
Human Dignity Rights Of Women And Gender Based Violence Against Them

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Abstract

Indian woman's journey is a long one which can be said to start from Sati to Mary Kom which is the true picture of a Fight for Right in Progress. In Indian culture and civilization, the girl child represents beauty, auspiciousness and prosperity. She is worshipped as Dawn, the bringer of hope. The beautiful dancer of Mohenjodaro, indicates a highly sophisticated culture. She is the mother of humankind. But the position of women started deteriorating after the first millennia. Though our constitution and many other legislative acts have promoted gender equality, their status continues to be low. The critical factor in sexual harassment is the un-welcomeness of the behavior. Thereby making the impact of such actions on the recipient more relevant rather than intent of the perpetrator-which is to be considered. Ours is an ancient culture and civilization. We revered human beings irrespective of gender. As India enters into an international leadership arena, we have to highlight our values. For this, respecting, adoring, admiring and empowering women is the first major milestone.

Keywords :- Women's issues, Gender Inequality, Women Empowerment, Financial Independence, Mind-Set.

Introduction

Feminism and women empowerment are misunderstood as "women's issues", when in fact, these are actually the issues of men. The problem of gender inequality in India is the problem of male culture which affects women and girls. Women Empowerment is a constant battle and it is not a battle which can progress without cooperation from the society as a whole. What is required is not only a change in the mind-set. Women represent half the world's population, and gender inequality exists in every nation. Though alternative media can act as a platform or bridge to surpass the barrier of essential communication and information: education is a fundamental and pre-requisite of all human beings. Until women are given the same opportunities that men are, entire societies will be destined to perform way below their true potential.

As said by Margaret Thatcher :- "If you want something said, ask a man; if you want something done ask a woman." A woman today expects herself – and rightly so to be treated as an individual, a living human being, entitled to the same dignity and status as her male counterparts. Although every charter of Human Rights states that men and women are born equal and the same has been quoted in Article 14 and 15 of the Indian Constitution, the same is far from true. The deep-rooted belief that women deserve to be treated lesser than their male counterparts largely contributes to the rampant, continuous and unyielding violence against women extending to unfair or lack of access to education, health, employment, property and influence. Dependency promotes compromise and is the main cause for a victim's inability to raise her voice against violence, disrespect and oppression. The question of women empowerment can be answered in two words : Financial Independence.

The biggest tool and the final end to achieve Women Empowerment is to ensure financial independence for all women, both in cities and villages. Financial independence is further dependant largely on, firstly, education of the girl child and secondly, on providing equal opportunities at the workplace. The Government has been making a conscious effort to slowly realize the first leg of the War towards Women Empowerment by progressive legislative policies. Judicial intervention coupled with legislative efforts is also a work in progress towards providing equal and comprehensive workplace opportunities and environment. The Equal Remuneration Act, 1976, The Dowry Prohibition Act, 1961, The Immoral Traffic (Prevention) Act, 1956, The Maternity Benefit Act, 1961, The Medical Termination of Pregnancy Act, 1971, The Commission of Sati (Prevention) Act, 1987, The Prohibition of Child Marriage Act, 2006, The Pre-Conception and Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 and The Sexual Harassment of Women at Workplace (Prevention and Protection) Act, 2013 are some of the legislations enforced with the aim to empower woman. These proactive steps towards progressive legislative action have ensured that at least women have a fair chance to attempt becoming a part of the working population of this society, a chance towards being independent. It is not necessarily attaining equality from this deep-rooted bias of male domination prevalent in the society, but at least it gives them the means to distance themselves from the violence that stems from the sense of inequality.

