UNIT 5 RIGHTS OF WOMEN

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5.0 OBJECTIVES

This unit discusses: why do we need to talk about rights of women as special category, different forms of women’s rights and the role of Indian Constitution and International instruments like Universal Declaration of Human Rights (UDHR) and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in protection and promotion of Women’s Rights;

After going through this unit you will be able to:

- understand and analyse patriarchal biases in society which make rights inaccessible for women;
- different legal and constitutional provisions available to assure the basic rights to women;
- understand and analyse various gender specific crimes and abuses and attitude of neglect of the society and the state to take it seriously; and
- identify various possibilities and ways of enforcement, protection and promotion of women’s rights.
5.1 INTRODUCTION

You have already read that Human Rights are understood as basic rights which human beings are entitled to for their development and existence with dignity. Human Rights are rights that are held simply by being a human person. They are thought to be fundamental for growth and dignity of human lives. They are necessary for adequate functioning of human beings. They are available to all human beings without any discrimination based on race, gender, class, caste, and ethnicity.

Generally women’s rights have not been classified as human rights. It has been the result of continuous struggle by the women’s movement that now increasingly women’s rights are seen as human rights. Indian society is a patriarchal society. It means that society is male dominated. The head of the family is always the eldest male member who takes all important decisions. There is misconception of superiority of men and inferiority of women. This leads to unequal status of men and women in the society. As a result, women are deprived from their basic social, political and economic rights. Due to feudal-patriarchal biases women suffer from subordination, exploitation and oppression in the family and society. Women have never been given status of equality in history. They have been compelled to lead the life of marginalization. However, slowly and gradually the scene is changing now. As consequence of consistent efforts by various women’s organizations, NGOs, Government agencies and policies, there are visible positive changes in status of women. The struggle has to continue till we achieve a just and equitable society.

It is important to discuss rights of women as special category as in spite of formal rights provided by the Indian Constitution, they are inaccessible to a large section of women. Due to unequal power position between both sexes, women are unable to enjoy equal rights as men. Their contribution is never recognized. The society must understand that women constitute half of human kind. It is unjust to deprive half of the population from their rightful claims. We must recognize and respect the rights and entitlements of women in the society and family. Equality of women is necessary on grounds of social justice and development of the nation.

5.2 KINDS OF WOMEN’S RIGHTS

5.2.1 Women’s Rights as Political and Civil Rights

Political rights constitute right to vote, right to contest in the election, right to campaign and take part in political life, peaceful assembly, association etc. Civil rights are those rights that constitute free and equal citizenship in democracy. They are basic rights such as right to life, liberty, equality, freedom of speech and expression, freedom of religion, access to information etc. they are also known as first generation rights. Civil and political rights ensure the protection of the citizens from interference from others.

The reality is that despite equal political and civil rights; women are unable to enjoy them. Women’s representation in the union and state legislatures is negligible. There has been strong debate regarding reservation or quota as a tool for political empowerment of women. It led to introduction of 73\textsuperscript{rd} and 74\textsuperscript{th} amendments that provide one third membership (33\%) to women in the three tier system of the local self government (Panchayat Raj) in rural areas and local self government bodies (Municipalities) in urban areas. The three tier system consist of village, block and district level. One third of the prescribed women’s seats are for women of Schedule
Castes and Schedule Tribes. This has been seen as a landmark achievement in the area of political empowerment of women. Along with this, there has also been debate regarding reservation for women for legislative representation. Women's movement in India has been demanding reservation in the parliament and the state assemblies. However there appears to be lack of political will to execute and actualise Women's Reservation Bill.

However, there are numerous factors which create problems in women's participation in political and public life. Most of the women are financially dependent on others and lack economic resources. Since they are either illiterate or have little education, they are unable to participate equally. They lack access to relevant information and get misguided. They carry huge burden of responsibilities of home which keep them preoccupied with the household. The traditional role of women in Indian society results in their low level of participation and low socioeconomic status. The electoral process is also not supportive of women candidates. The limited experience from Village Panchayats reports that violence and use of bad language is quite common there. There is indifference, sexist behaviour, harassment and violence against elected women representatives. Despite all odds, some women dare to engage in civil and political activities. However, they become victims of discrimination, harassment and violence.

