



An analysis on the status of women in Indian subcontinent and upgradation of Indian law in providing safeguard to empower them

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Abstract

It is paramount to provide safety to each and every individual living in India for their personal and professional development and secured future. India is back by a patriarchy dominant society, where women have played the role of subordinate and have been victim of rape, dowry cases, honor killing, sexual exploitation above all their basic human rights have been in danger with lack of access to education and economy independence. We hear a lot today about women struggle, women and girl child rights, over the years the government have launched a number of schemes for women empowerment economically, politically, socially and digitally, women have entered every sector of economy development, where as one when speaks about their comfort at the workforce or income, women are not happy, because of constant discrimination being forced, followed by sexual exploitation at the workforce or when they are do of their homes, may be 0.1 % of the female have never faced any kind of sexual exploitation in India looking at the present scenario the way country is becoming unsafe for women, during this pandemic crimes against women have crossed a record of more than 10 years in cases of domestic violence, dowry deaths, rape. Women have been treated and misused by many in the society in spite of so many laws present. Dowry related, women protection at workforce we have so many laws and punishment for the offence still the victims have suffering more and more, we need to bring and upgrade our old system and laws to make women feel safe, women empowerment should mean women safety and security at the first place in all sectors.

Keywords: human rights dowry, women protection, women empowerment, laws, education, economy, safety

Introduction

Women constitutes a huge populace in India, Today we hear about women empowerment, women are being empowered in the economy, political and social sector, in different ages women position have remained different, from being the most important part of the society to considered as a product of reproduction and consumers to the present day fight for women rights, women empowerment, right to education, work and right to vote, we have come a far way. For a country like India, where a few years back Delhi was regarded as the rapist capital, we see many things have changed over time. India is not a safe country for women, Well we cant say the country is not safe, as there are many states were women are giving utmost importance and their safety and security is our first preference especially for North Eastern states, where the birth of a girl is celebrated, union Territory like Chandigarh were women have a lot of safety followed by Pune, we have complete protection for their well-being as its part of their Human rights. A women just like a men have the right to move freely, have economy independent and social security for themselves, this is the first generation of women who have entered the work force after centuries, if we look at the old Hindu culture, women have been part of battles and have conquered enemies. Women today are working, they have their own start ups, as business women working in companies, but there they don't feel safe while working as they are faces problems of sexual exploitation at the workplace followed by women are kept away from important decision making process, there is

unequal pay for the same work, women don't have much travel safety when it comes to late night jobs, their social security is at risk. Women are into the political field we have has Prime Ministers, chief ministers, the current CM of West Bengal is a lady and this is a positive side of it. The constitution provides equal rights to all men and women are all are equal before the law, even we have special reservation for women and girl child safety in our country. In order to provide security at the workforce the government has introduced legal rules for women protection and launched a number of schemes for women empowerment, laws to bring an end to dowry in 2021 we are seeing cases of dowry like the recent incident which happened in Kerala, in spite so many laws for the protection of women, thousand ladies die due to dowry deaths, every 29 minutes we hear a case being reported of rape, lacs of women face sexual exploitation, due to lack of safety we saw a decline in women participation in the employment sector, well many have started online business in order to protect themselves but the situation in no less we have experienced cases of cyber bullying and hacking against women. We require more laws and legal actions to protect women in our society. If we look back at our History, women hold an important position in the society dating back to the period of vedic science, where education was empowered to all the girls along with that we had women as professors, women use to be part of all kind of festivals, culture and sports, we have examples of Women as warriors in the History. After the invasion of the Mughal Empire and the starting of the

