



International Journal of Humanities & Social Science Studies (IJHSSS)
A Peer-Reviewed Bi-monthly Bi-lingual Research Journal
ISSN: 2349-6959 (Online), ISSN: 2349-6711 (Print)
Volume-I, Issue-V, March 2015, Page No. 49-53
Published by Scholar Publications, Karimganj, Assam, India, 788711
Website: <http://www.ijhsss.com>

Human Rights and Women: National Perspective

Rahul Mishra

Assistant Professor, Amity Law School, AUR, Jaipur, India

Abstract

Women constitute almost half of the world population. However, their enjoyment of rights equally with that of men is far from satisfactory. In every society from ancient to modern times, women are considered as the property of men to serve their interests in both society and domestic front. In order to halt such practices, the UN and the international community have evolved a number of methods to augment the rights of women on par with men without any kind of discrimination. Among the various vulnerable groups, children are another major category, whose rights are affected by negligence and other conditions in every society. In many societies in the world, especially in the developing world from tender age, their rights are abused for a variety of reasons. A child has a number of basic rights, such as, protection and prevention of illegal abortion, right to nourishment, adequate nutritious food, basic health care, love and affection of family, society, not to abuse the tender age, recreation, right to basic education, right to development, right to identity, community and social life, etc.

Key Words: *Human Rights, Law, Commission, Child abuse.*

Introduction: Womanhood has been revered in the ancient Indian culture as a manifestation of divine qualities. Womanhood is a symbol of eternal virtues of humanity expressed in compassion, selfless love and caring for others. The Indian philosophers of yore (the rishis) considered that the seeds of divinity grow and blossom in a truly cultured society where women are given due respect and equal opportunities of rise and dignity. The scriptures and later works on Indian culture and philosophy stand witness to the fact that women indeed receive high recognition and respect in the Vedic age. The contribution of women *rishis* in making the ancient Indian culture a divine culture were not less than those of their male counterparts. In the later ages too, women had always been integral part of cultural, social and intellectual evolution of the human society. Women¹ constitute almost half of the world population. However, their enjoyment of rights equally with that of men is far from satisfactory. In every society² from ancient to modern times, women are considered as the property of men to serve their interests in both society and domestic front. In order to halt such practices, the UN and the international community have evolved a number of methods to augment the rights of women on par with men without any kind of discrimination. The efforts of the international community and the government of India are discussed in two separate heads in brief.

National Perspective: The customary practices such as sati, purdah and devadasi system robbed the freedom of women to a great extent and deprived of their political, social and economic rights especially in inheritance of property. The Hindu law completely prohibited the property rights of inheritance until recent times. During the British Period, a number of reformers, Raja Ramohan Ray, Iswarchandra Vidayasagar, Knadukuriveerasalingam, Jyothirao Phule, Balaganadara Tilak and many

¹ http://www.infinityfoundation.com/mandala/h es/h es_pande_women_frameset.htm(Last accessed on 04-02-2015)

² The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination Against Women (CEDAW) in 1993.

other reformers fought for the abolition of unequal treatment meted out to women in many fronts.

After independence, the Constitution of India adopted on January 26, 1950 abolished all kinds of discriminatory practices against women. The constitution on the lines of the Universal Declaration of Human Rights 1948 recognizing the rights of women³ has a number of provisions to protect in augmenting their rights.

Some of the Salient Features are: *The Constitution of India through Article 14 recognized equality and equal protection before law for both men and women.*

1.No discrimination against women is permissible. (Article 15 (1)).

2.Equality of opportunity in matters of public appointments for all citizens is guaranteed and in particular gender-based discrimination in respect of employment or office under the state has been prohibited. (Art. 16).

3.Through Article 15 clause (3) it permits the state to make any special law or provisions or concession to be extended for the promotion and welfare of Women.

³ The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women.

Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. From the Fifth Five Year Plan (1974-78) onwards has been a marked shift in the approach to women's issues from welfare to development. In recent years, the empowerment of women has been recognized as the central issue in determining the status of women. The National Commission for Women was set up by an Act of Parliament in 1990 to safeguard the rights and legal entitlements of women. The 73rd and 74th Amendments (1993) to the Constitution of India have provided for reservation of seats in the local bodies of Panchayats and Municipalities for women, laying a strong foundation for their participation in decision making at the local levels.

1.3 India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.

1.4 The Mexico Plan of Action (1975), the Nairobi Forward Looking Strategies (1985), the Beijing Declaration as well as the Platform for Action (1995) and the Outcome Document adopted by the UNGA Session on Gender Equality and Development & Peace for the 21st century, titled "Further actions and initiatives to implement the Beijing Declaration and the Platform for Action" have been unreservedly endorsed by India for appropriate follow up.

1.5 The Policy also takes note of the commitments of the Ninth Five Year Plan and the other Sectoral Policies relating to empowerment of Women.

1.6 The women's movement and a wide-spread network of non-Government Organizations which have strong grass-roots presence and deep insight into women's concerns have contributed in inspiring initiatives for the empowerment of women.

