

Conceptual and Legal Provisions of Women's Rights: Critical Study in Kalimpong District, West Bengal, India

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Abstract

"Women were the first human being that tasted bondage, women were a slave before the slave or slavery existed" **August Bebel.**

Till date the bondage in women continues silently with all possible tortures and atrocities. The sexual and domestic violence still prevail in the global level. The awareness of principles of equality and justice enumerated under various international conventions and other statutory provisions is still unknown to many. Attaining equality between women and men and eliminating all forms of discrimination against women are fundamental human rights and values. Discrimination may be latent, patent, open or subtle. Women's Rights are to be given due importance and recognition as chartered by the United Nations Declaration. Women's rights are the rights and entitlements claimed for women and girls of different societies worldwide. In some places, these rights are institutionalized and supported by law, local customs and behaviors, whereas in others they may be ignored or suppressed. The Constitution of India visualizes development of a pluralistic, open society, based on the principles of equality and social justice. Creation of a citizenry conscious of women's rights and duties, committed to the principles embodied in our constitution is pre-requisite to social advancement, economic development and political progress of our country.

There has been a long history of addressing women's rights and much progress has been made in securing it across the world in recent decades. However, important gaps remain and women's realities are constantly changing, with new manifestations of discrimination against them which emerges regularly. Some groups of women face additional forms of discrimination based on their age, ethnicity, nationality, religion, health status, marital status, education, disability and socio-economic status, among other grounds. These intersecting forms of discrimination must be taken into account with legal provisions when developing measures and responses to combat discrimination against women. The study will be the critical analysis of Women's Rights: its Conceptual and Legal Provisions based on a pilot study which primarily involves the area of the researcher's interest.

Keywords: Women, Women's Rights, Conceptual Meaning, Legal Provisions.

Introduction

Jawaharlal Nehru once said, "To awaken the people, it is the women who must be awakened. Once she is on move, the family moves, the village moves and the nation moves."

Gender is a common term but when we say gender discrimination, it is normally meant for women. Females are most of the time victims of gender discrimination. It is a harsh reality that women have been ill-treated in every society for ages and India is no exception. Women are deprived of economic resources and are dependent on men for their living. Her general status in the family and in the society has been low and unrecognized. Women works are often confined to domestic sphere, which are not recognized and unpaid. In number females are nearly 50 percent of the total population but their representation in public life is very low. In modern times many women are coming out to work but have to shoulder the double responsibility of working where she is employed and managing all the household works.

In UNO, a separate body was formed to work on the “advancement of women”. The Commission on the Status of Women worked from its inception to collect and compile data on women’s situation around the world, to promote women’s human rights, raise awareness and support for their contribution to development. At the 2005 World Summit, world leaders reiterated that “progress for women is progress for all”. UNIFEM, an agency of the UN provides technical and financial assistance to innovative programmes and strategies to foster women’s empowerment and gender equality. In July 2010, the United Nations General Assembly created UN Women, the United Nations Entity for Gender Equality and the Empowerment of Women. In doing so, UN Member States took an historic step in accelerating the Organization’s goals on gender equality and the empowerment of women. Apart from that the Commission on the Status of Women, a global policy making body of ECOSOC is dedicated exclusively to gender equality and advancement of women.

In a democratic country like India, the cardinal goals of democracy “of the people, by the people and for the people” cannot be optimally accomplished if the female population remains out of political empowerment. Political empowerment implies discussing, sharing and empowering politics by knowing its pros and cons, influencing policies and decision making. The empowerment of women has its fundamentals on the basics of human rights. Human rights neither allows anyone to beg for power nor search for power hierarchy to exercise power against others. It demands every individual to be accepted as human first of all. The recognition of women’s rights and believing their ability are essential for women’s empowerment and development. Females should realize their own capabilities and potentials which will strengthen their self image and foster them with confidence to take action in life. She as a person must be in command of herself.

Rationale of the study

From the cradle to grave, females are under the clutches of numerous evils acts as discriminations, oppressions, violence, within the family, at the work places and in the society. Female plays important role in the family and national development. But her contribution is not recognized by the male dominant society. Subordination of women in society acts a structural constraint to their participation in political activities. This constraint operates more or less for all classes and communities of women. Prevalent culture which is very complicated and often decisions are taken behind the scene may be regarded as another constraint in this regard. The root causes of all the evils practices faced by the women are illiteracy, economic dependence, caste restrictions, religious prohibition, lack of leadership qualities and apathetic and callous attitude of males in the society.

