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COMPARATIVE ANALYSIS OF CONSTITUTIONAL RIGHTS OF WOMEN IN INDIA, US, AND UK

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ABSTRACT

Not just in India but around the globe, the struggle for women's rights has been a long fight and one of the oldest ongoing struggles. Oppression against women has been omnipresent in all our societies for a long time. Our world has been a patriarchal society since its inception. Women are considered to be one of the most vulnerable sections of the society and hence are often subjected to abuse, violence or dominance. Therefore, the constitutional mechanism and the legislative framework of majority of the countries provide for specific provisions for safeguarding and protecting their rights. The study of comparative constitutional law helps in understanding the similarities and difference between constitutions of different countries. This helps in creating an ideal system that one may want to create in society. Through this research project, an effort is made to study and understand the different constitutional rights and other similar legal provisions granted to women in India, UK and USA. The researcher has also tried to make a comparison between them.

INTRODUCTION

“I measure the progress of a community by the degree of progress which women have achieved”

- B.R. Ambedkar

Women's rights are nothing more than human rights. Human rights are the most basic rights that every person deserves. These rights are not something that is given via the laws, but they exist even in absence of any law. Laws are merely recognizing their existence. Hence, not

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guaranteeing human rights to any person is a serious problem. When we talk about women's rights, it is necessary to understand that men have deliberately not recognized and protected the human rights of women. Men who gained the most from the patriarchal society have systematically denied these rights to women. And to come at par with their male counterparts in relation to the rights, women had to fight for a long time in history. But things have been changing slowly. Through constant fight and struggle, women have gained few rights and their struggle is going on to get the remaining rights.

Many countries have strived towards making specific provisions for constitutional rights of women, but there are still some distinct areas where the society and the law is yet to develop.

The announcement of Universal Declaration on Human Rights, making of constitutions, universal adult suffrage, right to education, and equality before the law are few major events in these struggles. In order to ensure equality between men and women, many countries have taken steps through conventions and programs supported by international organizations. The United Nations Development Fund for Women (1976)² was created to help the women financially in their empowerment; Convention on the Elimination of All Forms of Discrimination against Women which was adopted by UNGA in 1979³ is another international treaty to protect the women by exterminating discrimination against women across different countries. UK and India have signed and ratified it while US has not ratified it. The time period between 1976-85 was recognized as a “a decade for women” and has aided towards raising awareness about gender justice.

REVIEW OF LITERATURE

1. Ruth Bader Ginsburg, *Sexual Equality Under the Fourteenth and Equal Rights Amendments*, *WASHINGTON UNIVERSITY LAW REVIEW*, 1, (1979): The article provides various case laws that has guided the way to the recognition of the rights of women in the United States.

²*UNIFEM security on women, peace and security*, UN WOMEN, (Last visited: Nov 01, 2021). <https://www.unwomen.org/en/digital-library/publications/2010/1/unifem-resources-on-women-peace-and-security>

³*Convention on the Elimination of All Forms of Discrimination against Women*, UN WOMEN, (Last visited: Nov 1 2021) <https://www.un.org/womenwatch/daw/cedaw/>

2. *Gender Global Gap Report, 2021*, WORLD ECONOMIC FORUM: The report lays down a holistic comparison of the performance of almost all the countries of the world in the spheres of employment, education, sex ratio, sexual offenses, etc. that determines the overall performance of the nations concerning the upliftment of women
3. V.N Shukla, *Constitution of India*, EBC Publications (13th ed. 2016): To understand what the condition of women's rights is in India; one must need to read and understand the constitution of India. The document is the living soul of the nation's law and demands. This book is one of the most reliable and respected book in the field of Constitutional Law.
4. N. Subasini, *INDIAN CONSTITUTION AND WOMEN LEGAL RIGHTS: A CONGLOMERATE ANALYSIS*: This article has been written by, a research scholar of the Algappa University, Tamil Nadu. The article does an in-depth discussion of the laws of India. The article covers nearly all the laws that affect women's rights in the nation.
5. Akhil Reed Amar, *Women and the Constitution*: This research paper has been written by a professor of Yale University. The paper divides US history into various parts and discusses the condition of women's rights and women in every period.