5.2.2 Women’s Rights as Socio-economic Rights

Most important socioeconomic rights constitute rights to food, shelter, medical care, employment, work, social security etc. they are also popularly known as second generation rights or welfare rights. These rights are vital for complete development and full participation in the society. They ensure the well being of the citizens. Formally all these rights and securities should be equally available to women. However, in reality, women are more or less marginalized. They are treated as second class citizens. Their rights are not seriously taken care of. They are always seen as the subjects of the state rather then active participants and agents of change. There is need for change in orientation of government and society towards women. Women need to be empowered so that they can participate equally and effectively on issues related to their lives. It will equip women to be part of decision-making process in society and polity. Women battle persistently for land rights, right to water and forest produce.

5.2.3 Women and Inheritance Rights

Women are consistency denied inheritance rights. Women lack access to all productive resources. They bear no entitlement of land and other forms of property. Traditionally land has been basis of political power and status. It provides security against poverty. Millions of women depend on land for livelihood. Endowing women with land will empower them in economic terms. The Hindu succession Act of 1956 made sons, daughters and widows equal claimant in a man’s separate property and in his share in joint family property. However it treats agricultural land differently from other property. Women’s inheritance in tenancy land depends on state laws in India. In joint family property, sons but not daughters have inheritance rights. Hindu law still does not give women equal rights in ancestral property. By and large, all religions deny women equal property rights. They have limited rights to inherit it. Divorced women face major hurdles in claiming maintenance for themselves and their children. Also it will enable them to fight political and social gender inequalities better.
Check Your Progress 1

1) Do you think rights are essential for women’s development? Why?

2) What is patriarchy?

3) Enlist important political and civil rights of women.

4) What are the hurdles in the way of realization of these rights by women?

5.3 RIGHTS OF WOMEN

5.3.1 Constitutional Provisions and the Law

Indian Constitution provides equal rights to all its citizens. It grants political rights to women on equal standing with men under the universal adult suffrage. There is list of fundamental Rights including Right to Equality, Right to Freedom, Right of Religion, Right against Exploitation etc. These rights exist to protect individuals from any atrocities from the state and fellow citizens. These rights are believed to be inviolable and are justifiable. In case of their encroachment, the Supreme Court of India can be approached for justice. Fundamental rights represent equal status granted to both men and women. However, what we find in reality is that women are deprived even of their fundamental rights. The traditional societal structure and pattern make it difficult for women to enjoy their rights. The socio-economic context, patriarchal institutions and traditions make rights inaccessible for women.

Unfortunately, the law and the legal institutions are not of much help for women. The existing laws are not gender sensitive. Many grieving women are unaware of the
existing laws and legal remedies. They also lack courage to protest against their oppressor in fear of bad name, desertion by family and violence by the society.

5.3.2 **Laws to Prevent Crimes Against Women**

A number of laws exist to protect women from their abuse and crime. Some of the important laws are Equal Remuneration Act, Prevention of Immoral Traffic Act, the Sati (Widow burning) Act, and the Dowry Prevention Act. Dowry Prohibition Law declares giving or taking dowry as a punishable offence. If the bride dies under suspicious condition within one year of her marriage, the husband and in-laws are the prime suspect and may get punishment if proved guilty. Government has passed legislation to curb the misuse of amniocentesis for sex selection and abortion of female fetuses. An amendment was passed in 1976 “Child Marriage Restraint Act” that raised the minimum legal age for marriage from 15 to 18 for young women and from 18 to 21 for young men.

Domestic Violence Bill has come as a great respite for women victims of domestic abuse. Despite of elaborate laws, the government is unable to enforce them. Most of the patriarchal laws flourish in the rural and remote areas.

5.3.3 **International Human Rights Mechanism**

At international level, there is United Nations Organizations (UNO) which provides various documents, declarations and treaties dealing with human rights enforcement. The UNO lacks the power to punish the member states that violate its norms. Yet, it has been very effective in helping the countries in developing the human rights culture. Among its various documents the following two are very important from women’s rights point of view.

