



Women's Rights and Violence in India : A Study of Constitutional Safeguards

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Abstract:-

Women have been playing a major role in shaping the society by providing the moral force in the home environment. The position of women is half of the human capital of the country and one of the indices of national development. Women have gained a lot of ground in politics, the workforce, and even more power within their own households. There was a time in history when women were unable to voice their opinion in politics being unable to cast a vote or run for office, and now in modern time there are more than one woman running in the presidential campaign. Now women and men can both be the bread winners, the stereotypical role place on women are slowly dissolving and both spouse parents are sharing the responsibilities that come with the house and family. They are the embodiment of Shakti, the creator and destroyer of human race. It needs to be recognised that women are builders and moulders of nation's destiny. They are the partner and soul of men and behind every successful man, there is a woman. But it is deplorable to treat that they are the most neglected and deprived segment of the society. In most families a daughter is viewed as liabilities and she is conditioned to believe that she is inferior and subordinate to men. Sons are idolized and celebrated. "May you be the mother of hundred sons" is a common Hindu wedding blessing. It is generally viewed empowerment of women is a solution to gender discrimination. It is now widely believed that empowerment of women that is providing equal rights, opportunities and responsibilities in the decision making process will go a long way in removing the existing gender discrimination.

Keywords: Rights, Empowerment, Violation, Constitutional Safeguards, and Protection.

"A woman's sphere of influence is a unique sphere, one that cannot be duplicated by men. Because of that influence, women have an important responsibility in strengthening the kingdom of God on the earth"

M. Russel Ballard

Women have a unique position in every society whether developed, developing or underdeveloped. This is particularly due to the various roles they play during various stages of their life, as a daughter, wife, mother and sister etc. In spite of her contributions and role in the life of every human being, she still belongs to a class or group of society which is in a disadvantaged position on accounts of several barriers and impediments. She has been the victim

of tyranny at the hands of men who dominate the society. The position of Indian women is no better compared to their counterparts in other parts of the world. On the one hand she is held in high esteem by one and all, worshipped, considered as the embodiment of tolerance and virtue. But on the other hand she has been the victim of untold miseries, hardships and atrocities caused and perpetuated by the male dominated society.



Constitutional safeguards were however provided in independent India declaring that all are equal before the law and any discrimination based on sex, caste, race etc. is unconstitutional. Special provisions made for women were incorporated in the Constitution keeping in view their position in the society. The general provision dealing with equality as such was made in Articles-14, 15, 16 and Article 23 dealing with traffic in human being. This was followed by Directive Principles (Article- 39 and 42) which deal with equal pay for equal work for women at par with men and maternity benefit for them. There are also brief accounts of the Fundamental Duties towards women and an election provision prohibiting discrimination based on sex etc. There are other such provisions to protect the women from gender bias and discrimination. But unfortunately, the theoretical commitment to gender equality has failed to be transformed into real practice.

01. Constitutional Protection of the Rights of Women:

The status of women in India has been subjected to many changes over the past few millennia. Women in India now participate in all activities such as education, politics, media, art and culture, service sector, science and technology etc. Our Constitution guarantees equal rights to men and women. The Constitution is firmly grounded in the principles of liberty, fraternity, equality and justice. It contains a number of provisions for the empowerment of women. Women's right to equality and nondiscrimination are defined as justifiable fundamental rights. The Constitution explicitly clarifies that affirmative action programmes for women are not incompatible with the principle of non-discrimination on the ground of sex. The

Government of India has always attached great importance to the protection and promotion of the human rights of women and is committed to achieving it. National plans and policies have consistently reflected a vision of progress that is not narrowly confined to expanding incomes, but gives a central place to the achievement of human rights, freedoms and wellbeing for all.

The framers of the Constitution were well conscious of the discriminations and unequal treatment meted out to the fairer sex, from time immemorial. They included certain general as well as specific provisions for the upliftment of the status of women. They provided equality of status and opportunities explicitly at some places and implicitly in all other places at par with men as citizens of India.

It is true that the original Constitution of India did not reflect concerns for gender justice adequately as expected. It provides against discrimination on the ground of sex (Article-15 & 16) but it did not take note of discrimination that is based on gender. Giving women certain rights in order to compensate them for their reproductive function is not a charity but an obligation. Although clause 3 of the Article-15 of the Constitution of India says that the state may make special provisions for women, this is a protectionist strategy and not an equalisation measure. Women should be provided with affirmative action by the state in order to help them overcome the handicap which they suffered under the patriarchal regime. As all the fundamental rights are male centric, there is no possibility of getting equality for women.

