

Women's human rights in an India context

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Abstract

India is a multiparty, federal, republic with a bicameral parliament. The principle of gender equality is enshrined within 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. The Constitution of India grants Fundamental Rights, ensure equality before the law and equal protection of law, prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. 'Women's rights are the edifice on which human rights stand' (Dr APJ Abdul Kalam). The women in India very often have to face discrimination, injustice and dishonor. Though women in India have been given more rights as compared to men, even then the condition of women in India is miserable. However, women often denied of their right to freedom at form part of everyday life such as freedom of movement, access to education and participation in decision-making process. There are many barriers to equality between the sexes. Important factors include gender stereotyping violence against women, social and cultural attitudes, and discriminating laws and practices. Women throughout the world live in constant fear and conditions of deprivation very often for their simple reason that they are women. Violation of women rights is one of the most direct expressions of the power imbalance between men and women. Therefore, any attempt to assess the status and problem of women in a society should start from the social framework; social structure, cultural norms, and value systems are crucial determinants of women's role and their position in society. In respect of the status there is a gap between the theoretical possibilities and their actual realization.

Keywords: human rights, fundamental rights, constitution, article, women right, India

Introduction

India is a pluralistic, republic, multilingual, and a parliamentary system consisting of 29 states and 7 union territories. The country has made considerable progress since independence, economic reform and liberalization measures over the 1990s have led to strong economic growth, increased exports and reduced inflation. Despite major changes that have occurred in the status of women in some parts of the world in recent decades, norms that restrict the women to the home are still powerful in India, defining activities that are deemed appropriate for women. They are, by and large, excluded from political life, which by its very nature takes place in a public forum. Women are under-represented in governance and decision-making positions.

Throughout history, women have generally been restricted to the role of a home-maker; that of a mother and wife. The Indian Constitution guarantees women equality before the law and the equal protection of laws under Article 14 and prohibits discrimination on grounds of sex under Article 15. Despite these guarantees, the position of women in India remains unequal. Women rights violation in India included rape, domestic violence, dowry-related deaths, honor killings, sexual harassment, and discrimination against women remained serious problems. Child abuse and child marriage, trafficking in persons, including widespread bonded and forced labour of children and adults, child prostitution, and forced adult prostitution, are also considered as serious problems in India. The official statistics showed a declining

sex-ratio, health status, literacy rate, work participation rate and political participation among women. While on the other hand the spread of social evils like dowry deaths, child marriage, domestic violence, rape, sexual harassment, exploitation of women workers are rampant in different parts of India. Humiliation, rape, kidnapping, molestation, dowry death, torture, wife-beating etc. have grown up over the years

Human Rights – Definitions

Albert Einstein, in an Address in Chicago observed: He existence and validity of human rights are not written in the stars. The ideals concerning the conduct of men towards each other and the desirable structure of the community have been conceived and taught by enlightened individuals in the course of history. Those ideals and convictions which resulted from historical experience, from the craving for beauty and harmony, have been readily accepted in theory by man - and at all times, have been trampled upon by the same people under the pressure of their animal instincts. A large part of history is therefore replete with the struggle for those human rights, an eternal struggle in which a final victory can never be won. But to tire in that struggle would mean the ruin of society.

Mahatma Gandhi

An apostle of non-violence, wrote with passionate sincerity long decades ago: The contrast between the rich and the poor today is a painful sight. A non-violent system of Government

is clearly an impossibility, so long as the wide gulf between the rich and hungry millions persists. The contrast between the palaces of New Delhi and the miserable hovels of the poor laboring class nearby, cannot last one day in a free India in which the poor will enjoy the same power as the richest in the land. A violent and bloody revolution is a certainty one day, unless there is voluntary abdication of the riches and the power that riches give and sharing them for the common good. According to me, the economic constitution of India, and for the matter of that of the world, should be such that no one under it should suffer from want of food and clothing. In other words, everybody should be able to get sufficient work to enable him to make the two ends meet. And, this ideal can be universally realized only if the means of production of elementary necessities of life remain under the control of the masses. These should be freely available to all as God's air and water are, or ought to be; they should not be made a vehicle of traffic for the exploitation of others. Their monopolization by any country, nation or group of persons would be unjust.

