

## Rights of Women: National and International Perspective

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### **Abstract:**

*The paper explores India's complex relationship with women's rights, highlighting the significant role women play in society and the various contributions they make. Despite being half of the world's population, women still face discrimination, violence, and gender prejudice. The article discusses the development of women's rights over time, focusing on issues like healthcare, equality, employment, and political engagement. It highlights the legal and constitutional framework, as well as global accords, that support gender equality and defend women's rights. The article also discusses the Indian Constitution's clauses and laws regarding harassment at work, maternity benefits, and discrimination. The article concludes by acknowledging the improvements in women's rights but also emphasizes the ongoing challenges they face, particularly in terms of safety and security. Lastly, this article provides a thorough examination of women's rights in India, including both the legal system and the difficulties women face in everyday life.*

**Keywords:** International, National, Rights, Security, Women

### **Introduction**

It is impossible to exaggerate the role of women in society. Women are important for a balanced and inclusive society because they bring their distinctive perspectives, abilities, and skills to every part of life. As carers, teachers, professionals, leaders, and agents of change, women perform vital roles. They make contributions to the economy, politics, culture, and family, among other areas.<sup>3</sup> The world census numbers show that women make 49.58% of the population, roughly the same as males. The significance of gender equality and the requirement for equal opportunity for men and women are demonstrated by the fact that women roughly constitute half of the world population and they are required to be given equal status and opportunity in all sphere of life for better and a just world.<sup>4</sup>

Women have a crucial role in both economic development and creative innovation. They must be represented in the labour force if economic growth and sustainable development are to occur. By closing the gender pay gap, ensuring equal pay, and providing opportunities for career advancement, societies can help women reach their full potential, increasing output and prosperity.<sup>5</sup> Women's presence and leadership in politics are also essential for inclusive and effective government. Women who take part in decision-making bring a variety of perspectives and objectives to the table, resulting in more complete and equal policy. Politically active women seek to promote issues like gender equality, reproductive freedom,

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<sup>3</sup> UNITED NATION, ACHIEVING GENDER EQUALITY, WOMEN'S EMPOWERMENT AND STRENGTHENING DEVELOPMENT COOPERATION 9 (2010).

<sup>4</sup> United Nations Department of Economic and Social Affairs, Population Division (2022). World Population Prospects 2022: Summary of Results. UN DESA/POP/2022/TR/NO. 3.

<sup>5</sup> WILLEM ADEMA, NAIL ALI, VALERIE FREY, HYUNSOOK KIM, MARIAROSA LUNATI, MARIO PIACENTINI AND MONIKA QUEISSER, ENHANCING WOMEN'S ECONOMIC EMPOWERMENT THROUGH ENTREPRENEURSHIP AND BUSINESS LEADERSHIP IN OECD COUNTRIES 4, (OECD 2014).

and social justice, bringing about a positive change that is beneficial to the entire community.<sup>6</sup>

Women also make substantial contributions to culture and society. Their creativity, talent, and cultural understanding contribute to the improvement of the arts, literature, music, and other kinds of expression. The unique perspectives and experiences of women, who also eliminate biases and improve society, affect social norms. In their roles as mothers, caretakers, and educators, they impart the values of empathy, compassion, and equality to the next generation.<sup>7</sup>

For society as a whole, women's health and welfare are equally crucial. Spending on women's healthcare, especially access to high-quality care and services for reproductive health, makes families and communities healthier. Protecting women's healthcare rights and addressing gender-based health imbalances will lead to better public health outcomes for everyone.<sup>8</sup>

Despite the significance of women contribution, gender bias and discrimination, disadvantage women in many different ways. The most agonising kind of prejudice against women is the abuse that is done to them physically and mentally. The threat of violence against women that starts just as their lives begin continues to scar the early years, following in married life as domestic abuse, puts them in danger as rape victims, and worse than that, in some cases, results in murder or suicide.<sup>9</sup> According to a report by the UNDP, most of the countries statutes still do not guarantee women's equality, much alone in practise.<sup>10</sup> Report further adds on that "Although violence stalks women live. Law can do little unless present cultural and social values changes."<sup>11</sup> Here, in fact the problems of violence and crime towards women is significantly social-economic concern.

In India, women are afforded equal freedom, opportunity, and protection thanks to the Constitution and a number of legislations. Nevertheless, they are still victims of violent crimes against them in the home, at work, in the neighbourhood, and in public. An Indian woman has an unequal position because of the country's long history of repressive practises, as well as illiteracy, ignorance, a lack of information, and poverty. The results include a lower sex ratio, a shorter life expectancy, a higher rate of newborn mortality, a higher rate of primary school dropouts, a lower rate of wage growth, etc.<sup>12</sup>

This paper is attempted to discusses the women rights from the national and international perspectives. It is divided into four parts the first part is introductory in which importance of women in different spere is briefly described. In second part is focused on evolution of women right from Vedic period to British era lastly, to the post-independence era. The third part of article is the major one which focus on almost all variety of women right which are bifurcated as equality, employment, political, social, cultural etc. here, the constitutional, statutory and international rights of women are discussed. Last part is the conclusion.

