

Uniting Youth Right's & SDG's

PROCEEDINGS OF 3RD ANNUAL INTERNATIONAL YOUTH FORUM ON SDG'S &
HUMAN RIGHTS

Dr. DATCHANA MOORTHY RAMU

Editor-In-Chief

Mr. RAHUL K.C & Mr. HIMANSHU SHARMA

EDITORS

This Book is Dedicated to All Humans who leads their Local Community Towards the Sustainable Development.

Contents

Foreword	vii
Foreword	viii
Preface	ix
<i>Dr. Datchana Moorthy Ramu B.Tech., MA., MBA.</i>	<i>x</i>
<i>Founder – Seceretary General, International Youth Forum, United Nations VForce Leader, UNV India.</i>	<i>x</i>
Biography of Editor-In-Chief	xi
<i>Dr. Datchana Moorthy Ramu</i>	<i>xi</i>
Biography of Editors	xii
<i>Mr. Rahul KC</i>	<i>xii</i>
<i>Mr. Himanshu Sharma</i>	<i>xii</i>
About International Youth Forum	13
IYF2019 Conference Committee	14
Chapter 1 Sustainable Development- in Gender Equality	15
<i>Author: Harini.M, Co-Author: Balaganesan.B</i>	<i>15</i>
Chapter 2 Current scenario of right to food, water, health, education and justice with respect to Indian context	25
<i>Author: Kailas.S, Co-Author: Tom Wilfred</i>	<i>25</i>
Chapter 3 Sustainable Development: Genesis, Advent of Corporate Social Responsibility And Future	35
<i>Author: Merlin Mary Zacharias</i>	<i>35</i>
Chapter 4 Right to Education – Human Rights	39
<i>Author: Akshita Dhiman, Co-Author: Aditya Mahajan, Shubhani Ghai</i>	<i>39</i>
Chapter 5 Marital Rape –An Issue To Transgress The Boundaries Of Private Domain	46
<i>Author: Gnana Deepika.M</i>	<i>46</i>
Chapter 6 Auxiliary Role Of Human Rights Courts To Accomplish Sustainable Development Goals	53
<i>Author: Deepak Chatap, Co-Author: Vaishnavi Somani</i>	<i>53</i>
Chapter 7 The Preferential Justice: Ignorance of Refugee’s Rights	59
<i>Author: Abhijit Harendran Co-Author: Binitha M Abi</i>	<i>59</i>
Chapter 8 Dynamics Of Transgression Of Women’s Human Rights: The Contemporary Legal Framework In India	68
<i>Author: Siddharth Pareek</i>	<i>68</i>
Chapter 9 Rights Of Domestic Workers In India: A Substantive Analysis Of The Indian Legal Framework	77
<i>Author: Awasthi Vinod Co Author: Nandini Praveen</i>	<i>77</i>
Chapter 10 Human Trafficking – Need of the Hour	86

CONTENTS

<i>Author: Roshni. R, Vybavi.S.S</i>	86
Chapter 11 Chernobyl And Bhopal Gas Tradey	95
<i>Author: Aditi Mehta, Co – Author: Arshad Mech Vikraman</i>	95
Chapter 12 India’s Mission Of Providing Clean And Affordable Energy: Analyzing The Prospect Of KUSUM And NEMMP	103
<i>Author: Aryan Bajpal</i>	103
Chapter 13 Human Rights: Rights of Sexual Workers.	112
<i>Author: Chetana Prakash, Co- Author: Prakirti Jena</i>	112
Chapter 14 Rights Of Transgenders.	120
<i>Author: Juny Varghese, Co- Author: Reshmi D</i>	120
Chapter 15 ODF India: A Goal Yet to achieve	129
<i>Author: Adyasha Das, Shreya Srivastava</i>	129
Chapter 16 Human Rights–Aren’t Refugee Rights Human Rights Too?	137
<i>Author: Gayathri N</i>	137
Chapter 17 Sustainable Development Goals -The Path To Social Harmony	141
<i>Author: SR. Asiwani</i>	141
Chapter 18 Human Rights With Respect To Armed Conflict Zones	147
<i>Author: Sonali Jain, Co- Author: Balaji A.P</i>	147
Chapter 19 Step Towards Social Equilibrium - Liberalization Of Women	155
<i>Author: R.G.Nithyaparvathy, M.Nandhitha</i>	155
Special Delivery: Universal Health Coverage: Moving Together to Build a Healthier World Accelerating Political Momentum for UHC2030 Framework.	165
<i>Dr. Chandrakant Lahariya,</i>	165
<i>National Professional Officer, World Health Organization(India), United Nations India.</i>	165
Panel 1: “Empowering Youth in Sustainable Development, Social Equality and Peace through Decent and Sustainable Jobs as well as Civic and Political Participation”.	165
Panel 2: “Role of youth in Achieving 2030 Agenda for Sustainable Development Goals”.	166
International Presentations	166
IYFIndia2019 International Delegates	167



Foreword

In 2013, I met Dr. Datchana Moorthy at a youth conference in India. I remember the photo he shared with me of the dirt road motorbike he used to visit rural communities. He struck me as hands-on and dedicated to working to improving conditions in his community and far beyond.

Yes, far beyond included traveling to Nepal, Taiwan and the USA including the United Nations Headquarters where he participated in conferences with peer-to- peer mentoring.

It was a proud moment in Chennai when they launched the International Youth Forum in 2019 hosting youth from throughout India and around the world.

Real questions. Real issues. Real debates.

With boots on the ground this research reference book helps bridge the chasms between ivory tower academia and stark, unabashed reality.

A handwritten signature in grey ink that reads "Mary Shuttleworth". The signature is fluid and cursive, with the first name "Mary" and last name "Shuttleworth" clearly legible.

Dr. Mary Shuttleworth, Ed.D.

President, Youth for Human Rights International
2019 World Peace Summit for Nobel Peace Laureates:
Medal of Recognition for Social Activism Recipient



Foreword

I am delighted to forward the First edition of *Uniting Youth Rights & SDG's* not because am a Patron in Chief of this International Youth Forum but also because I believe deeply in the educative value of interpretive discussion for all youth leaders, students and Policy makers especially in a democratic society. I also believe that youths at every level and stage of their career can enrich and strengthen their Values by learning the discussion leading patterns and practices presented in this book on SDG's and Human Rights.

It is my hope and expectation that this book will provide an effective learning experience and referenced resource for all type professionals caring for local community, leading to improved Society.

A handwritten signature in green ink, appearing to read 'Amar Prasad Reddy', written in a cursive style.

Dr. Amar Prasad Reddy, B.E., MBA.,

Patron in Chief – International Youth Forum

Advisor to the Minister of State for Health & Family Welfare, Government of India.

