



Traditional Society Mind Set-Up, Law and Women Rights in India

NEERAJ MALIK

Research Scholar, Department of Law, Kurukshetra University,
Kurukshetra And Assistant Professor, Chajju Ram Law College,
Hissar.

ABSTRACT

The women have created the world through their womb. It is the women, who has given birth to and developed the society. Still, when it comes to the equal status in the same society which she has created, they have not been given their dues. Though the constitution has provided different provisions like, equality- before the law and protection by laws, equal status and benefits and reservations in education and jobs, right to speech and expression, right to life and personal liberty, right against exploitation, equal remuneration for equal work and other laws under the directive principles of state policy, the patriarchal order, the narrow minded society, suburban and unsympathetic men, hidebound and provincial attitude of our system has not provided what ought to be given to them. Even, laws has come to a great support to them, violence and exploitation has not stopped. Rape, eve-teasing, acid attacks, honour killing, abduction, dowry deaths, torture, molestation, sexual harassment at work place, importation of girls, foeticide, child marriages are frequent and become a habit to be heard as reported on daily basis. In India, North-West India's experience of educational, political and economic development has not translated into corresponding gains in the social sphere.

KEYWORDS

INTRODUCTION:

The society is the creation of human beings, both men and women. Both play important part to frame it and develop it. But, if we see in a progressive sense, the women have contributed more in the development of the society by giving birth to the child and further giving him/ her the primary civic senses. The woman is the essential part of the society as if she is not there, the society will not grow further. The society in exchange gives nothing to the fair sex. The patriarchal society is being run by the men, and hence there are crimes as well as oppression against the women. Though the education and development has changed the lives and living pattern of the society esp. in north India, it has not changed for the women to acknowledge their contribution to society and their rights in the society. The traditional mind-set of the society has not changed. I'm using the word society here as in many crimes women are involved, like bride burning, female foeticide and honour killing to name a few. Also it is seen that the erosion of Indian values and customs also motivate for the crimes against women. It has been stated that the laws are adequate but implementation of the laws are not done. In this paper, we will try to discuss this increasing problem in the society.

SOCIETY:

A society, or a human society, is a group of people involved with each other through persistent relations, or a large social grouping sharing the same geographical or social territory, typically subject to the same political authority and dominant cultural expectations. Human societies are characterized by patterns of relationships (social relations) between individuals who share a distinctive culture and institutions; a given society may be described as the sum total of such relationships among its constituent members. In the social sciences, a larger society often evinces stratification and/or dominance patterns in subgroups. Insofar as it is collaborative, a society can enable its members to benefit in ways that would not otherwise be possible on an individual basis; both individual and social (common) benefits can thus be distinguished, or in many cases found to overlap.¹

A society can also consist of like-minded people governed by their own norms and values within a dominant, larger society. This is sometimes referred to as a subculture, a term used extensively within criminology. More broadly, a society may be

illustrated as an economic, social, or industrial infrastructure, made up of a varied collection of individuals. Members of a society may be from different ethnic groups. The word society may also refer to an organized voluntary association of people for religious, benevolent, cultural, scientific, political, patriotic, or other purposes. A society may even, though more by means of metaphor, refer to a social organism such as an ant colony or any cooperative aggregate such as, for example, in some formulations of artificial intelligence.

POSITION OF WOMEN:

The status of women in India has been subject to many great changes over the past few millennia. From equal status with men in ancient times through the low points of the medieval period, to the promotion of [equal rights](#) by many reformers, the history of women in India has been eventful.. However, women in India continue to face atrocities such as rape, acid throwing, dowry killings, and forced prostitution of young girls. According to a global poll conducted by Thomson Reuters, India is the "fourth most dangerous country" in the world for women, and one of the worst country for women, esp. in developed countries.²

Women in India now participate fully in areas such as education, sports, politics, media, art and culture, service sectors, science and technology, etc. The Constitution of India guarantees to all Indian women equality (Article 14), no discrimination by the State (Article 15(1)), equality of opportunity (Article 16), and equal pay for equal work (Article 39(d)). In addition, it allows special provisions to be made by the State in favour of women and children (Article 15(3)), renounces practices derogatory to the dignity of women (Article 51(A) (e), fundamental duty), and also allows for provisions to be made by the State for securing just and humane conditions of work and for maternity relief. (Article 42).

