

People's Movements and Protection of Women's Rights: A Case Study of India

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Historically, women comprise one of the most deprived groups of individuals in the world, and continue to struggle for their rights today. All over the world women are faced with abuse of various types, ranging from simple restriction of freedom of choice to physical violence within and outside their households and are denied access to economic, political and educational opportunities. They have been subjected to mental abuses including battery, prostitution and slavery. The traditional view often regards women as lesser being and as a result women all over the world have engaged in a movement which has attempted to eradicate the injustices towards women and protecting the human rights of women.

It is said that rarely there is any woman in India that has escaped these crime at least once in a lifetime, all women experience molestation or sexual abuse or rape. Eve teasing or public sexual harassment has made public spaces unsafe for women. It is not necessarily that outsiders commit such crimes, but more often the perpetrators of such crimes are known to the victim. It has also been indicated in number of research studies that men often find it as easy means to subjugate opposite sex which no doubt is the ultimate form of humiliation a women can suffer by the hands of

person whom she believes as her protector. Moreover, such crimes, often, go unreported due to the social stigma attached to the victim. Such incidents, taken together violate fundamental human rights of women, especially the rights to dignity, safety, equality and freedom of choice.

The issue of protection of human rights of women has brought into focus the responsibility of the nation- state in creating and sustaining conditions that enable the achievement of gender equality. The current focus therefore has been on the language of rights as the human rights framework provides a useful basis for interpreting substantive gender equality. This transformation requires the redistribution of power-the rules and practices that justify the concentration of power in the hands of those whom it privileges, which, in turn, demands a set of enabling policies and conditions, created by the state to facilitate the reallocation and redistribution of resources. However, without abnegating men's traditional power it focuses on enhancing women's autonomy through the legitimate notion of "shared power" at the individual, household and societal levels as the most potent weapon of ensuring their "right to dignity".

The movement for gender equality of late 20th Century is closely linked to the human rights movement. But the concept of women's participation in governance on equal footing with men dates back at least to the 4th Century B.C. Plato concluded that intelligence and ethics were not limited to a particular class, ethnicity or gender. Thus his ideal polity was a benevolent meritocracy. However, even globally speaking whereas women constitute half of the population, only 3.5 percent cabinet ministers are women, and worse they do not hold any ministerial positions in 93 countries. All political system, regardless of ideology or forms, routinely deny women formal political status. As writer and researcher Maxine Molyneux observed "Politics, more than any other realm, has remained largely a monopoly of men because its condensation of power and authority mainly lies in the hands of this gender." The facts of this statement can be easily observed by looking at the percentage of women occupying political power in every country of the world. As per the HDR report (1999), women hold only 12.7 percent of the world's parliamentary seats and only 8.7 percent of those in the least developed countries. As a consequence, political women are seen as deviants, trespassers or guests in terrain, which

does not fundamentally belong to them.

Historically speaking, in India, the degradation of women started only since 300BC. However, the formalized organization of a "movement" and the emergence of formally organized national bodies within India started in the early twentieth century such as the Women's Indian Association in 1917, the National Council of Women in 1925, and the All India Women's Conference in 1927 which gave a new impetus to the women's rights movement and brought about new agendas within the political and social spheres. It must not be forgotten that even prior to emergence of such bodies activists, social reformers, and women in the independence movement have fought for women's rights and legal reform. They have challenged laws that discriminate against women and have demanded laws that prohibit violent practices against women. This movement for emancipation of India's women began in the 19th century, when the social reformers initially were critics of outmoded social norms and practices. These reformers emphasized the need for education of women as a liberalizing activity. The movement not only drew a large number of women to political activity, but it generated strength and confidence among women, which helped them organize and fight their own cause rather than rely on men to promote women's rights.

The first demand for women's franchise in India occurred in the early 1900s. On December 15, 1917, along-time Congress party worker, Sarojini Naidu, led an all-India delegation of prominent women to meet with the Secretary of State, Edwin Montagu, and Lord Chelmsford, the Viceroy. Members of this delegation presented an address documenting the awakening of Indian women to their civic responsibilities. They wanted women to have the status of "people" in a self-governing nation within the Empire. This meeting was essentially the beginning of what was soon to become a long struggle for securing the political and civil rights of women in India.