Preface

This book addresses several aspects of the law and sustainable development analysed in the existing literature. The editor has tried to demonstrate that the core assumption of sustainable development regimes - that sustainable development maximize certain social benefits over social costs by providing a necessary inducement for the work in public and distribution of goals to 2030 - have several important implications for the society, the standard of care, and the law of standing and joinder. India is not behind any developed country in protecting the sustainable development goals rights where the knowledge-based work is related to sustainable development goals 2030.

Thus, sustainable development has assumed great importance in recent times since its goal function is to promote the things by 2030. It is an essential component of law and the societies growth and social evolution process per se and is also increasingly important for youth to be aware about the goals which UN has decided to be completed by 2030. For developing countries like India & others is an essential component to attract. So, the coming days or maybe we can say years are for youth and era is for securing the or to achieving the SDG 2030.

Some major changes introduced by UN mandated amendments include wider possibilities of SDGs. During this long term of SDGs possibilities rise is also a major issue of concern. In order to achieve these goals race with their foreign counterparts the Indian will have to fight some of its weaknesses. The sustainable development goals (SDGs) are a universal plan for all countries to end poverty, protect the planet and ensure prosperity for all. They are a set of 17 goals which include 169 targets.

They provide a focus for the international community's development efforts until 2030 and are the yardstick by which progress will be measured. They are intended to be tackled as a group rather than individually - the 17 goals are interlinked. Sport and development organizations held their own discussions on the topic, including through an e-debate on sportanddev.org. Much of the conversation focused on how to get sport's contributions to development recognized in the SDGs. Influential organizations such as the International Olympic Committee - which has observer status at the United Nations - also lobbied for the inclusion of sport.

These efforts were a success, with the following paragraph being written on page 10 of the final outcome document, "***Transforming our world: the 2030 Agenda for Sustainable Development***": "We recognize the growing contribution of sport to the realization of development and peace in its promotion of tolerance and respect and the contributions it

makes to the empowerment of women and of young people, individuals and communities as well as to health, education and social inclusion objectives.”

This book is a complete guide to all the issues raised above along with some solutions to the problems being faced in achieving the SDG 2030. The book contains total XIX chapters covering in detail the concept Sustainable Development Goals & related topics to it. I express my gratitude to all those who have helped bringing this manuscript in this shape.

I am thankful to Almighty for providing me the opportunity to pen down this book which can prove beneficial to law students as well as teachers teaching these goals. I am deeply obliged to various authors, whose research papers, articles and reports have been referred by me. I am grateful to all my colleagues, friends and well-wishers with whose support and guidance I could achieve this milestone of publishing my first ever edited book on SDGs. My special thanks to Government of India, State Government of Tamilnadu, International Youth Forum & Youth for Human Rights International for providing such a great platform to students for giving this chance to me. My honoured thanks to all people for guiding my efforts to fructification and obliging my book with his golden words in the Foreword and above all the encouragement and all-round co-operation given to me by them and my colleague & partner Mr. Himanshu Sharma.



Dr. Datchana Moorthy Ramu B.Tech., MA., MBA.

*Founder – Seceretary General, International Youth Forum,
United Nations VForce Leader, UNV India.*

Biography of Editor-In-Chief



Dr. Datchana Moorthy Ramu¹ an eminent youth leader of India and Founder - General Secretary of International Youth Forum, who represented India Multiple times in United Nations Headquarters. He worked with International entities like United Nations, Commonwealth and etc., for the past few years. He also founded Two National and One International Organizations. Dr Ramu has been Awarded Karmaveer Chakra, Bharat Jothi Award and several International Awards for his work towards Empowerment of Youth.

Dr Ramu Pursued his B. Tech from Anna University and M.A, M.B.A from Annamalai University. And Global Diplomacy in University of London. He was an Associate Fellow of Royal Commonwealth Society. He is also a Member of Cambridge University for The Center for the Study of Global Human Movement. Dr Ramu worked as Global Focal Point for Social Media on GPDRR at United Nations Major Group for Children and Youth. Currently Selected as United Nations Advocate for Asia – Pacific for MyWorld2030 and Also VForce Leader for United Nations Volunteer India.

¹ *Dr.R. Datchana Moorthy | Founder - General Secretary of International Youth Forum
datchana@internationalyouthforum.org*

Biography of Editors



Mr. Rahul KC² is a Youth and Social Activist leader of Nepal and Founder President of International Youth Forum and President for Youth for Human Rights International Nepal. While that title is one of respect, he carries another that reflects an even deeper honor: Hero. He was awarded the Human Rights Hero Award at the YHR International Summit in the Year 2014 at Brussels, Belgium, recognizing his missionary-like zeal in advancing human rights education in his country. Mr. KC has pursued his Social Work Degree Program at Purbanchal University, Nepal. He also takes the pride of organizing several international programs for the youth empowerment of global youth.



Mr. Himanshu Sharma³ is a student of the School of Law, Shoolini University of Biotechnology & Management Sciences, Solan, Himachal Pradesh. He has experience in preparing and filing legal documents, such as lawsuits, appeals, and contracts. His proficiency lies in conducting research and analysis of legal problems; interpreting laws, rulings, and regulations for individuals and businesses; presenting facts in writing and verbally to the clients or others and arguing on their behalf. He has authored a total of 9 research papers, of which 5 are published in reputed international journals and 2 are in national journals. He is an active member of the International Youth Forum since 2017 and is currently positioned as the Head of International Volunteer and Secretary of IYF, Chennai.

² Mr. Rahul K.C | Founder President International Youth Forum | Rahul@internationalyouthforum.org

³ Mr. Himanshu Sharma | Head of International Volunteer of International Youth Forum | sharma9697.himanshu@gmail.com

About International Youth Forum

Since 2017, The international Youth Forum (IYF) has become a platform where young people can contribute to policy discussions at the International Platform through their collective ideas, solutions and innovations. The Forum allows representatives of youth-led and youth-focused organizations and networks, youth advocates and others to dialogue with International Policy makers, and to explore ways and means of promoting youth development and engagement.

With 1.8 billion people between the ages of 10 and 24, youth around the world face their fair share of challenges. Whether these challenges are in education or employment, they are highly important and need to be addressed. A proper response to youth challenges needs the involvement of young people themselves in decision-making and political leadership.

IYF2019 which aims to educate and aware young population on the importance and foster their engagement for sustaining peace through Social Equality, Human Rights and Sustainable Development Goals further build their capacities for advocacy on standing for Equality, Justice and Human Dignity.

