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# Women's Rights and Safety: A Scenario of Uttar Pradesh

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## ABSTRACT

*Women's safety in India has always been a source of concern. The issue has taken on a more ironic tone as a result of the government's many programs for women, including "Beti Bachao Beti Padhao," "Ladli Laxmi Yojana," and "Sukanya Samridhi Yojna." Such occurrences are neatly blamed entirely on women and are reported every day in the nation. The majority of the time, the family essentially kicks the rape survivor out of the house in the hope that doing so will at least spare them further humiliation and shame. These women typically have no other choice except to commit suicide. Few of them receive financial assistance from their families and relaunch their lives. Women face harassment not just at night or in the evening, but also during the day at their homes, places of employment, or other locations like the streets, clubs, etc. The survey reveals that the lack of a gender-inclusive environment and inadequately functional infrastructure, such as the use of alcohol and drugs in public places, inadequate lighting, unsafe public restrooms, unsafe sidewalks, an ineffective police force, a lack of properly functioning helplines, etc., are the main causes of sexual harassment. This article discusses crimes against women, women's protection, the legal system under various laws, and what the government should do to improve the status of women in society.*

**Keywords:** *Constitutional Provision, Human Rights, The Protection against Sexual Harassment of Women at the Workplace, Equal Remuneration Act, Various Government Schemes.*

## I. INTRODUCTION

In India, freedom of movement for most women is severely constrained because safety is a top priority. According to a 2017 report from Human Rights Watch, victims of sexual assault "experience considerable impediments to receiving justice and vital support services" in India. Little seemed to have changed five years after the gang rape and murder of a student in Delhi shocked the nation. Narendra Modi himself tweeted in 2013 that India was the fourth-most unsafe country for women. When will she feel secure and a positive role model?" Women's

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health and safety is a crucial issue for India, hence it deserves thoughtful consideration, not be politicized.

The prevalence of violence against women has multiplied due to the rising visibility of women in all spheres of society. Before the advent of globalization, women were confined to the four walls of their homes, but now they have the chance and opportunity to compete with males in every area.

Women are now both the CEOs of major corporations and taxi drivers. It is encouraging that, while not in the way that was anticipated, the patriarchal mindset of the culture has altered somewhat. The same mentality prevents women from working outside the home, using them as a tool for domestication. It is the same mentality that views men as being superior to women and always tries to rule the women's community. To demonstrate their dominance over women, the male-dominated culture employs a variety of techniques. These are the tools that men employ to demonstrate their superiority over women, including eve teasing, sexual harassment, rape, and domestic abuse. This is one of the main causes of the rise in violence in India and the concern over women's safety there.<sup>3</sup>

## II. FUNDAMENTAL RIGHTS TO UPLIFT THE STATUS OF WOMEN IN INDIA

No law can be passed that violates the Indian Constitution because it is the mother of all laws. The Constitution gave all laws their authority, and it treated everyone equally regardless of caste, race, sex, or religion. The Fundamental Rights are outlined in Part III of the Constitution and must be upheld in court by writs issued under Article 32 by the Supreme Court of India or Article 226 by the appropriate High Courts. The Articles under Part III of the constitution of India, relate to the Fundamental Rights and try to improve the status of women and provide equal opportunities.

**According to Article 14 of the Constitution of India-** *“All individuals, including women are equal in the eyes of the law and they are also entitled to enjoy equal protection of laws within the territorial jurisdiction of India. It signifies that all persons irrespective of gender should be treated equally in similar circumstances. The State should not make any discrimination between one person and another, and the law should be administered equally”*.<sup>4</sup>

**In Indian Young Lawyers Association and Ors. vs. The State of Kerala and Ors,**<sup>5</sup>The Hon'ble Supreme Court Of India held that the entry of women of any age is allowed in the temple and

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<sup>3</sup> OM PARIDA, WOMEN SAFETY IN INDIA" THE TIME TO INDIA, IN *THE ROCK BOTTOM*, DEC 2019.

<sup>4</sup> See Article 14 of the Constitution of India.

