



Human Right As A Tool To Curb Atrocities Against Women: An Overview

Sanjeev Sharma & Riju Nigam

Faculty of Law, Agra College, Agra.

ABSTRACT

For centuries, women around the world have not only been denied social, political, and economic justice, but have also been exploited. They are exploited, abused and thereafter discarded to lead an immoral and destitute life till their death. Although they constitute about half of the total population and sacrifice and have contributed no less than men in the national freedom struggle at any point of time, they have been deprived of their due shares in various areas of activities and have been subjected to human and human elating wrongs from birth to death for no sin. Women are the source of the love and compassion that have always been exploited by a patriarchal society. They are subjected to violence against themselves in the form of rape, sexual molestation, bride burning, and unrelenting physical and psychological battering both within and outside the family, including at work.

Key words: Freedom, struggle, atmosphere of violence.

Introduction

Woman can bring any change in the society and country for the protection, welfare happiness and goodwill of the human beings, country and society. They have a heart like men. The mental constitution of the men and women is the same. Without women the real human development is not feasible. A part from the role they play in the development of human beings, society and country as laymen, they do play an important role in spiritual side with great efforts and endeavours.

The most widespread violation of human rights in the world is violence against women. It is common for men to abuse women all across the world. The dread of violence plays a significant role in the lives of most women, even though not all of them have experienced it and many of them don't anticipate to. It establishes their actions, including what they do, when, where, and with whom. Fear of violence is a factor in why women don't participate in activities outside of the home as well as inside of it. As punishment or as culturally acceptable attacks, women and girls may experience physical and sexual abuse within the home. These behaviours influence their expectations of themselves and their

outlook on life.

Not only are violations of human rights committed by unfair acts, but also by unjust structures at the national and international levels. Human rights violations are not the same as straightforward acts of individual aggression. Such violations are the result of developmental paradigms, whether they be capitalism or socialism, which are weighted in favor of the state or those who are now in power and are biased against those who are poor, marginalized, members of minority groups, and women.

In light of this, and taking into account all aspects of human rights, be they civil or political, Whether on a social or economic level, abuses of women's human rights can take a variety of forms. Structures and practices that have been around for a long time, such as caste, customary rules, the family, religion, and other similar institutions, all continue to discriminate against women. Institutions that are gender biased and clearly distort gender naturally occurring notions of law include economic institutions that exploit women, social institutions that oppress them, and legal institutions that pride themselves on equal justice. Economic institutions that exploit women and social institutions that oppress them include legal institutions.

Status of women in Indian Society

The position of women in society from the time of the Vedic period up until the current day Traditionalists in Indian society would provide an idealized picture of women while substantiating their assertions on the basis of particular references from Vedic and classical literature. This was because Indian society has historically been a civilization that is tied by tradition.¹

During the time of the Vedas, women were considered equal to males in every aspect of society and had an active role in all aspects of human life. During this time period, women were afforded a reasonable amount of independence and were given the same rights as males. Beginning in the late Vedic period and continuing onwards, women's status gradually deteriorated throughout history.

During the time of the Mughals, women in general held positions that were subservient to those held by men.² A woman's functions and place in society were always considered to be subservient to those of a man, and through time, this subordination came to be interpreted as a form of service to men and dependency on them in all aspects of life.³ The Muslims were also known to offer their moms a great deal of respect.⁴ During the early years of British rule, the condition of women was unsatisfactory and caused much discontent.⁵ The movement of social reform started during the time of British rule, albeit at a slow pace. This is when a few educated Indians, such as Ishwar Chand Vidya Sagar, Mahatma Gandhi, Raja Ram Mohan Roy, and Tilak, along with other prominent figures, placed an emphasis on the education of the Hindu Female, the abolition of child marriage,

the lifting of the Purdah System, and the removal of dowry. Sati Pratha and all things evil.⁶

As a result of the country's newfound freedom, several pieces of legislation were passed, including the Act of Women's Legal Rights in 1952, the Suppression of Immoral Traffic in Women and Children Act in 1954, the Special Marriage Act in 1954, the Hindu Marriage and Divorce Act in 1956, the Hindu Minority and Guardianship Act in 1956, the Intestate Succession Act in 1956, the orphanages and Widow Home Act in 1956 (formally known as the Orphanages and other Charitable Homes⁷

