

VIOLATION OF WOMEN HUMAN RIGHTS IN INDIA – A REVIEW***Dr. V. Vijaya Kumar****Asst. Professor (PT), Department of Political Science,
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This paper seeks to capture the gradual process of acceptance and recognition of violence-against-women-issue as a human right violation in the International human rights discourses. It discusses the role off our World Conferences on women and the Convention on Elimination of All forms of Discrimination against Women (CEDAW) in bringing the issue under International spotlight .India is a multiparty, federal, parliamentary democracy with a bicameral parliament. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. The Constitution of India grants Fundamental Rights, ensure equality before the law and equal protection of law, prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. ‘Women’s rights are the edifice on which human rights stand’ (Dr APJ Abdul Kalam).However, women often denied of their right to freedom at form part of everyday life such as freedom of movement, access to education and participation in decision-making process. Violation of women rights is one of the most direct expressions of the power imbalance between men and women. Therefore, any attempt to assess the status and problem of women in a society should start from the social framework; social structure, cultural norms, and value systems are crucial determinants of women’s role and their position in society. In respect of the status there is a gap between the theoretical possibilities and their actual realization.

Keywords: Constitution, Human Rights, Violenceagainst Women,Women Right, India**Introduction:**

Despite the magnitude and systematic nature of the problem, International Human Rights Law (HRL) had failed to recognize violence against women (VAW), particularly in the domestic context, as a violation of women’s human rights and a priority matter for international action, until recently. As a result the wide spread phenomenon of violence against women remained in precarious positions in the international law andpolicy.WorldConferenceoftheInternationalWomen’sYear1975,the first in a series of global Women’s Conferences, recognized and made references to violence against women in various contexts and urged governments to implement effective legislation to protect women from different forms of violence. India is a pluralistic, republic, multilingual, and a parliamentary system consisting of 29 states and 7 union territories.

The constitution of India has granted equal rights to the men and women. According to article 14. The State shall not deny to any person equality before law or the equal protection of laws within the territory of India”. And Article 15 states State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them,. But today, it seems that there is a wide gulf between theory and practice. The women in India have always been considered subordinate to men. Though the articles contained in the constitution mandates equality and non – discrimination on the

grounds of sex, women is always discriminated and dishonoured in Indian society. Although various efforts have been taken to improve the status of women in India, the constitutional dream of gender equality is miles away from becoming a reality.

Despite these guarantees, the position of women in India remains unequal. Women rights violation in India included rape, domestic violence, dowry-related deaths, honor killings, sexual harassment, and discrimination against women remained serious problems. Child abuse and child marriage, trafficking in persons, including widespread bonded and forced labour of children and adults, child prostitution, and forced adult prostitution, are also considered as serious problems in India. The official statistics showed 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.

Legal Provisions for women in India :

The Constitution of India provided equality to men and women and also gave priority on special protection to women to realise their interests effectively. Special laws were enacted to prevent indecent representation of women in the media and sexual harassment in workplaces. The law also gives women equal rights in the matter of adoption, maternity benefits, equal pay, good working conditions etc. At the international level, the UN Charter, the Universal Declaration of Human Rights and Convention on Elimination of All Forms of Discrimination against Women (CEDAW) sought to guarantee better legal status to women. The law also provides women with the right to police assistance, legal aid, shelter, and medical care.

The Crimes Identified Under the Indian Penal Code (IPC)

1. Rape (Sec. 376 IPC)
2. Kidnapping & Abduction for different purposes (Sec. 363-373)
3. Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
4. Torture, both mental and physical (Sec. 498-A IPC)
5. Molestation (Sec. 354 IPC)
6. Sexual Harassment (Sec. 509 IPC)
7. Importation of girls (up to 21 years of age)ⁱ

Causes of violence:

There are 4 main reasons for domestic violence to persist in India.

1. Male dominated society: Even though women had risen to top positions, India was & still remains as a male dominated country.

2. Lack of awareness of Laws: Victims of domestic violence are afraid to protest as there is lack of awareness or rather lack of initiative to make her aware of her rights.

3. Laxity in implementation of the existing Acts: No or less efforts are made to increase awareness amongst the women by the authorities posted to implement the Act.

