



## **An Evaluative Study of Woman rights and Gender Equality In Kashmir**

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### **ABSTRACT**

Women's rights are the fundamental human rights that were enshrined by the United Nations for every human being on the planet nearly 70 years ago. These rights include the right to live free from violence, slavery, and discrimination; to be educated; to own property; to vote; and to earn a fair and equal wage. As the now-famous saying goes, "women's rights are human rights." That is to say, women are entitled to all of these rights. Yet almost everywhere around the world, women and girls are still denied them, often simply because of their gender. Winning rights for women is about more than giving opportunities to any individual woman or girl; it is also about changing how countries and communities work. It involves changing laws and policies, winning hearts and minds, and investing in strong women's organizations and movements. Global Fund for Women exists to support the tireless and courageous efforts of women's groups who work every day to win rights for women and girls. These groups are working to ensure women can own property, vote, run for office, get paid fair wages, and live free from violence – including domestic violence, sexual assault, and harmful practices such as female genital mutilation.

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### **Keywords:**

*Women Rights,  
Gender Equality,  
Freedom to Women,  
Empowerment*

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## **Introduction**

Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values. Women around the world nevertheless regularly suffer violations of their human rights throughout their lives, and realizing women's human rights has not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are denied equality so as to develop appropriate strategies to eliminate such discrimination. The term gender equality, as used in the Action Plan, implies equal rights and opportunities regardless of gender. It involves changing how the sexes relate to each other and bringing about a redistribution of power, resources and caregiver responsibilities between men and women. It means mutual respect, and freedom from gender-based violence and harassment. Gender equality is contingent on the realization of women's sexual and reproductive rights, including respect for women's freedom of choice and self-determination. Gender equality is based on respect for human rights and the inherent value of all individuals regardless of gender, social or ethnic background, including

indigenous status, religion and belief, disability, age and sexual orientation. The United Nations has a long history of addressing women's human rights and much progress has been made in securing women's rights across the world in recent decades. However, important gaps remain and women's realities are constantly changing, with new manifestations of discrimination against them regularly emerging. Some groups of women face additional forms of discrimination based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socioeconomic status, among other grounds. These intersecting forms of discrimination must be taken into account when developing measures and responses to combat discrimination against women. Despite great strides made by the international women's rights movement over many years, women and girls around the world are still married as children or trafficked into forced labor and sex slavery. They are refused access to education and political participation, and some are trapped in conflicts where rape is perpetrated as a weapon of war. Around the world, deaths related to pregnancy and childbirth are needlessly high, and women are prevented from making deeply personal choices in their private lives. Human Rights



Watch is working toward the realization of women's empowerment and gender equality—protecting the rights and improving the lives of women and girls on the ground. Women's rights are the fundamental human rights that were enshrined by the United Nations for every human being on the planet nearly 70 years ago. These rights include the right to live free from violence, slavery, and discrimination; to be educated; to own property; to vote; and to earn a fair and equal wage. As the now-famous saying goes, “women's rights are human rights.” That is to say, women are entitled to all of these rights. Yet almost everywhere around the world, women and girls are still denied them, often simply because of their gender. Winning rights for women is about more than giving opportunities to any individual woman or girl; it is also about changing how countries and communities work. It involves changing laws and policies, winning hearts and minds, and investing in strong women's organizations and movements. Global Fund for Women exists to support the tireless and courageous efforts of women's groups who work every day to win rights for women and girls. These groups are working to ensure women can own property, vote, run for office, get paid fair wages, and live free from violence – including domestic violence, sexual assault, and harmful

practices such as female genital mutilation. We want every woman and girl to realize the rights that are enshrined in the universal declaration of women rights. We also stand for other rights that are vital for women's equality. We stand for a woman's right to decide if and when she has children, and to have high-quality health care that means she won't die in pregnancy or during childbirth. We know female genital mutilation is a violation of girls' rights, and must be eliminated. And we stand for the right of every woman to live equally and free from discrimination, no matter her sexuality or identity. We support two critical documents for women's rights that have followed the UN declaration. an international bill of rights for women, requires governments to end gender discrimination and affirms women's rights to health services, including family planning. The Beijing declaration and platform for action, adopted in 1995 at the UN's Fourth World Conference in Beijing, was a rallying cry to embed gender equality and women's rights in every facet of life. In 1948, the Universal Declaration of Human Rights was adopted. It, too, proclaimed the equal entitlements of women and men to the rights contained in it, “without distinction of any kind, such as sex,” In drafting the Declaration, there was considerable discussion about the use of the

term “all men” rather than a gender-neutral term.<sup>1</sup> The Declaration was eventually adopted using the terms “all human beings” and “everyone” in order to leave no doubt that the Universal Declaration was intended for everyone, men and women alike.