Feminist activism in India gained momentum in the late 1970s. One of the first national-level issues that brought women's groups together was the *Mathura rape case*.³ The acquittal of policemen accused of raping a young girl Mathura in a police station led to country-wide protests in 1979-1980. The protests, widely covered by the national media, forced the Government to amend the Evidence Act, the Criminal Procedure Code, and the Indian Penal Code; and creat-

ed a new offence, custodial rape. Female activists also united over issues such as female infanticide, gender bias, women's health, women's safety, and women's literacy. The Government of India set up a High Level Committee on the Status of Women to undertake comprehensive study to understand the status of women since 1989 as well as to evolve appropriate policy interventions based on a contemporary assessment of women's needs *vide* Ministry of Women and Child Development's Resolutions No. 4-5/2009-WW dated the 27th February, 2012 and 29 June 2012 comprising of the Chairperson, Member Secretary and seventeen Members. The High Level Committee presented its first copy of the Preliminary Report to the Minister for Women and Child Development, on 3rd February 2014. The High Level Committee identified violence against women, declining sex ratio and economic dis empowerment of women as three key burning issues which require immediate attention of the nation, and action by the government. The Committee also flagged 10 recommendations for immediate action.⁴

LAW IN DEMOCRATIC INDIA:

Women have for a long time been marginalised in almost every culture and context without being protected by any system of law. Law was originally intended as an instrument to enhance our social state, has its foundations on the western philosophy of the Enlightenment. *Locke*, as well as *Rousseau*, on the base of *Aristotle's* natural law, argued that it was natural for a wife to be in subjection to her husband. Hence, she cannot be seen as a naturally free and equal person.⁵ Similarly in the South Eastern Indian tradition, the law of *Manu* ruled: "as daughter women should obey their fathers, as wives obey their husband, and as widows obey their sons."⁶

This millenary social pattern was eventually challenged during the last century, when the Universal Declaration on Human Rights (UDHR) stated, mainly in Article 2 and 7 that every individual, without any exception, has to be considered equally before the law.⁷ The most important international document in gender-based violence is the Convention on the Elimination of all Discriminations against Women (CEDAW), presented in 1979 by the UN. It was admitted that "extensive discrimination against women continues to exist"⁸ and a first definition of what should be considered as discrimination was given in Article 1 as "any distinction, exclusion or restriction made on the basis of sex...in the political, economic, social, cultural, civil or any other field".

However, according to some, it was only in 1993 with the Declaration on the Elimination of Violence against Women (DEVAW) that specific forms of female violence became recognized by the international community.⁹ In this declaration gender abuse is defined as: "any act of gender-based violence that result in, or, is likely to result in physical, sexual or psychological harm or suffering to woman including threats of such acts, coercion or arbitrary deprivation of liberty whether occurring in public or in private life".¹⁰ India is signatory to the above international conventions.

The Indian constitution however, provides all the rights which India accepts in the conventions. Right to equality (equality before laws and equal protection of laws) under Art. 14, special rights to special treatment under Art. 15 and 16, equal liberties under Art. 19, right to life and personal liberties under Art. 21, right against exploitation (Art. 23), and in Directive Principles of State Policy, part IV, Art. 39(a), directs the state to direct its policy towards securing that citizens, both men and women, equally have the right to an adequate means of livelihood. Art. 39 (d) directs the state to secure equal pay for equal remuneration. Art. 39 (e) directs the state not to abuse the health and strength of workers, both men and women. Art. 42 incorporates that the state to make provisions for securing just and humane conditions of work and for maternity relief.

In the section of political rights, the demand for reservation of 33% seats in Lok Sabha, and Vidhan Sabhas has been passed

in the Rajya Sabha of the Parliament. Hope, one day it will be a law. Also, political rights have been provided by the 73rd & 74th Amendment, which reserves seats for women in Gram Panchayats and Municipal bodies.

For the girl child foeticide, the Pre-Natal Diagnostic Techniques (Prevention of Misuse) Act and Medical Termination of Pregnancy Act have been passed which prevent the violation of justice and humanity right from the womb. In spite of these laws, their non-implementation, gender insensitivity and lack of legal literacy prevent the dream of the constitution makers from becoming a reality. These prevent the fulfilment of the objective of securing to each individual dignity irrespective of sex, community or place of birth.

In *Valsamma Paul v. Cochin University*,¹¹ the Supreme Court held that, the human rights of women including girl child are an inalienable, integral and indivisible part of universal human rights. All forms of discrimination on ground of gender are in violation of fundamental rights and human rights.

