

LEGAL PROVISIONS FOR WOMEN EMPOWERMENT: PROBLEMS AND PROSPECTS

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Abstract: United Nation in its Millennium Summit in 2000 declared 'Gender Equality and Women Empowerment' as one among the eight 'Millennium Development Goal' to be achieved by the year 2015. However these goals are far from being realized in a country like India. Infact often women in India are deprived of their fundamental right to dignity also, leave alone the question of gender parity. The present paper explores the questions central to women's right in India that is fundamentally patriarchal in nature. The article attempts to grapple with the few challenges faced by the women in India like the dowry, female foeticide, denial of inheritance rights, sale and trafficking of girls etc. The objective of the paper is to evolve strategies to empower women uniformly like the men.

Keywords: Women's, Rights, Problems, Prospects, Empowerment, Challenges.

Introduction: Women emerged as a distinct interest group in the 19 th century primarily because the bourgeoisie democratic revolutions of 17th and 18th century that excluded women from their concept of equality. This distinction was based on gender. Since then women as a commune had waged struggle for recognition of their rights as a human being. Women's execute multilateral role in the society i.e. as a breadwinner of her family, as a care taker of her family as a mother, wife, daughter and service provider to the society. In spite of the fact that the women's contribution to the country's development is equal to that of their male counterpart, still they experience a number of limitations that restrain them from comprehending their potential for expansion. It was against this background that the government's all over the world felt the need to prioritize the interests of women and their participation at every stage of the development process. Women as a core group of concern emerged as a major theme in the Millennium Development Goal. The Millennium Development Goal are the eight goals set by the United Nations in 2000 which will act as yardstick to determine the advancement in the direction of the obliteration of global poverty. UN stated that 'Gender Equality and Women Empowerment' as one of the Millennium Development Goals to be attained by the year 2015. The term Women's empowerment implies the ability of the women take all the important decisions independently related to her throughout her life span that will ensure her success in all aspects of life.

However these goals are far from being realized in a country like India. Infact often women in India are deprived of their fundamental right to dignity also leave alone the question of gender equality. The present paper explores the questions central to women's right in India that is fundamentally patriarchal in nature. The article attempts to grapple with the few challenges faced by the women in India like the dowry, female foeticide, denial of inheritance, sale and trafficking of girls etc. The objective of the paper is to evolve strategies to empower women

who are as human beings as men are.

Mapping of Women's Rights Violations In India

Missing of girl child: The idiom "missing women" was for the first time used by Prof. Amartya Sen¹ 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 of 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.

Dowry 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.

Domestic 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 1983⁴ 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.

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. 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." 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.

Preference for a son: The preference for a son is a phenomenon which is historically rooted in the patriarchal system of the Indian society. The strong preference for having a son emerged with the transition of the Indian society from primitive stage which used to be primarily a matrilineal to feudal stage where agriculture emerged as the primary established occupation of the people to be controlled by the male. The concept of private property emerged and the land began to be divided among the families. Thus, in such a patriarchal landowning society the sons were seen as the major contributor to the family workforce vis a vis a girl. The desires for a son often have an adverse effect on the health of the mother also. All these issues gradually led to the neglect of the female child who are often relegated to the background even in the present day Indian society.

Female foeticide: The low status of women goes on with the practice of infanticide, foeticide, sex-selective abortion which has become common due to the amniocentesis technology, and mal-nourishment among girl children. In India it is estimated that around "10 million female foetuses have been aborted

in the last 20 years". "The child sex ratio in Punjab declined from 894 in 1961 to 793 in 2001. In Haryana, the child sex ratio plummeted from 910 in 1961 to 820 in 2001." 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 foetuses 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.

Education: Education is one of the most critical areas of empowerment for women. Although the right to education under Article 21 of the Indian Constitution has 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 Shiksha 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 expect 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' education as against the girls as they feel that the girls are to be married off, increasing cost of education etc. Thus, the universalisation of primary education in India remains a remote daydream for the women.

Forced evictions and exclusion: In India often the widows are evicted from their matrimonial home and are left alone to feed themselves and their children following the demise of their spouses. Women headed households and women in general are far less secure than men. Very few women own land. A separated or divorced woman with no land and a family to care for often ends up in an urban slum, where her security of tenure is at best questionable". "There is increasing clinching evidence that, in poor households, women spend more on basic family needs, while men spend a significant part on personal goods, such as alcohol, tobacco, etc".

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. 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.

Rape: Discriminatory family codes, lack of education, and cultural stigmas are only a few examples that hinder them outside the cultural milieu where she suffers. Heightened media attention given to such inequities has raised pressure on the government to not just reform the institutional treatment of women, but also raise the level of debate on the larger issue of women's rights in a rapidly modernizing society. Sex-selective abortions have occurred at staggering rates in India despite a 1996 ban on screening for such purposes: researchers say up to six hundred thousand female fetuses are aborted in India every year, or 2.2 percent of the annual birth rate. This has tipped the gender ratio so dramatically that in 2011, there were 914 girls for every one thousand boys among children up to six years old—the most imbalanced gender ratio since India's independence in 1947. 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 reported. 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.

Societal violence against women: 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.

Problems Of Working Women: Women have now not only found their place in work places but are also participating in governance. Women have been given representation in the Panchayati Raj system as a sign of political empowerment. There are many elected women representatives at the village council level. At the central and state levels, too women are progressively making a difference. Today we have women Chief Ministers in five large states of India. The Women's reservation policy bill is slated to further strengthen political participation.