### **Statement Of The Problem**

The problem under investigation reads as under: “women rights and gender equality”.

### **Objectives of the study**

- a) To consider the rights of the women in context of Independent India.
- b) Factors responsible which became the hurdles to attain women rights.
- c) To find out ways and means to equal access of women Rights in India.

### **Methodology**

Philosophical method, according to Passmore (1967) is not exclusively employed by philosophers only. Every man utilizes philosophical method in his thinking on philosophical problems. However, the philosophical method is mainly utilized by the philosophers. The philosophical method is not absolutely different from scientific method because every method has its own procedure to investigate truth. There seems to be as many

philosophical methods as there are different philosophies. Philosophical method is multi-sided. Though the philosophers have sometimes emphasized on this or that method exclusively, yet all the methods have been found to be useful in philosophical thinking. A researcher in the area of educational philosophy aims at analysis of the meaning and nature of different kinds of educational practices. The researcher identifies appropriate norms and standards

Achieving equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and United Nations values. Women all over the world, however, commonly experience violations of their human rights throughout their lives, and human rights of women has not always been a priority. Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are deprived of equality so as to develop appropriate strategies and norms to eliminate such discrimination. Some groups of women experience additional forms of discrimination, based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socio-economic status. These

interconnecting forms of discrimination must be taken into account when formulating measures and responses to combat discrimination against women (Women's Rights are Human Rights, 2014). Combating against discriminatory treatments is essential for the progress of women. Besides these, one should give priority to the rights of women and promote their effective implementation.

Women have an important role to play in the society. They are regarded as primary sources that raise and nurture the family. In spite the fact that the women's contribution to the progress of the country is equal to that of their male counterpart, still they experience a number of limitations that restrict them from realizing their potential for growth. It was against this perspective that the governments all over the world, felt the need to prioritize the needs and interests of women and recognize their contribution in various stages and overcoming impediments that would take place within the course of their empowerment. The term, women's empowerment implies the capacity of the women in taking all the important decisions on an independent basis that are related to her, throughout her life span that will lead to her success in all phases of life (Saryal, 2014).

**Violations of Women's Rights:** Missing of Women and Girls—In many developing countries, the idiom of “missing women” has been used, when it was found, the proportion of women as compared to men is low in population. In many states of India, women and girls go missing. One of the primary reasons that lead to their missing is trafficking. When girls are trafficked, they are severely exploited and are deprived of food and other basic necessities. The girls belonging to the poverty-stricken families are sold by the brokers to men in northern India, where the problem of imbalanced gender ratio is much apparent. Besides, there have been cases of women, who go missing from their marital homes. The occurrence of violent and criminal acts against women within the house and outside, primarily lead to their absence.<sup>2</sup> Dowry Deaths —In India, there has been an increase in the dowry deaths of women in their matrimonial homes. Disputes relating to dowry have become a serious problem. The National Crime Records Bureau reported, in 2012, around 8233 newlywed women were killed for dowry. The taking and giving of dowry is observed as a crime within the country. The Dowry Prohibition Act' has not been put into operation in India in an appropriate manner. It has been discovered that mostly number of states neither

have a Dowry Prohibition Officers nor do they made it mandatory to keep the record of things given and received.3. Domestic Violence – There has been prevalence of domestic violence in India, in spite of the Protection of Women from Domestic Violence Act, 2005. Domestic violence is, when a woman experiences violent and criminal acts at the hands of their husbands, in-laws, fathers, brothers or other family members. These include verbal abuse, physical abuse, and inflicting various forms of mistreatment. There are numerous reasons for women experiencing domestic violence within their marital homes, these are inability to carry out the household tasks in an appropriate manner, financial problems, desire for a male child, unawareness and illiteracy on the part of women, experiencing problems in meeting essential needs and requirements, health problems and feelings of antagonism and resentment.4. Sati – Sati is a practice, when the widows were placed in the funeral pyres of their husbands. This practice was abolished by the social reformer Raja Ram Mohan Roy. It continues to prevail in the post-colonial India. The Sati Prevention Act was passed which declared the practice of Sati as a crime for which death penalty can also be given to the perpetrators. The act also declared that the veneration of Sati by erecting