4. Bureaucracy & Fear: If a domestic violence is reported by a third party then he/she is scrutinized as an intruder and problem maker by the community. The bureaucracy associated with reporting of domestic violence, lack of funds for support group adds up to the continued domestic violence in India.

Violation of Right to Equality:

Discrimination against the girl child starts the moment she enters into the mother's womb. Gender discrimination, female feticide and female infanticide. is common in India, so here "right to life" is denied to women. In India, men are always assumed to be superior to women and are given more preference. A girl is considered a burden by parents and they preferred male child because they think only male child is able earn for family and the sources of family income will increaseⁱⁱ. Since a girl child would be going to her husband's place upon marriage, the parents do not want to waste their resources on her upbringing. Again the demand for large dowry and the huge wedding expenses caused a lot of hardship to the parents. So, the parents preferred a male child as could be able to bring in large dowry.

Violation of Right to education:

Right to Education is the basic fundamental human right. The literacy rate in 2011 census was 74.04%: 65.46% among females and 82.14% among males. The position of women's education in India is bad shape . Specially in rural India women are not aware even the value of education in fact they give more preference on their male child education . Due to large percentage of uneducated women in India, they are not even aware of their basic human rights and can never fight for them. Though female employment rate is high in rural areas, they were engaged mainly in unskilled job but in urban areas due to better education were engaged in variety of jobs. Education especially female education is a major factor influencing health. It leads to better utilization of health. care and greater community/ political participationⁱⁱⁱ.

There were numerous reports of schools refusing admission or denying entry to underprivileged students. Across the country more than eight million children between six and 14 years of age remained out of school. UNICEF estimated that school attendance among girls dropped from 86 percent in primary school to 59 percent in secondary school. Potential causes included family pressure, lack of secondary schools in rural areas, and poor quality of school facilities, including a lack of dedicated sanitation facilities for girls.

Violation of Political Right:

The political status of women in India is very unsatisfactory, particularly their representation in higher political institutions. In rural India specially among Muslim, they are not even permitted to go for their valuable vote though they are citizen of India. Their political Rights are denied and the representation of women in political participation is very low. The government has made 33% reservation of seats for women in Parliament and Provincial Legislation but inspite of willingness of women they don't get their family support for contrasting election^{iv}.

Violation of Right to Property:

In most of the Indian families, women do not have own property in their own names and unable to share the parental property. Though, women have been given rights to inheritance, but the sons had an independent share in the ancestral property, while the daughter's shares were based on the share received by the father. Hence, father could anytime disinherit daughter by renouncing his share but the son will continue to have a share in his own right. The married daughters facing harassment have no rights in ancestral home^v.

Violation of Right to reproductive Health:

According to the 2012 UN Population Fund State of World Population Report, the maternal mortality ratio was 200 deaths per 100,000 live births in 2010. The major factors influencing the high maternal mortality rate were lack of adequate nutrition, medical care, and sanitary facilities. Most of the women suffer from anemia, low weight due to the inferior quality diet. Though women make cook but still they have to take meal after male member in the family^{vi}. According to the World Bank report, malnutrition is the major cause of female infertility. Boys are given more nutritious foods like milk, eggs, butter, ghee, fruits, and vegetables as compared to girls. Lack of healthcare facilities and poverty has been resulting in India accounting for 27% of all maternal deaths worldwide.

Violation of Right to Equal Opportunity For Employment and Right to Get Equal Wages for Equal Work:

The law prohibits discrimination in the workplace, but employers paid women less than men for the same job, discriminated against women in employment is common problem in India. Indian labour market is adverse to women workers^{vii}. It shows that, the role of women in large scale industries and technology based businesses is very limited. But even in the small- scale industries their participation is very low. Only 10.11% of the micro and small enterprises are owned by women today. Statistics show that only 15% of the senior management posts are held by the women. Women mostly work in light industries as they are unsuitable for work in heavy industries. Also, most of the women work in unorganized sector where the wages tends to be very low. About 94% of the total working women are in unorganized sector (ICSSR, 1971-74)^{viii}.