### **Evolution of Women's Rights**

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<sup>6</sup>UN Women Asian and the Pacific, Political Participation of Women <https://asiapacific.unwomen.org/en/focus-areas/governance/political-participation-of-women> (last visited on Jun. 14, 2023).

<sup>7</sup>UNITED NATION, GENDER EQUALITY HERITAGE AND CREATIVITY 14-15 (2014).

<sup>8</sup>Michelle Remme, Anna Vassall, Gabriela Fernando and David E Bloom, *Investing in the health of girls and women: a best buy for sustainable development*, NATIONAL LIBRARY OF MEDICINE (June. 2, 2020), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC7265042/>.

<sup>9</sup> Narinder Kumar Dogra & Sukhchain Singh, Women Trafficking: A Challenge to Women Rights in India, 74(3) *IJPS*. 395, 396 (2013).

<sup>10</sup> United Nation Development Programme, Human Development Reports, <https://hdr.undp.org/> (last visited on Jun. 14, 2023).

<sup>11</sup> *Id.*

<sup>12</sup> MAHESH BHARGAVA AND ARADHNA, PROSPECTS OF HUMAN RIGHTS: HUMAN TRAFFICKING: NEED FOR A GLOBAL RESPONSE 76-77 (Agra 2008).

The standing of women was higher during the Vedic era than it was thereafter. A woman back then was treated with tremendous respect and was entitled with many rights and benefits. She was revered and regarded as a divinity. In general, women did not suffer in that regard even though her birth was not a reason for celebration. After getting married, she was seen as an extension of her husband, and she was required to be present at all religious events. In the home, she and her husband had equal rights and duties. They were qualified for *Upanayana* and had every opportunity to pursue education, including studying the *Vedas*. Women were still able to queue with dignity during the reign of Kautilya.<sup>13,14,15,16,17</sup>

Women were treated as bound labour, or slaves, throughout the later Vedic era. Women's basic human rights were denied to them, and their social position was weakened by the numerous limitations placed on them. Through sexual discrimination, the condition of women began to deteriorate. Manusmriti consists of very weak and narrow ideology against women, degrading them in India, by implicating unfavourable verses that a widow should never, ever even consider being married again. Both the *sati* system and female child marriages were prevalent.<sup>18</sup>

During the medieval period in India, from the 6th to the 16th century, women's status was influenced by a complex tapestry of social, religious, and regional factors. The rise and fall of various dynasties and diverse cultures shaped women's position in society. Ancient texts like the Rigveda mentioned esteemed roles for women in society, but the medieval era saw a gradual decline in women's status. Islamic rulers introduced practices like purdah, which involved the seclusion of women from public life, and certain regions practiced sati, where widows might self-immolate on their husband's funeral pyre. Women's access to education and opportunities for participation in public life were generally limited, with exceptions in elite families. Social practices such as child marriage and the dowry system further perpetuated gender inequality.<sup>19</sup>

The status of women in medieval India varied based on factors such as caste, religion, and socio-economic standing. Women from higher castes and noble families had better access to education and participated in managing family estates and businesses. However, women from lower castes faced more significant challenges and were subject to social and economic disadvantages. The opportunities available to women in various regions and communities were shaped by prevailing customs and traditions. Religious practices also had varying effects on women's rights. Hinduism, Buddhism, Jainism, and Islam all had unique perspectives on the role of women in society. Some religious texts and teachings advocated for the respect and dignity of women, while others imposed restrictions and limitations.<sup>20</sup>

In terms of women's legal rights, there was no uniformity across regions and communities. Different kingdoms and dynasties had their own legal codes, some of which granted women certain rights in matters of inheritance and property. Legal rights were often subject to

<sup>13</sup> D.N. MAZUMDAR, RACE AND CULTURE OF INDIA, 251 (L.G 2021).

<sup>14</sup> There are several passages in the Vedic literature that make it plainly evident that women were studying the sacred scriptures, pronouncing mantras, and participating in Upanayan Sanskara. Yuma is quoted, as well as Sanskara Prakasha, 402-403. According to the Rigveda, women who wore the sacred thread may do a majority of the responsible jobs listed in Rigveda, X, 19, 4.

<sup>15</sup> Shatpath Brahmana, V. 2.1.10. The wife is said to be her husband's ardhangani.

<sup>16</sup> Ailaraya Brahmana, III. 7, I. It was ordained that a man cannot perform sacrifice alone.