1.7 However, there still exists a wide gap between the goals enunciated in the Constitution, legislation, policies, plans, programmes, and related mechanisms on the one hand and the situational reality of the status of women in India, on the other. This has been analyzed extensively in the Report of the Committee on the Status of Women in India, "Towards Equality", 1974 and highlighted in the National Perspective Plan for Women, 1988-2000, the Shramshakti Report, 1988 and the Platform for Action, Five Years After- An assessment"

1.8 Gender disparity manifests itself in various forms, the most obvious being the trend of continuously declining female ratio in the population in the last few decades. Social stereotyping and violence at the domestic and societal levels are some of the other manifestations. Discrimination against girl children, adolescent girls and women persists in parts of the country.

1.9 The underlying causes of gender inequality are related to social and economic structure, which is based on informal and formal norms, and practices.

1.10 Consequently, the access of women particularly those belonging to weaker sections including Scheduled Castes/Scheduled Tribes/ Other backward Classes and minorities, majority of whom are in the rural areas and in the informal, unorganized sector – to education, health and productive resources, among others, is inadequate. Therefore, they remain largely marginalized, poor and socially excluded.

4. Article 21 guarantees the Life and Liberty to all the citizens without any sort discrimination. The Directive Principles of States Policy (which in the language of human rights described as Economic, Social and Cultural Rights) directs the State to make provisions through Article 39 (a) the state to ensure both men and women have the right to an adequate means of livelihood.

5. Article 39 (Clause D) Provide for equal pay for equal work without any kind discrimination.

6. Article 42 allows the state to make provisions for securing just and human conditions of work and maternity relief. According to Article 51(A) (e) it is the fundamental duty of every citizen to renounce practices derogatory to the dignity of women.

National Policy of Women: The Government of India in the year 2001 adopted a National Policy of Women for advancement, development and empowerment of women. The Ministry of Women and child development takes care of various aspects of women's development and empowerment. The aims and objectives of the policy are looked after by the Ministry to achieve self sufficiency of Indian women. The aims and objectives of the policy are:

(i) *Creating an environment⁴ through positive economic and social policies for full development of women to enable them to realize their full potential.*

(ii) *The de-jure and de-facto enjoyment of all human rights and fundamental freedom by women on equal basis with men in all spheres – political, economic, social, cultural and civil.*

(iii) *Equal access to participation and decision making of women in social, political, and economic life of the nation.*

(iv) *Equal access to women to healthcare, quality education at all levels, career and vocational guidance, employment, equal remuneration, occupational health and safety, social security and public office etc.*

(v) *Strengthening legal systems aimed at elimination of all forms of discrimination against women.*

(vi) *Changing societal attitudes and community practices by active participation and involvement of both men and women.*

(vii) *Mainstreaming a gender perspective in the development process.*

(viii) *Elimination of discrimination and all forms of violence against women and the girl child; and*

(ix) *Building and strengthening partnerships with civil society, particularly women's organizations.*

Apart from National Policies and other initiatives, the Government of India and the State Governments has evolved a number of policy formulations, schemes through annual budgets for the promotion of women's rights⁵.

Violation of human rights in general: The employment of the women in agriculture, traditional industries and in sizeable section of new industries is declining at a very fast rate. The reason is that the adoption of new technological changes requires new skill, knowledge and training. And women in India, who constitute a large share of world's illiterate lacks such skills and knowledge. The studies have also showed that for the same task, women are paid less than the males. Technological changes in agriculture and industry are throwing out women from the production process. The women workers are concentrated only for certain jobs which require so – called female skills. Thus, Indian labor market is adverse to women workers. It shows that, the role of women in large scale industries and technology based businesses is very limited. But even in

⁴ "Democracy, development and respect for human rights and fundamental freedoms are interdependent and mutually reinforcing." Vienna World Conference on Human Rights 1993(<http://www.unicef.org/gender/files/WomensAndChildrensRightsInAHumanRightsBasedApproach.pdf>) Last accessed on 03-02-2015.

⁵ Globalization has presented new challenges for the realization of the goal of women's equality, the gender impact of which has not been systematically evaluated fully. However, from the micro-level studies that were commissioned by the Department of Women & Child Development, it is evident that there is a need for re-framing policies for access to employment and quality of employment. Benefits of the growing global economy have been unevenly distributed leading to wider economic disparities, the feminization of poverty, increased gender inequality through often deteriorating working conditions and unsafe working environment especially in the informal economy and rural areas. Strategies will be designed to enhance the capacity of women and empower them to meet the negative social and economic impacts, which may flow from the globalization process.

the small- scale industries their participation is very low. Only 10.11% of the micro and small enterprises are owned by women today. Statistics show that only 15% of the senior management posts are held by the women. In agriculture where women comprise of the majority of agricultural laborers, the average wage of women on an average is 30 – 50 % less than that of men.

