



A STUDY OF EMANCIPATION OF INDIAN WOMEN THROUGH CONSTITUTION OF INDIA

CANDIDATE NAME = UDAYA KRISHNA B

DESIGNATION= RESEARCH SCHOLAR SUNRISE UNIVERSITY ALWAR

GUIDE NAME= DR. PAWAN KUMAR

DESIGNATION= ASSISTANT PROFESSOR

SUNRISE UNIVERSITY ALWAR

ABSTRACT

The present study also analyzes acute and chronic problems affecting women and exposes the widespread disregard for their human rights. In addition to exploring as many angles as possible, this book also elucidates women's human rights and paints a picture of the challenges women face in Indian society. Each political system operates in its own unique way. Findings are based on the 'Law' to the greatest extent possible. This paper examines the legislative and judicial efforts made on behalf of women's human rights, explores possible new solutions, and concludes with a discussion of the welfare approach, its outcomes, and the increased decision-making power of women. The current work analyzes the impact of international efforts in the Indian context and discusses them at length. The author makes an effort to address women's human rights concerns at the crossroads between the previous and current millennia, and offers solutions to these concerns for the future in the sake of ensuring women's equality. The importance of the current study lies in the issues it raises concerning the human rights of women.

KEYWORDS: Indian Women Through, Constitution Of India, women's human rights, welfare approach

INTRODUCTION

India is a sovereign nation with its own government, territory, and people, all of which are guaranteed by the country's founding document, the Constitution, which is also the highest law of the state. In addition to elucidating the nature of the Indian realm, the Constitution provides guidance on how to treat the country's people in the present day and age. It is the safe haven for all laws because it is their origin. Like a guy who works all day outside the house and then returns home in the evening, all laws spring from it and return to it after they have fulfilled their responsibilities. It is the cornerstone of Indian law as a democracy, and it establishes the framework for national

policy with its rules for national governance. "The Constitution of India provides a framework for the governance of the country," says a quote from Nomita Agrawal"

It is also the source from which all of its power and authority flow. It also offers the foundational guidelines for social interaction. The Constitution serves as both the inspiration for and the basis for the structure of the various government agencies. It is read freely because, unlike other statutes, it can be amended, modified, or repealed at any time. It is unique in its perspective and the way it operates. The basic structure theory, judicial review, and Article 13 of the same are all striking illustrations. The destiny of



the Indian people is set in stone by the Constitution of India, which serves as the skeleton of the country. Since women make up a significant portion of the population, they are guaranteed protections under the law from the get-go. In a time when democracy was still in its infancy and women had yet to begin their existence, it had to operate in the shadows despite its full capacity.

In this paradox, the judiciary has the authority to conduct judicial review and provide final interpretation of the Constitution, just as it would in a federal democratic country. The Indian judiciary has also done its part to advance constitutional principles and ensure that the Constitution is effectively implemented. The Judicial Branch has been instrumental in the forward movement toward those goals. The court, according to its interpretation power, has emerged as the body with the more progressive intellect, protecting the rights of the populace and, by extension, women. Judicial reform in India has been facilitated by the Constitution's progressive stances on women's rights, the narrow scope of writ jurisdiction, and the doctrine of basic structure. The judiciary has established the 'equality' in the context of the authorities granted by the Constitution in order to ascertain rights and provide justice. The Constitution's powers have been used constructively by the court, and the judiciary's role in advancing women's rights is consistent with the document itself.

The Indian Constitution, from its opening preamble to its final clauses, is full of progressive legislation. The Constitution's earliest provisions are explicitly geared toward protecting women, bringing

equality, eliminating discrimination based on gender, and closing the gender gap.

PREAMBLE OF THE CONSTITUTION

The Preamble is the section of most laws that lays out the goals of the legislation.

The Indian Constitution's preamble goes into great detail about the social aspects of the document, outlining what has been accomplished, what remains to be accomplished, and how these tasks can be accomplished through the Constitution's various articles.

The Preamble to an Act sets forth the Principal Purposes of the Act, as stated by Rao, Subba J.”²

The Constitution's Preamble serves as both an introduction to the document and an expression of the bar that must be met before any policies can be enacted. It is well acknowledged that Article 13 of Part III of the Constitution of India acts as a filter of the laws by declaring null and void any legislation in effect within Indian territory that are at odds with Article 13 of the same. It is also true that if a law passes the aforementioned tests, we can safely assume that it possesses the characteristics outlined in the Preamble. This is to say that such a law would guarantee its citizens "socio, economic, and political justice; liberty of thought, expression, belief, faith, and worship; equality of status and opportunity and to promote among them fraternity so as to secure the dignity of the individual and the unity and integrity of the nation."

Whatever is said in the Constitution's opening pages is guaranteed a platform in the preamble for the rest of the document. However, all laws must be consistent with the Constitution and must help achieve the goals outlined in the Preamble.



FUNDAMENTAL RIGHTS IN THE CONSTITUTION FOR WOMEN

The protection of the individual against abuse and unfair treatment is at the heart of the human rights movement. These are so crucial that no government can afford to ignore them. The need and power of a fundamental right lie in its ability to be enforced, which limits not just state but also individual behavior. In *Valsamma Paul vs. Cochin University*, Human rights, as upheld by the Supreme Court, stem from people's intrinsic value and worth. The UDHR reaffirmed that human rights and basic freedoms are intertwined and indispensable. The court went on to say that discrimination based on a person's gender is an affront to basic liberties and human rights.

