

## HUMAN RIGHTS AND WOMEN FAMILIARIZATION AND LOCALIZATION OF HUMAN RIGHTS

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### Abstract

Women Indian community, specially refereeing in the context of women's human rights – is a community in the society who remains in a condition of constant deprivation and subjugation for a historical century and as an outcome they are deeply petrified and have not been able to reach the stage or platform of parity and equality. Negated and refused of their equal holding in social, economic and political rights, opportunities, resources and privileges, social amelioration of the country for categorical, prominent and candid reasons over the years. The women community continues to stand and dwell in a vulnerable condition and position form social, economical and political perspective even after the celebration of independence and, as the India society runs ahead on the track and path of overall and comprehensive development and progress. The discourse of women's human rights is incompatible and reflects disparity with the human rights of men in the Indian society. Socially many factors hold the responsibility for this social pathology. Prominently, owing to their tall and long and continued social, economic, political isolation and deprivation women's status and social condition deteriorated and fell short and down in comparison to men in the society as an outcome, the notion, social relevance of women's human rights defeats social logic and do not bear much meaningfulness and social validity for them in the society. (To be noted this is not an absolute thesis to be claimed true socially – There exists a portion of anti – thesis of the same). Hence, a discussion on the issue of the human rights of women becomes an exercise in diagnosing the ills and evaluating the remedies in action for the time being with a view to evolve a holistic perspective on the human rights of this group.

I MEASURE THE  
PROGRESS OF  
COMMUNITY BY  
THE DEGREE OF  
PROGRESS WITH  
WHICH WOMEN  
HAVE ACHIEVED

**-DR. B. R. AMBEDKAR**

*On the occasion of The  
125<sup>th</sup> Anniversary of DR.  
B.R. Ambedkar*

While throwing light on the Constitution it can be categorically said that we hold one of the best right – based Constitution in the world. The drafting time for the Indian Constitution and UDHR were in the same time frame. 1948.

The history of human rights floating in the vast ocean of thousands of years and surfaces philosophical, cultural, religious and so called the legal development eyewitness in the documented history.

*The Indian Constitution  
covers the foundation of  
human rights first in its  
preamble, and the  
portion of Fundamental  
rights and Directive  
principles of the State  
policy*

Indian history has eye witnessed consistently the violation of civil, political social, economic and cultural rights of the people of India within the colonial time.

Human rights are those elemental and foundational human rights which must be imperative and indispensable for the very survival of human beings and should also be within the reach by every single person in the local community as he /she is a member of that particular human habitation or society. Above all on top of every documents and other provisions, laws, Acts, We have the Constitution of India which also widely and with broad doors opened confirms and guarantees the equality of rights of men and women. However, in the context of women's human rights in India, there has been an existence of wide gap between

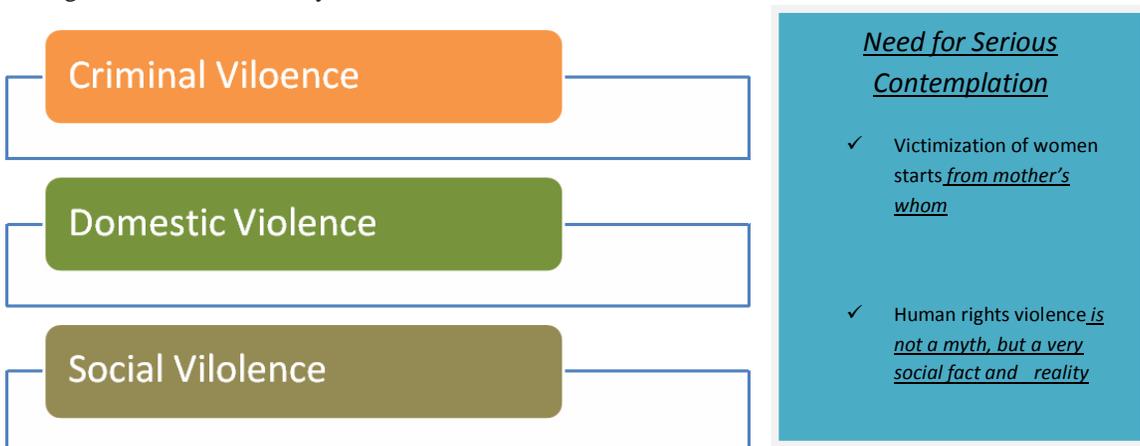
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theory and particle aspect of human rights and women. No need to mention that if we peep into history, literature and other past cultures and customs, traditions we find and figure out that Indian society is a male dominated society where men always claim the title of superiority.