Medieval age, we see a change in our mindset, where women are no more considered as an important part of the society but only an object whose job it to consume and reproduce, with passing time women lost all their rights and powers followed by women's pedagogy was brought to an end, caste and discrimination against women started by certain people has left their impact in the society even today and this is one of the major reason that we require protection of women in this modern era. During the British era, Women tried to fight for themselves, with women participation in the freedom movement, we have more than 100 women freedom fighters who sacrificed their lives for the Independence of the country, Freedom fighters like Savitri Phule fought for the rights of women and girl education which finally let to the formation of girl school and colleges in the country, women who were social reformers fought for girl education in every part of the country like Taraba Shinde, Ramabai Ranade, Fatima Sheikh and many more, social reforms like Raja Ram Mohan Roy who fought against the Sati system and ended it, everyone worked for the empowerment of women in the society. Finally today we see a rise in women empowerment and promotion of women education in the Indian society, with women entering the employment sector, with women been a part of the main stream society we also see a rise in crime against women at every level. According to National Crime Records Bureau Report 2019, 3,225,701 IPC Crimes were reported. A total of 84,921 Female victims were reported kidnapped or abducted in 2019, out of which, 55,370 were girl child. From these victims, 73,501 females were recovered. A total of 405,861 cases of crime against women were lodged during 2019. 7.3% cases were increased when compared with 2018. Around 1645 cases were reported under The Immoral Traffic (prevention) Act. 553 cases were reported under The Protection of Women from Domestic Violence Act. 13,297 cases were reported under The Dowry Prohibition Act.

Findings

There have been many cases and laws passed for the protection of women and safeguard their human rights. In 2016 SC ruled that if the client of the prostitute refuses to pay then it won't be regarded as Rape.

However, in the case *State of Maharashtra v. Madhukar N Mardikar* (1990) declared that, "the eroticism doesn't mean that a women is an open entity. She is empowered to protect herself if someone wishes to invade her private space. She is also protected under the umbrella of law. Therefore her evidence cannot be cast out."

Similar was held in the case *Budhadeva karmaskar v. state of West Bengal* [2011] The Apex court declared that cocotte have the constitutional right under Article 21 of the constitution.

In the recent judgment given by J.Bobde, *Mohit Subhash Chavan vs. The State of Maharashtra & Anr.* on 1st March 2021, opined that " if the rape accused of a minor is willing to marry the victim ?" In this matter, the Bombay HC opined that the Judge has shown utter insensitivity and incompetence on matters of rape with a minor reported under section 376, 417,506 of IPC and section 4 and 12 of POSCO Act by the girl. Moreover, giving an anticipatory bail to the government employee was not correct in the matter. In my view point, such insensitivity should not be shown in such cases as the element of coercion is clearly

present in the case.

The Transgender community and the laws that protect them

The Act despite creating provisions for the protection of the concerned community, has failed to provide them to uplift their social status. The students face several problems in matters relating to it. In India, according to the Census of 2011, the transgender constitute around 487,803 residences with 57.06% has completed their pedagogy. there were 54,854 transgender children who are not even 6 years old. As per the CBSE Results of 2020 showed that only 19 students from the Transgender community has registered for AISSE and 6 students for AISSCE. Chapter 2 Section 3 lays down grounds for Discrimination against the community however the Act does not provide any Redressal Forum where the complaints can be filed. Section 11 provides for appointing a person as a complaint officer, but it fails to tell the basic qualification on which the person can be appointed. As, what if the complaint officer fails to understand the sensitivity of the concerned matter?

Section 12 provides for the Right to Reside with Family. However, in most of the cases it is found that the family fails to recognize the need and also they become violent on providing them the basic needs of living. In some cases, it is also found that the victims are cut off from their social lives. The Transgender Person (Protection of Rights) Rules, 2020 provides for the setting up of GARIMA GREH is a good initiative by the government. However, the setting up of the Greh should have been done in accordance to the Census of 2011, as according to it, Uttar Pradesh is the most populous state with transgender community, followed by Andhra Pradesh but, no Greh is being set up in these states. And, moreover the capacity of these Greh's are limited to 25 maximum and it should be increased. The Greh's has been set up with the Lakshya Trust (a NGO) which is only based in the Western Indian state of Gujarat. More and more of the NGO'S working for the promotion of interest of the Transgender should be tied up with.

