

Gender Equality: An Indispensable Element of Rule of Law and the Status of Women in India

- Aafreen Naaz & Ishita Sharma¹

ABSTRACT

'Rule of Law', in its most basic sense means that the government has to run on the principles of law and that the law is supreme and is above every individual and that everyone must be treated equally under the law. Thus, rule of law ensures equality before the law and equal protection of law and prohibits any kind of discrimination against women. Though constitutionally men and women are equal, socially men are given more priority and importance sometimes to the disadvantages of women. The present paper will examine the concept of rule of law and gender equality as well as the prevalence of gender discrimination in India. The paper also deals with various issues and challenges faced by the women in India which includes harassment at workplace, child marriage, dowry related harassment, female genital mutilation, educational inequality (uneven access to education), delayed justice and pendency of cases of crime against women and many more. Further, this paper will highlight the constitutional and legal provisions to uplift the status of women in India and the efforts of Indian Judiciary to protect women's rights.

Keywords :- *Rule of law, Equality, Patriarchy, Gender Discrimination, Women, Human Rights.*

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I. INTRODUCTION

The guarantee of ‘**Equality before the Law**’ is an aspect of what *Dicey* calls the ‘**Rule of Law**’ in England.²It means that no man is above law and that every person, whatever be his rank or conditions, is subject to the jurisdiction of ordinary courts.³The term **Rule of law** has been derived from the French phrase “*La Principe de Legality*” which means ‘the Principle of Legality’. In simple terms, it means that the government has to run on the principles of law and that the law is paramount and is above every individual. The rule of law is the principle that the law should ‘*rule*’ in the sense that it establishes a framework to which all conduct and behaviour conform, applying equally to all the members of society, be they private citizens or government officials.⁴It is a concept which comprehends and supports human rights principles. In the *Universal Declaration of Human Rights (1948)*, it has been stated that the best way to protect human rights is through the rule of law, and that the law should not make distinctions between men and women in their enjoyment of human rights.⁵ The Rule of Law requires that laws and legal processes are accessible, clear, able to be followed, and fair so that all people are equal before the law. Thus, it ensures equality before the law and equal protection of law and prohibits any kind of discrimination against women. So, in a way, “Gender Equality” can also be regarded as an essence of the doctrine of Rule of Law and is an indispensable part of it.

Gender Equality - Does it really exist in our Society?

Gender Equality, in simple terms, can be defined as “equal treatment and enjoyment of equal rights and opportunities by men and women in all spheres of life”. Gender equality is not only a fundamental human right, but a necessary foundation for a peaceful, prosperous and sustainable world.⁶ Gender equality and Women’s Empowerment is the fifth of seventeen *Sustainable Development Goals (SDG 5)* of the United Nations. But the question is “Are women really equal to men or are women really given equal treatment as men in all

² Dr. J. N. Pandey, *Constitutional Law of India* 79 (Central Law Agency, Allahabad, 57th edn. 2020).

³ *Ibid.*

⁴ Andrew Heywood, *Politics* 326 (Palgrave Macmillan, New York, 3rd edn., 2007).

⁵ The Rule of Law Institute of Australia (RoLIA), *Gender Equality & the Rule of Law* (2013), available at: <https://www.5050foundation.edu.au/assets/reports/documents/2013-Gender-Equality-and-the-Rule-of-Law.pdf> (last visited on Oct. 25, 2020).

⁶ Gender Equality, available at: <https://www.un.org/sustainabledevelopment/gender-equality/> (last visited on Oct. 25, 2020).

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spheres of life?” The answer to this is obvious – “No”. All contemporary and historical societies are seen to be characterized by *Patriarchy*: that is, the dominance of men and subordination of women, usually rooted in the rule of the husband-father within the family.⁷ Hence, patriarchal norms have marked women as inferior to men. The aims and objectives, desires and aspirations, duties and responsibilities, dress styles and behavioural patterns, roles and statuses of men and women are different.⁸ Men and women are born equal. But nowhere in the history of humanity men and women were treated alike and assigned statuses alike.⁹ Women have not been able to lead a life exactly on par with men in spite of their urge for equality.¹⁰ The rising incidence of crime and violence against women are indicators of a decline in the respect of women in society.¹¹

II. THE CONCEPT OF RULE OF LAW AND EQUALITY: AN OVERVIEW

Two things form the bedrock of any open society – “*Freedom of Expression and Rule of Law*” and if you don’t have those things, you don’t have a free country”.¹² The concept of the Rule of Law is of old origin. **Sir Edward Coke**, the Chief Justice of England at the time of King James, is said to be the originator of this concept, when he said that the King must be under God and Law and thus vindicated the supremacy of law over the pretensions of the executives.¹³ He is regarded as the first one to criticise the maxims of Divine concept and believed that “*King should also come under Rule of Law*”.¹⁴ His ideas and doctrine were later developed by **A.V Dicey** in his writings on the British constitution in 1885 which included the following three distinct though kindered ideas in Rule of Law¹⁵ :

⁷ Andrew Heywood, *Politics* 202 (Palgrave Macmillan, New York, 3rd edn., 2007).