The women in India have been exposed to mistreatment since the inception of the human society in many forms, gender and social discrimination, torture, dishonor injustice in various social grounds, the right to equal pay for equal work in the context of women is - still to blossom in its maturity.

S.No	Historical Traditional Practices Against the Women In India.
1.	<b>Tradition of Sati</b> – In which the widow was immolated alive on her husband’s funeral pure – This evil practice was abolished in 1829. There have been 40 reported cases of sati since Independence. In 1987, the Roop kanwar case in Rajasthan led to the Commission of Sati Prevention Act.
2.	<b>Tradition of Jauhar</b> – Refers to the practice of voluntary immolation by wives and daughters of defeated warriors, in order to avoid capture and consequent molestation by the enemy.
3.	<b>Tradition of Devdasi</b> – Practices in Southern India, In which women were “married” to a deity or temple. The ritual was well – established by the 10 <sup>th</sup> century A.D. By 1988, the practice was outlawed in the country.
4.	<b>Tradition of Purdah</b> – This is the practice among some Muslim communities requiring women to cover themselves so as to conceal their faces and form from males. It imposes restrictions on the mobility of women; curtail their rights to interact freely.

There has been a very constant notion that now days women in India experience and enjoy human rights equal to men, which means both the genders are on the same platform on human rights. But in the totality of true social scenario we find an entirely opposite of the same. Right from the past till the present women have been regularly and constantly suffering from multiple types of violations of their human rights – discrimination on the gender ground, mistreatment, and rape, physical, mental and moral hurt both in domestic settings and out in the society, the list is endless.



There is an ample body of existing data which suggests categorically that there is discrimination against women in all walk of life both within and outside of the house with various forms, there is violation of their human rights which they experience very often and we as society eyewitness the same.

**Criminal Violence**

Rape, abduction, murder. Recent example is Delhi brutal Nirbhya tragedy. This served as an antithesis to fundamental rights and human rights of women.

### **Domestic violence**

Rape, violence dowry deaths, wife battering, sexual harassment, maltreatment of widows and/or elderly women. – There are various types of violations in domestic settings such as mentioned above with different magnitudes and intensities with tremendous amount of manifestation.

### **Social violence**

Forcing the wife/daughter in law to go for female foeticide, eve – teasing, refusing to give a share to women in property, harassment of daughter in law to bring more money. – Female foeticide is one of the major concern for our society and also responsible for declining sex ratio in India. This serves as an acute threat to the overall development of Indian society.

Article – 3 of UDHR 1948 states that everyone has the right to life, liberty and security of person. A close observation to find this particular article as a social reality we find unsatisfactory results, as there are various incidences of women being murdered, where right to life is snatched away from them and where their liberty and security has been questioned and challenged.

## **FUNDAMENTAL RIGHTS IN THE INDIAN CONSTITUTION**

During our freedom struggle, the leaders of the freedom movement had realized the importance of rights and demanded that the British rulers should respect rights of the people. The Motilal Nehru committee had demanded **a bill of rights as far back as in 1928**. It was therefore, natural that when India became independent and the Constitution was being prepared, there were no two opinions on the inclusion and protection of rights in the Constitution. The Constitution listed the rights that would be specially protected and called them ‘fundamental rights’. The word fundamental suggests that these rights are so important that the Constitution has separately listed them and made special provisions for their protection. The Fundamental Rights are so important that the Constitution itself ensures that they are not violated by the government.

Fundamental Rights are different from other rights available to us. While ordinary legal rights are protected and enforced by ordinary law, Fundamental Rights are protected and guaranteed by the constitution of the country. Ordinary rights may be changed by the legislature by ordinary process of law making, but a fundamental right may only be changed by amending the Constitution itself. Besides this, no organ of the government can act in a manner that violates them. As we shall study below in this chapter, judiciary has the powers and responsibility to protect the fundamental rights from violations.

**Right to Equality 14.** The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India

Equality before law – equal protection of laws

Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth – equal access to shops, hotels, wells, tanks, bathing ghats, roads etc.

