

Cruelty against Women & Remedies available for it

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Abstract

Crimes against women not only crimes, violation of fundamental rights also. One half of the world's population constitutes women. Women play vital role in development of society. Cruelty against women is burning problem in India. Cruelty not only means physically cruelty, it also includes mentally, financially or emotionally. In India women are subjected to violence attacks i.e. feticide, infanticide, medical neglect, child marriage, rapes, prostitution, sexual harassment sexual abuse of girl child, forced marriages etc. However, rights have been provided to women for example under article 15(3) of Indian Constitution, section 498A I.P.C. and section 304B I.P.C. etc for prevention of cruelty.

Keywords: women, cruelty, marriage, constitution, crime, violation, rights etc

Introduction

In a 1980 UN Report, it was reported that "Women constitute half of the world's population, perform nearly Two-Thirds of it's work hours, receive less than one hundredth of the world's income and less than one hundredth of the world's property". Women comprise 66% of the world's illiterates and 70% of the world's poor. Violence against women clubbed with these inequalities and deprivations is total denial of her human rights. The Supreme Court of India has been extending the ambit of Article 21 of the Constitution of India and holding that mere existence is not the Right to live. It is the right to live with dignity. Thus, wherever Crimes are committed against women the same should be seen in the context of violation of her Fundamental Right under Article 21 of the Constitution, and not merely as a Crime ^[1].

One half of the world's population constitutes women, yet they are systematically discriminated against due to gender difference and bias. Gender inequities throughout the world deny women their basic human rights, which are vital in the development of just society. Women have been victims of violence and exploitation by the male dominated society all over the world. Gender discrimination concerns each and every member of the society and forms the very basis of a just and humane society. The survival of human race depends on the existence and survival of man and woman both. Woman, thus, requires protection if one has to ensure the existence of human race, for this age and the ages to come.

Violence against married women occurs all over the world on a significant and disturbing scale. The position of women in India is no better. Though they are given formal equality under law in the public sphere, in the private sphere of the family even this position does not exist. Domestic violence against women continues to be an issue of great concern in India. Rigveda and other ancient scriptures clearly elucidate that in the ancient Indian women held a high place of respect in the society. Volumes can be written about the status of our women and their heroic deeds from the Vedic period to the modern times. But later on, because of social, political and economic changes, women lost their status. Many evil customs and traditions

stepped in which enslaved the women and tied them to the boundaries of the house.

The official statistics points to 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 ^[2].

In India there was a golden era for women. In ancient times especially in Vedic age women was worshiped as God. She was respected as wife and mother. She was loved and cared as sister and daughter. Some of the extracts of various sacred literatures also reflects that women was placed at a high position in the society. Our 'Shastras' have emphasized that God resides only at the places where women is respected. Manu says; "where the females are honored, there the deities rejoice, but where they are dishonored there all religious rites becomes useless" ^[3].

"women must be honoured and adored by their father, brothers, husband and brothers-in-law who desire their own welfare" ^[4].

The available literature on the evolution of Indian culture and civilization shows that in the ancient Dravidian and Aryan culture women had free access to educational opportunities and discrimination on the basis of sex was unknown. Women held high position in different disciplines and women of wisdom like Gargi challenged great men and scholars in learned discourses on equal grounds. Women were regarded as sahadharini, that is, equal partners in the performance of dharma and the righteous duties in life.

Present scenario of women in Indian society

It is in the aforementioned background that, among other atrocities, violence and crime against women within the family led to a number of matrimonial offences resulting in their exploitation in the name of marriage. In recent times, violence and crimes against women within the family have shown an upward trend. There has been in the recent times a significant increase in crime against women which has increased by 8.3% and 4.8% over the rate of 2005 and 2006 respectively.

The equality of status guaranteed by the Constitution of India is only a myth to millions of women who are victims of violence within the family. Wife beating, child sexual abuse and other forms of domestic violence, abortion of female foetuses, dowry deaths and bride burning are all forms of violence that happen to women within the privacy of home ^[5].

International Approach on Cruelty against Women

The Universal Declaration of Human Rights states, "everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind, such as race, colour, sex, language, religion, political or other opinion, national or social origin, property, birth or other status." ^[6].

