



WOMEN LEGAL RIGHTS AND THEIR CHALLENGES IN INDIA

Dr.G.N.SUBBA RAO

Awarded PhD Degree from the University of Hyderabad,
Department of Political Science, Hyderabad

ABSTRACT

Presently, Indian women are facing several challenges including violation of Fundamental Rights and Legal Rights. At the policy level, the Indian legal rights are very good but in the process of implementation were very bad. The most of the Indian women's and girls are facing mental and physical violence in the different parts of the country. This article deals with women legal rights and their challenges in India. Most importantly, what are the major challenges have been faced by the women? And what are the major causes for legal rights violations against the women?

INTRODUCTION

United Nation in its Millennium Summit in 2000 declared 'Gender Equality and ladies Empowerment' collectively among the eight 'Millennium Development Goal' to be achieved by the year 2015. But these goals area unit off from being completed in an exceedingly country like Asian nation. Infect typically ladies in Asian nation area unit bereft of their basic right to dignity also; leave the question of gender parity. The current paper explores the queries central to women's right in Asian nation that's basically patricentric in nature. The article tries to grapple with the few challenges visaged by the ladies in Asian nation just like the dower, feminine foeticide, denial of inheritance rights, sale and trafficking of ladies etc. the target of the paper is to evolve methods to empower ladies uniformly just like the men.

However, the Women's rights are the rights and entitlements claimed for women and girls of many societies worldwide, and formed the basis to the women's rights movement in the nineteenth century and feminist movement during the 20th century. In some countries, these rights are institutionalized or supported by law, local custom, and behaviour, whereas in others they may be ignored or suppressed. They differ from broader notions of human rights through claims of an inherent historical and traditional bias against the exercise of rights by women and girls, in favour of men and boys.¹

Issues commonly associated with notions of women's rights include, though are not limited to, the right: to bodily integrity and autonomy; to be free from sexual violence; to vote; to hold public office; to enter into legal contracts; to have equal rights in family law; to work; to fair wages or equal pay; to have reproductive rights; to own property; to education.²



CONSTITUTIONAL AND LEGAL RIGHTS FOR WOMEN

In India, there are two kinds of women rights are enforced by the law which was based on their protection and empowerment (Constitutional Provisions). The constitutional rights are those which are provided in the various provisions of the constitution. The legal rights, on the other hand, are those which are provided in the various laws (acts) of the Parliament and the State Legislatures.(Parliamentary Provisions)

After Independence uncountable provisions are introduced to enhance the social condition of ladies and to present them a platform wherever they'll utilize their potential for his or her betterment and contribute completely towards the expansion of their country. it's proven fact that the within the gift era position and development of any country relies on the socio-economic position of its girls. The provisions that increased the worth of gift girls will be divided into 2 parts: It's a proven fact that awareness concerning constitutional and Parliamentary provisions to enhance the condition of ladies is lacking. to make sure and unfold the notice of those provisions we'll discuss them intimately. Constitutional provisions to make sure dignity of ladies

Lots of provisions are introduced through constitution to make sure dignity and self relation to the ladies at massive. As mentioned earlier Dr. B. R. Ambedkar³, author of Indian constitution, checks that those constitutions of Asian country safeguard the social and legal rights of ladies. Please notice below a number of the provisions created in favour of Indian girls, in constitution of India:

1. Article 14:- Article 14 of constitution of India ensures equality before the law or the equal protection of the laws within the territory of India. This is a very important provision which provides equal legal protection to women against any women based crime. This provision also paves way for the introduction of various laws and acts to ensure protection and enforcement of legal rights of women in India.
2. Article 15:- Article 15 of constitution of India ensures that no one should create any sort of discrimination only on the grounds of religion, race, caste, sex or place of birth or any of them within the territory of India. At the time of Independence there was lots of discrimination in India against women which gradually abolished after introduction of article 15. As per article 15(3) of the constitution state has the authority to make any special provision for women and children.
3. Article 16:- Article 16 of constitution of India ensures equal employment opportunity to every citizen of India. As per article 16 there should not be any discrimination in respect of employment opportunity under the State only on grounds of religion, race, caste, sex, descent, and place of birth, residence or any of them. Now we can see women are doing really good work in politics and in corporate sector. Presently they are holding responsible positions in Government and Government run institutions. Let me share few good names



from political and corporate field. These names are Chanda Kochhar, Indira nooyi, Sonia Gandhi, Sushma Swaraj and this never ending list goes on.