Equality of opportunity in public employment

Abolition of Untouchability

Abolition of titles

**Right to Freedom**

Protection of Right to – freedom of speech and expression; – assemble peacefully; – form associations/unions; – move freely throughout the territory of India; – reside and settle in any part of India; – practice any profession, or to carry on any occupation, trade or business.

Protection in respect of conviction for offences

Right to life and personal liberty

**Right to education**

Protection against arrest and detention in certain cases

Right against Exploitation

Prohibition of traffic in human beings and forced labour

Prohibition of employment of children in hazardous jobs

**Right to Freedom of Religion**

Freedom of conscience and free profession, practice and propagation of Religion

Freedom to manage religious affairs

Freedom to pay taxes for promotion of any particular religion

Freedom to attend religious instruction or worship in certain educational institutions

Cultural and Educational Rights

Protection of language, culture of minorities

Right of minorities to establish educational institutions

**Right to Constitutional Remedies**

Right to move the courts to issue directions/orders/writs for enforcement of rights

*Article 21: Protection of life and personal liberty—No person shall be deprived of his life or personal liberty except according to procedure established by law.*

Article I UDHR All human beings are born free and equal in dignity and rights. They are endowed with reason and conscience and should act towards one another in a spirit of brotherhood shows the compatibility with the Indian Constitution Right to Equality 14. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

[PART IVA FUNDAMENTAL DUTIES Indian Constitution.

Part (e) Affirms *to renounce practices derogatory to the dignity of women;*

#### Article 2 UDHR

Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, **sex**, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political, jurisdictional or international status of the country or territory to which a person belongs, whether it be independent, trust, non-self-governing or under any other limitation of sovereignty.

The word sex  
in the UDHR  
Article – 2  
refers to no  
gender based  
discrimination

### Localization of women's human rights

While talking about human rights in local context '*Familiarization and localization of human rights*'. The local communities can be spelled out as groups or individuals, organizations with individuality and collectivity which are located within a specific geographic location with the unification of commonality of needs and interests as considered in human rights terms. The structure of this type of specific local community is widely roomed with inequalities of various types. Women, poor and disabled and other marginalized people are constantly excluded and excommunicated from decision – making. Those who speak in support of these local people are not exactly representing these group's voices. Gender disparity is a huge issue in tackling human rights cases.

A scientific key hypothetical orientation is that any localized human rights strategy is rooted in and grounded on the coordination and cooperation among the actors at various levels: Individuals, groups, community based organizations, local human rights organizations, human rights commissions, women commission and international organizations, government and intergovernmental institutions. A point to be remembered here, is that in localizing human rights effort – it is less a top to bottom approach and more a bottom to top approach because government with legislature, judiciary and executive wings can deal with human rights cases and deliver justice make policy and draft better and smarter Acts and rules but the victims of human rights violations experience the very pain and storm of the problem. – This is the justification of this hypothesis.

Women stand for half of the population in the world but grim aspect is that they are spelled out as weaker section of the society. Sex discrimination is wide spread in all types of society, be it developed or underdeveloped society. Many so called civilized and advanced societies equal or even higher status, but in reality we find prevalence of sex discrimination. Women are considered weaker and exploited in all walks of life – individually and collectively. The women are equally entitled for human rights.

Article – 2 of UDHR puts forward that, everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, color, **sex**, language, religion, political or other opinion, national or social origin, property, birth or other status. Furthermore, no distinction shall be made on the basis of the political ground; the word **sex** refers to any type and amount of non discrimination based on gender grounds.

Article – 6 of *International Covenant on Civil and Political Rights* states that every human being has the inherent right to life. This right shall be protected by law. No one shall be arbitrarily deprived of his or her life.

However, the very social reality and social facts globally and particularly in the context of India is diametrically opposite – as there are wide, candid and prominent manifestations of human rights violations based on sex, categorically speaking manifestations of women's human rights violations with tremendous amount of varieties and to which our global and domestic society constantly over and over, again and again eye witness. Some violations of women's human rights are mentioned below.

