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## 9. The Conflict Between Human Rights and Gender Equality

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"All human beings are born free and equal in dignity and rights," says Article 1 of the Universal Declaration of Human Rights.

#### **Abstract**

This research article examines the conflict between human rights and women's rights, focusing on key thematic areas such as legal framework, gender-based violence, gender-interactions, human trafficking and LGBTQ rights, access to education, health and equality, and women's empowerment. Based on an extensive review of the literature, the article synthesizes existing knowledge to provide insights into challenges, progress, and prospects for promoting gender equality and social justice. By critically analyzing the interrelationships between gender and rights, the article contributes to ongoing efforts to advance women's rights within the broader framework of human rights.

**Key words:** - Human Rights, Women, Gender Equality and Social Justice.

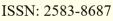
#### Introduction

Gender equality and prohibition of discrimination are important principles of fundamental human rights. The first two articles of the Universal Declaration of Human Rights, adopted by the United Nations in 1948, establish that everyone has equal rights to the rights and freedoms set out in the Declaration and to exercise them in their own right. Human rights talk about the rights of every human being, whether she is a woman, man, transgender, black or white, Dalit, tribal or belonging to any community. Human rights disregard any kind of discrimination.

Human rights are related to social justice and humanitarian ideology. Social justice is prevented through various rules and laws of human rights. Freedom, social justice and equality are the natural rights of all people so that they can ensure participation in it and establish justice in the society. Human rights are fundamental entitlements inherent to all individuals, irrespective of gender, race, or socio-economic status. Among the diverse spectrum of human rights, women's rights occupy a crucial position, given the historical

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marginalization and discrimination faced by women worldwide. In this backdrop, present research article critically examines the intersectionality of human rights and women's rights, aiming to contribute to the ongoing discourse on gender equality and social justice.

In Indian context principles of humanism exist since ancient times. Indian religious texts have sought to protect rights and welfare around the world. Vedic literatures have said to all people of the world to be united and also considered the human rights protection for all. 'Survey BhawantuSukhin survey SntuNiramaya' for pleasures is envisaged. 'Vsudhaiavkutunbkm' the whole world is our family and protect the rights of our kutumbs (relatives) is the understood duty for everyone.

Half of the population, the women in various periods were sometimes revered and sometimes caught in the shackles of slavery. Women who were in parallel to men slipped to secondary grade and became dependent. They were forced to walk on the rules of patriarchal society, the notions creating a situation that women could never become independent. There is deeply patriarchal conspiracy behind for making subjection of women. Globally, women are in a state of subjection. Women in developed countries have been victims of patriarchal politics and their human rights are abusing continuously.

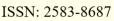
The objective of this paper is to critically examine the relationship between human rights and women, with a view to understanding the challenges, progress and prospects in achieving gender equality and social justice. By conducting a comprehensive review of the literature, the study aims to elucidate key thematic areas such as legal framework, gender-based violence, gender-related relations, women's access to education, health care and justice, and Global women empowerment.

#### **Theoretical Perspective**

Thetheoretical perspective of women's human rights towards social equality and justice incorporates various frameworks aimed at understanding and addressing the structural inequalities and legal attitudes experienced by women in society in a global context. This perspective is based on several theoretical approaches: -

#### **Feminist Theory**

Central to the theoretical perspective of human rights of women is feminist theory, which critically examines power dynamics, social structures, and cultural norms that perpetuate





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gender inequality. Feminist theorists highlight the importance of recognizing women's experiences, voices, and agency in the pursuit of social justice. Intersectional feminism, a key aspect of feminist theory, acknowledges the interconnectedness of gender with other social identities such as race, class, sexuality, and ethnicity. It emphasizes the need for an inclusive approach that addresses the intersecting forms of discrimination faced by marginalized and underprivileged women.

