

## AN ANALYSIS OF WOMEN'S RIGHTS IN INDIA: SOME SUGGESTIVE MEASURES

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### ABSTRACT

*Indian society is a male dominated society where men are always assumed to be superior to women. The women in India have to face discrimination, injustice, and dishonor at every stage of their lives. The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favor of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. But despite every effort from various stakeholders like government, society, NGOs the crime reports against women in India are increasing day by day at an alarming rate. The National Crime Records Bureau (NCRB) had also put a concern on the growth rate of crime against women in the last few decades. The present paper discusses the implementation of women's rights in India and how all the fundamental rights given to the Indian women are being violated, by citing the various crime done against them in India. Further, the strategies for the empowerment of women identity have also been evolved for the complete growth of the country. The state occupies a central position in initiating policies that aim to end discrimination against women. In India, after a lot of debate inside and outside parliament, the state initiated the first reform measure by reforming the Hindu Succession Act in 1956 which provided the women an equal right to inheritance. Continuous extensive unconditional financial as well as emotional assistance must be provided to the women by both the formal set-up of the state like the legal system, police, medical and health care sectors etc, as well as from the informal networks such as family, friends, fellow citizens, and local community groups.*

### INTRODUCTION

Various shreds of evidence show that the women had enjoyed high and respectable social status during the Vedic and Post-Vedic period. Although they did not possess any right in property in that golden era as well. However, they were treated like Goddesses and had a respectable and upper place in the family. Almost half of the Indian population comprised of women but they have often been discriminated against and have suffered and are still suffering discrimination due to silence on their part, which is not a good image of a society, which called itself „civilized“. Even though self-sacrifice and self-denial are their decency, yet they have been made the victims of inequalities, indignities, and discrimination. The Constitution of India prohibits any discrimination based on the sex in general and the prohibition of gender based discrimination has been given the status of a fundamental right.

Women are the excellent and unique creation of God as compared to men as they have the ability to give birth. This is in itself a miracle yet strangely they are not given right over their bodies. An important indicator of the human development of a country is the status of women in that country. Due to rising figures of crimes against women in almost all nations, one needs to rethink about various issues related to human rights and how they can be implemented to ensure women empowerment. Studies reveal that most ladies and girls suffer the mental, physical and social consequences of physical and sexual violence in isolation without adequate redress. The United Nations have developed various models of best practices for ensuring implementation of State duties to prevent, investigate, prosecute, and punish perpetrators of sexual violence. Furthermore, women around the world still lack the basic information and services that are needed for healthy living. Even in today's world, many women die while giving birth to their child due to unhealthy conditions, lack of nutrition, lack of facilities or infectious diseases like HIV. Present paper deals with the current status and overview of Women's rights in India. Along with these an insight into their implementation has also been given. How these measures ensure the protection and safety of women are also the matter of concern.

## CONSTITUTIONAL PRIVILEGES REGARDING WOMEN'S RIGHTS

Within the framework of a democratic polity, our constitutional laws, development policies, plans, and programs have aimed at women's advancement in different spheres. The Constitution of India empowers the state to adopt the measures of positive discrimination in favor of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. The various women rights as per Indian constitutions are as under:

- (Article 14): Equality before law for women.
- (Article 15 (i)): The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
- (Article 15 (3)): The State to make any special provision in favor of women and children.
- (Article 16): Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State
- (Article 39(a): The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood.
- (Article 39(d)); Equal pay for equal work for both men and women
- (Article 42): The State to make provision for securing just and humane conditions of work and for maternity relief
- (Article 46): The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation
- (Article 47): The State to raise the level of nutrition and the standard of living of its people.

- (Article 51(A) (e)): To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women.
- (Article 243 D(3)): Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat.
- (Article 243 D (4)): Not less than one- third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women.
- (Article 243 T (3)): Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality.
- (Article 243 T (4)): Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide.

## AREAS OF WOMEN'S RIGHTS VIOLATIONS IN INDIA

The important areas of various Women's rights in which strong violations exist due to the patriarchal mindset of the society are as under:

**(i) Dowry deaths:** The unusual dowry deaths of the women at their matrimonial homes is the major concern and is increasing at an alarming rate in India. The dispute in dowry is a quite serious problem. The National Crime Records Bureau in India in its report had disclosed that in the newly wedded brides killed for dowry is in thousands in number and this figure has been increasing startlingly since last decade. The role of husband's and his family is very uncertain if the dowry brought at the time of marriage by the wife is not in accordance to their wish and preference. The substantially reduced risk of experiencing sexual and physical violence among women whose husbands were satisfied with the dowry reflects the strong influence of dowry in determining women's position within the household". The Section 498A of the Indian Penal code (IPC) strongly deals with the person responsible for marital cruelty and it also declares the giving and taking dowry as a crime. This section is widely practiced in almost all states of India to defend women against dowry crimes. However, in some states, „The Dowry Prohibition Act“ has not been adequately operationalized. It has been reported that most of the Indian states neither have a Dowry Prohibition Officers nor do they made it obligatory to keep the record of things given and received in weddings.

**(ii) Domestic Violence:** Beside having „Protection of Women from Domestic Violence Act 2005“ in India, domestic violence remains as widespread as before. 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 rooted in the patriarchal nature of the Indian society which supports such violence at home. Besides this, the problem of alcoholics of husband, desire for endowments or a

male child are some of the 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 498A of the Indian Penal Code in 1983 declares brutality to a woman in her marital house as a non-bailable offense which leads to a sentence of up to three years and fine or even more.