**Pandit, Madhusudan (2009)** studied on the Fundamental Human Rights. What, Why & Where, has portrayed women's condition from human rights angle, studies the situation of human rights particularly in the context of human rights in India and remarks that women constitute half of the population in the world, but to utter dismay they are considered as weaker section of the society – sex discrimination is rampant in all societies – primitive, underdeveloped, developing and developed. Many so called civilized and advanced societies equal or even higher status, but in reality we find prevalence of sex discrimination. Women are considered weaker and exploited in all walks of life – individually and collectively. ***The women are equally entitled for human rights***. The expression 'Human Rights' has not been specifically defined in any Declaration or Covenant of the United Nations. Human rights are generally defined as 'those rights which are inherent in our nature without which we cannot live as human beings'.

Women all over the world face violence in one or the other forms with varying degrees. Women are constantly subjected to harassment. They face many forms of violence – domestic abuse, wife beating, sexual harassment in the work place, rape, trafficking in women, forced prostitution and so forth.

**The UN Commission on the Status of Women defines** 'violence against women' as 'any act of gender-based violence that results in, or is likely to result in physical, sexual or psychological harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether in public or in private life. Violence is faced by women not only in the external world but, as in India; it is invariably lodged in their minds also due to cultural factors. Remarkably violence against women is not a myth, but a reality. It is a global phenomenon. Victimization of women starts from mother's womb. Today, female foeticide is a stabilized social phenomenon. Even if the female child manages to see the lights of the day, often she is killed after birth.

sociological theory Socialistic feminism fits pertinently well here, this theory grew out of traditional Marxist theory and it focuses on the economic class aspects of women's oppression; it circles about the exact relationship between sexual, economic and racial oppression. Marxist – feminists, recognizes women's oppression as a part of complicated nexus of male dominance. Women are oppressed by their exploitation. Feminist discourse in India has organized itself around its critique of marriage and family. Feminist in India have articulated the debate in the last three decades of the twentieth century by theorizing not only around deconstruction of oppression of women but also its negotiation and transformation in real social life. Therefore, this particular research will have feministic theoretical orientation and inclination.

- ◆ Objective: To figure out the extent of knowledge and awareness of women on their human rights.
- ◆ To find out the extent and nature of violation and abuse of women's human rights both within and outside the house.
  - I. Education among women is less and this is the reason that women are less aware of their human rights and also they have less access to their legal, political and civil economic rights.
  - II. There exists a wide discrimination and violation and abuse of women's human rights domestically and out in the society. This grim situation is more prominent in rural settings, whereas urban settings also have various manifestations of women's rights violations and discriminations with some lesser extent due to awareness among women and education.
  - III. Developmental and empowerment programs on women such as raising their socio – economic level and health status, and causing legal awareness among them will substantially will improve the status of women in the society and cause overall development of society.
  - IV. Women's representation in formal and informal paid employment is less as compare to their male counterpart and there exists a wide disparity in wages between men and women. The principle of equal pay for equal work does not hold true.

**Specific objectives :** To learn about the implementation and the accessibility of local habitation to engineer an anti – thesis of social pathology in the form of injustice, deprivation and inequality within the specific frame of reference of human rights.

**Overall objective:**

- ✓ How local people of local habitations implement and have access and use human rights to reshape and remodel their conditions of injustice, poverty and deprivation in their actual life scenario.
- ✓ To investigate and examine the importance and practicality of human rights intervention and the implementation of the same by the local people and local habitation (methodology and output)

3 To explore and figure out the surfaced and cropped up result and the actual impact coordinated and directed in the amelioration and advancement, enhancement and upliftment of human rights in the local community among the local people.

India is growing with a tremendous economic growth but sad to see this has not hampered and stopped multiple serious human rights abuse in various parts of the country. Gender based violence is a major issues in the current context. Human rights, and discrimination and abuse can happen to anyone, but still this problem is excused, negated and by passed

