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An analytic study of redresser mechanism to protect rights of women victims in India

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Abstract

India's constitution also guarantees equal rights for men and women. However, in the field of women's rights in India, there is a huge gap between theory and practice. Indian society is a male-dominated society in which men are always considered superior to society. Indian women often face discrimination, injustice, and contempt. Although women in India have been given more rights compared to men, even so the situation of women in India is deplorable. This paper will clarify the rights of Indian women and how all the basic rights granted to women are violated in India, with a focus on the various crimes committed against them.

Keywords: Redresser mechanism, women victims, violated, India

Introduction

Violence against women is perpetrated by women of all ages and social classes, of all races, religions and nations, worldwide. Extremely done by men. It is a pervasive human trait in the world today. Its forms are subtle and vivid and its impact on development is profound. And it is so deeply rooted in traditions around the world that it is almost invisible.

The word violence is derived from the Latin word vis, which means power and refers to the idea of forcing and using another person's physical height. Violence is changing, as it affects different times, places, situations, and facts. There is violence tolerated and discarded, as violence has existed on Earth when humanity, taking a different, increasingly complex and at the same time very different and defined forms.

The definition is amplified in article 2 of the Declaration, which identifies three areas in which violence com m only takes place:

1. Physical, sexual and psychological violence that occurs in the family, including battering; sexual abuse of female children in the household; dowry-related violence; marital rape; female genital mutilation and other traditional practices harmful to women; non-spousal violence; and violence related to exploitation;
2. Physical, sexual and psychological violence that occurs within the general community, including rape; sexual abuse; sexual harassment and intimidation at work, in educational institutions and elsewhere; trafficking in women; and forced prostitution;
3. Physical, sexual and psychological violence perpetrated or condoned by the State, wherever it occurs.

Violence against women is a manifestation of the historically unequal power relations between men and women, which have led to domination over and discrimination against women by men and to the prevention of women's full advancement of women".

Constitutional Provisions for women are as under

- Article 14, confers on men and women equal rights and opportunities in political, economic and social sphere.
- Article 15, prohibits, discrimination against any citizen on grounds of religion, race, caste, sex etc.
- Article 16, provides for equality of opportunities matters relating to employment or appointment to any office under the state.
- Article 39(a)(d), mentions policy security of state equality for both men and women the right to a means of livelihood and equal pay for equal work for both men and women.

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- Article 42, Direct the State to make provision for ensuring just and humane conditions of work and maternity relief.

Legal Provisions for women are as under:

- Factories Act 1948: Under this Act, a woman cannot be forced to work beyond 8 hours and prohibits employment of women except between 6 A.M. and 7 P.M.
- Maternity Benefit Act 1961: A Woman is entitled 12 weeks' maternity leave with full wages.
- The Dowry Prohibition Act, 1961: Under the provisions of this Act demand of dowry either before marriage, during marriage and or after the marriage is an offence.
- The Equal Remuneration Act of 1976: This act provides equal wages for equal work: It provides for the payment of equal wages to both men and women workers for the same work or work of similar nature. It also prohibits discrimination against women in the matter of recruitment.
- The Child Marriage Restrain Act of 1976: This act raises the age for marriage of a girl to 18 years from 15 years and that of a boy to 21 years. Indian Penal Code: Section 354 and 509 safeguards the interests of women.
- The Medical Termination of Pregnancy Act of 1971: The Act safeguards women from unnecessary and compulsory abortions. Amendments to Criminal Law 1983, which provides for a punishment of 7 years in ordinary cases and 10 years for custodial rape cases.
- 73rd and 74th Constitutional Amendment Act: reserved 1/3rd seats in Panchayat and Urban Local Bodies for women.
- The National Commission for Women Act, 1990: The Commission was set up in January, 1992 to review the Constitutional and legal safeguards for women.
- The Protection of Human Rights Act, 1993
- Protection of Women from Domestic Violence Act, 2005:
- This Act protects women from any act/conduct/omission/commission that harms, injures or potential to harm is to be considered as domestic violence. It protects the women from physical, sexual, emotional, verbal, psychological, economic abuse.
- Protection of Women against Sexual Harassment at Workplace Bill, 2010: on November 4, 2010, the Government introduced protection of Women against Sexual Harassment at Workplace Bill, 2010, which aims at protecting the women at workplace not only to women employee but also to female clients, customer, students, research scholars in colleges and universities patients in hospitals. The Bill was passed in Lok Sabha on 3.9.2012.

