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Protection of Human Rights of Women- International and National Perspective

The notion of Human Rights was in existence in India since the Vedic period. One can easily interpret above Vedic Prayer from the Human Rights point of view. It connotes that may everybody in this universe be happy and healthy. In short 'The welfare of Humanity as a whole'. This shows Indian universal perspective of Human Rights. No matter Further Human Right developed as a western concept and got International accreditation and recognition in the late 18th century. The philosophy "Every man has a right to dignity" was advocated in the US Declaration of independence in 1776. Human Rights are naturally acquired by the Human beings on earth. A right means freedoms that are guaranteed. It is true to say that Human Rights are nothing but various freedoms guaranteed to human beings. The present situation is such that no one is aware about things to which he is entitled. Society consists of various small groups having different identities. Roscoe Pound emphasized upon the concept of 'balancing of interests' in his theory known as Social Engineering Theory. Pound had insisted that, "the structure of public, social and individual interests are all, in fact, individual interests looked at from different points of view for the purpose of clarity and therefore, in order to make the system work properly, it is essential that when interests are balanced, all claims must be translated into the same level and carefully labeled." One can easily apply the said theory to the theme of the present paper i.e. each and every unit of the society shall consider the welfare of all. The thought behind 'balancing of interests' was that every member of society has his own importance and shall consider, maintaining order in society. The various vulnerable groups are in existence in the society especially women, children, elderly persons, disabled, and backward classes. They are vulnerable because of their very status. As they are human beings they possess various rights irrespective of their race, cast, nationality, language, status and sex. We can therefore easily say that Human Rights are basic or natural and fundamental rights of each and every human being.

Vulnerability and Women:

Robert Ingersoll rightly stated that, “There will never be a generation of great men until there has been a generation of free women-of free mothers. “It is a fact that women are physically weaker than men. No one can deny that woman and man are two pillars of the society. Their rights, duties and responsibilities are complementary and supplementary to each other. The present social behavior shows that a woman is treated as inferior to Man. Especially the Indian society is especially male dominated over the years. There are en number cases of violation of women’s rights. The religious view is wrong that woman is weaker than man. History shows that women have been not given full responsibilities in the society. All this is resulted into violation of women’s Human Rights which they were to entitle since birth. Various religious customs are in existence in the society, like Child Marriage, Religious prostitution, Widow Remarriage, and polygamy. Though religion gives equal status to women along with men still the prevalence of these customs affects the societal atmosphere and there is a need to educate people at large through various Governmental and Non-Governmental agencies.

According to The Centre for Enquiry into Health and Allied Themes (CEHAT), in India social norms and cultural practices are deep rooted in a highly patriarchal social order where women are expected to adhere to strict gender roles about what they can and cannot do. Women are subject to double discrimination, being members of a specific caste, class or ethnic group, apart from experiencing gendered vulnerabilities. Women in Indian society have low status as compared to men. They have little control on the resources and on important decisions related to their lives.

International and National Perspective:

Civilized nations are bound to protect Human Rights of all persons. The various Conventions, Commissions and Committees are there for the protection of Women’s Human Rights at International and National level. Human Rights have got unanimous recognition all over the globe. There is no restriction on the basis of boundary on any Human being to enjoy Human Rights.

Since, the very beginning of the Human Rights movement women has been given less importance than men. This subordination happened because the traditional concept of Human Rights is based on ‘Dichotomy of Public and Private Interests’.

“The human rights movement should itself give equal priority to economic, social and cultural rights together with civil and political rights”.

The International Level:

1. United Nations And Human Rights of Women:

United Nations has various agencies which have their distinct area of work. They deal with women related issues in their particular area of operation. The atrocities committed during Second World War are one of the strong reasons behind creation of a protective mechanism for fundamental Human Rights at International level.

2. Provisions of United Nations Charter 1945 concerning Human Rights of Women:

The soul of United Nations charter i.e. The Preamble speaks explicitly about Human Rights of Women. It shows the importance of the concept of parity especially with respect to gender. The preamble says, “We the People of The United Nations determined to reaffirm faith in fundamental human rights, in the dignity and worth of the human person, in the equal rights of men and women and of nations large and small.” The very purpose of United Nations is, “To achieve international co-operation in solving international problems of an economic, social, cultural, or humanitarian character and in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion.” It means the charter provides that there is no discrimination on the ground of sex. Everyone should be treated as equal, irrespective of his Race, Language, Religion and Sex. Here it is crystal clear that United Nations are bound to respect Human Rights of women without discrimination

3. Commission on the Status of Women:

The commission on the ‘Status of women’ was established in 1946. This commission is part and parcel of Economic and Social Council. At present the commission consists of 45 members. The commission has done valuable work on the status of women. The functions of the commission are to promote the rights of women in Political, Economic, Civil, Social, and Educational fields and also to advocate equal status of rights women with those of men.

4 Universal Declaration of Human Rights (UDHR) 1948:

The Universal Declaration of Human Rights, 1948 is one of the greatest historic achievements of United Nations. This step has been taken for the promotion and protection of Human Rights at international level. "All human beings are born free and equal in dignity and rights." This international document strictly advocates the notion of equality. Everyone shall respect and maintain the dignity of all without discrimination. To give due respect to other's dignity is the basic fundamental principle of Human Rights.