a temple and worshipping of the deceased women as a God is also prohibited. However, certain sections of individuals perceive this law as intervention in their right to practice the dictates of their religion.5. Child Marriage – Child marriage is when the marriage of girls takes place, when they are below 18 years of age and when boys are below 21 years of age. Child marriage is regarded as a practice that deprives the girls of their childhood. They experience problems in the acquisition of education, getting enrolled in school, taking pleasure in other childhood activities and in enhancing their skills and abilities. It also effects the social, psychological and emotional development of the child in a negative way. When girl children experience domestic violence within their marital homes, they feel vulnerable and apprehensive. Child Marriage Act 2006 prohibits child marriage and declares 18 as the marriageable age for girls and 21 for boys.6. Preference for a Male Child – The individuals, who belong to rural communities and socio-economically backward sections of the society, normally give preference to the male child. They regard males to be the assets of the family and possess the viewpoint that they will contribute in generating welfare and enhancing reputation of their families. The preference for the male child is a phenomenon,



which is historically rooted in the patriarchal system of the Indian society. The strong preference for having a son, took place with the transformation of the Indian society from the primitive stage, which used to be mainly a matrilineal to feudal stage, where agriculture emerged as the primary recognized occupation of the people to be controlled by males.<sup>7</sup> Female Feticide and Female Infanticide – Female feticide is referred to the killing of the girl child, before she is born and female infanticide is killing of the girl child, after she is born. These practices, deny the basic right from the girl child, i.e. the right to live. There have been communities of individuals, who have a strong preference for the male children. They possessed this viewpoint that families with male children were seen with pride, when they have control over the larger part of land. They regarded females as liabilities, who would not generate any wealth for their families.<sup>8</sup> Societal Violence against Women - The communities and the societies in India in most of the places are bound up with the patriarchal normative structure. In these types of societies, it becomes difficult for women to establish their position and obtain justice. The religious communities, village communities or the artificial communities like professional bodies are barely epitome of equality between

men and women. Quite often the religious communities have made the life of women miserable by forcing them to adopt conservative practices that would lead to negative effects. With the prevalence of societal violence, women usually get confined within their homes and become isolated from the outside world. They are required to curb their communications with the members of the society.

### **Fundamental Rights to Uplift the Status of Women**

The Articles under Part III of the constitution of India, relating to the Fundamental Rights which try to improve the status of women and provide equal opportunities for them are stated as follows: (Chapter III, n.d.).

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. Article 15 of the Constitution of India

deals with prohibition against discrimination - It prohibits the state to make any types of discrimination against any citizen including women on grounds of race, caste, gender, ethnicity, religion, place of birth and socio-economic background. It states that all citizens are entitled to enjoy equal rights regarding access to shops, hotels, restaurants, banks, infrastructure, public places etc. But the state has the right to make any special provisions for women and children and also for, scheduled castes, scheduled tribes and other backward classes.

According to Article 16 of the Constitution of India - All citizens including, women will enjoy equality of opportunity in matters of public employment, irrespective of their gender, races, castes, ethnicity, religions and socio-economic backgrounds. There are certain exceptions, i.e. Parliament may prescribe by law that residence within the state is required for a particular employment. The State is empowered to reserve certain posts for backward classes and also for the scheduled castes and scheduled tribes and appointment in connection with a religious organization may be reserved for persons belonging to that religion. As per Article 17 of the Constitution of India- The System of untouchability is

eliminated and Untouchability (offence) Act of 1955 was enacted by the parliament. This Act was amended by Untouchability (offence) Amendment Act 1976, to make the law more stringent to remove untouchability from the society. According to Article 19 of the Constitution of India, every citizen including women have the right to freedom of speech and expression, to assemble peacefully and without arms, to form unions or associations, to move freely throughout the country, to reside or settle down in any part of the country and to practice any profession or to carry on any lawful trade or business in accordance to one's own aspirations. As per Article 21 of the Constitution of India - No person shall be deprived of life or personal liberty, except according to the procedure established by law. This right to life, includes right to live with dignity, right to privacy etc. Domestic violence against women is also derogatory to Article 21 of the Indian Constitution, because it weakens the self-respect and dignity of women, who are victims. According to Article 21A of the Constitution of India -The State shall provide free and compulsory education to all children, who are between the ages of six to fourteen years in a manner, as the state may determine by law.