The law-enforcement agencies, the police and the judiciary can play an important role in the control of crime against women and particularly rape. The law-enforcement is a continuous process from the time a crime is reported till the criminal is prosecuted and punished. This is a long process involving various stages such as, investigation, prosecution, trial and judicial decision. The victim needs to be facilitated at all these stages. Never-ending trials have also led to a scenario where the complainant is forced to compromise with the victim outside the court secretly due to the social

pressure, thereby frustrating the whole purpose of law. What is the use of increasing the punishment when the chance of conviction itself is a rarity?

Keeping all this in mind effort has been taken to understand the realities from various perspectives. Opinion of the various factors associated with judicial systems in women case of violence has been studied and analyzed in this research paper.

Methodology

In writing this research paper, a descriptive research method has been used and the data collected and interpreted for this study paper is secondary. The remedial approach to protecting the rights of female victims in India is at the heart of this paper and continues to be discussed. By focusing on the various crimes committed against them, attention has been focused on the problem.

Violation of Women Human Rights

It has been said many times these days that Indian women enjoy equal rights with men. But in reality, Indian women were the patients of ancient times. Not only in the past but also today, women have to deal with discrimination, injustice, and disrespect. Now let's talk about crimes committed by women in spite of being given equal rights with men. These points will highlight the ongoing violations of women's rights in India.

Violation of Women Human Rights in Past

The Indian women exploitation is not the present phenomenon. Rather she is being exploited from the early times. The women in Indian society never stood for a fair status. The following crimes were done against the women in the past times.

Violation of Human Rights in General

- **Violation of 'Right to Equality' and 'Right to Protection against Gender Discrimination'**
Discrimination against a girl child begins when she enters the mother's womb. A child is experiencing gender differences from birth and in recent times even before birth, in a sexual way - a deliberate test that leads to the murder of children and the murder of female children. The home, which should be the safest place, is where women are most vulnerable to violence. If a baby girl opens her eyes in any way, she is killed after her birth in various cruel ways in other parts of the world. So the most important "right to life" is denied to women. In India, men are often thought of as superior to women and are given the upper hand. The 'Vienna International Convention on Human Rights' first recognized gender-based violence as a 1993 human rights violation. The same was announced in the 1993 'United Nations Declaration'.
- **Violation of 'Right to Education'**
Education is regarded as a means to an end. Education is one of the most important human rights but the position of women's education in India is far from satisfactory. Young girls may be bought into believing that they are only qualified for certain tasks or in some cases to serve as wives and mothers. Despite the improved literacy rate after independence, there is still a huge gap between the literacy rates of men and women.

About half of the women could not even see the letters of the language. At least 60 million girls do not have access to primary education in India. Because of the large percentage of illiterate women in India, they do not even know their basic human rights and will never fight for them.

- **Violation of ‘Political Right’**

The political status of women in India is very unsatisfactory, particularly their representation in higher political institutions – Parliament and provincial Legislation which is of great under – representation which hampers their effective role in influencing the government initiatives and policies regarding women’s welfare and development. Their representation has been unable to reach even 10% in Lok Sabha. Thus it is clear that: a) There is male domination in Indian politics and almost all the parties give very little support to women in election despite their vocal support for 33% reservation of seats for women in Parliament and Provincial Legislation. b) Women have made initiatives in political participation but they have not been accepted in politics.

- **Violation of ‘Right to Property’**

In most of the Indian families, women do not own property in their own names and do not get share of parental property. Due to weak enforcement of laws protecting them, women continue to have little access to land and property. In fact, some of the laws discriminate against women, when it comes to land and property rights. Though, women have been given rights to inheritance, but the sons had an independent share in the ancestral property, while the daughter’s shares were based on the share received by the father. Hence, father could anytime disinherit daughter by renouncing his share but the son will continue to have a share in his own right. The married daughters facing harassment have no rights in ancestral home.

- **Violation of ‘Right to Protection of Health’**

According to the World Bank report, malnutrition is the major cause of female infertility. The presence of excessive malnutrition among female children as compared to male children is basically due to differences in the intra – family allocation of food between the male and female children. Normally, the male members are fed before the female members of the family. According to Human Development Report, in rural Punjab, 21% of girls in low income families suffer from severe malnutrition as compared with 3 % of boys in the same family. Even the low income boys are far better than upper income girls. Girl babies are less breast – fed than boy babies. 60% of girl babies are born with low birth weight. Sometimes due to economic distress and natural calamities like floods, droughts or earthquakes, the discrimination against the female child increases. Moreover it has been confirmed by various studies that the girl’s diet is inferior to the boy’s diet both in quality and quantity. Boys are given more nutritive foods like milk, eggs, butter, ghee, fruits, and vegetables as compared to girls. Due to this inferior quality diet, girls are more vulnerable to infections and diseases. The reason again is that families spend less on medication for girls than for boys.