The International Youth Forum is therefore an important dedicated space to engage in the discussion on how to make globalization work for everyone through the implementation of the 2030 Agenda. This universal, integrated agenda is designed to ensure equitable sharing of the benefits of globalization. This engagement will not only help to deliver results but also strengthen accountability

IYF2019 Conference Committee

Chair:

Mr. Nawabzada Mohammed Asif Ali
Dewan to Prince of Arcot.

Chief Guest:

Dr. C. Vijayabasker,
The Hon Minister of State for Health & Family Welfare, Government of Tamilnadu.

Guest of Honour:

Dr. Amar Prasad Reddy,
Advisor to the Minister of State for Health & Family Welfare, Government of India.

Dr. Mary Shuttleworth,
Founder President, Youth for Human Rights International. (USA)

Mr. Bruce Ferguson,
Founder of Reform Through Education. (USA)

Mr. Rahul KC,
Founder President of International Youth Forum. (Nepal)

Chapter 1

Sustainable Development- in Gender Equality

Author: Harini.M, Co-Author: Balaganesan.B⁴

Introduction

Gender inequality exists in Indian economy and prevails in all walks of life like education, economics and politics. Men always had an upper hand in these fields, and easy to trace out that how deeply patriarchy is entrenched in India. In spite of we have seen gender equality soars to great heights in post-independent era, lots of steps have been taken in numerous sectors of life to bridge the gap between men and women and to bring them up to the same level.

Gender inequalities persist all over the world today. However, the nature and the size of inequalities between men and women are not universal. Women facing gender inequalities in various fields also differ between countries. In India and China gender Inequalities are most obvious in skewed sex ratios resulting by form of son preference. Gender gap or the gender inequality continues to be a huge issue of concern In India, in spite of achieving higher rates of economic growth in recent times. The orthodox patriarchal customs and the norms have relegated women to a secondary status within the workplace and household. The position of India's low ranking on the world economic Forum's gender gap index (GDI), 2014, due to gender inequalities, which scores below average on parameters based on economic participation, educational attainment and health and survival.

Even though there is active participation of women in economic activities, and labor force in contemporary times, for instance in agricultural sector, 74% of labor force consists of women, yet the wage gap between men and women across the Indian economy in spite of active participation of reformists and feminists who is been fighting for equal pay. There is also discrimination of women in terms of credit lending and property ownership. This situation can be drawn back to patriarchal system prevalent in Indian economy. IT is

⁴*Author: Harini.M*

Class: B.C.A., LL.B., (Hons.), Iv Year

University: Tamilnadu Dr. Ambedkar University School Of Excellence In Law

Email: Harinimurugansmiles@Gmail.Com

Co-Author: Balaganesan.B

Class: B.C.A., Ll. B (Hons), Iv Year

University: Tamilnadu Dr. Ambedkar University School Of Excellence In Law

Email: Balaganesan790@Gmail.Com

believed that men are the ones who carry the generation forward earn bread and butter to family, and the role of women is portrayed as they just sustain upon the money earned by men, these are the reasons why women have always been disbarred from their share in the properties

"Lack of gender equality not only limits women's access to resources and opportunities, but also imperils the life prospects of the future generation"

The inequality between men and women is just not intrinsically but also instrumentally important. Over past decades policy makers and scholars have begun to view gender equality as smart economics. This plays a key role in a wide range of development outcomes. By improving women's access to resources and legal standing improves children's education reduces corruption in government and increases in economic growth

"I do not wish them (women) to have power over men; but over themselves."

- Mary Wollstonecraft *A Vindication of the Rights of Women* (1792)

In 1792, Mary Wollstonecraft set out her emancipation of women, education of girls same as footing as boys an end to prejudice against women and women should be evaluated on their own one of the sustainable development goals, set out in United Nations 2030 agenda, seeks to achieve gender equality and to empower all girls and women.

The reason why it's important is, Gender equality is not only a fundamental human right, but a necessary foundation for a peaceful and sustainable world the exclusion of women from opportunities places half of world's population outside realm of prosperous society and economies. By investing empowerment of women, we not only make progress of goal 5 of sustainable development goals, we could be able to make gains on alleviation of poverty and fuel sustainable economic growth.

Hassles

Gender discrimination is one of the prevailing forms of injustice in the record of our world history where many mass movements had taken place in our pre-historical era. Women and girl children are the foremost affected people in gender inequality where many outbreaks are done through violence. Discrimination is done in every sector of employment and education. A pathetic situation is that among 155 countries there exists only one law which impedes better economic opportunities. Around the globe only 23.7% of political seats in national parliament have been allocated and given. Still one among three women are been exploited either physically or mentally in their lifespan.

Eureka

Two decades ago, the adoption made by 189 governments of the BEIJING DECLARATION AND PLATFORM FOR ACTION marked a turning point in the history of women's rights. The progressive blueprint remains a powerful source of inspiration to realize equal opportunities for women and girls.

Much progress has been made in the intervening decades still more remains to be done for ensuring women and children for guaranteed healthy lives, education, and full social inclusion. Around 42 countries, women hold more than 30% seats in national legislature; still girls have no equal educational opportunities as boys in Sub-Saharan Africa, Oceania, and western Asia.

. This is a year of global action where governments will adopt a new set of Sustainable Development Goals, which layout to provide financial stability and a process of being independent women. We share a common ideology which can protect and ensure the development of a world where all people – regardless of their gender, race, religion, age, disability, or sexual orientation – have an equal opportunity to achieve their aspirations.

Critics that continue to engage men are actively vibrant in the fight against gender-based discrimination and violence. Indeed, we should make an opportunity to secure a better future to rise new generation of girls and boys who respect one another and work together to protect the rights of all people. The implications of not providing girls with equal voices, choices, and opportunities affect not just their lives, but the future of the planet. Efforts to promote inclusive sustainable development in inequality are inextricably linked.⁵

Importance of Equality

Gender equality is intrinsically linked to sustainable development because it's vital to realize the human rights. The overall objective of gender equality is that a society in which women and men enjoy the same opportunities, rights and obligations in all spheres of life. Equality between men and women exists when both sexes are able to share equally in

- The distribution of influence of power
- Have equal opportunities for financial independence
- Setting up own business
- Enjoy equal access to education

⁵<https://www.weforum.org/agenda/2015/03/why-gender-equality-is-integral-to-sustainable-development/>

- The opportunity to develop personal ambitions, interests and talents
- Share responsibility at home and
- Completely free from coercion, intimidation and gender-based violence both at work and at home.

Decision-making with regard to issues such as marriage, timing of birth, use of contraception, and recourse to harmful practices (female genital mutilation) stands to be improved with the achievement of gender equality. It is important to acknowledge that wherever gender inequality exists, it is generally women who are excluded in relation to decision-making and access to economic and social resources. Therefore, a critical aspect of promoting gender equality is the empowerment of women, with a focus on identifying and redressing power imbalances and giving women more autonomy to manage their own lives.

