

Socio-Legal Aspects of Gender

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ISSUES RELATED TO WOMEN

I. Introduction

190 Women form the centre of universe religiously, culturally and traditionally but when it comes to giving equal economic and social rights to women the world has always been hesitant and collective conciseness rarely seems to develop to serve the fundamental needs of women. When put in a simple lens just two dimensions of women's life is seen, the household and the out world, and women are often expected to give priority to one amongst them, but this is a very narrow view as the problems emanating from these two paths are deep rooted in the patriarchal and unfair structure of the society.

Meta son preference has been a very big problem or Indian since centuries and this results in the birth of unwanted girl child. These unwanted girl child as per the economic survey estimates stands at 21 million for the age group 0-25 years.

The number of missing women in 2014 stood at 63 million, while in 2024 it is

Further it is reported that every year almost 2 million women go missing across all age groups. 2007 showed the picture that every hour 39 crimes were reported against women in India¹.

The cultural and social mindset full of prejudice against women participation in the society in a lead role reflects in the numbers. In the decision making process. The 17th lok sabha had only 14% of women MP's which was highest since independence, This number stood at 78 MP's². now has come down to 74 in the 19th Lok Sabha 2024.

The recent development of passing of the 106th amendment act for women reservation

1 Crime in India 2016 report by NCRB.

2 Election Commission of India

in the houses of parliament and state assemblies has been passed, but its actual effect is a distant reality.

Since independence the participation of women has not seen a very high rise, in the year 1951 it stood at 43.4% while in 2014 rose to 11, while the global average his time stood at 23.4%. India lacks behind in this aspect. The demographic dividend we speak of includes the participation of women, but when women are not made a part and process of the decision making, then the benefits cannot be reaped as such we seek.

It is essential to create an environment that empowers women not only morally but as technologically, skill wise and financially. Indian women contribute just 17% to the GDP while as compared to women from china the contribution stands at 40%³.

II. Female Work And Labour Force Participation In India

India's Female Labour Force Participation Rate had fallen to a great of 23.3% in the year 2017-18.⁴ but now in the 2024 it has risen to 35.6% as against the male LFPR of 81.8%

Primary sector saw the greatest decline in employment. However the services sector saw a different picture where employment grew by 6.6 million in the same period. Rural and urban areas also have showed a different picture, the female participation in workforce is better in the rural areas. In urban areas the female LFPR for 2023-24 stands at 28% and in rural areas it is at 47.6%. Hence it can be said that in the rural areas the Female LFPR performs better.

Policies have existed since decades to provide training, placement and financial, technical and institutional support to women , but the impact is not as manifold as was expected. The reasons remain the same, despite an enabling environment created by the government still the mindset of the society tends to hold back women form stepping out and participating in the society,. The roles have been defined and it is desired best that they see no change.

It is not the case that the state has failed to provide for any policy that provides training, financial support and job opportunity and security for women but the problem arises in areas that are complementary to these and a safe and just work environment cannot be maintained without providing for them and these includes safe travel facilities, support in case of migration from outstations, special attention to young mothers amongst other needs of the similar kind.

3 World Bank

4 UNDP-IKEA report titled "Female work and labour force participation in India".

Amongst the world India has shown one of the biggest gender Gender Pay Gap difference of 34%.⁵ This gap has been created due to barriers created by culture, lower education, women's role has been limited in most cases to unpaid work and low education opportunities to women.

Marriage has played a big role in the women participation in Labour workforce,, the husband being able to provide enough for family needs is the dominant factor in withdrawal of women from Labour force. Another factor is the child bearing, after the birth of child many women don't return to the workforce, familial and mother hood role is expected to take more importance in her life, and the woman is expected to adjust to this new change in her life. For the year 2017-2018, in a just 12 months time the females going out of workforce due to maternity were estimated to be between 1.1 to 1.8 million. It is perceived that the productivity of women in household work and motherhood duties is far more than their productivity and output in other occupational roles.

The regulatory environment is such that it seeks to create conducive work environment or women but unintentionally a major problem created by it is that often the conditions of work to be created by the employer are seen as a problem by the employers and they would rather not employ women to save the cost of compliance.

It has been noted that the compliance amongst the firms has not been impressive as still 31% of them were found non compliant with the Prevention of Sexual Harassment at Workplace Act and amongst the major lapse was not constituting of the "Internal Compliance Committees".