RESEARCH OBJECTIVES

The main objective of this research project is to study and analyze the condition of women's rights in India, the United Kingdom, and the United States of America. This is aimed to be done by comparing their constitution and other such legal provisions. The researcher has also tried to ascertain the best feasible solution for the problems.

RESEARCH QUESTIONS

1. What are the Constitutional and other legal protections granted to the women in India, US and UK?
2. Comparative analysis of the development of women rights in all three countries.

RESEARCH METHODOLOGY

This research project has been made as a theoretical analysis of the condition of women's rights in three major nations of the world. The researcher has used the doctrinal method to complete it.

The research project is based on various secondary data sources. This paper is a qualitative research paper that is based on the material from various articles, books, journals, and other contributions of eminent authors.

INDIAN CONSTITUTION AND THE STRUGGLE OF WOMEN RIGHTS

Indian history is the culmination of various societies and cultures evolving around the geographical boundaries of the present-day nation. Women have been oppressed even in the past and are being oppressed in the present time. Manusmriti, which is said to be the first lawbook of Hindus has laws that are discriminatory against women. The lawbook classifies women as a merely sexual distraction at places and states that “*It is the very nature of women to corrupt men here on earth; for that reason, circumspect men do not get careless and wanton among wanton women*”⁴. There were religious rites like sati which were backed by religious sanctions. Similarly, the introduction of Islam and Christianity in India added to the deteriorating condition of women's rights. But the fight against these oppressive laws is not new. Raja Ram Mohan Roy, a social reformist fought against the atrocious practice of Sati and it was abolished in 1829. Ishwar Chandra Vidyasagar’s movement contributed in passing of the Widow Remarriage Act, 1856. There were many others who took up the fight for women’s rights in political and social areas, like Mahatma Gandhi, Annie Besant, Swami Vivekanand, and Swami Dayanand Saraswati among others. Women have given their lives and worked towards making a better society for a long time. One of the earliest women who took on herself to change society was SavitribaiPhule, also known as ‘Savitrimai’. She is credited with being the first to open a women's school in India. She opened a school for girls in 1848. She was accompanied by the Fatima Sheikh on this mission. Soon after this, a Hunter Commission was formed in the year 1881. The commission talked about the need of investing in women's education in India. It was in 1861 when India got its first female graduate in the form of Kadmbini Ganguly⁵.

⁴ Kavita Krishnan, “*One cannot be a feminist in India if you are not fighting the Manusmriti*”, The Indian Express (Last visited: Oct 23,2021), <https://indianexpress.com/article/opinion/columns/periyar-and-feminism-manusmriti-on-women-manu-dharma-feminism-6887237/>

⁵ Jovita Arhana, “*The Phenomenal Story of Kadambini: One of India’s First Women Graduates & Doctors*”, The Better India, (Last visited: Oct 23, 2021),<https://www.thebetterindia.com/113789/kadambini-ganguly-one-of-indias-first-women-graduates-doctors/>

On the midnight of 15th August 1947, India made a tryst with destiny and we were finally a free nation. Since the advent of the nation, we were facing major challenges. Creating an equal society was one such thing that was in the mind of our founding fathers. And we did not fail in creating a society which we all had dreamt of. One may also look around the world to understand the conditions during which India, a new nation took birth. The world had just seen a world war. Amongst all the political aspiration and turmoil, India made its constitution. We took inspiration from all the good things in the various constitutions and created a living document. Below mentioned are some of the pivotal provisions mentioned in our Constitution which secures rights to women:

Fundamental Rights: It is the heart and soul of the Constitution which is included in part III of the constitution. The fundamental rights in some way took inspiration from human rights and the UDHR⁶. These can be defined as a negative obligation upon the government or states. Any violations of these rights can be addressed and challenged in the High court's and the Supreme Court.⁷

