

“WOMEN’S RIGHTS IN INDIA: PROBLEMS AND PROSPECTS”

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Introduction

The 20th century has witnessed the upsurge of empowerment movement universally. The universal Declaration of Human Rights reaffirming faith in the fundamental human rights, in the dignity and worth of the human persons, and in the equal rights of men and women, contemplated the entitlement of all cherished freedoms to all human beings without any distinction of any kind, including discrimination based on sex. Women emerged as a distinct interest group in the 19th century primarily because the bourgeoisie democratic revolutions of 17th and 18th century that excluded women from their concept of equality. These distinction was based gender. Women in India face a lot of inequalities ranging from gender specific abortions, mistreatment by their spouses, to eve teasing. Most women aren’t aware of women rights in India and other times their legal rights are not protected as they should be. Women empowerment plays a significant role in letting them know their rights. In spite of the fact that the women’s contribution to the country’s developments is equal to that of their counter part, still they experience a number of limitations that restrain them from comprehending their potential for expansion. It was against this background that the government’s all over the world felt the need to prioritize the interest of women and their participation at every stage of the development process. Women as a core group of concern emerged as a major theme in the Millennium Development Goal. The Millennium Development Goal are the eight goals set by the United Nations 3000 which will act as yardstick to determine the advancement in the direction of the obliteration of global poverty.UN stated that “Gender equality and Women empowerment” as one of the Millennium Development Goals to be attained by the year 2015.

However these goals are far from being realised in a country like India. Infact often women in India are deprived of their fundamental right to dignity also live alone the question of gender equality .The present paper explores the questions central to women’s right in India that is fundamentally patriarchal in nature. The article attempts to grapple with the few challenges faced by women in India like the dowry, female foeticide ,denial in inheritance sail and trafficking of girls etc.The objective of the paper is to evolve strategies to empower women who are as human beings as men are.

The paper is divided into 5 sections. The section 1 describe the discrimination against women and gender inequality. Section 2 lists the areas of women’s human rights violation i India. Section 3 focus on the steps undertaken by the Indian Constitution to protect women’s human rights. Section 4 focus on the protection of women through international Human Rights Law. Section 5 focus on the strategies devised by the government and civil society to empower women in India.

Discrimination against Women

Early in the 19th century, law schools generally excluded two groups of applicants felons and females. Among the many reasons advanced for the rejection of women “where the dangerous of unchaperoned

intellectual intercourse in the libraries, and the diversion of male attention in the class rooms". Even late in the century, women were still barred from practicing law in many states. As one judge pontificated while endeavouring to justify his decisions to deny the admission of female candidates to the Wisconsin bar, "The peculiar qualities of womanhood, its gentle graces, its quick sensibility, its tender susceptibility," were surely not qualifications for "forensic strife".

As late as the middle of the twentieth century, female attorneys were openly discriminated against. As noted earlier, when Supreme Court justice Sandra O'Connor graduated near the top of her Stanford Law School class, the only offer of employment she received was for the position of legal secretary. As recently as 1965, major Wall Street law firms could point to only three female partners in their midst.

The legal profession has also long denied equal status to minorities. Of the forty thousand law firm partners listed in the 1997-98 *National Directory of Legal Employers*, only 1 percent were African American, and all minorities comprised less than 3 percent. A survey conducted in 1999 by the *American Bar Association Journal* and *National Bar Association Magazine* revealed that 75 percent of the black lawyers participating in the survey believed that law firms engage in tokenism rather than in genuine diversity and equality in advancing blacks to partnerships. Sixty-seven percent of black lawyers believed that minority female lawyers are treated less fairly than white female lawyers. Nonetheless, women, black and white, in ever increasing numbers, have entered this hostile environment. In 1975, 23 percent of the nation's law school students were women; by 1992, the number had risen to 42 percent, by 1996 to 44 percent, and by 1999 to 46 percent. The entering class in 2001 was comprised of more women than men.

Female lawyers, university professors, accountants, and doctors continue to be victimized by sex-discriminatory conduct, as are women in all the professions even in the world of astronomy. For more than a century women have earned at least 10 percent of the doctorates awarded in astronomy, and women currently account for 25 percent of these degrees. At a meeting of the American Astronomical society in early 2000, researchers presented the results of a survey on the status of women in the profession remain a rarity. Only 5 percent of the country's professors of astronomy are female. Among the elite universities, more male than female graduate students win postdoctoral appointments to the schools from which they received their graduate degrees. For women in the field of astronomy, the glass ceiling reaches to the sky.