***National Crime Bauru Report***

	<b>Crime Head</b>	<b>2010</b>	<b>2011</b>	<b>2012</b>	<b>2013</b>	<b>2014</b>	<b>Percentage variation in 2014 over 2013</b>
1	Rape	22,172	24,206	24,923	33,707	36735	9.0
2	Attempt to rape					4,234	-
3	Kidnapping & abduction of women	29,795	35,565	38,262	51,881	57,311	10.5
4	Dowry deaths	8,391	8,618	8,233	8,083	8,455	4.6
5	Assault on women with intent to outrage her/their modesty	40,613	42,968	45,351	70,739	82,235	16.3
6	Insult to the modesty of women	9,961	8,570	9,173	12,589	9,735	-22.7
7	Cruelty by husband or his relatives	94,041	99,135	1,06,527	1,18,866	1,22,877	3.4
8	Importation of girl from foreign country	36	80	59	31	13	-58.1
9	Total IPC crime against women					3,734	
<b>A</b>	<b>Total IPC crime against women</b>	<b>2,05,009</b>	<b>2,19,142</b>	<b>2,32,528</b>	<b>2,95,896</b>	<b>2,95,896</b>	<b>9.9</b>
10	Commission of Sati Prevention Act	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>	<b>0</b>
11	Indecent Representation of Women (P) Act	<b>895</b>	<b>453</b>	<b>141</b>	<b>362</b>	<b>47</b>	<b>-87.0</b>
12	The Dowry Prohibition Act	<b>5,182</b>	<b>6,619</b>	<b>9,038</b>	<b>10,709</b>	<b>10,050</b>	<b>-6.2</b>
13	Protection of women from domestic violence Act*					<b>426</b>	<b>-</b>
14	Immoral Traffic (Prevention) Act#	<b>2,499</b>	<b>2,436</b>	<b>2,563</b>	<b>2,579</b>	<b>2,070#</b>	<b>-</b>
15	Total SLL crime against women	<b>8,576</b>	<b>9,508</b>	<b>11,742</b>	<b>13,650</b>	<b>12,593</b>	<b>-7.7</b>
16	Total(A+B)	<b>2,13,585</b>	<b>2,28,650</b>	<b>2,44,270</b>	<b>3,09,546</b>	<b>3,37,922</b>	<b>9.2</b>

\*'Newly included crime head; '#' Modification in data in 2014, as figures refer to women related crimes only. National Crime Bauru Report.

### Human Rights of Women in India

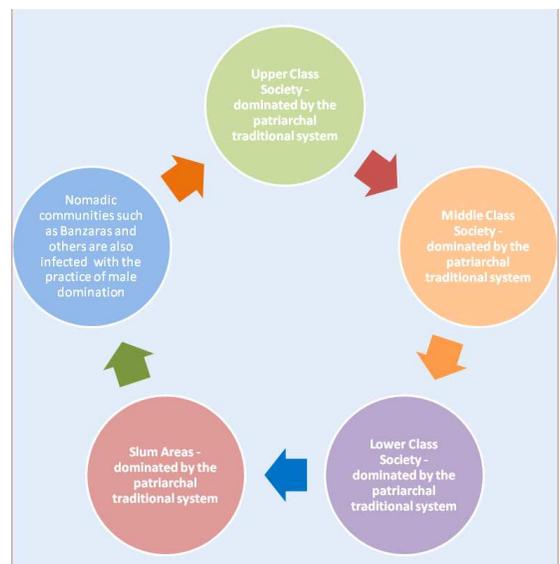
- ❖ Right to equality
- ❖ Right to education
- ❖ Right to live with dignity
- ❖ Right to liberty
- ❖ Right to politics
- ❖ Right to property
- ❖ Right to equal opportunity for employment
- ❖ Right to free choice of profession
- ❖ Right to livelihood
- ❖ Right to work in equitable conditions
- ❖ Right to get equal wages for equal work
- ❖ Right to protection from gender discrimination
- ❖ Right to social protection in the eventuality of retirement, old age and sickness
- ❖ Right to protection from inhuman treatment
- ❖ Right to protection of health
- ❖ Right to privacy in terms of personal rights, family, residence, correspondence etc.
- ❖ Right to protection from society, State and family system.

(Source [www.ssijmar.in](http://www.ssijmar.in)).

*Sally Engle Merry's book on translating international human rights law on gender violence into local justice (2006).* She asserts that 'The localization of human rights is part of the vastly unequal global distribution of power and resources that channels how ideas develop in global settings and are picked up or rejected in local places' (2006: 4).

The foundational reality when structuring a human rights impact and women is to find out the gap between the defined human rights framework and local people's conditions, Needs and the very realities of them. *The familiarizing and localization of human rights of women* is only possible when we understand the relevance of such a framework for solving the needs and problems of local people and on top of all what perspectives and expectations they show molding their claims in human rights language.

