

“FIGHTING VIOLENCE AGAINST WOMEN IN INDIA & LAWS TO COMBAT IT”

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INTRODUCTION

Men and women are two pillars of the social structure. Their roles, duties and rights are complementary and supplementary towards each other. If one of the pillars is weak, the other cannot bear the burden of the society and the whole structure of the society shall demolish. Man shouldn't exploit, the woman. But ironically, it has happened and goes on happening. The female gender is the victim of ancient law and modern law, of mythology and all religions. Although women constitute a majority of world population, there is still no society in which the women enjoy full equality with men. All women that may be poor or rich, literate or illiterate, housewife or working, conservation or modern are subjected to more or less exploitation by her counterpart 'the man'. Mahatma Gandhi, who believed that if the freedom movement was to be successful, it had to be movement of masses and felt that Swaraj would be meaningless without reform of the social structure and upliftment of the weaker section, namely the women and the lower social strata to a position of equality with others. Women has been suppressed under the custom and traditions throughout her life. India is committed to the welfare and development of its people in general and of vulnerable sections of society in particularly. Equality of status and opportunity to all citizens of the country is guaranteed by the Constitution of India, which also provides that no individual shall be discriminated on the grounds of religion, caste, sex, fundamental rights and special provisions namely, Article 38, 39 & 46 in the Constitution. The strategy of the State is to secure distributive justice and allocation of resources to support program for social, economic and educational advancement of the weaker section in general and those of women in particular to avoid injustice and exploitation.¹ Violence against women is a technical term used collectively to refer the violent acts that are particularly or exclusively committed against women. This type of violence targets a specific group with the victim's gender as a primary motive. The United Nation General Assembly defines 'violence against women' as 'any act of gender based violence that results in or is likely to result in physical, sexual or mental harm or suffering to women including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life'. Worldwide, government and organizations

¹ Ahuja Ram, Indian Social System, (1998)

actively work to combat violence against women through a variety of programs. 25th November is designated as International Day for Elimination of Violence against women by UN Resolution. Crime against women both inside and outside of their home has been a crucial issue in the contemporary Indian society. Women constitute nearly half of India's population and most of them are grinding under the socio-cultural and religious societal pattern. One gender has been controlling the space of the India's social, economic and political fabric since time immemorial and that is the male member of the society. Women have been always regarded as inferior in the community and within her family and friends.²

SOCIAL PROBLEMS FACED BY WOMEN

Crime against women is not a recent issue. It has its root deep rooted in India's traditions and culture. In order to stop commission of the same, there is a need to understand its causes. Indian women have been facing the domination issue because of the gender imbalance created by the society. Since ages men have been treated with pride while on the other hand a woman is supposed to be a daughter of a father, wife of a husband, mother of a child and then daughter in law of her in-laws. During these transitions in her life she is very easily and conveniently dominated by the male members of the family. Male members hold a supreme position in the family while on the other side a woman is completely neglected. The decisions taken by a man are considered to be final and no respect is given to the opinion of the woman in house. She is completely neglected and taken for granted. Men exerts control over the property and resources as well. Women in India are subjected to various forms of violence. Female infanticides are very common in Haryana and Punjab. There is a preference for male child because of the traditional outlook attached to it that only men carry the family lineage. Education is the source of investment for a male, as more a son is educated, more dowry can be sought from the bride. A son having a Degree in education is like the price tag attached to the groom at the time of marriage. This scenario is not only found in the outside world but the same can be seen within the house as well. Gender discrimination is not new to the society. A girl child starts facing problem even before her birth. She is foeticide, when she is in the womb of the mother; she is not provided proper food and nutrition, discriminated in pursuing education, harassed at workplace, etc. Due to lower education, a woman has a much lower capacity to earn. Women from upper caste are seldom allowed to work from home. However, work participation rate among lower caste women is better compared to that of upper caste women. Also, honour killings are quite common in Haryana & Tamil Nadu when young girls marry somebody outside

