

WOMEN'S RIGHTS IN INDIA: ISSUES AND CHALLENGES

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Introduction

“Vulnerability is the birthplace of innovation, creativity and change”

The Human Right has its universal application to all. One cannot deny the fact that there are certain groups who are vulnerable and marginalized, lacking full enjoyment of a wide range of rights, including right to equality, security, political participation, nutrition, health-hygiene, education and freedom of utilizing their full potential for overall development. One of these groups is of women who are most vulnerable in India. *Vulnerable* means exposed to the possibility of being attacked or harmed, either physically or emotionally. It also means as (of a person) in need of special care, support, or protection because of age, disability, or risk of abuse or neglect³⁹.

Vulnerability within the socio-legal framework means deprivation of certain individuals and/or groups whose rights have been violated from the exercising agency. Certain groups in the society often encounter discriminatory treatment and need special attention to avoid potential exploitation. This population constitutes what is referred to as *Vulnerable Groups*. Vulnerable groups are disadvantaged as compared to others mainly on account of their reduced access to and deprivation of the rights.

In India there are multiple social, economic and political disadvantages that members of particular groups experience which limits their access to basic rights assuring them of their health, wealth and overall development and thereby a dignified life. The task of identifying the vulnerable groups is not an easy one. Besides there are multiple and complex factors of vulnerability with different social strata and more often than once it cannot be analyzed in isolation. The present document is based on some of the prominent factors on the basis of which individuals or members of groups are discriminated in India, i.e., structural factors such as social, economic and political status, race, age, caste, sex, place of birth, disability, mobility,

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³⁹ *Oxford English Dictionary*

and stigma that acts as barriers in their overall development. The vulnerable group that face discrimination includes Women, Scheduled Castes (SC), Scheduled Tribes (ST), Children, Aged, Disabled, Poor migrants, People living with HIV/AIDS and Sexual Minorities. Sometimes each group faces multiple barriers due to their multiple identities. For example, in a patriarchal society, disabled women face double discrimination of being a women and being disabled.

Abuse of women's rights in India

Women being vulnerable section of the society needs to increase spiritual, political, social, educational, economic strength of their community. Protection of rights of women in India is totally dependent on different variables that include geographical area, literacy, social status (caste and class) and age. Policies on Women's empowerment exist at the national, state and local levels in many sectors, including health, education, economic opportunities, protection against sexual abuse and political participation. However there are significant gap between policy advancements and actual implementation at the community level.

Empowerment of women is essentially the process of upliftment of economic, social and political status of women, the traditionally underprivileged ones, in the society. It is the process of guarding them against all forms of violence. Women can live a dignified life when they can breathe without fear of oppression, exploitation, apprehension, discrimination and the general feeling of persecution which goes with being a woman in a traditionally male dominated societal structure.

Women constitute almost half of the world's population but India has shown disproportionate sex ratio whereby female's population has been comparatively lower than males. As far as their social status is concerned, they are not treated as equal to men in all aspects of life. In Western societies, women have got equal right and status with men in all walks of life. But gender disabilities and discriminations are found in India even today. The paradoxical situation has such that she was sometimes concerned as Goddess and at other times merely as slave.

Women faces double discrimination being members of specific race, caste, class or ethnic group apart from experiencing gender based vulnerabilities. Women have little control

and authority over the resources and important decisions in the matters related to their own life. In India, early marriages and conceiving affects their health adversely. Also maternal mortality rate is very high. During infancy and growing years a girl child faces different forms of violence like infanticide, intentional neglect towards their nutritional needs, education, and healthcare. As adult face violence due to unwanted pregnancies, domestic violence, trafficking, sexual abuse at workplace, denial of inheritance to the property, dowry system, marital rape and honor killings. The experience of violence and its impact on mental and physical health varies according to the women's caste, class and ethnic identity. Women have always been exploited by the patriarchal society. Even after more than 68 years of our independence, Indian women wear a pathetic look. They face an atmosphere of debilitating violence.

Women's rights issues can be studied under following headings-

Imbalanced Sex Ratio: In India proportion of women as compared to men population is suspiciously low. The girls from the poor families in India are sold off by the brokers to the men's particularly in Northern India where the problem of imbalanced sex ratio is very much evident. The preference for a son is a phenomenon historically rooted in 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 to be controlled by the male. The families having control over the larger part of land were seen with pride. Thus, in such a patriarchal land owning society the sons were seen as the major contributor to the family workforce vis a vis 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 is often relegated to the background even in the present day Indian society.

Female Feticide: The low status of women goes on with the practice of infanticide, sex-selective abortion which has become common due to the amniocentesis technology, and mal-nourishment among girl children⁴⁰. In India, it is estimated that around 10 million female fetuses have been aborted in the last 20 years.⁴¹ "The child sex ratio in Punjab declined from

⁴⁰ Kishwar Madhu, *Where daughters are unwanted*, *Manushi*, 86, 15-22 (1995)

⁴¹ Jha P., R. Kumar, P. Vasa and N. Dhingra et al, *Low Male to female sex ratio of children born in India: national survey of 1.1 million households*, *Lancet*, 367, 211-18 (2006) retrieved from- www.homeoffice.gov.uk

894 in 1961 to 793 in 2001. In Haryana, the child sex ratio plummeted from 910 in 1961 to 820 in 2001⁴².” In spite of PCPNDT Act, pre birth sex determination 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.