4. Article 39:- Article 39 of constitution of India ensures the benefit of the directive principles of state policy to the women. Directive principles of state policy mean guiding principles for the framing of laws by the government at state level. Article 39(a) of directive principles of state policy ensures and directs a state to apply policies which focus on men and women have an equal right of adequate means of livelihood and article 39(c) ensures equal pay for equal work for both men and women.
5. Article 42:- Article 42 of constitution of India casts a duty on every employer to ensure just and humane conditions of work and for maternity relief. In reality the position and treatment of women in corporate offices is really bad and in fact they are exploited by their seniors and bosses. In this scenario the provisions of article 42 are very important and now it is duty of employer to provide good working conditions to all the employees.
6. Article 243:- Article 243 of constitution of India ensures reservation of seats in gram panchayat for women. This opportunity of being a part of local level arbitration process has improved the social conditions of women in village areas.

These are few rights which are given by our constitution to the Indian women in order to ensure their dignity and social respect. Further to protect these constitutional rights there are numerous legal steps that have been taken by the state Governments which we will discuss in detail through this article.

LEGAL RIGHTS FOR WOMEN PROTECTION & DIGNITY

After Independence there was have to be compelled to introduce some statutory laws to confirm safety and protection of girls. Keeping visible this demand, similar to constitutional provisions, numerous parliamentary steps have conjointly been taken by the law of Asian nation so as to confirm dignified life to the Indian ladies. Parliamentary steps suggest that and include the enactment of varied laws and statutory acts to shield the interest and to prevent the crime against women. These acts have tried very helpful towards progress and safety of girls in society. Let Pine Tree State conjointly shares the name of a number of the legislative acts that square measure offered in Asian nation to shield women's rights against harassment. These acts square measure sort of a boon to ladies at giant to shield their dignity in society.

- 1) Dowry Prohibition Act, 1961
- 2) The Protection Of Women From Domestic Violence Act, 2005
- 3) The Commission Of Sati (Prevention) Act, 1987
- 4) The Immoral Traffic Prevention Act, 1956
- 5) Civil Procedure Code, 1973
- 6) Indian Penal Code, 1960



- 7) Hindu Marriage Act, 1955
- 8) Child Marriage Restraint Act, 1929
- 9) The Medical Termination Of Pregnancy Act, 1971
- 10) National Commission Of Women Act, 1990
- 11) The Minimum Wages Act, 1948
- 12) Bonded Labor System Abolition Act, 1976
- 13) The Special Marriage Act, 1954
- 14) Foreign Marriage Act, 1969
- 15) Indian Divorce Act, 1969
- 16) The Indecent Representation of Women Prohibition Act, 1986
- 17) Guardians & Wards Act, 1869
- 18) Equal Remuneration Act, 1976

The above list is not conclusive but inclusive. These acts have given ample provisions to ensure the protection of women rights like minimum wages, protection from domestic violence, right of equal remuneration, prevention from immoral trafficking, prevention from indecent representation of women etc. So there is no doubt that our judiciary and legislature has taken various effective steps to ensure the dignity of women.

CHALLENGES FACED BY WOMEN IN INDIA

In everyday, the women have been facing different kinds of harassment in various parts of the country. Even though, the Government of India has enacted several legal provisions for the protection and empowering the women community, but still the ill-treatment of women has been continuing in our society. The most of the women are facing the problems including sexual assault, domestic and family violence, mental and physical harassment. These are the few atrocities are given below related to the women legal rights violations.