**Universal Declaration of Human Rights (UDHR)**

UDHR is a remarkable achievement of United Nations Organizations in the field of human rights. India is a party to it. UDHR provides the fundamental guidelines on protection and promotion of human rights worldwide. It was adopted and proclaimed by the General Assembly of United Nations Organizations on 10 December 1948. This is the reason 10 December is observed as the World Human Rights Day. It emphasizes the inherent dignity and equal and inalienable rights of all human beings. It includes a variety of articles which talks of various human rights. UDHR asks all its signatories to protect and promote these rights. The two broad sets of human rights mentioned in UDHR – Civil and Political Rights and Economic, Social and Cultural Rights were further divided in two Covenants – International Covenant on Economic, Social and Cultural Rights and International covenant on civil and Political Rights. UDHR along with the two Covenants constitute International Bill of Rights.

**Convention on the Elimination of all Forms of Discrimination Against Women (CEDAW)**

This Convention was adopted by the General Assembly of the United Nations on 18 December 1979 and came into force on 3 September 1981. It aims at ending all forms of discrimination against women in political and public life. It prohibits any distinction, exclusion or restriction made on basis of sex to discriminate women. It asks all the state Parties to create conducive environment to ensure equal rights and protection of women. It includes educational rights, adequate health care, and equality with men before the law. It says that legislative measures should be taken to ensure
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women equal rights with men in field of civil laws including right to inherit property. The aim of this Convention is to ensure gender equality in economic, social, cultural, civil and political rights.

### 5.4 MONITORING OF RIGHTS OF WOMEN

There are various instruments and mechanism for enforcement and implementation of rights of women. At national level every nation has its own constitution, legal system and judiciary, national and state commissions and NGOs that exist for this purpose. At the same time, at international level United Nations Organizations (UNO) along with its documents lay the foundation of global consensus on human rights. Along with these, regional human rights conventions also contain guarantees of civil and political rights.

#### 5.4.1 National Commissions and the NGOs

Most of the nations have their National Commissions on Women’s Rights. These commissions are set up to see the implementation of rights of women. For example, in India, National Commission of Women (NCIW) work for women’s rights and empowerment. You will read in detail about this commission in Unit 11 of this course. Along with this State Commissions on Women’s Rights exist at state level. In addition to the government appointed agencies, there are women’s organizations like SEWA, (Self Employed Women’s Association), AIDWA (All India Democratic Women’s Association), National Council of Women in India, Kali for Women, Saheli, Jagori etc. They are committed for achieving democracy, equality and women’s emancipation.

There are many grassroot organizations and nongovernmental organizations (NGOs) committed to women’s issues. Some of them have been working on specific issues of rights of women. They have been able to empower helpless women in different ways. There are international NGOs working on women’s issues simultaneously in various countries. Other NGOs work at regional and local level. Their efforts have resulted in great improvement in the quality of women’s life. Women’s organizations and association aim at organizing educational, economic, legal literacy and other activities to empower women from below.

#### 5.4.2 Creating Awareness

Women continue to be under represented in all areas of life. They face hurdles in way of their full and equal participation in public and private life. Their still are various difficulties in realization of rights of women. There exist deep rooted prejudices against women in our country. These challenges can be overcome by seriously working for their up liftment. To achieve this task we need to work on various fronts. Some important ways by which this can be done are:

a) By providing education for women, free education for girl child in rural and remote areas.

b) By creating health care facilities for women, especially in rural areas.

c) By creating mass awareness towards their rights and entitlements. Also women should be made aware about the laws, legal provisions and judiciary and how to seek help from them.
d) By encouraging their political participation at various levels in administration, for example in Panchayat Raj Institutions and Municipal Corporations. They should be given reservation in the Parliament and the local governance process. 73rd (Panchayati Raj) and 74th (the Municipalities Act for Urban local Government) Constitutional Amendments are crucial in this direction.

e) The state and government should make gender sensitive laws and policies.

f) The law and legal and judicial procedures should be revised with changing time and should be made more women friendly.

g) One of the most urgent needs is to change the mindset of people and the society. This requires commitment and will happen gradually if we work for it.