The World Health Organization reports that violence against women puts an undue burden on health care services with women who have suffered violence being more likely to need health services and at higher cost, compared to women who have not suffered violence. Several studies have shown a link between poor treatment of women and international violence. These studies show that one of the best predictors of international violence and intra national violence is the maltreatment of women in the society. Worldwide governments and organizations actively work to combat violence against women through a variety of programs. A UN resolution designated 25 November as International Day for the Elimination of Violence against Women.

The position of women in India is not better. Though they are given formal equality under the law in the public as well as family sphere, these laws have been of little help to improve the position of women. Women have been traditionally a suppressed class in India and the drafters of the constitution were well aware of this fact. Special provisions were hence made in the constitution for their benefit.

Meaning of Cruelty

Cruelty in its literal sense can be defined as conduct that causes bodily or mental injury, or apprehension to such injury, to a person or an animal, without legitimate purpose. When we talk of cruelty against human it can be physical, mental, financial or emotional. In the present research paper, I will deal with the issue of cruelty against women in all spheres of life, laws enacted for protection against cruelty, their implementation, causes of failure and suggestions for a better society for women. So before proceeding it will be apt to briefly see as to how the term cruelty is understood in various enactments. The Declaration on the Elimination of Violence Against Women states "violence against women means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." It further asserts that state has an obligation to "exercise due diligence to prevent, investigate and, in accordance with national legislation, punish acts of violence against women, whether those acts are perpetrated by the State or by private persons."

The Convention on the Elimination of all forms of Discrimination Against Women (CEDAW), defines discrimination against women as any "distinction, exclusion or restriction made on the basis of sex which has the effect or purpose of impairing or nullifying the recognition, enjoyment or exercise by women, irrespective of their marital status, on the basis of equality between men and women, of human rights or

fundamental freedoms in the political, economic, social, cultural, civil or any other field." ^[7].

Term cruelty has been defined in various women protection legislations also. Even courts in its pronouncements have defined the scope of the term cruelty against women.

Effective remedies available against cruelty in India

Position of women in India has always been shameful. Statistics reveals that the cases of cruelty against women are increasing at an alarming pace. Violence against women is not a new phenomenon. Women have to bear the burns of physical, emotional and mental violence both in a domestic household as well as at public places. This affects her status in the society at a larger extent. The statistics of increasing crimes against women is shocking. Women are subjected to violence attacks i.e. feticide, infanticide, medical neglect, child marriages, bride burning, sexual abuse of girl child, forced marriages, rapes, prostitution, sexual harassment at home as well as work places etc.

The sorry state of affairs was well within the knowledge of the framers of our Constitution also. Hence, various provisions were enacted in the Constitution providing certain privileges and safeguards to women. Besides this various Acts have been enacted to provide a safeguard to women against cruelty.

Constitutional Provisions

In our Constitution women has been considered as a weaker section of society and benefit has been granted to her in form of fundamental rights. Article 14 of the Constitution guarantees equality before law and equal protection of laws. Article 15(1) of the Constitution prohibits discrimination on ground of sex. Article 15(3) of the Constitution provides that nothing shall prevent the state from making special provisions for women and children. With the object of making women participate in decision making an amendment was made to the Constitution in the year 1992, thereby reserving 33 percent seats in the panchayats and municipal corporations for women. It is a major step towards socio-economic empowerment of women of our country. Article 39 of the constitution enumerates certain principles to be followed by the state while formulating policies. It provides that the state shall ensure that the citizens, men and women equally have right to an adequate means to livelihood. Clause (d) of the Article provides that the state should ensure that there is equal pay for equal work for both men and women. Article 51A which contains Fundamental Duties for the citizens of India says that every citizen of India is duty bound to renounce practices derogatory to dignity of women. There are other Articles as well which require the state to ensure equality of sexes or which ensure that protection is accorded to women in order to enable them to break the age old custom of servitude and inferiority and enable them to march towards self-realization and self-fulfillment.