British officials and prominent nationalists were suspicious of women's demands and their intentions. For instance, after World War-I, British critics of Indian society complained that middle-class Indians had no sympathy for Indian customs and traditions. They argued that it was the poor women of India who were in desperate need of protection and justice, rather than

all women as a whole. Gandhi, although a firm believer in equality, was not in support of a women's vote campaign. He felt that the timing was in appropriate; as the campaign would waste the nation's energy which he believed should be focused instead on gaining independence from the British. Additionally, Indian men who encouraged female education and the formation of structural organizations for women did not relish hearing women speak about the evils of patriarchy. Women found themselves in a very difficult position due to the varying oppositions-if they spoke bluntly about the sufferings of Indian women, they were labeled disloyal to their culture; if they remained silent, and they were essentially feeding into the stereotypes of being timid, ignorant, and subordinate. Despite the strong opposition, in August of 1918, Sarojini Naidu spoke on behalf of women's suffrage at the special session of Congress held in Bombay; she argued that extending franchise to women was rational, scientifically and politically sound, compatible with traditions and consistent with human rights. Objections to women's suffrage were raised and driven by the view that the involvement in politics would render women less feminine. Nevertheless, in December of 1918, a woman named Sarale Devi Chaudhurani went one step further in presenting a resolution supporting women's vote at the Thirty-Third Session of the Indian National Congress meeting in Delhi. These meetings were followed by several other gatherings of provincial and district Congresses as well as women's organizations in support of the women's movement and franchise. Soon after, Bombay and Madras became the first provinces to extend the franchise to women in 1921. They were followed by the United Provinces in 1923, Punjab and Bengal in 1926 and, finally, Assam, the Central Provinces, and Bihar and Orissa in 1930.

However, since the late nineteenth and early twentieth century, several social reform movements and legal enactments during the British rule attempted to address issues related to restoring and re-casting basic human rights of women which is believed to be enjoyed by them during the Vedic period. Emboldened by such progressive attempts the founding fathers of Indian constitution adopted several provisions in the constitution of independent India which seek to protect the rights of women and establish equality of status. In the six decades of its journey since independence the Indian state has enacted several legislations to pursue its policy of empowering

women.

The struggle, however, for overall empowerment of women and to eradicate violence against women has been long and difficult as well. There has been extensive evidence of sexual and physical violence against women including rape, dowry murder, and domestic violence. Socio-economic inequality has persisted despite legislation that has been passed for the protection of women. Women continue to be paid less than men, notwithstanding legislation designed to eliminate discrimination.

Poverty has, considerably impeded women development, in India, along with other forms of disparities and deprivation. The poor condition of women cannot be singularly, attributed to poverty but it is manifestation of myriad other issues that, persistently, restrict gender empowerment and development in India. Gender development and empowerment of women involves many things-economic opportunity, social equality, and personal rights. Women are deprived of these human rights, often as a matter of tradition. Without power to work and earn a good income, their voices are silenced. Even in matters of sex and child bearing, women often do not have ability to oppose the wishes of their men folk.

The human rights framework provides a useful basis for interpreting substantive equality. The principle of social justice is the cornerstone of rights and underlies the goal of gender equality. The transformation of gender equality on the basis of human rights requires the redistribution of power for promoting women's strategic gender interests. Inherent in this transformation is the need to challenge ideology the rules and practices that that justifies the concentration of power in the hands of those whom it privilege. Such transformation involves a set of enabling policies and conditions, created by the states that facilitate the reallocation and redistribution of resources. It focusses on increasing women's access to, and control over the entire gamut of resources that confer power at the individual, household and societal levels. It entails the notion of loss of men's traditional power but it does not envisage the abnegation of men's autonomy in fact it seeks to legitimize women's autonomy by envisioning the vision of shared power.

The absence of equality of women is an outcome of lack of access to

and control over resources, a coercive gender division of labor, a devaluation of their work, lack of control over their own selves, skills, labor, mobility, sexuality, time and fertility. Their powerlessness is expressed in male violence against women, sexual exploitation that erodes all human dignity and very acute experience of vulnerability that quells any need to make a case of gender equality. Therefore social transformation in the context of gender should be premised on the notion of substantive rather than formal equality.

While formal equality is based on the notion of sameness of men and women, substantive equality requires taking legislative account of the ways in which women are different from men, in terms of both biological and socially constructed disadvantages that women face compared to men. Unlike other sectors women's rights issue have not received much support from the society and the government. Often, the premise for ignoring this issue is that if a woman is educated and is self-dependent, her rights will follow automatically. However, given rising domestic violence and crime against women in urban centers, where the literacy rate among the women is high and sizeable proportion of women are economically independent, society is gradually realising the fallacy of this assumption.

