

Feminizing the Human Rights

A Global Perspective

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Abstract: Gender equality is now considered as a crucial issue to be solved, so that inclusive growth can be achieved with a holistic approach. The establishment of United Nations also embraced the equality on gender basis as the most fundamental guarantee of human rights worldwide. In 1948, the Universal Declaration of Human Rights was adopted including the equal entitlements of women and men to the rights. Thereafter, two human rights treaties, namely, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, along with the Universal Declaration, make up the International Bill of Human Rights. Similarly, India has set up National Human Rights Commission in 1993 and incepted the most awaited journey of human rights in our country. Although, women in India have been given more rights as compared to men, yet the condition of this *Aadhi Aabadi* is miserable. This paper will discuss the various relevant aspects of human rights for women at par to international law, efforts by global community in this direction and ascertain the status of human rights for women in India including their violations. More specifically, this article based on a review of the relevant literature, intends to explore the present scenario of human rights and gender issues in India and across the globe.

Keywords: Gender equality, Human rights, International law, United Nations, Violation of human rights, Women issues.

1. INTRODUCTION

With the ascent of civilization on the earth, survival with dignity has been the core element. Growth of political system in the world and concern for human rights are the two collectively developing matters. All the countries in the world organized these human rights in their respective constitutional framework and set-out the provisions of penalty and prosecution in case of violations. It is true that quality of social life lived by the citizens of a country is determined on the basis of enforcement of human rights. The respect and feeling of belongingness to other human being represent human rights. And if there is no respect, no emotions; it creates hatred, exploitation, injustice, dishonor and anarchism in the society. These problems further generates social, economical, regional, communal and other discriminations which adversely affect the poor ones, women, children, senior citizens and deprived classes of the country. Now-a-days, besides the basic needs for life, social security, health, education, respect and dignity constitute the minimum human rights to be given.

Eliminating the discrimination against women in all forms and attaining equality between women and men are the fundamental values; universally exist beneath the human rights. Gender equality is now considered as a crucial issue to be addressed, so that inclusive growth can be achieved with a holistic approach. This paper tries to articulate the gender issues in respect of human rights and includes the human rights of women and international laws and efforts initiated on the global platform in this direction. Apart from this, the article puts forth the present status of human rights of women in Indian context along with their violations. At the end, the conclusion has been drawn, so that remedial measures can be adopted as per the suggestions provided herein.

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2. HUMAN RIGHTS OF WOMEN AND INTERNATIONAL LAWS

Equality for women is the first and foremost matter of human rights. The end of World War II, with the remainder of massive havoc, turned the global attention towards human rights. First of all, the Charter of the United Nations (UN) in 1945 set out as one of its goals “to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, (and) in the equal rights of men and women.” Furthermore, Article 1 of the charter states that one of the purposes of the UN is to promote respect for human rights and fundamental freedoms “without distinction as to race, sex, language or religion.” The prohibition of discrimination based on gender is repeated again in Articles 13 and 55.

In 1948, the Universal Declaration of Human Rights was adopted, which also asserted the equal entitlements of women and men to the rights mentioned in it. The Declaration adopted the terms like “all human beings” and “everyone” in order to leave no doubt leading to any prejudice. Thereafter, two human rights treaties, namely, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights, along with the Universal Declaration, make up the International Bill of Human Rights.

UN Member States adopted the Declaration on the Elimination of Discrimination against Women in 1967, which embraced the issue as “abolish existing laws, customs, regulations and practices which are discriminatory against women, and to establish adequate legal protection for equal rights of men and women.” However, the adoption of The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) in 1979 was the milestone in this passage. Along with general principles, the specific concerns were included in substantive 16 articles. The Convention comprised both civil and political rights, such as, right to vote, right to participate in public life, right to acquire, right to change or retain one’s nationality, equality before the law and freedom of movement; and economic, social and cultural rights, like, right to education, work, health and financial credit. The Convention also incorporated the particular phenomena of trafficking, to certain groups of women (e.g. rural women) and to personal matters like marriage and the family.

Apart, from the international legislations, some regional instruments for ensuring rights of women are also relevant to be mentioned in this regard.