Crimes Against Women in India:

Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women'. Crimes against women occur every minute; every day and throughout the year, though several such crimes go unreported. A total of 2,44,270 incidents of crime against women (both under IPC and SLL) were reported in the country during the year 2012 as compared to 2,28,650 in the year 2011 recording an increase of 6.4% during the year 2012. These crimes have continuously increased during 2008 - 2012 with 1,95,856 cases in the year 2008, 2,03,804 cases in 2009 and 2,13,585 cases in 2010 and 2,28,650 cases in 2011 and 2,44,270 cases in the year 2012. Women and girls in urban India are also at high risk of gender-based violence. In Delhi, the country's capital, a scan of daily newspapers reveals shocking numbers of cases of violence against women. Assam has reported the highest rate of crime against women at 89.5 during the year 2012 as compared to 41.7 crime rate at the national level^{ix}.

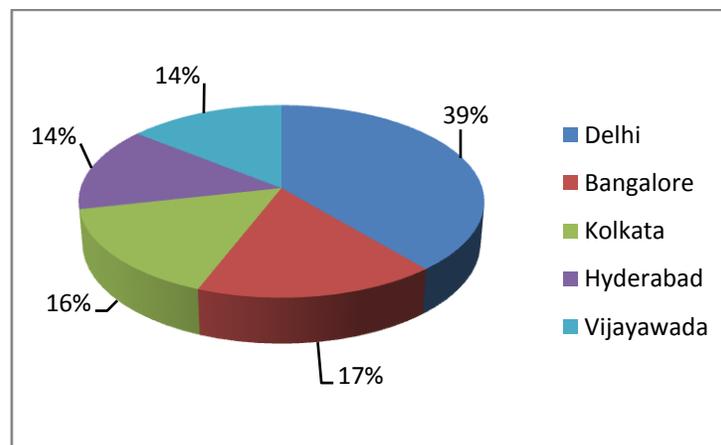
Though Human Rights are the minimum rights, which are compulsorily obtainable by every individual but, it has been found that each and every right of the women is being violated in one or another way. The crimes against women in India are increasing at a very fast pace. The National Crime Records Bureau (NCRB) had predicted that growth rate of crime against women would be higher than the population growth by 2012, and this has become true. The survey of 2012 done by NCRB in five major cities depicts the growth of crimes rate against women.^x

Table

TOP 5 MOST DANGEROUS CITIES IN INDIA

| Rank | Name of the City | Percentage of Crimes Against |
|-----------------|------------------|------------------------------|
| 1 st | Delhi | 14.2 |
| 2 nd | Bangalore | 6.2 |
| 3 rd | Kolkata | 5.7 |
| 4 th | Hyderabad | 5.2 |
| 5 th | Vijayawada | 5.2 |

Source: Crimes in India (2012), NCRB, Ministry of Home Affairs

**Child Marriage:**

Another serious problem that women faced was that of child marriage. Early marriage affected the growth and development of the children. Fixing the minimum age of marriage of men and women by law was voiced as early as the mid-19th century by Ishwar Chandra Vidyasagar and Keshab Chandra Sen. Vidyasagar argued that early marriage was detrimental to the health of women, their efforts, coupled with that of Mahatma Gandhi, resulted in the passing of the Child Marriage Restraint Act, 1929^{xi}.

Women Trafficking In India:

Indian Constitution prohibits all forms of trafficking under Article 23. It has been observed poor helpless families and tribal society have become the main target group of traffickers. Trafficking has become great human problem in all over human society. Trafficking in its widest sense include the exploitation girls by pushing them into prostitution, forced labour or services, slavery or practices similar

to slavery and the trade in human organs. In the case of children who have been trafficked or have become victims of child marriages, it violates their right to education, employment and self determination.

Sexual Harassment and Rape Cases:

Rape is recognized as a crime that typically is committed by a man forcing another person to have sexual intercourse against their will, intercourse by force (Smith 2004:169). The Government of India acted swiftly, modified laws and had set up fast-track courts to deal with the crime. It is ironical that in spite of awakening, the sexual assaults continue to rise while gender equality is enshrined in the constitution. The NCRB reported 24,206 cases of rape across the country in 2011, the latest year for which data was available; rape is considered an underreported crime^{xii}. Law enforcement and legal avenues for rape victims were inadequate, overtaxed, and unable to address the issue effectively. Forty percent of all sexual abuse cases in India are incest, and 94% of the incest cases had a known member of the household as the perpetrator.