After the country gained its independence, the legislative branch adopted a more optimistic stance with regard to the issue of legal reform and committed itself to enacting some of the reforms that the British administration were reluctant to carry out. Despite the fact that the 21st century witnessed significant improvements and different laws were created for the development and amelioration of women, the newly discovered opportunities vanished before the covert and sneaky onslaught of male chauvinism.⁸

Causes of Violence against Women in India

In addition to “physical violence, compulsion, threats, and intimidation, other forms of violent victimization of women include emotional, sexual, and economic abuse, as well as isolation.⁹ In its most restricted sense, the word ‘violence’ refers to the act of physically striking another person and causing injury.¹⁰ refers to the act of striking a person with the intention of causing hurt or injury but not really causing it.¹² to acts where there is a high potential for causing injury¹³ and to acts which may not include actual hitting, but may involve verbal abuse or psychological stress and suffering. According to Megargee's definition, violence is the overtly threatened or overtly accomplished application of force that results in the injury or destruction of persons or their reputation.¹⁴ Physical, mental, or sexual assault are all forms of violence.”¹⁵

Violent Harassment activities and Women

“The foeticide, infanticide, incest, wife battering, dowry deaths murder and abuse of elder women are pure forms of violence against women legal, social and psychological implications of abuse and neglect of women in Indian society and thus guides practitioners policy-makers and planners”.¹⁶

Dowry has been referred to as a social cancer, a cruel custom and an insult to the dignity of Women. “It has been crystallized in our society and despite legislation, cases of dowry harassment and dowry deaths are increasing every year.¹⁷ Shyam Sunder. v. Shantamani¹⁸ Kundula Bala Subramayam v. State of Andhra Pradesh¹⁹ Arvind Singh v. State of Bihar.²⁰ Alamgir v. State of Assam²¹, Surendra v. State of Haryana²² are some important cases on dowry”.

The Indian Penal Code, specifically Section 498-A, classifies cruelty as a serious crime that can result in a prison sentence. It is also a crucial component of the crime of dowry death,

which is punishable by Section 304-B of the Indian Penal Code, as well as the presumed Sections 113-A and 113-B of the Evidence Act. Both of these laws were enacted in India.²³

The following sentence from *Russel v. Russel* serves as the starting point for the discussion on the meaning of cruelty.²⁴ conduct of such a nature as to have caused danger to life, limb, or health, bodily or mental, or as to have given rise to give rise to a reasonable apprehension of such risk, In the case of *Shobha Rani v. Madhukar Reddy*²⁵, the Supreme Court ruled that the demand of dowry is cruel because it violates the law, is illegal in and of itself, and therefore constitutes an act of cruelty. This was the case even though the dowry demand may not have caused the wife any physical harm. The vast majority of these women are subjected to harassment for an extended period of time before they are either killed or driven to take their own lives. Furthermore, for each woman who takes her own life, there must be a million more who are beaten and harassed, as well as economically deprived and mentally humiliated.²⁶

It is congruent with the traditional concept of Hindu widows as being unlucky and guilty women who, in an ideal world, should conduct a life of austerity dedicated to the memory of their husband. Widows in India are marginalized as a result of this traditional perception. The simple fact that widows are frequently regarded as a financial burden may, on the other hand, be more significant than the ideological impact that exists. It is possible that assisting Indian widows in becoming recognized as individuals who have something significant to contribute to the economic well-being of their households is the most efficient method for assuring the social protection of Indian widows.²⁷

Human Rights of Women: Legal Safeguards

In 1950, the Indian constitution became legally binding, granting both Indian citizens and non-citizens certain essential human rights. These rights are often referred to as fundamental rights. The rights that are guaranteed to women are on par with the rights that are promised to males, and in some instances, women have been given the opportunity to take use of certain provisions that are reserved specifically for them.²⁸

In “*Yusuf Abdul Aziz v. State of Bombay*²⁹, *Air India v. Nargish Mirza*³⁰, *Govt. of A.P. v. P.B. Vijay Kumar*³¹ the court secured the life and dignity of women by providing protection against discrimination and thus ensured the human rights of women. Restraining to Judicial activism in the Supreme Court has expanded the scope of right to life to new horizons by reading many more rights into it as integral and essential part thereof. Thus, Women also have fundamental right to human dignity³², to privacy³³, to healthy environment³⁴, to primary education³⁵, to free legal aid,³⁶ to speedy trial³⁷ as adjuncts to right to life. The 73rd and 74th Amendments to the Indian Constitution effected 1992 provide of reservation of seats to the Women in Elections to the Panchayat and the Municipalities ensuring political justice to women a facet of human rights. Marriage and Divorce Act 1939, Special Marriage Act, 1954 As Amended by Amendment Act, 2001, Hindu Adoption and Maintenance Act,

1956, Muslim Women (Protection on Divorce) Act, 1986, Indian Divorce Act, 1869 Protect human rights of women relating to marriage maintenance, adoption etc.”