⁸ C.N. Shankar Rao, *Sociology* 813 (S. Chand & Company Pvt. Ltd., New Delhi, 2016).

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Dr. S.R. Myneni, *Sociology* 484 (Allahabad Law Agency, Faridabad, Haryana, 2nd edn., 2006).

¹² Dina Vakil, “Don’t allow religious hooligans to dictate terms”, *The Times of India*, Jan. 16, 2008, available at: <https://timesofindia.indiatimes.com/india/Dont-allow-religious-hooligans-to-dictate-terms/articleshow/2703448.cms> (last visited on Oct. 26, 2020).

¹³ I.P. Massy, *Administrative Law* 20 (Eastern Book Company, 1998).

¹⁴ Dr. U.P.D. Kesari, *Administrative Law* 24 (Central Law Publications, 14th edn.).

¹⁵ M. P. Jain, *Outlines of Indian Legal and Constitutional History* 721 (LexisNexis, Haryana, 7th edn., 2014); A.V. Dicey, *Introduction to the Study of the Law of the Constitution*, (10th edn.).

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(i) Absence of Arbitrary Power :- No man is above law. No man is punishable except for a distinct breach of law established in an ordinary legal manner before ordinary courts. The government cannot punish any one merely by its own fiat.

(ii) Equality before Law :- Every man, whatever his rank or condition, is subject to the ordinary law and jurisdiction of the ordinary courts. No man is above law.

(iii) Individual Liberties :- These are the result of judicial decisions determining the rights of private persons in particular cases brought before the courts from time to time.

Thus, from his ideas in rule of law above, we can say that Dicey firmly believed in equality before law and according to him, be it anyone, all are to be treated equally in the eyes of law and that law is sovereign.

Rule of law and the Indian Judiciary -

In the Indian Constitution, the doctrine of Rule of Law holds a pivotal position. The Supreme Court has invoked the Rule of Law several times in its pronouncements to emphasize upon certain Constitutional values and principles.¹⁶ It is worth mentioning here that the Supreme Court of India in the famous case of *Keshvananda Bharti v. State of Kerala*¹⁷ has ruled that the “basic structure of the constitution cannot be amended” and that the Rule of Law is a part of the basic structure of our constitution. Moreover, in the case of *Indira Nehru Gandhi v. Raj Narain*¹⁸, the Supreme Court held that Rule of Law embodied in Article 14 of the Constitution is the “basic feature” of the Indian Constitution and hence it cannot be destroyed even by an amendment of the Constitution and it was decided that the law of the land is supreme and must prevail over the will of one person.

Further, in the case of *Bachan Singh*,¹⁹ Justice Bhagwati has emphasized that Rule of Law excludes arbitrariness and unreasonableness. To ensure this, he has suggested that it is

¹⁶M.P. Jain, *Indian Constitutional Law* 11 (LexisNexis, Haryana, 8th edn., 2014).

¹⁷ AIR 1973 SC 1461.

¹⁸ AIR 1975 1590 : 1975 SCC (2) 159.

¹⁹*Bachan Singh v. State of Punjab*, AIR 1982 SC 1325 : (1982) 3 SCC 24; M.P. Jain, *Indian Constitutional Law* 11 (LexisNexis, Haryana, 8th edn., 2014).

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necessary to have a democratic legislature to make laws, but its power should not be unfettered.

In *P. Sambamurthy v. State of Andhra Pradesh*,²⁰ the Supreme Court has declared a provision authorising the executive to interfere with tribunal justice as unconstitutional characterising it as “violative of the rule of law which is clearly a basic and essential feature of the Constitution.” Also, in *D.C Wadhwa v. State of Bihar*,²¹ the Supreme Court has again invoked the Rule of Law concept to decry too frequent use by a State Government of its power to issue ordinances as a substitute for legislation by the Legislature.²²

III. GENDER INEQUALITY AND DISCRIMINATION IN INDIA

Gender Inequality has been a social issue in India since centuries. According to the *United Nations Development Program's Human Development Report 2019*, India ranks 122 out of 169 countries in the Gender Inequality Index (GII) and neighbours China (39), Sri Lanka (86), Bhutan (99), Myanmar (106) were placed above India.²³ Gender inequality can further be understood through the mechanisms of sexism or discrimination. *Sexism*, in simple terms, is defined as prejudice or discrimination which is based on a person's gender or sex and it is typically in the form of discrimination against women and girls. *Sexism* is an ideology which is used by men to victimise women.²⁴ **Discrimination** occurs when a person is unable to enjoy his or her human rights or other legal rights on an equal basis with others because of an unjustified distinction made in policy, law or treatment.²⁵ According to the *Collins Dictionary of Sociology*, 'Gender Discrimination' is “*the practice whereby one sex is given preferential treatment over the others.*”²⁶

Discrimination Starts Even Before She is Born -

²⁰ AIR 1987 SC 663 : (1987) 1 SCC 362.