Kidnapping & Abduction:

Crimes against women were common. According to the NCRB Crime in India 2011 Statistics, there were 228,650 crimes against women in 2011, a 7 percent increase from 2010. These crimes included kidnapping and abduction, molestation, sexual harassment, physical and mental abuse, and trafficking. The NCRB noted that underreporting of such crimes was likely. The NCRB estimated the conviction rate for crimes against women to be 27 percent. Delhi recorded the highest proportion of crimes against women with 4,489 cases, followed by Bengaluru, Karnataka, with 1,890.

Domestic Violence And Dowry Deaths:

Globally, one out of every three women faces violence at the hands of their husbands, fathers, or brothers and uncles in their homes. The United Nations defines violence against women as “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”. “Violence against women is perhaps the most shameful human rights violation. According to the NCRB, in 2011 there were 8,618 reported dowry deaths, mostly bridal deaths at the hand of in-laws for failure to produce a dowry. Uttar Pradesh had the highest number of dowry deaths with 2,322 cases, followed by 1,413 cases in Bihar. The NCRB reported that 23,280 persons were arrested and 6,503 persons were convicted for dowry death in 2011^{xiii}.

Torture (Cruelty By Husband & Relatives):

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. The NCRB reported that in 2011 there were 99,135 reported cases of “cruelty by husband and relatives,” an increase of 5.4 percent from the previous year. Torture cases in the country have increased (99,135 cases) by 5.4% over the previous year (94,041 cases). 19.9% of these were reported from West Bengal (19,772 cases). The highest crime rate of 21.6 was also reported from West Bengal as compared to the National rate at 8.2. Although men, women and children can be abused, in most cases the victims are women. In every country where reliable, large-scale studies have been conducted, results indicate that between 16 and 52% of women have been assaulted by their husbands/partners.

Various Constitutional Provisions for Women:

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 neutralizing the cumulative socio economic, education and political disadvantages faced by them^{xiv}. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.

1. Equality before law for women (Article 14)
2. The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (Article 15 (i))
3. The State to make any special provision in favour of women and children (Article 15 (3))
4. Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
5. The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d))
6. To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Article 39 A)
7. The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
8. The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46)
9. The State to raise the level of nutrition and the standard of living of its people (Article 47)
10. To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51(A) (e))
11. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat (Article 243 D(3))
12. (Not less than one- third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women (Article 243 D (4))
13. Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Municipality to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality (Article 243 T (3))
14. Reservation of offices of Chairpersons in Municipalities for the Scheduled Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide (Article 243 T (4))

Acts and provisions for women:

Factories Act 1948: Under this Act, a woman cannot be forced to work beyond 8 hours and prohibits employment of women except between 6 A.M. and 7 P.M.

Maternity Benefit Act 1961: A Woman is entitled 12 weeks maternity leave with full wages.

The Dowry Prohibition Act, 1961: Under the provisions of this Act demand of dowry either before marriage, during marriage and or after the marriage is an offence.

The Equal Remuneration Act of 1976: This act provides equal wages for equal work: It provides for the payment of equal wages to both men and women workers for the same work or work of similar nature. It also prohibits discrimination against women in the matter of recruitment.

The Child Marriage Restraint Act of 1976: This act rises the age for marriage of a girl to 18 years from 15 years and that of a boy to 21 years.

Indian Penal Code: Section 354 and 509 safeguards the interests of women.

The Medical Termination of Pregnancy Act of 1971: The Act safeguards women from unnecessary and compulsory abortions.

Amendments to Criminal Law 1983, which provides for a punishment of 7 years in ordinary cases and 10 years for custodial rape cases.

73rd and 74th Constitutional Amendment Act reserved 1/3rd seats in Panchayat and Urban Local Bodies for women.

The National Commission for Women Act, 1990: The Commission was set up in January, 1992 to review the Constitutional and legal safeguards for women.

The Protection of Human Rights Act, 1993: This Act is to provide for the constitution of a National Human Rights Commission, State Human Rights Commissions in States and Human Rights Courts for better protection of human rights and for matters connected therewith or incidental thereto.

The National Plan of Action for the Girl Child (1991-2000) :The plan of Action is to ensure survival, protection and development of the girl child with the ultimate objective of building up a better future for the girl child.

National Policy for the Empowerment of Women, 2001: The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a "National Policy for the Empowerment of Women" in the year 2001. The goal of this policy is to bring about the advancement, development and empowerment of women.

