

Violation of Rights of Women: Hindarance towards Gender Equality

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ABSTRACT: Sixty nine years since the birth of Indian Democracy, gender remains one of the major reasons of discrimination in India. Women, the fairer and the weaker sex as they are sometimes called, constitute slightly less than half of the population of this country. The constitution of India has granted equal rights to men and women. Despite the constitutional and legal provisions for equality, women are still treated as second class citizens in large parts of the country. Extant literature suggests that women have been facing exclusion and discrimination on various levels- social, political, and economic. The idea of women empowerment through means of various policies remains far from into reality. The violation of rights of women is an issue that governmental bodies are trying to address but so far failed. The thesis of the paper is that without inclusion of women in the mainstream and advancement of status of women, the eight percent growth rate is immaterial and misleading.

KEYWORDS: women, women empowerment, rights, discrimination, constitution

".....there is no tool for development more effective than the empowerment of women."

Kofi Annan

I. INTRODUCTION

The position of women in Indian society has been ambivalent throughout. She is at once raised to the status of divinity and exploited by men in most inhumane ways. The perception of women and her roles is formed by traditions and there is a kind of ambivalence surrounding the feminine roles in today's Indian society. Womanly glory was at its peak during the Vedic period in India, after which it suffered a sharp decline. Even after sixty nine years of the birth of Indian Democracy, there is a gulf between theory and practice and women are struggling for their rightful and respectful place. Despite the laws, violence and discrimination against women continues unabated as it continues against other weaker and marginalized sections of society.

"Respect for women and their rights flow from the ancient traditions of the Indian civilization and are now enshrined into the Constitution and laws of modern India." (Position taken by India while presenting the periodic reports before the UN committee on elimination of discrimination against women on July 2nd, 2014, Geneva)

No nation can really progress if half of its total population is lagging behind– economically, socially and politically. The Government – both through law and policy– has sought to improve the status of women in the country. In early twentieth century, various social reformers like Raja Ram Mohan Rai, Ishwar Chandra Vidyasagar and others social reformers emphasized women's education, prevention of child marriage, abolition of evil practice of sati etc. The National Movement paved way for the eradication of many social evils and religious taboos. The Act of Sati (abolish) 1829, Hindu Widow Remarriage Act 1856, the Child Restriction Act 1929, Women Property Right Act 1937 etc. were enacted. Post Independence, the Constitution of India laid the foundation of equality. With the Hindu Marriage Act,

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1955 the age for marriage was set. This Act also provided for monogamy and guardianship of the mother along with permitting the dissolution of marriage under specific circumstances.

National Commission for Women was constituted in India in 1992 by an Act of Parliament with the specific aim to monitor matters regarding constitutional and legal safeguards for women, reviewing the existing laws and to suggest the amendments if and wherever necessary. A National Policy for the Empowerment of Women was formulated in 2001. Several State Governments also have followed the suit. In order to review and amend the laws, a task force was set up. With the help of this task force important amendments to laws pertaining to divorce and maintenance were done, notably – Indian Divorce (Amendment Act) 2001, Indian Succession Amendment Act 2001, Marriage Laws (Amendment) Act 2001.

Gender-based discrimination leads to greater value being placed on the health and survival of males than of females. The promotion of gender equality and women empowerment has been one of the eight Millennium Development Goals of United Nations and also figures in Sustainable Development Goals to be met by 2030. This reveals that gender equality and women empowerment are not exclusive of each other. When women are empowered, they raise healthier families. Their countries are more prosperous. Securing women's rights and ensuring that women's voices are heard are vital components of women empowerment. Policies are being framed and implemented to ensure inclusion of women in political, social and economic landscape.

Mahatma Gandhi in 1925 declared, "As long as women of India do not take part in public life, there can be no salvation for the country. As long as ... women do not come to public life and purify... we are not likely to attain swaraj. Ever if we did it would have no use for that kind of swaraj to which women have not made their full contribution." (Quoted in Narayanan, 1999).

II. INTERNATIONAL COMMITMENTS OF INDIA TO WOMEN'S CAUSE

For the development and empowerment of women at the international level United Nations Organization (UNO) and Division for the Advancement of Women (DAW) were born. In 1946, Commission on the Status of Women (CSW) was established. CSW is the principal global policy-making body which focuses exclusively on gender equality and betterment of status of women. There are two human rights instruments providing a forum the realization of women's rights- International Covenant on Economic, Social and Cultural Rights (ICESCR) and the Convention on the Elimination of all Forms of Discrimination against Women (CEDAW).