<sup>17</sup> Taittiriya Samhita, VI. 2, 1, About her status in the family, it is stated that "The wife is the mistress of the household affairs."

<sup>18</sup> DR. SREENIVA SULU, HUMAN RIGHTS-MANY SIDES TO A COIN 33-34 (Rawat 2008).

<sup>19</sup> K.M. ASHRAF, LIFE AND CONDITION OF THE PEOPLE OF HINDUISM 165-166, (3<sup>rd</sup> ed. 1988).

<sup>20</sup> Disha Khare, *Status of Women in Medieval India*, 16(2) JASRAE 1666, 1667 (2019).

interpretation and implementation, and women's access to justice was influenced by societal norms and prejudices.<sup>21</sup>

With the advent of the British era in India, fresh hope for women emerged after years of hardship, repression, and slavery. Many Indians were enlightened as a result of the advent of western education. Mahatma Jyotiba Phule, the father of the social movement, made a significant effort to abolish the Sati system. There were several additional social workers who gave their life to advance the status of women.<sup>22</sup>

### **Equality and Non- Discrimination Right**

One of the pillars of human rights is the right to equality for women, which is protected by several international and national laws and accords. In India, a number of national laws and constitutional clauses strive to achieve gender equality and address discrimination against women. A foundation for advancing and defending women's rights globally is also provided by a number of international agreements and treaties.

At the national level, the Constitution of India forms the bedrock of women's rights and equality. It guarantees equality before the law and prohibits discrimination on grounds of sex and ensures that women have the equal rights and protections as men.<sup>23</sup> Additionally, it prohibits discrimination *inter alia* on the grounds of sex<sup>24</sup> and ensures equal opportunities for both men and women in matters of public employment.<sup>25</sup> In Landmark case of *Charu Khurana* the Hair Dressers Association and Cine Costume Make-up Artists, whose regulations only permitted men to be make-up artists, declined to admit a woman as a member to the profession. The court ruled that the petitioner could not be refused membership since doing so would be a blatant infringement of her right to equality and a diminution of her ability to maintain her standard of living, both of which are inimical to her sense of personal dignity.<sup>26</sup>

An important statute that safeguards women's rights during pregnancy and parenthood is the modified Maternity Benefit Law. In addition to providing additional advantages like nursing breaks and crèche facilities, it extends maternity leave from 12 to 26 weeks. This law acknowledges how crucial it is to assist women in juggling their obligations to their families and careers.<sup>27</sup> In case of *MCD* the Apex Court ruled that both daily wage and casual workers are eligible for the maternity benefit.<sup>28</sup>

The right to equality for women is not specifically addressed in the law on Industrial Disputes. It does, however, contain clauses that support workplace equality for women. In order to ensure that women are treated properly, it forbids discrimination against any worker.<sup>29</sup> By excluding women from working in some dangerous jobs, it protects them.<sup>30</sup> Further, it gives female employees the option to receive maternity benefits, recognising their special demands during pregnancy and delivery.<sup>31</sup> According to the Equal Remuneration Act, employers are required to compensate male and female employees equally for comparable or

<sup>21</sup> *Id.* at 1668-1669.

<sup>22</sup> SREENIVA, *supra* note at 16, at 35.

<sup>23</sup> INDIA CONST. art. 14.

<sup>24</sup> INDIA CONST. art. 15.

<sup>25</sup> INDIA CONST. art. 16.

<sup>26</sup> *Charu Khurana v. UOI*, (2015) 1 SCC 192.

<sup>27</sup> Maternity Benefit (Amendment) Act, 2017, No. 6, Acts of Parliament, 2017 (India).

<sup>28</sup> *MCD v. Female Workers*, SLP (Civil) 12797 of 1998.

<sup>29</sup> Industrial Disputes Act, 1947, § 5, No. 14, Central Legislative Assembly, 1947 (India).

<sup>30</sup> Industrial Disputes Act, 1947, § 27, No. 14, Central Legislative Assembly, 1947 (India).

<sup>31</sup> Industrial Disputes Act, 1947, § 66, No. 14, Central Legislative Assembly, 1947 (India).

identical labour.<sup>32</sup> It is submitted that these regulations seek to advance equality and guarantee the safety of women in the workplace.

