



Women Rights and Right to Information in India as a Human Rights

Ch.Rama Devi, S.K.S.D.Mahila Kalasala (UG & PG), Tanuku – 534 211, West Godavari District (A.P).

Abstract:

Human rights number among the great philosophical accomplishments of the modern age. Human rights define certain minimum standards and rules of procedure to which those in power should or must adhere in their treatment of people. This primarily concerns state authorities such as governments, police or armed forces, but increasingly also those wielding non-governmental power, such as international organizations, business enterprises and/or the private sector in general as well as religious communities or individuals that exert power over other people. On the one hand, human rights set limits to the power exercised by government and non-governmental entities and on the other they oblige these within their purview to lay the foundation for enabling people to actually exercise and enjoy their rights through affirmative measures. As with other legal norms human rights, are violated daily in various, in part, even systematic, ways, but a growing number of national and international courts and other oversight bodies monitor compliance with human rights. Hence this article is submitted basing on the women rights in India which was discussed in Domestic Violence Act 2005 and also Right to Information Act 2005.

Key words: Domestic Violence, human rights, harassment, infanticide

Introduction

As a recent study showed that for every 26 minutes, a women is molested, for every 34 minutes, a rape take place, for every 42 minutes, a sexual harassment incident occurs, for every 43 minutes, a women is kidnapped, and for every 93 minutes, a women is burnt to death over dowry. A quarter of the reported cases involve girls aged below 16 years. At the same time, a vast majority of cases are never reported. Since the middle of the 19th century, efforts were made to meet every aspect of the lives of these oppressed women, and among them, some steps are, the banning of practice of Sath, female infanticide, child marriage, and prohibition of widows to remarry. The heralding of the constitution of India on 26th January,

1950 provided equal rights for women along with men in exercising franchise, and the adult suffrage extended to women is a step ahead of even advanced western countries.

Prevention of domestic violence bill

The Government of India has enacted some laws to safeguard the interests of women, labor laws are made to make secure the place of work of women, ironically, at the same time, her status in matrimonial home has deteriorated and there has been no choice of effective legal remedy to guarantee her physical safety, mental stability, financial and economic welfare and custody of children though the women in cities do not undergo such atrocities. They are submitted to harassment of domestic violence. Acts



such as, mental abuse, economic abuse, verbal abuse, constitutes domestic violence. The prevention of domestic violence is turning out to be a burning issue all over the world. It is not confined to any socio-economic, ethics, religious, racial or age group. The children who witness violence at home suffer many symptoms.

This background compelled woman activists to prepare a model bill on prevention of domestic violence and submitted the same to the Government of India in the year 1994. The proposal of bill was drafted by Indira Jaisingh, a Supreme Court lawyer along with lawyers collective and a wide range of women groups, who had been dealing with the domestic violence for over two decades.

The main purpose of this model bill was to provide civil remedies to the victims of domestic violence. It is felt that Sec.498-A of the Indian Penal Code, which entails filing a criminal complaint for cruelty and harassment does not taken into account the other kind of harassment, such as, violence, beating, mental torture, deprivation of finances, failure of maintenance, and abuse of children. The Indian Penal Code empowers punishing the guilt of perpetrators of the cruelty within the meaning of Section.498-A, at the same time, it does not rescue the women from a situation of continued violence. The matrimonial law offers little help to the spouse who does not wish to separate from her husband. Women, who have been living in gruesome conditions, due to barbarous traditions, laws in religious practices, require statutory protection.

The Vienna Accord of 1994 and the Beijing Declaration and the platform for Action (1995) have acknowledged that domestic violence is undoubtedly a **human rights issue**. The United Nations committee on convention on elimination of all recommended that State parties should act to protect women against violence of any kind, especially that occurring within the family. The phenomenon of domestic violence in India is widely prevalent but has remained invisible in the public domain. The civil law does not address this phenomenon in it's entirely. Presently, where a woman is subjected to cruelty by her husband or his relative, it is an offence under Section.498-A of the Indian Penal code. In order to provide a remedy in the civil law for the protection of women from being victims of domestic violence and to prevent the occurrence of domestic violence in the society the Protection of Women from domestic violence Bill was introduced in the Parliament.