Gender equality and women's empowerment do not mean that men and women become the same only that access to opportunities and life changes is neither dependent on, nor constrained by, their sex. It is not only a fundamental human right, but a necessary foundation for a peaceful and sustainable world. Equal access to education, decent work and representation in political and economic decision-making processes are not only rights women should have, they benefit humanity at large.

Addressing of Inequality

Goal 5 aims to eliminate all forms of discrimination and violence against women in the public and private spheres and to undertake reforms to give women equal rights to access ownership of property and economic resources in the up liftmen of women to form a better society.⁶

Targets

- Elimination of discrimination against all women and girls in every aspect of life.
- Eradication of violence against women in public and private spheres which includes trafficking, sexual exploitation etc.
- Exclude all harmful practices such as child marriage, forced marriage and female genital mutilation.

⁶<https://www.sdgfund.org/goal-5-gender-equality>

- To find and value unpaid and domestic work through public services, infrastructure and social protection policies for the promotion of shared responsibility within the household.
- To make effective participation and equal opportunities for leadership at all levels of decision-making in political, economic and public life.
- To educate universal access to sexual reproductive health and reproductive rights.
- To initiate certain measures to give equal rights to economic resources, ownership and control over land property, financial services, inheritance in accordance with national laws.
- Enhancing the use of technology, in particular information and communications, to promote the empowerment of women.
- Adopt and strengthen sound policies and enforceable legislation for the promotion of gender equality and the empowerment of all women and girls at all levels.⁷

“It is time that we all see gender as a spectrum instead of two sets of opposing ideals”

Goal 5 and India

India has reached partially gender equality at the primary education level and on its path track to achieve parity at all education levels, as of June 2019, the proportion of seats in the Lok Sabha held by women has reached 11% but 46% in the Panchayat Raj Institutions. India is also confronting the challenge of violence against women. Most of total crimes reported against women in India were cruelty or physical violence by her husband or his relative. They had identified ending violence against women as a key national priority, which resonates with the Sustainable Development targets of the United Nations on gender equality.

The prime minister’s plans subsequently, specific interventions on female employment, programs on the empowerment of adolescent girls such as

⁷<https://in.one.un.org/page/sustainable-development-goals/sdg-5/>

1. “Beti Bachao Beti Padhao”

This initiative aims at prevention of gender biased sex selective elimination

Ensure survival and protection of girl child

Promote educational and participation of girl child in all sectors

2. “Sukanya Samridhi Yojana “

Ensure the financial independence of women by promoting them to invest in saving schemes that ensures that they achieve their life-long desires like education, employment and marriage to be fulfilled and to attain financial stability in life.

3. “Janani Suraksha Yojana “

This initiative is taken for a safe motherhood under the National Rural Health Mission. They mainly reduce maternal and infant mortality by ensuring institutional delivery among pregnant women.

Gender Gap Report

On December 2018, the world economic forum released the global gender gap report, on the basis of their progress towards gender parity reviewing 149 countries, in its global gender gap index.

All these countries are ranked on the basis of four thematic dimensions - that is economic participation and opportunity, educational attainment, health and survival, and political empowerment.

This year Iceland tops GGI with a score of 0.858, it holds the top spot for past 10 consecutive years.

Highlights of Global Gender Gap Report

As per the report, 68% of gender gap is closed in the world, and it states that it would take 108 more years to close the overall gender gap and 202 years to bring parity in the workplace.

Iceland having closed more than 85.8% of its overall gender gap, it tops the gender gap index 2018.

Gender Gap Index in India

India has got 108th position in the report released by world economic forum. India even got the same position in 2017 as well.

India has improved the wage quality for similar work sub index of the gender gap index 2018

Tertiary education gender gap has been able to close for fully the first time.

In economic participation sub index, out of 149 countries. India has been ranked 142.

In India, it needs more women into senior and professional roles to make more improvement in ranking as per the WEF report

India has widened the gap in health and survival sub index. it continues to rank third lowest in this sub index

India has closed 66% of gender gap and slightly ahead of south Asian region⁸

Measures to Achieve Gender Equality

Discrimination against women and girls is long running and pervasive phenomenon which characterizes Indian society at each and every level. In the past decade, there has been a large decline in female labor force participation from 34% to 27%, while the Indian GDP has grown around 6%. The male female wage gap has been stagnated at 50%. The ranking of India towards gender equality such as gender development index is not that much satisfactory, in spite of fairly raising rates of economic growth.

Steps to Achieve Gender Equality

1. Talk to Women and Girls

The basic reason why we have not achieved gender equality in every realm is that women's and girls' voices are often excluded from global and national decision making. When policies and programs are designed without women's needs central to their foundation, we're setting ourselves up to fail. So, taken women into account while deciding something is vital.

⁸ <http://hdr.undp.org/en/faq-page/gender-inequality-index-gii>

2. Let Girls Use Mobile Phones

Majority of girls in India don't have access to using basic technology such as computers and phones because of infrastructure related challenges and economic reasons. Increasingly we see bans on girls using mobile phones.

3. Stop Child Marriage and Sexual Harassment

If we want girls to be able to complete education, we have to end child marriage. We also have to seriously address sexual harassment of girls. It is one of the insecurities parents give for marrying their daughters.

4. Make Education Gender Sensitive

Even though there has been much progress in increasing access to education, but the progress is slow in improvising the gender sensitivity of education system.

5. Raise Aspirations of Girl's and Their Parents

It is one of the key strategies to change how girl's, families and society imagine what can be and can do. Girls must be given images and role models that expand their dreams

6. Empower Mothers

When mothers are educated and empowered to make choices in their lives, they enable their daughters to go to school and make their dreams come true.

7. Give Proper Value to Women's Work

The unpaid work women and girls do provide the foundation for global economy. We need to concentrate campaign for equal pay for equal work worldwide.

8. Get Women into Power

A global goal of equal representation of women is still a long way off, with only one woman for every four men in the parliamentary houses. A women's voice and her ability to become a leader in her community is fundamental to empowering women.

9. Encouraging Women into Non-Traditional Vocations

Supporting women in nontraditional jobs is crucial in not only making long lasting change in their lives but also help break social taboos...

10. Stop the Violence

Gender inequality allows violence against women to continue unabated. The UN has found that globally, one in three women will experience violence in their lifetime, with most violence against women perpetrated by current former intimate partner.

Areas of gender inequality

“Sustainable development always encourages, how to improve economy and society without compromising the natural environment for the well-being of future generations.”