India has ratified many human rights instruments and conventions, is a signatory to CEDAW (ratified it on 25-06-1993). India is also a Party to the International Covenant on Economic, Social and Cultural Rights (ICESCR) which is a multilateral treaty adopted by United Nations General Assembly in 1966. This treaty along with identifying a range of economic, social and cultural rights also requires that these rights are met without discrimination. This treaty outlines the rights and discusses how the states must work to realize and protect these rights.

Since 1975, which was declared as the International Year of the Women by United Nations, there are global efforts to understand and address gender discrimination with the support of United Nations. To meet this end, four conferences were organized, one at Mexico (1975), second at Copan Hagen (1980), third at Nairobi (1985), and fourth at Beijing (1995). And the important international instruments for the women's empowerment that emerged from these conferences are: The Mexico Plan of Action (1975), the Nairobi Forward Looking Strategies (1985), the Beijing Declaration as well as the Platform for Action (1995). All these are fully endorsed by India.

III. CONSTITUTIONAL PROVISIONS FOR WOMEN

The framers of the Constitution of India were aware of the discrimination meted out to the women since times immemorial. The principle of equality is entrenched in the Constitution of India. The Preamble, the Fundamental Rights, and the Directive Principles of State Policy along with other constitutional provisions, safeguard women's rights by placing them at par with men. The Constitution of India in addition to granting equal rights to women as men also ensures that State may adopt measures of positive discrimination in favor of women.

International Journal of Innovative Research in Science, Engineering and Technology

(An ISO 3297: 2007 Certified Organization)

Vol. 5, Issue 7, July 2016

Preamble:

The Preamble aims to secure justice- social, economic and political; equality of status and opportunity and ensure dignity to the individual.

Fundamental Rights:

The intention of bringing about women empowerment is revealed through the Fundamental Rights enshrined in our Constitution. These rights are justiciable in a court of law.

- Article 14 ensures the right to equality.
- Article 15(1) prohibits gender discrimination.
- Article 15(3) empowers the State to take affirmative action in favor of women.
- Article 16 provides for equality of opportunity for all citizens in matters relating to employment.

Directive Principles of State Policy:

It is reflected from the Directive principles of State Policy that India is a welfare democratic state. These are not justiciable in a court of law but these are essential for governance nonetheless. The Directive Principles envisage a state where there are equal rights and adequate means of dignified livelihood for both men and women.

- Article 39 (a) provides that the State should direct its policy towards securing for its citizens, both men and women equally the right to an adequate means of livelihood.
- Article 39 (d) mandates equal pay for equal work for both men and women.
- Article 42 provides that the State to make provision for securing just and humane conditions of work and for maternity relief.

Fundamental Duties:

The Fundamental duties enshrined in Part IV-A of the Constitution are positive duties for the people of India to follow.

- Article 51 (A) (e) expects from the citizen of the country 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.
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IV. WOMEN EMPOWERMENT IN INDIA

It is unarguably very difficult to capture the concept of empowerment in words. Empowerment is multidimensional construct, interpreted as economic empowerment, political empowerment, social empowerment and the like. Interestingly, all these are not exclusive of each other. The Preamble to the Constitution of India resolves to secure to all its citizens justice-social, economical and political. Women empowerment is an idea that started off as women's welfare, moved to being women's development after being reshaped by many societies, thinkers, and writers, assumed its present day form. The most recent advancement is the recognition that women empowerment is imperative for national and international development.

Alsop and Heinsohn (2005) consider individuals and groups as empowered when they possess the ability to make effective choices, and to translate these choices into actions and outcomes as per their will.

The United Nations (2001) defined women's empowerment as comprising five elements: sense of self-worth; right to have and determine choices; right to have access to opportunities and resources; right to have the power to control their own lives (both within and outside the home); and lastly, the ability to influence the direction of social change in order to create a fairer social and economic order, nationally as well as internationally.

Economic Empowerment

Economic empowerment is the capacity of women and men to participate in growth process, to contribute to it and benefit from it in ways which recognize the value of their contributions and respect their dignity along with making it possible to negotiate a fairer distribution of the benefits of growth to all (Eyben et al. 2008). Women's economic empowerment is their ability to bring about economic change for themselves.

