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Gender equality and legal protection of women rights in India

Prof. (Dr.) Surendra Kumar Nirala*
Prof. Dr. Deepmala Nirala**
Dean, Index Institute of Law Malwanchal University Indore (M.P.)
**** Professor & Head, Index Institute of Law Malwanchal University Indore (M.P.)***

Abstract-

Gender equality and legal protection are foundational principles in the pursuit of a just and equitable society. These concepts emphasize the importance of ensuring that all individuals, regardless of their gender, have equal opportunities, rights, and protections under the law. Gender equality involves dismantling the social, economic, and political barriers that have historically marginalized women and other gender minorities, while legal protection ensures that these rights are safeguarded and enforced through laws and policies. Over the past century, significant progress has been made globally to promote gender equality, with many countries enacting laws that protect against gender-based discrimination and violence. However, the journey towards true equality is ongoing, as deeply ingrained cultural norms and systemic biases continue to pose challenges. Legal frameworks, while crucial, must be accompanied by societal change and active enforcement to ensure that all individuals can enjoy their rights fully and without fear of discrimination or violence. In this context, gender equality and legal protection are not just about laws on paper; they are about creating an environment where everyone can thrive, contribute, and live with dignity, free from prejudice and injustice. This ongoing struggle for equality is a key component of broader human rights efforts and is essential for the development of inclusive and resilient communities.

Key Words: Gender Equality women rights, protection, violence, discrimination and law.

Introduction

Human rights and women's rights are fundamentally linked, emphasizing that women's rights are essential to the broader human rights agenda. These rights include freedom of expression and recognition, forming the basis of the global gender equality movement. Women's rights encompass essential privileges such as voting, workforce participation, and freedom from violence and discrimination. Legal frameworks are crucial for formalizing and enforcing these rights, protecting women from gender-based violence and workplace discrimination. However, the effectiveness of these laws depends on proper enforcement and societal commitment to gender equality. Despite progress, achieving full women's rights remains an ongoing challenge.

Legislation is crucial for advancing women's rights, but it must be supported by cultural change, education, and vigilance to ensure effective protections. Ongoing improvements to legal frameworks are essential for achieving true equality and justice. Protecting women's rights and ensuring their safety is vital for promoting gender equality

and preventing discrimination and violence. While laws vary by country, many shares common frameworks and international agreements that support this cause. Women worldwide have faced similar challenges, including reduced societal status, limited access to education and property, child marriage, and various forms of abuse. Widows often endure severe hardships, and women frequently lack representation in social, economic, and political spheres. Empowering women through rights and freedoms can help reduce these atrocities.

Despite the establishment of organizations like the National Women's Commission and Rastriya Mahila Kosh, they are often seen as ineffective. Enhancing their authority is crucial for improving women's status in society. Women's liberation must challenge the patriarchal mindset in India, promoting their participation in decision-making and fostering respect for their rights. This article explores the status, rights, and roles of women in India, addressing the challenges they face and the need for advancements in women's rights across social, political, and economic spheres to achieve genuine empowerment and improve their quality of life.

❖ **Status of Gender Equality in India**

The status of women in Indian society has evolved significantly over time, but it remains a complex issue deeply intertwined with the country's cultural, social, and economic fabric. Despite constitutional guarantees of equality and various legal protections, gender justice in India is still an ongoing struggle, marked by both progress and persistent challenges. Historically, women in India have faced significant discrimination and marginalization. Traditional practices, such as child marriage, dowry, and the preference for male children, have contributed to the subordinate status of women. These cultural norms, deeply rooted in patriarchal values, have long dictated the roles and opportunities available to women, limiting their access to education, employment, and political participation. India has a robust legal framework aimed at protecting and promoting the rights of women. Key legal provisions include-

1 Legal protection of Women Rights Under the Constitution or India: The constitution of independent India followed the basic principle of women's equality as accepted in the Fundamental rights resolution of Karachi congress session. The constitution of India not only grants equality to women but also empowers the state to adopt measures of positive discrimination in favor of women to neutralize the socio- economic, political and educational disadvantages faced by them.

Some of the below mentioned rights ensures the women protection, equality and freedom of choices;

- Article 14 men and women to have equal rights and opportunities in political Economical and social sphere.
- Article 15 (1) prohibits discrimination against any citizen on grounds of religion, caste, sex etc.
- Article 15(3) special provisions enabling the state to make affirmative discrimination in favor of women.
- Article 16 equality of opportunities in matter of public appointments for all citizens.
- Article 23 ban on trafficking in human and forced labour Directive principles of state policy.
- Article 39(a) State shall direct its policy towards security all citizens men and women equally the right to means of livelihood.
- Article 39(d) equal pay for equal work for both men and women.
- Article 42 the state to make provision for ensuring just and human condition of work and maternity relief.
- Article 51(A)(e) to renounce the practices derogatory to the dignity of work.