Protection of Women from Domestic Violence Act, 2005: This Act protects women from any act/conduct/omission/commission that harms, injures or potential to harm is to be considered as domestic violence. It protects the women from physical, sexual, emotional, verbal, psychological, economic abuse.

Protection of Women against Sexual Harassment at Workplace Bill, 2010: On November 4, 2010, the Government introduced protection of Women Against Sexual Harassment at Workplace Bill, 2010, which aims at protecting the women at workplace not only to women employee but also to female clients, customer, students, research scholars in colleges and universities patients in hospitals. The Bill was passed in Lok Sabha on 3.9.2012^{xv}.

Methodology and Data Source:

In this paper, an attempt has been made to study the violation of women rights in India and government initiatives such as law and various Acts for securing and protecting women rights. The methodology of this paper is descriptive and required information's are collected from different secondary sources like books, research articles, different publications relating to women rights , domestic violence, crimes against women and government documents etc. Inequality between men and women is common in India .This gender gap is mostly seen in five critical areas viz., economic participation, economic opportunity, political empowerment, access to education and reproductive healthcare as mentioned in the report of World Economic Forum (2005). It is increasingly viewed that empowerment of women is an essential prerequisite for poverty alleviation and upholding human rights and for sustainable human development.

Objectives of the Study:

1. To conceptualize certain gender specific violation as Human Rights Violation among women in India.
2. To study the various dimensions of human rights violation among women such as crime against women and physical, mental and sexual violence faced by Women
3. To study the Constitutional Provisions and Initiatives taken by government for protecting the rights of women.

Recommendations

1. There is urgent need to create awareness specially in rural areas to disseminate information on legal safeguards, constitutional provisions , rights, which is provided by the Constitution of India for women. Women should be encouraged and support in their views in decision making process.
2. Strengthening the women empowerment programme which is helpful for women to participate in economic activities and for upgrading women's skills .
3. Training and professional development of women is very important for professionals who come into contact with the women issues.
4. The NGOs along with the women's organization can play a great role to eradicate the discrimination prevailing in society and to make the movement for women's rights stronger. Women should be motivated to participate in political representation.
5. A special emphasize must be given on education female child as she can stand in her own feet.
6. There is need to educate women about the scheme, services, health and accommodation which is especially for women.
7. There is need for more research and study on the status of women which can help in establishing a society based on gender equality.
8. It is also necessary to take responsibility of society ,family member, stakeholder to mitigate

violence against women. Media should play a major role organize awareness camps in the interior and remote areas to aware women about health education ,family planning, their rights , affects of early marriage , importance of female education various schemes which is for women. Media can educate and mobilize communities particularly those belonging to marginalized communities

9. The women should be encouraged to organised themselves such as women’s group, self- help group, N.G.O’s etc. Some successful women’s organisations can also act as catalytic agents for encouraging women’s participation in social and political activities. The government should provide financial support and infrastructure to some of the successful women’s organisations to take of the responsibility to safeguards the women’s rights.

Conclusion:

In conclusion it is argued that violence against women is a human right violation and not just a matter of inequality. Hence, it is suggested that violence against women should be a matter of serious concern in its own right, regardless of discrimination standard, and be addressed directly as a violation of women’s human rights rather than being viewed as an obstacle to the enjoy men of such rights. In urban area women are more conscious about their rights, education and they are more empowered both economically and socially as compared with rural women. There is urgent need to create awareness in rural areas about the rights, education and government services, and schemes for improvement of their status which is provided specially for women. There are various laws have been made by the legislature in the interests of women. Women are the present and the future of India. But today in the world of the 21st century, women have attained a remarkable position in every fields and their life style is improved, they are in no way inferior to men. Women have also started reaching out to state agencies for redressal and justice. India has a remarkable history with women from being the Prime Minister to the Governor and then to the President. Women are now able to doctors, lawyers, and top bureaucrats. Even in business they are occupying high positions. Women are in police force, air force and even scaling the Mount Everest is not beyond their capacity. The social change with the universal wisdom thoughts of great minds like Mahatma Gandhi, Gandhi's thought on religion "... our innermost prayer should be a Hindu should be a better Hindu, a Muslim a better Muslim, a Christian a better Christian" puts the religions in the right perspective in building character. High character and moral strength would make the society courageous and free from anti- social activities.

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