Other Legal Provisions Safeguarding the Rights of Women

In addition to the safeguards provided for women in the Constitution, the postindependence period witnessed a spate of enactments, both criminal and civil, besides amendments to some old laws to protect and improve the status of woman. These enactments can be divided into two broad categories, those directly controlling violence and preventing crimes against women and those aimed towards improving the legal and social status of women. The first category of enactment aimed at

prevention of immoral trafficking, sati, indecent representation of women etc. along with the changes in rule of evidence and procedural laws to facilitate their implementations. Rigorous punishments have been provided for offences against women in the Indian Penal Code. In every form of crime such as kidnapping, assault, grievous hurt, criminal force etc. more rigorous punishment is provided if the said offence is committed against a woman. Thereafter, need was felt to protect the woman against the alarmingly increased matrimonial cruelty and hence, Section 498A and Section 304B were incorporated in the Indian Penal Code. Dowry Prohibition Act was enacted to curb the sin of dowry which was taking away life of newly married innocent girls of tender age. Besides these various other special legislations were also enacted such as Immoral Trafficking Act, Special Marriage Act etc. But still all these laws were lacking to provide complete protection to women against domestic violence. All these laws were concentrating either on crime against women or matrimonial cruelty. What was glaringly defective was none of these enactments recognized the violence inflicted in domestic relationships other than marriage. Therefore, recently Protection of Women from Domestic Violence Act was enacted which gave a wider meaning to the term cruelty and covered a wider range of domestic relations. The second category constitutes law relating to a woman's upliftment targets issues such as share in the property, adoption laws, improved divorce laws etc. Beside these provisions the higher courts of our Country has widened the scope of term cruelty while interpreting these provisions.

Laws available in India for women

1. Indian Penal Code, 1860
2. Immoral Traffic (prevention) Act, 1956
3. Dowry Prohibition Act, 1961
4. Commission of Sati(Prevention) Act, 1987
5. Protection of Children from Sexual Offences Act, 2012
6. The Prohibition of Child Marriage Act, 2006
7. Muslim Personal Law (Shariat) Application,1937
8. Indecent Representation of Women(Prevention) Act,1986
9. Special Marriage Act, 1954
10. Hindu Marriage Act, 1955
11. Hindu Successions Act, 1956
12. Family Courts Act, 1984
13. Maternity Benefit Act,1861
14. Hindu Adoption & Maintenance ACT,1956
15. Code of Criminal Procedure, 1973
16. Medical Termination of Pregnancy Act,1971
17. National Commission for Women Act, 1990
18. The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection)] Act, 1994
19. Protection of Women from Domestic Violence Act, 2005
20. Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act, 2013
21. Hindu Widows Remarriage Act, 1856
22. Muslim women (protection of rights on divorce) Act, 1986

Conclusion

From the above discussion, it is clear that position of women in ancient India was good but in modern time it is very bad. Women are the backbone of a progressive society as well as country also. Betterment of a country cannot be imagined in absence of women. In modern time cruelty against women is very important issue. In India example of cruelty are dowry deaths, child

marriages, domestic violence, rape, sexual harassment etc. Cruelty can be defined in its literal sense as conduct that causes bodily or mentally injury or apprehension to such injury without legitimate purpose. In India, Indian constitution under Art. 14 guarantees equality before law and equal protection of law. Art. 15(1) prohibits discrimination on ground of sex. Art. 15(3) provides for the enactment of special provision for women and children. Art 39 and 51A are made for uplift of standard of women. But after analysis of present situations we can say rights provided by the Indian Constitution are only a myth to millions of women who are victims of violence within the family. However, lots of acts and laws are available till the date for the women they are Indian Penal Code, 1860, Immoral Traffic (prevention) Act, 1956, Dowry Prohibition Act, 1961, Commission of Sati(Prevention) Act, 1987, Protection of Children from Sexual Offences Act, 2012, The Prohibition of Child Marriage Act, 2006, Muslim Personal Law (Shariat) Application,1937, Indecent Representation of Women(Prevention) Act,1986, Special Marriage Act, 1954, Hindu Marriage Act, 1955, Hindu Successions Act, 1956, Family Courts Act, 1984, Maternity Benefit Act,1861, Hindu Adoption & Maintenance ACT,1956, Code of Criminal Procedure, 1973, Medical Termination of Pregnancy Act,1971, National Commission for Women Act, 1990, The Pre-conception and Pre-natal Diagnostic Techniques (Prohibition of Sex Selection)] Act, 1994, Protection of Women from Domestic Violence Act, 2005, Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act, 2013, Hindu Widows Remarriage Act, 1856, Muslim women (protection of rights on divorce) Act, 1986 etc. But the lack of awareness amongst women has made the above discussed efforts and Acts affectless.

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