However, this fundamental law of the land through various provisions particularly as laid down in the Preamble, Part-III dealing with Fundamental Rights and in Part IV which deal



with Directive Principles of State Policy thrive for securing gender justice thereby putting women at par with men.

Preamble:

The Preamble to the Constitution of India declares that social, economic and political justice should accrue to all its citizens, which means everybody both men and women should not be denied the fruits of justice. Social justice as interpreted means recognition of greater good to a larger number without deprivation of legal rights of anybody. So it is expected that the state should enact positive measures for the protection of the weaker sections of the community (which includes women also) so as to uphold the Constitutionality of such measures. The expression 'social and economic justice' intends to remove the economic inequalities and rectify the injustice done to the unequals in the society thereby asserting the concept of distributive justice.

Again, the Preamble to the Indian Constitution contains various goals including 'the equality of status and opportunity' to all the citizens. This particular goal has been incorporated to give equal rights to the women and men in terms of status as well as opportunity. It has been the basis for much legislation like the Modern Hindu Laws which aim at giving equal status and rights to the women.

Fundamental Rights:

Even though, all fundamental rights contained in Part-III Articles 12-35 are applicable to all the citizens irrespective of sex, certain fundamental rights with certain specific and positive provisions protect the rights of women. Article-14 provides equality before law that is no person in the state will be denied equality before law and equal protection of the law. Thus, women in Indian

society enjoy the same protection and treatment as men which are guaranteed by the Constitution.

Article-15 prohibits any sort of discrimination against women when it declares in clause-1 that 'the state shall not discriminate against any citizen on grounds only of religion, caste, race, sex, place of birth or any of them'. Article-15(3) provides that, 'nothing in this Article shall prevent the state from making a special provision for women and children'. This obviously refers that whenever any need arises due to peculiar characteristics the women enjoy, the state will not hesitate to meet their special needs by enacting laws for them. This was the intention of the framers of the Constitution and in order to improve the condition of women by giving special protection, this particular clause has been inserted. Justifying it Honorable Justice S. Manohar observed: 'The insertion of clause (3) of the Article-15 in relation to women is recognition of the fact that for centuries, women of this country have been socially and economically handicapped. As a result, they are unable to participate in the socio-economic activities of the nation on a footing of equality. It is in order to eliminate the socio-economic backwardness of women and to empower them in a manner that would bring about effective equality between men and women that Article-15(3) is placed in Article-15. Its object is to strengthen and improve the status of women' (Government of Andhra Pradesh v P. B. Vijay Kumar, AIR1995 SC 1648 at P. 1651). Here it is also submitted that when special treatment for women arises they should be treated as socially and educationally backward as contemplated in the Article-15(4) of the Constitution.

In this connection, it is noteworthy to quote Justice Deshpande when he says: "women



satisfy the educational, social and economic criteria of backwardness as compared to men. This fact is clouded and has not been brought to the forefront because the search for the criteria of backwardness has been restricted to comparisons being made, between different castes, communities or social classes, each of them including men as well as women. But when the condition of women is to be considered, one can approach by treating women as a class and compare the condition of women as against the condition of men.” (Charan Singh v Union of India, (1979) S. L. J. 26 at P. 32)

Article-16 guarantees equal opportunity in matters of public employment as Article-16(1) declares that “there shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the state”. In this case a reference may be made to the case of C.B. Muthamma v Union of India, AIR 1979 SC 1868, where the rules requiring female employees to get permission before marriage and denial of right to employment to married women were held discriminatory and violative of Article-16 of the Constitution. Justice V. R. Krishna Iyer declaring this rule to be in defiance of Article-16 went on to observe: “if a married man has right to a married woman other thing being equal, stands on no worse footing. This inferior posture is hangover by the masculine culture of threatening the weaker sex forgetting how our struggle for national freedom was also a battle against women’s slavery. Freedom is indivisible, so is Justice that our founding faith enshrined in Article-14 and 16 should have been tragically ignored vis-a vis half of India’s humanity, namely our woman is a sad reflection on the distance between Constitution in the book and law in action. He went on to observe further that “we do not mean to

universalise or dogmatise that men and women are equal in all occupations and all situations and do not exclude the need to pragmatise where the requirements of particular employment, the sensitivities of sex or the peculiarities of societal sectors or the handicaps of either sex may compel selectivity. But save where the differentiation is demonstrable, the rule of equity must govern.”