<sup>5</sup> (2019) 11 SCC 1.

the ban of entry is a violation of the Fundamental Right under articles 14, 19, and 25 of the Indian Constitution.

**Article 15 of the Constitution of India deals with a prohibition against discrimination –**

*“It forbids the state from treating any citizen, including women, unfairly based on their race, caste, gender, ethnicity, religion, place of birth, or socioeconomic status. According to this, all residents have the same access rights to public spaces, businesses, hotels, restaurants, and other amenities. However, the state is free to create any special arrangements for women, children, scheduled castes, scheduled tribes, and other underprivileged groups”.*<sup>6</sup>

been given to them.

In *Preeti Srivastava (Dr) v. State of M.P.*,<sup>7</sup> it was held by the court that, *“Article 15(4) of the Constitution's First Amendment, added in 1951, permits the State to make unique provisions for the promotion of, among other groups, Scheduled Castes and Scheduled Tribes, despite Articles 15(1) and 29. (2). The wording of Article 15 and paragraph 15(4) are similar (3). Since the very beginning, Article 15(3) has been in effect. Although discrimination based on, among other things, sex is prohibited by Article 15(1), it allows the creation of special measures for women and children. This was intended to be a form of discrimination to offer protection. Scheduled Castes and Scheduled Tribes are covered by Article 15's anti-discrimination provisions (4). The combined impact of these provisions has prompted the governments of several States and the Union to enact a number of compensation or protective discrimination schemes. Every one of these policies deviates from the equality norm, albeit legally, to aid the impoverished, thus they must be developed and put into practice in a way that would eventually result in the development of a just and non-discriminatory society. That is its final constitutional justification. To further this overall national interest, programs and policies of compensatory discrimination under Article 15(4) must be developed and put into effect. Therefore, the reasonableness and general public benefit standards must be met by all governmental measures in this area. The duty to maintain administrative efficiency was particularly mentioned by the Constitution-makers in the context of Article 16(4) as one such public benefit that cannot be abandoned in Article 335. Furthermore, policies under Article 15(4) must be drafted in a way that is reasonable and consistent with the general public interests”.*

**According to Article 16 of the Constitution of India –** "All citizens, including women, will have equal access to public work opportunities, regardless of their gender, races, castes,

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<sup>6</sup> See Article 15 of the Constitution of India.

<sup>7</sup> (1999) 7 SCC 120.

ethnicities, faiths, or socioeconomic status. There are several exceptions, such as when the legislature may declare that a particular job necessitates a resident of the state. The State has the authority to designate specific positions as being reserved for members of underprivileged groups, as well as for members of scheduled castes and scheduled tribes, and for those who identify as members of a certain religion”.<sup>8</sup>

**As per Article 17 of the Constitution of India-** *“The Untouchability (offense) Act of 1955 was passed by the parliament, ending the System of Untouchability. The Untouchability (offense) Amendment Act of 1976 updated this law to make it stricter and eradicate untouchability from society”*.<sup>9</sup>

**According to Article 19 of the Constitution of India-**“ Every citizen, including women, has the right to freedom of speech and association, as well as the freedom to assemble peacefully and without weapons, to move freely throughout the nation, to live or establish a permanent residence anywhere in the nation, to engage in any lawful occupation, and to pursue one's own goals”.<sup>10</sup>

**As per Article 21 of the Constitution of India** – “No one may be deprived of their life or their freedom other than in accordance with the legal process. This right to life also involves rights to privacy and dignified existence. Because it undermines the dignity and self-respect of the victims, domestic violence against women is also a violation of Article 21 of the Indian Constitution”.<sup>11</sup>

**According to Article 21-A of the Constitution of India** – *“All children between the ages of six and fourteen must receive free and required education from the State in a way that the State may determine by law”*.<sup>12</sup>

**To prevent immoral trafficking in women and girls child Article 23 of the Constitution of India** – “Prohibits forced labor and human trafficking. To penalize the behaviors that lead to trafficking in humans, Parliament passed the Suppression of Immoral Trafficking in Women and Girls Act, 1956, which has since been renamed the Immoral Trafficking (Prevention) Act, under this Article”.<sup>13</sup>

**To prohibit child labor, especially girl children as per Article 24 of the Constitution of India-** “It is against the law to employ children under the age of fourteen in mines, factories, or

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<sup>8</sup> See Article 16 of the Constitution of India.