III. Women In Agriculture

Current trends in feminization of Agriculture

Contribution of women in agriculture is not uniform for the whole country. On the whole average the contribution is about 32%, but in some regions such as north east Hill states, northern hill states and Kerala it is seen that women contribute more to agriculture than their men counterparts⁶.

For decades the trend has been for men to migrate from rural to urban areas in search

5 Economic Times 27 June 2018

6 Food and Agriculture Organization (FAO)

of better employment opportunities this has led to feminization of the agricultural force back home. Women have taken up roles of cultivators, laborers and entrepreneurs⁷. This seems to be the reason for better performance of Female LFPR in rural areas.

The govt of India has surveyed that amongst the total female workers, 55% were agricultural laborers and 24% were cultivators.⁸

It has been noted that women have had rather a dominant role in agricultural operations in the production of major crops women participation stands at a whopping 75% in horticulture it is even higher at 79% and in post harvest works the contribution is 51%. But the greatest contribution is in animal husbandry and fisheries⁹.

Impact of feminization of agriculture:

FAO has taken into account the disparity in access to means of agriculture between men and women and it states that had women have the access o parity with men the consequent yields increase on the farms would be upto 20-30% on a particular field. In the aggregate the total agricultural output in developing countries would rise up by 4%. The biggest benefit that would accrue form this would be enabling the world to move closer to the target of zero hunger.

Comparatively low wage, part time employment and seasonal nature of work these are features of the women workforce in agriculture. However, with rising new areas of work such as agro export, organic farming, farm mechanization, high value organic produce can create new opportunities for women.

Challenges faced by women in Agriculture:

The patriarchal structure of most of the Indian society, has its deep rooted consequences and the principal one being the ownership of land being in the name of male members of the family ion most of the cases and in such situations women are unable to seek loans from institutional sources, as land is required a collateral. A report published states that women are responsible for about 60-80% of food and 90% of dairy production, respectively.¹⁰ however the unnoticed work done by women has a greater share such as women working in livestock management and household work.

The most negative consequence the accrues form the lack of ownership rights in land for women is the persistent decline in their bargaining power in the family. Consequently they

7 Economic Survey 2017-18

8 Census 2011

9 Indian Council of Agricultural Research (ICAR)

10 Oxfam India

don't have control over labour and other sources that would be necessary to guarantee delivery of the produce in timely manner. This leads to a impediment in women participation in new arrangements of the society such as contract farming.

Acquiring technological skills always remains a challenge where women are not even given a chance to learn them as in the background a though always prevails that men are better with handy skills as compared to women, hence whenever a new technology is introduced that is replacing manual labour women are at the risk of losing their jobs. However the govt has always been willing to bring women in the new labour force of today's age, govt has made provision to train women in handicrafts, in poultry, and apiculture. The position of women being discriminated is reflected by the report by Corveta Agriscience which states that almost 78% women farmers in India face gender discrimination.¹¹

As part of co-operatives women have showed greater participation but highly underrepresented in farmer organizations and State Agriculture Produce Markets.

Way Forward:

The government ahs been working on an inclusive environment for farmers where gender differences don't play a role, hence the introduction of Kisan Credit Cards is a big step. Similar schemes should be thought of and implemented at the end of Primary Agriculture Credit Societies, NABARD and other stakeholders, which can provide loans without collateral. It should be ensured that on the account of gender no one should be refused institutional support and be forced to resort to seeking support from usury moneylenders.

It can be a possibility to expect women to assume greater role in the government schemes and making institutional provision for it. Such as in the Rashtriya Gokul Mission, farm mechanization, women can be trained to deal with daily veterinary problems with cattle and attaining them with knowledge on soil health, seed sowing and organic farming, this will give women a better bargaining position in the rural household as well apart from greater and new role in the society.

Further as far as the Kisan Call Centers are concerned special dedicated female lines can be given so that there shall be no impetus and a better environment can be created where women feel free to share their concerns related to agriculture over the phone and seek redressal

for it.

IV. Changing Family Structure And Its Impact On Women

Family Structure in India:

India has always been considered as unique in its culture, tradition, family structures, this called for the study of a discipline itself called Indology. India being its unique self accommodates both nuclear and joint families and has several dimension sto attach to them. A joint family is one in which several generations live together, this has been the traditional Indian family and is common structure in India. Until recently joint households were the norm however migration and urbanization have their impacts on the family structure.