The constitution guarantees every citizen a right to equality before the law and equal protection of laws within the territory of the nation⁸. This section prohibits arbitrary differentiation amongst the citizens of the nation. Then there is article 15(1). This article guarantees that the state will not perform any discrimination based on religion, race, caste, sex, place of birth, or any of them. This article acts as the backbone of various legislations that are formed for women. Then the clause 3 of the same article talks about the power of the state to create legislation that is in favor of women and children. This clause⁹ gives the government an exception to article 15(1). Article 16 in the constitution guarantees every citizen equal opportunity in employment under any office of state and any discrimination based on sex is also prohibited. One of the most important parts of the Indian constitution is Article 21. It guarantees people the right to life and the right to personal liberty. Article 21 has been the most dynamic part of fundamental rights and has led to giving rise to various rights. Under this the article the women have right to live with dignity, autonomy and liberty.

⁶ Srinivasan, Rajamanickam, *The UDHR and the Indian Constitution A comparison* (Last visited: Oct 24, 2021), https://www.researchgate.net/publication/259976820_The_UDHR_and_the_Indian_Constitution_A_comparison

⁷ V.N Shukla, *Constitution of India*, EBC Publications (13th ed., 2016), P. 24-25

⁸ The Constitution of India, Art. 14

⁹ The Constitution of India, Art. 15(3)

Directive Principles of State Policy: DPSPs are considered as the positive obligations. However, the Directive Principles of State Policy are not enforceable by law. They are merely a guiding force or light for the state government. They are contained in part IV of the constitution. Some of these DPSPs talk about taking steps that will help in creating a society where men and women have equal rights.

The first article of this part is article 39(a). The article directs the state to formulate policies that will create an equal right for men and women to get an adequate means of livelihood. It also talks about the right to equal pay. There is another provision, Article 39A which provides for free legal aid to the poor and weaker sections of the society and also ensures justice for all. Article 42 talks about giving maternity benefits to women. One of the positive effects of this has been the making of the Maternity Benefit Act¹⁰. Article 46 requires the state to make laws for the weaker sections of the society and safeguard them against social injustice and all kinds of exploitation.

Another important provision worth mentioning is Article 243. This article lays down the rules for the formation of the Panchayat system. Panchayat was a step taken by the government to realize the dream of Gandhi Ji about the villages. Article 243D makes it compulsory to declare at least one-third of constituencies must be reserved for women in every panchayat election. Also, these constituencies have to be changed every year. The one-third seat reservation is also for the chairperson seats. Article 243T talks about the same thing but in the Municipality elections.

Other legislations: This brings an end to the Indian constitution and the provisions that are important for women's rights. But India has passed various legislations for the same purpose. Also, the judiciary has been proactively working towards empowering women. However, they need to improve their efforts. We have the Indian Penal Code¹¹ which has special provisions against rape¹², dowry death¹³, molestation¹⁴, kidnapping & abduction for different purposes¹⁵sexual harassment¹⁶.The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act¹⁷ acts as a shield for the women at their workplaces. India has

¹⁰Act No. 53 of 1961, India

¹¹ Act No. 45 of 1860, India

¹² Section 376 of The Indian Penal Code 1860

¹³ Section 304 B of The Indian Penal Code 1860

¹⁴ Section 354 of The Indian Penal Code 1860

¹⁵ Section 363-373 of The Indian Penal Code 1860

¹⁶ Section 509 of The Indian Penal Code 1860

¹⁷ Act No. 14 of 2013, India

also introduced the Medical Termination of Pregnancy Act¹⁸ giving them the right to get an abortion under specific conditions. The Protection of Women from Domestic Violence Act¹⁹ is there to provide protection to the women who face violence within the family. The Special Marriage Act²⁰, Hindu Marriage Act²¹, Hindu Succession Act²² includes various provisions for ensuring the equal rights of women. The parliament has also made laws regarding a ban on Child marriage and a ban on teen talaq.