Article 16(4) of the Constitution provides for the reservation of appointments or posts in favour of any backward class of citizens and its object has been beautifully stated by Justice Jeevan Reddy when he said: In short, the object behind 16(4) is empowerment of the deprived backward communities to give them a share in the administrative apparatus and in the governance of the community.

Now a question arises whether women can be considered to be included in the ‘deprived backward community’. Taking into consideration the fact of their status and position they enjoy and the way they are ignored, they fulfill almost all the characteristics of a deprived backward community. As a class distinct from men, they are considered backward in all the spheres, social, economic and educational. That is why, it was thought that the women should not be treated unfavourably and every possible step should be taken in achieving this Constitutional goal of putting women at par with men.

Article-19 guarantees to all the citizens both men and women “the right to freedom of speech and expression”. Thus, everyone has a fundamental right to form his own opinion on any issue of general concern. Life and personal liberty of everyone (may be a male or a female) is protected by the Article-21 of the Constitution which provides that “No person shall be deprived



of his life or personal liberty except according to procedure established by law”. Right to life is regarded as the most precious fundamental rights amongst all the human rights. The expression ‘Life’ assured under this Article does not connote mere animal existence or continued drudgery through life. It has got a much wider meaning. So also, the Supreme Court has given the widest possible interpretation to the expression ‘personal liberty’ which appears in the same Article in Menaka Gandhi’s case. The impact of the case is significant as a variety of rights were drawn into the contours of Article-21 by incorporating the concept of reasonableness into the procedure established by law.

Article-23 of the Constitution specifically prohibits traffic in human beings. In this context traffic in human beings includes ‘Devadasi System’. (Vishal Jeet v Union of India, AIR 1990 SC 1412). Trafficking in human beings has been prevalent in India for a long time in the form of prostitution and selling and purchasing human beings for a price just like vegetables. On the strength of Article-23(1) of the Constitution, the legislature has passed the Suppression of Immoral Traffic Act, 1956 (now renamed as The Immoral Traffic (Prevention) Act, 1956) which aims at abolishing the practice of prostitution and other forms of trafficking. This is an Act made in pursuance of the International Convention signed at New York on the 9th day May, 1950 for the prevention of immoral traffic. Recently the Andhra Pradesh legislature has enacted the Devadasis (Prohibition of Dedication) Act, 1988 to prohibit the practice of dedicating women as Devadasis to Hindu Deities, idols, temples etc, which invariably results in evils like prostitution.

In “Peoples Union for Democratic Rights vs Union of India”, AIR 1982 SC 1473 the

exaction of labour and services against payment of less than the minimum wages was held as forced labour and violative of Article-23. Under Article-25 of the Constitution of India, all persons either man or woman of any caste or creed are equally entitled to freedom of conscience and the right to freely profess, practice and propagate any religion - subject to public order, morality and health of the community.

The above enumerated fundamental rights in respect of women as enshrined in Part-III of our Constitution certainly aim at women welfare and to promote interests of women. The equality clause which widens the scope of fundamental rights of women beautifully found place in the words of Justice Krishna Iyer when he says: “The fight is not for women status but for human worth. The claim is not to end inequality of women but to restore universal justice. The bid is not for loaves and fishes for the forsaken gender but for cosmic harmony which never comes till women comes. The soul of man is woman and when she goes there is not goodness of strength left” (V.R. Krishna Iyer “Of Law and Life”, 31 (1979)).

Directive Principles of State Policy:

Besides the Fundamental Rights, the Constitution in Part-IV under Directive principles of state policy also directs the state to take certain remedial measures for the welfare of the women. Article-37 says that it is the duty of the state to apply these directive principles in making laws. Thus, while special laws are needed to be enacted these principles will be followed. Article-39 which directs the state to secure a social order and promotion of welfare of the people has specific provisions for women also. Article-39 (a) says “that the citizens, men and women equally, have the right to an adequate means of livelihood.”



Article-39 (d) provides that "there is equal pay for equal work for both men and women". In *Uttarakhand Mahila Kalyan Parishad vs state of UP*, it was held that female teachers are entitled to the same salary as is paid to the male teachers of the same institution. Again the state has enacted the Equal Remuneration Act, 1976 to give effect to these Directive principles. (*Uttarakhand Mahila Kalyan Parishad VS State Of UP*)

Article-39 (e) specifically directs the state not to abuse the health and strength of the workers, men and women. That is why the Constitution imposes upon the state an obligation to ensure that the health and strength of workers, men and women and the underage of children are not abused and that citizens are not forced by economic necessity to enter a vocation unsuited to their age or strength. In the case of the labours working on Solal Hydro Project vs State of Jammu and Kashmir, the Supreme Court held that construction work is hazardous employment and children below 14 year cannot be employed in such type of work.

