

Human Rights and Woman in India

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Abstract

In every society women have a unique position whether developing, undeveloped and developing countries. In India has many women personalities has decision makers in all most all sections. But women in many countries still lack rights inherit property, own land, get educated obtain credit earn income or work out side home, they are still widely under-represented involvement in decision making at the domestic (or) social level. The reality of women's life in India is no different it's even worse, Women most of the times, are even deprived of some of the fundamental human rights and this denial is justified often in the name of tradition. Woman especially in rural areas are generally relegated mainly to house hold duties and law paid labour. They are not perceived as substantial income generating source although they are without the power to choose work and earn a good income their voice is silenced. All such structures have made them economically dependent on men. In India our constitution provides fundamental rights for protection of women, but these rights are violated from various stages. In work places also there is no security. So that in these circumstances the Govt. enact new laws for the protection of women's.

Keywords: Protection of women under Human Rights, Protection of women under Indian Constitution, Protection of women under India Penal code 1860.

1. Introduction

Woman is the most beautiful being god has ever created, for in her lies the mother hood, She is an embodiment love. She is the mother of generations at present in India. Has many woman personalities has decision makers in all most all sections. Father of Indian Constitution Dr. B. R. Ambedkar empowerment of woman stands relevant in today's context. In every society woman have a unique position whether developing, undeveloped and developing countries. In India almost half of the Indian population is woman. Our country was administered by a brave woman as its Prime Minister for more than a decade (Indira Gandhi) a woman dignitary the highest seat of the president (Prathibapatil) of India. And some of the other states Chief Ministers at present in India woman. (Jayalalitha, Mamatha Benarje some Opposition leaders are woman). Woman's status is good at present but woman have suffered and are suffering discrimination silence, the status of woman is undermined by asymmetrical power relationship in decision-making personal and social rights, access to resources and entitlements.

Woman in many countries still lack rights to inherit property, own land, get educated, obtain credit earn income or work outside home they are still widely under-represented in involvement in decision-making at the domestic or social level. The reality of woman's life in India is no different, its even worse! Woman, most of the times, are even deprived of some of the fundamental human rights and this denial is justified often in the name of tradition. Woman, especially in rural areas, are generally relegated mainly to household duties and low paid labour. They are not perceived as substantial income-generating source, although they are, without the power to choose work and earn a good income, their voice is silenced. All such structures have made them economically dependent on men. Justice K. Ramaswamy says in case of Madhur Kishwar Vs State of Bihar, Self-sacrifice and self says

denial are their nobility and fortitude and yet they have been subjected to all inequities indignities inequality and discrimination is continued present. The constitution of India contains many negative and positive provisions which go a long way in securing gender justice. The Modern Hindu laws which aim at giving equal status and rights to the woman.

“If an ancestral treasure lying buried in a corner of the house unknown to the member of the family were suddenly discovered, what a celebration it would be for the Occasion. Similarly woman's marvellous power is lying dormant if the woman of Asia wake up they will dazzle the world”.

....Mahatma Gandhi

Protection of woman under Indian constitution: The Indian constitution is one of the best in the world. The status of woman in the society is not what it should be discrimination against woman hand been fought by great social reformers like Raja Ram Mohanriy. Mahatmas Jotibhaphule, Maharshikarve, Mahatma Gandhi, Dr. B. R. Ambedkar and others who made efforts for the eradication of various social evils. The constitution of India provides for Justice, liberty and equality to all citizens. Dr. B. R. Ambedkar provided for social and political measures in the constitution for the uplift of dalit woman and woman is general. Part-III and IV of the constitution are significant in the direction of social justice and Economic development of the citizen. Since law is an effective weapon for bringing about Socio- Economic Justice. The constitution has been so devised as to achieve. This objective though justice presupposes equal treatment to one and all, different Socio- Economic situations have to be dealt with differently. Poverty and social backwardness of some sections of the society naturally demand special facilities of in the form of protective discrimination for the woman. The

constitution of India provides for distributive Justice through several Articles besides the Ones in Part-III and Part-IV, (Fundamental rights Directive principlhy of State polities). Article 14 to 16 provided for right to equality before Law, prohibition of discrimination on the ground of sex, caste, relation etc., Article 17 is another provision of great significance are it states categorically that untouchability of woman is abolished and its practice in any form is forbidden. There are number of other provisions like Article 18,38,39,46, 330,332,338 and 340 which are intended to promote the Educational and Economic interests of woman. In Article 330,332,333,338,339,341 and 342 provisions for various political safe gaurds such of reservation and seats for woman of the SC, and STs in the central and state legislature and service protection of woman from domestic violence Act, 2005 etc., are made. But the number of woman in politics is also scanty.

