

Implementation of Women's Rights A Socio-Legal Dilemma

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ABSTRACT:

Women in India confront a ton of social imbalances going from sexual orientation particular premature births, abuse by their life partners, to eve prodding. Most women aren't mindful of women rights in India and different circumstances their legitimate rights are not secured as they ought to be. Women strengthening assumes a huge part in telling them their rights. Human rights are those basic rights which are mandatorily possible by each person as he/she is an individual from human society. The constitution of India likewise ensures the equity of privileges of men and women. In any case, in the circle of women's human rights in India, there exists a wide bay amongst hypothesis and practice. Indian culture is a male ruled society where men are constantly thought to be better than culture. The women in India all the time need to confront segregation, unfairness and shame. In spite of the fact that women in India have been given more rights when contrasted with men, and still, after all that the state of women in India is hopeless. The primary examination embraced in this paper is to talk about the issue of women rights in the light of the legal elucidations given in Article 14 and Article 15 of the Indian Constitution.

The paper will toss light on the human privileges of women in India and that how all the basic rights given to the women are being disregarded in India, by focussing on the different violations done against them. The paper is separated into three segments. The segment I records the territories of women's human rights infringement in India. Area II concentrate on the means embraced by the Indian constitution to ensure women's human rights. Segment III concentrate on the methodologies contrived by the administration and common society to engage women in India.

Keywords: *Women's rights, Human rights, Indian constitution, Human society, Unfairness, Legal elucidations*

I. INTRODUCTION

Women emerged as an unmistakable intrigue group in the nineteenth century fundamentally in light of the fact, that the democratic revolution of seventeenth and eighteenth century deprived women from their idea of equity. This discrimination depended on gender. From that point, women as a collective had pursued battle for acknowledgment of their rights as a person. Women execute multilateral part in the general public i.e. as a provider of her family, as a care taker of her family, as a mother, spouse, daughter and specialist organization to the general public. Notwithstanding the way that the women commitment to the nation's advancement is equivalent to that of their male partner, still they encounter various restrictions that limit them from grasping their potential for extension.

The constitution of India guarantees the equality of rights of men and women. However, in the sphere of women's human rights in India, there exists a wide gulf between theory and practice. As we all know that Indian society is dominated by men and they are always assumed to be superior to women. usually women in India very often have to face discrimination, injustice and dishonour. though as compared to men, women in India have been given more rights , even then the condition of women in India is miserable.

Violation of Women Human Rights In Past¹

The exploitation of Indian women is not the present phenomenon. Rather she is being exploited from the early times. The following practices were done against the women in the past times.

- **DEVADASIS:** Devadasis was a religious practice in some parts of southern India, in which women were married to a deity or temple. In the later period, the illegitimate sexual exploitation of the devadasi's became a norm in some part of the country.
- **JAUHAR:** Jauhar refers to practice of the voluntary immolation of all wives and daughters of defeated warriors in order to avoid capture and consequent molestation by the enemy. The practice was followed by the wives of Rajput rulers, who are known to place a high premium on honour.
- **PURDAH:** Purdah is a practice among some communities of requiring women to cover their bodies so as to cover their skin and conceal their form. It curtails their right to interact freely and it is a symbol of the subordination of women.
- **SATI:** Sati is an old custom in Indian society in which widows were immolated alive on her husband's funeral pyre. Although the act was supposed to be voluntary on the widow's part, it is believed to have been sometimes forced on the widow.

II. MAPPING OF WOMEN'S RIGHTS VIOLATIONS IN INDIA

1. Missing of girl child

The idiom "missing women" was for the first time used by Prof. Amartya Sen² when he showed that in many developing countries, the proportion of women as compared to men in the population is suspiciously low. It is a cruel irony of a fast-growing India that there are fewer and fewer girls as a ratio of total births, as a result of complex factors that include parental preference. New data from the Civil Registration System of the Registrar General of India points to the hardening of the pattern, with a fall in sex ratio at birth from 898 girls to 1,000 boys in 2013, to 887 a year later. This depressing trend is consistent with evidence from the Census figures of 2001 and 2011.³

2. Dowry death: One bride burnt every hour

A crime that is prevalent only in India, greedy husbands and his relatives harass the newly wed bride for getting more dowry, and often kill her in the process. And, very often, she is burnt alive. This horror is therefore called bride-burning or in official terms, dowry death.