1. **GIRLS CHILD MISSING:** The idiom “missing women” was for the first time used by Prof. Amartya Sen when he showed that in many developing countries the proportion of women as compared to men in the population is suspiciously low. The lopsided sex ratio in many states in India is one of the main reasons because of which women, and girls, go ‘missing’. The girls from the poor families in India are sold off by the brokers to the men’s in particularly in Northern India where the problem of imbalanced sex ratio is very much evident. Apart from these there are cases of women going missing from their marital homes.
2. **DOWRY RELATED DEATHS:** In India the unusual dowry deaths of the women at their matrimonial home has been increasing at a startling rate. Dowry disputes are quite a serious problem. The National Crime Records Bureau in India in its report had disclosed that in 2012 around 8233 newly wedded brides were killed for dowry². “The role of husband’s reaction to



dowry brought at the time of marriage on subsequent experience of marital violence. The substantially reduced risk of experiencing physical and sexual violence among women whose husbands were satisfied with the dowry reflects the strong influence of dowry in determining women's position within the household"³. 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. **HOUSE BASED VIOLENCE:** 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 reasons for Domestic aggression are primarily ingrained in the patriarchal nature of the Indian society which supports such violence at home. Besides this the problem of alcoholics of husband or 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 498 A of the Indian Penal Code in 1983'⁴ 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.
4. **CHILD MARRIAGE:** In India although there exist a law barring the marriages of children at primitive age, but it is still being practised in different parts of India. Chid Marriage Act 2006 prohibits child marriage and declares 18 years and 21 years as the marrigable 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 IMR⁵." Child marriage takes away from a girl child the innocence of her formative years of life necessary for physical, emotional and psychological development. Spousal violence especially sexual violence perpetrated by husbands has severe effect on the innocent mind and body of the child. Even today in India a number of children's are married off on the auspicious day of Akas Teej in Rajasthan.
5. **ILLITERACY:** illiteracy is one of the most critical areas of empowerment for women. Although the right to education under Article 21 of the Indian Constitution have made it compulsory for the government to provide free education to everybody, the high rate of women's education is still a distant dream. In spite of the fact that Sarva Shiksyia Abhiyan to an extent has been successful 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 areas in India. The main reasons associated with this is that the parents expects girls to look after the siblings while they are at work, working with the parents as seasonal labour during the cultivation period and managing the household work while the parents are at work, the parents take more interest in boys.

6. **PHYSICAL HARASSMENT AT 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". 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.
7. **RAPE AND VIOLENCE BY THE SOCIETY:** In India there has been a significant increase in the numbers of rape cases in the last 10 years. According to National Crime Records Bureau, in 2012, 25000 rape cases were reported¹³. 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. The communities and societies in India in most of the places are bound up with patriarchal normative universe from which women could hardly get true justice. The religious communities, village communities or the artificial communities like professional bodies are hardly epitome of equality between men and women. Quite often the religious communities have made the life of the women worse by forcing them to adopt conservative practices that are harmful to women.
8. **FORCED TO PROSTITUTION & TRAFFICKING:** Trafficking means import and export of humans for sex business. It is indeed very sad to learn that in India, where women are recognized as Devi and prayed by all Indian's as Devi Shakti, they are also treated as a source of earning by unethical means. Prostitution is one of the biggest problems in this world which is damaging the women in many ways. In general, the term prostitution means offer of sexual services for earning money. Prostitution is a problem which exists across the world. There are quite a few laws in India in order to prevent the crime of prostitution like Suppression of Immoral Traffic in Women and



Girl Act 1956 and Immoral Traffic (Prevention) Act 1956. There are few commissions are made by state Government to save women and specially girls to protect them from this practice.