India is a party to several agreements and treaties that support the right to equality for women on the global stage. Many people refer to one of the important treaties that India ratified in 1993 as an international bill of rights for women. In addition to outlining steps to foster gender equality, it forbids discrimination against women in all spheres of life. In addition to calling for legislative action and other steps to end discrimination against women, it also speaks out against damaging perceptions and behaviours.<sup>33</sup>

Another important worldwide tool for advancing women's rights and gender equality is the Beijing Declaration. This statement, which was adopted during the 4<sup>th</sup> World Conference on Women in 1995, lays out a detailed plan for attaining gender equality and women's empowerment. It addresses a number of topics, including women's rights to work, healthcare, participation in decision-making and education.<sup>34</sup>

Despite not being specifically about women, the CRC is important for girls' equality and rights. In ratifying the CRC in 1992, India reaffirmed its dedication to defending and advancing children's rights, especially those of girls. The CRC understands how crucial it is to end discrimination against girls and guarantee their equality in terms of access to opportunity, health, and education.<sup>35</sup>

### Right of Employment

An essential component of gender equality and women's empowerment is the right to employment for women. To safeguard and advance women's right to employment in India, several national legislation, constitutional clauses, and international agreements and treaties have been passed. These legislative frameworks seek to end discrimination, provide equal opportunities, and foster an atmosphere that supports women's involvement in and growth in the economy.<sup>36</sup>

The Indian Constitution laid the groundwork for women's rights to non-discrimination in the workplace<sup>37</sup> and equal employment opportunities<sup>38</sup> at the national level. In the matter of *Nergesh Meerza*, the Supreme Court declared that the clause in the Air India and Indian Airlines Regulations mandating an air hostess' retirement following her first pregnancy was unconstitutional, null, and in violation of Article 14 of the Constitution.<sup>39</sup> Additionally, in the case of *P.B. Vijayakumar*, the Supreme Court upheld a service rule that gave women a preference in hiring for public employment up to 30% of positions, stating that making special provisions for women in regard to employments or posts under the State is a crucial component of Article 15(3) of the Indian Constitution.<sup>40</sup>

A key piece of Indian law that supports women's right to equal pay for equal work is the Statute of Equal Remuneration. Employers are not allowed to discriminate against women

<sup>32</sup> Equal Remuneration Act, 1976, § 4, No. 25, Acts of Parliament, 1976 (India).

<sup>33</sup> Convention on the Elimination of All Forms of Discrimination against Women art. 5, Dec. 18, 1979, 1249 U.N.T.S. 13.

<sup>34</sup> Beijing Declaration and Platform for Action, adopted at the Fourth World Conference on Women, 27 October 1995, available at: <https://www.unwomen.org/en/digital-library/publications/2015/01/beijing-declaration>.

<sup>35</sup> Convention on the Rights of the Child, Nov. 20, 1989, 28 I.L.M. 1456, entered into force Sept. 2, 1990, accessed Jun. 2, 2023, <https://www.ohchr.org/en/professionalinterest/pages/crc.aspx>.

<sup>36</sup> Women's Rights in India: An Analytical Study of the United Nations Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), the Indian Constitution, Legislations, Schemes, Policies & Judgements of and 2021, by National Human Rights Commission (India), accessed Jun. 2, 2023, <https://nhrc.nic.in/sites/default/files/Women%E2%80%99s%20Rights%20in>.

<sup>37</sup> *Supra* note 22.

<sup>38</sup> *Supra* note 21.

<sup>39</sup> *Air India v. Nergesh Meerza*, AIR 1981 SC 1829.

<sup>40</sup> *Government of A.P. v. P.B. Vijayakumar*, AIR 1995 SC. 1648.

when it comes to hiring, compensation, promotion, and other aspects of work. The legislation combats gender-based pay discrimination and advances economic equality by ensuring that women are paid fairly and equally for the job they do.<sup>41</sup> The systemic discrimination by the UOI against women in the Indian Territorial Army in the case of *Kush Kalra*. The Delhi High Court allowed women to use TA.<sup>42</sup>

Women's employment rights are safeguarded by another significant piece of maternity benefit law throughout pregnancy and delivery. It requires businesses to offer women employees maternity leave, maternity benefits, and other relevant requirements. The law assures that women are not adversely affected or subjected to discrimination in the workplace because of their pregnancy and acknowledges the necessity for them to combine work and family obligations.<sup>43</sup> The Maternity Benefits Act, 1961 shall be extended to Municipal Corporation employees who are casual workers or workers engaged on a daily wage basis, the Supreme Court said in the matter of *Municipal Corporation of Delhi*.<sup>44</sup>

In addition, the POSH act was adopted by the Indian Parliament in 2013 in response to the historic *Vishaka case* ruling<sup>45</sup>, which defined standards for the avoidance of workplace sexual harassment. The statute specifies what constitutes sexual harassment, requires the creation of internal complaints committees, and offers women a way to notify and file complaints about such instances. The legislation makes it possible for women to fully enjoy their right to employment without having to worry about harassment by fostering a secure and courteous work environment.<sup>46</sup>

India has ratified a number of international agreements and treaties that safeguard women's work rights. A comprehensive international human rights agreement known as CEDAW that expressly targets gender-based discrimination was approved by India in 1993.<sup>47</sup> It advocates for equal employment prospects for men and women, including the right to equal pay, job stability, and social safety.<sup>48</sup>