Women's economic empowerment warrants bold and sustained action to advance women's status, to create opportunities for women, to protect their rights and to ensure that women are heard. India's National Employment Guarantee Scheme is an intervention that sought to directly increase the demand for wage labor among poorer households in the rural India. It has been successful in attracting women. The number of women who found work under this scheme exceeded the minimum quota requirement which testifies the strong desire and demand for work among

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(An ISO 3297: 2007 Certified Organization)

Vol. 5, Issue 7, July 2016

women (Sudarshan, 2011). In cultures like South Asia which exhibit stricter norms of female seclusion, there have been found a stronger relationship between household poverty and women's participation in labor force (Bridges et al 2011; Srivastava & Srivastava, 2009; Das, 2006; Sathar & Desai, 1996; Bennett, 1992; Hossain & Sen, 1991).

Ghosh (2009) proposed that successive National Sample Surveys in India have found out that increasing numbers of women perform unpaid household work out of compulsion rather than choice. Das (2006) suggests that the lack of regular, salaried jobs could be one reason why female labor force participation in India is not increasing despite increase in female education. Not to forget, female literacy in India is 65.46% as against male literacy of 82.14% as per Census (2011). A study has revealed that women workers hardly ever use the Equal Remuneration Act. However in informal sector, large numbers of workers have fought and won for better pay under the Minimum Wages Act (ISST, 2011).

Political Empowerment

Political participation of women is a major component of women empowerment. The researches have revealed that participation and empowerment are bi-directionally linked to each other. Empowered people are more likely to participate in organizations, and participation appears to promote further empowerment (Bakshi, 2002). Men and women have always craved an egalitarian society. Empowerment of women in the political sphere is fundamental to the foundation of a gender-equal society. Democracy implies equality for all and in order to attain the true democratic spirit, the political participation and hence political empowerment of women is warranted. Women's political empowerment has three basic and non-negotiable premises: (a) equality between women and men; (b) Women's right to the full development of their potentials; and (c) women's right to self representation. The issue of women's political participation cannot be viewed as separate from the general position of women in a society. In spite of their large strength, women continue to occupy a marginalized position in the political scene (Rashmi, 1996). Narayanan (1999) argues that political participation of women constitutes the first and the foremost step in the struggle for ensuring gender justice.

The year 2001 was declared as the year for the Empowerment of Women by the government of India. During the Indian national movement, the concern for women's political equality arose as women were active participants in the movement. In 1917, Indian women raised the demand for adult franchise. Women got the right to vote by 1929 on the basis of wifehood, property and education. The Government of India Act gave voting rights to women over the age of 21 provided they fulfilled the stipulated conditions of property and education. After Independence, women continue to figure in political sphere but it remains largely dominated by men.

Political empowerment of women begins at grass-root level. Local governance is the form of governance, which in terms of its participatory goal, is closer to the people as this is a requisite for efficient governance and service (Kincaid & Chattopadhyaya, 2008). In order to improve the participation of women in local governance, the 73rd amendment was introduced. In 1991, in the pursuance of 73rd amendment to the constitution, the government of India enacted the Panchayat Raj Act (1992). A landmark provision of this Act was 33% reservation to women in total seats in Panchayati Raj Institutions.

Women's political position at grass root level of governance was strengthened with 73rd and 74th amendment. The Annual Report (2011-12) by Ministry of Panchayati Raj reveals that the average women representation in panchayats across the country is 36.94 per cent. Some states for instance Bihar, Madhya Pradesh, Himachal Pradesh, and Uttarakhand have reserved 50 per cent seats for women in panchayats. Sikkim has reserved 40 per cent seats for women. The Constitution's 110th Amendment Bill 2009 seeks to ensure reservation for women from 33 per cent to 50 per cent in Panchayati Raj Institutions. It would require an amendment in the Article 243D to enhance the quantum of reservation for women.

Social Empowerment

Women's socio-economic status and the political participation are interlinked. The traditional social structure, its norms and values, customs and rituals in a totality determine the actual social status of women. Women's status is seen to vary in various religions and castes. Also it differs according to their class, region, tribe, and their rural or urban background. The status of an individual to a large extent determines their participation in the developmental process. When the debate comes to women, their inferior status is served to them due to fundamentalism and tradition which also kept them from participating in developmental process (Immanuel, 1998).