Domestic violence is undoubtedly a **human rights** issue and serious deterrent to development. The Vienna Accord of 1994 and the Beijing Declaration and the Platform for Action (1995) have acknowledged this. The United Nations committee on Convention on elimination of all forms of discrimination against women in its general Recommendation No.XII (1989) has recommended that state parties should act to protect women against violence of any kind especially that occurring within the family.

The Phenomenon of domestic violence is widely prevalent has



remained largely invisible in the public domain. Presently, where a woman is subjected to cruelty by her husband or his relatives, it is an offence under section.498-A of the Indian Penal code. The civil law does not however address this phenomenon in its entirety. It is, therefore, proposed to enact a law keeping in view the rights guaranteed under articles 14, 15, and 21 of the constitution to provide for a remedy under the civil law which is intended to protect the woman from being victims of domestic violence and to prevent the occurrence of domestic violence in the society.

Domestic Violence Act 2005

The Domestic Violence Act 2005 covers those women who are or have been in a relationship with the abuser where both parties have lived together in a shared household and are related by consanguinity, marriage or through a relationship in the nature of marriage or adoption. In addition, relationships with family members living together as a joint family are also included. Even those women who are sisters, widows, mothers, single women, or living with the abuser are entitled to legal protection under the proposed legislation. However, the act enables the wife or the female living in a relationship in the nature of marriage to file a complaint under the proposed enactment against any relative of the husband or the male partner. It does not enable any female relative of the husband or the male partner to file a complaint against the wife or the female partner. Act defines the expression "domestic violence" to include actual abuse or threat or abuse that is physical, sexual, verbal, emotional or economic. Harassment

by way of unlawful dowry demands to the woman or her relatives would also be covered under this definition.

The Act also provides for the rights of women to secure housing to reside in her matrimonial home or shared household, whether or not she has any title or rights in such home or household. This right is secured by residence order, which is passed by the Magistrate. The Act empowers the Magistrate to pass protection orders in favour of the aggrieved person to prevent the respondent from aiding or committing an act of domestic violence or any other specified act, entering a workplace or any other place frequently by the aggrieved person, attempting to communicate with her, isolating any assets used by both the parties and causing violence to the aggrieved person, her relatives or others who provided her assistance from the domestic violence. The Act further provides for appointment of protection officers and registration of non-governmental organizations as service providers for providing assistance to the aggrieved person with respect to her medical examination, obtaining legal aid, safe shelter etc. The Protection of Women from Domestic Violence Bill having been passed by both the Houses of Parliament received the assent of the President of India on 13th September, 2005.

Right to Information - A Human Right

The Government of India thought that it is necessary to enact a act to provide for setting out the practical regime of right to



information for citizens to secure access to information under the control of public authorities in order to promote transparency and accountability in the working of every public authority, the constitution of a central information commission and state information commissions and for matter connected therewith or incidental thereto. For that purpose Government of India passed Right to Information Act 2002.

There after the Government of India resolved that in order to ensure greater and more effective access to information, it is required that the freedom of Information Act, 2002 must be made more progressive, participatory and meaningful. On this issue National Advisory Council suggested certain important changes to be incorporated in the said act to ensure smoother and greater access to information. After examining the suggestions of the National Advisory council and others the government decided to make number of changes in the law. In view of the significant changes proposed by the National Advisory Council and others, it was decided to repeal the Freedom of Information Act 2002 and enact another law for providing an effective frame work for effectuating the right of information recognized under Article 19 of the Constitution of India.

Conclusion

The important changes proposed to be incorporated, inter alia, include establishment of an appellate machinery with investigating powers to review decisions of the public information officers; penal provisions for failure to provide information as per law; provisions to ensure maximum disclosure and minimum exemptions, consistent with the constitutional provisions, and effective mechanism for access to information and disclosure by authorities etc., in view of significant changes proposed in the existing act, the government also decided to repeal the freedom of information act 2002. The proposed legislation will provide an effective frame work for effectuating the right of information recognized under Article 19 of the constitution of India. This revised act relating to Right to Information was passed in both houses of parliament and received the assent of the president on 15th June 2005.

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