Article-42 of the Constitution incorporates a very important provision for the benefit of women. It directs the state to make provisions for securing just and humane conditions of work and for maternity relief. The state has tried to implement this directive by enacting the Maternity Benefit Act, 1961.

Article-44 directs the state to secure for the citizens a uniform civil code throughout the territory of India. This particular goal is towards the achievement of gender justice. Even-though the state has not yet made efforts to introduce Uniform Civil Code in India, the judiciary has recognised the necessity of the uniformity in application of civil laws like law of Marriage,

Succession, Adoption and Maintenance etc., in the case of *Salara Mudgal vs. Union of India* and other cases. (*Sarala Mudgal VS Union of India*)

Finally, through Article-46 the state is directed to "promote with special care the educational and economic interests of the weaker sections of the people, and in particular, of the Scheduled Castes and Scheduled Tribes and shall protect them from social injustice and all forms of exploitation". We have already seen that the women have been regarded as economically and educationally backward; hence they require special protection as per the provision of this Article.

Apart from these specific provisions, all other provisions of the Constitution are equally applicable to the men and women. It clearly establishes the intention of the framers of the Constitution to improve the social, economic, educational and political status of the women so that they can be treated with men on equal terms.

Fundamental Duties:

In Part-IV-A of the Constitution, certain fundamental duties are enumerated for the citizens which is obligatory on their parts to do and respect. Article-51 (a) deals with such duties and clause (e) relates particularly to women which says: "it shall be the duty of every citizen of India to promote harmony and the spirit of common brotherhood amongst all the people of India transcend in religious, linguistic and regional and sectional diversities, to renounce practices derogatory to the dignity of women.

Women's Representation in Local Bodies:

Article-40 of the Directive Principles of State Policy states that the state shall take steps to organise village panchayats and endow such



powers and authority as may be necessary to enable them to function as units of self government. The 73rd and 74th Amendments to the Constitution in 1992 provide for reservation of seats for women in election to panchayats and municipalities in Articles 243-D and 243-T. A Bill is pending before the parliament for reservation of seats to women in parliament and state legislature.

Though the Indian Constitution provides equality of status and of opportunity to women, discrimination is persisting in one form or the other. Discrimination against women continues to exist even today as it is so deep rooted in the traditions of Indian society. The root cause for the discrimination of women is that most women are ignorant of their rights and the position of equality assured to them under the Indian Constitution and the legal system. Enlightened women should fight to bring awakening in other women regarding their rights through awareness about their status in society as they constitute half of the Indian population.

Protection by the International Bodies:

Women's rights, in International law, emerges today as an exciting, rapidly developing subfield of International Human Rights Protection. In the International arena, indigenous women have several normative instruments which they can invoke to ensure that their rights are respected. Some are general in scope and pertain to all human beings, irrespective of race, gender and social status. Others offer more specific protection on the basis of gender or group affiliation.

United Nations and Women's Rights:

The 'United Nations Charter' and the 'Universal Declaration of Human Rights' of the United Nations are considered to be the two basic

Human Rights instruments and both these instruments ensure equality of women with men in variety of ways while emphasising on maintaining the dignity of women. The Charter, in its preamble, reaffirm its "faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and have determined to promote social progress and better standards of life in larger freedom".

Although the Universal Declaration of Human Rights is not legally binding on the member states, yet it has contributed significantly in the observance of human rights by the states and it also does not lag behind in giving protection to women. While recognising the "inherent dignity and the equal and inalienable rights of all members of the human family as the foundation of freedom, justice and peace in the world", the preamble also reaffirms its faith on equality of men and women".

In 1946, the United Nations established a Commission on the Status of Women which is now a part of the Economic and Social Council (ECOSOC). The two International Covenants- the International Covenant on Civil and Political Rights- 1966 and the International Covenant on Economic Social and Cultural Rights of 1966 also reinforces the concept of equality.

Besides these two Covenants, the Specialised Agencies of the United Nations Educational, Scientific and Cultural Organisation (UNESCO) adopted Conventions concerning problems of women. While the International Labour Organisation (ILO) adopted a Convention in 1958 concerning equal remuneration for men and women workers for work of equal value, the UNESCO adopted the Convention Against Discrimination in Education in the year 1960 which prohibits "any distinction, exclusion, limitation or preference" on account of sex and



affecting thereby the equality of treatment in education.