- The African (Banjul) Charter on Human and People’s Rights was adopted in 1981 by the Organisation of African Unity. The Charter’s Protocol on the Rights of Women in Africa (Maputo Protocol) was also adopted in 2003.
- The Charter of the Organisation of American States included an anti-discrimination provision in Article 3 (1), and the American Convention on Human Rights in its Article 1. Furthermore, in 1994 the Organisation approved the Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women (Belem do Para Convention).
- In 1998, the European Convention on Human Rights and Fundamental Freedoms prohibited the discrimination on any grounds, including sex, in the implementation of rights contained in the Convention. In 2011 the Council of Europe assumed a new Convention on preventing and combating violence against women and domestic violence (Istanbul Convention).
- Regional groupings including the Association of South East Asian Nations (ASEAN), the South Asian Association for Regional Cooperation (SAARC), the Economic Community of West African States (ECWAS) and the Southern African Development Community (SADC), also have adopted respective declarations akin to women’s human rights.

3. EFFORTS ON THE GLOBAL PLATFORM

Since 1975, the International Women’s Year, a World Conference was organized at Mexico City, which resulted in the World Plan of Action and the affirmation of the UN Decade for Women 1975-1985.

a) Vienna Declaration: In 1993, the World Conference on Human Rights was held in Vienna. With the core attention on violations of women’s rights, the social activists organized tribunals to bring such marginalized issues to the mainstream. The Conference was concluded with the adoption of Vienna Declaration and Programme of Action, which stated that “the human rights of women and of the girl child are an inalienable, integral and indivisible part of universal Human Rights.”

b) International Conference on Population and Development: In Cairo (1994) this conference based on demographic issues, further moved on to women’s human rights consisting gender equality, the family, reproductive health, birth control, family planning, women’s health, as well as immigration and education of women.

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c) Beijing Declaration and Platform for Action (BPFA): The implementation of rights of women and women empowerment constituted the agenda of BPFA in September, 1995. It involved political and legal strategies on a global scale based on a human rights framework. Later reviews and evaluations of the implementation of BPFA have revealed that although significant progress has been noticed in some areas of women's human rights, but discriminatory legislation as well as harmful traditional and conventional practices and negative stereotyping of women still persist particularly in family, civil, penal, labour and commercial laws. Both the 2005 and the 2010 reviews of the Platform answered that de facto and de jure equality had not been achieved in any country in the world.

d) Millennium Development Goals (MDGs): In the year 2000, the international community agreed to eight development goals, time bound in nature, to be achieved by 2015. Two of these goals are gender equality and the empowerment of women; and reduction of maternal mortality. But unfortunately, the reviews of 2010 also depicted that success was not up to the mark. Consequently, in the same year, the Secretary-General launched the Global Strategy for Women's and Children's Health, setting out key actions to improve the health of women and children worldwide.

e) UN Conference on Sustainable Development (Rio+20): Brazil in 2012, hosted this conference to appraise the progress in the implementation of agreements incapacitated since the landmark 1992 UN Conference on the Environment and Development in Rio de Janeiro. At Rio+20 Heads of State and Government renewed their commitments to women's equal rights, access and opportunities for participation and leadership in the economy, society and political decision-making.

4. HUMAN RIGHTS IN INDIA

Human life includes all those rights which are required for its physical, mental, social and economic up-gradation. With the continuous efforts in this regard the National Human Rights Commission was established on 27th September, 1993 and it incepted the most awaited journey of Human Rights in our country. In December, 1993 Human Rights Protection Bill passed by the Parliament and regarded as Human Rights Protection Act after its acceptance by the President of India. This commission consists of 8members including the chairperson. The Act also makes provision for a Secretary-General who shall be the Chief Executive Officer of the Commission and shall exercise such powers and discharge such functions as it may delegate to him.

5. HUMAN RIGHTS OF WOMEN IN INDIA

Our Constitution has provided various articles, so as to ensure the conservation of human rights of women in India. These articles are:

- **Article 14:** Men and women to have equal rights and opportunities in the political, economic and social spheres.
- **Article 15(1):** Prohibits discrimination against any citizen on the grounds of religion, race, caste, sex etc.
- **Article 15(3):** Special provision enabling the State to make affirmative discriminations in favour of women.
- **Article 16:** Equality of opportunities in matter of public appointments for all citizens.
- **Article 39(a):** The State shall direct its policy towards securing all citizens men and women, equally, the right to means of livelihood.
- **Article 39(d):** Equal pay for equal work for both men and women
- **Article 42:** The State to make provision for ensuring just and humane conditions of work and maternity relief.

