to equality, Article 19 right to freedom and Article 21 right to life and electoral rights. Upholding the notion of gender equality and reaffirming faith in CEDAW the Constitution of India embodies the basic concept of gender equality in all spheres of human activity.

### Violation of Human Rights

According to the Universal Declaration of Human Rights, fundamental human rights are violated when:

- A certain race, creed or group is denied as a PERSON
- Men and women are not treated as equal (Article 2)
- Different racial or religious groups are not treated as equal (Article 2)
- Life, liberty or security of person are threatened (Article 3)
- A person is sold as or used as a slave (Article 4)
- Cruel, inhuman or degrading punishment is used on a person (such as torture or execution) (Article 5)
- Punishments are dealt arbitrarily or unilaterally without a proper and fair trial (Article 11)
- Arbitrary interference into personal or private lives by agents of the state (Article 12)
- Citizens are forbidden to leave their country (Article 13)

- Freedom of speech or religion is denied. (Article 18 & 19)
- Education is denied (Article 26)
- The right to join a trade union is denied (Article 23)

### Reality of Women's Human Rights

Women's human rights mean women have human rights as human beings have. The term human rights is inclusive to no discriminatory meaning implied. However practice does not comply with principle. In our daily lives we can see that it does not include gender. The rights, the privileges that are enjoyed by a male in our society are not even thought of by a female. A women's human rights framework equip woman with a way to define, analyse and articulate their experiences of violence, discrimination, degradation and marginality.

Not only India but other countries of the world also show dismal failure to accord women the human dignity and respect that they deserve simply as human beings. Women are still absent from the political decision making process in most countries. Even in some Islamic countries women are denied to have education and participate in public sphere. The right to food, clothing, shelter, health, education, gainful employment and personal security which have always been considered as basic human rights are often denied to women. We can understand the denial of human rights to women in the following subheads:-

#### 1. Right to Life

Article 21 of the Indian Constitution guarantees all citizens and non citizens protection of life and personal liberty. It includes the right to live with dignity as well as a right to basic necessities of life and the right to engage in activities that allow individuals to express themselves. It is the most basic and fundamental of all rights. But the reality is this basic human right continues to be violating in the form of female foeticide. The girls are denied to live or to be born in the family, more virulent in the north western region of India. Statistics about female foeticide are a powerful and shocking tool for grasping the scale of denial of this right and the extent to which so many girls have been aborted just because of the deep rooted son syndrome. As per the current Census 2011 India's sex ratio is 940 and Haryana is at 877. As far as Child Sex Ratio (0-6 years) is concerned it is 914 for India and Haryana is at the bottom among Indian states with a sex ratio of 930. The reason for this gender bias is socio-legal and cultural. It is believed that son is required to continue the family name, to look after family and property, to provide economic security to parents and to perform last rites. On the other hand girls are responsibility and a financial burden, of which everyone wants to shirk. Besides, limiting family size, availability and abuse of medical technology for prenatal sex detection have worked against the right to live for girls.

Similarly the right of personal liberty is not enjoyed by women. The girls who manage to survive till birth and beyond find that the environment is heavily loaded against them. At each and every phase of their lives they have been denied to have personal liberty.

#### 2. Right to Freedom

Right to freedom (article 19) includes freedom of speech and expression, freedom of movement and freedom to practice any profession, carry on any occupation or business. The woman does not have the freedom of expression neither the freedom of movement. She does not have any say in the family and her movements are controlled on the pretext of protecting the honour of the family. She always needs a male family member to move outside. Even many of the girls are denied the right to education just because they cannot go far away school unescorted.

#### 3. Right to Food

Although women prepare and frequently also grow the food, men and old boys are served first and women eat afterwards, therefore have only the scraps. Malnutrition and anaemia are rampant, especially among women of childrearing age, throughout States where men have the first right to food.

Female children are starved or neglected so that they die in much larger numbers than boys. As per statistics provided by NFHS III 2005-06, 55 girls as compared to 52 boys died per 10,000 live births in India and more than 55% of women are suffering from anaemia.

#### **4. Right to Shelter**

Women in many societies still are legally and unilaterally divorced, driven away from their homes by the male head of the family who not only owns the house but has the right to evict any women who he has married, often without her consent. She is thus deprived of shelter and all economic support. The status of a widow is more or less the same. Often she is evicted from the family with her children or forced to live in a slavery like condition. The pity and agony of widows at Vrindavan and Varanasi is not hidden from any one, these women are denied from all the basic rights they deserve being a human being.

#### **5. Right to Health and Control her own Body**

Three articles of the Universal Declaration of Human Rights focus on a women's right to health and to control of her own body and fertility. Article 25 mentions specifically the right to medical care which states that motherhood and childhood are entitled to special care and assistance and everyone has the right to a standard of living adequate for health and well being. But this right is not being fully enjoyed by the woman as by man. In the year 2007-09, the maternal mortality rate was 212 per 1 lac live birth which was quite high as compared to the western countries. The access of women to the health care facilities is significantly poor specifically in rural areas due to various factors.