ROLE OF JUDICIARY

Judiciary from time to time has stepped up to safeguard the rights of women in India. Judiciary acts as the custodian of the constitutional rights of the people and tries to impart justice to everyone. For changing the legal equality into a real one; judiciary plays a very crucial role.

One of the most important judgments is the **Vishakha v. State of Rajasthan**²³. This case dealt with the gruesome gang rape of one social worker in Rajasthan. The case gave certain guidelines to be followed in case of sexual harassment at the workplace. It took many years to convert the guidelines into an act. It was held that “sexual harassment was a clear violation of rights provided under Article 14, 19 and 21. The Indian court relied on CEDAW and laid down the historic Vishakha Guidelines and the Act which was passed is known as The Sexual Harassment of Women at Workplace (Prevention, Prohibition & Redressal) Act²⁴ which acts as the rescuer for working women.

In **Air India v. Nargesh Meerza**²⁵, an inclusive reading of Article 14 was done by the Supreme Court and it was decided that a person cannot be refused for employment on the basis of gender. Where Air India made it compulsory for the air hostesses to retire at the age of 35, it was held that such conditions were derogating the natural course of a female’s life and hence struck down on the basis of arbitrariness and abhorrence in a civilized society.

¹⁸ Act No. 34 of 1971, India

¹⁹ Act No. 43 of 2005, India

²⁰ Act No.43 of 1954, India

²¹ Act No. 25 of 1955, India

²² Act No. 30 of 1956, India

²³ AIR 1997 SC 3011

²⁴ Supra note 16

²⁵ 1981 AIR 1829

The **State of Tamil Nadu v. Suhas Katti**²⁶ case was the first case to involve a conviction for posting calumnious messages under IT Act, 2000. The accused posted the number of the victim with obscene messages on public platforms which led to the harassment of the women. The accused was held guilty and was penalized accordingly.

Another historic case was that of **State v. Ram Singh and others (Nirbhaya Rape case)**²⁷, the Supreme Court bench of three judges unanimously upheld the death penalty of all the accused who not only exploited victim's identity but her dignity too. The crime came under the purview of 'rarest of the rare' and is one of the nightmares our country has ever seen. It shook the conscience of the country. The judges observed, "*Public at large, in particular men, are to be sensitized on gender justice. The battle for gender justice can be won only with strict implementation of legislative provisions, sensitization of public, taking other pro-active steps at all levels for combating violence against women and ensuring widespread attitudinal changes and comprehensive change in the existing mind set. We hope that this incident will pave the way for the same.*"

Vineeta Sharma v. Rakesh Sharma²⁸, it was held that the woman had equal coparcenary rights as that of a man in the Hindu Undivided Family since their birth, irrespective of whether she was born before the Amendment Act of 2005 or after it.

In **The Secretary, Ministry of Defence v Babita Puniya & Ors.**²⁹, the right of permanent commission was granted to the women in army by the Supreme court and it was directed that she can hold commanding posts. This decision of SC brought the ranks, benefits, pensions and promotions of women at par with that of men.

Another such important judgment is that of the **Joseph Shine case**³⁰. The supreme court in-dept talked about the sexual autonomy of women in the nation. The case also highlighted that how society often considers that a woman is the property of a man. The case went into abolishing adultery as a crime. It was so because the provision was held to be arbitrary as it only considered the men as the victim and not the women if one reverses the fact.

²⁶ C.C.NO.4680/2004

²⁷ SC No. 114/2013

²⁸ AIR 2020 SC 3717.

²⁹ MANU/SC/0194/2020

³⁰ 2018 SC 1676

One cannot forget the case of **ShayaraBano v Union of India**³¹. The case is one of the most important cases in Indian history. The main issue in the case was that whether any religious practice can be struck down if it is arbitrary. The case led to evolving of the manifest arbitrariness. The court struck down the teen talaq, declaring it to be unconstitutional.