The development effort for being sustainable and effective is to consider the needs of all people, including those who don't typically won't use it but still have a voice in decision making because of which the gender equality is a critical ingredient in achieving sustainable development. We always promote gender lens in work either explore how to replace unsustainable practices or helping governments develop policies to address inequality which may eradicate poverty and hunger.

IISD works on a number of initiatives to ensure that gender equality and women's empowerment are at the center of sustainable development policies and legislation.

- Voluntary sustainability standard
- Contract farming
- Audits

United Nation Agenda

The main Sustainable Development Goals, outburst in United Nations' 2030 Agenda, seeks to promote “gender equality and empower all women and girls”. According to UN report, 19% of women between 15 and 49 years-old say they had suffered physical or sexual violence by their partner. It not only arises through integrity but also concerns other aspects. Women still don't enjoy the same conditions in the workplace as men and worldwide earn an average 24% less. To address these questions such as forced marriages between adults and girls and adolescents who are still minors, genital mutilation, political under-representation, and guaranteed access to sexual education, UN decided to hold International Women's Day on 8 March every year since 1911.

The theme evolves around “Time is now rural and urban activists transforming women's lives”. The report, 'Turning Promises into Action: Gender Equality in the 2030 Agenda for Sustainable Development', published recently by UN Women, focuses on achieving the Sustainable Development Goals (SDGs) from a gender perspective, in which women

assume a special role. If measures are not taken, it will take another 68 years for salary equality to be reached worldwide.⁹

- The global employability rate of men is 94%
- Employability rate for women it is 63%
- Women make up 23,7% of the members of national parliaments
- Women dedicate 2 to 6 times more hours than men to unpaid activities such as domestic work and caring for other people
- Just 13% of agricultural land in the world is managed by women.

Conclusion

Gender equality is not just the concern of half of the world's population it is a human right, because no society can develop economically, politically or socially when half of its population is marginalized. In homes around the world, women are at the heart of the household's nexus of water, food, and energy and thus often know firsthand about the challenges and potential solutions in these areas. In our conversations with women around the world, we hear about their struggles, but also their ideas, many of which if applied, could facilitate change. Women are the most convincing advocates for the solutions that they need, so they should be at the forefront of decision-making on sustainable development.

“When God Created Humans He Was Thinking, 'Who Shall I Give the Power To, To Give Birth to The Next Human Being?' And God Chose Woman. And This Is the Big Evidence That Women Are Powerful”

⁹<https://www.un.org/sustainabledevelopment/gender-equality/>

Chapter 2

Current scenario of right to food, water, health, education and justice with respect to Indian context

Author: Kailas.S, Co-Author: Tom Wilfred¹⁰

Abstract

Human rights are a set of fundamental rights which are universally adopted by each country for providing a smooth and dignified life to their citizens. Human rights are inherent to all beings regardless of race, religion, sex, caste, ethnicity or any other status. Major struggle for an internationally acclaimed set of Human Rights began after the end of the Second World War and the events of Holocaust which led to the formation of the ‘*Universal Declaration of Human Rights*’ in 1984 by the United Nations. With the passing of time, liberalized thinking of the people gave more importance to the formation and implementation of the rights especially in India.

Our paper specifically deals with few of the basic and fundamental human rights provided by the government of India which include Right to food and water, Right to proper healthcare and Right to education. We also discuss the current scenarios of these rights with relevant statistics and how far does the implementation of various programs applicable to these rights go. Relevant case studies and recent court judgments will be included to impart a better insight into the present situation. Denial to Justice is a gross violation of human rights, hence in this paper there will be a section pertinent to the study on Access to Justice along with barriers and discrimination to Access to Justice faced by the citizens as well as immigrants in India,

Finally, to conclude the paper we develop an integral approach binding Corruption and Human Rights together. The need for such an integral approach is for two main reasons: first, if corruption affects human rights and if so, in what way; second, whether considering Right to Information as a human right will reduce the amount of corruption in the country.

10 Author: S Kailas

Class: BBA. LLB 3rd Year

University: Vellore Institute of Technology School of Law

Email: kannan.3280@gmail.com

Name of Co-author: Tom Wilfred

Class: BBA. LLB 3rd Year

University: Vellore Institute of Technology School of Law

Email: tomwilfred@gmail.com

Furthermore, some propositions shall be put forth for a finer enactment of these rights and relevant program in the country, so as to yield a better lifestyle for the citizens of India.

Introduction

Human rights are the rights available to all human beings irrespective of race, religion, sex, nationality, ethnicity or any other status. They mainly include the right to life and liberty, right to work and education, right to justice, freedom of opinion and expression etc. The universal human rights are expressed by law normally in forms of customary international law, general principles, treaties and several other sources. International human rights law obliges the Government to act or refrain from certain acts in order to protect and promote human rights and fundamental freedom of all human beings. Human rights in India is complicated compared to other nations because of the huge population, widespread property, high illiteracy rate and diverse culture. The Constitution of India provides seven fundamental rights to the citizens of India which are right to equality, right to freedom, freedom of religion, right against exploitation, right to constitutional remedies and cultural and educational rights.

Methodology

Main Theme - Scenario of right to Food, Water, Health, Education and Justice and developing an integral approach with corruption and human rights

Main points

Right to Food, Water, Health, Education and Justice

Barriers and discrimination in access to Justice

Corruption and the RTI act

This paper is solely based on secondary data. All the mentioned data was already published. There was proper analysis of all the statistics, schemes and Judgments mentioned in the paper. The method was found suitable for this article as the main topics discussed are formerly established contents, and surveys and statistics pertaining to the topic was recently conducted

- Major references
- Online library
- NHRC and UN databases
- Articles on Human Rights
- Books

Right to Food

Food is one of the main necessities of human beings and it is necessary for one's survival. The right simply does not mean the physical presence of food but the presence of safe and quality food which satisfies our dietary needs. Article 47 of the Indian Constitution states that it is the duty of the state to raise the level of nutrition and the standard of living and to improve public health. The right to food is not properly utilized in India and reports show that India has been ranked at 103rd position among the 119 countries in the Global Hunger Index.¹¹

In 2013 National food security act was passed and it provides subsidized food grains up to 75% and 50% of the rural and urban population respectively. India's Public distribution system is the world's largest food subsidy program. A big disadvantage of this system was that only BPL cardholders were allowed low cost food grains. Many of the poor families did not have BPL cards and they were not allowed any benefits in this scheme. India also has several other schemes for providing food such as the Integrated child development scheme which provides food benefits to all children under six years of age, pregnant women and lactating mothers, Mid-day meal scheme that entitles food to all students from primary and upper primary school and Annapurna scheme for the indigent senior citizens of 65 years or above who are not getting old age pension.

