



HUMAN RIGHTS AND THE POSITION OF WOMEN IN INDIAN SOCIETY

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Abstract

All human rights are women's rights. Women's rights are the rights and entitlements claimed for women and girls of many societies worldwide. The Universal Declaration of Human Rights, adopted in 1948, enshrines "the equal rights of men and women", and addressed both the equality and equity issues. Efficiently ensuring women's human rights requires a wide-ranging understanding of the fundamental societal structures and power relations that define and stimulate the ability of the women to enjoy human rights. These power structures have an impact on all aspects of life, from law and politics, to economic and social policy, family and community life, education, training, skill development and attainment of employment opportunities. Education, health employment and political power will empower the women and helps of protection of their human rights.

In the present paper we attempt to reflect the position of Indian women in relation to the human rights situations. We find that the human rights situation of women in India is disappointing in the sense that their basic rights are violated by the patriarchal structure and culture of Indian society and politics. We conclude that India's progressive development depends and its mission towards building up into a developed nation may be fulfilled on and with protecting human rights of men and women and we assume that it may be impossible to protect women human rights unless we save them from ongoing crimes and that the accessibility of women to their human rights within the four walls of the family has to be ensured first and only then we could think of a prosperous women in the new millennium.

Keywords: Women, Family, Empowerment, Rights, Violations, Education, Development

I.INTRODUCTION

India is a country where woman is held in high esteem. "Mathru Devobhava" is the Socio-cultural tenet that is accepted uniformly at all times in this country. During Vedic period women enjoyed a considerable amount of freedom and are treated as equal with men. But in the Post-Vedic period the status of women deteriorated. In the Smritic era, Manu accorded inferior status to women. The period that followed reduced women to an insignificant position. During the medieval period the position of women worsened. Muslim invasion brought the purdha system and seclusion of women. Girl child was taken as a liability leading to the practices of child marriage, prohibition of widow remarriage and sati. With the practice of polygamy, limited access to education, restricting women to household functions, child marriages, restriction of widows, sale of girls for marriages, etc. the status of women further deteriorated.¹

British rule in India brought about many changes affecting the status of women. Female education, social movements against the evils of sati system, prohibition of widow remarriage, and child marriages by great social reformers increased the status of women. In independent India women's movements were given due recognition leading to series of legislative and judicial steps to provide, protect and promote human rights of women.

As of 2019, some women have served in various senior official positions in the Indian government, including that of the President of India, the Prime Minister of India, the Speaker of the Lok Sabha. However, many women in India continue to face significant difficulties. The rates of malnutrition are exceptionally high among adolescent girls and pregnant and lactating

women in India, with repercussions for children's health. Violence against women, especially sexual violence, has been on the rise in India. The status of women in India is strongly connected to family relations. In India, the family is seen as crucially important, and in most of the country the family unit is patrilineal. Families are usually multi-generational, with the bride moving to live with the in-laws. Families are usually hierarchical, with the elders having authority over the younger generations, and men over women. The vast majority of marriages are monogamous (one husband and one wife), but both polygyny and polyandry in India have a tradition among some populations in India.

II.Tracing Women's Rights Violations in India

This segment sets out a range of areas of human rights abuse of women in India. Some of them are:

1. Acid throwing

A Thomas Reuters Foundation survey says that India is the fourth most dangerous place in the world for women to live in. Women belonging to any class, caste, creed or religion can be victims of this cruel form of violence and disfigurement, a premeditated crime intended to kill or maim permanently and act as a lesson to put a woman in her place. In India, acid attacks on women, who dared to refuse a man's proposal of marriage or asked for a divorce, are a form of revenge. Acid is cheap, easily available, and the quickest way to destroy a woman's life. The number of acid attacks has been rising.

2. Child marriage

Child marriage has been traditionally prevalent in India but is not so continued in Modern India to this day. According to UNICEF's "State of the World's Children-2009" report, 40% of the world's child marriages occur in India.

3. Domestic violence

Domestic violence in India is endemic. Around 70% of women in India are victims of domestic violence, according to Renuka Chowdhury, former Union minister for Women and Child Development. The National Crime Records Bureau reveal that a crime against a woman is committed every three minutes, a woman is raped every 29 minutes, a dowry death occurs every 77 minutes, and one case of cruelty committed by either the husband or relative of the husband occurs every nine minutes. This occurs despite the fact that women in India are legally protected from domestic abuse under the Protection of Women from Domestic Violence Act.

4. Dowry

In 1961, the Government of India passed the Dowry Prohibition Act, making dowry demands in wedding arrangements illegal. However, many cases of dowry-related domestic violence, suicides and murders have been reported. In the 1980s, numerous such cases were reported.