9. **EVE TEASING:** It is a general perception that eve teasing is not a big crime like rape or murder and may be because of that we don't take it seriously. But from a women's point of view eve teasing is also a very big crime as this activity does make her feel uncomfortable most of the times. Eve teasing usually involves teasing women, passing comments on women and making vulgar signs (eshare). A woman has to face this kind of irritating behaviour and deal with this on daily basis. She can't even fight back due to fear of disrespect by others as everyone will blame her and say that you must have done something to invite them. In case of eve teasing girl should not remain silent and raise her voice. She should inform her family members and simultaneously file a complaint in the nearest police station. In this case family should also support the women instead of locking her at home.
10. **ATTACKING WITH ACID:** Recently the issue of acid throwing on girls has also become a big issue. There are few types of acids and all are very dangerous for human flash and burn. This acid attack sometimes is so dangerous that even bones and eyes are also got damaged due to acid. Few victims are forced to leave their education or occupation due to the results of acid throwing. Now a days this has become very easy for people to get these acids and the cases of acid throwing has become very regular in daily life.

The violation of women's elementary rights through physical, mental, emotional, and sexual violence against ladies has become virtually commonplace within the Indian context. Violence against ladies has taken significantly acute forms in circumstances wherever population's area unit already marginalized, like in areas full of armed conflict, areas undergoing mass displacement. Ladies within the social group belts and amongst Dalit populations area unit already vulnerable, and become even a lot of therefore in areas full of conflict. There's thus a pressing want for the judiciary to acknowledge and address the actual kinds of violence levied against ladies United Nations agency area unit 'doubly marginalized' by caste, class, religion, or in things conflict. Customary habitually laws discriminate against ladies, each by denying justice to victims of violence and by dispossessing ladies from their shares in land and property. The variety of laws that defend ladies from discrimination have conjointly either inadequate, or haven't been properly enforced.

Key issues of women legal rights violence

- Rape and sexual assault
- Domestic violence
- Sexual harassment in the workplace and in educational institutions
- Matrimonial disputes, custody, divorce
- Women's property and inheritance rights



- Reproductive and sexual health rights of women/ adolescent girls
- Pre-birth sex-selection and elimination of female fetuses
- Trafficking for commercial sexual exploitation, domestic work, marriage, etc.
- Child marriage
- Child Sexual Abuse
- Witch hunting
- Acid attacks
- ‘Honour’ based crimes against women/ ‘honour killings’
- Equal employment opportunities for women and labour rights.
- Rights of doubly marginalized sections of women like HIV+ women, dalit and tribal women, women prisoners, lesbians, bisexuals, disabled women.
- Any other gender based discrimination/exploitation.

CONCLUSION

Women square measure one amongst the pillars of the society and it might be terribly tough to imagine society while not the presence of ladies. Currently it's time for all folks to grasp the ability of ladies. Even our judiciary and law-makers has conjointly accepted the very fact that girl's square measure one amongst the foremost vital components of society and their exploitation wouldn't be accepted at any value. There's one oral communication that behind each fortunate man there's a lady. This oral communication is enough to prove that man and ladies each square measure necessary part of society. Ladies plays totally different role in her life that isn't a simple task. Throughout her life she acts as female offspring, wife, sister and mother at totally different stages of life. Thus we have a tendency to should provide them care and respect and perceive their efforts towards welfare of the society at giant. I hope this text can facilitate America to grasp those rights of ladies square measure terribly necessary and Indian law is robust enough to safeguard her from any reasonably harassment and torture.

References

1. Hosken, Fran P., 'Towards a Definition of Women's Rights' in *Human Rights Quarterly*, Vol. 3, No. 2. (May, 1981), pp. 1–10.
2. Lockwood, Bert B. (ed.), *Women's Rights: A "Human Rights Quarterly" Reader* (Johns Hopkins University Press, 2006), ISBN 978-0-8018-8374-3.
3. Constitution of India, Articles 14-43 and 243.