The aim is to generate confidence, self esteem and skills to fight the unequal power structure in the society. Efforts should be directed to create enabling environment that can allow women to participate equally in decision making process at all levels. There should be support network to provide access to information about laws, policies, institutions and structure that regulate their life. The Indian government is obligated under CEDAW to work to remove traditional practices which subordinate women. The government should prioritise women’s rights. It should ensure that women are treated fairly with respect during legal proceedings.

Check Your Progress 2

1) Specify fundamental rights granted by the Indian Constitution that guarantee equal rights to women.

2) Mention Instruments of international human rights mechanism.

3) What are the significant mechanisms for implementation of human rights of women?
4) Name some women's organization working for women's cause.

5.5 DIFFERENT FORMS OF VIOLATION OF RIGHTS OF WOMEN

5.5.1 Gender Discriminations and Inequalities

There are various forms of discriminations experienced by women. Most common of them are malnutrition, poor health, lack of education, overwork, mistreatment etc. Malnutrition and poor health results in anaemia in women. This complicates child bearing and results in maternal and infant deaths. India has high female mortality rate. Women get less health care facility than men. Women lack power to decide about their marriage. Daughters are seen as liability. They are very often married off in childhood.

There are various cultural and traditional discriminations existing against women. A male child gets better education and opportunities of growth compared to a girl child. Very few female receive higher and technical education. Parents show reluctance in educating their daughters as it brings no return to them. Besides, common prevailing view is that the main responsibility of women is to produce offspring and take care of her family. Women constitute highest percentage of unskilled work force primarily engaged in agriculture. Most of women's labour is unrecognized. Women get fewer wages compared to men workers, even when they work equally. Many times women workers work for longer hours. If various activities of the household like maintenance of kitchen gardens and poultry, grinding food grains, collecting water and firewood, etc are taken into account then most of women's labour can be considered economically productive.

Globalization, new economic policies and new technologies have negative impact on women. There is shift from subsistence to market economy. New technologies and mechanization of agriculture have lead to marginalization and displacement of women workers by men workers. There have been huge cuts on subsidies earlier given on fertilizers, pesticides, electricity for irrigation etc. There is commercialization of agriculture focusing only on cash crops rather than staple food grains. These all changes affect women the most as they are primarily seen as responsible for providing food to the family. Sad part is that the government is removing some welfare provisions for women and girl child under the influence of globalization. We must understand the helplessness of women who constitute subaltern section of the society. They need assistance and opportunities for empowerment and growth. Government should launch programmes and create opportunities for women.

5.5.2 Crimes against Women

There has been atrocities and rampant violence against women in all aspects of life. Violence against women includes rape, molestation, kidnapping, dowry-death, torture,
female feticide and female infanticide, sexual harassment, custodial rape and death, witch hunting, female sexual slavery, etc. Victims of rape have to bear stigma, without any fault of theirs. Their testimonies are not treated with serious concern. There exist hostile social attitude towards rape victims. As a result very few victims dare to report the matter and seek the help of judiciary. The investigations are often inadequate and lack of will to prosecute the guilty. There is trafficking of women and girl children for forced prostitution and sex trade. The preference for male child leads to female feticide and female infanticide. It is a positive initiative from the government that the pregnancy screening to detect the sex of the unborn child has been banned in our country. This has been done to check female feticide and improve the declining sex ratio of women and men. Still many couples carry out sex selective abortions in secretive ways. Dowry system has been one of the major culprit responsible for subordination and deaths of numerous women. The cultural practice of dowry has resulted in degeneration of women’s position in the society. Many times when the dowry demands of the groom’s side is not fulfilled; the bride is tortured and murdered. Ironically, such brutal murders are often not taken seriously by the system. Convictions are rare and offenders often go scot-free. Another example of violence against women is ‘hate crime’ or ‘honour killing’ in which women are killed when they try to defy patriarchal norms of the society. Such killings are often carried out by the family members or by the community to which she belongs when a woman tries to marry and live by her own choice.

