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RESEARCH ARTICLE

WOMEN, VIOLENCE AND GENDER JUSTICE: A HUMAN RIGHTS PERSPECTIVE

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ABSTRACT

Women have been the most vulnerable and weaker section of the society and are always been looked down as a commodity which can be used, re-used and abused. It is the momentous reality of the society that the women's dignity is always battered and has always been ill treated ever since the beginning of the civilization. Women are at times deprived of their rights, beliefs and existence. Women have always been dependent on men for their livelihood and restricted only to certain places, mainly involved in domestic work since ages but in current time of globalization, the sphere of women has broadened and women are now well educated, working in all spheres of life and demanding equal status to men. Despite this development, access to education and employment and awareness of their rights, women are still faced with humiliation, discrimination, cruelty and violence at every step inside their home as well as at their work place. They are often dominated by men in the society and thus violence against women has also increased. The present paper focuses on the women violence and various other issues types and causes of women violence. Further this paper also analyzed the various legislation for protection of women against women violence.

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INTRODUCTION

Women have become the most vulnerable ones to violence across the world. Violence has affected millions of women in the society across the world in socio-economic and educational classes irrespective of the culture and religion. Violence against women is increasing day by day due to the ignorance of the available rights of women and lack of awareness and education in many developing countries. Violence against women permeates the society at every level and setting. Murder, rape, intimidation, pornography, workplace harassment, incest, trafficking and forced prostitution are all part of a general belief that women are soft targets of violence and exploitation which have been deeply built in the roots of our so called patriarchal system of the society. Violence against women includes domestic abuses, rape, child marriages as well as female circumcision. All these are committed by the dominating class of men who violate the fundamental human rights of the women. The present paper focuses on the women violence and various other issues types and causes of women violence. Further this paper also analyzed the various legislation for protection of women against women violence.

Kinds of Violence against Women: Women become prey to violence even before their birth where the parents abort their unborn child only because it's a female in the hope of giving birth to male child. Female foeticide is on the rise in the world, especially in the developing countries such as India. It is evident from the male : female sex ratio derived from the Census since its beginning in 1901. Sex ratio is described as the number of females per 1000 of males. It is an important source in finding out the population of females during the census. In the 2011 Census conducted by the Government of India, it was found that the sex ratio was 940 females per 1000 males. Though the figures depict an increase in the number of females as compared to the census of 2001 where the ratio was 933 females per 1000 males, but in majority of the states and Union territories, there has been a decrease in the number of females. It has been observed since last few decades. There are some states where female foeticide is still occurring due to which the sex ratio has become a major area of concern. Causes of such decrease in the number of females are due to the violence and ill treatment towards women in the society. Such states are north Indian states of Haryana, Rajasthan and adjoining areas. When compared to the census of 1901 before independence of India, the male : female sex ratio was normal but later declined. Violence against women is severe in many parts of the country. It is seen in orthodox and traditional societies of the country that if born, young girls are subjected to various forms of discrimination in their society.

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In some cases they are subjected to traumatic traditional practices such as circumcision; they are also often forced to marry in a very young and tender age even before they are mature enough to understand the institution of marriage. Thus they are subjected to more abusive circumstances. At the domestic level, the women are often victims of domestic violence, rape and sexual abuses which lead to traumatized condition – mentally, physically and emotionally and / or in some cases lead to death. The following are some of the different kinds of violence against women: condition – mentally, physically and emotionally and / or in some cases lead to death. The following are some of the different kinds of violence against women:

Domestic Violence: Violence against women in the domestic sphere is of grave magnitude. It occurs in both developed as well as developing countries. Earlier it was considered by the neighbours, community and even the government, as a private issues which remained inside the home, family but later on it was noticed that these thought to be private issues often turned into public tragedies. Often, it has been noticed that the husbands exert unreasonable force and dominance on their wives to suppress their voice and rights and take to method of violence. They beat - up their wives, abuse them, torture them physically, mentally and emotionally and violate all kinds of human rights and lower their dignity of a human being. Often such violence is a consequence of dowry related matters and frequent quarrels and fights due to petty reasons and ego problems. The United Nations has reported that in the United States, which is a developed nation, that a woman is beaten every eighteen minutes. In Pakistan, around 400 cases of domestic violence were reported in 1993 where almost half of the cases ended with the death of the wife.