In order to further women's employment rights, the International Labour Organisation (ILO) has developed agreements and recommendations. The notion of equal pay for equal effort is emphasised in the section on Equal Remuneration for Men and Women Workers for effort of Equal Value. It demands the abolition of discrimination in pay based on sex.<sup>49</sup> Additionally, it addresses the issue of employment and occupational discrimination, particularly gender-based discrimination, with the goal of eliminating it.<sup>50</sup>

In addition, the United Nations' Sustainable Development Goal (SDG) 5 is focused on empowering all women and girls and attaining gender equality. One of the goals is to

<sup>41</sup> Equal Remuneration Act, 1976, No. 25, Acts of Parliament, 1976 (India).

<sup>42</sup> *Kush Kalra vs Union of India & Ors.*, MANU/DE/0027/2018.

<sup>43</sup> *Supra* note 25.

<sup>44</sup> *Municipal Corporation of Delhi v. Female Workers (Muster Roll)*, AIR 2000 SC 1274.

<sup>45</sup> *Vishakha v. State of Rajasthan* AIR 1997 SC 3011.

<sup>46</sup> Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013, No. 14, Acts of Parliament, 2013 (India).

<sup>47</sup> Convention on the Elimination of All Forms of Discrimination against Women, Dec. 18, 1979, 1249 U.N.T.S. 13, entered into force Sept. 3, 1981, available at: <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>.

<sup>48</sup> Convention on the Elimination of All Forms of Discrimination against Women art. 11, Dec. 18, 1979, 1249 U.N.T.S. 13.

<sup>49</sup> ILO Convention No. 100, Equal Remuneration for Men and Women Workers for Work of Equal Value, 29 June 1951, 165 U.N.T.S. 35.

<sup>50</sup> ILO Convention No. 111, Discrimination (Employment and Occupation) Convention, 1958 (No. 111), 25 June 1958, 362 U.N.T.S. 31.

ensuring that women have equal chances for work and leadership, as well as full and effective involvement.<sup>51</sup>

### Political Rights

One of the most important components of gender equality is the ability of women to engage in politics and public life. To advance and defend women's rights in these fields, several national legislation, constitutional clauses, and international agreements have been developed in India.

At the national level, the Constitution of India guarantees the right to equality<sup>52</sup> and non-discrimination for all citizens<sup>53</sup>, including women and sets a foundation for women's political rights.<sup>54</sup>

Women were given seats reserved in rural and urban local governments through the 73rd and 74th Constitutional Amendments of 1992, respectively. These changes are intended to increase women's representation and engagement in local governance. They ensure that women are directly involved in decision-making by allocating one-third of the seats in local government organisations to them.<sup>55,56</sup>

The statute of people Representation is a key piece of legislation called representation regulates elections and the electoral process. Through measures like the allocation of seats for women in municipal councils and Parliament, it assures the involvement of women in political life. For instance, the legislation mandates that women be granted a third of the seats in local government organisations operating under the Panchayati Raj system.<sup>57</sup>

Although it does not specifically mention women's rights, one of the key laws that determines how political parties operate in India gives them the chance to adopt policies that advance gender equality and women's involvement. In an effort to promote women's representation and engagement, certain political parties have voluntarily developed internal party structures.<sup>58</sup>

India has ratified a number of international agreements and treaties that uphold and defend the rights of women in public and political life. An important international law, the United Nations Convention, which India joined in 1993, asks for the equal participation of women in public and political life and targets the eradication of prejudice in these areas.<sup>59</sup> It urges nations to guarantee women's equal involvement in decision-making at all levels and places a special emphasis on women's political rights.<sup>60</sup>

Women's engagement and equal representation in decision-making processes are also encouraged by the Beijing Declaration and Platform for Action, which was established in 1995. It emphasises how crucial it is for women to participate in politics and public life in order to achieve gender equality. The proclamation provides methods for boosting women's participation in decision-making, such as through eliminating obstacles and unfair practises.<sup>61</sup>

<sup>51</sup> Sustainable Development Goal 5, Target 5.5, United Nations, available at: <https://sustainabledevelopment.un.org/sdg5>.

<sup>52</sup> *Supra* note 21.

<sup>53</sup> *Supra* note 22.

<sup>54</sup> Sukhpal Kaur, *Women's Rights: A Historical Perspective*, 70(1) IJPS. 121, 124-126 (2009).

<sup>55</sup> Constitution of India (Seventy-third Amendment) Act, 1992, 63 Stat. 119, 394 UNTS 157 (India).

<sup>56</sup> Constitution of India (Seventy-fourth Amendment) Act, 1992, 63 Stat. 123, 394 UNTS 161 (India).