Protection under the Indian Penal Code

1. **Foeticide: Indian Penal Code:** (IPC) takes care of the Child's rights from the foetus stage. If a pregnant woman subjected to physical injury by a person and thereby causes the death of her unborn child, he will be guilt of this offence.
2. **Infanticide:** IPC makes punishable secret burial or otherwise disposal of dead body of a child whether such child dies before or after or during its birth.
3. **Seduction:** Kidnapping for the purpose of forcible marriage or forced intercourse, the person holding such intercourse may be guilty of abetment of the principal crime and any minor girl under the age of 18 years seduced to illicit intercourse with another person, such person shall be punishable with imprisonment for three years.
4. **Importation of girls from Foreign Country:** Importation of girls from Foreign Country or from the State of Jammu and Kashmir under the age of 21 years with the intention that she may be likely that she will be forced or seduced to illicit intercourse with another person.
5. **Selling minor girls for prostitution:** It is an offensive if a girl under the age of 18 years is sold or otherwise disposed of to a prostitute or any other person who keeps or manages a brothel with the inclination that she shall be used for the purposes of prostitution.
6. **Buying minor girls the purpose of prostitution:** Any person manages a brothel, who buys, hires or obtain possession of girl under the age of 18 years with the intention that she shall be used for the purpose of prostitution.
7. **Outraging the modesty of woman:** Use of criminal force on any woman with the intention that the woman's modesty will be outraged ^[11].
8. **Cohabitation caused by a man deceitfully inducing a belief of lawful marriage:** Any man who by deceit

causes any woman who is lawful married to him to believe that she is lawfully married to him in that behalf shall be punishable.

9. **Law relating to rape:** In order to make rape more realistic section 375, 376 are awarded and new penal provisions are incorporated eg. Section 376 (2) and 376 A to D for prevailing custodian who sexually molest the woman under their custody or care which is commonly known as custodial rape.
10. **Immoral traffic as amended by Act, 44 of 1986:** This acts nor only to suppress immoral traffic in woman and girls but also to improve morals by removing prostitutes from busy public places in the vicinity of religious and educational institutions. Prostitution is a slur or human dignity and a shame to human civilization. It provides that any person who knowingly lives wholly or in part of the earning of prostitution of another person shall be punishable.
11. **Prevention of child marriage:** The object of Child Marriage Restraint Act was to eliminate the social evil which had the potentialities of danger to the life and health of child also who could not stand the stress and strains of married life and to avoid pregnancy. By an amendment the age of child is fixed Child means a person who if male is under 21 years old of age and if female is under 18 years of age. It also includes provisions for punishing persons who contract child marriage, who perform such marriages.
12. **Prevention of Sati System:** The commission of Sati prevention and its glorification and for matters concerned therewith or incidental thereto.
13. **Prohibition of Devadasi System:** Any person who perform, promote, takes part in or abets the performance of any ceremony or dedicating a woman as devadasi or act or ceremony connected there will be punishable, which is prohibited by this Act.
14. **The indecent representation of woman:** Indecent representation of manner means the depiction in any manner of the picture of woman, her form, her body of any part thereof, in such a way so as to have effect of being indecent or derogatory to or denigrating woman or is likely to corrupt or injure the public morality. Any person who contravenes the provisions of the act shall be punishable ^[9].

Protection of Woman from Human Rights

Human rights and fundamental freedoms are the birthright of all human being; their protection and promotion is the responsibility of Government.

The World Conference of Human rights reaffirmed the solemn commitment of all States of fulfil their obligation to promote Universal respect for, and observance and protection of, all Human rights and fundamental freedoms for all, in accordance with the Charter of the United Nations, other instruments relating to Human rights, and International Law. The

Universal nature of these rights and freedom is beyond question.

The promotion and protection of all Human rights and fundamental freedoms must be considered as a priority objective of the United Nations, in accordance with its purpose of principles, in particular with the purpose of International cooperation. In the framework of these purposes and principles, the promotion and protection of all Human rights is a legitimate concern of the International community. The international community must treat human rights globally, in fair and equal manner, on the same footing and with the same emphasis. The platform for Action reaffirms the importance of ensuring the Universality, objectivity and non-selectivity of the consideration of human rights issues. The platform for Action reaffirms that all human rights-civil, cultural, economic, political and social, including the right to development are universal, indivisible, interdependent and interrelated, as expressed in the Vienna Declaration and Programme of Action adopted by the World Conference on human rights. The conference reaffirmed that the human rights of woman and the girl, child are an inalienable, integral and indivisible part of universal Human rights. The full and equal enjoyment of all Human rights and fundamental freedoms by woman and girls is a priority for Governments and the United Nations and is essential for the advancement of woman.

Equal rights of men and woman are explicitly mentioned in the Preamble to the Charter of the United Nations. All the major International Human rights instruments include sex as one of the grounds upon which state may not discriminate.

Government must not only refrain from violating the Human rights of all woman, but must work actively to promote and protect these rights, Recognition of the importance of the human rights of woman is reflected in the fact that three quarters of the State Member of United Nations have become parties to the convention on the elimination of all forms of Discrimination against woman. (CEDAW)

The World conference on human rights reaffirmed clearly that the human rights of woman throughout the life cycle are an inalienable, integral and indivisible part of universal Human rights. The international Conference on Population and Development reaffirmed woman's reproductive rights and the right development. Both the declaration of the Rights of the "Child and the Convention in the rights of the Child" guarantee children's rights and uphold the principle of non-discrimination of the grounds of gender.