Crime is the outcome of a diseased mind and jails must have an environment of hospital for treatment and cure- "An eye for an eye would turn the whole world blind" – Mahatma Gandhi. The offence of rape is a sexual violation of a woman's dignity and body and is yet another manifestation of man's attempt to abuse his position of dominance. It is in this context that the Indian Parliament has enacted far reaching amendments in this field. Envisaged by the crime against women in India, the Criminal Law (Amendment) Act was passed in 2013. It is an Indian legislation passed by the Lok Sabha on 19 March, 2013, and by the Rajya Sabha on 21 March, 2013, which provides for amendment of Indian Penal Code, 1860, Indian Evidence Act, 1872, and Code of Criminal Procedure, 1973 on laws relating to sexual offences. In 1983, an amendment was made and S. 376(2) i.e. Custodial rape, S.376(A) i.e. marital rape and S.376(B to D) i.e. Sexual Intercourse not amounting to rape were added to the Indian Penal Code.

Thus Judicial Intervention has been greatly helpful. There was a time when the Indian judiciary failed to see eye to eye with the facts of an open and shut case of rape :- In Mohd. Habib vs. State, 1989 Cri LJ 137, the Delhi High Court allowed a rapist to go scot-free merely because there were no marks of injury on his penis- which the High Court presumed was an indication of no resistance. The most important facts such as the age of the victim (being seven years) and that she had suffered a ruptured hymen and the bite marks on her body were not considered by the High Court. Even the eye-witnesses, who witnessed this ghastly act could not sway the High Court's judgment, so deep-rooted was the legal position treating a victim as an accomplice.

Another ghastly yet classic judicial pronouncement often quoted with dismay, mirroring the prejudiced mindset of the society when it came to rape cases and other crimes against women is the case of State of Rajasthan And Others versus Smt. Bhanwari Devi wherein a judge remarked that the victim could not have been raped since she was a dalit while the accused hailed from a upper caste – who could not stoop to sexual relations with a dalit. The critical factor in sexual harassment is the unwelcomeness of the behavior. Thereby making the impact of such actions on the recipient more

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From a time as dark as the Bhanwari Devi case, with the changing times and development largely due to western influence and development, the Indian judiciary slowly moved towards a more pragmatic era in a series of judgements including *Bharwada Bhoginbhai Hirjbhai vs. State of Gujarat AIR 1983 SC 753* wherein an attempt was made to categorise and define crimes against women. In another striking act of judicial activism, the Supreme Court decided the case of *Vishaka and others vs. State of Rajasthan (JT 1997 (7) SC 384)*. The judgment was delivered by J.S.Verma CJ, on behalf of Sujata Manohar and B.N.Kirpal, JJ., in a writ petition entitled 'Vishaka' filed by a Non Governmental organization working for gender equality by way of Public Interest Litigation seeking enforcement of fundamental rights of working women under Article 21 of the Indian Constitution. It was in 1997 in *Vishaka vs. State of Rajasthan and others (JT 1997 (7) SC 384)*, that for the first time sexual harassment had been explicitly legally defined as an unwelcome sexual gesture or behavior whether directly or indirectly as :-

1. Sexually coloured remarks ;
2. Physical contact and advances;
3. Showing pornography;
4. A demand or request for sexual favours ;
5. Any other unwelcome physical, verbal/ non-verbal conduct being sexual in nature.

It was in this landmark case that the sexual harassment was identified as a separate illegal behavior. The critical factor in sexual harassment is the unwelcomeness of the behavior. Thereby making the impact of such actions on the recipient more relevant rather than intent of the perpetrator – which is to be considered.

But women were not yet empowered. It took a *Nirbhaya (State vs. Ram Singh and Ors, 2013)* to break our false pretences of being a society moving towards a time where women were not mere objects existing for male gratification. *Nirbhaya* shook our sense of existence. A crime so cruel, for a reason which was nothing less than a slap on every citizen that believed in equality for their mothers, their wife, their sisters and their daughters. The perpetrators of this crime believed the victim is asking to be raped if she is outside her house after 9 pm. *Nirbhaya* was not just a crime of passion, it was a crime against both men and women who believed in change, it was an iron-rod that hit the Government spiraling its machinery into realizing the lacunae that existed in laws protecting women and their rights. The recommendations and impact of the Justice Verma Committee Report were :

1. Make voyeurism, stalking and intentional touching an offence;
2. Amend rape laws;
3. Review Security Laws in Conflict Zones;
4. Monitor Illegal, Patriarchal village councils;
5. Review Medical Examination of Rape Victims;
6. Police Reforms;
7. Electoral Reforms;
8. Gender Sensitisation through Education;

