



Women Rights In India

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Abstract

In the past, Human Rights had been conceptualized in such a way that did not take account of women's lives and the fact that women experienced violence, crime, discrimination and coercion. A key component of sustainable development, economic growth, security and peace in the society is the concept of gender equality and women empowerment. By making strong legislative provisions we can empower the women but mere making of new laws is not enough if they are unable to use them effectively. So, the prime requirement is to educate the women and to make her aware about women's rights. Unemployment and lack of resources is the major barrier within the course of exercising their rights. This paper makes an attempt to give a detailed view of women rights.

Keywords: Women, Education, Violations, Child marriage, Human rights

Introduction

Women rights have long been controversial but in 1995, when the fourth world conference on women held in Beijing, the United Nations formally approved this concept i.e., "Human rights are Women rights". But now, this concept has been absolutely changed and we consider "Human rights are Women rights."

"Women rights are Human rights" entered mainstream idioms from Hillary Clinton's speech (Former United States Secretary of state) - speech at the United Nations Conference. ¹Although, women rights movement around the globe have brought a lot of changes in the mind set of public but the conditions of women and girls need to alleviate. Girls are still facing child marriages forced labour and sex slavery. In reality, women are still denied to make their personal decisions about their lives.

Need to Empower Women

In the past times, women used to tolerate practices like sati partha, child marriage, dowry etc. Earlier there used to be a lot of discrimination between boys and girls. In earlier times, birth of a male child was considered auspicious while girls were killed as soon as they were born. Not only this, discrimination was prevailed even in education and proprietary matters. There was no provision for daughters to get hereditary property. So the status of girls/women was very poor and weak. The women had to live their life at the mercy of her husband or in- laws family and others. There was no stability in their life.

Recently, 371503 cases of crime against women in India were reported.² If we see reality then we will find that the women's contribution is far more than the males because they raises and nurtures the family. But still women are facing a number of limitations that restricted them from realizing their potential for growth.³ So there is a need to empower the women so that they can recognise their strength and potential and can take their decisions independently.

In 2005, 76% population live under poverty line. Due to poverty lot of girls/women can't raise our voice against violations. The court process is very lengthy and it's very difficult for a poor woman to bear all the litigation expenses.

Diagramming of Violations of Women Rights

1. Missing of Women and Girls

¹ Nikunj Arora, "All about women;s rights" visited at :blogpleaders.in

² National Crime Records Bureau (NCRB)

³ Sujoy, "Women's Rights: The Women's Movement Towards the World", Legal Service India E-Journal.



In many states of India, women and girls go missing. The main reason for this is trafficking. When a girl/ woman are trafficked then they are exploited physically and deprived of basic amenities like food, clothes, shelter etc. In northern India, girls belonging to the poor families or poverty stricken families are sold by the brokers to men.

2. Dowry Deaths

There has been an increase in the dowry deaths of women in their matrimonial homes. The taking and giving of dowry is observed as a crime within the country. We have the Dowry Prohibition Act but it is not enforced in an appropriate manner. In most of the states, there is no dowry prohibition officer if there are then they are not doing their duty well.⁴

3. Domestic Violence

We have Domestic Violence Act 2005 to protect women from violent and criminal acts done by their husbands, in-laws, father, brother or other family members. The violence includes physical abuse, verbal abuse, mental torture etc. Women who live in households like mothers or sisters are protected under section 498 A of the IPC from domestic abuse perpetrated by their husbands, male live –in partners, or relatives.⁵ In lot of houses, women are still facing troubles and living a miserable life. The various reasons are desire of a male child, illiteracy, inability to carry out the household tasks in an appropriate manner, financial problems etc.⁶

4. Sati Practice

Sati was a practice in which a widow used to place in the funeral pyres of her husband. But this practice was abolished by social reformer Raja Ram Mohan Roy. The Sati Prevention Act was passed which declared the practice of sati as a crime for which death sentence can be awarded to the perpetrators.

5. Child Marriage

Earlier lot of child marriages used to take place in our society. This practice of child marriage deprives the girls of their childhood. The girls have to leave their parents' home in early ages and have to do household chores. In most of the cases, they can't pursue their studies and have to deprive to acquire or enhance their skill and abilities. Overall their social, psychological, emotional development gets affected adversely. Child Marriage Act, 2006 prohibits child marriage and declares marriageable age eighteen years for girls and twenty one years for boys. But, still are solemnized in our society.

6. Preference to the male child

People who belongs to rural communities and socio- economically backward sections of the society, normally gives preference to the male child. They think that more male members in the family means more earning hands and considers girls as a burden to the family.⁷ According to them, sons contribute in generating the income and enhance the reputation of their families. This is because agriculture is the main occupation in such families which is mainly controlled by males.