<sup>9</sup> See Article 17 of the Constitution of India.

<sup>10</sup> See Article 19 of the Constitution of India.

<sup>11</sup> See Article 21 of the Constitution of India.

<sup>12</sup> See Article 21-A of the Constitution of India.

<sup>13</sup> See Article 23 of the Constitution of India.

for any other dangerous jobs”.<sup>14</sup>

**Under Article 25 of the Constitution of India** – “Women have the same rights to religious freedom, including the ability to express, practice, and spread their beliefs”.<sup>15</sup>

### **III. LEGAL FRAMEWORK FOR WOMEN AND WORK**

In India, the second-most populous nation in the world, women make up more than 32% of those who are economically active. The Indian Constitution guarantees women's equality before the law, and institutional support for women appears to be advanced with numerous pieces of legislation defending women's rights in the workplace. India's labor regulations might be centralized, industry-specific, or region-specific.

#### **Equal Remuneration Act, 1976**

This act prohibits gender discrimination in employment, advancement, and training. It can be gotten around by reclassifying the earnings of skilled and unskilled workers. Frequently, men are assigned to the skilled, higher wage category while women are assigned to the unskilled, lower wage category, regardless of the nature or level of the work.

Equal compensation for equal or similar work is one of the provisions of the Act. There shouldn't be any discrimination in hiring policies or working conditions, unless there are legal limitations on hiring women, such as those related to night shifts or sector-specific requirements.

#### **National Commission for Women Act, 1990 (Act of Parliament)**

establishes the National Commission for Women to examine the current legal protections for women, prepare periodic reports to the Central Government on issues relating to these protections, examine complaints about the denial of these rights, and provide financial support in the litigation of issues affecting women.

#### **Constitutional (74th Amendment) Act, 1992 –**

Local women in positions of political influence have fought for water rights and mass literacy initiatives. Parties only nominate a few women candidates, and they are frequently relatives because the office's operations have grown increasingly expensive. Despite their advancement, there are currently few women in national politics overall. The Amendment requires one-third reservations or quotas for women in state or public institutions' local governing bodies.

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<sup>14</sup> See Article 24 of the Constitution of India

<sup>15</sup> See Article 25 of the Constitution of India.

The Protection against Sexual Harassment of Women at the Workplace Bill, 2010 - This bill, would create a definition of sexual harassment within the workplace, and make it mandatory for every organization with over 10 employees to create committees, headed by women to administer sexual harassment grievances. These committees could gather evidence and would be equivalent to Civil Courts, although problematically, members do not need to have a legal background. In addition, penalties would be created for employers that include fines.

### **The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**

The significant ruling The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, is based on the case of Vishaka V. State of Rajasthan. Sexual harassment violates a woman's fundamental rights to equality under Articles 14 and 15 of the Indian Constitution, as well as her right to live in dignity under Article 21 of the Constitution, and her right to engage in any occupation or conduct any business with dignity.

International conventions and instruments, such as the Convention on the Elimination of All Forms of Discrimination against Women, which the Government of India ratified on June 25, 1993, recognize the right to be free from sexual harassment and the right to work with dignity as universally recognized human rights. The Act consists of VI Chapter which is divided into 30 sections. Some of its important provisions are as follow.

### **Maternity Benefits Act, 1961**

Some of its benefits-

1. Working women in India now have access to 26 weeks of paid maternity leave instead of the previous 12 weeks.
2. Only people who work for companies with at least 10 workers are eligible to use this law.
3. The prenatal leave period has been extended from six to eight weeks.
4. A woman who has already had two children is entitled to 12 weeks of maternity leave beginning with the third child.
5. A woman is entitled to a 12-week leave if she adopts a kid who is less than three months.