Gender Inequality

Gender inequality is the departure from parity in the representation of women and men in key dimensions of social life. Although there is no consensus concerning the key dimensions of gender inequality, most scholars agree that it is a multidimensional concept composed by several spheres: economic, educational, political, legal, health and family systems. For present purposes, gender inequality can be conceived of as a system that justifies and perpetuates the domination of women by men in all areas of private and public life. Gender inequality has been a concern in the world and gender differences have some repercussion in relation between men and women. Gender in common usage refers to differences between men and women. Although gender is often used interchangeably with sex and with in a social setup it often refers to sexual differences, it is important to understand gender is different from sex. Sex concerns physical and biological differences that distinguish male from the female. Culture constructs social differences in gender. These social constructions attach themselves to behaviours, expectations, roles, and representations and sometimes to values and beliefs that are specific to either men or women. Gender differences included do not necessarily have biological component but have socially agreed upon differences meaning those cultures assign that. These constitute the area of gender differences and some times these differences create inequality. It means social disparity or disparity of distribution of opportunity.

The factors that are usually thought of influencing inequality of opportunity include family background, education and race. In the present study attention is focused mainly on i.e. gender inequality disparities among individuals based on gender. Role of females develop through identification during childhood.

Mapping of Women's Rights Violations In India

Domestic Violence: In spite of the fact that in India we have protection of women from Domestic Violence Act 2005, domestic violence still remains a serious problem. In fact a major scale of violence that a woman is subjected to in India is linked to the domain of domesticity. The reasons for Domestic aggression are primarily ingrained in the patriarchal nature of the Indian society which supports such violence at home. Besides this the

problem of alcoholics of husband or desire for endowments or a male child are some of other factors liable for household brutalities in India. The domestic violence had taken the form of psychological and physical abuse against women like slapping, hitting, public humiliation, etc. In India the Dowry prohibition Act and the protection of Women from Domestic Violence Act and cruelty under Section 498 A of the Indian Penal Code in 1983 declares brutality to a women in her conjugal house a punishable and non billable offence that can lead to a sentence of up to three years and fine.

Missing of girl child: The idioms missing women was for the first time used by Prof. Amartya Sen when he showed that in many developing countries the proportion of women as compared to men in the populations is suspiciously low. The lopsided sex ratio in many states in India is one of the main reasons because of which women, and girls, go missing. The girls from the poor families in India are sold of by the brokers to the men's in particularly in Northern in India where the problem of imbalanced sex ratio is very much evident. Apart from these there are cases of women going missing from their marital homes.

Dowry deaths: In India the unusual dowry deaths of the women at their matrimonial home has been increasing at a startling rate. Dowry disputes are quite a serious problem. The National Crime Records Bureau in India in its report disclosed marital cruelty and has death in 2012 around 8233 newly wedded brides were killed for dowry brought at the time of marriage on subsequent experience of marital violence. The substantiality reduced risk of experiencing physical and sexual violence among women whose husbands were satisfied with the dowry reflects the strong influence of dowry in determining women's position with in the household. In spite of the fact that section 498 A of the Indian penal code strongly deals with the person responsible for marital cruelty and has declared taking and giving of dowry as a crime it is still been widely practised in India. In fact The Dowry Prohibition Act has not been adequately put into operations in India. It has been discovered that mostly a number of states neither have a Dowry prohibition officers nor do they made it obligatory to keep the record of things given and received.

Child Marriage: In India although there exist a law barring the marriage of children at primitive age, but it is still being practised in different parts of India. Child Marriage Act 2006 Prohibits child marriage and declares 18 years and 21 years as the marriageable age for the girls and boys. According to the National Populations Policy, over 50% of the girls marry below the age of 18, resulting in a typical reproductive pattern of too early, too frequent, too many, resulting in a high IMR. Child marriage takes away from a girl child the innocence of her formative years of life necessary for physical, emotional and psychological development. Spousal violence especially sexual violence perpetrated by husbands has severe effect on the innocent mind and body of the child. Even today in India a number of children's are married off on the auspicious day of Akas Teej in Rajasthan.

Preference for a son: The preference for a son is a phenomenon which is historically rooted in the patriarchal system of the Indian society. The strong preference for having a son emerged with the transition of the Indian society from primitive stage which used to be primarily a matrilineal to feudal stage where agriculture emerged as the primary established occupation of the people to be controlled by the male. The concept of private property emerged and the land began to be divided among the families. The families having control over the larger part of land were seen pride. Thus, the major contributor to the family work force vis a vis a girl. The desires for a son often have an adverse effect on the health of the mother also. All these issues gradually led on the neglect of the female child who are often relegated to the background even in the present day Indian society.