²Dr. Archana Parsher, Women & Social Reform, 2005

their caste and clan against her family's wishes.³ Dowry is demanded from the husband or in-laws at the time of marriage or any time later. Newly married women become subject to verbal and physical abuse. In many cases, young brides are burnt to death by her in-laws if the present fails to meet the requisite amount of dowry demanded. Women are also judged in terms of their virginity, as chastity is considered as a great virtue. In terms of family planning, women have been used as the subjects of experiments. Governments promote contraceptives to lower fertility among women, at the behest of multinational corporations and the corporate sector, without thinking about their consequences. Population control and family planning is considered a way to control women's sexuality.⁴ Another issue which is often seen in the society is the plight of widows. The condition of widow is one of the most neglected social issue in India. Three percent of all Indian women are widows and, on an average, mortality rate is 86 percent higher amongst elderly widows in comparison to married women of the same age group. Various studies indicated that legal rights of widows are violated, they suffer forceful social isolation, most widow get limited economic support from their family or from the community, they are not respected and looked like a trash in house. It is very common to read news about violation or wrong committed on women on day to day life. The orthodox society is very prejudice by age-old habits and customs that a violated woman, whether she is forced or helpless, has no place in the society. Another danger in India is that, Indian laws does not differentiate between rape on a major and minor girl. Amongst ten rape cases, six are on minor girls. In every seven minutes a crime is committed against women in India. Every 26 minutes a woman is molested. Every 34 minutes a rape takes place Every 42 minutes a sexual harassment incident occurs. Every 43 minutes a woman is kidnapped. And in every 93 minute a woman is burnt to death over dowry.⁵ The victim often hesitates to report the crime committed on her before police station. She feels scared of the family reputation, she is not sure whether she might get justice, that her names will be spoiled in public, no man will be willing to marry her in future, society might judge her for the wrong which apparently has happened to her, and many more. A very few numbers of crimes are actually reported before police station while many of them are not even reported and the rest are neglected either the victim themselves, family or the police. If the crime to be reported is against any politician or a person holding a strong financial status, the police who are supposed to be the protector of the society persuades the victim not to register a complaint or take back her complain. If she doesn't do so, she has to face number of problems in her life ahead.

³ Prof. Mukhopadhyay, Globalization and Challenges for Education- focus on Equality and Equity, 2003.

⁴ Dutta, V.N., Widow Burning in India, (2nd Ed, 1999)

⁵ Reddy, G.B., Women and Law, 2002

CONSTITUTIONAL AND LEGAL PROVISIONS FOR WOMEN IN INDIA

The principle of gender equality is enshrined in the Indian Constitution. The Constitution not only guarantees equality to women, but also empowers the State to make positive laws in favour of women. The Legislative and the Judiciary are constantly making efforts for empower women through education, seminars, counselling, passing protective laws in favour of women, and towards an overall development of status of women in different spheres of her life. India has also adopted many international conventions so as to secure equality in rights and position of women.

CONSTITUTIONAL PROVISIONS

The Constitution of India is constantly working hard to make positive laws for women but also trying to neutralizing the cumulative socio-economic, education and political disadvantages faced by them. Fundamental rights ensure equality before the law and equal protection of law; it prohibits discrimination against any citizen on grounds of religion, race, caste, customs, sex, place of birth and guarantees equality of opportunity to every citizen in the matters relating to employment. Article 14, 15, 15(3), 16, 39 (a), 39(b), 39(c) and 42 of the Constitution are specific importance in this regard.

CONSTITUTIONAL PRIVILEGES

Listing out the same the Article 14 which states about Equality before law and equal protection before law, Article 15(1) that establishes that the State shall not discriminate against any citizen on grounds of religion, race, caste, sex, place of birth., Article 15(3) as per which the State has the power to make special provisions in favour of women and children.; Article 16 stating Equality of opportunity for all citizens in matter relating to employment or appointment to any office under the State; Article 39(a)- establishing that the State to direct its policy towards securing for men and women equality of rights to adequate means of livelihood; Article 39(d), Equal pay for equal work for both men and women.; Article 39(A) which seeks to promote justice, on basis of equal opportunity and to provide free legal aid by suitable legislation or schemes or in any other way to ensure that opportunity for securing justice are not denied to any citizen by reason of economic or other disabilities; Article 42 of the DPSP which directs the State to make provisions for securing just and humane conditions of work and for maternity reliefs; Article 46 of the constitution makes note to the State to promote special care with respect to education and economic interest to the weaker sections of the people and to protect them from social injustice and all forms of exploitation; Article 47 establishing the State to raise the

level of nutrition and standard of living of its people; Article 51 (A)(e) seeks to promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practise derogatory to the dignity of women are certain privileges/rights guaranteed to us by the constitution.