### **Factories Act, 1948**

The statute mandates that childcare services be made available for kids younger than six years old at companies with more than 30 women employees. It is uncommon for employers to face legal action for breaking the Factories Act, and managers hardly ever look into the percentage

of women employees or the mandatory childcare facilities. It is not known of any instances where an observer or a supervisor visited a workplace to determine the number of female employees. Employers also get around the Factories Act by hiring less than 30 women, using contract or part-time labor, or all three.

### **Beedi and Cigar Workers (Conditions of Employment) Act, 1966**

Regulating the terms of employment, such as the number of hours that can be worked at a time and the security of the workplace, ensures the health and safety of the workers at beedi and cigar factories. Additionally, working mothers must have access to childcare services. The appointment of women to the advisory and central advisory committees is mandated by this law.

### **The Plantation Labour Act, 1951**

Every plantation employing more than fifty women workers is required to offer child care, including for those employed by contractors. When a woman employee's total number of children is beyond 20, the plantation is also required to offer childcare. Women who works are given time off to feed their kids in between shifts.

### **Employee's State Insurance (General) Regulation, 1950**

The day a medical certificate is issued for a miscarriage, pregnancy-related illness, bed rest, or a pre-term birth is when maternity benefits become accessible.

### **The Contract Labour (Regulation & Abolition) Act, 1970**

Where 20 or more women frequently work on contract, daycare must be offered.

### **Prohibition of Child Marriage Act, 2006**

The national law against child marriage, the Prohibition of Child Marriage Act of 2006, forbids the discussion of consent in cases involving minors and treats child marriage as a criminal offense. However, by ruling some marriages invalid and others voidable, it gives the wrong impression.

All other child marriages are voidable at the discretion of the parties to the marriage and are therefore valid marriages until they are declared invalid by the court. Marriage of a minor that is formalized through the use of force, fraud, deception, enticement, selling and buying, or trafficking is void. All child weddings must be declared invalid if the law does not recognize a child's capacity to provide consent, as this renders all child unions the product of coercion, fear,

or other illicit tactics such as fraud, human trafficking, or psychological manipulation of the kid.<sup>16</sup>

#### IV. SCENARIO OF WOMEN'S SAFETY AND WOMEN'S RIGHTS IN UTTAR PRADESH

According to the National Crime Records Bureau (NCRB), Madhya Pradesh is the state with the highest rate of rape, and Uttar Pradesh has the lowest protections for women. According to NCRB statistics, there is a serious lack of law and order nationwide.

Year	No. of cases of crime against women in Uttar Pradesh
2018	59445
2019	59853
2020	49385

Source- National Crime Record Bureau <sup>17</sup>

According to current National Crime Record Bureau (NCRB) data, Uttar Pradesh tops the list for crimes against women, yet the state has been hesitant to use the Nirbhaya fund, which is designated for guaranteeing the protection of women. Smriti Irani, the Union minister for women and child development, recently informed parliament that Uttar Pradesh had used less than 4% of the funding allotted to it. Only 39.3 million of the 1,193.98 million dollars allotted to the state under the fund have been used. Just 3.29 percent of the budgeted cash has been used. Following the violent rape and murder of a Delhi resident, the Nirbhaya Fund was revealed in the 2013 Union budget. The grant was intended to be used for initiatives that would directly improve women's safety and security. The One Stop Center (OSC) Scheme, which was supposed to be implemented using the Nirbhaya cash, is also being implemented slowly in Uttar Pradesh. Only 54 million (13.20 percent) of the total \$408.8 allotted for the program had been used by the state.<sup>18</sup> Yogi Adityanath, the chief minister of Uttar Pradesh, stated that the state administration places high importance on the safety and honor of women and that it is working to ensure their welfare and independence. He said that a lot of initiatives and programs are being carried out by his government to combat violence against women. Akhilesh Yadav, the leader

<sup>16</sup> Radhika Kapur, *Women's Rights in India* URL: [https://www.researchgate.net/publication/323825501\\_Women's\\_Rights\\_in\\_India](https://www.researchgate.net/publication/323825501_Women's_Rights_in_India), accessed on 27 September -2020.

<sup>17</sup> National Crime Record Bureau., Ministry of Home Affairs., URL: <https://ncrb.gov.in/en>. Accessed on 6 August 2022.