The Hindu Succession Act gives male and female heirs almost equal right to inheritance. Section 14 says that any property possessed by a female Hindu shall be held by her as full owner and not as a limited owner. Apart from that, there are women who work

hard in the field. Women plow fields and harvest crops while working on farms, women weave and make handicrafts while working in household industries, women sell food and gather wood while working in the informal sector. There are estimates that over 90 percent of workingwomen are involved in the informal sector. The informal sector includes jobs such as domestic servant, small trader, artisan, or field laborer on a family farm. Most of these jobs are unskilled and low paying and do not provide benefits to the worker. More importantly, however, cultural practices vary from region to region.

Women in northern India have more restrictions placed on their behavior, thereby restricting their access to work. Southern India tends to be more egalitarian, women have relatively more freedom, and women have a more prominent presence in society. Cultural restrictions however are changing, and women are freer to participate in the formal economy, though the shortage of jobs throughout the country contributes to low female employment. However, in the recent years, conditions of working women in India have improved considerably. More and more women find themselves in positions of respect and prestige; more and more workplaces are now populated with women who work on equal terms as men. Working is no longer an adjustment, a mere necessity; but a means to self worth and growth.

Protection of Women's Human Rights by the Constitution of India: The constitution of India confers special rights upon women. The constitution makers were well aware of the subordinate and backward position of women in the society. They made some efforts for uplift of women in our society. The state is directed to provide for maternity relief to female workers under Article 42 of the Constitution, whereas Article 51-A declares it as a fundamental duty of every Indian citizen to renounce practices to respect the dignity of women. Indian Parliament has passed the Protection of Human Rights Act, 1993 for the proper implementation of Article 51-A. Indian Parliament over the years have taken significant steps for through legislations to achieve the goal of empowering the women in India. The significant among them are the Equal Remuneration Act, the Prevention of Immoral Traffic Act, the Sati (Widow Burning the rights of) Prevention Act, and the Dowry Prohibition Act etc. Apart from these, the 73rd and 74th Constitution (Amendment) Acts¹⁴ provided for 33% reservation for women in both panchayat and Nagarpalika institutions as well as for the positions of chairpersons of these bodies. These two amendments removed the bottlenecks from the paths of women empowerment at the local level. Besides this, the government in India have enacted a variety of laws like Dowry Prohibition Act, Sati prevention Act etc to guarantee the rights of the women.

Apart from this, in India, National Commission for Women had been established in 1990 to look into the women's problem. NCW have engaged them to deal with the cases relating to the violation of women's rights. They have pressurised the government to pass stricter laws to deal with the rape cases, domestic violence and to create a separate criminal code for the women etc.

Strategies of Women Empowerment in India: The women in India are positioned at a receiving end primarily because they have remained ignorant of their fundamental civil and constitutional rights. Patriarchal system impinges on every sphere of a woman's life. In such a situation often a majority of them are forced to accept the traditional practices that are detrimental for both their and their children's development. Although women have acquired a level of financial and political autonomy and consciousness about their rights, yet they experience helplessness in bringing about basic changes for eliminating gender inequalities from the society. The National Commission for Women have taken up the cudgels for women's right and have vociferously demanded a separate criminal code for women and enhanced punishment for offences against women. 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 garner support among the government and have been shelved. 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 daily life. In dealing with the problem of violence against women innovative levels of coordination and integration must be built up between government, civil society and the family. The state occupies a central position in initiating positive policies to end discrimination against women. In India it was state which initiated the first reform measure when after lot of debate it reformed the Hindu Succession Act in 1956 in which women were given 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 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. The idea of self reliant independent women taking independent decisions of her life can be achieved only by educating women that will help them in achieving economic independence, as well as knowledge and awareness about their rights. Special emphasis must be provided in educating womens on the legal and Human rights provided to them by the

constitution¹⁷. A well known feminist writer Martha Nussabaum argued that the key to development of women is to provide them with the cover of justice.

The subsequent official organization under state that deals with the victimised women in India is the Police. Often the crimes against the women go unregistered because of 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. The judiciary which is responsible for providing justice to the aggrieved women should also be sensitized on gender issues. 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 women's organizations must try to empower women by changing the attitudes of the society towards the harmful traditional practices. One of the most vital tasks of the various women organizations and NGOs is to help women in rebuilding their lives and confidence. These goals can be achieved only if the women are adequately educated about their legal rights and are economically independent enough to take independent decisions of their own life. Such programmes if done within shelter homes can provide both counselling and a connection among the women's who were victimised .Violence against women can be curtailed only when cultural norms and attitudes towards the women can be changed for which change should be made in the school curriculum. Curriculum that educates the students at the school, college and university level on issues like human rights and gender issues should be included in their study material. "Curriculum reform that works towards eliminating the gender stereotyping in schools (teaching about women's contributions in history class, eliminating sex stereotypes in textbooks, promoting girls participation in sports) are important steps in achieving gender equality".

The violence against the women in India is often supported and perpetuated by the indigenous cultures and the religious leaders. Therefore the indigenous communities must try to put up mechanisms and strategies that eliminate such age old ruthless practices against the women. The religious leaders and researchers must review the sacred manuscripts and doctrines with an idea of to encourage egalitarianism and self-respect for women. **Conclusion:** Thus, in short, the Millennium Development Goal on gender equality and women's empowerment can be realised in India only when the traditional practices like female infanticide, dowry deaths, honour killings by khap panchayats, domestic violence, or sexual abuse is eliminated. It is only then that gender equality and women's empowerment can become a reality.

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