- **Violation of ‘Right to Equal Opportunity for Employment’ and ‘Right to Get Equal Wages for Equal Work’**

Employment of women in agriculture, traditional industries and a large proportion of new industries is declining rapidly. The reason is that the adoption of new technological innovations requires new skills, knowledge and training. And women in India, who make up the majority of the illiterate people in the world, do not have such skills and knowledge. Research has also shown that in the same profession, women earn less than men. Technological and industrial changes are pushing women out of the production system. Women workers are only focused on specific tasks that require that - so-called women's skills. Therefore, the Indian labor market is opposed to female workers. It turns out that the role of women in big industries and technology-based businesses is very small. But even in small industries their participation is very low. Only 10.11 percent of small and medium enterprises are owned by women today. Statistics show that only 15% of senior management positions are held by women. In agriculture where women make up the majority of agricultural workers, the average wage for women on average is 30 - 50% higher than for men.

- **Violation of ‘Right to Live With Dignity’: Eve Teasing and Sexual Abuse**

Eve teasing is an act of terror that violates a woman’s body, space and self – respect. It is one of the many ways through which a woman is systematically made to feel inferior, weak and afraid. Whether it is an obscene word whispered into a woman’s ear; offensive remarks on her appearance; any intrusive way of touching any part of women’s body; a gesture which is perceived and intended to be vulgar: all these acts represent a violation of woman’s person and her bodily integrity. Thus, eve teasing denies a woman’s fundamental right to move freely and carry herself with dignity, solely on the basis of her sex. There is no particular places where eve – teasers congregate. No place is really “safe” for women. Roads, buses, train, cinema halls, parks, beaches, even a woman’s house and neighbourhood may be sites where her self – worth is abused.

- **Violation of 'Right From Society, State and Family System'**

- 1) **Child Marriage**

Child marriage has become very common in India and continues to this day. Discrimination against a girl begins even before their birth and continues as they grow older. Legally a girl cannot get married until she is at least 18 years old. But an Indian girl is considered a burden on the family. Sometimes marriages are resolved even before the baby is born. In southern India, marriages between cousins are common as they believe the girl is safe as married to the family. Parents also believe that it is easier for the child - the bride to adjust to the new environment and it is easier for individuals to adapt to the new environment. Some believe that they marry young girls to avoid the risk of becoming pregnant with their unmarried daughters. This shows that the reasons for child marriage in India are unfounded. In fact, child marriage is linked to poverty, illiteracy, lobola, landlessness, and other social ills.

The impact of child marriage on widowhood, malnutrition, lack of education, lack of freedom to choose a health partner, lack of economic independence, low levels of health / healthy eating due to premature pregnancy / often in the unprepared mental state of a young bride. However, Indian boys should suffer a little because of the male-dominated society.

About 40% of child marriages take place in India. A study by the 'Family Planning Foundation' found that the mortality rate was higher for children born to women under the age of 18. One study revealed that about 56% of girls from poor families marry under the age of 18 and become mothers. All of this, then, showed that urgent action was needed to stem the tide of child marriage.

2) Dowry Harassment and Bride Burning

The demand of dowry by the husband and his family and then killing of the bride because of not bringing enough dowry to the in – laws has become a very common crime these days. In spite if the Dowry prohibition Act passed by the government, which has made dowry demands in wedding illegal, the dowry incidents are increasing day by day. According to survey, around 5000 women die each year due to dowry deaths and at least a dozen die each day in 'kitchen fires'.

3) Rape

Young girls in India are often the victims of rape. About 255 are raped by girls under the age of 16. The anti-rape law has not changed since 120 years. In rape cases, it is very traumatic for the victim to have to prove that she has been raped. The victim finds it difficult to get a medical checkup immediately after the traumatic event. Apart from this, the family is also reluctant to bring charges because of the family's reputation and strict police procedures.

4) Domestic Violence

Battering of wives, abuse by drunken husbands is violence against women which has never been publicly acknowledged. The main reason is that the man wants his wife's hard work for his drinking. But an Indian woman always tries to hide it as she is ashamed to talk about it. Interference with laws and marital affairs without husband is another reason for such violence. Sad women are reluctant to go to court because of a lack of other forms of support.

So, all this violence against women raises the question of how these special rights are granted to women who help? What are the benefits of establishing such rules for women? Do they really help? Will women really be given the same status as men one day? All these questions have not been answered. There is still a long way to go in answering such questions.

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