Issues commonly associated with notions of women’s rights include, to bodily integrity and autonomy; to vote (suffrage); to hold public office, to work, to fair wages or equal pay; to own property; to

education; to serve in the military or be conscripted; to enter into legal contracts; to have marital or parental rights. In an age where information is power and knowledge is a tool of development, equipping women with relevant and useful information that will catalyze their development becomes an important task. Thus recognizing women's right and believing their ability are essential for women's empowerment and development.

Important Constitutional and Legal Provisions for Women in India

The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio-economic, education and political disadvantages faced by them. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993.

Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women. The crimes which are directed specifically against women such as Murder, Robbery, Cheating, Harassment, Physical and Mental Abuses and Torture are characterized as 'Crime against Women'.

Some of the special initiatives for women are National Commission for Women (1992), Reservation for Women in Local Self-Government (1992), The National Plan of Action for the Girl Child (1991-2000), National Policy for the Empowerment of Women (2001).

Reasons why women should have rights?

Women have the same ability as men and should therefore have the same rights as men. For a long time human rights have been based on gender, whereby most human rights only guaranteed to men. Women's rights therefore help women to acquire the same rights as their male counterparts. Traditions, cultural, social and economic interests have excluded women from the general human rights and have instead placed women to secondary or special interest status within human rights. This marginalization of women across the world has resulted to gender inequality. It has contributed to the precautions of women's subordinate status. Women's rights are therefore essential to stop the marginalization of women.

- Women's rights help empower women. Through women's rights, women can access same educational facilities as men. Before women's rights came into being, women were not allowed to go to school and own business since their role was to stay at home and take care of the children.
- Women's rights are important to help stop torture and inhuman degradation of women. For a long time, women have been degraded and tortured; hence there was a need for women's rights to protect women from torture and inhuman degradation.

- It would be an injustice to benefit from what women contribute to the society without bestowing the same rights as men.
- Women deserve the same degree of respect as men.
- Women's rights help the society evolve. Through women's rights such as right to equality, women are able to advance and as a result the society too is able to advance and evolve.
- No one should be denied their rights or have their rights infringed no matter what their sex is. Women have often been treated unequally in respect of men; hence the need for women's rights.
- Women are oppressed in most institutions; hence need to be liberated through various women's rights such as the right to work among others.
- Women's rights are important to help fight unjust patterns and structures within society.
- Women's rights are important because we have not achieved real equality.
- Women are more subjected to violence; hence the need of women's rights such as the right to be protected from violence and sexual assault.
- Women's rights have helped women advance in many ways. These rights have protected women from torture, violence, sexual assault and without doubt there was and still there is a great need for women's rights.

Women are no longer seen as just vulnerable and under men's control but now is a strong, powerful gender with a demand to be heard and respected by all.

Operational Definition of the Terms

1. **Women:** A woman is a female human. The term woman is also sometimes used to identify a female human, regardless of age, as in phrases such as "women's rights". "Woman" may also refer to a person's gender identity. Women with typical genetic development are usually capable of giving birth from puberty until menopause.
2. **Women's Rights:** Rights that promote a position of legal and social equality of women with men. Women's Rights are rights and entitlements claimed by women and girls of many societies worldwide. According to the free dictionary, Women's Rights are the effort to secure equal rights for women and to remove gender discrimination from laws, institutions, and behavioral patterns.
3. **Conceptual Meaning:** the word conceptual is based on or relating to ideas and concerned with concepts and abstracts. According to Collins English Dictionary conceptual is "concerned with the definitions or relations of the concepts of some field of enquiry rather than with the facts".
4. **Legal Provisions:** A provision is a legal clause or condition contained within a contract that requires or prevents either one or both parties to perform a particular requirement by some specified time. A statement within an agreement or a law that a particular thing must happen or be done, especially before another can happen or be done.

Research Objectives and Methodology

The present study is descriptive in nature.

The objectives of the Study are:

1. To assess the knowledge on women's rights (in all aspects of social, political and economic) among women within the Nepali community and nation at large.
2. To assess the knowledge on legal provisions among women.