2 The Dowry Prohibition Act (1961)

Dowry, traditionally defined as the transfer of parental wealth, property, or gifts to the groom or his family during marriage, has been a longstanding practice in various cultures in India. While it is often presented as a gift, it can lead to severe implications for women and their families, including financial strain, domestic violence, and even dowry deaths. The Dowry Prohibition Act of 1961 was a significant step forward in the legal fight against the

dowry system in India. It was designed to curb the practice and protect women from the abuses that often result from dowry demands, such as domestic violence, harassment, and even dowry deaths.

3 The Protection of Women from Domestic Violence Act (2005)

framework to protect women from domestic abuse. The Protection of Women from Domestic Violence Act (PWDVA) of 2005 is a comprehensive legislation enacted in India to address and prevent domestic violence against women. This law represents a significant step toward safeguarding the rights and dignity of women within the domestic sphere, offering legal protection and recourse for those subjected to abuse. The Protection of Women from Domestic Violence Act, 2005, is a crucial piece of legislation that reflects India's commitment to addressing domestic violence and promoting gender justice. By providing a legal framework to protect women from various forms of domestic abuse, the Act empowers women to seek safety, support, and justice. Continued efforts are needed to raise awareness, improve implementation, and challenge societal norms that perpetuate violence, ensuring that all women can live free from fear and harm within their own homes.

4 The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013)

The POSH Act has been instrumental in raising awareness about sexual harassment in the workplace and providing a legal framework for addressing complaints. It has empowered many women to speak up against harassment and has compelled organizations to take proactive measures to ensure a safe working environment. commonly known as the POSH Act, is a landmark piece of legislation in India designed to protect women from sexual harassment in the workplace. The Act was enacted to ensure a safe and secure working environment for women and to address the pervasive issue of sexual harassment in both public and private sectors.

- **Broadened Definition of Rape-** Following the 2012 Delhi gang rape, the definition of rape was expanded to include not just penile-vaginal penetration but also oral sex, penetration with objects, and other forms of sexual assault.
- **Introduction of Stiffer Penalties-** The amendment introduced harsher penalties, including life imprisonment and the death penalty for certain cases, particularly those involving repeated offenders, minors, or situations where the victim is left in a vegetative state.
- **Recognition of New Offenses-** The Act introduced several new offenses, including acid attacks, stalking, voyeurism, and sexual harassment.
- **Provision for Speedy Trials-** It mandated the establishment of fast-track courts to expedite the trial process for rape cases.
- **Protection for Survivors-** The law provided for anonymity of the survivor in media and legal proceedings and ensured compensation and support services.

5 Despite these legal protections, the reality for many women in India remains challenging: -

- Education- While there has been significant progress in female literacy rates, educational attainment for girls still lags behind that of boys, especially in rural areas.
- Employment- Women's participation in the labor force remains low, with many women employed in informal sectors where they lack legal protections and benefits. Wage disparity between men and women continues to be a major issue.
- Political Representation- Although women have achieved high political office, such as the Prime Minister and President, their overall representation in politics remains limited, especially at the local levels.
- Gender-Based Violence- Violence against women, including domestic violence, sexual harassment, and honor killings, remains pervasive. The legal system often struggles with effective enforcement and providing timely justice to victims.

6 Cultural and Social Barriers

Deep-seated patriarchal norms continue to influence attitudes towards women, leading to discrimination in both public and private spheres. Issues like the dowry system, son preference, and restrictions on women's mobility and autonomy persist, particularly in rural areas. Additionally, the intersectionality of caste, class, and religion further complicates the experiences of many women, particularly those from marginalized communities.

7 Progress and Movements

There have been numerous movements and initiatives aimed at improving the status of women in India. Grassroots organizations, NGOs, and feminist movements have been instrumental in advocating for women's rights, raising awareness, and pushing for legal reforms. Campaigns like "Beti Bachao, Beti Padhao" (Save the daughter, educate the daughter) reflect ongoing efforts to address gender disparities.