Convention on the Political Rights of Women, 1952, Convention on the Nationality of Married Women- 1957, Convention on the Consent of Marriage, Minimum Age of Marriage and Registration of Marriages-1962 and the Convention on the Elimination of All Forms of Discrimination against Women- 1979 are some of the United Nations Human Rights Conventions which are specially related to Women. Out of these, the last mentioned Convention otherwise known as the Discrimination against women; Convention which was adopted by the General Assembly in 1979 is the most comprehensive instrument on the Human Rights of Women and contains more concrete provisions aimed at the real implementation of the rights already recognised. (Verma: 1999: 485)

The Preamble of Universal Declaration of Human Rights, 1948 of UNO further points out that “discrimination against women is incompatible with human dignity and with the welfare of the family and of society, prevents their participation on equal terms with men in the political, social, economic and cultural life of their countries and is an obstacle to the full development of the potentialities of women in the service of their countries and of humanity”.

The importance of women’s role in the development process and the need to intensify action to improve the status of women were recognised internationally in the year 1975 which was proclaimed by the General Assembly of the United Nations as the ‘International Women’s Year’ and the Decade 1975 to 85 was declared as the Decade for Women. The International Year of Women focused on the three fold objectives equality, development and peace. Since 1975 the

UNO organized a series of World Conferences on Women’s issues, starting with the World Conference of the International Women’s Year in Mexico city. These conferences created an International Forum for Women’s Rights, but also illustrated divisions between women of different culture and difficulties of attempting to apply principles universally. Emerging from the 1985 Nairobi Conference was a realisation that feminism is not monolithic but “constitutes the political expression of the concerns and interests of Women from different regions, classes’, nationalities and ethnic backgrounds. There is and must be a diversity of feminisms, responsive to different needs and concerns of women, as defined by them for themselves. This diversity builds on a common opposition to gender oppression and hierarchy which, however, is the first step in articulating, an action upon a political agenda”.

Besides the Conventions, we also have four International Conferences on Women and the latest was held in the year 1995 at Beijing. At the Fourth World Conference on Women in Beijing, the ‘platform for action’ was signed. This included a commitment to achieve “gender equality and the empowerment of women”.

The Human Right’s Protection Act 1993 was passed which provided for the establishment of Human Rights Commission and Commission for Women at national and state levels. Then the year 2001 was declared as the Year of ‘Empowerment of Women’ and specific programmes were chalked out for observing the year to ensure gender equality by removing gender discrimination.

Again, it is important to distinguish between legally binding instruments, such as conventions and treaties which states are obliged to respect once they have ratified them, and



instruments such as declarations which are not binding, but are morally persuasive. With regard to declarations, there is nobody to ensure that their content is respected. Their impact is essentially political in so far as they exposed states violations of the letter and spirit of declaration in the International arena.

Major Applicable Treaties and their Monitoring Bodies:

Among all the Human Right Treaties, six are of major importance and are upheld by monitoring bodies or treaty bodies, also referred to as 'control committees'. These bodies must ensure that the states have signed the treaties in conform to the stated obligations. The control committees are made up of experts who, although appointed by the state parties, serve in a personal capacity and not on behalf of their governments.

OTHER INTERNATIONAL ORGANISATIONS

01. Organisation of American States (OAS)

It organised specific conventions relating to protection and promotion of Women's Rights.

1. Inter-American Convention on the Granting of Civil Rights to Women.
2. Inter- American Convention on the Granting of Political Rights of Women.
3. Inter- American Convention on the Prevention, Punishment and Eradication of Violence Against Women.

02. Hague Conference:

It organised Specific Conventions relating to developments of Women's Rights;

- Convention on the Law Applicable to Maintenance Obligations, 1973.

- Convention on the Law Applicable to Matrimonial Property Regimes, 1978.
- Convention on Celebration and Recognition of the Validity of Marriages, 1978.
- Convention on the Recognition of Divorces and Legal Separations, 1970.

03. Council of Europe:

It organised specific conventions related to protection of Women's Rights;

- Convention for the protection of Human Rights and fundamental freedoms, 1950.
- European Social Charter (revised 1996).
- European code of Social Security (revised 1990).

04. The European System for the Enforcement of Human Rights and the European Union:

Both in the Court and even in the employment discrimination and labour context of the European Union, cases on the gender discrimination exists with implications for the enforcement of international standards.

05. The International Labour Organisation (ILO):

- LO sets standards for self employment and working activities of women and are embodied in recommendations and instruments to which many countries are parties.
- It organised the following specific conventions and recommendations for protection and promotion of Women's Rights.
- Underground Work (Women) Convention, 1935.