<sup>57</sup> Representation of the People Act, 1951, No. 43, Acts of Parliament, 1951 (India).

<sup>58</sup> The Political Parties (Registration and Regulation of Affairs) Act, 1951, No. 43, Acts of Parliament, 1951 (India).

<sup>59</sup> *Supra* note 45.

<sup>60</sup> Convention on the Elimination of All Forms of Discrimination against Women art. 7, Dec. 18, 1979, 1249 U.N.T.S. 13.

<sup>61</sup> *Supra* note 32.

The Convention on the Political Rights of Women also affirms that women have the same rights as men when it comes to voting and running for office. India, although not being a signatory to the convention, upholds the treaty's principles and rules in order to protect the political rights of women.<sup>62</sup>

### Social and Cultural Right

Gender equality must include the ability of women to engage in social and cultural life. To safeguard and advance women's rights in these areas, several national legislation, constitutional clauses, and international agreements have been enacted in India.

The Indian Constitution offers a strong foundation for defending women's rights in social and cultural areas at the national level. The right to life and personal liberty, which includes the freedom to engage in social and cultural activities, are also guaranteed.<sup>63</sup> It forbids discrimination based on sex and gives the state the authority to create positive arrangements for women.<sup>64</sup> Additionally, it safeguards the right of women who are members of linguistic or religious minority to maintain their culture.<sup>65</sup> The Sabarimala shrine's practise of excluding women in their "menstruating years" from accessing the shrine was ruled unlawful by the Supreme Court in the *Sabarimala Case*. This ruling is now being reviewed by the SC.<sup>66</sup>

The revised Hindu succession law guarantees women the same rights as males when it comes to inheritance. Women's rights to ancestral property were restricted prior to the amendment. The change eliminates gender-based discrimination in inheritance rules and gives daughters the same rights to coparcenary property as males.<sup>67</sup>

Another significant piece of law ensures that all children, including females, have the right to an education. In addition to being a fundamental right, education is essential for empowering women and enabling their full engagement in social and cultural life.<sup>68</sup>

India has ratified a number of international agreements and treaties that defend and advance women's freedom to participate in social and cultural life. A comprehensive international human rights instrument that particularly targets gender-based discrimination is the UN Convention, which India joined in 1993.<sup>69</sup> It also acknowledges that women have a right to social and cultural life, emphasising the necessity for women to have equal access to and participation in cultural and recreational activities.<sup>70</sup>

Despite not being specifically about women, the CRC is pertinent to girls' rights in social and cultural life. In ratifying it in 1992, India reaffirmed its dedication to defending and advancing children's rights, especially those of girls. It also acknowledges how crucial it is to protect kids' rights to enjoy their own culture and engage in creative and cultural pursuits.<sup>71</sup>

Aspects of the Universal Declaration of Human Rights (UDHR) that safeguard women's rights in social and cultural life are also included. It acknowledges that everyone has the right to freely partake in community cultural activities, appreciate the arts, and profit from scientific advances.<sup>72</sup>

<sup>62</sup> Convention on the Political Rights of Women, Dec. 18, 1952, 193 U.N.T.S. 13, entered into force Sept. 3, 1954, available at: <https://www.ohchr.org/en/professionalinterest/pages/cedaw.aspx>.

<sup>63</sup> INDIA CONST. art. 21.

<sup>64</sup> *Supra* note 22.

<sup>65</sup> INDIA CONST. art. 29 cl. 2.

<sup>66</sup> *Indian Young Lawyers' Association v. State of Kerala* (2019) 11 SCC 1.

<sup>67</sup> Hindu Succession Act, 1956, No. 30, Acts of Parliament, 1956 (India).

<sup>68</sup> The Right to Education Act, 2009 No. 35, Acts of Parliament, 2009 (India).

<sup>69</sup> *Supra* note 45.

<sup>70</sup> Convention on the Elimination of All Forms of Discrimination against Women art. 13, Dec. 18, 1979, 1249 U.N.T.S. 13.

<sup>71</sup> *Supra* note 33.

<sup>72</sup> Universal Declaration of Human Rights art. 27, Dec. 10, 1948, 217 A(III) U.N. Doc. A/810.