The right of a woman to control her own body, based on her access to information about reproduction and sexuality, is still widely denied to women. They are being raped in their own families and even in their own marital relations. The trade in women's bodies has flourished not only in India but throughout the world. Rape, forced prostitution, polygamy, genital mutilation, pornography, beating of girls and women and segregation of women are all examples of violations of basic human rights which are seldom seriously addressed.

#### **6. Right to Education**

Women have equal right with men in the field of education, to access the same opportunities and conditions for career and vocational training as well as for professional and higher education. The denial of this right can be justified with the help of literacy data of our country, where 82.14% male and only 65.46% female (Census, 2011) are literate. The dropout rate is also higher for female students (61.5%) than the male students (58.6%) at school level from classes I to X (2006-07). Similarly the enrollment rate of female students in higher education was only 38.6% as compared to male students which was 61.4% in 2007-08 (Statistics on Women in India, 2010). The cultural perceptions of the roles women are expected to play limits girls access to education, cause early attrition and restricts them to traditional areas of study, thereby denying them equal opportunity to access education.

#### **7. Right to Work and Economic Rights**

The right to work is an inalienable right of all human beings which includes right to free choice of profession, equal remuneration, same employment opportunities and the right to social security. In the traditional society, women are not allowed to choose a profession, if allowed there are restrictions on the type of profession they will choose. The socialization has produced them as traditional or domestic women for whom an occupational career is not a viable alternative. On the other hand most of the poor women work in the unorganized sector as labour in inappropriate working conditions and at lower wages to supplement their family income.

When it comes to property and land ownership the true situation and powerlessness of women becomes apparent, women only own one percent of the world's property. Through the policy initiatives and legal reform although the property ownership in the name of women has increased but it is still at the margin.

## 8. Right to Enter into Marriage

The CEDAW states that both men and women have the same right to enter into marriage, freely choose a spouse and choose a family name. Early marriages and forced marriages violate this right of a girl child. Besides, in some parts of the northern India Khap panchayats are controlling the lives and marital relationships of people. They have become a law unto themselves and enforce a ban on marriages between certain clans. Under the pretext of upholding the honour of the community, these panchayats pronounce arbitrary judgments that not only violate human rights but are also humiliating. The victims are often women and the marginalized sections. They decree the legal marriage socially unacceptable and order them apart. Human rights and women's organizations play an active role to put a check on it.

## 9. Violence Against Women

The Universal Declaration states, "No one shall be subject to torture or to cruel, inhuman or degrading treatment or punishment". This formulation provides a vocabulary for women to define and articulate experiences of violence such as rape, sexual terrorism and domestic violence as violation of human right not be subject to torture or to cruel, inhuman or degrading treatment or punishment. The issue of violence against women is a women's human rights issue and it establishes unequivocally that states are responsible for such abuse. Despite various laws in place to deal with community as well as domestic violence against women, they are made victims of abuse and on the top of it they are being socialized not to speak. The incidents of crime against women are on a continuous increase violating the women's right to live with dignity. The sexual harassment of women at the workplace is also an example of denial of the fundamental rights of working women regarding their life and liberty and their right to work, carryout occupation with dignity.

## 10. Political Rights

CEDAW asks the states to take appropriate measures to eliminate discrimination against women in the political and public life of the country and to ensure that women on equal terms with men have the right to vote and to participate in the public life. Women's participation in Lok Sabha elections which was mere 11% in 2014 general elections shows that how much women are enjoying this right.

The universality of human rights means that human rights apply to every single person by virtue of their humanity. This also means that human rights apply to everyone equally for everyone is equal in simply being human. Taking up the human rights framework has involved a double shift in thinking about human rights and taking about women's lives. It has entailed examining the human rights framework through a gender lens and describing women's lives through a human rights framework. In looking at the human rights framework from women's perspectives, women have shown how current human rights definitions and practices fail to account for the ways in which already recognized human rights abuses often affect women differently because of their gender.

The real measure of the human rights conditions of a society is not just civil and political rights but also family rights; the status of each individual in the social unit. Equal human right must reflect equality between women and men and their equal status in the family. A human relationship based on equality between women and men is the foundation of human rights and justice in each family and community within each nation and finally among all nations. Development and peace are built first on the equality between women and men from which flows equality between the peoples of the world. Discrimination against women anywhere in the world affects the human rights of everyone. Men can never hope to achieve their own human rights unless women on whom they depend for the creation of life, achieve human rights equally.

## CONCLUSION

we talk of basic rights of human beings it also includes women. But the reality is women do not enjoy the rights and freedoms of which they are entitled by the mere fact that they are human. There are problems or barriers in attaining the full recognition and enjoyment of all human rights and

fundamental freedoms for women and this is only because of the socio-cultural structure of the society. Numerous socio-political and legal reforms have although removed some of the ill practices against women but failed to assign her equal status at par with men.

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