²¹ AIR 1987 SC 579.

²² M.P. Jain, *Indian Constitutional Law* 11 (LexisNexis, Haryana, 8th edn., 2014)

²³ Jagriti Chandra, “India up one rank in UN development index” *The Hindu*, Dec. 10, 2019, available at: <https://www.thehindu.com/news/national/india-up-one-rank-in-un-development-index/article30259959.ece> (last visited on Oct. 22, 2020).

²⁴ C.N. Shankar Rao, *Sociology* 828 (S. Chand & Company Pvt. Ltd., New Delhi, 2016).

²⁵ Discrimination, available at: <https://www.amnesty.org/en/what-we-do/discrimination/> (last visited on Oct. 25, 2020).

²⁶ David Jary and July Jary, *Collins Dictionary of Sociology* 588.

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We all are aware of the very fact that the birth of a girl child is not welcomed in many parts of India. Thus, it is very saddening to say that for some girls, **discrimination starts even before she is born**. Even after sex-detection of the unborn baby has been made illegal in India, sex-selective abortions still take place. Every minute one girl child is aborted somewhere in India, warns a recent study on the ‘probabilistic projection of sex ratio at birth (SRB) in India between 2017 -30’.²⁷ Indicating a continuing preference for boys in society, the child sex ratio in India has dropped to 914 females against 1,000 males - the lowest since Independence - in the provisional 2011 Census.²⁸ In India, gender discrimination is clearly visible from the fact that in this country, the birth of a baby boy is celebrated with great pomp and ardour, but the birth of a girl child is received with dismay and distress. The birth of a girl child is always regarded as a burden for the family and is seen as beginning of financial ruin. And this discrimination continues in every facets of life. Be it education, health, sports, protection or participation, the girl child is always treated unequally and it is very unfortunate that the Indian society still hasn’t been awakened to the significance of empowering the women.

IV. ISSUES AND CHALLENGES FACED BY THE WOMEN IN INDIA

Some of the major problems haunting women and girls are mentioned below :-

Increasing Crimes and Violence against Women in India -

Women in the Indian society have been victims of humiliation, torture, and exploitation for the past hundreds of years. Even now, women are getting affected by the various violence almost every day which is disrupting the society. According to National Crime Records Bureau (NCRB) Annual Crime in India Report 2018, **3,78,277 cases of crime against women** were reported in the country, up from 3,59,849 in 2017.²⁹ Uttar Pradesh topped the list with 59,445 cases, followed by Maharashtra (35,497) and West Bengal (30,394).³⁰ The

²⁷ Gender inequality, patriarchy skewed India’s sex ratio, *available at*: <https://thefederal.com/analysis/gender-inequality-patriarchy-skewed-indias-sex-ratio/amp/> (last visited on Oct. 21, 2020).

²⁸ Census of India 2011: Child sex ratio drops to lowest since Independence, *available at*: <https://economictimes.indiatimes.com/news/economy/indicators/census-of-india-2011-child-sex-ratio-drops-to-lowest-since-independence/articleshow/7836942.cms?from=mdr> (last visited on Oct. 21, 2020).

²⁹ National Crimes Records Bureau, “Annual Crime in India Report” (2018).

³⁰ *Ibid.*

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conviction rate in rape-related cases stood at 27.2% even though the rate of filing charge sheets was 85.3% in such cases.³¹ The report also provides that one woman reported a rape every 15 minutes on an average in India in 2018.³² Women may face violence within the family (dowry related harassment and dowry death, marital rape, wife-battering, sexual abuse, deprivation of healthy food, female genital mutilation, etc.) or outside the family (kidnapping, rape, murder, etc.).

Harassment of Women at Work Place -

Women workers become more prone to the exploitation and harassment in the work areas. Large number of employed women are illiterate and are totally exploited by their employers in the unorganized sector. Moreover, women workers are paid less than the male workers for the same type of work and they are made to work in unhealthy surroundings. Much labour is extracted from women by giving them very minimum wages. They are discriminated with regard to recruitment, promotion, increment, training, over-time allowance, facilities at work place, and so on. In the Indian context, majority of women go for work not for fun but out of necessity and due to the fear of losing the job, women bear all the exploitations, and do not protest.