## Right of Health

Assuring women's access to healthcare is essential for their overall wellbeing and empowerment since it is a fundamental human right. To safeguard and advance women's right to health in India, several national legislation, constitutional clauses, and agreements have been made.<sup>73</sup>

The Indian Constitution establishes a basis for the right to health at the national level. The courts have construed a clause guaranteeing the rights to life and personal liberty to also encompass the right to health and access to healthcare services. According to this understanding, the state must make sure that everyone, including women, has access to high-quality healthcare that is also inexpensive.<sup>74</sup> In the *Suchita Srivastava case*, the Supreme Court affirmed women's autonomy over their reproductive systems as a basic right, including those of women who have mental disabilities.<sup>75</sup>

The health and wellbeing of women during pregnancy and childbirth are covered under the Maternity Benefit law. To preserve the health of mothers and their children, the act includes provisions for maternity leave, maternity benefits, and other relevant matters. It guarantees that women have enough time to relax and recuperate after giving birth, enhancing their general health and wellbeing.<sup>76</sup>

Another significant piece of legislation to combat gender-based discrimination in healthcare is PCPNDT. The statute forbids the use of prenatal diagnostic procedures to identify the sex of the foetus since this has resulted in sex-selective abortions. The legislation aims to correct the imbalance in sex ratios while promoting the health and wellbeing of women and girls by addressing this issue.<sup>77</sup>

The health policy offers a thorough framework for meeting India's demands for women's health. The promotion of gender equity and women's empowerment in healthcare is emphasised by the policy. It acknowledges the particular health issues that affect women, such as reproductive health, maternity health, and non-communicable illnesses, and it provides guidelines for their management, prevention, and treatment.<sup>78</sup>

India has ratified a number of international agreements and treaties that safeguard the right to health for women. The UN Convention, which India adopted in 1993, asks for the abolition of discrimination against women in the healthcare industry and the guarantee of equitable access to healthcare services.<sup>79</sup>

India adopted the UN Convention in 1979, which recognises the right to the best possible level of bodily and mental health. It covers reproductive healthcare, family planning, and women's right to receive healthcare services. It highlights the significance of offering acceptable, reachable, and high-quality healthcare services.<sup>80</sup>

Targets specifically relating to women's health are part of the Sustainable Development Goals (SDGs), which were endorsed by the UN in 2015. It emphasises encouraging and guaranteeing healthy lives for everyone, especially women and girls. Reduced maternal

<sup>73</sup> N.B. SAROJINI, WOMEN'S RIGHT TO HEALTH 9 (NHRC 2006).

<sup>74</sup> *Supra* note 61.

<sup>75</sup> *Suchita Srivastava v. Chandigarh Administration*, (2009) 11 SCC 409.

<sup>76</sup> *Supra* note 25.

<sup>77</sup> Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994, No. 57, Acts of Parliament, 1994 (India).

<sup>78</sup> National Health Policy, Ministry of Health and Family Welfare, Government of India (2017).

<sup>79</sup> Convention on the Elimination of All Forms of Discrimination against Women art. 12, Dec. 18, 1979, 1249 U.N.T.S. 13.

<sup>80</sup> International Covenant on Economic, Social and Cultural Rights, art. 12, Dec. 16, 1966, 993 U.N.T.S. 3, entered into force Jan. 3, 1976.

mortality, improved access to sexual and reproductive healthcare, and a focus on communicable illnesses that disproportionately impact women are among its goals.<sup>81</sup>

The Indian government has put in place a number of programmes and efforts to address women's health in addition to these legislative frameworks. These include the Pradhan Mantri Matru Vandana Yojana, which offers financial help to pregnant and lactating women for their healthcare and nutrition requirements, and the National Rural Health Mission, which attempts to provide accessible and inexpensive healthcare services in rural regions.

### **Right against Trafficking and sexual exploitation**

At the national and international levels, the battle against human trafficking and sexual exploitation of women is essential to advancing women's rights. To address these horrible crimes and safeguard women from such abuse, India has adopted a number of national laws, constitutional clauses, and international treaties.

The Indian Constitution offers a solid framework for safeguarding women's rights against trafficking and sexual exploitation on a national level. It forbids forced labour and human trafficking, and it declares that trafficking in people in any form is illegal and that those who engage in such activities may be held legally liable.<sup>82</sup> In the *Budhadev Karmaskar case*, the Supreme Court ruled that, in light of Article 21 of the Constitution, sex workers and prostitutes are likewise entitled to a life of dignity. The Government was ordered by the Court to develop plans for providing technical and vocational training to sex workers and sexually abused women in all Indian cities.<sup>83</sup>

The main law in India that deals with the problem of trafficking for commercial sexual exploitation criminalises a number of kinds of trafficking, including the purchasing or selling of women for prostitution, running brothels, and solicitation. Additionally, it calls for the development of shelters for protection and treatment programmes for trafficking victims.<sup>84</sup> It expressly addresses the penalty for operating a brothel<sup>85</sup> and makes trafficking of human beings for prostitution a crime.<sup>86</sup> In the *Upendra Baxi case*, the Supreme Court emphasised the importance of providing proper rehabilitation programmes and vocational training for the residents of protective homes established under SITA, 1956 (as amended and now known as ITPA), in order to ensure that the residents can care for themselves and do not turn to prostitution out of necessity. In order to prevent the detainees from being returned to the brothels, the government of Uttar Pradesh was instructed to conduct the appropriate follow-up measures.<sup>87</sup>