<sup>18</sup> Chander kumar, No 1 in crime against women, UP used just 3.29% of Nirbhaya fund, Hindustan times accessed on 29 September 2020.

of the Samajwadi Party, claimed that the BJP government in Uttar Pradesh had not done enough to protect women. Additionally, he said that the Beti Bachao, Beti Padhao campaign was powerless to stop "inhuman practices."

Women and girls today have a sense of unease anytime they leave their homes, go to school, go to work, or participate in any activity. They are always plagued by the worry of being insecure.

## **V. GOVERNMENT SCHEME TO EMPOWER WOMEN IN UTTAR PRADESH**

In this context, with a focus on UP, it would be beneficial to go into detail regarding measures connected to gender development and empowerment as well as a few government programs that address gender inequality and women's empowerment. The majority of these are quite well-designed plans with distinct societal objectives. However, the success of these programs ultimately rests on their implementation.

**1. Beti Bachao, Beti Padhao:** This social effort aims to reduce female foeticide and increase knowledge of welfare programs for young Indian girls. The Ministry of Women and Child Development, the Ministry of Health and Family Welfare, and the Ministry of Human Resource Development jointly launched the "Save the Girl Child" movement on January 22, 2015. Beti Padhao and Beti Bachao 100 crores of rupees in initial funds were used to establish the program. It focuses mostly on the Uttarakhand, Bihar, Uttar Pradesh, Punjab, Delhi, and Haryana clusters. Since January 2015, numerous programs have been held to promote "Save Girl Child" and "Educate Girl Child" to close the widening gender gap in newborn birth rates. This project is called Beti Bachao Beti Padhao. The Indian Medical Association has also backed the initiative. Nirmala Sitharaman, the Union Finance Minister, stated that the Beti Bachao Beti Padhao program had produced positive results in the Union Budget 2020–21. She said that as a result of the government's ongoing efforts, girls now have a greater gross enrollment ratio across all levels of education than boys. Beti Bachao Beti Padhao, another of Prime Minister Narendra Modi's signature initiatives, was introduced to educate the public about girls' education and entice parents to send their daughters to school. With this, Sitharaman made a financial announcement of Rs 28,600 crore for initiatives geared toward women.

**2. One Stop Centre Scheme:** Popularly referred to as "Sakhi," it was put into effect on April 1st, 2015, using the "Nirbhaya" money. The One Stop Centers are set up in several cities throughout India to offer victims of violence a place to stay, a police station, legal, medical, and counseling services all under one roof, along with a 24-hour Helpline. However, the OSC program was implemented in 2017 to create centers where women, regardless of age, who are the victims of physical, sexual, emotional, psychological, and economic abuse could be helped

with support and reparation. Under this program, resentful women who are victims of attempted sexual harassment, sexual assault, domestic abuse, human trafficking, crimes involving honor, or acid attacks may receive specialized services.

**3. Working Women Hostels:** The objective of the scheme is to promote the availability of safe and conveniently located accommodation for working women, with daycare facilities for their children, wherever possible, in urban, semi-urban, or even rural areas where employment opportunities for women exist.

**4. Swadhar Greh:** “To help women in challenging situations, the Union Ministry of Women and Child Development introduced the Swadhar program in 2002. The program offers marginalized women and girls who need refuge, food, clothes, and care. Women prisoners released from prison without family assistance, women survivors of natural catastrophes, women victims of terrorist/extremist violence, and widows abandoned by their families and relatives are among the beneficiaries. In UP, 2741 women benefited from the Swadhar Greh scheme in 2017–18, making up 15.85% of all women who benefited from the plan overall in India”.<sup>19</sup>