Practically speaking, women's rights issues encompass a variety of subjects including wage differentials, property rights, women's access to and control over income and crimes against women. The cause of gender inequality emerges from socio-economic structure of the society, where women is essentially viewed as 'inferior' sex. Even if awareness comes, there are instances in which women do not seek their rights due to familial reasons. Thus society is seriously handicapped in terms of reaching a threshold level at which women's voices can be heard and can begin transformation of the patriarchal society norms into a more conducive living environment for women. Principles of gender justice have been the prime concern of the government, since independence. Protection of women's rights and gender equality are enshrined in the Constitution of India, which confers equal rights to both men and women, and also prohibits discrimination on the ground of sex. It, also, empowers, the State to make affirmative discrimination in favor of women, only to ensure gender justice. Under the backdrop of National Policy for Empowerment of Women (2011), the Tenth Plan onwards all plans have called for a time bound survey to

identify areas with gender gaps. Following are some of the areas identified for initiating immediate interventions:

- a) Complete eradication of female foeticide and female infanticide, through effective enforcement of Indian-Penal Code, Pre-Natal Diagnostic Technique (Regulation & Prevention of Misuse) Act, and etc .with most stringent measures of punishment so that a very harsh path is set for legal practitioners.
- b) Adopting measures that take into account the reproductive rights of women so as to enable them to exercise their reproductive choices.
- c) Working out strategies, in close collaboration with Ministry of Labor , to ensure extension of employment opportunities and, thus, remove inequalities in employment-both at work and accessibility.
- d) Initiating interventions at the macro-economic level to amend legislations to improve women's access to productive assets and resources.
- e) Ensuring that the value added by women, in the informal sector as well as workers and producers, is recognized through re-definition of conventional concept of work and preparation of Satellite and National Accounts.
- f) Defining the Women's Component Plan, clearly, and identifying the schemes and programmes, under each ministry and ensuring the adoption of women related mechanisms, through which benefit flows to women.
- g) Initiating action for enacting new legislations, amending the existing women related legislations, based on the review made recommendations already available, to ensure gender justice, besides reviewing all the subordinate legislations to eliminate all gender discriminatory references.
- h) Expediting action to legislate reservation of not less than 1/3rd seats for women in the Parliament and in legislative assemblies and thus ensuring women in, proportion to their numbers, reach decision-making bodies.
- i) Arresting ever-increasing violence against women on top priority with the strength and support of well-planned Programme of Action, prepared in consultation of the concerned
- j) Expediting standardization of Gender Development Index based on which the gender segregated data will be collected at the national, state and district levels, compiled, collated and analysed to assess the progress made in improving the status of women, at regular intervals with an ultimate objective of achieving on par with men.

Thus the Government of India aims to accelerate the process of societal re-orientation towards creating a gender just society. The focus is towards transformation of social and economic norms, along with inducing change in the existing mind-set within the household and community towards women.

The government both at the Centre and State has exhibited its commitment to improve the status of women by launching several schemes and programmes in the past, besides constitutional guarantee. But entrenched caste, class and gender, hierarchies in general, seriously handicap women empowerment and development. Ethnic and religious discrimination, as well as unequal distribution of resources, further aggravate the situation.

One of the basic reasons of recurrence of violation of human rights is said to be the laws pertaining to crime against women themselves as these are antiquated and insensitive to women needs. The biggest flaw in the law is that it is supposed to provide protection to the victim, but in actual practice, it penalizes the victim socially, psychologically and even legally as its inherent inconsistencies leaves lot of scope for discretion and contradictions. This certainly raises issues related to efficient policing, investigation and improved judicial delivery system which, taken together, can act as a deterrent on the one hand and ensure protection of the rights of women on the other.

Government run rural development projects, as practiced today, are unlikely to significantly improve the social and economic status of women in the foreseeable future. Hence, privately funded and managed initiatives on large scale need to be tried to bring about sustaining changes. Such undertakings should seek government involvement only as a facilitator, as oppose that of a "manager" or "partner". Even the government programmes, often, fail to recognize these factors, which adversely affect the women development programmes at the implementation stage. Keeping the status of women and the need of the governmental efforts made in the past there is an urgent need to widely mobilise the poor and the needy women.

There is an ample evidence of constitutional and legal anomalies that Women face within the Panchayati Raj institutions, for example, issue of

rotation, male insecurity about empowered women in decision making systems and the persistence of patriarchy. Efficacy of existing programmes, such as women component plan of Kerala and Madhya Pradesh's Zilla Sarkar and Gram Swaraj, which are considered as important development towards decentralisation and women empowerment, can be questioned, time and time again

Economic empowerment acts as the central force for integrated empowerment of the women community. The scope of the institutional finance is also, too restricted to the poor and the disadvantaged women. The complex eligibility criteria, official delay and red-tapism and the ultimate disbursement of the loans often, nip the entrepreneurial attitude in the bud. Hence it is necessary to build up the spirit and the culture of self-help and initiate micro-credit programme so as to create necessary condition for Micro-enterprise development.