Many female workers have also complained of sexual harassments at their respective work places. In the landmark case, *Vishaka & Others v. State of Rajasthan*³³, a social worker from Rajasthan, was brutally gang-raped by five men for preventing a child marriage. The Supreme Court had inspected the case which highlighted the problem of Gender Inequality, outraging the modesty of women, sexual harassment at the workplace and rape as societal issues of substantial intensity. The Supreme Court commissioned the Vishaka guidelines that defined sexual harassment and put the onus on the employers to provide a safe working environment for women.

The Problem of Dowry (Dowry Related Harassment) -

Dowry is both a practice and a problem associated with the Indian marriage. The dowry

³¹ *Ibid.*

³² *Ibid.*

³³ AIR 1997 SC 3011.

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system has now assumed the form of a social evil because the bride's family is compelled to give some dowry as a price for marriage. Women are ill-treated, man-handled, disrespected, tortured and subject to all sorts of cruelties in the name of dowry. The cases of burning brides and abetted suicides often come in news of dowry related deaths.

In the case of *Ashok Kumar v. State of Rajasthan*³⁴, regarding the evil practice of burning the bride, Justice R.M. Sahai has rightly said, "*Bride burning is a shame of our society*". We can say that prevalence of the practice of dowry reflects the inferior status of women in society. It makes a girl a great liability on her family's resources.

Child Marriage -

We wish this was a thing of the past, but sadly millions of children each year are married before they turn 18. There are 650 million girls and women today in the world who were married before they turned 18. Sadly, India alone accounts for one-third of the global total which means 1 of 3 of the world's child brides live in India. Those who suffer from child marriage often experience early pregnancy which is a key factor in the premature end of education. As mothers and wives, girls become socially isolated and are at an increased risk for domestic violence. Child marriage is one of the most devastating examples of gender inequality, as it limits women's opportunities and their ability to reach their full individual potential.³⁵

Female Genital Mutilation -

Female Genital Mutilation (FGM), one of the most inhumane crimes against women is still practiced in many parts of the world including India. It involves the partial or total removal of external female genitalia for non-medical reasons.³⁶ It not only harms a girl physically, but also leaves a lifelong psychological trauma. Communities that practice it, defend FGM on baseless grounds by regarding it as necessary for commencement of womanhood and relating it to cultural ideals of femininity and modesty.³⁷ Girls subjected to this are usually very young

³⁴ AIR 1990 2134 : (1990) SCR Supl. (1) 401.

³⁵ Dr. S. Venkatesan, "Issues of Gender Inequality in India" 9 *Indian Journal of Applied Research* 63 (2019).

³⁶ Available at : <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation> (last visited on Oct. 27, 2020).

³⁷ Mary McCauley, "Challenges in the eradication of female genital mutilation/cutting" 11 *International Health* (2019).

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and do not have the ability to stand up against it. It becomes the responsibility of the state to properly investigate, reach out to those helpless girls, create awareness, educate the communities about the health risks involved and make stringent laws for punishing those who practice FGM.

Human Trafficking-

Adult women and girls account for 71 percent of all human trafficking victims detected globally.³⁸ Girls alone represent nearly three out of every four children trafficked.³⁹ Women and girls are clearly the disproportionate victims of human trafficking with 75 percent trafficked for the purpose of sexual exploitation.⁴⁰

Called a top destination for human trafficking, India was once named the **most dangerous country** for women in terms of human trafficking according to a *Thomson Reuters Foundation* survey.⁴¹ According to the *National Crime Records Bureau*, a total of 5264 cases of human trafficking were reported in India in 2018, where 64% were women and 48% were below 18 years old.⁴² The most affected areas are Bihar, Maharashtra, Telangana, Jharkhand, Rajasthan, Andhra Pradesh, Assam, Orissa and West Bengal.⁴³

Educational Inequality (Uneven access to Education) -

Women education percentage is very low in India especially in the rural areas because they are discouraged for higher education and also for professional and technical education. Increasing drop-out of female children from schools is another problem. Though female children are getting admitted to primary, middle and high schools in a substantial manner, many of them drop out of the school in the middle without completing the course because of the reasons like early marriage, burden of household works or because their family could afford to educate only one child and they chose their son instead of the daughter. Even in the

³⁸Dr. S. Venkatesan, "Issues of Gender Inequality in India" 9 *Indian Journal of Applied Research* 63 (2019).