In order to respond “appropriately to the problems posed by rising levels of violence Criminal Act were amended in 1983 and 1986 to create special categories of affairs like reality to women dowry harassment and dowry death. In order to combat the increasing incidents of torture of Women by their husbands and his relatives, the legislature enacted section 498-A³⁸ of the IPC and Section 113A³⁹ of the Indian Evidence Act,1872. In order to convict a person of a crime under Provision 498-AIPC, the prosecution has to prove that the accused committed acts of harassment or cruelty as envisioned by the section and that the harassment or cruelty was the cause of the suicide.⁴⁰ In 1986, the legislature recognized that the previous law did not go far enough to prevent dowry-related fatalities and thus enacted more punitive restrictions under Section 304-B of the Indian Penal Code and Section 113-B of the Evidence Act.”⁴¹

Certain specialized laws, such as the Dowry Prohibition Act of 1961, the Sati Prevention Act of 1987, and the protection of women against domestic violence Act of 2005, have been passed; however, laws to prevent violence against women have proven to be inadequate, which demonstrates that an entirely new strategy is required to address the issue. At least four global conferences have been convened on the topic of the preservation of the rights of women, but nothing substantial has been accomplished as a result of these gatherings. At the level of the international community. The prohibition against sex discrimination was initially outlined in the Charter of the United Nations in 1945, and it was later reaffirmed in the Universal Declaration of Human Right in 1948. From the First United Nations World Conference on Women, which took place in Mexico City in 1975, to the Fourth World Conference on Women, which took place in Beijing in 1995, there has been a long and winding road traveled in the pursuit of equality, advancement, and the provision of women's rightful place across the globe. The international covenant on economic, social, and cultural rights, which was signed in 1966, is one of the two human rights agreements that were signed that year. These covenants reaffirm the equality notion and outlaw discrimination based on sex (Art. 3 of the Covenants).

The other conventions adopted by the United Nations General Assembly that are of particular significance to women are the Convention on the Political Rights of Women from 1952 and the Convention on the Nationality of Married Women from 1957. Both of these conventions were created by the United Nations. The General Assembly passed the Convention against Discrimination in Education in the year 1960. This convention prohibits "any discrimination, exclusion, limits or preference" on the basis of sex, consequently influencing equality of treatment in educational settings (Art. 1). In accordance with Article 16 of the Universal Declaration of Human Rights, the General Assembly of the United Nations in 1962 approved the Convention on Consent to Marriage, which established a minimum age of 18 for marriage and mandated the registration of marriages. By virtue of the "Principle of

free consent to marriage," the Convention seeks to provide "equal rights" of "women and men as to marriage, throughout marriage, and after the dissolution of marriage." Additionally, the Convention seeks to prevent child marriages. The Convention was further strengthened and complemented by a suggestion made by the General Assembly in November 1965 on the same topic. This recommendation states that the minimum age of marriage should not be lower than "15 years of age." ⁴² India, which is a party to all of the Conventions that were previously stated. This convention is not signed by any of the parties, including the two covenants. Where a great deal of action is wanted to be taken at the national level.

However, "it is the convention on the Elimination of All Forms of Discrimination Against Women (Discrimination against women convention). Adopted by the General Assembly in 1979 which is the most comprehensive instrument on the human rights of the women and contains more concrete provisions aimed at the real implementation of the rights already recognized. India has ratified the Convention 9th July 1993".⁴³

Judicial Endeavours for the Protection of women

"The Judicial authorities are also not very sensitive to gender issues; they often dismiss violence against women as a private matter. With the rise of crimes against women being on the increase, it should have followed that judges trying the cases would display not only a greater sense of responsibility but also be more sensitive while dealing with cases of violence against women. But this has not always happened not only in the lower courts but even in some of the high court and unfortunately even in the Supreme Court."⁴⁴

Mostly judicial decisions are "weighted against women and give the benefit of doubt to men due to this built-in prejudice in favour of men which operates against women."⁴⁵

"Sakshi v. Union of India,⁴⁶ drew attention to the fact that the sections dealing with sexual abuse were being given interpretation with the current state of affairs existing in the society".