Female foeticide: The law status of women goes on with the practice of, foeticide, sex-selective abortion which has become common due to the amniocentesis technology, and mal-nourishment among girl children. In India it is estimated that around "10 million female foetuses have been aborted in the last 20 years". The child sex ratio in Punjab declined from 894 in 1961 to 793 in 2001. In spite of the fact that the Government of India have declared pre birth sex determination through the use of amniocentesis as unlawful, still Illicit termination female foetuses by untrained nurses and staff is widely prevalent particularly in Northern states of India like Haryana, Rajasthan and Punjab. All these have resulted in the escalation of maternal mortality rate.

Education: Education is one of the most critical areas of empowerment for women. Although the right to education under article 21 of the Indian Constitution have made it compulsory for the government to provide free education to everybody, the high rate of women's education is still a distant dream. In spite of the fact that Sarva Shiksha Abhiyan to an extent has been successful in bringing the girl child back to the school, yet their retention rate in the school is lower as compared to their male counterpart. In fact it has been found that there is a gradual drop out of the girl students as they move up to the higher classes. This is particularly true in the rural areas in India. The main reasons associated with this is that the parents expects girls to look after the siblings while they are at work, working with the parents as seasonal labour during the cultivation period and managing the household work while the parents are at work, the parents take more interest in boys education as against the

girls as they feel that the girls are to be married off, increasing cost of education etc. Thus the universalisation of primary education in India remains a remote daydream for the women.

Forced evictions and exclusion: In India often the widows are evicted from their matrimonial home and are left alone to feed themselves and their children following the demise of their spouses. The UN Special Rapporteur on Adequate Housing argues: “In almost all countries, whether ‘developed’ or ‘developing’, legal security of tenure for women is almost entirely dependent on the men they are associated with. Women headed households and women in general are far less secure than men. Very few women own land. A separated or divorced woman with no land and family to care for often ends up in an urban slum, where her security of tenure is at best questionable”. “There is increasing clinching evidence that, in poor households, women spend more on basic family needs, while men spend a significant part on personal goods, such as alcohol, tobacco, etc”.

Sexual harassment at the workplace: The initiative on a discourse on sexual harassment of women at their workplace in India started with Supreme Court’s Vishaka guidelines in 1997. However it was the passage of the ‘Sexual Harassment of Women at workplace Bill 2013 that helped in translating these guidelines into concrete rules that are to be implemented. But even today “the issue of sexual harassment has largely been swept under the carpet in India”.

Rape: In India there has been a significant increase in the number of rape cases in the last 10 years. According to National Records Bureau, in 2012, 25000 rape cases were reported. In India in the rural areas, particularly in Northern India the upper caste people use mass rapes as a strategy to have power over the members of the lower caste groups. The brutal gang rape case in Delhi had led to the passage of a stricter Law i.e. The Criminal Law(Amendment) Act 2013 to deal with the rape cases in India.

Protection of Women’s Human Rights by the Constitution of India

The constitution of India confers special rights upon women. The constitution makers were well aware of the subordinate and backward position of women in the society. The state is directed to provide for maternity relief to female workers under Article 42 of the constitution, whereas Article 51-A declares it as a fundamental duty of every Indian citizen to renounce practices to respect the dignity of women. The significant among them are the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the sati Prevention Act, and the Dowry Prohibition Act etc. The 73rd 74th Constitution Acts provided for 33% reservation for women in both panchayat and Nagarpalika institution as well as for the position of chairpersons of these bodies. The government in India have enacted a variety of laws like Dowry Prohibition Act, Sati prevention Act etc to guarantee the rights of the women.

Apart from this, in India National Commission for Women had been established in 1990 to look into the women’s problem. NCW have engaged them to deal with the cases relating to the violation of women’s right.

Protection of Women through International Human Rights Law

International human rights law has not yet been applied effectively to redress the disadvantages and injustices experienced by women by reason only of their being women. In this sense, respect for human rights fails to be “universal”. The reasons for this general failure to enforce women’s human rights are complex and vary from country to country. They include lack of understanding of the systemic nature of the subordination of women, failure to recognise the need to characterise the subordination of women as a human right violation, and lack of state practice to condemn discrimination against women.

The nature and extent of violations of women’s international human rights continue to be cruel and pervasive. In many countries, violations remain not simply unremedied, but unnoticed as discriminatory or as an affront to human dignity. This widespread failure to honour international obligations poses a challenge to the credibility, universality, and justice of international human rights law.

Strategies of Women 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 society.

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. Violence against women can be curtailed only when cultural norms and attitudes towards the women can be made in the school curriculum. Curriculum that educates the students at the school, college and university level on issues like human rights and gender issues should be included in their study material. The violence against the women in India is often supported and perpetuated by the indigenous cultures and the religious leaders. Therefore the indigenous communities must try to put up mechanisms and strategies that eliminate such age old ruthless practices against the women. The religious leaders and researchers must review the sacred manuscripts and doctrines with an idea of to encourage egalitarianism and self-respect for women.

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.

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