³⁹*Ibid.*

⁴⁰*Ibid.*

⁴¹Infographic: Human Trafficking in India" available at: [https://feminisminindia.com/2020/07/30/infographic-human-trafficking-india/#:~:text=According%20to%20the%20National%20Crime,Assam%2C%20Orissa%20and%20West%20Bengal.\(last visited on Oct. 30, 2020\).](https://feminisminindia.com/2020/07/30/infographic-human-trafficking-india/#:~:text=According%20to%20the%20National%20Crime,Assam%2C%20Orissa%20and%20West%20Bengal.(last%20visited%20on%20Oct.%2030,%202020).)

⁴²*Ibid.*

⁴³*Ibid.*

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matter of admitting children to school at elementary level, female children are discriminated against male children. It means complete awareness among people regarding female education is not there.

Illiteracy and Dependence on Husband: Fear of Divorce and Desertion -

Women who are uneducated are more prone to divorce and desertion by their husbands on any stage of life because they are fully dependent on their husband (because of their illiteracy). It damages the social image of the wife. It becomes a permanent stigma in her life. Jobless and resourceless divorced women find themselves in a big economic crisis. Women, in Indian society, have to live whole life with fear of divorce because in actuality, in the Indian context, it is mostly the husband who goes away from the family leaving the wife and children at home to fend for themselves.

Delayed Justice and Pendency of Cases of Crime against Women in India -

It has been well said that “*Justice delayed is Justice denied*”. The government data reveals that there are over 2.4 lakh pending cases in courts related to rape and the Protection of Children from Sexual Offences (POCSO) Act across the country till December 2019 and a comparative study between the data reported as of March 2018 and December 2019 show pending cases related to rape and those registered under POCSO Act have increased by over 77,000 – from 1,66,882 to 2,44,001.⁴⁴ It means that the pendency of such cases has increased by more than 46 per cent across the country since March 2018 with Delhi reporting the highest percentage increase of 353 per cent during this period.⁴⁵ This in turn makes people lose faith in justice delivery system. There are many problems similar to this faced by women and at times they have to wait for an inordinate amount of time to get justice. So, speedy trial especially in cases relating to women is an area which requires utmost focus and reform.

Nirbhaya Case – A leading example of Delayed Justice⁴⁶

⁴⁴ Available at : <https://timesofindia.indiatimes.com/india/353-rise-in-pending-rape-trials-in-delhi/articleshow/74633285.cms> (last visited on Oct. 28, 2020).

⁴⁵ *Ibid.*

⁴⁶ Nirbhaya Case : Delayed Execution of Convicts, available at: <https://www.thehindu.com/news/cities/Delhi/delayed-execution/article31077434.ece> (last visited on Oct. 29, 2020).

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It is shocking that it took seven years for such a judgement which involved such a brutal rape and murder of the victim. This was a case that grabbed media headlines in India and all over the world. People were out on the streets protesting the gangrape for weeks. With inputs from the Justice Verma Committee many amendments were introduced such as the **Criminal Law (Amendment) Act in 2018** redefining the ambit of sexual offences, providing for effective and speedy investigation and trial. Yet it took the justice system seven long years to reach a final decision. “*Speedy justice is not merely an aspect of the right to life with dignity, but is essential for efficacy of the law and its desired impact, as well as for prevention of its violation*”, the Justice JS Verma committee appointed in the wake of outrage over Nirbhaya gangrape case had concluded.⁴⁷ Seen against this background, the speed of justice delivery in Nirbhaya case offers little hope for a speedier justice to other women victims in India.⁴⁸

V. EMPOWERMENT OF WOMEN IN INDIA

The term “Empowerment of Women” refers to the process of strengthening the hands of women who have been suffering from various disabilities, inequalities and gender discrimination.⁴⁹ It could also be understood as the process of providing equal rights, opportunities, responsibilities and power positions to women so that they are able to play a role on par with men in society.⁵⁰ In a country like India, the need for the empowerment of women is justified on account of the factors like low literacy rate of women, health problems of women, economic exigencies of women and various crimes and atrocities against women.

The Constitution of India grants equality to women and empowers the State to take special measures of positive discrimination by eliminating the cumulative socio-economic, education and political disadvantages faced by the women.⁵¹ Also, the Indian Judiciary plays an eminent role in protecting women’s rights and it not only validates the laws that treat women equal to men, but also interprets the laws in a manner to extend protection to women. For instance,

⁴⁷ Available at: <https://www.indiatoday.in/news-analysis/story/why-nirbhaya-case-offers-little-hope-for-speedy-justice-to-hyderabad-rape-victim-1624661-2019-12-03> (last visited on Oct. 25, 2020).

⁴⁸ *Ibid.*

⁴⁹ C.N. Shankar Rao, *Sociology* 844 (S. Chand & Company Pvt. Ltd., New Delhi, 2016).

⁵⁰ *Ibid.*

⁵¹ Kumar TNS, Mahathi K, *et.al.*, “Role of Constitution in Women Empowerment in Corporate Sector“ 6 *Arabian Journal of Business and Management Review* 2 (2016).