A 1997 report claimed that each year at least 5,000 women in India die dowry-related deaths, and at least a dozen die each day in 'kitchen fires' thought to be intentional. The term for this is "bride burning" and is criticised within India itself.

In 2011, the National Crime Records Bureau reported 8,618 dowry deaths. Unofficial estimates claim the figures are at least three times as high.

5. Female infanticide and sex-selective abortion

In India, the male-female sex ratio is skewed dramatically in favour of men, the main reason being the high number of women who die before reaching adulthood. Many experts suggest the higher number of men in India can be attributed to female infanticides and sex-selective abortions. The sex ratio is particularly bad in the north-western area of the country, particularly in Haryana and Jammu and Kashmir. Ultrasound scanning constitutes a major leap forward in providing for the care of mother and baby, and with scanners becoming portable, these advantages have spread to rural populations. However, ultrasound scans often reveal the sex of the baby, allowing pregnant women to decide to abort female foetuses and try again later for a male child. This practice is usually considered the main reason for the change in the ratio of male to female children being born. Female infanticide (killing of infant girls) is still prevalent in some rural areas. Sometimes this is infanticide by neglect, for example families may not spend money on critical medicines or withhold care from a sick girl.

6. Honor killings

Honor killings have been reported in northern regions of India, mainly in the Indian states of Punjab, Rajasthan, Haryana and Uttar Pradesh, as a result of the girl marrying without the family's acceptance, and sometimes for marrying outside her caste or religion. Haryana is notorious for incidents of honor killings, which have been described as "chillingly common in villages of Haryana".

7. Accusations of witchcraft

Violence against women related to accusations of witchcraft occurs in India, particularly in parts of Northern India. Belief in the supernatural among the Indian population is strong, and lynchings for witchcraft are reported by the media. In Assam and West Bengal between 2003 and 2008 there were around 750 deaths related to accusations of witchcraft. Officials in the state of Chhattisgarh reported in 2008 that at least 100 women are maltreated annually as suspected witches.

8. Rape

Rape in India has been described by Radha Kumar as one of India's most common crimes against women and by the UN's human-rights chief as a "national problem". While per-capita reported incidents are quite low compared to other countries, even developed countries, a new case is reported every 20 minutes. New Delhi has one of the highest rate of rape-reports among Indian cities. Sources show that rape cases in India have doubled between 1990 and 2008.

9. Sexual harassment

Eve teasing is a euphemism used for sexual harassment or molestation of women by men. Many activists blame the rising incidents of sexual harassment against women on the influence of "Western culture". Of the total number of crimes against women, half related to molestation and harassment in the workplace. In 1997, in a landmark judgment, the Supreme Court of India took a strong stand against sexual harassment of women in the workplace. The Court also laid down detailed guidelines for prevention and redressal of grievances. The National Commission for Women subsequently elaborated these guidelines into a Code of Conduct for employers. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act came into force in December 2013, to prevent harassment of women at workplace.

A study by Action Aid UK found that 80% of women in India had experienced sexual harassment ranging from unwanted comments, being groped or assaulted. Many incidents go unreported as the victims fear being shunned by their families.

10. Trafficking

The Immoral Traffic (Prevention) Act was passed in 1956. However many cases of trafficking of young girls and women have been reported.

III. Protection of Women's Human Rights by the Constitution of India

3.1 CONSTITUTIONAL RIGHTS

Women are provided with series of civil, political, social, economic and educational rights under the Indian Constitution. Article 14 provides for equality. Article 15(1) prohibits discrimination inter alia only on the basis of sex. Under Article 16(2), discrimination in respect of employment only on the basis of sex is not allowed. These provisions lay foundation for the legal equality of men and women in India.²In addition to providing equality, the Indian Constitution accords special status to women in certain areas. Thus, Article 15(3) enables the State to make special provisions for women. This is in recognition of the fact that women in India have been under subjugation for centuries and require special protection so as to empower them and make them effectively equal with men. Reservation for women in local self-governing bodies and other bodies, concessions in tax for women entrepreneurs, reservation in employments and educational institutions, etc. are based on this provision. The Directive Principles of State Policy laid down in Part-IV of the Constitution also provide some human rights to women. Article 39 provides three specific rights to women. Further Article 41 says that the State shall make effective provision for securing the right to work, to education and to public assistance in cases of unemployment, old age, sickness and disablement, and in other cases of undeserved want. Article 42 directs the State to secure just and humane conditions of work and for maternity relief. Article 43 asks the State to strive to provide living wages and a decent standard of life. Under the chapter on Fundamental Duties, Article 51-A (e) imposes the duty to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.