Significant amendments to the IPC were made in 2013 as part of the Criminal Law (Amendment) Act to address sexual offences including trafficking and exploitation. The IPC's definition of human trafficking was changed to encompass the use of people for forced labour, forced marriage, and other forms of exploitation, such as sexual exploitation. It imposes severe penalties, including as jail and fines, on individuals who engage in trafficking.<sup>88</sup> Its clause concerns the exploitation of a trafficked individual and imposes severe penalties on those who engage in it.<sup>89</sup>

<sup>81</sup> Sustainable Development Goal 3, Targets 3.1, 3.2, 3.3, 3.4, 3.5, 3.6, 3.7, 3.8, 3.9, and 3.10, United Nations, available at: <https://sustainabledevelopment.un.org/sdg3>.

<sup>82</sup> INDIA CONST. art. 23.

<sup>83</sup> *Budhadev Karmaskar v. State of West Bengal*, (2011) 10 SCC 283.

<sup>84</sup> Immoral Traffic (Prevention) Act, 1956, No. 104, Acts of Parliament, 1956 (India).

<sup>85</sup> Immoral Traffic (Prevention) Act, 1956, § 3 No. 104, Acts of Parliament, 1956 (India).

<sup>86</sup> Immoral Traffic (Prevention) Act, 1956, § 5 No. 104, Acts of Parliament, 1956 (India).

<sup>87</sup> *Upendra Baxi v. State of Uttar Pradesh*, (1986) 4 SCC 106.

<sup>88</sup> Indian penal code, 1860, § 370, No. 45 Act of Imperial Legislative Council, 1860 (India).

<sup>89</sup> Indian penal code, 1860, § 370A, No. 45 Act of Imperial Legislative Council, 1860 (India).

India has ratified a number of international agreements that attempt to stop and combat the exploitation of women via trafficking. Key international instruments in this area include the UN Convention and its Protocol to Prevent, Suppress, and Punish Trafficking in Persons, particularly Women and Children. These tools concentrate on preventing and combatting trafficking, safeguarding and helping victims, and encouraging international collaboration.<sup>90</sup> The UN Convention which India ratified in 1993, also addresses issues related to trafficking and sexual exploitation.<sup>91</sup> It recognizes that trafficking in women and girls is a form of discrimination and requires state parties to take measures to suppress and eliminate such practices.<sup>92</sup> Further, it emphasizes the need to eliminate the exploitation of women in prostitution.<sup>93</sup> Furthermore, the 1999 adoption of the Optional Protocol to CEDAW, which expressly targets the trafficking of women, strives to prevent, repress, and punish such activity as well as to protect and aid victims. The Optional Protocol was signed by India in 2000, although it has not yet been ratified.<sup>94</sup>

### Conclusion

The rights of women have witnessed both progress and persistent challenges. The Indian Constitution guarantees equality and prohibits discrimination based on sex, laying the foundation for women's rights. Many legislative measures have also been enacted to combat various issues faced by women, for instance, the DV Act to protect various forms of violence, which also constitutes legal remedies and punishment. In terms of education, efforts have been made to bridge the gender gap, and many schemes have been implemented, such as SARVA SHIKSHA ABHIYAN. Despite those positive developments, women still continue to face significant challenges.

It is important to note that the right as envisaged and recognised under the international and national legal regime can be enjoyed and exploited only when the women get the assurance that the public and private places can be accessed by man without the fear of having harassed, stalked or being a victim of voyeurism. In other words, the legal system regime is required to ensure that the women should feel safe and secure in accessing the public and private space which are free from any indirect or actual threats towards their right.

Women are considered as suppressed class; they are a vulnerable part of society. The above discussed rights provide empowerment to the women's class, although it is not enough for survival; security is also equally important to curb issues and challenges. Women need security from criminal offences such as rape, sexual harassment, being frequently followed by someone for the wrong purpose, watching their private intimate moments, etc.

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<sup>90</sup> United Nations Convention against Transnational Organized Crime, Nov. 29, 2000, 2225 U.N.T.S. 3, entered into force Sept. 29, 2003.

<sup>91</sup> *Supra* note 45.

<sup>92</sup> Convention on the Elimination of All Forms of Discrimination against Women art. 6, Dec. 18, 1979, 1249 U.N.T.S. 13.

<sup>93</sup> Convention on the Elimination of All Forms of Discrimination against Women art. 7, Dec. 18, 1979, 1249 U.N.T.S. 13.

<sup>94</sup> Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 6, 1999, 2131 U.N.T.S. 83, entered into force Dec. 22, 2000.