9. Bill of Rights;
10. Human Trafficking

Many changes have taken place over the last few years in terms of women empowerment through various economic programmes. Development theorists as well as development planners have asserted that literacy often means higher income for the neo literate both in urban and rural settings. In the rural setting, the neo-literate is able to make use of such economic institutions as extension activities, rural banks and marketing cooperatives. In the urban setting, literacy contributes to higher income, to safety on the job, and to the possibility of unionization to protect economic interests. It is clear and convincing fact that today both culture and technology are based on universal literacy. Though has wide range of meanings and definitions – from reading the word to reading the world, it is an important tool for communication, learning and information. And a virtual precondition for individual and national development. Illiteracy need not be equated with ignorance, yet it is an unsatisfactory condition. The need for a re-organisation in values and norms, and the importance of fostering the political, economic and social skills of citizens is accepted as part of the developmental agenda. Research throughout the world has shown that the list of characters that accrue from literacy include individualism, objectivity, the holding of individual opinions, a capacity for logical analysis, and context-independent abstract thinking, a sense of history and universalism.

In Indian culture and civilization, the girl child represents beauty, auspiciousness and prosperity. She is worshipped as Dawn, the bringer of hope. The beautiful dancer of Mohenjodaro, indicates a highly sophisticated culture. She is the mother of humankind. But the position of women started deteriorating after the first millennia. Though our constitution and many other legislative acts have promoted gender equality, their status continues to be low. The empowerment of women concerns women gaining control and power over their own lives. It involves awareness raising, building self-confidence, expansion of choices, increased access to and control over resources. Empowerment should come from within, women empower themselves and then only can they protect themselves from physical abuse. Traditionally in India, women are respected. So, their economic empowerment will naturally lead to their political empowerment. They can be the harbingers of harmony in all spheres of life. They have great role to play in projecting our culture and our way of life. In our country women specific projects continue to play an important role in promoting gender equality. They are still needed because gender equality has not yet been achieved and gender mainstreaming processes are not fully developed. Target initiatives focusing specifically on women are important for reducing existing disparities, Women and their organisations can play a very important role in achieving their overall development. They can play a powerful and positive role in confidence building and creating awareness in their daughters and other women to promote self-reliance. Ours is an ancient culture and civilization. We revered human beings irrespective of gender. As India enters into an international leadership arena, we have to highlight our values. For this, respecting, adoring, admiring and empowering women is the first major milestone. On the occasion of the Human Rights Day celebrated on December 7, 2002, Abdul Kalam, stressed on the eradication of poverty and empowering the human being through education in order to preserve human dignity. In our Constitution, Article 15 also provides for Prohibition of Discrimination on grounds of religion, race, caste, sex or place of birth.

The discourse on women, nationally and internationally, moved from Women in Development to Gender and Development and Women's Empowerment and this was reflected in the Five Year Plans and Policy Documents. The policy approach on women is now of Gender Mainstreaming on the ground that women's needs and concerns cannot be limited to any particular sector and have to be the focus in all sectoral policies and programmes.

Gender equality is a constituent as well as an instrument of development. It is not possible for a country to achieve the objective of growth in real terms unless half the population is at disadvantage in terms of basic needs, access to knowledge and political voice. Before independence, Indian women were subjected to gender oppression and gender discrimination. Gender biases prevailed in all spheres of life whether social, political or economic. It was widely recognized that unequal educational status of men and women is both a cause and consequence of a wider gender inequality. Keeping this fact in mind, the government considered education as the most effective weapon to break the vicious circles of gender discrimination and gender inequality. Truly, education is associated with a wide range of desirable outcomes like higher productivity and rate of growth, lower level of fertility and better child nutrition, higher level of self esteem and better management of domestic relations. It is a well recognized fact that education of women is the only panacea for all kinds of problems. Education has been considered as one of the most important means of empowering women with knowledge, skills and self confidence necessary to participate fully in the development process.

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