

A Sociological Interpretation of Human Rights Violation against Women in India

Abstract

Every individual, as a human being, has some rights simply by virtue of human. While civil, political and social-economic rights are dependent on an individual's citizenship of a particular nation / country but human rights are not determined by these conditions, they exist as birth rights. Thus the scope of human rights is global. Again, where an individual's civil, political and social-economic rights are exhausted, he can still hope to get some relief under the umbrella of human rights. Broadly speaking they may include right to life, liberty, property and security of an individual. Since the Universal Declaration of Human Rights was adopted in 1948, human rights have become codified in international, regional and national legal system. Human rights law obliges states to do certain things and to refrain from doing others. At the same time, they have the duty to reject any action that may result in discrimination against a group of individuals in exercising that right on the grounds of race, colour, sex, language, political and other opinion, national or social origin, property, birth or other status. Since the beginning of constitution most of the rights are provided to women as men but in practice there is very difficult. Women are most insecure section in own country and in its capital city Delhi and financial capital Mumbai.

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Introduction

All human beings are born free and equal in dignity and rights. They are born with certain natural rights. The rights which are basic for humanity are termed as 'Human Rights'. Human rights are those rights to which a human being entitled by the virtue of his status as a human being without any consideration nationality, religion, race, sex, class, caste and creed. According to R.J Vincent "human rights are those rights, every human has because of human" (Vincent 1986). Every person has rights simply by virtue of being human. These rights- universal legal guarantees that represent the minimum standards required for individuals to live in dignity and with equal opportunity (UNFPA 2010). While civil, political and social-economic rights are dependent on an individual's status as a citizen of a particular state his human rights are not determined by this condition. Thus the scope of human rights is very wide or global. They set the standards for the provision and expansion of civil, political and social-economic rights. Again, where an individual's civil, political and social-economic rights are exhausted, he can still hope to get some relief under the umbrella of human rights. Broadly speaking they may include right to life, liberty, property and security of an individual. Social scientists from time immemorial have argued in favour of giving these rights to human beings. According to the World Conference on Human Rights Vienna "any act of gender based violence that result 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 private life (DEVAW 1993). Since the Universal Declaration of Human Rights was adopted in 1948, human rights have become codified in international, regional and national legal system. Human rights law obliges states to do certain things and to refrain from doing others. At the same time, they have the duty to reject any action that may result in discrimination against a group of individuals in exercising that right on the grounds of race, colour, sex, language, political and other opinion, national or social origin, property, birth or other status.

Objectives of the Study

The following are the objectives of the study-

1. To study the human rights provided to citizens by the Constitution.
2. To examine the human rights provided to women by the Constitution.
3. To study the violation of human rights of women in India.

Human Rights in India

Human rights constitute the very source of all rights of human beings. The idea of human rights sets the standards on which all other rights should be based. Moreover, when ordinary rights are reinterpreted in the light of human rights, they enter the ever-expanding domain of human welfare. For instance, the rights, they enter the ever-expanding domain of human welfare. For instance, the right to life in this context may be interpreted to include the right to live on uncontaminated land, to breathe in clean air and to consume clean water; and government may be held responsible to satisfy these conditions. Nevertheless, human rights can only be realized as 'rights'. In other words, human rights, like any other rights, have to be enforced by a state or an international tribunal who should be capable of enforcing them. Anybody who claims any human rights must prove himself to be law-abiding and must submit himself to law for appropriate justice. In order to understand the true character of human rights it would be worthwhile to describe the nature of rights as such (Gouba: 2007).

The provisions of Part III of our Constitution which enumerate the fundamental rights are more elaborate than those of any other existing written constitution relating to fundamental rights, and cover a wide range of topics.

The Constitution of India itself classifies the fundamental rights under seven groups as follows: (i) Right to equality (ii) Right to freedom (iii) Right against exploitation (iv) Right to freedom of religion (v) Cultural and educational rights (vi) Right to property (vii) Right to constitutional remedies. of these the Right to Property has been eliminated by the 44th Constitutional Amendment Act (1978) so that only six rights now remain as fundamental rights.