Starvation death is a huge problem faced by India. The Supreme Court stated that it is the duty of each state and union territory to prevent deaths due to malnutrition and starvation. The main case under right to food is PUCL vs. Union of India.¹² This case was one of the most important case which lead to the inclusion of right to food as a fundamental right under article 21 of the Indian Constitution.

India has a population of over 1.3 billion and is having a tremendous growth rate in population. According to Food and Agriculture organization, around 194.4 million people are undernourished in the country. This means that around 14.5% of the whole population of India is undernourished. According to The State of Food Security and Nutrition in the World, 2019 report, 51.4% of women in reproductive age are anaemic. The report also shows that 37.9% of the children who are below the age of 5 are stunted while 20.8% are suffering from wasting.¹³

¹¹Concern Worldwide and Welthungerhilfe, *Global Hunger Index, October 10, 2018*

¹²PUCL vs Union of India and Others, *Writ Petition (Civil) 196 of 2001*

¹³Food and Agriculture Organization of United Nations, *The State of Food Security and Nutrition in the World, 2019 report*

Right to water

Water is the essence of life. It is one of the basic necessities required for the survival of human beings. Denial of right to water means the denial of right to life. Even though right to water is not stated in the article 21 of the Indian constitution, it can be interpreted that right to life includes right to safe water. It is the duty of the state to provide safe and adequate water.

Continuous water supply is another major problem faced by the cities in India. In 2005 Indian cities with population above one million did not have continuous water supply for more than a few hours. This caused a huge struggle among the people. By 2010 two cities in India, Thiruvananthapuram and Kota started receiving continuous water supply.

One of the main problems faced in India is the depletion of groundwater. The groundwater is depleted approximately in the range of 122-199 billion metre cube. In two or three years the groundwater will be wholly depleted in a number of cities¹⁴ and the only source of water available will be through desalination of sea water. This water will not be as healthy and therefore will violate article 21 of the Indian constitution. The state not only has the duty to provide adequate drinking water but also has the duty to protect the water bodies from pollution and encroachment. In the case of *A.P Pollution Control Board II v. Prof. M.V Rayudu*,¹⁵ the Andhra Pradesh Government allowed a polluting industry to be set up near two main reservoirs of the state. An exemption was provided by the Government for the industry even though it polluted the water bodies. The Supreme Court ruled against the act of the Government and struck down the exemption provided to the industry. The Supreme Court held that the Environment Protection Act and Water (Prevention and Control of Pollution) Act 1974 did not enable to the state to grant exemption to a particular industry within the area prohibited for location of polluting industries.

Right to health and education

The right to health is one of the major fundamental rights of the citizens provided in the constitution in article 21 and the DPSP. We need an efficient right to health to have a transparent healthcare system in the country, to eradicate diseases, address health crisis and improve standard of living, list out problems and crimes in medical industry. Healthcare includes mortality, fertility, nutrition, immunization, morbidity, diseases and the government have to develop an effective framework to address these issues. In the Paschim

¹⁴ According to a report from NITI Aayog, 21 Indian Cities including Bengaluru, Chennai, Delhi and Hyderabad will run out of groundwater by 2020

¹⁵ *A.P. Pollution Control Board (I) v. Prof. M.V. Nayudu*, 1999(2) SCC 718, dated 27.1.1999

Bange ket Mazdoor Samity¹⁶ case the court held that it is the responsibility of the state to provide medical aid to all citizens by widening article 21. Indians spent 55-57% of money in health due to which 63 million people go behind the poverty line. India also has higher disease burden than other countries. The less than five years mortality rate in India stands at 51 per 1000 live births. There is not enough hospitals and medical employees, there is 1million of allopathic doctors for 1.3 billion populations. Among Medical employees in urban areas only 58% had degrees, whereas only 19% had in rural areas¹⁷. Almost 60 billion rupees has been allocated from the budget for healthcare. Some of the important schemes for medical reasons are Rastriya Bal Swasthya Karyakram, Reproductive, Maternal, Newborn, Child and Adolescent Health, National AIDS Control Organization, Pradhan Mantri Swasthya Suraksha Yojana, Rastriya Swasthya Bima Yojana.

Literacy in a country is one of the factors that determine the growth of a country, hence the government has given utmost importance to Right to Education. To promote this the RTE act has been formulated and the scope of article 15 has been widened. The current literacy rate of India is 74.04%. This growth has been the result of great legislations and schemes. The RTE act mandates that education should be mandatory and free.¹⁸ It also regulates the standard of institutions, faculties and facilities provided. Discrimination is also controlled to avoid gender disparities in education. Apart from the RTE act there several other initiatives called the Chhnuti 2018 policy, Meri Lado Kare Padhai, the Vidyalakshmi scheme etc. even after all these implementations there still exist gender disparities in literacy rate, child labor, and illiteracy prevalent in many states. There is a gross enrolment ratio in India where rural illiterate people are unwilling to send their children to school, but rather prefer them to do jobs. According to the RTE act the private schools should reserve 25% of the seats to economically backward students which will be reimbursed by the government,¹⁹ but most of the prestigious schools in the nation are reluctant to do this because of the multi-level corruption present in the government departments as well as among the officials. Due to the mandatory no-detention rule students somehow reach 8th grade and after this they are reluctant to continue their studies. This section requires proper amendments. Many girl children in the rural areas still do not have basic education as parents are unwilling to spent money on education for their female children. This gender bifurcation is visible in many villages in India. Since education is a matter which should not be taken lightly the constitution and the government of India must make stronger provision and schemes to improve the overall condition of the Right to education.

¹⁶ *Paschim Banga Khet Mazdoor Samity & Ors v State of West Bengal & Anor (1996) AIR SC 2426/ (1996) 4 SCC 37*

¹⁷ *Dr. Ankuran Dutta, Dept of Communication and Journalism, Gauhati University*

¹⁸ *Section 8, Right to Education Act 2009*

¹⁹ *Section 12(c), Right to Education Act 2009*

Right to Justice

Right to justice is one of the important and inalienable right provided to the citizens of a country, and India too has its own array of laws and articles which ensures that all respected citizens of the country has access to equal justice and none is prejudiced based on any conditions. The constitution of India provides certain articles like Article 14[2] which ensures equality before the law and equal protection from the law and article 39[A] mandates the state to provide access to justice for everyone irrespective of the prevalent inequalities present. The phrase ‘Access to justice mainly is based on two ideologies

- The prevalent system must provide access to all
- It should be fast, fair and viable.

However, due to the severe dysfunctionalities and deceit present in the judicial system, the ordinary citizens have the right to Justice violated on several occasions. The intense resistance to change, inability to deliver swift and viable justice to its citizens poses a huge risk and threat to the law and protection of the fundamental rights.