¹ <http://www.womenworld-wide.com/2015/06/women-rights-in-india-is-myth-or.html>.

² Sen Amartya, Missing Women, British Medical Journal, 304, 587-588 (1992).

³ <http://www.thehindu.com/opinion/editorial/India%E2%80%99s-missing-girl-children/article16731641.ece>.

In 2010, there were 8391 reported cases of dowry death in the country. That works out to a shocking one death every hour approximately. Bride-burning is on the increase — just a decade ago, in 2000, there were 6995 cases⁴. In spite of the fact that Section 498A 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. Infact ‘The Dowry Prohibition Act’ has not been adequately put into operation 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.

3. *Domestic Violence*

Every third women, since the age of 15, has faced domestic violence of various forms in the country, reported the National Family Health Survey (NHFS-4) released by the Union health ministry⁵. 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. Infact a major scale of violence that a woman is subjected to in India is linked to the domain of domesticity. 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 498A of the Indian Penal Code in 1983’ declares brutality to a woman in her conjugal house a punishable and non bailable offence that can lead to a sentence of up to three years and fine.⁶

4. *Child marriage*⁷

In India, although there exists a law barring the marriages 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 Population 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 There are numerous reasons for child marriage in India and various hindrances to its disposal. Poverty, weak enforcement of laws, patriarchal social norms intended to ensure family honour are significant factors that increase the risk of girl being married off while still a child. Also, girls from poor households are more likely to marry as children, since marriage becomes a solution to reduce the size of the family. Even today in India a number of children’s are married off on the auspicious day of Akas Teej in Rajasthan.⁸

⁴ <https://timesofindia.indiatimes.com/india/Dowry-death-One-bride-burnt-every-hour/articleshow/11644691.cms>.

⁵ <http://www.news18.com/news/india/the-elephant-in-the-room-every-third-woman-in-india-faces-domestic-violence-1654193.html>.

⁶ <http://www.isca.in/IJSS/Archive/v3/i7/9.ISCA-IRJSS-2014-84.pdf>.

⁷ National Commission on Population, National Population Policy 2000-Objectives, National Commission on Population, Government of India (2000)(http://populationcommission.nic.in/npp_obj.htm).

5. *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 (Prevention, Prohibition and Redressal) 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. The provisions have never been successfully invoked because of social taboos still associated with sexual harassment"⁹ In India, the women are discriminated against in terms payment of remuneration for their jobs. This is true for both urban as well as rural areas. Women entrepreneurs often have to deal with more complications in getting credits to start their independent business.

6. *Female foeticide*

In India, the number of girls per 1000 boys is reducing with each passing decade. From 962 and 945 girls for every 1000 boys in the years 1981 and 1991 respectively, the sex ratio had plunged to an all-time low of 927 girls for 1000 boys in 2001.¹⁰ 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 of female fetuses 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 rate¹¹

7. *Rape*¹²

A total of 34,651 rape cases were reported in India in 2015. Among these, in 33,098 cases the offenders were known to the victims, as per National Crime Records Bureau (NCRB). 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.

III. PROTECTION OF WOMEN'S HUMAN RIGHTS BY THE CONSTITUTION OF INDIA¹³

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and

⁸ <http://www.isca.in/IJSS/Archive/v3/i7/9.ISCA-IRJSS-2014-84.pdf>.

⁹ Sarpotdar Anagha, Sexual harassment of Women: Reflections on the Private Sector, Economic and Political Weekly, 47, 18-23 (2013).

¹⁰ <http://www.allresearchjournal.com/archives/2015/vol1issue6/PartC/1-6-20.1.pdf>.

¹¹ www.unhcr.ch (2014).

¹² <http://indianexpress.com/article/india/india-news-india/over-34600-rape-cases-in-india-delhi-tops-among-union-territories-3004487/>.

¹³ <https://edugeneral.org/blog/polity/women-rights-in-india/>.

political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment.