7. Education

Right to education under article 21 of Constitution have made it obligatory for the government to provide free education to all the individuals (between 6 to 14 years). In rural areas the retention rate of girls in schools is lower as compared to males. There are lot of reasons to drop out of girls, as they move to higher classes. In higher education, the reason for more drop outs are weak financial conditions of parents to afford education, girls are to take care of their younger siblings and to do

⁴ Nikunj Arora, "All about women;s rights" visited at :blogpleaders.in

⁵ Section 498A of the Indian Penal Code

⁶ Sujoy, "Women's Rights: The Women's Movement Towards the World", Legal Service India E-Journal.

⁷ <http://www.amnesty.org/en/what-we-do/discrimination/womens-rights/>



household chores when their parents leave the house for work. Increasing cost of education and parents feel that girls would be married off, hence they will not be able to utilise their learning.

Due to illiteracy, girls and women are usually unable to sustain their living conditions in an effective way. Lack of knowledge and information does not enable them to recognise their rights and they remain security

8. Forced Eviction and Exclusion

In India, in many cases widows are treated very badly in their marital homes. After the death of their husbands, widows are evicted from their marital homes and they have to face lot of hardships and detrimental consequences.

9. Sexual Harassment at the Workplace

This is the main factor that imposes barrier within the course of their progression. Women are discriminated in terms of pay and remuneration for their jobs. In both rural and urban areas they are mistreated in concerns of promotion and advancement within the employment setting. Sometimes, sexual harassment at the work place hampers the women psychologically and sometimes compels them to leave their job.

10. Rape

Significant increase in number of rape cases can be seen in the past 10 years. With the prevalence of societal violence, women usually get confined within their homes and becomes isolated the outside world. According to National Crime Record Bureau in 2012, 25000 rape cases were reported. ⁸The vicious Nirbhya Hatyakand case,⁹ in Delhi in December 2012 had led to the enactment of a stricter law i.e., the Criminal Law Amendment Act, 2013 to deal with the rape cases within the country.

Chief Fundamental Rights for Indian Women

There are five important fundamental rights for the women are given which forms the very foundation for the women's empowerment fostering a society where they can thrive without fear of discrimination. These are:

1. Right to Equality¹⁰
2. Right to dignity and decency
3. Right to education Healthcare and political participation
4. Right against domestic violence
5. Right at the workplace

Every woman is treated with respect and honour. Right to dignity and decency protects the women from any form of harassment, abuse and violence. Women has the right to education to empower herself with knowledge and skills.¹¹ Right to quality health care ensures their well being. Right at the workplace provides safe and harassment free work environment and equal pay will be given for equal work.

Article 243 D (3) provides reservation of not less than one third number of seats in Panchayat and municipalities i.e., local government bodies.¹² Article 243 D (4) T (4) provides that not less than 1/3 of the total number of officers of chairperson in the Panchayat and Municipalities at each level to be reserved for women.

Challenges Before Women in India

⁸ Indiatoday.in

⁹ hi.m.wikipedia.org

¹⁰ Art, 14 of the Constitution of India

¹¹ Women and the Indian Constitution, visited at: Vikaspedia.in

¹² Art, 243 of The Constitution of India



The first challenge is gender based violence wherein unequal pay for equal work, domestic violence at home, preference for a male child, missing of women/ girls sati practice etc. are prevalent. Second problem in which women are facing discrimination, abuse or violence is unequal access to education and health care. As we see, the retention rate of girls in higher education is very low. The drop outs are more in higher classes because parents don't want to send girls in schools. It may be due to weak financial conditions of parents to afford education, girls are to do household chores and parents feel that girls would be married off, hence they will not be able to utilise their learning. This illiteracy is the main factor due to which a woman/girl usually unawares regarding how to sustain her living conditions in an effective way.

Third is limited representation in decision making process and discrimination in the workplace. Harassment, abuse, mistreatment at workplaces due to which, sometimes women have to leave their job.

Laws Relating to Women in India

Fundamental rights for women are the core rights guaranteed by our constitution ensure equality and empowerment. These rights form the very basis of women empowerment, fostering a society where they can flourish without fear of discrimination.

The Equal Remuneration Act, 1976: It prohibits gender based discrimination in terms of remuneration. It prevents discrimination, on the ground of sex against women in the matters of employment and provides the right to equal pay for equal work.

The Dowry Prohibition Act, 1961: This Act makes it illegal to give or take dowry. It is cognizable and non-bailable offence and the minimum punishment is 5 years and a fine of at least Rs.15000 or the value of dowry, whichever is higher¹³. Limitation period to file Dowry cases is 7 years.

Immoral Traffic Prevention Act, 1956: Human trafficking is a crime that involves compelling or coercing, transporting a person to provide labour or service or to engage in commercial sex acts. E.g., labour trafficking, sex trafficking, forced child labour, domestic servitude i.e., slaved forced.