Female Foeticide and infanticide: Female foeticide is a serious issue in our society, especially in developing countries. The preference for a son in the family is one of the major reasons for violence against women. Such violence is evident mostly in the Asian countries. This has given rise to female foeticide and infanticide. The discrimination and neglect of a girl child in the family by her own parents compared to the sons has lead to severe discrimination in terms of health care, educational facilities, nutrition and other vital needs of the child. Many women abort their child when they come to know that the foetus is a female. In India and other Asian countries, the sex determination and sex selection of a child is turning into a profitable business due to the help and support from the patriarchal societies prevalent in these countries. This female foeticide and infanticide has reduced the male : female sex ratio in many countries such as Japan, China, Cuba. It is evident from the report of the US Department of Health and Human Services which shows that the sex ratio of female to male is similar to that of India as per the statistics of the census 2011.

Child Marriage: Child marriage is another offence and a kind of violence against women which fully violates the human rights and poses a risk to the health and life of the young girl child. In many countries, especially in the developing nations, girls below the age of 18 are married to men who are often double their age or are even older. These girls are often married without their consent, forcefully and are not mature enough physically, mentally and emotionally to handle the stress and consequences of such marriages.

Major reason of child marriages has been noticed to be the poverty which plays a pivotal role in early marriages. Many families residing in countries facing with poverty have very limited resources to have access to health care, education and other economic facilities; hence they prefer child marriages thinking that their daughters would not face the poverty after marriage. But in reality, the situation does not change and their daughters remain poor and also face very severe health consequences which are often lifelong. These young girls hamper their physical and mental growth and development and face various health risks due to early pregnancy and giving birth to child under the age of 15.

Rape: Rape is another severe form of violence against women. It can take place anywhere in the world, at work place, at home, in the family, outside the home, in fact anywhere. In the family, it generally takes place in the form of marital rape mainly. It even occurs in the community where women fall prey to the perpetrator or abuser; it takes place even in refugee camps and during armed conflicts. In many places during war, rape is used as a weapon to destroy ethnic groups and community or race which has been discussed in Article 7 of the Rome Statute as Crimes against humanity. Rape has become the fastest growing crime in the world which reflects the law and order situation of the countries across the world and the lack of proper understanding and enforcement of laws to prevent such violence against women. In India, the crime against women has increased manifold. As per the report of the National Crime Records Bureau, India, a total of 2,28,650 crimes against women has been reported in the country in 2011, whereas in the year 2010, the number of crimes occurred against women was 2,13,585 which shows an increase in the rate of crimes against women. This increase has been reported as 7.1% in the year 2011.

Sexual Harassment at work place: Sexual harassment at workplace is an area of great concern. It is taking place across the world. It has been reported by the United Nations that in many places, Employers abuse the female employees and use their authority and seek sexual favours in return of promotion and career advancement. Often, it is seen that women who protest and refuse are faced with consequences such as termination from the job and demotion. But, in recent times, women have come forward and protested such violence and many laws have been enforced to prevent such kind of violence against women. In India, recently '*The Sexual Harassment of Women at Workplace (Prevention, Protection and Redressal) Act 2013*' has been enforced for the protection of women against such violence. Sexual harassment is considered to be a form of sex discrimination which degrades the woman and is often regarded as having lesser ability to perform well at work in comparison to the male employees.

Trafficking and Prostitution: Trafficking of women has been the gravest form of violence against women. It is considered to be the third largest trade in the world committed by the organized crime syndicate across the borders and is spread all over the world. Many young girls and women are trafficked from their community and country of origin to the country of destination where they are exploited through sexual abuse and forced prostitution. The women are forced into this trade with the help of other women, friends and family and are often found to be coming from the economically and educationally disadvantage section of the society. The women and young

girls are also trapped through fake employment offers and marriages and are sent to foreign countries where their identity documents are seized by the traffickers and are forced into prostitution trade. They are left fully at the mercy of the traffickers and brothel owners. Trafficking and forced prostitutions are increasing at an alarming rate and are majorly taking place in the South Asian countries, Middle East, Central Asia and African region. The victims are often found to be deprived of their basic rights and are found to be facing various problems in getting proper protection and refugee status at the destination country due to their mistaken identity as illegal immigrants.