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recently, in the landmark case of *Sabrimala Temple*⁵², the Supreme Court struck down a rule that disallowed girls and women in the 10-50 age group from entering the Sabarimala temple in Kerala. Chief Justice Dipak Misra-headed Constitution bench in a 4-1 verdict said the temple rule violated their **right to equality** and right to worship.⁵³

Further, in the case of *Randhir Singh v. Union of India 1982*⁵⁴, the Supreme Court relying on the Preamble and Article 14 and 16 of the Constitution held that Article 39 (d) envisages a constitutional right of equal pay for equal work for both men and women⁵⁵.

Constitutional Provisions for the Empowerment of Women in India -

The Constitution of India in its attempts to provide equal rights and opportunities to women, to ensure protection and justice, and to empower the women in India, has made the following provisions⁵⁶ :-

- 1. Article - 14:** Constitution assures equality to all its citizens including women.
- 2. Article – 15 (1):** Ensures that no discrimination be made against its citizens on the basis of caste, class, creed, race, sex, place of birth or region.
- 3. Article – 15 (3):** Recommends the State to make certain special arrangements in order to provide protection to women and children and to promote their welfare.
- 4. Article – 16:** No discrimination be made by the State against its citizens including women while providing jobs.
- 5. Article – 39 (a):** To pursue a policy of providing the minimum necessities of life to the citizens without discrimination between men and women.
- 6. Article – 39 (d):** Fixing “equal remuneration for equal work” without discriminating between men and women.⁵⁷

⁵²*Indian Young Lawyers Association & Ors v. The State of Kerala & Ors.*, Writ Petition (Civil) No. 373 of 2006.

⁵³Available at : [⁵⁴ AIR 1982 SC 879 : \(1982\) 1 SCC 618.](https://economictimes.indiatimes.com/news/politics-and-nation/supreme-court-allows-women-to-enter-sabarimala-temple/articleshow/65989807.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst(la st visited on Oct. 28, 2020).</p></div><div data-bbox=)

⁵⁵ J. N. Pandey, *Constitutional Law of India* 32 (Central Law Agency, Allahabad, 57th edn., 2020).

⁵⁶C.N. Shankar Rao, *Sociology* 850 (S. Chand & Company Pvt. Ltd., New Delhi, 2016).

⁵⁷The Constitution of India(All the Articles written here are from the Constitution of India).

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Other articles like Article 15 (2), 42, 46, 47, 51 (A) and (e), 243 D (3), 243 D (4), 243 T (3), 243 T (4).⁵⁸

Legal Provisions and Special Initiatives to Uplift the Status of Women⁵⁹ -

The Government of India, to uphold the Constitutional mandate, undertook various legislative measures intended to ensure equal rights to women, to safeguard the interests of women, to counter social discrimination and various forms of violence and atrocities against women and to provide support services especially to working women. Some of them are mentioned below:-

- 1. The Dowry Prohibition Act, 1961** which declares the taking of dowry an unlawful activity and thereby prevents the dowry related exploitation of women.
- 2. Legal Services Authorities Act (1987)** provides for free legal services to Indian women.
- 3. Protection of Women from Domestic Violence Act (2005)** is a comprehensive legislation to protect women in India from all forms of domestic violence. It also covers women who have been/are in a relationship with the abuser and are subjected to violence of any kind - physical, sexual, mental, verbal or emotional.
- 4. Equal Remuneration Act (1976)** provides for payment of equal remuneration to both men and women workers for same work or work of a similar nature (i.e., equal pay for equal work). It also prevents discrimination on the grounds of sex against women in recruitment and service conditions.
- 5. The Special Marriage Act, 1954** which provides rights to women on par with men for intercaste marriage, love marriage and registered marriage. The Act has also fixed the minimum age of marriage at 21 for males and 18 for females.

⁵⁸ *Ibid.*

⁵⁹ Dr. S.R. Myneni, *Sociology* (Allahabad Law Agency, Faridabad, Haryana, 2nd edn., 2006).

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6. **The 73rd and 74th Constitutional Amendment Acts, 1993** which empower women and seek to secure greater participation of Indian women in politics through reservation of seats in the local bodies of the government.

7. **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013)** provides protection to women from sexual harassment at all workplaces both in public and private sector, whether organized or unorganized.

8. **National Commission for Women Act (1990)** provided for the establishment of a National Commission for Women to study and monitor all matters relating to the constitutional and legal rights and safeguards of women in India.