Ample numbers of institutions and instruments both at international and regional level have zoomed down their attention and thoughts on women and gender related matters and issues of human rights dimensions. Straight away to jump into conclusion the most outstanding and important is the Convention on



the Elimination of All Forms of Discrimination against Women (CEDAW), adopted in 1979. The Indian Constitution also provide the same safeguard by many articles, fundamental rights, treaties and fundamental duty.

**Conclusion:**

The patriarchal system prevalent in India covers the entire gamut of public and private life. Indian families put on top sons when making allocations of resources available and providing access to education thus, causing and surfacing gender equality in public, private and professional dimensions. In India gender inequality or discrimination is a very prominent and healthy monster and challenge at every step, be it any level of the society upper class society, middle class society, lower class society and slum dwellers of the Indian society. Mainstreamed and updated India directs itself and run toward modern global gender norms, the patriarchy in Indian blood stream is still very dominant and prominent and rooted deep into the very core and originating root of the Indian system with majority. Gender minorities are being constantly exposed to violence, female infanticide, and rare and scare gender based opportunities are just some blossoming outcomes of the traditional patriarchal system. Thus, – it can be concluded that the protection of women’ human rights are to be taken with immediate consideration and with comprehensive approach and strategy, covering social, economic, and political and civil rights of women.

Human rights of women are rights inherent to all women whatever their nationality, place of residence, national or ethnic origin, color, religion, language, or any other status. The women are all equally entitled to human rights with protection and without discrimination. These rights are all interrelated, interdependent and indivisible.

Today there are massive and huge number of discussions flying around the World and in India too that issues such as domestic violence, sexual harassment, unemployment and are deeply convicted that these issues are negatively affecting women in all walks of their life. But on contrary we can trace many other areas and issues which have been desolating women’s lives all around the globe. These areas and issues can be lack and access of health facilities and poverty, shortage of food. And women living in slum areas are severely attacked and petrified by these factors. And the tradition of male domination, patriarchal traditional system ruins the life of women and their human rights to a great extent

Universal human rights are often expressed and guaranteed by law, in the forms of treaties, customary international law, general principles and other sources of international law. International human rights law lays down obligations of Governments to act in certain ways or to refrain from certain acts, in order to promote and protect human rights and fundamental freedoms of individuals or groups.

**Women and Human Rights in India are Universal and inalienable.**

The principle of universality of human rights is the cornerstone of international human rights law. This principle, as first emphasized in the Universal Declaration on Human Rights in 1948, has been reiterated in numerous international human rights conventions, declarations, and resolutions. The 1993 Vienna World Conference on Human Rights, for example, noted that it is the duty of States to promote and protect all human rights and fundamental freedoms, regardless of their political, economic and cultural systems.

**Interdependent and indivisible.**

All human rights are indivisible, whether they are civil and political rights, such as the right to life, equality before the law and freedom of expression; economic, social and cultural rights, such as the rights to work, social security and education, or collective rights, such as the rights to development and self-determination, are indivisible, interrelated and interdependent. The improvement of one right facilitates advancement of the others. Likewise, the deprivation of one right adversely affects the others.

**Women Human Rights in India are equal and non-discriminatory.**

Non-discrimination is a cross-cutting principle in international human rights law. The principle is present in all the major human rights treaties and provides the central theme of some of international human rights conventions such as the International Convention on the Elimination of All Forms of Racial Discrimination and the Convention on the Elimination of All Forms of Discrimination against Women.

The principle applies to everyone in relation to all human rights and freedoms and it prohibits discrimination on the basis of a list of non-exhaustive categories such as sex, race, colour and so on. The principle of non-discrimination is complemented by the principle of equality, as stated in Article 1 of the Universal Declaration of Human Rights: “All human beings are born free and equal in dignity and rights.”

**Women and Human Rights in India are Rights and Obligations.**

Human rights entail both rights and obligations. States assume obligations and duties under international law to respect, to protect and to fulfill human rights. The obligation to respect means that States must refrain from interfering with or curtailing the enjoyment of human rights. The obligation to protect requires States to protect individuals and groups against human rights abuses. The obligation to fulfill means that States must take positive action to facilitate the enjoyment of basic human rights. At the individual level, while we are entitled our human rights, we should also respect the human rights of others.

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