THE UNITED STATES OF AMERICA: CONSTITUTION AND WOMEN RIGHTS

The United States of America was formed by the signing of the proclamation of independence. From that to the making of the constitution, there were no women in the committee who made laws or policies. It was as if the nation and the laws were made by the white men of the USA, giving rights to white men of the USA. The constitution of the USA did not have provisions for equal rights of women for a long time. Though the **14th Amendment (1868)** included an Equal Protection clause, which provided for protection against discrimination on the basis of gender, it was not until 1970s, that this clause was applied by US Supreme Court in cases of sex discrimination. But things changed with the passing of the **Equal rights Amendment Act, 1972(ERA)**³². The amendment bought “equal protection of laws” for all the citizens of the United States of America. And the positive effect of this can be seen in the case of *Reed v Reed*³³. In this case, the court struck down the Idaho code as the same was discriminatory against women. And then two years later another important case happened. The ERA has still not been ratified by a large number of states and its deadline has ended long back. Once, Justice Scalia who was a judge in Supreme Court said that the constitution of the USA does not protect women from discrimination based on gender. The ERA if ratified by the states, will act as a guarantor of equal rights to women. This will help in reducing discrimination from various spheres of life.

The **19th Amendment (1920)** to the US constitution granted permanent voting rights under this. States were not allowed to deny any person the right to vote on the basis of gender.

But this is not the end of these rights. Several acts have played an important role in the fight for women's rights. The first one is **Title IX**. The full name of the act is the Education Amendments Act, 1972. It lays provisions that ban sex-based discrimination in the education programs that are

³¹ AIR 1985 SC 945

³²Alex Cohen, Wilfred, “*The Equal Rights Amendment Explained*”, Brennan center for Justice (Last visited: Oct 27, 2021), <https://www.brennancenter.org/our-work/research-reports/equal-rights-amendment-explained>

³³404 U.S. 71 (1971)

funded by the federal government. The school gets grants in order to respond to the issues involving sexual harassment.

Another important act which predates this act is the **Equal Pay Act, 1963**. This act made provisions to ensure that no sex-based discrimination is done in the pay given to workers. The employer will have to come forward and show the reasons behind any pay discrimination that may exist between different genders for the same position. **The Civil Rights Act, 1964** was introduced to prohibit any kind of discrimination in the areas of voting, education or use of public facilities on the grounds of race or sex.

Another important in this regard is the **Violence Against Women Act,1994**. After passing in 1994, it has been reauthorized multiple times in the years 2000,2005 and 2013. This act helps the victims of domestic violence. The punishment for rapists depends on various criteria including victim's age, pregnancy etc. 10 years of prison is the average sentence. One of the most appreciating fact is that Marital rape has been criminalized all over the US.

Prostitution is illegal in every state in the US except Nevada. It is punishable with fine and/or imprisonment. Female Genital Mutilation have also rendered as crime by passing of the legislations.

The Family and Medical Leave Act, 1993 grants an employee, whether male or female. 12 weeks of unpaid leave every year for maternity or child care.

Court has wide number of cases relating to **Reproductive Health**, like in *Roe v. Wade*³⁴, the court gave constitutional right to abortion to women. In *Griswold v. Connecticut*³⁵, *Planned Parenthood v. Casey*³⁶, it was held that reproductive autonomy and reproductive rights is important for women to participate in the society. The US Federal and State abortion laws were struck down.

THE UNITED KINGDOM'S CONSTITUTION AND WOMEN RIGHTS

³⁴ 410 U.S. 113 (1973).

³⁵ 381 U.S. 479 (1965).

³⁶ 505 U.S. 833 (1992).

The United Kingdom is currently considered a pioneer in women's rights and a haven for women. But the struggle for women's rights has been very difficult in the nation. The United nation has had a very complex legal system, which follows a monarchy along with a parliament.