Barriers to Justice

Regressive laws and violations by the police

India is one of the countries which still hold onto the colonial era laws like *the Police Act 1861* and the *Prisons Act 1894*, even though amendments have been made to these laws, it still is not based on the latest democratic framework and constitution of India. There is no efficient and enforceable replacements for this colonial era laws.

The Police force is constantly connected with custodial torture, death, rape, corruption and ignorance of facts. Procedural codes are violated from time to time and this results in the society vulnerable to police brutality and corruption. The police force in a state is governed by the *Police Act 1861*, but after the judgment of the Prakash Singh²⁰ case the court has ordered the state and UTs to form their own laws to regulate the police force modelled on the *Police Act 1861*. But alarmingly the state laws formed have been found to be more regressive than the *Police Act*. States have sanctioned statutes which support the ill actions of the police. States tend to enhance the power enjoyed by the executive over the police, thus plaguing the ill furthermore. Respective state legislations enhance police power without any restrictions and have diluted the supervision on them. Growing powers of the police force has led to an increase in the custodial torture of the accused and the witnesses, which in turn hamper the passing down of proper justice to the grieving party. From the year 2015 the number of people affected by custodial torture has been more than 750 and

²⁰ Prakash Singh & Ors vs Union Of India And Ors, writ petition 310 of 1996, 22 September, 2006

the number of deaths in judicial custody has, alarmingly over 4500. Thus, this reformative policy is turning out to be downtrodden and ineffective in serving Justice.

Judicial Delays and Inadequacy of legal Aid

The high pendency rate of cases has made huge negative impact on the judicial system and the economy of the country. One of the biggest obstacles for the investment cycle and economic growth in the country is the slow settlement of economic cases in the country. This lead the way for improper dispute resolution, contract enforceability which in turn demotes investment and growth. In a recent survey it was revealed that West Bengal, Odisha and Bihar more than 50% of the cases in the lower courts are pending for more than 3 years and almost all the High Courts have a pendency rate of more than 36%, but comparatively western states have lesser pendency rates than eastern states.²¹ Such high rates might be because high courts nowadays are welcoming writ petitions more than ever. Also, there is a huge vacancy of judges in our courts. There is a vacancy rate of 37% in high courts and 25% in lower courts.

Legal aid is provided to the citizens under Article 39[A], order XXXIII rule 18 of CPC and the legal Services Authorities Act. But according to Manisha Tuple²² a lawyer in Mumbai “Legal aid work is almost neglected on the ground and there is simple no judicial and political will to implement it”. Illiterate people are pushed to pay and people are made to run between offices for months for a lawyer. The offices are plagued with corruption which makes the lives of the citizens tough.

Prison

Prisons should be core of reformation in a country, but it has been the exact opposite in India. Indian prisons do not meet the standard given by the International Covenant on Civil and Political Rights, 1966, the UN Standard Minimum Rules for the Treatment of Prisoners, 1955, and the UN Directive on Basic Principles for the Treatment of Prisoners, 1990. Overcrowding, inadequate resources and improper monitoring all account to these issues. Prisons were severely overcrowded with an occupancy rate of 114%. Among these 67% of them are undertrial prisoners who suffer because of the lack of swiftness in providing justice. Indian jails are also highly underemployed when it comes to medical professionals in jails. Indian jails were 38% short of medical staff. Another important unjustifiable situation in India is the children of prisoners.²³ By the end of 2015 UP, West Bengal, MP, Bihar and Jharkhand had the highest number of children living with their mothers in prison. “Women prisoners with children have very little say in how they are

²¹ liveMint, *India's next generation reform must begin in courts*, 18 June 2019,

<https://www.livemint.com/news/india/india-s-next-generation-reforms-must-begin-in-courts-1560838699823.html>

²² She is a prominent lawyer working in Mumbai who deals with pro bono cases privately through NGOs.

²³ A study called *Every Life Matters* conducted by NDTV in 2015 highlighted the issue of children growing up with their mothers in prisons and their condition.

treated,”²⁴ The issue here is far bigger as these grow up in a condition which deteriorates their character and change them into future delinquents.

Discrimination in Access to Justice

Even though there is plethora of laws and articles which ensures equal access to justice for everyone, there still remains the huge area of discrimination shown towards various diverse sections of the society. This article particularly focuses on the discrimination suffered by women, refugees, LGBT community.

Women

Women have to deal with problems with problems from the family to the workplace. 29% of all the women face violence from their intimate or sexual partners. With many amendments and safeguards rape still accounts for 10% for all reported violence against women. Even girls below the age of 18 are subjected to sexual violence. Human trafficking and forces prostitution have also climbed over the 2500 mark in 2015.²⁵ Reporting sexual violence is an important task in access to justice, and many women in India still lacks the courage to do so or the officials re not acknowledging their reports. Officers are not sensitive to the unique barriers that women face in reporting sexual violence which makes interaction difficult. Often family members are not supportive of their decisions. The lack female officers also strengthen this issue. There are situations when women with disabilities find it difficult to communicate with the officers. Also, many police officers are not trained to deal victims coming under the POCSO act. Medical examination can be valuable for women in obtaining the right justice and delay in this will reduce the chance. Navigating the judicial process is one tough step for women especially women who are illiterate or belong to the SCs or STs. Proper legal aid is not provided to them.

Refugees

India has a very influx of refugees, which makes it an ideal destination for refugees from the neighboring countries to come to. There are refugees staying all over the country. The current status as of now is that there are 120,000 refugees remaining in India.²⁶ Even though these refugees do not have the same fundamental rights as the citizens of India, they should not be violated of the basic necessities and the basic human rights. These are people who came for a safe asylum in our country and most of the time our own citizens treat them with disregard. India does not have any laws regarding refugees and they have not signed the 1951 refugee convention. These disparities in laws make it difficult for them to file a case or go for judicial remedies

²⁴ Quoted by Sukanya Shantha, a researcher in Amnesty International in May 2016.

²⁵ Global database on violence against Women, Statistics of the National Commission for Women on violence against Women, United Nations.

²⁶ This number includes Tibetans, Bangladeshi and Afghan refugees, Sri Lankan Tamils, Rohingyas all over India

LGBTQ

Even after reformation of article 377 the LGBTQ community still faces discrimination in access to Justice. They are mocked or harassed by the officers in charge, their issues are not given proper importance by the authorities. Human rights violations associated with housing included discrimination in accessing rental accommodation, harassment and violence by landlords and by families, anti-beggary laws²⁷ and arbitrary evictions. There is no proper representation for them to address their issues in the public forum. The Indian government has not consistently met its constitutional and international obligations to guarantee the rights of LGBTQ persons. There is no single law or policy solution to ending long-standing and systemic discrimination.

Corruption and Human Rights

There are two questions relevant in this context;

If corruption affects human rights

If so, in what way?