Background

Women's rights are human rights. This notion is at once fundamental and revolutionary. In theory, women have never been overtly excluded from the concept of human rights. In 1945, the UN Charter afforded to women and men equal economic, social, cultural, political and civil rights. Nevertheless, because women traditionally have been relegated to the private sphere and to subordinate status in society, they have generally been excluded from recognized definitions and interpretations of human rights. As such, women and girls' experiences with human rights abuse have been virtually ignored (UNIFEM, 1999). Most of the casualties of war are women and children; most of the world's refugees and displaced people are women and children; most of the world's poor are women and children. Still, because of persistent discrimination against women and women's virtual invisibility, these human rights violations continue with no clear sign of abatement.

Important constitutional and legal provisions for women in India

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.

1. Constitutional Provisions

The Constitution of India not solely grants equality to ladies

however conjointly empowers the State to adopt measures of positive discrimination in favour of girls for neutralizing the additive socio economic, education and political disadvantages sweet-faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.

Constitutional Privileges

1. Equality before law for women (Article 14)
2. 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 (i))
3. The State to make any special provision in favour of women and children (Article 15 (3))
4. Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
5. The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d))
6. To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Article 39 A)
7. The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
8. 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 46)
9. The State to raise the level of nutrition and the standard of living of its people (Article 47)
10. 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 51(A) (e))
11. 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(3))
12. 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 D (4))
13. 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 (3))

14. 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 (Article 243 T (4))

2. Legal Provisions

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women. Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women'. These are broadly classified under two categories.

- The Crimes Identified Under the Indian Penal Code (IPC)
 1. Rape (Sec. 376 IPC)
 2. Kidnapping & Abduction for different purposes (Sec. 363-373)
 3. Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
 4. Torture, both mental and physical (Sec. 498-A IPC)
 5. Molestation (Sec. 354 IPC)
 6. Sexual Harassment (Sec. 509 IPC)
 7. Importation of girls (up to 21 years of age)
- The Crimes identified under the Special Laws (SLL)

Although all laws are not gender specific, the provisions of law affecting women significantly have been reviewed periodically and amendments carried out to keep pace with the emerging requirements. Some acts have special provisions to safeguard women and their interests like

 1. The Family Courts Act, 1954
 2. The Special Marriage Act, 1954
 3. The Hindu Marriage Act, 1955
 4. The Hindu Succession Act, 1956 with amendment in 2005
 5. Immoral Traffic (Prevention) Act, 1956
 6. The Maternity Benefit Act, 1961 (Amended in 1995)
 7. Dowry Prohibition Act, 1961
 8. The Medical Termination of Pregnancy Act, 1971
 9. The Contract Labour (Regulation and Abolition) Act, 1976
 10. The Equal Remuneration Act, 1976
 11. The Prohibition of Child Marriage Act, 2006
 12. The Criminal Law (Amendment) Act, 1983
 13. Indecent Representation of Women (Prohibition) Act, 1986
 14. Commission of Sati (Prevention) Act, 1987
 15. The Protection of Women from Domestic Violence Act, 2005

3. Special Initiatives for Women

- a. **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.

- b. **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.
- c. **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. National Policy for Children-2013 was adopted by the Government of India on 26th April 2013. National Plan of Action for Children 2016 is in Draft Format.
- d. **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. National Policy for the Empowerment of Women, 2016 is under draft stage.

Conclusion

Human rights are those minimum rights which are compulsorily accessible by every individual as she is a member of human family. The constitution of India also guarantees the equality of rights of men and women. Throughout history, women have generally been restricted to the role of a home-maker; that of a mother and wife. The Indian Constitution guarantees women equality before the law and the equal protection of laws under Article 14 and prohibits discrimination on grounds of sex under Article 15. The government (Central, State and local) will be providing to all types of securities for violated women in the society and take needful action to do not violate of their rights. And all are give them to respects of women in our society by human nature to support them and encourage for freely independent living in our society.

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