#### **Capability Approach**

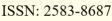
The capability approach, pioneered by AmartyaSen and further developed by Martha Nussbaum, offers a valuable theoretical perspective on human rights of women.<sup>3</sup>This approach focuses on expanding the capabilities of individuals to find meaning in their lives, rather than focusing only on material resources or outcomes. It emphasizes providing women with opportunities and freedom to fulfill their goals and aspirations. It promotes social equality and justice in society by enhancing women's capabilities through education, health care, economic empowerment, and political participation.

## **Critical Legal Studies**

Critical legal studies provide a critical lens through which to examine the legal frameworks governing women's rights and human rights. This perspective critiques the ways in which law and legal institutions perpetuate inequalities and uphold dominant power structures. Critical legal scholars advocate for legal reforms that challenge discriminatory laws and policies and promote gender-sensitive approaches to justice. It emphasizes the need for intersectional analyses that consider the lived realities of women from diverse backgrounds.

#### **Human Rights Framework**

The human rights framework, grounded in international human rights law, provides a normative basis for addressing violations of women's rights and promoting social equality and justice. The Universal Declaration of Human Rights and the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) were passed. These human rights documents recognize women's rights as human rights and emphasize the importance of non-discrimination, equality and dignity. In order to uphold women's rights and provide an important mechanism for redressal, it was imposed on all countries to maintain human rights related systems in all countries. This should include arrangements for gender equality, gender justice and prevention of all forms of discrimination.





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#### **Postcolonial Feminist Theory**

Postcolonial feminist theory offers insights into the intersections of gender, race, colonialism, and globalization in shaping women's experiences of oppression and resistance. This approach criticizes Western-centric notions of feminism and human rights because feminists have always argued that the experiences of women in the West are different from those of women in developing countries. This theory highlights the diversity of women's experiences and the impact of colonial mindset on gender relations. Post-colonial feminists raise the voice of southern countries and marginalized societies in feminism and human rights and always criticize the theory of White Burden. They advocate the life struggle of women who have suffered colonial slavery.

#### Global concern for Women's Human Rights

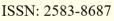
A number of international organizations have been established to promote and protect women's human rights on a global level. These organizations play a vital role in advocating for gender equality, highlighting discrimination and violence against women, and advancing women's empowerment.

# United Nations Entity for Gender Equality and the Empowerment of Women (UN Women)

UN Women is the United Nations agency dedicated to gender equality and the empowerment of women. It works towards achieving women's rights and gender equality across various sectors, including political participation, economic empowerment, and ending violence against women. UN Women supports national governments, civil society organizations, and other stakeholders in implementing gender-responsive policies and programs. All the countries including India which have signed it, guarantee human rights protection to all genders in their countries. The establishment of Human Rights Commission and State Human Rights Commission and National Commission of Women in the nation is the result of UN.

#### **United Nations Population Fund (UNFPA)**

UNFPA is the United Nations agency focused on sexual and reproductive health and rights, including maternal health, family planning, and ending gender-based violence. UNFPA works to ensure that women and girls have access to comprehensive sexual and reproductive health services and information, as well as promoting gender equality and women's empowerment.<sup>8</sup>It advocates internationally for women's health and reproductive health.





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#### **United Nations Children's Fund (UNICEF)**

UNICEF works to protect the rights of children, including girls, and promotes gender equality as a key component of its mandate. UNICEF supports initiatives to improve girls' access to education, healthcare, and protection from harmful practices such as child marriage and female genital mutilation. It also advocates for policies and programs that address gender disparities and empower girls to reach their full potential. This international organization related to girl child and women literacy provides support to various countries so that the educational status of the girls of that country can be improved.

#### **World Health Organization (WHO)**

WHO, as the leading global health agency, addresses women's health issues and promotes gender equality within the health sector. WHO works to ensure that women have access to quality healthcare services, including sexual and reproductive health services, maternal and child health care, and prevention and treatment of gender-based violence. The World Health Organization from time to time makes new provisions for the health of women and girls and plans for their health protection. Countries that come under WHO, It is mandatory to follow its instructions and restore health facilities in their country.