"Daldar Singh v. State of Punjab⁴⁷, Omkar Prasad Verma v. State of M.P.⁴⁸, State of Himanchal Pradesh v. Asha Ram⁴⁹, State of Rajasthan v. Madan, Singh⁵⁰ are some illustrative cases where courts have taken positive role towards victims of sexual abuse specially against girl child. In the case of Centre for Inquiry in Health and Allied Themes (CEHAT) v. Union of India,⁵¹ the Supreme Court Passed a stringent order commanding the Cent and State Government to implement the PNDT Act, 1994 and the rules framed in 1996".

In "State of Karnataka v. M.V Manjunathgoud⁵² commenting upon the objects of Dowry Prohibition Act and 1 of the judiciary, the Supreme Court observed that: That Practice of giving and demanding dowry is a social evil having deleterious effect the entire civilized society and has to be condemned by strong hands of the judiciary".

In the cases "Puran Chand v. State of Haryana⁵³ Amar Singh v. State of Rajasthan⁵⁴

Sudhir Kuinar v. State of Punjab⁵⁵ court has taken some positive stand towards the victim of dowry violence”.

In a “Pawan Kurnar v. State of Haryana,⁵⁶ it was observed that “for more than a century, in spite of tall words of respect for women. There has been an onslaught on their liberties through bridge-burning and dowry deaths. There are some recent cases securing the human rights of women In S.R. Batra and another v. Smt. Taruna Batra case⁵⁷ women's right to give birth has been recognized. In U. Suveta v. State⁵⁸ a husband was living (live in relationship) with another women besides his wife, whether the same would amount to cruelty within the meaning of Section 498-A. Supreme Court stated that if such other women was not connected to the husband by blood of marriage, the same could not attract the provisions of Section 498-A, IPC, although it could be an act of cruelty for the purpose of judicial separation or dissolution of marriage under the marriage laws. The Supreme Court held that neither a girl friend nor a concubine is a relative of the husband within the meaning of Section 498-A IPC since they are not connected by a blood are marriage to the husband”.

In “Sunita Jha v. State of Jharkhand and another appellant was living (live in relationship) with accused husband of complainant, allegedly as his wife. She was no relative of husband of complaint. Supreme Court held that only the husband or his relative could be proceeded against under the said section for subjecting the wife to cruelty, which has been specifically defined in the said section”.

Conclusion

From the above discussion the thrilling fact of the form of the conclusion can easily be concluded that inspite of innumerable judicial and legislative efforts "women are still treated as a second citizen in our society. She is subjected to various short of humiliations, discrimination, exploitation, neglect and denial of the very human rights. The basic problem which always exists in the directing to check such atrocities is our poor enforcement and implementation of concern laws. It is not correct to say that our laws are in sufficient to check the problem, but the problem is lying enforcement process of such laws. Secondly poverty, illiteracy and ignorance on the part of herself regarding on their own rights are also the responsible factors for such a pathetic socio-economic condition of Indian women not merely in India even in the western World the concept of the human right has become a myth or the production of the human rights. Our human rights commission either at National level or State level have not power to implement their laws but they can only recommend their suggestions. The focus should not be on relief measures only, but on structural changes which will empower women and make them independent and hence less vulnerable to violence. The emphasis should not be an 'relief and rescue but on independence and improvement.' Lastly, women have to take care of their human rights too otherwise they will be forced to like what they get in the name of their rights.

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39. Explanation: For the purpose of this section, Cruelty means-(a) Any willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause injury or danger to life and limb or health (whether mental or physical) of the woman: (b) Harassment of the woman where harassment is with the view to coercing her or any person related to her to meet any unlawful demand for any property or valuable security or is on account of failure by her or any person related to meet such a demand. Section 113-A reads as under:
113-A Presumption as to abetment of suicide by a married woman-when the question is whether the commission to suicide by a woman had been abetted by her husband or any relative of her husband and it is shown that she had committed suicide within a period of seven years from the date of her marriage it is shown that she had committed suicide within a period of seven years from the date of her marriage and that her husband or such relative of her husband has subjected her to cruelty the court will presume having regard to all circumstances of the case. that such a suicide had been abetted by her husband or by such relative or her husband.
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