LEGAL PROVISIONS

In order, to uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence an atrocity and to provide services specially to working women. Although women can be victim of any of the crimes such as murder, robbery, cheating etc., but the crimes which are specifically committed against women are characterised as crime against women. These crimes are broadly classified under two categories: (I) The Crimes identified under Indian Penal Code and the Crimes identified under Special Laws listing out the same various legislations like Indian Penal Code, 1860 it protects the rights of the women through its provisions namely *Obscenity* (Section 294, IPC), *Rape* (Section 376, IPC), *Kidnapping & Abduction for different purpose* (Section 363-373, IPC), *Homicide For Dowry, Dowry Death Or Their Attempt* (Section 302/304-B, IPC) *Torture(mental/physical)* (Section498 A, IPC), *Molestation* (Section354, IPC), *Bigamy* (Section 494, IPC), *Sexual Harassment* (Section 509, IPC), *Importation Of Girls* (Section 366, IPC). Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments have been carried out to safeguard women and their interests are *The Dowry (Prohibition) Act, 1961*⁶, *The Child marriage Restraint Act, 1929*⁷, *The Commission of Sati (Prevention) Act,1987*,⁸ *Protection of Women from Domestic Violence Act, 2005*⁹, *The Hindu Marriage Act, 1955*,¹⁰ *The Hindu Succession Act, 1956*¹¹ *with amendment in 2005*, *Immoral Traffic (Prevention) Act, 1956*¹², *The Medical Termination of Pregnancy Act, 1971*¹³, *The Maternity Benefit Act, 1961 (Amended in 1995)*¹⁴, *The Equal Remuneration Act, 1976*¹⁵

⁶Act No. 28 of 1961

⁷Act No. 19 of 1929

⁸Act No. 3 of 1988

⁹Act No 43 of 2005

¹⁰Act No 25 of 1955

¹¹Act No 30 of 1956

¹²Act No. 104 of 1956

¹³Act No. 34 of 1971

¹⁴Act No. 53 of 1961

¹⁵Act No. 25 of 1976

SPECIAL INITIATIVES FOR WOMEN

Not only the women rights are protected through stern provisions and necessary legislations, the administrative and Quasi-Judicial authorities have been established time and again to keep pace with the changing norms of the scope of protection of women rights. National Commission for women which was established in January 1992, the government set-up this statutory body with a specific mandate to study and monitor all matters relating to the constitutional and legal safeguard provided for women, so as to review the existing legislature to suggest amendments wherever necessary similarly the Reservation for women in Local Self-Government through the 73rd Constitutional Amendment Act passed by the parliament in 1992 ensures one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas. The National Plan of action for the girl child is to ensure survival, protection and development of building up a better future for the girl child. National Policy for the empowerment of women devised by the Department of Women and Child Development in the Ministry of Human Resource Development with main aim bringing about advancement, development and empowerment of women in every field.¹⁶

CONCLUSION

It is true that the thinkers, philosophers and the legislators have contributed significantly towards the upliftment of women in the society with respect to status and rights, by means of legislation, judiciary, conventions and treaties; but in reality, these contributions have some limitations which is why violence are still committed on women. The prevailing inferior status of women in society is a cumulative consequence of male dominance, traditions, customs, rituals and age-old legislation. It is also because of failure and neglectance of the society towards the crime committed on women. Since past centuries women have been inhumanly suppressed under the traditional and customary rituals. Even today some of the evil customs are practiced which has broken the women mentally and emotionally. These existing laws are exhaustive and unable to protect the women adequately. These laws need to be amended and more positive laws should be passed so as to guard the young girls and women. Men should be counseled in schools and colleges about the repercussion of dominating a female and should be educated to help and safeguard her. A collective effort from highest hierarchy to the lowest one who being in authority and also by a layman is required to completely eradicate this social problem. It is high time to stand up for the women and to make her strong; and to curb the violence committed on her.

¹⁶Mamta Rao, Laws relating to Women and Children, (2nd Ed, 2008, Reprint 2011)