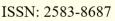
#### **International Labour Organization (ILO)**

The ILO promotes gender equality and women's rights in the workplace and labor market. It advocates for equal pay, non-discrimination, and decent working conditions for women workers. The ILO also supports initiatives to eliminate gender-based violence and harassment in the workplace. <sup>11</sup> Although this organization works for the safety of workers of all genders and their wages and leave, but its work for providing basic facilities like safety of women at workplace, maternity leave etc. is important and noteworthy.

All human rights organizations collaborate with governments, civil society organizations, and other relevant NGOs to advance women's rights and achieve gender equality on a global level, as already described in various international agreements including the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Beijing Declaration and Platform for Action.

## National Perspective on women's rights

In India, several national organizations are dedicated to promoting and protecting the human rights of women. These organizations work to address issues such as gender-based violence,





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discrimination, women's empowerment, and access to justice. Here are some of the prominent national organizations for the human rights of women in India:

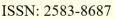
**National Commission for Women (NCW)**-The National Commission for Women is a statutory body established under the National Commission for Women Act, 1990. It is tasked with safeguarding and promoting the rights of women in India and ensuring gender equality. The NCW investigates complaints related to women's rights violations, conducts studies and research on women's issues, and recommends legislative and policy measures to address gender-based discrimination and violence against women.<sup>12</sup>

Ministry of Women and Child Development (MWCD)-The Ministry of Women and Child Development is a government ministry responsible for formulating policies and programs related to women and children's welfare in India. It implements various schemes and initiatives aimed at promoting women's empowerment, ensuring their safety and well-being, and addressing gender-based violence. The MWCD also oversees the implementation of laws such as the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013.<sup>13</sup>

**National Human Rights Commission (NHRC)**-While the NHRC primarily focuses on protecting human rights in general, it also addresses issues related to women's rights violations. The NHRC investigates complaints of human rights violations against women, including cases of gender-based violence, discrimination, and denial of rights. It works to ensure that women have access to justice and redressal for violations of their rights, in line with India's international human rights commitments.<sup>14</sup>

**State Women's Commissions**-Many states in India have set up State Women Commissions to address women rights issues at the state level. These commissions work just like the National Commission for Women. They are state-based commissions that raise voice for all women irrespective of caste or religion. State commissions investigate complaints, conduct inquiries and take various legal measures to promote and protect women rights.

Women's Rights Organizations-Many non-governmental organisations (NGOs) and civil society groups work on women's rights issues in India. These organisations play a vital role in raising awareness, providing legal and personal services to women, advocating for policy reforms and empowering women to get their rights. For example, various feminist groups



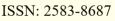


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include organisations for an example, Jagori and Centre for Social Research, Kali for Women, Nirantar, TISS etc. These national organisations work closely with government agencies, civil society organisations and other stakeholders to address violations of women's rights and promote gender equality in India

## Social Movements for Women's Rights

The human rights movement in India has been a dynamic process shaped by various different historical, social and political factors. It has a long history of individuals, organisations and movements dedicated to promoting and protecting human rights across the country. The human rights movement in India has its roots in the country's freedom struggle, democracy, justice and equality enshrined in the Constitution. For instance, major historical events like the long struggle of the Indian Independence Movement, adoption of the Indian Constitution in 1950 and the period of Emergency (1975-1977) have increased the consciousness of human rights in the country. Social movements and raising of human rights issues at the grassroots level have been instrumental in bringing about social change in India. Movements like the Chipko Movement, Narmada Bachao Andolan, right to abortion, Right to Information (RTI), anti-dowry movement, Sati Movement, Prohibition of Sexual Harassment at Workplace Movement, anti-rape movement, LGBTQ movement etc. have raised the issues of environmental justice, indigenous rights, gender justice and transparency and accountability in governance at the national and regional levels respectively. These movements have organised and raised awareness among various communities and challenged oppressive structures and policies. Civil society organisations (CSOs), including non-governmental organisations (NGOs), grassroots movements and feminist groups, have played a key role in the human rights movement in India since historical times. These organisations have been working in an organised manner on a number of issues including women's rights, child rights, labour rights, environmental justice, minority rights and the rights of marginalised communities. They conduct research on the ground, provide legal aid and other support services, raise awareness and engage with political parties for policy reforms. India has a strong legal framework for the protection of human rights, which includes constitutional provisions, statutory laws and international treaties and international conferences in various forums. The Indian Constitution guarantees all fundamental rights to all citizens, including equality, liberty and the right to life, freedom of speech and expression. The National Human Rights Commission (NHRC) and State Human Rights Commissions (SHRC) act as legal and