Amongst the nearly 25 crore households, 13 crore or roughly 52% were identified as nuclear households.¹² Recent disintegration of joint families has given rise to the formation of nuclear families and consequently the bargaining power of women, in domestic relations has improved and so has the social security they are able to achieve for themselves.

The case is different for a nuclear households which offer women greater decision-making power comparatively, they have more freedom of movement outside the residential premises and greater opportunity to participation in the job markets. The factors that play a major role in women's autonomy is are economic status held by them , their ascriptive caste and now due to modern forces at play their household location. E.g. it has been observed that in a household that is richer women in richer joint households have more autonomy in intra-household decision-making but less freedom of movement outside the home. But for women in the joint family in the poor section of the society a contrast is seen in the manner of participation in society, they have more freedom of movement outside the house but their decision making power in the house is less autonomous.

A very interesting observation is the contrast between the kinship system and its effects on the women in the kin. The geographic contrast results in the autonomy power dynamics. Women in north India are supposed to have less autonomy composed to their southern counterparts. This is probably due to the fact that south India has a consequences accruing form matrilineal social and family system.

Gender based division of Labour has been a very peculiar characteristic of traditional family life in India. The role marked to a woman was to do all sorts of domestic work such as cooking, cleaning utensils, washing clothes amongst others and above all the biggest expectation from women remain to raise children. Hence the multidimensional role expected of women yet stagnant in its premise. However, in recent times with the increasing education levels and the economic opportunities in wake of Globalization the socio-economic mobility of Indian women has increased.

V. Domestic Violence Law

The census reports that one amongst every 3 women have been exposed to some sort of domestic violence that to of from a tender age of fifteen¹³. About the global scenario the Who reports that 38 % of murders that are committed of women victims the perpetrator is her male partner.¹⁴ Amongst the South –East Asia region, India ranks the highest with violence committed by intimate partner standing at 37.7%. Violence in its consequence has its effects on the physical, mental, sexual, and reproductive health of women.

Reasons/Issues Involved are Changing socio- economic relations particularly in urban areas such as the will of the woman to work after marriage, more income of a working woman than her partner, abusing and neglecting in-laws and husband, dowry demands etc. in the rural areas the issues include violence against young women on superstitious issues such as for their husband's death and women are cursed and deprived of proper food and clothing without often being given the opportunity for remarriage in most of the homes. It is rather believed that as long as the woman is dependent on the man for material needs she shall behave in a manner considered proper by the family of the groom. Also, there are cases of molestation and rape attempts by other family members in joint families.

The reasons identified for women being subject to violence at the hands of intimate partner violence are that if they have low education, exposure to mothers being abused by a partner, if they faced any abuse during formative childhood days , experiencing attitudes and views that accept violence against women and don't see it as a problem, and the acceptance of the view that women shall remain subordinate to men either in household relationship or out in the society.

13 National Family Health Survey (NHFS-4).

14 WHO

As having reference to the social contract theory which says that people in the society surrender their rights in favour of the government institution in expectation that the government will protect them. An impact of the same is well expected here and hence the Government is required to take Steps to prevent domestic violence:

There are mainly three laws in India that deal directly with domestic violence:

The Protection of Women from Domestic Violence Act, 2005

The Act provided for a definition of domestic violence that includes not just violence that is physical, but also verbal, emotional, sexual and economic violence.

The approach behind the law is to have a broad definition of the term domestic relationship wherein the aspects of new emerging India as taken into account and thus the term includes married women, mothers, daughters and sisters, such a broad view was required so as to not give a generalist definition. The law is made to protect all women in the household whether it be married or women in live-in relationships, as well as family members including mothers, grandmothers, etc.

Women have the recourse to seek protection against domestic violence, they have the right to get financial compensation and also claim maintenance from their abuser in case they are living apart. The act seeks to provide for a secure housing which means the right to reside in the matrimonial or shared household, and this is independent of the fact whether or not she has any title to property of the in laws or husband. For this purpose the concerned has to get a residence order from the court.

Law with a protectionist approach provides that the magistrate is empowered to pass orders that don't allow the abuser to contact the victim. In case the protection order is breached then by the respondent the breach is treated as a cognizable and non-bailable offence punishable with imprisonment and with fine.