Population and Sample

The study was conducted on the women of Kalimpong District of West Bengal.

Simple random sampling procedure was adapted for the selection of samples. In the process of sampling, emphasis was given on the different areas, their educational qualifications and the socio-economic conditions of the families.

So the sample consisted of:

1. Total 50 women was taken for the study
2. 25 each from rural and urban areas

Tools Used

A self-constructed interview schedule was used for the collection of the data. It was constructed with the help of experts in the respective field. The language used in the schedule was bi-lingual i.e. Nepali and English.

Techniques of Data Collection

The investigator herself visited the different localities of Kalimpong and described her study to the women folks. Interviews were taken individually of all the 50 women and necessary information was collected. Some of the women were positive and responded promptly, some avoided and gave excuses for not having time or busy with other commitments. Some of them were reluctant and hesitated to speak.

Data Analysis

All the data sources provided rich information. Descriptive data were collected pertaining to the two set objectives.

Analysis and Interpretation of the result pertaining to Objective 1: To assess the knowledge on women's rights (in all aspects of social, political and economic) among women within the Nepali community and nation at large.

The participating women noted that initially they were quite unaware of the different policies regarding women's rights. Some of them are poor, uneducated and insufficiently trained. They are often absorbed in the struggle to sustain the family physically and emotionally and as a rule are discouraged from taking interest in affairs outside home. Oppression and atrocities on women are still rampant. They play an active role in agricultural, household activities, along with male members and some cases contributed more than male members but were confined to private sphere within their family only.

But with the various awareness programmes that are held in their localities, they have come to know about the different rights and privileges given to them. The formations of Self-Help Groups, Mother Groups in the rural areas have helped women to earn for themselves. Self-Help Groups have helped women folks in building trust and cooperation with women community by establishing strong norms and value within the groups which binds women morally and to work in groups/association at the same time strengthens them individually both in public and private sphere. It has brought political and social awareness and also economical stability for an individual woman strengthening her society. Few of them are in the local party representatives holding various posts. In the Panchayats also women have been given representation as a sign of political empowerment. Some of them were elected representatives at

the village council level. But their powers were restricted and their decisions were often over-ruled by the men who wield all the authority in party workings or Panchayats functioning. But there was a notable gap between urban educated women and their rural counterparts, and the relative opportunities available to each other.

Analysis and Interpretation of the result pertaining to Objective 2: To assess the knowledge on legal provisions among women.

Majority of the women know very little about the legal provisions and various Acts the safeguards them. They are just aware that if any wrong takes place in their lives, they can report to the police and the police are their legal guardians to safeguard and give them protection. However, 90% of them preferred solving their family disputes by themselves. 60% prefer to remain silent if their rights are not met as they feel scared of legal cases (in relation to Police and Court).

Discussion

The discrimination and deep-rooted gender bias still exists in our society. Awareness and empowerment hold no meaning unless women themselves are strong, alert and aware of their equal status in the society. It is important to educate the women. The need of the hour is to improve female literacy as education holds the key to development. Their rights and privileges given to women would become more relevant if they are educated, better informed to take rational decisions. A woman needs to be physically healthy so that she is able to take challenges of equality. But it is sadly lacking in a majority of women especially in the rural areas. They have unequal access to basic health resources and lack adequate counseling. It is crucial to train and give real power to women leaders so that they can catalyst change in their villages regarding women. Gender equality and women's upliftment still has a long way to go.

Educational Implications

1. Better knowledge of women's rights has a vital role in making a woman competent and empowered.
2. The knowledge of the laws and policies will promote equality of women in workplace, salary and their homes.
3. The attainment of equal status of women will uplift the community and nation at large.

Conclusion

To quote **Tennyson** in 'From the passing of Arthur': "The old order changeth yielding place to new", the old order gradually makes way for the new order: the transition is going to be a slow one, so we all need to nurture and protect the process of transition by making the people realise about the orthodox mindset (more so in rural areas), the rigid social institutions with their traditional male bias, the inhibitions of the society, political and administrative institutions and the stereotyped pathetically vulnerable woman cannot be wished away by a mere wave of the constitutional wand. The NGOs and different commissions can step in as a major player. They need to equip women with capacity and the confidence to empower and motivate them to enter the political domain, to become economically independent, to share and care with one another and build solidarity to protect themselves and the society in general.

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