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statutory bodies to protect and promote human rights in the country. India is a country that is actively involved in the international human rights field and is constantly working to advance human rights. But India has been facing scrutiny and criticism from international human rights organizations and civil society groups for the challenges it continues to face in human rights.

## The Constitutional Provisions for Gender Equality in India

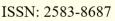
In India, the Constitution guarantees fundamental rights to all citizens of the nation, including women, to ensure their equality and dignity. These constitutional rights work at the grassroots level to eliminate gender-based discrimination and advance women empowerment. Article 14 of the Indian Constitution guarantees equality before the law and equal protection of the law to all individuals. This provision prohibits discrimination on the basis of sex and ensures that women have the same legal rights and equality of opportunity as men. The right to equality under Article 14 challenges discriminatory laws and practices that maintain gender inequality.

Articles 19 and 21 of the Indian Constitution protect various freedoms, including freedom of speech and expression, freedom to peacefully assemble, and the right to life and personal liberty. These rights are essential for the autonomy and empowerment of women, allowing them to participate freely in society, express their opinions, and have control over their lives and bodies.

Article 15 advocates equal access to public places, employment and educational institutions without any discrimination on the basis of sex. This article has been used to challenge discriminatory practices such as job discrimination, unequal pay and denial of educational opportunities on the basis of gender.

Article 21A of the Constitution guarantees the right to free and compulsory education for all children between the ages of six and fourteen. It promotes gender equality in education and ensures that girls have equal access to quality education. This article has led to conscious initiatives to increase enrolment and retention of girls in schools and remove barriers such as child marriage and gender stereotyping.

Article 42 of the Constitution directs the State to make provisions for ensuring women's equitable access to work and humane conditions and maternity relief. This provision ensures





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the importance of ensuring decent conditions for women at the workplace and protecting their rights as workers. This has paved the way for labour laws and policies that raise and legislate issues such as maternity leave, sexual harassment at workplace and equal pay for equal work.

While the Constitution does not explicitly guarantee the fundamental right to property to women, Articles 15(3) and 15(4) allow the state to make special provisions for women and children. These provisions enable the state to make laws and policies that promote gender equality in matters of succession, land ownership and property rights.

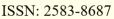
Article 32 of the Constitution gives all citizens of the state the right to move the Supreme Court for enforcement of their fundamental rights without discrimination. This constitutional measure makes it open for women to challenge violations of their rights including gender-based discrimination, violence and denial of access to justice.

#### Contemporary Global Social Movements for Women's Rights

A number of powerful social movements have emerged globally to address issues of women's rights and gender equality. These movements are working at the grassroots level to raise awareness, highlight challenges to structural misogyny, and advocate for policy reforms. Efforts are being made to reach out to different countries through social media and various strategies including online activism and raising awareness campaigns. Here are some notable contemporary social movements for women's rights:

#MeToo Movement-The #MeToo movement, which gained momentum in 2017, has sparked a global conversation about sexual harassment, assault, and abuse experienced by women in various spheres of life. Originating as a hashtag on social media platforms, #MeToo encouraged survivors to share their stories, leading to widespread awareness and demands for accountability from perpetrators. The movement has prompted changes in workplace policies, cultural attitudes, and legal systems regarding sexual misconduct. Through this movement, the issues related to physical abuse that happened to women in the past years were raised on a global platform. This movement also inspired women who had kept quiet about the abuse they faced to raise their voice once again.