The word Transgender is included in the term LGBT which stands for Lesbian's Gay's Bisexual and Transgender. However, the present Indian government fails to recognize the right to marriage of the Gay's and Lesbian community. As held in the case of *NAVTEJ SINGH JOHAR V. UOI* (2018) Decriminalized the homosexuality (section 377 IPC) The Special Marriage Act, 1954 also do not promote the interest of the marriage of LGBT community. So, Amendment needs to be there.

The sexual Ferocity of women act Workplace (Prevention Forbidding and Compensation) Act, 2013

The Act provides for protection of women at workplace. However, when compared to the Nordic Nations like Denmark (considered as safest Nations for women) considers sexual harassment as a gender based discrimination. Sexual Harassment against men is a growing issue but, it is not much reported due to the stereotypes of Indian society which considers men as nooky.

If the approach of gender based discrimination is adopted it can provide for a wider view as the gender based discrimination would also include the Third gender.

Section 375 of The Indian Penal Code comes up with the definition of Rape. On reading, one may find a conservative approach towards gender discrimination and negatively

portrays men. So, it becomes much essential for the country like India to make gender neutral laws. The concerned Act also provides for establishment of Internal Committees (section 4) which constitutes majority of workers/employees of the concerned firms can be proved much biased in nature towards the firm/company for which they are working. Complaints regarding this can be directly filed in the Local Committee, headed by the DC. To support the procedure laid down in section 164A, The Ministry of Health and Family Welfare in 2014, provided recommendation for medico legal care for the victims of sexual assaults. However, these guidelines must provide to maintain The Sexual Assault Evidence Collection Kit (SACEK) in all hospitals whether public or private, and its non-maintenance should be penalized and fined. In some cases it is also found that the Doctors fail to understand the sensitivity towards such cases. A special department of doctors (specially trained for such cases) must be formed in every hospital. The students at the college level must be intensified to the needs of the survivors and their family members and all laws dealing with sexual assaults should also be taught. The similar training can also be done in the form of programme/Diploma.

Suggestion

There have been so many laws formed for the protection of women against domestic violence, dowry and sexual exploitation, however they have failed to provide women with the necessary safety it is mainly because of the patriarchy nature prevalent in India society that have never let women speak or fight for themselves, the customs and orthodox nature has continued, where Law has been a failure. The offence in rape cases are punished for a few years along with some compensation, when he is given a bail, he again attempt to rape someone. We don't have a system which women complete protection, moreover the judiciary system of India is very slow in granting justice to its people which we have seen in the past History. Women require protection at the workforce from not just sexual harassment but other activities where women are made uncomfortable, unnecessary demands made for employment, the women need protection, Women needs safety from their in- laws cruel behavior after marriage. Women should be given rights on her property before and after marriage. No law mentions about protection in relation to pregnant women, where the family mentally torture the women for a male child. Women participation in the workforce has been declining over the years, in order to bring women back into the workforce, we need to first bring safety at the workforce, in the transportation sector and above all at home for women. Women right needs to be protected, women rights are basic human rights, forceful pregnancy is very common in India where they is no law which promotes abortion as a rights of the women, in recent time, we have heard about the Kerala case where dowry was demanded, in spite of laws abolition dowry followed by how the Kerala government has taken action to further Dowry cases can be a model for the rest of the country where transformation is taking place state wise, every state is taken initiative to provide safety to their women.

Conclusion

Women require protection as other human being, women are an important part of the society. India is a country where

women feel unsafe, everyday we hear cases of rape, domestic violence and sexual exploitation but very few cases go the court, people start protesting in the form of candle match for justice we have hardly seen improvement, we have laws for the protection of women however knowing the fact that the judiciary is slow and there are so many cases pending that people don't report much of the time, followed by society cultural, traditional orthodox mentality. We require a system where women are provided equal opportunity to men, what is mentioned in the law should be implemented where all women are equal to men in all aspects and equal before law.

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