1. Equality before law: Article 14 of the Constitution provides that "the state shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.
2. Prohibition of discrimination on grounds of Religion, race, caste or place of birth: Prohibition of discrimination on the grounds of Religion, Race, Caste, Sex or Place of Birth: According to the Article 15, "The state shall not discriminate against any citizen on grounds only of religion, race, caste, and sex, place of birth or any of them. Further, on the basis of any of these grounds a citizen cannot be denied access to shops, public restaurants or the use of wells, tanks, bathing Ghats, roads and places of public resort maintained wholly or partly out of state funds or dedicated to the use of the general public."

3. Equality of opportunity in Matters of Public Employment: Article 16 guarantees equality of opportunity in matters of public employment. The state is prohibited from showing any discrimination against any citizen on grounds of religion, caste, race, sex, descent, and place of birth or residence.
4. Abolition of Untouchability: Article 17 abolishes 'untouchability' and its practice in any form is made an offence punishable under the law. Parliament is authorized to make a law prescribing the punishment for this offence (Article 35).
5. Article 19(1): In the original Constitution, there were seven freedoms in Articles 19(1) but that one of them, namely, 'the right to acquire, hold and dispose of property' has been omitted by the Constitution (44th Amendment) Act, 1978, leaving only six freedoms in that article. These are namely: (i) Freedom of Speech and Expression (ii) Freedom of Assembly (iii) Freedom of Association (iv) Freedom of Movement (v) Freedom of Residence and Settlement (vi) Freedom of Profession, Occupation, Trade of Business.
6. Freedom of Press: There is no specific provision in our constitution guaranteeing the freedom of the press because freedom of the press is included in the wider freedom of 'expression' which is guaranteed by Article 19(1). Freedom of expression means the freedom to express not only one's own views but also the views of others and, which means, including printing.
7. Protection in respect or conviction for offences: Article 20 affords protection against arbitrary and excessive punishment to any person who commits an offence.
8. Protection of life and liberty: Article 21 of our Constitution provides that "No person shall be deprived of his life or personal liberty except according to the procedure established by law".
9. Protection against Arrest and Detention: Article 22 guarantees three rights: First of all, it guarantees the right to every person who is arrested to be informed the cause of his arrest; Secondly, his right to consult and to be defended by a lawyer of his choice; Thirdly, every person arrested and detained in custody shall be produced before the nearest Magistrate within a period of twenty-four hours and shall be kept in continued custody only with his authority.
10. Preventive Detention: Preventive Detention means detention of a person without trial. The object of Preventive detention is to prevent a person from doing something and the detention in this case takes place on the apprehension that he is going to do something wrong which comes within any of the grounds specified by the Constitution.
11. Right against exploitation: Article 23 and 24 deal with right against exploitation, this right seeks to ban traffic in human beings, beggar or any other form of forced labor. Employment of children

- below 14 years of age in any factory or mine or other risky occupation is also prohibited by law.
12. Right to freedom of Religion: India is a secular state, a state which observes an attitude of neutrality and impartiality towards all religions. The attitude of impartiality is secured by the Constitution by several provisions (Articles 25-28).
 13. Cultural and educational rights: The Constitution provides that a minority shall have the right to conserve its own language, script, literature and culture. Admission to any state aided educational institution shall not be refused to anybody on grounds of religion, race, caste or language (Article 29). Article 30 provides that all minorities whether based on religion or language, shall have the right to establish and administer educational institutions of their choice.

National Human Rights Commission of India is committed to the protection of human rights of all the citizens including women due to their vulnerability and therefore gives due importance to it in its work in all thematic areas. They confront manifold violations of their human rights. According to the Constitution of India, all the persons, including children, are entitled to distinct inherent and inalienable rights. As the same time, the Government of India is party to the international instruments on women and children. The key international agreement on women's human rights is the 1979 Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which is also described as the International Bill of Women's Rights, ratified by 185 UN Member States, CEDAW encompasses a global consensus on the changes that needs to take place in order to realize women's human rights.

Human Rights and Women

In ancient India women were respected and were well regard. They were treated equal to men in every field of life. In medieval Indian society women faced a number of restrictions and did face a number of disqualifications. The law prohibits discrimination based on race, gender, disability, language, place of birth, caste, or social status. The government worked with varying degree of success to enforce these provisions. Though, after independence because of modernization, liberalization, expansion of science and education, laws and legislations in favor of women, they had a better position and enjoying a better life. Yet, in India, as elsewhere, today women confront manifold violation of their human rights when they cannot participate in decision making process that affects their lives. They did not get political representation after 7 decades of independence. They face discrimination in employment, denied entitlement to land and property, deprived of health care and they suffer violence within their own home and outside home.