Another important aspect in the area of Human Rights is prohibition against discrimination. "All are equal before the law and are entitled without any discrimination to equal protection of the law. All are entitled to equal protection against any discrimination in violation of this Declaration and against any incitement to such discrimination."

5. International Convention for the Suppression of the Traffic in Persons and exploitation of the Prostitution of others, 1949:

This is an important convention which prohibits and punishes the persons who do any act which includes Prostitution and Traffic in Persons. The member countries shall take measures to educate and encourage through their public and private services to prevent prostitution and rehabilitation of victims of such offences.

6. Convention on the Political Rights of Women, 1952:

This is an important step towards universal attainment of equal rights between Men and Women. "Women shall be entitled to vote in all elections on equal terms with men, without any discrimination."

"Women shall be eligible for election to all publicly elected bodies, established by national law, on equal terms with men, without any discrimination."

The said convention specifically deals with political rights of the Women. It establishes electoral rights and participation of women in functionaries of Government.

7. Convention on the Nationality of Married Women, 1957:

In accordance of the view expressed by Commission on the Status of Women that there should be a convention on the Nationality of married women to assure equality between men and women. The said convention speaks about prevention of becoming stateless of married women after marriage. It was adopted in 1957 by the General Assembly of United Nations.

8. Declaration on the Elimination of Discrimination against Women, 1967:

The General Assembly adopted this convention in 1967. The present convention is a result of notion of equality between men and women. The Universal Declaration of Human Rights asserted that all human beings are born free and equal in dignity. “Discrimination against women, denying or limiting as it does their equality of rights with men, is fundamentally unjust and constitutes an offence against human dignity”

9. Convention on the Elimination of all forms of Discrimination against Women (CEDAW), 1979:

The U.N. Convention on the Elimination of All Forms of Discrimination against women, advocates the maintaining of parity and to elimination discrimination against women in all areas of life, including healthcare, education, employment, domestic relations, law, commercial transactions, and political participation, among other things.

The convention is a valuable mechanism for fighting women’s discrimination World wide. The Convention specifies that State Parties should undertake to “embody the principle of equality of men and women in their national constitutions or other appropriate legislations to ensure, through law and other appropriate means, the practical realization of this principle.”

10. The Committee on CEDAW:

The committee on the elimination of all forms of discrimination against women was established under the convention on the elimination of all forms of discrimination against women. The committee has performed significant work but has not succeeded.

11. Declaration on Elimination of violence against Women, 1993:

To combat violence against women at international level this present declaration was brought in "Violence against women" means any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or in private life." Violence has affected millions of women worldwide. This results into lack of involvement of women in socio, economic and cultural activities. The declaration assists the Government of States to take necessary steps to prevent violence against women.

12. Vienna Declaration and Human Rights of Women, 1993:

The Declaration was adopted by the World Conference on Human Rights in 1993. The World Conference on Human Rights urges, "The full and equal enjoyment by women of all human rights and that this be a priority for Governments and for the United Nations."

"The equal status of women and the human rights of women should be integrated into the mainstream of United Nations system-wide activity. These issues should be regularly and systematically addressed throughout the relevant United Nations bodies and mechanisms." Everything about equality has been taken into consideration and it also recognizes the importance of the enjoyment by women of the highest standards of physical and mental health.

13. World Conference on Women's Human Rights:

The first International Conference on women was held in Mexico in 1975 under the title "Equality, development and peace". It was recognized that women are also part and parcel of Development of Nation. Women should contribute for the progress of the country.

14. Beijing Declaration, 1995:

In 1995 it was again reiterated that elimination of all obstacles for gender equality and the advancement and empowerment of women is the need of the time. Furthermore, prevention of violence against women and girl child and primary health care for girls and women has been given greater attention in the said declaration.

Besides, this the entire framework United Nations Development Fund for Women's (UNIFEM) work on Gender Justice and United Nations Educational, Scientific and Cultural Organization's (UNESCO) statement on women's contribution on the culture of Peace is also has taken special care and attention in the area of Gender equality and multifarious aspects of women. The European Convention on Human Rights and the American Convention on Human Rights, 1969 also speaks on the theme of U N Charter and has adopted the same at the regional level

National Level Protection:

The Supreme Legislation Constitution of India is true guarantor of right of equality of women. It is a fundamental document which deals with women's right to Equality in India. Further the Constitution of India provides special protection to women with the help of various provisions inserted under Part III. Besides, the constitutional framework Indian Parliament has taken positive steps to protect women's rights. Especially, Dowry Prohibition Act, 1961, Sati Prevention Act, 1987 and Immoral Traffic (Prevention) Act, 1956 are important legislations of the Parliament.

1. Human Rights of Women and the Constitution of India:

The Constitution of India adopted in 1950 provides certain rights to its citizens known as the Fundamental Rights (Part-3, Article 14-35). Though the words "Human Rights" are not included in the Constitution of India, the rights provided are similar to those rights which are provided in the Universal Declaration of Human Rights and the rights provided in International Covenant on Civil and Political Rights and International Covenant on Social, Economic and Cultural rights.