1. The state shall not discriminate against any citizen of India on the ground of sex [**Article 15(1)**].¹⁴
2. The state is empowered to make any special provision for women. In other words, this provision enables the state to make affirmative discrimination in favour of women [**Article 15(3)**].¹⁵
3. No citizen shall be discriminated against or be ineligible for any employment or office under the state on the ground of sex [**Article 16(2)**].¹⁶
4. Traffic in human beings and forced labour are prohibited [**Article 23(1)**].¹⁷
5. The state to secure for men and women equally the right to an adequate means of livelihood [**Article 39(a)**].¹⁸
6. The state to secure equal pay for equal work for both Indian men and women [**Article 39(d)**].¹⁹
7. The state is required to ensure that the health and strength of women workers are not abused and that they are not forced by economic necessity to enter avocations unsuited to their strength [**Article 39(e)**].²⁰
8. The state shall make provision for securing just and humane conditions of work and maternity relief [**Article 42**].
9. It shall be the duty of every citizen of India to renounce practices derogatory to the dignity of women [**Article 51-A (e)**].
10. One-third of the total number of seats to be filled by direct election in every Panchayat shall be reserved for women [**Article 243-D (3)**].
11. One-third of the total number of offices of chairpersons in the Panchayats at each level shall be reserved for women [**Article 243-D (4)**].
12. One-third of the total number of seats to be filled by direct election in every Municipality shall be reserved for women [**Article 243-T (3)**].

¹⁴ The constitution of India, 1950.

¹⁵ Id.

¹⁶ Id.

¹⁷ Id.

¹⁸ Id.

¹⁹ Id.

²⁰ Id.

13. The offices of chairpersons in the Municipalities shall be reserved for women in such manner as the State Legislature may provide [Article 243-T (4)].

IV. LEGAL RIGHTS OF WOMEN IN INDIA²¹

1. *Right to free aid*

At the point, when a woman goes to the police stations without being joined by a lawyer, she is either cited wrong, disregarded or embarrassed for her announcements. She ought to know about the way that she has a right to get the legal aid and that she should interest for it. "According to a Delhi High Court ruling, whenever a rape is reported, the senior house officer has to bring this to the notice of the Delhi Legal Services Authority. The legal body then arranges for a lawyer for the victim," says Saumya Bhaumik, a women rights lawyer.

2. *Right to privacy*

A woman who has been assaulted has a right to record her announcement in private, before the officer without being caught by any other person. She likewise has a flexibility to record her announcement with a woman constable or a cop in individual. Under section 164 of the Criminal Procedure Code, the cops will have to give the privacy to the victim without stressing her in front of masses.

3. *Right to untimely registration*

There are numerous reasons in the matter of why a woman would postpone going to the police to hold up a grievance. She thinks about her reputation, respect of the family and dangers from the offender to end her life away. Police in any capacity can't state no to enlist her protest, no matter if it's too late to register. The self-confidence of women precedes everything else. She can't be precluded from securing anything.

4. *Right to virtual complaints*

As indicated by the guidelines issued by the Delhi Police, a woman has the privilege of lodging a complaint via email or registered post. In the event that, for reasons unknown, women can't go to the police station, she can send a written complaint through an email or registered post addressed to a senior police officer of the level of Deputy Commissioner or Commissioner of Police. The officer at that point coordinates the SHO of the police station, of the region where the occurrence happened, to lead appropriate confirmation of the complainant and lodge an FIR. The police can then come over to the residence of the victim to take her statement.

²¹ <https://timesofindia.indiatimes.com/life-style/relationships/love-sex/10-legal-rights-that-women-should-know/articleshow/50742542.cms>.

5. ***Right to Zero FIR***

A rape victim can register her police complaint from any police station under the Zero FIR ruling by Supreme Court. Sometimes, the police station under which the incident occurs refuses to register the victim's complaint in order to keep clear of responsibility, and tries sending the victim to another police station. In such cases, she has the right to lodge a FIR at any police station in the city under the Zero FIR ruling. The senior officer will then direct the SHO of the concerned police station to lodge the FIR, This is a Supreme Court ruling that not many women are aware of, so don't let the SHO of a police station send you away saying it "doesn't come under his area".