To provide facility to the women accused - As per Article 20 of the Constitution of India, no person including women shall be convicted of any offence except for violation of a law and any person shall not be prosecuted and punished for the same offence more than once. Any person should not be accused of any offence; he or she shall be compelled to be a witness against himself or herself. To prevent immoral trafficking in women and girl child Article 23 of the Constitution of India - Prohibits the traffic in human beings and forced labor. In pursuance of this Article, Parliament has passed the Suppression of Immoral Trafficking in women and Girls Act, 1956, which is now renamed as the immoral Trafficking (Prevention) Act 1956, for punishing the actions, which result in trafficking inhuman beings. To prohibit child labor, especially girl child as per Article 24 of the Constitution of India- Employment of children, below the age of fourteen years in factory or mine or engaged in any other hazardous employment is prohibited. Under Article 25 of the Constitution of India - All persons including women are equally entitled to freedom of conscience and the right of freedom to profess, practices, and propagate religion.

Since women constitute half the world's population and are entitled to all human rights on an equal basis with men, this publication does not aim to cover every human rights issue which touches women's lives. The focus here is on: public and political life, sexual and reproductive health and rights, the right to an adequate standard of living, violence against women, migration, conflict and crisis, and access to justice. Across all of these, education and the family context are particularly pertinent and are addressed throughout. The right to education is recognized in the International Covenant on Economic, Social and Cultural Rights (art. 13), the Convention on the Rights of the Child (art. 28), the Convention on the Elimination of All Forms of Discrimination against Women (art. 10) and the Convention on the Rights of Persons with Disabilities (art. 24). Besides calling for non-discrimination in the enjoyment of the right to education and free universal primary education, human rights law also requires States to address the particular obstacles that girls and women face in accessing education, such as early marriages, pregnancies, child labour and violence. The needs of girls suffering from multiple forms of discrimination—e.g., with disabilities, from poor or rural areas and belonging to minority communities—should also be considered.



Ensuring equality in education requires financial resources as well as continued awareness-raising about the importance of girls' education. The right to equality between men and women in marriage and family life is also recognized in various human rights instruments, including the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights, the Convention on the Elimination of All Forms of Discrimination against Women, the Convention on the Nationality of Married Women, and the Convention on Consent to Marriage, Minimum Age for Marriage and Registration of Marriages. Women nevertheless lag behind men in the enjoyment of rights related to the private sphere. In many countries, women are forced to enter marriage, they do not enjoy the same rights with regard to guardianship and adoption, they are not allowed to transfer their nationality to their children and husbands, and they do not have equal legal capacity. The Convention on the Elimination of All Forms of Discrimination against Women requires State parties to take "all appropriate measures to eliminate discrimination against women in all matters relating to marriage and family relations" (art. 16). This includes ensuring the same right to enter into marriage with free and full consent and to freely choose a spouse, the

same rights and responsibilities during marriage and its dissolution and with respect to their children, and the same personal rights as husband and wife, such as the right to choose a family name, a profession and an occupation. Rights related to access to property and sexual and reproductive health, which will be examined separately in this chapter, are also covered by this provision. In its general recommendation No. 21 (1994) on equality in marriage and family relations, the Committee on the Elimination of Discrimination against Women called on States to resolutely discourage any notions of inequality of women and men in the private sphere which are affirmed by law, religion or custom. The Committee also noted that States should prohibit polygamous marriages as they contravene a woman's right to equality with men and can have serious emotional and financial consequences for her and her dependents.

**i) Women Rights In Public And Political Life:**

Historically, women have been excluded from political life and decision-making processes. Women's campaigns for participation in the public and political arena date back to the

nineteenth and twentieth century have and continue today. At the time of the First World War, few parliamentary democracies recognized women's right to vote. In 1945, when the United Nations was established, more than half of the 51 nations that ratified the Charter still did not allow women to vote or gave them only restricted voting rights.<sup>23</sup> According to the Universal Declaration of Human Rights, everyone has the right to take part in the government of his or her country. One of the first tasks of the Commission on the Status of Women was to write the 1952 Convention on the Political Rights of Women.<sup>24</sup> The Convention on the Elimination of All Forms of Discrimination against Women builds on previous conventions and its article 7 concerns women's access to decision-making in political and public life. Article 7 guarantees the right of women to vote in all elections and public referendums and to be eligible for election to all publicly elected bodies, the right to participate in the formulation of government policy and its implementation, to hold public office and perform all public functions at all levels of government, and the right to participate in non-governmental organizations (NGOs) or associations concerned with the public and political life of the country.