Causes of Violence against women: Violence and Crimes against women are increasing day by day despite the development of economic and social conditions of the people in the society and the women empowerment in modern times. It has been observed that most of the violence and crimes takes place among the poorer section of the society and are also caused by the men of this section of the society. Some of the major causes of violence against women have been identified as lack of educational facilities, poor economic conditions, economic dependence of women on the male member of the family, lack of leadership qualities and lack of awareness of their rights.

Lack of educational facilities and illiteracy: Women have always been subjected to discrimination in the society and in the family. They have been always looked down upon as inferior in the society and the male dominating society laid down some rules for the women to suppress them and their voices. Due to such attitude of men towards the women in the society, the women have never been given any opportunity to educate themselves and hence are devoid of education facilities. The parents, mostly due to poor economic conditions, and also because of their preference and love for the male child, have always restricted the girl child at home and did not give access to any kind of educational facilities. This poor literacy rate of women and also in some cases among men has resulted in the increase of various forms of violence and crimes against women. The men are not apprised of the benefits of education and thus indulge into different kinds of unsocial activities and crimes which lead to such violence against women. Women are also deprived of proper education facilities because of the conservative attitude of the society and hence it has been seen that they are not allowed to raise their voices and fight for their right to education. The consequence of such attitude has mainly resulted in the increase in the crime rate and violence against women.

Poor economic conditions and economic dependence: Violence against women also is a consequence of the poor economic conditions prevailing in many countries, mostly in the Asian region. Lack of education leads to lack of proper employment facilities which thereby hamper the development of the socio-economic condition of the people in the country. The condition of women in the society is worst, mostly among the poorer section where women are not even allowed to go out of their house, get employed and work due to certain traditional and cultural restrictions in the society prevalent in such patriarchal system existing in the society and thus the women are economically dependent on their father during childhood, on husband after marriage and on son in old age.

This poor economic condition and economic dependence of women on male members of the family is majorly due to inequality status prevailing in the society, lack of education and prevalent traditional practices and rituals. This condition has, in various instances, caused violence against women inside the house and in the society by the dominating male members.

Lack of leadership qualities: Since the women are fully dependent on the male members of their family and are suppressed in the society, they are often seen to lack leadership qualities. The patriarchal system of the society has led to the suppression of women and their rights and voices in the society. The voices of women are often unheard and their problems are neglected. They are not given any kind of facilities and opportunities for development through education, awareness of rights etc. This is mainly because of the inequality status prevailing among men and women in the society and thus their leadership qualities are not developed. This is one of the causes which have helped in the increase in the violence against women.

Lack of Awareness of Rights: Women in the society are often suppressed. They are not given any access to education and other development facilities in the society by the dominating men and hence the women remain unaware of their rights. In case of India, it is seen that state of women in the rural part of the country is very pathetic. The Indian Constitution has provided every citizen, irrespective of caste, creed, religion, the basic fundamental rights. But due to the lack of freedom of women and restriction of the society on women, quite a large number of women in the rural section have been deprived of their rights. These women are often unaware of their rights. Similarly, in many developing nations, women are deprived of their rights due to their unawareness and ignorance of the rights, lack of education etc. and hence their voices are suppressed. This prevailing condition of women further gives rise to crimes and violence against women.

Various Legislations for the protection of women: It is a grave truth that women across the world are beaten up, raped, trafficked and also killed irrespective of their status and countries – rich or poor. Such abuses and violations of human rights not only impose a threat to the existence and status of women in the society but also tear apart the entire society. But now there is a growing concern for the women and to protect the women against such violence across the world. Thus the international community has come forward with comprehensive legislation for effective response to violence against women. Various countries of the world have obligations under the International Law to enact, implement and enforce various legislations which address all kinds of violence against women. Many countries have adopted and revised legislations to prevent violence against women but they still face difficulties in proper enforcement of legislations and protect women from such violence. In the society, women are subject to protection and dependence on their father in their childhood, after marriage on their husband and in old age on their sons. The patriarchal system of the society has given men to exercise unlimited power on women in the society. Hence, in order to protect the women from violence and ensure the fundamental human rights and specific rights of women, various legislations have been enforced at the international

level as well as at the domestic level. These international conventions and treaties and other legislations are as follows:

Convention on the Elimination of All Forms of Discrimination against Women (CEDAW): The CEDAW or the Convention on the Elimination of All Forms of Discriminations Against Women was adopted on 18 December 1979 by the United Nations General Assembly and was entered into force on 3 September 1981 as an international treaty. It was enforced in order to monitor and scrutinize the condition and the position of women and to promote the rights of the women. CEDAW has been involved ensuring equality of women with men and denied all such areas which denied equality with men. The Article 11 states that “[State] takes all appropriate measures to eliminate discrimination against women in the field of employment” and Article 24 states that “[State shall] undertake to adopt all necessary measures at the national level aimed at achieving the full realization”.

International Convention on Elimination of All Forms of Racial Discrimination

Against Women: This convention was adopted on 21 December 1965 by the UN General Assembly to deal with the racial discrimination against women. Its monitoring body, the committee on the Elimination of Racial Discrimination made reference to trafficking in persons in some recommendations and observations to the state parties on the basis of Article 5.

Article 5 expands upon on the general obligation of Article 2 and creates a specific obligation to guarantee the right of everyone to equality before the law regardless of "race, colour, or national or ethnic origin". It further lists specific rights this equality must apply to: equal treatment by courts and tribunals, security of the person and freedom from violence, the civil and political rights affirmed in the ICCPR, the economic, social and cultural rights affirmed in the ICESCR, and the right of access to any place or service used by the general public, "such as transport hotels, restaurants, cafes, theatres and parks." In addition, other international instruments which create obligations for State parties to enact and enforce legislation for addressing violence against women are Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (the Palermo Protocol), and the Rome Statute of the International Criminal Court (The Rome Statute).

Declaration on the Elimination of Violence against Women, 1993: Besides the above mentioned legislations, Article 4 of the 1993 Declaration on the Elimination of Violence against Women, which has been adopted by the General Assembly, requires Member States to:

- Condemn violence against women and not invoke custom, tradition or religion to avoid their obligations to eliminate such violence;
- Develop penal, civil, labour and administrative sanctions in domestic legislation to punish and redress the wrongs caused to victims;
- Provide access to the mechanisms of justice and, as provided for by national legislation, to just and effective remedies; and

- Ensure that the secondary victimization of women does not occur because of laws insensitive to gender considerations, enforcement practices or other interventions

Other Regional Legislations: Various other regional legislations to prevent violence against women have been enacted and enforced in many countries across the world. The following are some of the important regional legislations.

The Inter-American Convention on the Prevention, Punishment and Eradication of Violence against Women: It is also known as the Convention of Belém do Pará. It is the only Convention directed solely at eliminating violence against women. It requires that States parties apply due diligence to prevent, investigate and impose penalties for violence against women and contains detailed International and regional legal and policy framework provisions regarding the obligations of States to enact legislation. Under article 7, States parties are obligated to:

- Adopt legal measures to require the perpetrator to refrain from harassing, intimidating or threatening the woman;
- Take all appropriate measures, including legislative measures, to amend existing laws or to modify legal or customary practices which sustain the persistence and tolerance of violence against women;
- Establish fair and effective legal procedures for victims; and
- Establish the necessary legal and administrative mechanisms to ensure that victims have effective access to just and effective remedies.

The Protocol to the African Charter on Human and Peoples' Rights on the Rights of Women in Africa

It also addresses violence against women within its provisions, and establishes obligations related to legal reform. Under the Protocol wherein States parties are required to:

- Enact and enforce laws to prohibit all forms of violence against women (article 4(2));
- Adopt legislative, administrative, social and economic measures to ensure the prevention, punishment and eradication of all forms of violence against women (article 4(2));
- Take all necessary legislative and other measures to eliminate harmful practices (article 5); and
- Enact national legislative measures to guarantee that no marriage shall take place without the free and full consent of both parties and that the minimum age of marriage for women is 18 years (article 6).

Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution: In South Asian region, the South Asian Association for Regional Cooperation (SAARC) has adopted the Convention on Preventing and Combating the Trafficking in Women and Children for Prostitution which obligates States parties, under article III, to take effective measures to ensure that trafficking is an offence under their respective criminal laws and punishable by appropriate penalties.

The Council of Europe Convention on Action against Trafficking in Human Beings: It came into force in February 2008. The Convention obligates State parties to criminalize trafficking in human beings and related offences. Legislation must ensure that the offences are punishable by “effective, proportionate, and dissuasive sanctions”. The Convention also obligates States parties to adopt legislative or other measures to assist victims in their recovery, and provide compensation for them. Action has also been mandated by the Council of Europe in its Recommendation (2002)5 of the Committee of Ministers to member States on the protection of women against violence. The recommendation urges member States to ensure that:

- (i) All acts of violence are punishable;
- (ii) Swift and effective action is taken against perpetrators; and
- (iii) Redress, compensation and protection and support is provided for victims.

Legislations in India: In India, various legislations have been enacted towards providing the rights of women. The Constitution of India, in its Article 14, states the Right to Equality, Article 15 states the right to non-discrimination, Article 19(1)(g) states the right to practice one’s profession and Article 21 states the right to life. Besides these rights provided by the Constitution of India, various other specific legislations have also been enacted and enforced to prevent violence against women and protect women’s rights. These are enumerated as follows:

- Abolition of Sati in 1829;
- Hindu Widow’s Remarriage Act 1856;
- Special Marriage Act 1954 to promote inter caste, intercommunity marriages;
- The Child Marriage Restraint Act 1929;
- The Prohibition of Child Marriage Act, 2006;
- Hindu Women’s Right to Property Act 1937;
- Suppression of Immoral Traffic in Women and Girls Act 1956;
- Dowry Prohibition Act 1961;
- The Indecent Representation of Women (Prohibition) Act 1986;
- Commission of Sati (Prevention) Act 1987;
- Pre conception and Pre Natal Diagnostic Techniques (Prohibition of Sex selection) (PCPNDT) Act, 1994;
- Protection of Women from Domestic Violence Act, 2005
- The Sexual Harassment of Women at Workplace (Prevention Protection and Redressal) Act, 2013

Apart from the above mentioned legislations, there are some other enactments pertaining to industry containing special provisions for women such as, The Workmen’s Compensation Act, 1921; Payment of Wages Act, 1936; Factories Act, 1948; Maternity Benefit Act, 1961; Minimum Wages Act, 1948, Employees State Insurance Act 1948 and Pensions Act, 1987 etc. All the above mentioned international and regional legislations have been enacted and enforced with a common goal of protecting women, their fundamental rights and to prevent violence against women across the world. Apart from these legislations which are being implemented in various countries across the world by the governments, it is also very important for the government machinery to conduct various

awareness programmes and provide educational and all other facilities to the women in that country so as to develop skills, build confidence, develop leadership qualities and apprise them about their rights. The states and governments need to work towards bringing equality among men and women in their regions so as to uplift the conditions of the society and reduce violence and crimes taking place against women.

Conclusion

Women and the growing violence against them have become pervasive in the society. The patriarchal system of the society and the approach and attitude of men towards women as downtrodden has fuelled and developed violence and various crimes against women. Despite having so many enactments and legislations at the international and regional level which deal with women, the oppressed and poor conditions of women have not been improved and they are still facing all types of atrocities, violence and abuses. This proves the failure of the legislative, executive and judicial machinery in the country to protect the women from the hands of perpetrators and also fails to provide respect to women in the patriarchal form of society. The inequality status prevalent between the men and women cannot be bridged by just enacting and enforcing legislations unless public support is sought for. It has also been clear from the situation that century old practice existing in the society cannot be eliminated in few days. It will take a lot of time to make people understand and realize their rights, equality and humanity and make them aware of their development through education, awareness programmes etc. These legislations enacted are not supported by the will of the people. They public is not aware of such steps which have been taken for the upliftment of women in the society and hence it faces great resistance and opposition from the conservative thought of the society. To improve the status of the women in the society, prevent the violence against women and protect them is the need of the hour. Since the conservative social thinking is deeply rooted in the society, there is a need that such legislations should to be enacted with the support and strong public willingness and opinion.

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