3.2 RIGHTS UNDER OTHER LAWS

The ideals of equality and dignity enshrined in the Constitution were sought to be realized by making series of laws and bringing amendments to the existing ones. Introducing monogamy strengthens the institution of marriage. But this has not been extended to the Muslims. Daughter, widow and mother were given the right to inherit property along with son under Hindu Succession Act. Under the Hindu Adoption and Maintenance Act, 1956, consent of wife for adoption of a child by married man, right to adopt a child by woman and the right to claim maintenance after separation are some of the additional measures taken to support the women. A woman is entitled to appoint a guardian at will under the Hindu Minority and Guardianship Act, 1956. Under the labour laws, women were given various rights such as right to minimum wages under the Minimum Wages Act, 1948; maternity leave and benefits under the Maternity Benefits Act, 1961; right not to be placed on night work and the work not suited to their health under the Factories Act, 1948; right to get equal pay under the Equal Remuneration Act, 1976. With the objective of protecting the women from sexual exploitation, separate laws such as Immoral Traffic Prevention Act, 1986 and Indecent Representation of Women Prevention Act, 1986 Dowry Prohibition Act, 1961 have been passed in addition to amending the criminal law making the punishment for sexual offences more severe.

IV. Present-day ISSUES

4.1 Pregnant Woman's Rights: Article 21 of the Constitution provides right to life and personal liberty. This also includes right to terminate pregnancy. Complexities arise when the fetus or unborn child is considered as a legal person and has life, for its expulsion involves violation of its right to life and liberty. M.T.P. Act, 1971 provides right to the pregnant woman to terminate her pregnancy on various grounds including protection of her health. However the courts have restricted the operation of this right by saying that in case of married women consent of husband is necessary. Sex determination tests, just to know the sex of the child in the womb, are banned under legislation. This is done to prevent the inhuman feticide of the female fetus. Tests are permitted only for knowing the health of the mother and the child. A duty is imposed on the doctors not to reveal the sex of the baby.

4.2 Sexual Harassment: The Supreme Court has laid down a new law in Vishaka v.State of Rajasthan regarding sexual harassment of women in work places. The definition of ‘Sexual Harassment’ as formulated by the court includes such unwelcome sexually determined behaviour whether directly or by implications as:

- A physical contact and advances;
- A demand or request for sexual favours;
- Sexually coloured remarks;
- Showing pornography;
- Any other unwelcome physical, verbal or non-verbal conduct of sexual nature.

The Supreme Court has imposed a duty on the employer or other responsible person in workplaces and institutions to prevent the commission of acts of sexual harassment and to provide the procedure for resolution, settlement or prosecution of the acts of sexual harassment by taking all steps required.

V. Strategies of Women’s Empowerment in India

The women in India are positioned at a receiving end primarily because they have remained ignorant of their fundamental civil and constitutional rights. Patriarchal system impinges on every sphere of a woman’s life. In such a situation often a majority of them are forced to accept the traditional practices that are detrimental for both their and their children’s development. Although women have acquired a level of financial and political autonomy and consciousness about their rights, yet they experience helplessness in bringing about basic changes for eliminating gender inequalities from the society³. The National Commission for Women have taken up the cudgels for women’s right and have vociferously demanded a separate criminal code for women and enhanced punishment for offences against women. The proposal for creating a separate criminal code for women was designed to provide quick justice to the aggrieved women and speed up the conviction rate. However, this proposal failed to garner support among the government and have been shelved. A multi-layered strategy need to be developed to assess the core causes of violence against women. The state and society must provide instantaneous support to victim-survivors to ensure that the victims can carry on with their daily life. In dealing with the problem of violence against women innovative levels of coordination and integration must be built up between government, civil society and the family. The idea of self reliant independent women taking independent decisions of her life can be achieved only by educating women that will help them in achieving economic independence, as well as knowledge and awareness about their rights. Special emphasis must be provided in educating women on the legal and Human rights provided to them by the constitution⁴. Police and Judiciary must be sensitized to handle the women related issues generously. The women's organizations must try to empower women by changing the attitudes of the society towards the harmful traditional practices. One of the most vital tasks of the various women organizations and NGOs is to help women in rebuilding their lives and confidence. These goals can be achieved only if the women are adequately educated about their legal rights and are economically independent enough to take independent decisions of their own life.

VI. CONCLUSION

Thus in short, the Millennium Development Goal on gender equality and women’s empowerment can be realised in India only when the traditional practices like female infanticide, dowry deaths, honour killings by khap panchayats, domestic violence, or sexual abuse is eliminated. It is only then that gender equality and women’s empowerment can become a reality.

Efforts are on across the globe to provide, protect and promote human rights for women. Several measures have been taken in India in this regard including the rights granted under the Constitution, criminal law, labour laws and other social welfare legislations. But the events like the Jammu & Kashmir Bill and the Supreme Court verdict in Christian Community case as well as the defects in the Domestic Violence Bill reflects the age-old male dominance.

The time to fight for their rights is not yet over for the women.

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