Violation of right from society, state and family system⁶: Child marriage has been traditionally prevalent in India and continues to this date. Discrimination against the girl begins even before their birth and continues as they grow. According to the law, a girl cannot be married until she has reached the age of 18 at least. But the girl in India is taken as a burden on the family. Sometimes the marriages are settled even before the birth of the child. In south India, marriages between cousins is common as they believe that a girl is secured as she has been married within the clan. Parents also believe that it is easy for the child – bride to adapt to new environment as well as it is easy for others to mould the child to suit their family environment. Some believe that they marry girls at an early age so as to avoid the risk of their unmarried daughters getting pregnant. This shows that the reasons for child marriages in India are so baseless. Basically, this phenomenon of child marriage is linked to poverty, illiteracy, dowry, landlessness and other social evils. The impact of child marriage is widowhood, inadequate socialization, education deprivation, lack of independence to select the life partner, lack of economic independence, low health/nutritional levels as a result of early/frequent pregnancies in an unprepared psychological state of young bride. However, the Indian boys have to suffer less due to male dominated society. Around 40% child marriages occur in India. A study conducted by „Family Planning Foundation“ showed that the mortality rates were higher among babies born to women under 18. Another study showed that around 56% girls from poorer families are married underage and became mothers. So, all this indicated that immediate steps should be taken to stop the evil of Child Marriage.

How can the women be made to feel secured: In *Sunil Batra v. Delhi Administration*⁷ the apex court has observed that Human Rights jurisprudence in India has constitutional status. Again in *Maneka Gandhi v. Union of India*⁸ the Supreme Court has held that provisions of part III of the Constitution of India should be given widest possible interpretation. Article 14 guarantees equality before law and the equal protection of law. Article 15 prohibits discrimination on any basis. It also deals with the special provisions to be made for women which shall not be considered as discriminatory. Article 16 provides equal opportunity in matters of public employment. Part IV of the Constitution of India deals with Directive Principles of State Policy. These are not enforceable in the courts of law like fundamental rights. Even though Directive Principles of State Policy are helpful in guiding the State while making legislations and policies, it has its own importance as binding on the

⁶ Special initiatives for women:

(i) National Commission for Women

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 safeguards provided for women, review the existing legislation to suggest amendments wherever necessary, etc.

(ii) Reservation for Women in Local Self -Government

The 73rd Constitutional Amendment Acts passed in 1992 by Parliament ensure one-third of the total seats for women in all elected offices in local bodies whether in rural areas or urban areas.

(iii) The National Plan of Action for the Girl Child (1991-2000)

The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

(iv) National Policy for the Empowerment of Women, 2001

The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a “National Policy for the Empowerment of Women” in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

⁷(1978) 4 SCC 409. Singh, Dr. Devinder, “Human Rights Women and Law”, (2005), Allahabad Law Agency, Faridabad at p 52.

⁸ 1978 AIR 597.

States. “Equal Pay for equal work “Just and Human conditions of work and for maternity relief” and Fundamental duty to respect women and renunciation of practices derogatory to dignity of women are the important provisions of Constitution of India.

Supreme Court of India on International law concerning the human rights of women: The Supreme Court of India has interpreted various provisions of international instruments correlated with Constitutional law of India. India is a signatory to various International Conventions and Treaties. The Universal Declaration of Human Rights adopted on 10th Dec. 1948, has greatly helped to create a universal thinking that Human Rights are supreme shall preserve. In *Madhu Kishwar v. State*⁹ Supreme Court has considered the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, 1979 and held that it is a mirror image of Part III and Part IV of the Constitution of India

Women Empowerment: March 8 is celebrated all over the Globe as International Women’s Day. The International Women's Day (IWD) was originally called International Working Women’s Day. In different regions the focus of the celebrations range from general celebration of respect, appreciation and love towards women to a celebration for women's economic, political and social achievements. It is a significant march towards women empowerment. This is the occasion to analyze all about empowerment of women throughout the world. The word empowerment is an inclusive one and it means empowerment on multidimensional aspects such as Civil, Political, Social, Economic, Cultural and Educational empowerment of women. The United Nations theme for International Women’s Day 2012 is Empower Women – End Hunger and Poverty .The above mentioned points are the various areas of women empowerment. The requirement is that awareness through education for all round development of women.

Conclusion: The Universal Rights¹⁰ belonging to an individual are the virtue of being human. Studies have revealed that women as a human being hampered since ancient time. Dominance on women in the society resulted into backwardness of women in the civil, political, social, economic, political and educational spheres of view. Gender equality and brotherhood in the society will change the current situation. The attitude towards women can be changed with proper policy implementation with the aid of Governmental and Non Governmental organizations. The development¹¹ in science and technology has changed everything in the society women are still living with less responsibility. In day to day life women are facing violence in the society. Changing the mentality of people is not an easy task but quality education to children at primary stage to eradicate gender inequality and to bring about a change in typical thinking about women, will bring drastic change in the society. The international and national framework to protect rights of women has not attained satisfactory results. Finally collaboration between all classes of society may be suggested and Governmental, Non Governmental instruments, an effective and efficient Judiciary and conscious Media is the need of the hour.

⁹ 1996 AIR 1864.

¹⁰ Iyer Krushna V. R., “The Dialectics and Dynamics of Human Rights in India (Yesterday, Today and Tomorrow)”
, (1999), Eastern law House Private Ltd, Calcutta.

¹¹ Basu, Dr. Durga Das, J., “Human Rights in Constitutional law”, (2003), Wadhwa, Nagpur, 3rd Ed.