**5. Janani Suraksha Yojana (JSY):** “By promoting institutional deliveries, JSY's primary goals are to lower the Maternal Mortality Rate (MMR) and Infant Mortality Rate (IMR) and promote safe motherhood. The lack of public health facilities in rural areas is indicated by the extreme shortage of (Community Health Centers, CHCs) (50%) and (Primary Health Centres, PHCs) (32%). For JSY reasons, no private nursing homes or hospitals were accredited in the State. As of March 2015, only 7,226 sub-centers (42%) under CHCs/PHCs were accredited to the program. A significant portion of rural poor people, around 111.76 lakh<sup>8</sup> (42 percent), were forced to rely on home deliveries by untrained attendants over the past five years due to lack of access to government institutions and the high cost of private nursing facilities. Despite high demand, 8% of funds (INR 184 crore) went unused from 2010 to 2015”.<sup>20</sup>

**6. Kishori Shakti Yojana (KSY):** “Adolescent reproductive and sexual health must be positioned in this stage of life to improve the health of adolescent girls and facilitate an easier transition to womanhood. The scheme's objectives are to make adolescent girls (AGs) aware of health, nutrition, and lifestyle-related behavior. Only INR 11.69 crore (62 percent of the released money) was spent for the scheme's implementation in the State over the period 2010–

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<sup>19</sup>Robert Olga., (2019)“Indian Government Schemes For Women Empowerment”, URL: <https://www.goodreturns.in/classroom/2018/02/7-indian-government-schemes-women-empowerment-680804.html> Accessed on 28 Sept 2019

<sup>20</sup> Gender Development And Women’s Empowerment In Uttar Pradesh, Policy Brief No-26 OXFA, *M India* November 2017. Pg.3.

2015, compared to a requirement of INR 33.10 crore. Of the INR 32.42 crore that was allotted, INR 18.88 crore (58 percent of the allocated amount) was released. Inadequate budgetary allocations and underutilization of existing resources led to a deficiency in the actual accomplishment of the targets. Only 35,100 of the total 70,74,240 teenage girls in the test-checked districts received supplemental nutrition due to the ceiling covering only 60 adolescent girls each block, leaving the remaining 99 percent of adolescent girls unprotected. As a result, in 53 districts across the State, KSY had little effect on the nutritional status and occupational abilities of adolescent girls”.<sup>21</sup>

**7. Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (SABLA):** The scheme's goal is the same as the KSY's. The State's remaining 22 districts have SABLA in place while the remaining 53 districts have KSY. Rations allocated under SABLA did not reach 1.35 million girls between 2011 and 2015, or 28% of the eligible adolescent girls who were eligible for this program did not receive nutritional support. Adolescent girls received no vocational training in any of the six districts that underwent testing between 2011 and 2015.

**8. Ujjawala:** The Ujjawala system is put into place to stop trafficking in women and their offspring and to rescue and rehabilitate them. In accordance with the plan, Ujjawala houses are established to offer the victims of rescue immediate aid such as food, housing, trauma care, and counseling. Only 13 Ujjawala projects totaling 11 districts were carried out in UP between 2010–2011 and 2014–2015. For 12 out of 13 projects, no future installments were released. The three projects in the test-checked districts (Unnao, Pratapgarh, and Allahabad) were all discovered to be closed. As a result, the Ujjawala program has essentially stopped working in the State. In districts bordering Nepal, which are important transit hubs vulnerable to trafficking, no Ujjawala dwellings were built, according to a UN assessment. The State Level Monitoring Committee was not established, and the projects' regular appraisal by reputable institutes was not carried out.

## **VI. Conclusion**

The observations make it clear that most government programs are not being properly carried out in the state. Underutilization of funds, poorer achievement of physical targets in comparison to program aims, etc. is a few examples of how it manifests. Furthermore, some programs only serve a relatively small portion of the population, leaving a significant number of the targeted women outside the scope of the programs. Now that the issues found by the CAG have been addressed, each of these programs can be improved. However, to have a significant impact on

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<sup>21</sup> Ibid

gender development, all of these programs could be examined and put into action "collectively," i.e., the gender budgeting method must be adopted. And all of the programs and schemes they created must be put into practice by the relevant authorities; additionally, it is the responsibility of the government to inform women of their rights and the various policies to which they are entitled and to conduct door-to-door campaigns with the aid of various NGO's and other organizations. Additionally, it is the responsibility of the police to stop crimes against women by punishing the offenders harshly, and restoring the victim's faith in the relevant authorities.

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