In Sunil Batra v. Delhi Administration, the apex court has observed that Human Rights jurisprudence in India has constitutional status. Again in Maneka Gandhi v. Union of India the Supreme Court has held that provisions of part III of the Constitution of India should be given widest possible interpretation. Article 14 guarantees equality before law and the equal protection of law. Article 15 prohibits discrimination on any basis. It also deals with the special provisions to be made for women which shall not be considered as discriminatory. Article 16 provides equal opportunity in matters of public employment. Part IV of the Constitution of India deals

with Directive Principles of State Policy. These are not enforceable in the courts of law like fundamental rights. Even though Directive Principles of State Policy are helpful in guiding the State while making legislations and policies, it has its own importance as binding on the States. "Equal Pay for equal work", "Just and Human conditions of work and for maternity relief" and Fundamental duty to respect women and renunciation of practices derogatory to dignity of women are the important provisions of Constitution of India. The 73rd and 74th Constitutional Amendment Acts are new dimensions in the advancement of women in India. In spite of all these provisions women in India are victims of personal laws which restrict them from representation in the society.

2. Versatile Judicial Response:

The Indian judiciary is playing a significant role in comparison to judiciaries of the world. The public at large have faith in our Judiciary. The Supreme Court is the ultimate interpreter of the Constitution of India. The judiciary is the protector of Human Rights over decades. Some of the unpleasant violations of Human Rights like Sati, Child Marriage, Honor Killings, Slavery, and Child Labour have been abolished by the initiative of Judiciary.

Following are some verdicts:

The Supreme Court in Hussainara Khaton and others v. Home Secretary State of Bihar expressed "travesty of justice" on account of under trial prisoners spending extended time in prison. In Prem Surana v. Delhi Administration the Supreme Court found the practice of using handcuffs and fetters on prisoners violating the guarantee of human dignity. In Smt. Nilabati Behera v. State of Orissa and others the Supreme Court referred Article 9(5) of the International Covenant on Civil and Political Rights, 1966 which deals with right to compensation in cases unlawful arrest and detention. In Bodhi Satwa Gautam v. Subra Chakraborty the Apex Court has held that Rape is a crime against basic Human Right.

The most versatile role of judiciary is reflected in the decisions of Supreme Court in Unnikrishnan P. J. v. State of A. P. and others Right to Education and PUCL v. Union

of India the right of access of those below the poverty line to food supplies as essential to preserving human dignity.

3. Supreme Court of India on International law concerning the human rights of women:

The Supreme Court of India has interpreted various provisions of international instruments correlated with Constitutional law of India. India is a signatory to various International Conventions and Treaties. The Universal Declaration of Human Rights adopted on 10th Dec. 1948, has greatly helped to create a universal thinking that Human Rights are supreme shall preserve.

In Madhu Kishwar v. State Supreme Court has considered the provisions of the Convention on the Elimination of All Forms of Discrimination against Women, 1979 and held that it is a mirror image of Part III and Part IV of the Constitution of India.

4. The Protection of Human Rights Act, 1993:

The Supreme Court of India had admitted that provisions of international instruments are not in conflict with National Laws. The Human Rights Act, 1993 has been formed after consideration of said provisions. The said Act defines Human Rights as the rights relating to Life, Liberty and Equality and Dignity of the individual. The Act provides for setting up of National Human Rights Commission and Human Rights Court to deal with the issues relating to Human Rights.

5. National Commission for Women Act, 1990:

It is a result of unequal status of women and grievances of women in India. The activist demanded that there should be an Autonomous Agency for resolution of their grievances. The commission shall monitor the proper implementation of laws made to protect of rights of women. Further the Act provides for the constitution of the National Commission for Women and shall perform all functions which involve issues of women.

Feminist Point of View:

Feminism and typical Human Rights of women have close nexus. The feminist movements also known as 'women's movement' or 'women's liberation' is a series of campaigns on issues such as reproductive rights, domestic violence, maternity leave, equal pay, voting rights, sexual harassment etc. The history of modern feminist movement is divided into three "waves". The first wave refers to the movements which dealt mainly with suffrage. The second wave dealt with the inequality of laws, as well as cultural inequalities. The third wave of feminism is seen as a response to the failures of the second wave. Feminist activists work on the objective that woman can exercise their power throughout locally and all over the globe. If it is so then only women's Human Right will become a reality. Feminist activities are bringing changes in the area of Human Rights of women through education relating to civil, political, economic and social rights of the Women. Further they are spreading awareness to eradicate gender inequalities.

Women Empowerment:

March 8 is celebrated all over the Globe as International Women's Day. The International Women's Day (IWD) was originally called International Working Women's Day. In different regions the focus of the celebrations range from general celebration of respect, appreciation and love towards women to a celebration for women's economic, political and social achievements. It is a significant march towards women empowerment. This is the occasion to analyse all about empowerment of women throughout the world. The word empowerment is an inclusive one and it means empowerment on multidimensional aspects such as Civil, Political, Social, Economic,

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