International Journal of Innovative Research in Science, Engineering and Technology

(An ISO 3297: 2007 Certified Organization)

Vol. 5, Issue 7, July 2016

In every society some sections of people are subjected to some kind social exploitation, exclusion and oppression due to practices prevalent in that society. But overtime these sections gain the ability to fight and achieve emancipation. This ability is *social empowerment*. Social empowerment of women is impossible without awareness of their rights. Female feticide, immoral trafficking, victim blaming, *devdasi* tradition, domestic violence, sexual abuse, and the practice of dowry and dowry deaths are a few of the malpractices prevalent in the Indian society.

According to historian Romilla Thaper (1975), "Within the Indian sub-continent there have been infinite variations on the status of women diverging according to cultural malices, family structure, class, caste, property rights and morals." Countless young women are burned by their in laws in demand for dowry (Agnihotri, 2000). The Dowry Prohibition Act of 1961 ensures that any person who either gives, takes, or abets the giving or taking of dowry shall be punished with imprisonment, which may extend to six months or fine up to Rs.5000/ or with both.

As per 2011 Census, there are 940 women for every 1000 men in India. Female feticide and infanticide remain the major reason. Alarmed by the increasingly skewed sex ratio, the PCPNDT Act 1994 (Preconception and Prenatal Diagnostic Techniques Act) was modified in 2003 to target the medical profession who perform the sex selective abortions on their clients. *Missing women* is a concept given by Amartya Sen (1990, 1992) to describe the observation that in developing world, majorly in India and China, the ration of women to men is markedly and dubiously low. According to Sen's estimation, more than 100 million women were "missing" as a result of inequality and neglect leading to excess female mortality. Das Gupta (2005) stated that it is the parental preferences for the sex of the child to be male that have resulted in the female deficit in South and East Asia. The Social Institutions and Gender Index (SIGI) 2014 describes *missing women* as the "shortfall in the number of women in sex ratios for ages 0-4, 5-9, 10-14, 15-64, 65+ relative to the expected number if there were no sex-selective abortions, no female infanticide or similar levels of health care and nutrition" (OECD Development Centre, 2014)..

Devadasi tradition although outlawed in 1988, but this regressive practice persists today forcing women to a life of sexual exploitation. The term *devadasi* is a Sanskrit word, which literally translates to "female slave of God." *Devadasis* are known by different names in different places, such as Muralis in Maharashtra, Basavis and Muralis in Andhra Pradesh, and Jogatis and Basavis in Karnataka. In this practice, young girls from low castes are 'married' to a Hindu goddess and sexually exploited by the temple patrons and higher caste men (Lee, 2011).

India is a source and transit country and also a destination for human trafficking in South Asia (U.S. Department of State, 2009). The women trafficked out of India find themselves in Middle East countries for sexual exploitation or as low skilled labor in Europe, the United States and Middle East. UJJWALA is a Comprehensive Scheme of Govt. of India for Prevention of Trafficking and Rescue, Rehabilitation and Re-Integration of Victims of Trafficking for Commercial Sexual Exploitation (Ministry of Women and Child Development, 2007). This scheme was conceived for the purpose of preventing trafficking, and rescue and rehabilitation of victims. Section 228-A of the Indian Penal Code (1860) prevents social victimization or ostracism of the victim of a sexual offence.

V. CONCLUSION

The journey of emancipation of women has been long and many milestones have been crossed. Our laws, plans, policies, and programmes have aimed to address the women's issues. In order to bridge the gap between de jure and de facto equality, more affirmative action is needed in areas such as education, health, and employment. What is required is mainstreaming of women and ensuring their participation in developmental processes. It is the time to make a difference through gender-specific policies which benefit women and effect a mindset change in society. What is of utmost important right now is to target populations across regions, religions, castes, tribes, and classes and sensitize them towards women's cause. This needs to be done on a large scale involving society at large, educational institutions, and policy makers. With the aim to address sex stereotyping, victim blaming and objectification of women, gender sensitive curricula may be developed and prescribed all levels of education such as in schools, colleges and universities. Stricter punitive measures should be carried out to curb the crime against women. Strong preventive measures can be devised to address the violation of rights of women. In addition, cultural barriers, regressive traditions, discriminatory practices and attitudes, also need to be identified and tackled. The task ahead may seem tortuous. But the end result will be worthwhile.

International Journal of Innovative Research in Science, Engineering and Technology

(An ISO 3297: 2007 Certified Organization)

Vol. 5, Issue 7, July 2016

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