- Night Work (Women) Convention (revised), 1948.
- Protocol to the Night Work (Women) Convention, 1948.
- Equal Remuneration Convention, 1951.
- Maternity Protection Convention (revised), 1952.
- Discrimination (Employment and Occupation) Convention, 1958.
- Workers with Family Responsibilities Convention, 1981.
- Lead Poisoning (Women and Children) Recommendation, 1919.
- Maternity Protection (Agriculture) Recommendations, 1919 & 1921.
- Night Work of Women (Agriculture) Recommendation, 1921.

Gender Justice is integral to social justice. One of the critical areas of the concern is the development of an institutional mechanism for advancement of women under the strategic objective of integrating gender perspective in legislation, public policies, programmes and projects.

To conclude in the words of Justice Krishna Iyer, “whatever the paramount parchment of the Constitution may in tone, whatever the Universal Instruments may inscribe, we have miles to go and promises to keep if gender Justice is not to be mere dope but sure hope.”

III - VIOLATION OF RIGHTS:

Human right recognizes right to dignity which we claim by virtue of the fact that we are human beings. The human rights of women can be defined as collective rights for a woman to be

seen and accepted as a person with the capacity to decide or act on her own behalf and to have equal access to resources and equitable social, economic and political support to develop her full potential, exercise her right as a full human being and to support the development of others.

Domestic violence perpetrated against women rights by partners and close family members has long been a matter of silent suffering within the four walls of the home. Despite the awareness others may have a woman’s ongoing experience of abuse, the phenomenon of domestic violence against woman is typically identified as a private concern. From this perspective, violence is seen to be a matter of individual responsibility, and the women is perceived to be the one responsible for either adjusting more adequately with the situation as dictated by cultural norms or developing an acceptable method of suffering silently. The basic understanding of domestic violence as a personal issue has limited the extent to which legal resolution to the problem can be actively pursued. In most societies, domestic violence against women has not been perceived to be a crime. However, as a result of feminist advocacy within the arenas of international human rights and development, social responsibility for domestic violence is slowly being acknowledged in many parts of the World.

The Indian Women were treated as an appendage of man and this tendency found its manifestation in the custom relating to marriage, religion, property, widowhood and dowry. With the spread of education among women, they became conscious and mobilised themselves in their limited capacity. They responded to the clarion call of Mahatma Gandhi to join the Indian National Movement. Various Acts were passed with an aim to alter to the status of women in



India leading to the formation of some organisations.

In the post-Independence period the Indian Constitution to a great extent has extended several privileges to women and also directed the state to take appropriate measures for the promotion of welfare of these neglected section of the society. Also several legislations made before and after independence have not only placed women at par with men but in certain cases they have been placed on a privileged position as against men. All these clearly lead to establish that attempts have been made for the upliftment of the women. But to our utter surprise the plight and condition of women could not improve as there is no satisfactory outcome. It has been observed that the human right of the women is being violated in many fields. But due to several reasons may be civil, political, economic or social, human rights of women are violated that severely affecting their status and dignity. Reasons are many. But generally, the present structure and practices those are being followed in our society are largely responsible for this fallout and continued discrimination against women.

But a close scrutiny would expose the fact that most of the so called women leaders belong to the urban educated families who had timely brush with progressive ideas and the whole idea of mobilising women and support in their favour and more to do with their patriotic fervour than their actual interest in addressing the gender based subjects. The real issues thus remain unattended.

World Health Organisation also estimates that in India, 6200 dowry deaths were reported in 1994. That is, an average of 17 married women was killed daily when their families failed to make dowry payments to the

husband's family. Each day in India 12 or more women die due to dowry torture. Two million girls and women are genitally mutilated every year. The list goes one but women in India are at risk from criminal behavior everywhere and in every walk of life.

Besides this, the National Family Health Survey-2003 gives the following statistics about domestic violence against women in India.

- 34 percentage of all Indian women aged 15-49 have experienced domestic violence at any time since the age of 15, and 56 percentage of these women have experienced violence in the 12 months preceding the survey.
- Domestic violence is strongly correlated with both location and education. Rural women are more likely than urban women to have ever experienced physical violence. In West Bengal, 30.4 percentage of urban women have experienced domestic violence versus 44.2 percentage of rural women. In India as a whole, 44 percentage of women with no education have experienced violence at some time since the age of 15 and 26 percentage have experienced violence in the past 12 months, but these proportions decline steadily with education.
- As with physical violence, the prevalence of sexual violence is highest among women in the poorest wealth quintile (13 percentage) and decline steadily with increasing wealth. Rates of sexual violence in West Bengal are currently twice the national average, at 21.5 percentage.
- A large majority of women who have experienced sexual violence have never told anyone about the violence (85 percentage)



and 8 percentage have ever sought help. However, 37 percentage of women who have experienced both physically and sexually violence and 22 percentage who have experienced only physical violence have sought help.