**ii) Sexual and Reproductive Health Rights:**

Reproductive health is defined in the Program of Action of the International Conference on Population and Development as "a state of complete physical, mental and social well-being and not merely the absence of disease or infirmity, in all matters relating to the reproductive system and to its functions and processes." In 2004, the Special Reporter on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health defined sexual health as a state of physical, emotional, mental and social well-being related to sexuality, not merely the absence of disease, dysfunction or infirmity (E/CN.4/2004/49). This definition is based on the recognition in the Programme of Action that the purpose of sexual health "is the enhancement of life and personal relations, and not merely counseling and care related to reproduction and sexually transmitted diseases."

The right to a safe and healthy pregnancy Complications during pregnancy and childbirth are a leading cause of death and disability among women of reproductive age in developing countries. There is no single cause

of death and disability for men between the ages of 15 and 44 that is close to the magnitude of maternal mortality.<sup>39</sup> The World Health Organization defines maternal death as the death of a woman while pregnant or within 42 days of termination of pregnancy, irrespective of the duration and site of the pregnancy, from any cause related to or aggravated by the pregnancy or its management, but not from accidental or incidental causes. Maternal morbidity is a condition outside of normal pregnancy, labour and childbirth that affects a woman's health during those times.

**iii) Women Right to An Adequate Standard Of Living:**

The International Covenant on Economic, Social and Cultural Rights mentions the right to adequate food, clothing and housing, and the continuous improvement of living conditions as part of the right to an adequate standard of living for oneself and one's family. Women's rights to land, property, food, water and sanitation, as well as work and social security, are intrinsically linked to the right to attain an adequate standard of living. All these rights are guaranteed under international human rights law, including the right to enjoy these rights on an equal basis with men, without

discrimination. Women's access to services, to education and to productive resources is paramount to the realization of the above-mentioned rights. Land, property, housing Rights to land, housing and property are essential to women's equality and well-being. Women's rights in, access to and control over land, housing and property are a determining factor in their living conditions especially in rural economies, essential to women and their children's daily survival, economic security and physical safety. Despite the importance of these rights for women and female-headed households, women still disproportionately lack security of tenure. This is often because property is registered in a man's name; the father, husband or brother. In the event of separation, divorce or widowhood, the man or his family often retains rights to the property or the land whereas the woman becomes homeless or will have to share the property with her in-laws without gaining control or rights over it. Access to land and housing is governed

**iv) Elimination of Violence Against Women:**

The Declaration on the Elimination of Violence against 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 occurring in public or in private life.” Since the beginning of the 1990s, violence against women has gained much attention in the human rights discourse. However, it took a long and persistent struggle by the women’s rights movement to persuade the international community to discuss violence against women as a human rights concern and recognize that gender-based violence is a serious violation of human rights of global importance which poses a threat to human development as well as international peace and security.

### **Conclusion**

Achieving equality between women and men requires a comprehensive understanding of the ways in which women experience discrimination and are denied equality so as to develop appropriate strategies to eliminate such discrimination. The term gender equality, as used in the Action Plan, implies equal rights and opportunities regardless of gender. It involves changing how the sexes relate to each other and bringing about a redistribution of power, resources and caregiver responsibilities

between men and women. It means mutual respect, and freedom from gender-based violence and harassment. Gender equality is contingent on the realization of women’s sexual and reproductive rights, including respect for women’s freedom of choice and self-determination. Gender equality is based on respect for human rights and the inherent value of all individuals regardless of gender, social or ethnic background, including indigenous status, religion and belief, disability, age and sexual orientation. The United Nations has a long history of addressing women’s human rights and much progress has been made in securing women’s rights across the world in recent decades. However, important gaps remain and women’s realities are constantly changing, with new manifestations of discrimination against them regularly emerging. Some groups of women face additional forms of discrimination based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socioeconomic status, among other grounds. These intersecting forms of discrimination must be taken into account when developing measures and responses to combat discrimination against women. The right to a safe and healthy pregnancy Complications during pregnancy and childbirth are a leading cause of death and disability

among women of reproductive age in developing countries. There is no single cause of death and disability for men between the ages of 15 and 44 that is close to the magnitude of maternal mortality.

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