Also, the law relating to social and economic liberty and equality provides them equal platform to aspire and fulfil their dreams. The Equal Remuneration Act, 1976, provides that all women shall be paid equal salary for equal labour. The Maternity Benefits Act, 1961 provides that the working women shall be given specific paid leave for during and after the child birth. The Employees State Insurance Act, 1948, shall include and insure the women employees also. The Factories Act, 1948 provides special and separate space like separate toilet, restroom etc. for the women employees and for their children. So, these laws are according to international conventions and provisions have been made for welfare of the women.

CRIME AGAINST WOMEN:

Crime against women is a technical term used to collectively refer to violent acts that are primarily or exclusively committed against women. Similar to a hate crime, which it is sometimes considered, this type of violence targets a specific group with the victim's gender as a primary motive. This type of violence is gender-based, meaning that the acts of violence are committed against women expressly *because* they are women, or as a result of patriarchal gender constructs.¹² The UN Declaration on the Elimination of Violence against Women states that "*violence against women is a manifestation of historically unequal power relations between men and women*" and that "*violence against women is one of the crucial social mechanisms by which women are forced into a subordinate position compared with men*".¹³ "The Semantic meaning of crime against women is direct or indirect physical or mental cruelty to women. Crimes which are directed specifically against women and in which only women are victims are characterized as crime against women."¹⁴

TRADITIONAL OR SUBURBAN SOCIETY: OBSTACLE IN WOMEN'S INDEPENDENCE:

Though we have achieved the economic and educational progress and development we have not done same progress in social sector. We are still feudal, traditional, sub-urban, and unsympathetic or narrow minded. Still, if a daughter or sister is seen outside the hide-bounds of house, men create a scene. There is no independence/choice of marriage, jobs, and friends. The family have always objections and they try to force their choice upon them. May be it is due to that they care about them, but in most of the cases it is because their provincial mentality. The society must grow up as per the time and also the young women also should take responsibility for the honour of the family. Take an example of the honour killing. If a lady elopes with or has an affair with a boy who is within the clan or within the prohibited parameters of the rural society everyone shall have problem. If the forefathers have entered into any social contract not to marry into the same clan, same village or the deemed brotherhood clan the children should adhere to such social contract.

Also, the society and the men should learn to live with the changing times. With progress in education and development, the suburban mind-set should also be changed.

CONCLUSION AND SUGGESTIONS:

The status of women in India, both historically and socially has been one of the respect and reverence. The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralising the cumulative socio-economic educational and political disadvantages faced by them. Only legislation and law enforcement agencies cannot prevent the incident of crime against women. The laws are adequate and sufficient. The traditional view of the society is hindrance and obstacle. Education has not proved to bring changes in the old narrow views of the patriarchal society. The laws have to be more stringent so that women rights be given priority. It is the need of the hour to give the women the status which they deserve so that the world develop and become a better place to live.

There is need of social awakening and change in the attitude of masses, so that due respect and equal status is given to women. It's a time when the women need to be given her due. This awakening can be brought by education campaign among youth making them aware of existing social evils and the means to eradicate same. Mass media can play an active role here as in the present days it has reached every corner of the nation. Various NGOs can hold a responsible position here by assigning them with the task of highlighting socio-economic causes leading to such crimes and by disseminating information about their catastrophic effect on the womanhood and the society at large.

REFERENCES

1. <http://en.wikipedia.org/wiki/Society>. | 2. http://en.wikipedia.org/wiki/Women_in_India. | 3. Tukaram v. State of Maharashtra, (1979) 2 SCC 143. | 4. Report of the High Level Committee on Status on Women. | 5. J.M.F. Beevi, Law as an instrument of change in women's status in Women human rights religion and violence, (1998) p.20. | 6. U. Gulati, Violence Against women, in Women human rights religion and violence, (1998) p.103. | 7. The Universal Declaration on Human Rights (10 December 1948) resolution 217 A (III). | 8. Preamble, in CEDAW (1980). | 9. J. Mishra (2000), Woman and Human rights. | 10. Article1, The United Nations General assembly, declaration on the eliminations of violence against women. | 11. (1996) 3 SCC 545. | 12. <http://aamjanata.com/the-role-of-women-in-indian-society>. | 13. <http://www.un-documents.net/a48r104.htm>. | 14. Awadhesh Kumar Singh and Jayanta Choudhury, Violence against Women and Children-Issues and Concerns, New Delhi, Serials Publications, 2012, p.2. |