8 The Maternity Benefit (Amendment) Act, 2017

Act of 1961, bringing several important changes to maternity leave and benefits for women in India. Here are the key features and provisions of the amendment-

- Increased Maternity Leave- The amendment increased the duration of maternity leave from 12 weeks to 26 weeks for women working in organizations with more than 10 employees. This applies to both biological and adoptive mothers.
- Adoption and Surrogacy- For women who adopt a child below three months of age or are using a surrogate, the Act provides for 12 weeks of maternity leave from the date of adoption or the child's birth.
- Work from Home- The amendment allows women to request to work from home after the completion of their maternity leave, depending on the nature of their work and the company's policies.
- Notification of Maternity Leave- Women are required to notify their employers at least 8 weeks before the expected date of delivery about their intention to take maternity leave.
- Employer Obligations- Employers are required to provide paid maternity leave and ensure that women do not face discrimination in hiring or employment due to pregnancy. They are also mandated to maintain records of maternity benefits.
- Maternity Benefit for Employees- The Act applies to women employees in both the organized and unorganized sectors, ensuring broader coverage of maternity benefits.
- Crisis Management- In cases where a woman is unable to avail maternity leave due to the employer's failure to comply with the provisions, the amendment empowers women to seek redressal.
- Support Working Mothers- The primary goal of the amendment is to support working women during and after pregnancy, enabling them to balance work and family responsibilities. Promote Gender Equality: By providing adequate maternity benefits, the Act aims to promote gender equality in the workplace and encourage women's participation in the workforce. The Maternity Benefit (Amendment) Act, 2017, marks a significant step forward in protecting the rights of working women in India. Continued efforts are needed to ensure effective implementation and raise awareness about the benefits available to women during and after pregnancy.

9 The Prohibition of Child Marriage Act, 2006

The Prohibition of Child Marriage Act, 2006, is a significant piece of legislation in India aimed at addressing and curbing the practice of child marriage, which has serious implications for the health, education, and well-being of children, especially girls. Here are the key features and provisions of the Act-

- Definition of Child Marriage- The Act defines a child marriage as a marriage where either of the parties is below the age of 18 years for girls and 21 years for boys.
- Prohibition of Child Marriage- The Act explicitly prohibits the solemnization of child marriages and makes it an offense.
- Voidable Marriages- Any marriage solemnized in violation of the Act is considered voidable at the option of the contracting party who was a child at the time of marriage. This means that the child can choose to annul the marriage upon reaching adulthood.

- Legal Remedies- The Act provides for various legal remedies, includingA child married below the legal age can file a petition in the court to have the marriage annulled. The Act allows for the appointment of Child Marriage Prohibition Officers to help prevent child marriages and provide legal support.
- Punishments- The Act prescribes punishments for those who solemnize child marriages, including imprisonment for up to two years and/or fines. It also includes provisions for punishing those who aid, abet, or promote child marriages.
- Protection of Children- The Act emphasizes the protection and rehabilitation of children who are victims of child marriage, including access to education and health services.
- Awareness and Prevention - The government is tasked with creating awareness about the harmful effects of child marriage and promoting education and empowerment of girls.

Conclusion

The status of women in Indian society is one of both progress and ongoing challenges. While there have been significant strides in terms of legal protections and societal awareness, much remains to be done to achieve true gender justice. The journey towards equality requires not just strong laws, but also cultural change, education, and active enforcement. Achieving gender justice in India will involve continued efforts to dismantle patriarchal structures and ensure that all women can fully enjoy their rights and freedoms. The evolution of rape laws in India marks a critical step toward achieving gender equality and justice for women. While the legal reforms have strengthened protections against sexual violence, true gender equality requires ongoing efforts to address the underlying social and cultural factors that contribute to gender-based violence. Continued advocacy, education, and legal reform are essential to ensuring that all women in India can live free from fear of violence and discrimination. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, is a landmark legislation that represents a significant step toward gender equality and the protection of women's rights in the workplace. While the Act has brought about positive change, ongoing efforts are needed to ensure its effective implementation and to create a work culture that genuinely respects and upholds the dignity of all women. Moreover, strengthening the enforcement of laws and ensuring accountability within the justice system is crucial to instilling confidence in women to seek justice and protection. Engaging men and boys as allies in the fight for gender equality is also vital for changing perceptions and behaviors. Ultimately, achieving gender equality in India requires a holistic approach that combines legal reform, societal change, and grassroots advocacy. As India continues to evolve, the commitment to advancing women's rights must remain steadfast, reflecting the belief that true progress can only be realized when all individuals, regardless of gender, can thrive and contribute to the nation's development. India has made significant strides toward gender equality, with robust legal frameworks and constitutional safeguards for women's rights. However, cultural, social, and economic barriers continue to prevent full equality. Efforts to ensure the implementation of laws, as well as societal changes to challenge deeply ingrained gender biases, are essential for achieving true gender equality. The balance between law, social change, and active participation by both men and women will determine the pace at which India progresses toward equality for all genders.

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