**(iii) Missing of girl child:** The idiom “missing women” was for the first time used by Prof. Amartya Sen when he observed that in many developing countries, the proportion of women as compared to men in the population is going suspiciously low. The uneven sex ratio in many states in India clearly indicates that the number of girls as compared to boys is very low. The poor girls, particularly in Northern India where the problem of imbalanced sex ratio is very much evident, are sold by the agents to the men. Apart from there are many cases of women going missing from their marital homes.

**(iv) Female feticide:** The low status of women goes on with the practice of infanticide, feticide, sex-selective abortion which has become common due to the amniocentesis technology and desire for a male child. In India, it is estimated that around 10 million female fetuses have been aborted in the last 20 years. The child birth sex ratio (i.e. the ratio of boys to girls at birth) in Jammu & Kashmir, Haryana and Punjab has been declined to 128.4, 119.7 and 117.6, respectively, as per census of India (2011). Although the Indian Government has 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 rate.

**(v) Child Marriage:** In India, although there exists a law barring the marriages of children at primitive age, but it is still being practiced under the curtains, especially, in the western parts of India. The Child Marriage Act 2006 prohibits the child marriage and declares 18 years and 21 years as the marriageable age for the girls and boys, respectively. 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.” Child marriage takes away from a girl child the innocence of her formative years of life which is necessary for physical, emotional and psychological development. Spousal violence especially sexual violence perpetrated by husbands has the severe effect on the innocent mind and body of the child. Even today in India, many children are married off on the auspicious day of Akas Teej in Rajasthan which is against the law.

**(vi) Education:** Education is one of the most crucial areas for empowerment for women. Although the right to education under Article 21 of the Indian Constitution has made it mandatory for the government to provide free education to everybody, the high rate of women’s education is still a distant dream. Although Sarva Shiksha Abhiyan and Mid-Day Meal schemes have been successful to an extent in bringing the girl child back to the schools, 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 and backward parts of India, where penetration of awareness is at lowest level. The main reasons associated with this is that the parents expect girls to look after the siblings while they are at work and manage the household work. Moreover, the parents take more interests in educating the boys as compared to the girls because they feel that the girls are to be married off and they can never contribute in economic upliftment of their parental families. Thus, the universalization of primary education in India remains a remote daydream as far as women are concerned.

**(vii) Rape:** In India, there has been a significant increase in the numbers of rape cases during the last 10 years. According to National Crime Records Bureau, in 2012, 25000 rape cases were reported and a thousand-other go unregistered. 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 but a lot more remains to be done to ensure the safety of women.

**(viii) Sexual harassment at the workplace:** The initiative on a discourse on sexual harassment of women at their workplace in India commenced 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 despite all laws and rules, 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 associated with sexual harassment. In India, the women are discriminated even in terms of 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.

## STRATEGIES OF IMPLEMENTATION OF WOMEN'S RIGHTS IN INDIA

The National Commission for Women has taken up the crucial steps for women's right and have strongly demanded a separate criminal code for women and enhanced punishment for offenses against them. 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 gain faith among masses and was removed.

A multi-layered strategy need to be developed to assess the core causes of violence against women. The state and society must provide instantaneous support to victim-survivors to ensure that the victims can carry on with their normal life. In dealing with the problem of violence against women, the innovative levels of coordination must be built up between government, society and the family. The state occupies the central position for initiating positive policies to end discrimination against women. The unconditional, financial as well as emotional assistance must be provided to the women by both the formal set-up of the state like the legal system, medical and health care sectors,

police etc, as well as from the informal networks such as family, friends, fellow citizens, and local community groups. The idea of self-reliant women taking independent decisions of her life can be achieved only by educating them which will help to achieve their economic independence, knowledge and awareness about their rights. In this way, this can be the right step for their empowerment. A special emphasis must be provided in educating women on the legal and human rights provided to them by the Indian Constitution. A well-known feminist writer, **Martha Nussabaum** argued that the key to the development of women is to provide them with the cover of justice.

The subsequent official organization under the state that deals with the victimized women in India is the Police. In most cases, the crimes against the women remain unregistered due to the insensitive nature of the police in handling those issues. Therefore, formal training and gender sensitization of police a must be done so that there is no consequential oppression of women at their hands and their grievances are addressed with sensitivity. The awareness of judges and the advocates on the sensitive gender issues is possible only if they are taught about them in law schools. The real progress of the country is hidden in the progress of women which can't be thought without providing equal status to women.

## CONCLUSION

All these violence against women raises the question mark that how special women rights being given to them are actually helping them? What are the benefits of framing such laws for the women? Will the women really be given an equal status as that of men? All these questions remain unanswered. There is still a long way to go as far as gender equality and rights are concerned. Furthermore, it can be said that women play a significant role in the life of every individual. Securing her rights would mean giving a better future to our own society, family and to every individual at large. The developed countries are developed as they have always taken the strong interest in providing equal rights to women. These countries understand the need of the hour and always try to give women better status. Thus for India to become a developed nation, it is mandatory to provide and secure women rights and empower them in every sphere of their lives.

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