**Women's March-** The Women's March is a grassroots movement that began in the United States in 2017 in response to concerns about women's rights, reproductive rights, and social justice issues. Since then, it has evolved into an international movement, with millions of





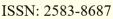
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people participating in marches, rallies, and advocacy campaigns worldwide. The Women's March advocates for gender equality, reproductive justice, LGBTQ'S rights, racial justice, and environmental justice. <sup>16</sup>We are identifying a community in the world which is raising their voice foridentity and rights as the third gender. In many countries, their rights and reproductive rights are banned. But in many countries, they have been given rights. Women of this community organize marches for themselves in different parts of the country so that they can get global recognition.

**Global Feminist Movement-**The global feminist movement encompasses a diverse array of activists, organizations, and networks working to advance women's rights and gender equality worldwide. From challenging discriminatory laws and policies to advocating for women's participation in decision-making processes, the global feminist movement mobilizes resources and solidarity to address gender-based inequalities and human rights violations.<sup>17</sup>This movement attempts to unite women of the world on the issue of inequality and feminism.

Reproductive Justice Movement-The reproductive justice movement advocates for the right of all individuals to make autonomous decisions about their bodies, sexuality, and reproduction. Rooted in the intersections of race, class, and gender, this movement seeks to address disparities in access to reproductive healthcare, advocate for comprehensive sex education, and fight against restrictive reproductive policies and laws. Reproductive justice activists work to ensure that all people have access to safe and affordable reproductive healthcare services. This also includes the right to abortion. In many countries, abortion is a legal crime. Women in such countries play with their health by adopting some domestic and dangerous remedy to abort. Sometimes it causes serious health injury for women. In that country where abortion is a crime, women risking their life in danger. This is really unfortunate and horrible.

**Transgender Rights Movement-**The transgender rights movement advocates for the rights and dignity of transgender and gender non-conforming individuals, including access to healthcare, legal recognition, protection from discrimination, and freedom from violence and harassment. Transgender rights activists work to challenge societal stigma, discrimination, and violence against transgender people, advocate for legal reforms to protect their rights, and promote visibility and inclusion in all aspects of society. <sup>19</sup>This has been recognised as





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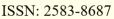
Queer Theory. Many countries have given them officially identity to them but in many countries, they are still deprived of their rights and are raising their voice.

Efforts have been going on for women's rights for the past two centuries. We have also achieved a lot of success in this. We have been able to provide women with education, voting rights, employment and legal rights. But there is still a long way to get full rights for women. Despite international efforts to protect rights, violation of women's human rights continues at the global level. From structural discrimination to gender-based violence, women face almost a whole range of human rights violations that undermine their dignity, autonomy and well-being.

#### The Barrier of Women's Human Rights

Victims are often lured by false promises of employment, education, or marriage, only to find themselves trapped in exploitative situations, such as forced prostitution, domestic servitude, or bonded labor. Women trafficking is driven by a complex interplay of factors, including poverty, inequality, conflict, displacement, and gender-based discrimination. Economic desperation, lack of education and employment opportunities, social exclusion, and and their discrimination against women girls increase vulnerability to trafficking. <sup>20</sup>Additionally, armed conflicts and humanitarian crises create conditions conducive to trafficking, as displaced populations become more susceptible to exploitation and abuse. For an example we can see Israel and Palestine war and Russia-Ukraine war. Women, Girls, children and elderly people often become victim of the war.