SC Verdict on Hindu Women's Inheritance Rights : "Daughters have equal birth right to inherit property" - Supreme Court⁶⁰

"A daughter always remains a loving daughter. A son is a son until he gets a wife. A daughter is a daughter throughout her life," Justice Arun Mishra, heading a three-judge Bench, authored the judgment. Recently, the **Supreme Court (SC)** has expanded the Hindu women's right to be the **coparcener** (joint legal heir) and inherit ancestral property on terms equal to male heirs. The SC expanded and promoted the amendments done in 2005 which removed the **discrimination as contained in Section 6 of the Hindu Succession Act, 1956** by giving **equal rights** to daughters. It also directed High Courts to dispose of cases involving this issue within six months since they would have been pending for years.

VI. CONCLUSION

Equality between men and women is much desired and most contentious topic of the current times. Why do women need to fight for equality when it is their basic human right, is a question of great concern and to find the answer to it, is the need of the hour. The Indian constitution provides a number of provisions to protect women from gender inequality and discrimination. However, there still exists a wide gap between the goals enunciated in the Constitution, legislation, policies, plans, programmes, and related mechanisms on the one

⁶⁰Available at : <https://www.thehindu.com/news/national/daughters-have-equal-coparcenary-rights-in-joint-hindu-family-property-supreme-court/article32325891.ece> (last visited on Oct. 30, 2020).

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hand and the situational reality of the status of women in India, on the other. Women in India are not yet equal to men. There is no legal or constitutional barrier to equality. There is only the social barrier. Laws and provisions would not suffice, if people are not willing to bring about change. Social change is a complex phenomenon and a social change centred on gender equality is even more complicated because changing the mindset of human society cannot be done overnight. It is a gradual process that takes a lot of time and efforts. If we want a society where men and women are equal in all aspects then we have to start from the grassroot level. Women should be vigilant and they must speak up for their rights while men should respect their freedom and voice.

Women in India are more after a “respectable” and “meaningful” social status which is free from all sorts of exploitation. As long as the problems of women remain as “women’s problems” and not as “societal problems”, so long, attempts at the solution of these problems would not get the required speed. Indian women are not very much after equality with men. On the contrary, they expect greater freedom, better education, self-dependence, decent jobs, a proper treatment of women by menfolk, and a socio-economic environment free from all types of exploitation. Our attempts to provide such a type of socio-economic environment to women will definitely influence their social status and the socio-economic conditions in the days to come.

BIBLIOGRAPHY:-

Books :-

- Dr. J. N. Pandey, *Constitutional Law of India* (Central Law Agency, Allahabad, 57th edn. 2020).
- Andrew Heywood, *Politics* (Palgrave Macmillan, New York, 3rd edn., 2007).
- M.P. Jain, *Indian Constitutional Law* (LexisNexis, Haryana, 8th edn., 2014).
- Dr. S.R. Myneni, *Sociology* (Allahabad Law Agency, Faridabad, Haryana, 2nd edn., 2006).
- M. P. Jain, *Outlines of Indian Legal and Constitutional History* (LexisNexis, Haryana, 7th edn., 2014).

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

- A.V. Dicey, *Introduction to the Study of the Law of the Constitution* (10th edn.).
- The Constitution of India (Bare Act).
- M. P. Singh, *Outlines of Indian Legal & Constitutional History* (Universal Law Publishing, 8th edn., 2015).
- Neera Desai and Maithreyi Krishna Raj, *Women and Society in India* (Ajanta Books, New Delhi).
- I.P. Massy, *Administrative Law* (Eastern Book Company, 1998).
- Maitrayee Chaudhuri, *The Indian Women's Movements: Reform and Revival* (Radiant Publishers, New Delhi).
- Prof. M. P. Singh, *V.N. Shukla's Constitution of India* (Eastern Book Company, Lucknow).
- Dr. U.P.D. Kesari, *Administrative Law* (Central Law Publications, 14th edn.).
- David Jary and July Jary, *Collins Dictionary of Sociology*.
- M.C. Jain Kagzi, *The Constitutional of India* (India Law House, New Delhi).
- M. V. Pylee, *Constitutional Amendments in India* (S. Chand & Company, New Delhi).
- H. M. Seervi, *Constitutional Law of India* (N.M. Tripathi, Bombay).
- Jagdish Swarup, *Constitution of India* (Modern Publications, New Delhi).
- C.N. Shankar Rao, *Sociology* (S. Chand & Company Pvt. Ltd., New Delhi, 2016).
- P. M. Baxi, *The Constitution of India* (Universal Law Publishing, 14th edn., 2017).