Women are also victim of oppressive personal law (the laws governing marriage, divorce, maintenance and succession etc). Personal laws of different religious communities discriminate against women. Most of their provisions favour men. It puts men in the seat of authority and control. Under the Indian Divorce Act of 1869, there are different grounds of divorce for men and women. A Christian woman may demand divorce in case of spousal abuse and certain categories of adultery. However a Christian man can demand divorce on grounds of adultery alone. Under Islamic law, Muslim husband can divorce his wife unilaterally.

Domestic violence affects the mental health of women. It causes low self esteem, anxiety and fear disabling them from engagement in public life. Women’s groups generate support and solution for the women victims by various methods like legal protection, counselling and advice. There is rampant violence against women that exist in all spheres of their life in different forms. Women become the worst victims of caste and communal riots.

Check Your Progress 3

1) Indicate few discriminations experienced by women in their lives.

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2) Do you think that there has been increase in violence and crimes against women?

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3) Mention some gender specific crimes.

4) What are the negative affects of globalization on women?

5.6 LET US SUM UP

In this unit we have read that women in India, as in most countries of the world, have remained marginalized and discriminated. Even after recognition of the concept of Human Rights by the International Community, generally women’s rights had not been classified as human rights. Of late there is trend towards recognition of women’s rights. In India women’s rights are recognized in the Constitution of India. Thereafter women have been provided equality and empowerment through various laws and policies. It is now well accepted that a better society can be created when men and women are treated equally. Women should be empowered to enjoy their rights and claims. In order to create democratic and just society, we need change in mindset of the society. No healthy and democratic society can grow by depriving women from their due. Therefore it is important to strengthen our legal and judicial system. There is need of gender sensitive policies. It will enable women to fight for and acquire equal status. Gender awareness programmes need to be developed for men and women. All forms of violence against women should be recognized as violation of human rights of women that should be seriously taken care of.

However, to achieve this task we need serious commitment and joint efforts of all including the government, women’s organizations, NGOs, and the whole society. The state and the society have to work hard to mitigate the gross injustice done to the women in all ages. There is need of a vision and moral and political commitment on part of each of us to achieve the aim of gender justice.

5.7 KEY WORDS AND PHRASES

**Patriarchy**
- It refers to the system in society and family in which the eldest male member is the head of the family. There is strong preference for male off-spring in the family. Women experience unequal and inferior treatment in patriarchal societies.

**Offspring**
- son or daughter.

**Inalienable**
- which cannot be separated or detached.

**Female Feticide**
- Killing of female fetus in the womb.
Female Infanticide : Killing of Female infants.

Custodial Rape : Rape committed by the police of the women victims in custody.

Witch-hunting : An evil practice still practiced in many villages in which elderly women are declared witch and are often killed brutally by the villagers.

Degeneration : Decline, deterioration.

5.8 ANSWERS TO CHECK YOUR PROGRESS EXERCISES

Check Your Progress 1

1. Rights are most crucial for self dignity, autonomy and complete development of women.

2. Patriarchy is a system in which the head of the family is the eldest male member who takes important decisions about the family. It is based on the assumption of superiority of male and inferiority of female. It denotes unequal rights and status to men and women.

3. Important political rights are rights to vote, contest election, campaign, form association etc. Civil rights are constituted by right to life, liberty, equality etc.

4. Patriarchy, unequal status of women, violence and crimes against women are the hurdles in way of realizing these rights.

Check Your Progress 2

1. Right to Equality, right to liberty, right against exploitation, right to religion etc.

2. United Nations Organization along with its documents like UDHR and CEDAW, Regional Human Rights Conventions etc.

3. The Constitution, the law, organizations like National Commission of Women, NGOs, UN and its documents like UDHR and CEDAW, Regional arrangements for human rights, etc.

4. SEWA (Self Employed Women’s Association), AIDWA (All India Democratic Women’s Association), kali for Women, Saheli, Jagori etc.

Check Your Progress 3

1. Malnutrition, poor health, lack of education, overwork, mistreatment, lack of equal opportunities etc.

2. Yes, there has been constant increase in violence and crimes against women which is reflected by the reports by print and visual media.

3. Dowry deaths, molestations, sexual harassment, rape, child marriage, forced prostitution etc.

4. Displacement of women workers by men workers, commercialization of the market, shift from subsistence to market economy, withdrawal of subsidies and welfare measures etc.