6. ***Right to no arrest***

According to a Supreme Court ruling, a woman cannot be arrested after sunset and before sunrise. There are many cases of women being harassed by the police at wee hours, but all this can be avoided if you exercise the right of being present in the police station only during daytime. Even if there is a woman constable accompanying the officers, the police can't arrest a woman at night. In case the woman has committed a serious crime, the police require getting it in writing from the magistrate explaining why the arrest is necessary during the night.

7. ***Right to not being called to the police station***

Women cannot be called to the police station for interrogation under ***Section 160 of the Criminal Procedure Code***. This law provides Indian women the right of not being physically present at the police station for interrogation. The police can interrogate a woman at her residence in the presence of a woman constable and family members or friends, So, the next time you're called to the police station for queries or interrogation when you have faced any kind of harassment, quote this guideline of the Supreme Court to exercise your right and remind the cops about it.

8. ***Right to confidentiality***

Under no circumstances can the identity of a rape victim be revealed. Neither the police nor media can make known the name of the victim in public. ***Section 228-A of the Indian Penal Code*** makes the disclosure of a victim's identity a punishable offense. Printing or publishing the name or any matter which may make known the identity of a woman against whom an offense has been committed is punishable. This is done to prevent social victimization or ostracism of the victim of a sexual offense. Even while a judgment is in progress at the high court or a lower court, the name of the victim is not indicated, she is only described as 'victim' in the judgment.

9. *Right towards crime and not a medical condition*

A case of rape can't be dismissed even if the doctor says that rape has not taken place. A victim of rape needs to be medically examined as per **Section 164 A of the Criminal Procedure Code**, and only the report can act as proof. "A woman has the right to have a copy of the medical report from the doctor. Rape is crime and not a medical condition. It is a legal term and not a diagnosis to be made by the medical officer treating the victim. The only statement that can be made by the medical officer is that there is evidence of recent sexual activity. Whether the rape has occurred or not is a legal conclusion and the doctor can't decide on this," explains Bhaumik.

10. *Right to no sexual harassment*

It is the duty of every employer to create a Sexual Harassment Complaints Committee within the organization for complaints. According to a guideline issued by the Supreme Court, it is mandatory for all firms, public and private, to set up these committees to resolve matters of sexual harassment. It is also necessary that the committee be headed by a woman and comprise of 50% women, as members. Also, one of the members should be from a women's welfare group.

V. PROTECTION OF WOMEN RIGHTS IN INTERNATIONAL LAWS²²

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): Sometimes described as the "bill of rights" for women, this treaty was the first to address women's rights as human rights. CEDAW is the international standard used to measure individual countries' progress to eliminate laws that discriminate against or harm women and girls.

Convention on the Rights of the Child (CRC): Outlining the rights of children, including civil, social, and economic and health rights, this treaty changed the way children are viewed and treated as human beings with their own distinct set of rights. This treaty is especially useful to us when we take on cases of girls' rights.

Protocol to Prevent, Suppress and Punish Trafficking in Persons Especially Women and Children (Palermo Protocol): Because the Palermo Protocol commits ratifying states to prevent and combat trafficking in persons, protect and assist victims of trafficking and promote cooperation among states in order to meet those objectives, it is essential to our work to end sex trafficking.

²² <https://www.equalitynow.org/issues/international-law>.

VI. THE ROLE OF WOMEN EMPOWERMENT IN INDIA²³

Empowering women usually involves giving them opportunity for better education. Focus on the overall development of women in India is the main work of women empowerment commission in India. Basically as per the human rights, there should be a same place for men and women but society doesn't accept this situation and make the discrimination in society. When we study the evolution of man, it is noticed that gradually women tilted towards secondary place and the exploitation started through various problems. To stop and eradicate these problems, the women commission has been established by the Govt. of India. After independence, the direction has been fixed and various acts, plans have been started for the women development in India. Definitely we can say that India has done the improvement in social, economical and political status of women. Again there is need to strictly implement and develop these schemes and plans started by the Government of India.

Following are some plans for the women development and empowerment

Indian government is always conscious about women development. Times to time, different schemes and plans have been implemented for the betterment of women.