Human Rights Violation against Women in India

According to the international organization on human rights Human Right Watch, in India the violence against women, particularly rape, murder, made headlines throughout 2015 (Human Right Watch: 2016). According to the Amnesty International,

statistics release in August 2015, over 3,27,000 crimes against women registered in 2015 (Amnesty International: 2016/2017) in India. The official statistics of Country Reports on Human Rights Practices for 2015 pointed to rape as the country's fastest growing crime. The NCRB reported 36,735 cases of rape nationwide in 2014, the latest year for which data were available, an increase of 8.9 percent compared to 2013. If we analyze the statistics of rape case and conviction rate of 10 years from 2004 to 2013, it appears that the conviction of rape is 25-26 percent lower than the all IPC crimes in which conviction rate is 41-43 percentage. Domestic violence continued to be a problem, and the National Family Health Survey revealed that more than 50 percent of women reported experiencing some form of violence in their home. There were 337,922 crimes against women in 2013, a 9.1 percent increase from 2014. These crimes include kidnapping, rape, dowry death and domestic abuse. The NCRB noted that underreporting of such crimes was likely it estimated the conviction rate for crimes Against women to be 24 percent (Country Report on Human Rights Practices for 2015). According to the Ministry of Home Affairs, the number of acid attack victim increased from 147 in 2013 to 255 in 2014.

No national law addresses the practice of female genital mutilation / cutting. According to the human rights reports, between 70 and 90 percent of Dawoodi Bohra Muslims practiced various forms of female genital mutilation / cutting. The population of Dawoodi Bohra lived in pockets throughout the western states of Maharashtra, Gujarat, Madhya Pradesh and Rajasthan. Honour killing remained a serious problem, especially in Punjab, Uttar Pradesh and Haryana. In 2013 NGOs estimated that at least 900 such killing occurred annually in Haryana, Punjab and Uttar Pradesh only (Country Report on Human Rights Practices for 2015). The custom of Devadasi is practiced in various parts of country. Women and girls in Devadasi system are symbolically married with deities, these Devadasis are victim of rape or sexual abuse at the hands of priests and temple patrons a from of sex trafficking. According to an estimate that more than 45 thousand women and girls are engaged as Devadasis.

There is no federal law addressing accusations of witchcraft, however authorities use provisions under the penal codes as an alternatives for victims accused of witchcraft. Bihar, Rajasthan, Odissa, Chhattisgarh, Assam and Jharkhand have passed laws criminalizing those who accuse others for witchcraft. According to the NCRB form 2000-2012, attackers killed an estimated 2,100 individuals, mostly women, on suspicion of practicing witchcraft (Country Report on Human Rights Practices for 2015). On August 2nd 2017, an old woman was killed in Agra Uttar Pradesh, accusing her for practicing witchcraft. This old woman was going outside to her house and forgot her way because of old age diseases.

Discrimination against widows occurred throughout the country. According to some cultural traditions, a widow is a bad omen and is often outcast

by her own family. Many widows end destitute and forced to resort to begging for survival. The practice of Gaokor is prevalent among the tribal population and other rural people of Maharashtra. The National Commission on Human Rights ordered the Maharashtra to take affective measures to eradicate the practice of Gaokor. In this practice a women is forced to live in an isolated place outside the house during menstruation. Sexual harassment remained prevalent in all over country. According to NCRB, 21,938 cases of sexual harassment in 2103, a 42.6 percent increase from 12,589 cases in 2014 were reported. There were 82,235 cases of molestation in 2014, a 14 percent increase from 70,739 cases in 2013. The cases of rape and molestation reportedly remained largely unreported due to social structure and social pressure.

Conclusion

Though human rights exist as birth rights but they need to be supported by law and able to be used in practice. It happens through many ways such UNO, through government, through police, through employer and through family. Our own education & awareness and support for human rights, is one of the most important ways to concern them. Yet, the government remain accountable by protecting human rights of all including women by implementing and enforcing laws and policies. National Human Right Commission which was organized in 1993 and 26 State Human Right Commissions are not as committed and sensitive for the protection of rights of women as the Human Rights Commissions of Western Countries are committed and sensitive. They are most insecure section in our country and its capital city. A lot has to be done in this direction for the security and protection of women's rights. Socialization, awareness and moral education can play an important role in this direction.

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