The gap between the existence of rights and their effective enjoyment derives from lack of commitment by Government to promoting and protecting those rights and failure of governments to inform woman and men alike about them. The lack of appropriate resources mechanisms at the national and international levels, and inadequate resources at both levels, compound the problem. In most countries steps have been taken to reflect the rights guaranteed by the Convention of the Elimination of All Forms of Discrimination against Woman in national law. Number of countries have established mechanisms to strengthen woman's ability to exercise their rights^[11].

In order to protect the Human rights of woman, it is necessary to avoid, as far as possible, resorting to reservations and to ensure that no reservation is incompatible with the direct and purpose of the convention or is otherwise incompatible with International treaty law unless the Human rights of woman as

defined by International Human rights instruments, are fully recognized and effectively protected, applied, implemented and enforced in national law as well as in national practice in family, civil, penal, labour and commercial codes and administrative rules and regulations, they will exist in name only. In those countries that have not yet become parties to the Convention on the Elimination of All Forms of Discrimination against Woman and other International Human rights instruments, or where reservations that the incompatible with the object or purpose of the Convention have been entered, or where national laws have not yet been revised to implement international norms and standards, woman's de jure equality is not yet secured. Woman's full enjoyment of equal right is undermined by the discrepancies between some national legislation and international law and instruments on human rights. Overly complex administrative procedures, lack of awareness within the judicial process and inadequate monitoring of the violation of the Human rights of all woman, coupled with the under representation of woman in justice system, insufficient information on existing rights and persistent attitudes and practice perpetuate woman's de facto inequality. De facto inequality is also perpetuated by the lack of enforcement of, inter alia, family, civil, penal, labour and commercial laws or codes, or administrative rules and regulations intended to ensure woman's full enjoyment of human rights and fundamental freedoms. Every person should be entitled to participate, in contribute to and enjoy cultural, economic, political and social development. In many case woman and girls suffer discrimination in the allocation of economic and social resources. This directly violates their economic, social and cultural rights".

The human rights of all woman and girl-child must form an integral part of United Nations Human rights activities. Intensified efforts are needed to integrate the equal status and the human rights of all woman and girls into the mainstream of United Nations System – wide activities and to address these issues regularly and systematically throughout relevant bodies and mechanisms. This requires, inter alia improved coordination between the Commission of the Status of Woman, the United Nations High Commissioner for Human rights, the Commission on human rights, including its special and thematic rapporteurs, independent experts, working groups and its Sub-commission on Prevention of Discrimination and Protection of Minorities, the Commission on Sustainable Development, the Commission for social development, the Commission on Crime Prevention and Criminal Justice, and the Committee on the elimination of Discrimination against Woman and other Human rights Treaty Bodies, and all relevant entities of the United Nations system, including the specialized agencies". Cooperation is also needed to strengthen, nationalize and streamline the United Nation Human Rights system and to promote its effectiveness and efficiency taking into account the need to avoid unnecessary duplication and overlapping of mandates and tasks.

While woman are increasingly using the legal system to exercise, their rights, in many countries lack of the existence of these rights is an obstacle that prevents woman from fully enjoying their human rights and attains equality.

Experience in many countries has shown that woman can be empowered and motivated to assert their rights, regardless of their level of education or socio-economic status. Legal

literacy programs and media strategies have been effective in helping woman to understand the link between their rights and other aspects of their lives and in demonstrating that cost-effective initiatives can be undertaken to help woman obtain those rights. Provision of human rights of woman, including knowledge of recourse mechanisms to redress violations of their rights. It is necessary for all individuals especially woman in vulnerable circumstances to have full knowledge of their rights and access to legal recourse against violations of their rights.

Non-governmental organization, woman's organizations and feminist groups have played a catalytic role in the promotion of the Human rights of woman through grassroots activities, networking and advocacy and need encouragement, support and access to information from Government in order to carry out these activities.

Conclusion

Some of the main hurdles for the actual empowerment of woman in India are ignorance and lack of literacy. The education of girls should be taken up seriously to meet the challenges of exploitation and marginalization. The constitution of India provide fundamental rights for protection of woman. But these rights are violated from various stages i.e., Freedom of speech expression is often denied to woman within family, and woman are kept out of decision making processes even within the community and State institutions. Cultural norms regarding appropriate behaviour for woman often reinforce images of docility, passivity and subservience severely curtailing for woman the exposure and confidence they require to participate on an equal footing with men in public life. Practices like foeticide, infanticide and the constant if not increasing incidences of violence on woman also constitute consistent assault to a Woman's Right to life and personal liberty. In work places also there is no security, for protection of woman worker in case of Vishakh Vs State of Rajasthan AIR 1997 Sc. 3071, the Supreme court delivered a very good judgment for working woman in India. There is specific sexual harassment Laws in India. The Government enact new laws for working woman's protection. In India, the police, the judiciary and the elected people (MLAs & MPs) are not take proper steps for protection of woman's many woman and girl have been victims of crime. Legislature alone is inadequate to empower woman, girlchild, Legal awareness is very much needed to the woman, girls. So that the Government made new enactments for protection of woman and streamline all machinery in all sector for woman.

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