Several heads have been assigned to the concept of "Fundamental Right" in the Indian constitution.

- Right to equality in Art. 14 to Art. 18.
- Right to freedom in Art. 19 to Art. 22.
- Right against exploitation in Art. 23 to Art. 24.
- Right to freedom of religion in Art. 25 to Art. 28.
- Cultural and educational rights in Art. 29 to 30.
- Right to constitutional remedies in Art. 32 to Art. 35.

Everything that has been said, everything that will be spoken, and everything that will end is the importance of the Fundamental Right regarding the uplift of women. It's the standard response to any inquiry about females.

DIRECTIVE PRINCIPLES OF STATE POLICY AND WOMEN

As with any politically organized society, India has been affected by the transformation from police state to welfare state. The Indian Constitution's Article 4 (titled "Directive Principles of State Policy") codifies the welfare state's commitment to universal healthcare and other forms of social welfare. Social security, environmental protection, and other forms of social and economic well-being are all hallmarks of a welfare state in the Indian context. In *Keshavananda Bharti vs. State of Kerala*, According to J. Mathew: "The moral rights embodied in Part four of the Constitution are equally an essential feature of it, the only deference being, that the moral rights embodied in Part four are not specially enforceable as against the state by citizen in a court of law in case state fails to implement its duty but, nevertheless, they are fundamental in the governance of the country and all the organs of the state, including the judiciary, are bound to enforce those."

Incorporating the Directive Policy into the Constitution will hopefully lead to a society in which each individual is treated with respect and acknowledged for who they are. Emphasizing the Directive Policy the SC observed in the case *U.P.S.E.F. vs. Harishankar Jha* judges should keep "the command of the Constitution ever present in their minds" while interpreting laws that deal with the Directive Principles in some way. The Directive Principles of the State, as guaranteed by Articles 36–51 of the Constitution of India, ensure that all members of society will be treated with respect and given a unique identity.

According to Article 37 of the constitution, "it shall be the duty of the state to apply these principles in making laws," meaning that the Directive Principles are still



crucial to the country's administration. Chapter IV of India's constitution lays forth the Directive Principles that will be used to realize the goal of social and economic justice and so bring about equality of status.

According to Article 38 (2), the state has a responsibility to ensure that there is no discrimination based on a person's income, and it is also the state's responsibility to ensure that there is no discrimination based on a person's dignity, reputation, or access to resources.

Article 39 also includes a command that helps establish status equality by means of a manifest declaration. It guarantees (a) that all citizens, male and female, receive a living wage regardless of their gender, (b) that men and women receive equal pay for equal work, and (c) that employers respect their employees' health and safety, and that citizens are not coerced by financial hardship into taking jobs that are inappropriate for their age and physical ability. The idea behind this clause is "equal pay for equal work," regardless of gender.

Appropriate provisions have been inserted in various labor legislation passed from time to time to further once of these ideas. Equal pay for equal work, the Apex Court, in *Randhir Singh v. U.O.I.*, has argued that while the concept of "equal work" may not be a guaranteed right under the Constitution, it is nonetheless a basic aim of the document. That "equal pay for equal work for both men and women" is a Directive Principle of State Policy in India is stated as "equal pay for equal work for every one and as between sexes" in Article 39 (d) of the Indian Constitution.

In accordance with this principle, both men and women, as well as daily wagers,

are entitled to the same compensation as any other permanent employee in the same department for doing the same duties. If the work is different, it is irrelevant if men are paid less. However, there should be no disparity in pay between men and women for performing the same or similar task.

Article 39 (e) of the Constitution mandates equal protection for the health and strength of workers, including men and women of working age and children under the age of 18. They shouldn't have to risk their health and safety in an inhumane work environment. In light of this Article, the State shall steer its policies toward ensuring that children are protected, that men and women's health are not exploited, and that no one accepts employment that is unsuitable for their age and economic standing.

In *M.C. Mehta v. State of Tamil Nadu*, The employment of minors in match factories, which is directly related to the production of matches and fireworks, has been ruled illegal in light of Article 39. However, children might be engaged in non-manufacturing roles such as packing and shipping.

Free and accessible legal representation is guaranteed by Article 39-A of the Constitution. For the sake of fairness, the state must guarantee that the functioning of the judicial system advances justice, and in particular, it must guarantee the availability of free legal assistance by suitable legislation or schemes or any other means. The Supreme Court has ruled on multiple occasions that all inmates have the right to legal representation and a speedy trial under Article 21 of the Constitution. The state must give a poor individual access to a lawyer and cover the



cost of that counsel's services, as determined by the court.

CONCLUSION

This research confirms previous findings that securing women's human rights is crucial to building a civilized, and by extension, politically stable, society. To protect women from the autocracy and authoritarianism of the government and their counterparts, it is essential that women's human rights be strengthened in the constitution, in policy making, and in the law of the country. Human rights for women are essential to any functioning society or government and are currently the foundation upon which the future of the entire world is built. The history of women's roles is intrinsic to the story of human progress. Culture, custom, religion, society, and the state are all crucially involved. In the patriarchal Indian society, women have well defined roles as daughters, wives, and mothers, but they also have little legal protections. In Vedic Hindu society, women had the same rights as men. She was an active participant in every social and religious event she was invited to. Since the post-Vedic period, Hindu women have been seen as inferior to their male counterparts in all spheres of society.

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