The United Kingdom did not give voting rights to women till 1918. It was by the **Representation of People Act, 1918** that women above the age of 30 were allowed to vote. It was only by **The Representation of the People (Equal Franchise) Act, 1928** that this right to vote was given to all women above 21 years.

The struggle for paid work and education was also not an easy task. Women were not allowed to work in many fields and when they got jobs, they didn't get the salary properly. Several women kept fighting for equal rights for a long time in the United Kingdom. One such group of brave women opened the London School of Medicine for Women in 1874. The major turning points in the situation were the two world wars that Britain was a member of. Both the times, the number of men were on the battlefield and UK needed workforce to keep its economy strong. Apart from importing labor from the colonies, they started giving jobs to women and suddenly women were getting jobs in all the departments. By the time Britain entered the second world war, they had a special wing of all women spies. But women were not given equal rights and equal pay. It was in 1970 that **the Equal Pay Act** was passed by the parliament. This criminalized the act of paying less to women just because of their genders. In the year 1986, the UK parliament created the **Sex Discrimination Act, 1986**. This act helped in criminalizing all the other types of discrimination that women may face because of their gender.

In 1967, Great Britain legalized abortion. Abortions can be performed at any stage if a woman's life is to be saved. Two medical practitioners must agree that the pregnancy is not more than 24 weeks and that continuing it would put the women's or the child's life at risk. **The Employment Protection Act, 1975** has entitled the working women to seek maternity leave for 14 weeks. The men are entitled to 2 weeks of paternity leave introduced in 2003.

Domestic violence is dealt under **The Domestic Violence, Crimes and Victims Act, 2004**. This act has strived towards making the approach of judiciary and police more gender sensitive to the needs of victims in order to redress the problem of domestic violence. **The Sexual Offence Act, 2003** provides for rape as a statutory offence. A women can also be prosecuted for sexual assault unlike India. Maximum punishment for rape is life imprisonment. UK has made Marital rape a crime. It is one among the few progressed countries in this instance. The year 1917 marked a big

win for women in the UK. This was the first time that a woman from an Asian community got convicted of her husband for the case of marital rape³⁷.

Prostitution is legal but the related activities like keeping a brothel or soliciting at a public place are outlawed. **The Female Genital Mutilation 2003** makes the unreasonable and perverse tradition illegal.

The British are often credited with revolutionizing the education system in India and making education for all a reality. But back in their home, this was not the case. **Education Act** was passed in 1970. Women were first allowed to enter colleges in 1868 and it was in 1870 that Britain saw its first women graduate. British who has said that Indian were backward, were late to give a graduation degree. India's first women graduate passed from college in 1861. The Education Act of 1944 made education compulsory for all till the age of 16 years in UK.

COMPARISON OF WOMEN RIGHTS IN THE THREE NATIONS

All the three nations are in the present time are amongst the strongest nations. The United States of America and the United Kingdom, both the nations are amongst the considerably safer nation for women. Meanwhile, India is not considered to be that safe for women. But ironically, it is India that has made more space for women's rights in its constitution. The USA and the UK don't have specific provisions in their constitution. One must not forget that India has been independent for just 70 years, which is not a large time when we compare it to the UK and the USA. The USA has been independent for more than 150 years. Meanwhile, the UK was never a colony of other countries but was the main colonizer of the world. It is also a point of interest that it was only the Indian constitution drafting committee that had women in it. Both the other nations had only men working in the drafting committee and parliaments. Hence, we understand the benefits and need of having women politicians and lawmakers. UK and USA in terms of gender gap ranking are way ahead of India, which means that both the nation have less discrimination against women. India has fallen down 28 ranks in the year 2021, taking it to 140th rank out of the 156 ranks³⁸ and a score of 0.625. This is a dangerous trend and the government

³⁷Gupta, Rahila, "*From Homebreakers to Jailbreakers: Southhall Black Sisters London*" (2003)