Dowry Deaths: In India the unusual dowry deaths of women at their matrimonial home has been increasing at a startling rate. The National Crime Records Bureau in India in its report had disclosed that in 2012 around 8233 newly wedded brides were killed for dowry. “There is substantially reduced risk of experiencing physical and sexual violence among women whose husbands were satisfied with the dowry reflects strong influence of dowry in determining women’s position within the household”⁴³. In spite of the fact that Section 498A of the IPC 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 practiced in India. In fact ‘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. In fact a major scale of violence that woman is subjected to be 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, problem of alcoholic 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, sexual harassment etc.

Sati System: Even though Sati, an action whereupon the exercise of setting widows on the funeral pyres of their spouse, was barred in the pre colonial India by social reformer Raja Rammohan Roy, but this practice continued to prevail in post colonial India. The discourse on

⁴² Vishwanath L.S., “Female Infanticide: The Colonial Experience”, *Economic and Political Weekly*, 45, 2313-2318 (2004)

⁴³ Sabharwal Sagun, K.G. Santhya and Shireen J Jejeebhoy, “Determinants of Marital violence”, *Economic and Political Weekly*, 47, 41-45 (2013)

sati was invigorated in the post independence India in 1986 when a young bride from Rajasthan named Roop Kanwar was set on the pyre of her husband. As a consequence in 1987, the Sati Prevention Act was passed which declared the practice of sati a crime for which death penalty can also be given to the perpetrators of such crime. The act also declared that the 'glorification' of sati by erecting a temple and worshipping of the deceased women as a god is also prohibited.

Child Marriage: Child Marriage Act, 2006 prohibits child marriage but it is still being practiced in different parts of India. "Over 50% of the girls marry below the age of 18, resulting in a typical reproductive pattern of 'too early, too frequent, too many'."⁴⁴ 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.

Education: Although right to education under Article 21A of Constitution made it mandatory for the government to provide free & compulsory education, 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.

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. "In almost all countries, whether 'developed' or 'developing', legal security of tenure for women is almost entirely dependent on the men they are associated with. 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

⁴⁴ National Population Policy 2000- Objectives, National Commission on Population, Government of India, Retrieved from - http://populationcommission.nic.in/npp_obj.htm

slum, where her security of tenure is at best questionable.⁴⁵ “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”⁴⁶.

Sexual Harassment at 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) Act, 2013’ that helped in translating these guidelines into concrete law. But even today “the issue of sexual harassment has largely been swept under the carpet in India. The provisions have never been successfully invoked because of social taboos still associated with sexual harassment”⁴⁷. Women are discriminated again as to the payment of remuneration for their jobs. This is true for both urban as well as rural areas.

Rape: 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 reported⁴⁸. In India in the rural areas, particularly in Northern India, the upper caste people use mass rape as a strategy to have power over the members of the lower caste groups. 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 women worse by forcing them to adopt conservative practices that are harmful to women.

Challenges in protection of women’s rights in India

⁴⁵ Retrieved from- <http://www.unhabitat.org/tenure>; <http://www.unhabitat.org/gender>;

⁴⁶ Agarwal Bina, “Are We Not Peasants Too? Land Rights and Women’s Claims in India”, *Population Council*, 4(2002)

⁴⁷ Sarpotdar Anagha, “Sexual harassment of Women: Reflections on the Private Sector”, *Economic and Political Weekly*, 47, 18-23 (2013)

⁴⁸ Retrieved from - Ncrb.gov.in/CD.../statistics2012.pdf

1. The constitution makers were well aware of subordinate and backward position of women in the Indian society and hence they made provisions conferring special rights upon women. But that are seen to be violated in the society by near ones.
2. The state is directed to provide for maternity relief to female workers but in many government and private sectors women faces difficulties in seeking such relief.
3. Article 51-A declares it as a fundamental duty of every Indian citizen to renounce practices to respect the dignity of women. But is not seen to be practiced in the society when looking at the crime rate against women in society.
4. Though the Equal Remuneration Act, Prevention of Immoral Traffic Act, Dowry Prohibition Act and apart from these, 73rd and 74th Constitution (Amendment) Acts provided for 33% reservation for women in both panchayat and Nagarpalika institutions as well as for the positions of chairpersons of these bodies, women can hardly be seen while getting equal pay for equal work, free from victimization of immoral trafficking or dowry system, and enjoying respectable positions etc.
5. 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.
6. 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.
7. Women victims of crime suffer from implied social stigma without any guilt on their part leads to give rise to feeling of hatred against themselves of being women.
8. Literacy, particularly in higher education and of professional education in women is seen to be lagging behind hence economic stability and independence remains in question.
9. The violence against the women is prevailing rather increased in its forms and numbers as well creates feeling of insecurity.

Conclusion

Thus it can be concluded that the Millennium Development Goal on gender equality and women's empowerment can be realized in India only when the traditional practices like female infanticide, dowry deaths, honor killings, domestic violence, or sexual abuse are eliminated. The greatest need of the hour is to change social attitude towards women by

providing them discrimination free environment along with full opportunities of self decision making and participating in social, political and economic life of the country with a sense of equality.

“Women move forward the family moves, the village moves and the nation moves”. It is essential as their thought and their value systems lead the development of a good family, good society and ultimately a good nation. The best way of empowerment is perhaps through inducting women in the mainstream of development. Women empowerment will be real and effective only when they are endowed income and property so that they may stand on their feet and build up their identity in the society.

It is only then that gender equality and women’s empowerment can become a reality.