The Preconception and Prenatal Diagnostic Techniques Act, 1994: This Act prohibits sex selection before or after conception and prohibits advertisements relating to preconception and prenatal determination of sex or sex selection. The Act was enacted to stop female foeticide and prevent the misuse of prenatal diagnostic techniques for sex selective abortion.

The Medical Termination of Pregnancy Act, 1971: This Act allows registered medical practitioner to terminate pregnancy in certain situations like: rape, failure of contraception. It allows unmarried women to also terminate a pregnancy for this reason. It allows termination of pregnancy within 20 weeks with the advice of one registered medical practitioner and in case of 20 to 24 weeks pregnancy with the help of two registered medical practitioner¹⁴ and after 24 weeks termination with the approval of Medical Board. The Act allows abortion after 24 weeks in cases where a Medical Board diagnoses substantial foetal abnormalities. This implies that for a case requiring abortion due to rape, that exceeds 24 weeks, the only recourse remains through a writ petition.

The Commission of Sati (Prevention) Act, 1987: This Act prohibits sati practice, the voluntary or forced burning or burying alive of a widow. This Act provides death sentence or imprisonment for life and fine to the perpetrators.¹⁵

If anyone attempts to commits sati and does any act towards such commission shall be punishable with commits sati shall be punishable with imprisonment upto six months or with fine or both.¹⁶

¹³ Section 3 of the Dowry Prohibition Act, 1961

¹⁴ Section 3 of The Medical Termination of Pregnancy (Amendment) Act.

¹⁵ Section 4(2) of The Commission of Sati (Prevention) Act, 1987

¹⁶ Section 2, Ibid.



The Prohibition of Child Marriage Act, 2006: This Act forbids child marriages, and provides assistance to the victims of child marriages. Whoever performs, conduct, directs, and abets the child marriage, a regular imprisonment up to 2 years + 1 lakh fine can be imposed.¹⁷

The Sexual Harassment of Women at work place Act, 2013: The act defines sexual harassment as any unwelcome physical, verbal, or non-verbal conduct of a sexual nature, including: physical contact and sexual advances, a demand or request for sexual favours, making sexually coloured remarks, showing pornography.¹⁸ This Act provides punishment up to 3 years or fine or both.

The Maternity Benefit Act, 1961 This Act provides maternity benefits to working women in India. It applies to all private and public organizations that employ ten or more people, except employees covered by Employees State Insurance Act, 1948. An amendment was made in 2017 in which maternity leave from 12 to 26 weeks leave can be taken before the date of expected delivery.¹⁹

Hindu Succession Act, 1956: Daughter's right in hereditary property was given in 2005 amendment. After this amendment, even daughters can claim their right in the hereditary property²⁰. In *Mrs. Sujata Sharma v. Sh. Manu Gupta*²¹ case the court held that after the amendment of 2005 in Hindu Succession Act, 1956, a daughter is also a coparcener in the same manner as a son. Therefore, in the absence of father daughter can be a karta if she is the seniormost member in the family and she will be entitled to represent the family in all legal proceedings.

Conclusion and Suggestions

In the end, it is concluded that empowering Indian women with knowledge about their rights and entitlements is crucial for fostering a fearless society where they can pursue their aspirations freely. By addressing the challenges women are facing at home and in society and collectively committing to gender equality, we can pave the way for a brighter and more inclusive future for all Indian women. Advocating for the rights of women around you and encourage others to do the same. By creating a supporting and inclusive environment, we can collectively work towards a society where every woman's rights are respected and protected. Here are few suggestions one should do to ensure their rights are protected.

1. Be informed and educate yourself about your rights, about your laws that protect you and resources available to seek help. We should update ourselves regarding any changes in legislation so that we can defend our rights.
2. If we encounter any form of abuse or harassment, don't hesitate to speak up. We should raise our voice against injustice and should not allow anyone to infringe our rights.
3. We should immediately report to the relevant authorities regarding any illegal activities. Register a complaint with a nearby police station or National commission for women if any kind of acid attack, rape, sexual assault, stalking, trafficking, cyber crime against woman happens.
4. The facility of women helpline number is also available. Women/girls can make a call on the women helpline number 1091.
5. In case of violation of women rights, a virtual complaint can be filed online through cybercrime.gov.in or National cybercrime reporting Portal.

¹⁷ Section 9 of The Prohibition of Child Marriage Act, 2006

¹⁸ Section 2(n) of The Sexual Harassment of Women at work place Act, 2013

¹⁹ Section 5, The Maternity Benefit (Amendment) Act, 2017

²⁰ Section 6 of Hindu Succession (Amendment) Act, 2005

²¹ Delhi HC 2015



6. If we experience any form of abuse/harassment, we should keep a record of incidents including dates, time and other relevant details. Documentation can be valuable evidence when we take legal action.