Case Laws :-

- *Indian Young Lawyers Association & Ors v. The State of Kerala & Ors.*, Writ Petition (Civil) No. 373 of 2006.
- *Nirbhaya Case* (2012 Delhi Gang Rape and Murder Case).
- *Keshvananda Bharti v. State of Kerala*, AIR 1973 SC 1461.
- *Indra Nehra Gandhi v. Raj Narain*, AIR 1975 1590 : 1975 SCC (2) 159.
- *Bachan Singh v. State of Punjab*, AIR 1982 SC 1325 : (1982) 3 SCC 24.
- *P. Sambamurthy v. State of Andhra Pradesh*, AIR 1987 SC 663 : (1987) 1 SCC 362.
- *D.C Wadhwa v. State of Bihar*, AIR 1987 SC 579.
- *Vishaka & Others v. State of Rajasthan*, AIR 1997 SC 3011.

For general queries or to submit your research for publication, kindly email us at editorial@ijalr.in

<https://www.ijalr.in/>

- *Ashok Kumar v. State of Rajasthan*, AIR 1990 2134 : (1990) SCR Supl. (1) 401.
- *Randhir Singh v. Union of India 1982*, AIR 1982 SC 879 : (1982) 1 SCC 618.

Other Sources : Journals, E - Newspapers, International Organizations and their Websites, etc.:-

- Gender Equality, *available at*: <https://www.un.org/sustainabledevelopment/gender-equality/>
- Dr. S. Venkatesan, “Issues of Gender Inequality in India” 9 *Indian Journal of Applied Research* 63 (2019).
- Discrimination, *available at*: <https://www.amnesty.org/en/what-we-do/discrimination/>
- National Crimes Records Bureau, “Annual Crime in India Report” (2018).
- The Rule of Law Institute of Australia (RoLIA), *Gender Equality & the Rule of Law* (2013), *available at*: <https://www.5050foundation.edu.au/assets/reports/documents/2013-Gender-Equality-and-the-Rule-of-Law.pdf>
- Kumar TNS, Mahathi K, *et.al.*, “Role of Constitution in Women Empowerment in Corporate Sector” 6 *Arabian Journal of Business and Management Review* 2 (2016).
- Nirbhaya Case : Delayed Execution of Convicts, *available at*: <https://www.thehindu.com/news/cities/Delhi/delayed-execution/article31077434.ece>
- Census of India 2011: Child sex ratio drops to lowest since Independence, *available at*: <https://economictimes.indiatimes.com/news/economy/indicators/census-of-india-2011-child-sex-ratio-drops-to-lowest-since-independence/articleshow/7836942.cms?from=mdr>
- Dina Vakil, “Don’t allow religious hooligans to dictate terms”, *The Times of India*, Jan. 16, 2008, *available at*: <https://timesofindia.indiatimes.com/india/Dont-allow-religious-hooligans-to-dictate-terms/articleshow/2703448.cms>
- Jagriti Chandra, “India up one rank in UN development index” *The Hindu*, Dec. 10, 2019, *available at*: <https://www.thehindu.com/news/national/india-up-one-rank-in-un-development-index/article30259959.ece>
- Gender inequality, patriarchy skewed India’s sex ratio, *available at*: <https://thefederal.com/analysis/gender-inequality-patriarchy-skewed-indias-sex-ratio/amp/>

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<https://www.ijalr.in/>

- https://economictimes.indiatimes.com/news/politics-and-nation/supreme-court-allows-women-to-enter-sabarimala-temple/articleshow/65989807.cms?utm_source=contentofinterest&utm_medium=text&utm_campaign=cppst
- Gender Inequality, *available at*: <https://www.cry.org/issues-views/gender-inequality>
- <https://www.indiatoday.in/news-analysis/story/why-nirbhaya-case-offers-little-hope-for-speedy-justice-to-hyderabad-rape-victim-1624661-2019-12-03>.
- <https://www.thehindu.com/news/national/daughters-have-equal-coparcenary-rights-in-joint-hindu-family-property-supreme-court/article32325891.ece>
- Mary McCauley, “Challenges in the eradication of female genital mutilation/cutting” 11 *International Health* (2019).
- Infographic: Human Trafficking in India” *available at*: [https://feminisminindia.com/2020/07/30/infographic-human-trafficking-india/#:~:text=According%20to%20the%20National%20Crime,Assam%2C%20Orissa%20and%20West%20Bengal.\(last visited on Oct. 30, 2020\).](https://feminisminindia.com/2020/07/30/infographic-human-trafficking-india/#:~:text=According%20to%20the%20National%20Crime,Assam%2C%20Orissa%20and%20West%20Bengal.(last%20visited%20on%20Oct.%2030,%202020).)
- <https://timesofindia.indiatimes.com/india/353-rise-in-pending-rape-trials-in-delhi/articleshow/74633285.cms>
- <https://www.who.int/news-room/fact-sheets/detail/female-genital-mutilation>
- www.manupatra.com
- www.sconline.com
- www.lexisnexis.in

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