According to statistics from the Child and Women's Abuse Study Unit, there are an estimated 10 million prostitutes in India and around 160,000 Nepalese women are held in India's brothels. Women's Rights Organisations and NGO's estimate that more than 12,000 and perhaps as many as 50,000 women and children are trafficked into the country annually from neighbouring States for the sex trade.

The overwhelming majority of women who work in the informal sector are totally denied any kind of maternity entitlements and get no breaks for breast feeding their children.

Above statistics showing crime against women is on rise not only in India but also all over the World. Of the total crimes reported in the country 7 percentage constitute crime against women. Considering our social structure which promotes and impacts women to be silent and much of criminal behaviour against women go unreported, the data is alarming. Rapid urbanisation, industrialisation, movement of people from the country side to the growing cities, the growth of slums, widening spheres of occupational and social activities, commodification of women, their indecent portrayal in movies, wide circulation of pornographic material each has inadvertently led to the criminality against women.

The concern is also on the increasing percentage that these crimes constitute in the overall crime scenario. In Odisha, the number of

rape cases registered has increased from 207 in 1989 to 816 in 1999 and then subsequently decreasing. Dowry cases which includes dowry, related to murders, suicide and torture cases have shown an exponential growth over 50% and in 2002 the cases totaled to 1503. Large shares of the dowry cases relate to dowry torture cases. Non-dowry torture as a separate category of cases being registered has a phenomenal increase with 177 cases in 1989 to 524 in 2002.

As a specific illustration of the district breakup of the rape cases registered in the state for the year 2000-2002 indicate the regional variation. Mayurbhanj district has always the maximum number of rape cases while the district of Boudh has the least numbers. In comparison of the years 2001 and 2002 barring 8 districts in which the number of rape cases have either increased or remained the same, the rest of the 22 districts have shown a declining trend ranging from 5% to 6%. Though the rate of investigation against registered cases is above 90%, the denial of justice on time is a burden on the women victims. The rate of conviction is also abysmally low which is evident from the fact that in the year 2001, there was not a single conviction.

In a study conducted by an independent researcher, 89% of the illiterate women did not know about the State Commission for Women. Less than 50% of the educated were aware of it. Sensitive issues as sexual harassment at workplace and domestic violence do not get reflected in the data and thus more sensitization, research and analysis, awareness is needed in these areas. As per data domestic violence has been experienced by 29% of women. Half of the women in the survey accept at least one of the reasons as a justification for husband beating the wife. The result of a study shows there are lack



of co-ordination and political interference hamper the smooth functioning of the women cell.

Trafficking is a sensitive issue, but a study done by an independent researcher has succeeded in locating and identifying as many as 559 cases of trafficking in Odisha. Out of these 308 are categorised as direct cases (women who were found, who have been brought and sold beyond any doubt) and the remaining 251 cases as indirect cases those who were assumed to be vulnerable to trafficking. Most of the cases have occurred in the coastal districts (highest in Puri District) and more than 46 percentage of the women have been taken outside Odisha to Uttar Pradesh, Madhya Pradesh, Andhra Pradesh and West Bengal. The destination of more than 82 percentage of the indirect cases is a state of Uttar Pradesh. Within Odisha the town of Puri is the destination of more than 43 percentage of direct cases alone followed by the state capital Bhubaneswar around 30 percentage. Five principal factors such as poverty, promise of employment, promise of marriage, betrayal by lovers and domestic violence have been identified to be the specific causes behind the trade. The women who have been trafficked are from landless family and depend on wage labour. Lack of education and awareness compounds the miserable condition of the women.

Despite the introduction of the Dowry Prohibition Act, 1961 (28 of 1961) and The Dowry Prohibition Rules, 2000, the frequency of dowry related offences have not been minimised. Women face violence inside and outside the family throughout their lives. Police officials confirm that the vast majority of crimes against women do not get recorded. Displacement, disasters such as cyclone have accentuated the dowry menace.

As per the data from the Director General of Prisons, there are 68 jails in the state, which have a schedule capacity for 549 women out of which the exclusive women jail lies in Sambalpur with a capacity of 55. As on November, 2003, there are total of 353 women in jails out of which 95 are of convicts, 255 (more than 70 percentage) are under trial prisoners and three are of other category. Though overallly the women in jails are well within the capacity, but in places such as Chowdwar, Baripada, Talcher, Khurdha are more than the capacity. In a study conducted by an independent researcher, found that the family and husband neglect the women who are staying in jails. Health conditions of these women are poor and they suffer from nutritional deficiency and anemia.