1. Mahila Cosh Yojana

This is the first plan started for especially rural women of India in which self-employment and supplementary occupation are the most important factors.

2. Training and Employment Programme for Women (TEPW)

To build up the confidence of women and make them financially strong and for enhancing their productivity, this plan has been implemented.

3. Rashtriya Mahila Kosh (RMK)

For social and economic changes, financial improvements through various programmes are the main objects of this plan. Micro finance to poor women, agricultural women, shop keeping and handcrafts etc are important objects of this plan.

4. Rajiv Gandhi Scheme for Empowerment of Adolescent Girls (RGSEAG)

This is especially well-known for the overall development of teen age girls for the issues like nutrition, education, medical facilities and eradication of the different problems

²³ <http://www.journalijdr.com/sites/default/files/issue-pdf/2277.pdf>.

5. *Central Social Welfare Board (CSWB)*

This scheme is especially famous for stimulation of the NGO which work for development of women.

7. *Indira Gandhi Matritva Sahyog Yojana (IGMSY)*

For the improvement of the health and nutrition status of pregnant, lactating women and infants, child vaccination is done to sort out the various problems.

8. *Swayam Siddha Yojana*

Creation of self-help groups with financial support and availability of the fund for poor women in society.

9. *Short Stay Home for Women and Girls (SSH)*

Arrangement of temporary accommodation of deprived mentally affected, very poor, widow, exploited and rejected women by the society and family. With the help of this plan, various work knowledge is given.

10. *Swadhar*

This plan is especially for the support of women those really want to do the advance type of work. Some financial support given by government to start the occupations.

VII. WOMEN'S RIGHTS IN THE EYES OF LAW

In the case of *Vishaka & Ors. V. State of Rajasthan & Ors.* The Bench, comprising of Chief Justice Verma, Justice Sujatha Manohar and Justice B.N. Kirpal issued Guidelines to prevent sexual harassment against women in work places. All complaints of sexual harassment by any woman employee would be directed to the management the course of action against the man accused of harassment. This verdict was superseded by the Sexual Harassment of Women at Workplace (*Prevention, Prohibition and Redressal*), Act, 2013.

In the case of *Delhi Domestic Working Women's Forum v. Union of India* four domestic servants had filed charges of indecent sexual assault against seven army personnel. The Supreme Court pointed out the defects of the existing system while dealing with rape victims, issuing 8 broad parameters while assisting victims of her right to representation before any questions were asked of her and that the police report should state that the victim was so informed. The advocate should be appointed by the Court, upon application by the Police. However, in order to ensure efficiency advocates would be authorised to act at the police station before leave of the court was sought or obtained. The Court also mandated anonymity of the victim, was so informed. The advocate should be appointed by the court, upon application by the police. However,

In order to ensure efficiency, advocates would be authorised to act at the police station before leave of the court was sought or obtained. The court also mandated anonymity of the victim, along with formation of a criminal injuries compensation board.

In the case of *Vaddeboboyina Tulasamma v. Vaddeboyina Shesha Reddi* it was observed by the Supreme court that the Hindu Female's right to maintenance is a tangible right against property which flows from the spiritual relationship between the husband and wife. And it was held that section 14(1) of the Hindu Succession Act, 1956 must be liberally construed in favour of the females so as to advance the object of the Act. This section makes female Hindu a full owner of a property, instead of a limited owner.

In the case of *Mrs. Mary Roy Etc. V. State of Kerala & Ors* it was observed by The Supreme Court that Christian women are entitled to have an equal share in their father's property. This path-breaking judgment sent shock waves throughout the country. Till then, Christian women in Kerala were governed by the pro

VIII. CONCLUSION

With the growth of our society, the status of a woman is recognized and given the importance they deserve. It is no wonder that several laws and statutes have been made to uplift the position of a women in every sphere of today's scenario. Besides this, measures have been taken to safeguard their interests and protect their modesty and dignity. However, it is an issue which needs proper realization on every individual's part that how he or she sees women on his or her personal level. It is the duty of every individual to understand the worth of women and then only, the society collectively can tackle with such issues. It has been rightly said that teaching and learning begins at home, thus it becomes our responsibility that how we teach our youngsters to change their perceptions towards women and consider them equal to men.