Key women's legal rights concerns, especially crime against women: Crimes against women constitute an important segment of law that is, being reviewed and revised to ensure adequate protection of the women's rights. There has been a number of legislative changes in offences relating to rape, dowry, sexual harassment and prostitution etc. The courts have also contributed to the development of criminal jurisprudence in this regard, but not to the expectations of women at large. Various judicial pronouncements and recommendations of the expert committees, however, indicate the existence of sexist bias in criminal laws, which are enacted for protecting women. Moreover, the National Commission for Women has been created to safeguard the legal interests of women with a mandate covering almost all aspects of women's rights in general and crime against women in particular. There are about 42 central acts concerning women, of which 32 Acts have been reviewed by the NCW for their efficiency and removing gender discriminatory provisions. However, the growing number of new laws, particularly regarding crime against women has not been able to serve its purpose as most of the women do not know their rights and entitlements, let alone have the ability to approach the courts for protecting these rights. Moreover, scholars like P. D. Kaushik argue that the biggest flaw in such laws is that in place of providing protection to the victim it penalises them in various ways. In fact, the type of ordeal women victim

experience ,in accessing justice ,is explicitly documented in the works of Vividha (2002), NIAS(2000) and National Law School (2001) etc.

Most initiatives taken by institutions of the state are taken under pressure from women's groups and these are 'integrating' rather than 'agenda-setting'. Such integration occurs through the dominance of depoliticised discourses of 'common sense' managerialism , that needs to take into account the constraints within which policy is implemented .The acceptance of such approaches to politics , not only impose limits to change , they also raise the issue of co-option of women's groups into the hierarchies of power and influence . Moreover, it is argued that the civil society is seriously handicapped, in terms of reaching a threshold level where women's voice can be heard and transform the patriarchal societal norms into more conducive living environment for women.

Women remain isolated and unequal to men in many parts of the world. As a challenge to the twenty first century, every opportunity must be taken to insist that situation must change to restore the dignity of the women. There is a strong need today as never before to make Indian women aware of their rights. They have to carry on relentless battle for their emancipation; socially, economically and politically.

In the light of the above discussion, let us not shy away from the harsh truth that is: women's exploitation in India is a reality and gender justice a fragile myth. Women emancipation and the issue of their dignity lie in their education and their awareness about rights as co-equal human beings. There are strong measures recommended by the constitution itself to correct the age old exploitation of women and to redeem their equality, dignity and rights. Realisation of this grand vision is function of the laws and legal processes which can deliver only if used properly before various appropriate situations. This presupposes knowledge of the laws and legal processes enacted to encounter injustice in a meaningful manner. In the absence of significant changes in the socio-legal as well as administrative operational mechanisms women should expect to see little improvement over the next several decades in their status, safety from violence, recognition of their rights, or access to justice through courts. Neither a few more civil society organizations in the state nor marginal improvements in, the rate at

which courts dispose the cases before them, will change this picture in lasting manner. What is required is action that is at once more fundamental and dramatic, revolutionary and trend setting. Unfortunately, nothing of that sort is evident on the horizon as it requires addressing the issue structurally as well as substantively.

References and Select Bibliography

1. Chakravarty, U. (1999), "Rhetoric and Substance of Empowerment, Women, and Development and the State, *Electronic Law Journal*, Warwickshire: UK
2. Government of India (2000), "National Crime Records 2000", National Crime Records Bureau, Government of India, New Delhi.
3. Gurumurthy, A. (1998), "Women's Rights and Status –Questions of Analysis and Measurement", *Gender in Development*, Monograph, UNDP: New York.
4. Institute of Development Studies (2002) *Violence Against Women in Rajasthan: A WDP perspective* ", Research Report, IDS, Jaipur
5. Kapur, R and .B Cosman (1994), "On Women, Equality and Constitution Through Looking Glass of Feminism", in *National Law School Journal*, Special Issue, Bangalore
6. Murthy, R.K (1994), "Gender and Development in India" , in *Madras Initiatives: Women in Development*, Oxford University Press, Oxford
7. National Law School of India (2001) "Courts and Women Rights", mimeo.
8. Sakshi (1995), "Violence against Women", in *Proceedings of India NGOs Report on CEDAW*, Coordination Unit for World Conference on Women Beijing '95, December, New Delhi.
9. Sen K.M and Kumar S. (2001), "Women in India How free? How equal?", UNDP, New Delhi.
10. Vividha (2002), "आधी आबादी का संघर्ष: राजस्थान में महिला आंदोलन का इतिहास: एक झलक", Jaipur, Rajasthan.