Research on violence against women undertaken in India and elsewhere has shown that women turn first to their immediate family or neighborhood for help and that informal, local level networks are crucial in providing site of first response to those experiencing domestic violence. In spite of the improvements in the formal responses of Indian state and legal institutions, studies also indicates that reporting and prosecuting domestic violence is only a last resort for most Indian Women. Apart from these, the increasing presence of informal community based initiatives such as the mobilisation of women at grass root levels, mock funeral processions of dowry victims, public shaming of perpetrators, street theatre and local methods of dispute resolution have been noted as some of the more effective and potentially sustainable responses to domestic violence in India. Although identified and acknowledged in previous studies of responses to domestic violence, very little documentation of such community responses exists. The following



research is intended to provide better documentation of how women led innovative responses have emerged, how they operate and how successful their in addressing the needs of women facing violence.

So the Domestic Violence Act 2005 in India, takes recognition of the fact that the conviction and imprisonment of the husband may not be the best solution to the problem of a victimised wife. It recognises problems of women, children and other family members living in the atmosphere of violence. It has provision for security against domestic violence by obtaining protection, residence and monetary relief orders. Cases of violence against women are challenges for a civilised society and important human rights issue. Violence creates environment of fear, breeds frustration, powerlessness, and inefficiency among victims. In such a circumstance, the goal of empowerment of women through protection of Women's Rights will continue to elude us.

Women are much more likely than men to be victims of elder abuse. More than a million women in the United States aged 65 and over are victims of abuse each year. (Policy Research Inc, Calculated from National Centre on Elder Abuse, 1994).

In the Republic of South Africa, reports suggest that one in four women are assaulted by their boyfriend or husband every week. 1 in 2 South African according to a study are likely to be criminally assaulted during her life time. UNO in 1995 indicated that as many as 75 per cent of low caste women and 60 percentage of women in Tanzania, Ecuador and Sri Lanka say they have been subjected to domestic violence and sexual assault by their partner. In Japan, 59 per cent of all women have suffered from domestic violence and in the USA the figure is 39 per cent. In Britain,

one in four women has been victims of domestic violence and 1 in 4 women have experienced rape or potential rape. 43 percentage of all violent crime experienced by women in Britain is domestic.

A European Commission of Inquiry in former Yugoslavia reported one estimate that more than 50,000 women and girls had been raped during the conflict. In January 1994, the special Reporter of Rwanda reported that in Rwanda, rape was the rule and its absence was the exception.

In 1998, across the European Union(EU), one in four women had been victims of violence at some time; in Ireland half of female murder victims were killed by their spouse or partners; in Finland, 20 percentage of women suffered violence at the hand of their spouse/partners (EU Survey, 1998).

In 2000, the proportions of women who reported to have attempted or completed forced sex with an intimate partner were: Brazil 10 percentage, Japan 6.2 percentage, Peru 46.7 percentage and Thailand 29.9 percentage; in 1995-96 the proportions of women reporting ever being physically assaulted by an intimate partner were Egypt 34 percentage, Paraguay 10 percentage and USA 22 percentage. (The World report on Violence and Health 2002, World Health Organisation.)

The World Health Organisation estimates that as many as 1 in 5 of the World's women have been physically or sexually assaulted by a man. In some parts of the World, the figure is much higher. (WTO Report 2003-04). Battering is the greatest single cause of injury among US women, accounting for more emergency room visits (one million per year) than auto accidents,



muggings and rapes combined. In Papua New Guinea, 67 percentage of rural women and 56 percentage of urban women have been victims of domestic violence. But a three month surveillance survey in Alexandria, Egypt indicated that domestic violence was the leading cause of injury to women, accounting for 27.9 percentage of all visits by women to trauma units. In an another report, it was shown that in a maternity hospital in Lima, Peru, 90 percentage of mothers aged 12-16 had been raped by their fathers, step fathers or close male relatives. In Canada, 62 percentage of women murdered and died at the hands of an intimate male partner. In Costa Rica, 49 percentage of a group of 80 battered women reported being battered during pregnancy, 7.9 percentage reported miscarriages as a result. A Survey in Barbados revealed that one in three women was sexually abused during childhood or adolescence and the so called 'honour killings' of women account for one quarter of the murder rate in Jordan.

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