Similarly, numerous rights are there to safeguard the women's human rights in our country, such as:

- Right to equality.
- Right to education.
- Right to live with dignity.
- Right to liberty.
- Right to politics.

- Right to property.
- Right to equal opportunity for employment.
- Right to free choice of profession.
- Right to livelihood.
- Right to work in equitable condition.
- Right to get equal wages for equal work.
- Right to protection from gender discrimination.
- Right to social protection in the eventuality of retirement, old age and sickness.
- Right to protection from inhuman treatment.
- Right to protection of health.
- Right to privacy in terms of personal life, family, residence, correspondence etc.
- Right to protection from society, state and family system.

6. VIOLATIONS OF HUMAN RIGHTS OF WOMEN IN INDIA

Although, women in India have been given more rights as compared to men, yet the condition of this *Aadhi Aabadi* is miserable. They have to face discrimination, injustice and dishonour. *Sati Pratha*, *Devdasi* and *Purdah* are the examples from older times and present scenario is also encountered with the curse of violence against women. Following facts are worth mentioning here:

- Prejudice against girl child starts even before her birth. It is clearly denoted by the figures of Census 2011. Child sex ratio (0-6 years) has decreased from 927 to 919 during 2001-2011. This is the lowest sex-ratio since 1961. In rural areas, the fall is significant with 11 points (934 to 923) and in urban areas; the decline has been to an extent of 1 point (906 to 905) over the decade. This issue represents the violation of right to equality and right to protection against gender discrimination.
- Another similar aspect of prejudice against women is again represented by the results of Census 2011. Education level is depicted for the entire nation and here too, there is a huge gap between women and men literacy level. The female literacy rate works out to 64.6 percent while the male literacy rate is 80.9 percent. Education is one of the most important human rights but the position of women's education in India is not up to the mark of satisfaction. Enrolment and retention of girls in education is poor and the average time of schooling for girls is only 1.2 years. Because of illiteracy among women, they lack awareness on the issue of their human rights. It is the violation of right to education.
- Political rights of women are also hampered in our country. As per the Election Commission of India, there were 54 percent men and 46 percent women as voters in General Elections of 2014 for the 16th *Lok Sabha*. Out of 543 total members, there are just 61 women seating Members of Parliament representing the proportion of 11.23 percent. Hence, it can be rightly said that Indian politics is still a male dominated stream.
- Health discrimination against women is portrayed by maternal mortality which is the second highest in the world and near about 1, 25,000 women depart this life because of pregnancy and the related causes every year. 60 percent of girl children are born with low birth weight. Even the diet of girls remains inferior to their male siblings in most of the families particularly in rural areas. Therefore, right to health and healthcare is also violated.
- Right to equal opportunity for employment and right to get equal wages for equal works are also appear to be violated. As per International Labor Organization (ILO) report, the proportion of women in total workforce of India is just 23 percent which is much far from that of China (75.2 percent), South Asia (36 percent), East Asia (67 percent) and the global average (53 percent). A survey of 131 countries about female labour force participation ranks India at 120th position. One-third of agricultural workers are women. On an average, their wages are 30 percent lower than men's wages. Studies show that only 14 percent of senior managerial posts are held by women.
- The incidents of girl marriages at an early age, dowry harassment, domestic violence, sexual assault are also the blazing examples of violation of right to live with dignity.

7. CONCLUSION

It has been revealed by this research paper, that present status of human rights of women is not at par with the international standards. But efforts are being done continuously to tackle this situation by the various authorities nationwide. There is a need of comprehensive understanding of the ways in which women experience discrimination and are denied equality so as to develop appropriate strategies to eliminate such inequities. In this regard, the following suggestions from report on “Advancing Regional Recommendations on the Post-2015 Agenda” for the UN General Assembly open working group on Sustainable Development Goals are deserving in nature to be noted:

i) Reform Macroeconomic Policy to Ensure Gender Equality and Fulfill Human Rights:

- Bring all macroeconomic policies and practices in compliance with human rights obligations, including government revenue and expenditure, development assistance, debt and deficit financing, monetary policy and financial regulation, industrial policy, and trade architecture. Ensure that all States invest in effective, appropriate, and consistent policies and programmes for the achievement of gender equality, women’s human rights, and women’s empowerment.
- Reform international, regional, and domestic trade and financial systems to eliminate structural drivers of inequality and foster social norms that prioritize equality and equity.
- Ensure synergies between macroeconomic and social policies to contribute to mobilizing resources for economic, social, cultural, civil and political rights, and to support equality along the lines of socioeconomic status, race, caste, and ethnicity as well as gender. Identify and eliminate gender biases in the formulation of policy, and collect and publish data disaggregated by sex as part of a comprehensive diversity of categories.
- Create transparent mechanisms to regulate foreign direct investment and multinational corporations to ensure that the economic and financial interests of these actors do not undermine or conflict with the public interest, people’s rights to socioeconomic security and decent livelihoods, or respect for human rights and sustainable development.
- Promote policies and programmes to redistribute income, wealth, and assets to counter the negative effects of unequal distribution of resources and power within and between countries.
- Recognize and value unpaid care work when formulating and evaluating macroeconomic policies and development strategies.

ii) Promote Women’s Access to Decent Work and Social Protection, and Address Unpaid Care Work:

- Enact policies to overcome women’s unequal access to economic livelihood opportunities and formal employment, including by: promoting equal pay for equal work; ensuring freedom from discrimination; combating gendered labour market segregation; shifting tax structures; providing incentives for employers; enforcing labour rights; improving the quality of employment; reducing the volatility of earnings; prohibiting sexual harassment; valuing and redistributing unpaid work; and ensuring full employment, decent work, and a living wage for all.
- Implement universal social protection worldwide in the form of a basic income for all women and men, and access to services such as healthcare, food, water, energy, housing, and employment.
- Implement supportive labour policies, including minimum wage policies, regulations on work hours, and protection for trade union and collective bargaining rights, particularly for women.
- Measure and recognize the value of unpaid labour through statistics and analysis and as a criterion for evaluating economic policy; reinforce State responsibilities to invest in social services including childcare, elder care, and healthcare to reduce the burden of care work on women; and promote the redistribution and equal sharing of unpaid labour through government incentives, labour laws and regulations, equality legislation, etc. Institute and measure work/family policies and equal maternity and paternity leave benefits, and promote the transformation of patriarchal social norms and stereotypes that constitute men as “breadwinners” and women as “care-givers.”

iii) Eliminate Gender-Based Discrimination and Violence:

- Eliminate structural barriers to gender equality, taking into account the various roles and vulnerabilities of women and their level of influence at individual, household, community, national, and global levels.

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- Enact and enforce laws and policies that contribute to achieving gender equality and women's human rights, particularly in marginalized communities; eliminate laws, policies, and practices, including early and forced marriages, that are harmful to women, girls, and lesbian, gay, bisexual, transgender, queer, and intersex (LGBTQI) people.
- Ensure the full and equal participation of women in all public and private decision-making, including the economic, legal, social, and political life of their communities, and control over finances and resources.
- Ensure women's access to productive resources, such as credit, infrastructure, skills, and technology, particularly through public investment in these areas.
- Combat all forms of gender-based violence, through zero tolerance targets and by enacting and enforcing laws. Include indicators that measure the reduction of violence against women and girls, along with indicators that measure perceptions of safety.

iv) Ensure Sexual and Reproductive Health and Rights:

- Eliminate inequalities in access to health services (particularly by wealth quintile, age, sex, geographical location, sexual orientation and gender identity, caste, ethnicity, ability, nationality, health, or legal or other status); address the inter-linkages between health (including sexual and reproductive health and rights) and inequality, and between ill-health and its impact on all other aspects of development, such as employment and education.
- As part of guaranteed universal healthcare, ensure sexual and reproductive health and rights for all, particularly for girls and women, including through the provision of quality, comprehensive, integrated and non-discriminatory sexual and reproductive health services in various locations and situations including emergencies.
- Guarantee universal and equitable access to: comprehensive sexuality education; safe, effective, affordable methods of contraception; safe and adequate maternity care; safe abortion; and prevention and treatment options for HIV and other sexually transmitted infections.
- Ensure women and girls are free to decide on all matters of their sexuality and the number and spacing of their pregnancies, without coercion, discrimination, or violence.
- Make sexual and reproductive health services and comprehensive sexuality education youth-friendly and available to young people in and out of schools.

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