The problem of women trafficking is extremely inhuman crime for the globally raising issue. Kidnapping women against their will and selling them to someone for sexual exploitation and forcibly marrying someone, keep women rightless. In the context of sexual exploitation, victims are often kidnapped for prostitution, pornography or other forms of commercial sexual exploitation. When a woman resists, she is subjected to inhuman torture or sometimes even killed. Nowadays, women are also being forcibly kidnapped and included in the group of cybercrimes forceful housekeeping and money scams. Despite efforts to combat trafficking, significant challenges and gaps persist in addressing the root causes of trafficking, identifying and protecting victims, and prosecuting perpetrators. These challenges include weak legal frameworks, corruption, lack of resources, insufficient coordination among stakeholders, and limited access to justice for victims.<sup>21</sup>





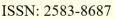
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Women are fighting very serious problems like human trafficking, sexual crimes, sex slaves in different countries. This is not only a violation of their rights but it is a question mark on the entire human community that are women not important citizens of their nation? Are the laws of the nation still so helpless that it can protect women from these crimes? Do the nation, society, family, school and workplace provide a crime free environment to women? The answer to all these questions is the link between women and human rights.

#### **Conclusion**

After the origin of the concept of feminism, questions were raised about the rights of women in the early twentieth century. However, women had to fight a long battle for their rights. Global movements influenced India during the 'International Women's Conference of 1975' as the 'Towards Equality' report was presented in India. The presentation of the 'Towards Equality' report by a team of twenty women has proved that women in India have been living a secondary life socially, economically, educationally and politically for centuries. Constitutional laws and women's movements have raised broad questions about women's rights. Women's rights can be protected only after continuous evaluation of plans and policies beyond mere talk. They should also present reports on women and development from time to time and try to bring women into the mainstream soon. The Constitution has made strict laws for women in India but there is a hindrance in its implementation. Apart from India, women's human rights are being violated all over the world. Many times, reports of global women's human rights violations do not come to us. However, the above studies have highlighted the role of legal frameworks such as CEDAW, various human rights organizations, International Conference on Women, etc. in advancing women's rights globally. Research on women's access to education, healthcare, right to abortion, and all other rights, such as global issues affecting reproductive rights, women trafficking, sexual harassment at workplace have highlighted the obstacles women face in realizing their rights. Trafficking in women is a global challenge of serious violation of human rights that requires serious efforts from governments, civil society and international organizations to prevent, raise awareness and eradicate it. By identifying the root causes of human trafficking, strengthening legal frameworks, enhancing victim support services and promoting international cooperation, we can work together to protect the rights and dignity of women and girls across the world.

It is imperative to priorities the protection and promotion of women's human rights as an integral part of a broader human rights framework. This includes identifying and eliminating





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structural barriers, discriminatory laws and harmful cultural norms. In addition, the focus must be on the problems, realities and needs of women and marginalised groups, their lived experiences and their needs to build an equitable and fearless society.

Promoting gender equality and gender justice also requires a broad range of strategies that include legal reform, access to education and healthcare, economic empowerment, political participation and social change. There is still a pressing need for serious efforts to sensitize and empower women to exercise their rights, challenge gender norms and actively participate in decision-making processes. In addition, strengthening accountability mechanisms, ensuring access to justice for victims of gender-based violence and promoting women's meaningful participation in peacebuilding efforts can be done at the structural level.

A strong global strategy is needed to uphold the principles of human rights. Only then can we challenge the systems of oppression and discrimination while promoting gender equality and ensure legal punishment for those involved in crime. This will also build people's trust in the law. When a woman is not safe even in her workplace, a question arises on the global and national nature of human rights. The challenge of resolving this issue and creating a safe environment for women everywhere is very complex and serious phenomenon. There is an urgent need to achieve the target of human rights at the grassroots level, otherwise our daughters will be killed in the womb before they are born and people will give this justification that an accident may happen to them in the society!

As a citizen, we can only appeal that every person, irrespective of their gender, can get respect, equality and freedom from discrimination and violence and can ensure their access to human rights.

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