³⁸ Press trust of India, "WEF's gender gap index: India slips 28 places, ranks 140 among 156 nations", Business Standard (Last visited: Oct 28, 2021), https://www.business-standard.com/article/current-affairs/wef-s-gender-gap-index-india-slips-28-places-ranks-140-among-156-nations-121040100015_1.html

must look at the same. In the same index United Kingdom has been ranked 23rd with a score of 0.775 and United States has been ranked on 30th position with a score of 0.763.³⁹

In UK, prostitution has been decriminalized and is a legal profession, though brothels have been declared illegal. In the US, only Nevada has decriminalized prostitution. Whether prostitution should be legalized or not is a completely different topic for discussion. But it is a fact that legalizing it helps in keeping control of sex trafficking and giving security to women. In India, prostitution is a criminal offense, though the matter is currently sub judice⁴⁰.

Another important aspect is the pay gap and work environment. US and UK have worked a lot on this aspect. Their acts have had a groundbreaking impact, though the nations have taken a very long time in making these changes. But when we talk about India, we must remember that we are relatively new and have done wonders in the field. But one might also say that our speed of working is very slow. It took more than 20 years to make a law based on the guidelines of SC in the Vishakha judgment. India has not seen a women CJI till now, meanwhile, the United States still waits for its first women president of the nation.

One more vital aspect is Abortion Laws. The abortion rights in India are stricter than those of US and UK. In UK, pregnancy can be terminated at any time in order to save the life of the women; to prevent any grave permanent injury on the physical or mental health of women; or to prevent the risk of the child being handicapped. In US, different laws are there in different states. The US SC declared that abortion was legal in 1973. The Right to Abortion is considered as sole right of women and as a part of her privacy after the case of Roe v. Wade. In India, The Medical Termination of Pregnancy Act, 1971 permits abortion in certain circumstances where physical and mental health of the women is in danger, in case of rape or incest or when there are abnormalities suffered by the child. The pregnancy can be terminated till 24 weeks (Amendment Act of 2020) and after that it is not allowed. The women do not have the right to abort according to her own wish and it is punishable under Section 312 of IPC, 1860.

Rape is considered as an atrocious offence in all the three nations and they provide stringent penalties to prevent the offence of rape. But Marital rape is considered as a crime only in US and UK, whereas, in case of India it is yet to be penalized.

³⁹*Global Gender Gap Report 2021* Insight Report March 2021, World Economic Forum, (Last visited: Oct 28, 2021), https://www3.weforum.org/docs/WEF_GGGR_2021.pdf

⁴⁰ *Sunita Tiwari v. Union of India* 2006 (2) MPLJ 218.

UK grants 52 weeks for maternity leave, 2 weeks for paternity leave. For initial 6 weeks the women are paid 90% of average weekly earnings and after that, from 7th-39th week at flat rate or 90% (whichever is less) and for 40-52 weeks they are unpaid. In US the Federal Law grants a women 12 weeks of unpaid Maternity leave. There is no provision for paternity leave. India grants 26 weeks of Maternity leave with 100% of payment to the women workers for the first 2 children, for the third one it is capped to 12 weeks. Thus, we can say that India is doing far better than many other countries in this aspect. Till now there is no provision for paternity leave.

CONCLUSION

The project has extensively discussed the constitution of the three nations and the major acts which deal with women's rights in these nations. After reading them with critical eyes, it is easy to say that all the nations have ensured the first -generation human rights at least on the papers. The ground reality is quite different and all these nations need to make changes in the supporting laws to improve the conditions. The first-generation human rights cover the most basic rights like the right to vote, equality before the law, right to education. All three countries via their constitution have ensured that the social and cultural rights of women are ensured. These set of rights are actually what constitute second-generation human rights. Again, all the nations have failed in ensuring these rights on the ground in the best way possible.

But if we read about the ground reality of all the three countries, India is very behind these nations. This is clear from the ranking of India in the gender gap rankings. The 28-rank slip is a very sad sign for our nation. One must remember that only making policies on paper is not enough, we need to ensure that they are implemented on the ground. Women's rights are not some sort of privilege, but they are also human rights.