As to create a institutional mechanism the act provides for appointment of protection officers. Further NGOs to provide assistance to the woman for medical examination, legal aid and safe Shelter.

The act is a criminal law that punishes the taking and giving of dowry. The law criminalizes both give and take of dowry and provides that any attempt to do so or the act of doing so would lead to imprisonment of upto 6 months and fine upto 5000. However, looking at how big the problem, the fine and imprisonment both seem to be trivial.

Section 498A of the Indian Penal Code which has now been replaced with sec 85 BNS Bhartiya Nyaya Sahita provides for cases which apply to husband or relatives of husbands who are cruel to women.

Issues with Domestic violence Act

The merging issues are yet to be addressed by the act as the act is not gender neutral and the consequence of it is misuse of the law for malicious prosecution. The law remains silent on domestic violence against men in a household. Judicial pronouncements such as by the Delhi high court have favoured prosecution in marital rape cases but the act still remains silent on this issue.

Another problem remains that law if often seen a problem in marital relations and is a taboo remains around it, hence there is lack of discussion with various stakeholders on the topic. It would be rare to find a happily married couple to would be willing to suggest reforms in the act, hence the consequent awareness amongst people is also not at the optimum level.

The institutional mechanisms created are good in intent but not in practice, as it is not uncommon to see insensitive attitude of police towards the victim.

Further budget constraints to the states to set up support machinery for the women affected remains a challenge. A big problem that remains is the sharp contrast between the reporting of cases from rural and urban areas. Most of the cases that are reported are from urban areas and the rural area lacks behind, the reasons that seem are probably the dominant role that patriarchy plays and the unawareness regarding the law.

Way forward

The district and the state legal services committee can be given additional roles to provide support to women affect by domestic violence where immediate help is required. In the event that orders cannot be executed it must be the responsibility of the government to pay the amount to the distressed wife and then recover the amount from the husband.

Judiciary needs reforms in the sense that the spirit of law be upheld, increased strength of judges, designating female judges for the courts in these matters and enhanced machinery for mediation and conciliation amongst the parties concerned. The factors behind the reduction of spousal violence need to be scrutinized further. A greater role could be assumed by the NGOs's in awareness programmes. It

could be a possibility that women can be supported through financial assistance through various government schemes and programmes. The govt should focus on regular sensitivity training to the institutional machinery.

VI. Conclusion

A society if best reflect fro the position it grants to its women. Discrimination may be at home or outside but this will always reflect on the mindset of the society and how one it is to giving women an equal role in the decision making. It is not unheard of that a daughter in law gets her position approved in the household pursuant to the giving birth to a child and preferably after a son is born to her. Discrimination takes its form in violence, economic constraint, family pressure to bear children and pressure to not participate in work force.

Women have an all equal right to participate in the society, even through economic participation and to stop from such natural flow of energy and thoughts in the society would be devastating. It is time that we consider what we must do on our own self rather than waiting for conducive environment s top be created in the society, buy the government and other stakeholders first we need to address the issue by openly speaking about it, engaging in rational discourse. Secondly we need to respect the wishes of women as regards to their mental health, familial choices, and work choices. Third we need to create forum at the smallest level our home for women to voice their concerns. Fourth we need to acknowledge that the society is every changing and when only half of the human race participates in its development as a stakeholder, equality of opportunity, respect, and harmony cannot be attained. And lastly we should not think of the challenges that women face as their challenges but rather consider them our own, then only a fair and rational approach can be adopted.

References/Bibliography

1. National Family Health Survey (NFHS-4). (2015-16). Ministry of Health and Family Welfare, Government of India.
2. World Health Organization.
3. Office of the Registrar General & Census Commissioner, India. (2011). **Census of India 2011**. Ministry of Home Affairs, Government of India.

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4. Corteva Agriscience. (n.d.). **17-country study on specific focus, e.g., gender and agriculture**
5. Ministry of Finance, Government of India. (2018). **Economic Survey 2017-18**. Indian Council of Agricultural Research (ICAR).
6. Oxfam India.
7. **Economic Times**. (2018, June 27).
8. Food and Agriculture Organization (FAO).
9. World Bank.
10. UNDP-IKEA. **Female work and labour force participation in India**.
11. National Crime Records Bureau (NCRB). (2016). **Crime in India 2016 Report**. Ministry of Home Affairs, Government of India.
12. Election Commission of India