Corruption affects human rights as it is an abuse of power and breach of trust. There is similarity in upholding human Rights and abolishing corruption. A government which lacks transparency is full of deceit is bound to be unfaithful to its citizens in fulfilling the Human rights. Corruption also forms a hindrance in getting issues resolved to the citizens relating to fundamental rights. A barrier of discrimination is also formed when corruption takes place, certain communities have their rights taken away and is left to struggle for their rights. Abuse of power causes ill treatment of the people and forms partiality between the poor and the rich in matters human rights. Day to day news-paper articles talk about how the minorities, poor and rural people struggle to obtain food, water, justice. Corruption takes away half of these privileges from the weaker section.

One of the major ways through which corruption can be tackled in India is the active and effective implementation of Right to Information Act 2005. Arena Roy, a social activist said, "India 's RTI Act as the most fundamental law this country has seen as it can be used from the local Panchayat to parliament from a non-descript village to posh Delhi, from a ration shop to the 2G Scam"

The RTI promotes transparency and accountability to the authorities

It gives the citizens a right to access information under the control of public authorities

Decision making process

Involves the citizens more into the actions and schemes of the government

27 Article 21 provides constitutional safeguard against beggary. There is section 363A in IPC against beggary by minors. Apart from these there are also state legislation against beggary

Helps to find out disparities in implementation
Helps to know the efficiency of the government
Escalate awareness about the government programs
Ensures strengthening of government-public relation

Conclusion

Hence, we conclude that the RTI act can help in reducing the corruption in the country which can ensure better implementation of the schemes relevant to the human rights of a citizen. Also, people must push their elected representatives to show better accountability towards the citizens. The parliament must introduce efficient anti-corruption laws and better schemes that will help the citizens get access to amenities like food, water, health, education and justice, thus improving their overall lifestyle.

Chapter 3

Sustainable Development: Genesis, Advent of Corporate Social Responsibility And Future

Author: Merlin Mary Zacharias²⁸

Introduction

Commerce is rapidly progressing over the years and this expansion has raised the level of performance, leading its way to the money-dominating age. Enterprises are approaching modern strategies to acquire more profits. In the course of this present-day effort, energy and efficiency are put together to increase the organizational wealth and accumulation of resources. The enterprises with most wealth and potential attain the topmost position in the economic charts and they are considered to be powerful in the present era. Unfortunately, the greed for economic growth doesn't certainly help you top the social development.

In Vedic mythology, business was always an unavoidable part to create prosperity in the society. The teachings prioritized on embracing ethics while approaching and meeting the needs of the society. The teachings were always community oriented instead of individual success and always promoted to cooperate with each other and to never be resentful on others success. Today, those teachings have faded in front of the bright aggressive growth in the economic field. With internationalization at its peak, the pressure of competitiveness is flooding.

Veda urges for minimum consumption, accumulation, mutual cooperation with attention to natural harmony but with fast paced growth everyone wants centrality of resources for business growth. It also accentuates on the free flow of money rather than accumulation. Therefore, the welfare of the resources in the society is a vital responsibility for the business enterprises. Thus, what we put into the universe is what we get back multiplied.

Vedic economic concept always focused on the allocation of resources and wealth equally. There governing principles related to the economy is to not have an unfortunate effect on fellow mates, not to cause any physical harm, money should not be seized from others, money should be earned righteously. As mentioned before there should always exists a

²⁸ Author: Merlin Mary Zacharias

Class: B.B.A, Ll. B, 3rd Year

University: Vellore Institute Of Technology, School Of Law
Chennai

Email: Mmzach27@Gmail.Com

continuous free flow of money, resources and opportunities and if any interruption exists then it can hamper the objective of ultimate equal prosperity.

Advent of Corporate Social Responsibility (CSR)

In India, as culture, values played a vital role in the society it also played a significant role in the development of the concept of CSR (Corporate Social Responsibility). Corporations have used concepts of CSR to attain high business performances by setting a positive impact on the community, society, values, culture, and nature. CSR has come into existence since Vedic times and India is considered to be the oldest country to practice it. Today with globalization and industrialization our old teachings and ethics are prevalent in the modern world as a concept called 'Corporate Social Responsibility'.

The era of pre-industrialization saw the foundation of many temples and idols which were used to worship and overcome the challenges such as famine and various outbreaks. These acts of charity and philanthropy led to the growth of the concept called 'CSR'.

During the independence movement period industrialists were under worry, tension and pressure to commit themselves towards the growth and progress of the society. The beliefs of Mahatma Gandhi strengthened and motivated the various industrialists to act towards attaining socio-economic development.

With the emergence of laws for the protection of labor and environment, this era was termed as an era of 'command and control'. With the rise in public sectors, their main aim was to provide an equal and fair distribution of resources to everyone. During the phase of liberalization and privatization in 1990's Indian corporations tried to attempt a sustainable business strategy by letting loose of old traditional CSR concepts and activities. The end to 'License Raj' boosted the Indian economy which helped in attaining the momentum in the economy resulting in rapid growth in Indian companies.

Concept on Sustainable Development

Sustainable development was always compared to the environmental issue. In developed countries, sustainable development is directed towards economic growth, natural resources, and biodiversity. From past experiences, we have clearly understood that economic crisis and environmental issues go hand in hand. The responsibility on who should act towards sustainable development was always a shifting question from government officials, civil workers and finally to the company officials themselves. As a

consequence of globalization, various multinational companies have come forward to walk in the path of sustainable development.

Sustainable development is the development that meets the needs of the present without compromising the future generations own needs. The significant objective of sustainable development is to provide the basic needs of human beings such as food, clothing, and shelter and satisfy their aspirations. It should always ensure that the majority of people's needs should be met as well as people with special needs should also be satisfied with special priority.

Oncept Of Corporate Social Responsibility

Corporations take into account the impact they cause to the environment and society. They analyze this impact and tries to bring a favorable solution to this effect. Along with taking account of the impact on environment and society it also takes into account the interest of the shareholders and stakeholders, as every participant of the company has a responsibility towards the society. Apart from corporate satisfaction, it also takes into account of ethical behavior which respects the ethics, values, and interest of the individuals and the communities. In other words, Corporate Social Responsibility is the modern expression to express business ethics in corporate business. Majority of companies takes CSR in the form of charitable activities which aims to achieve benefits for society and environment without disorganizing the business model. Examples of sustainable initiatives are providing health care to the employees, providing training or extensive education, etc.

Relationship Between Sustainable Development And Corporate Social Responsibility

In the beginning of the enterprise's and company's arrival they didn't play a vital role in the field of sustainable development but around the 1990's they had a crucial role in performing sustainable development. By 2000, contribution towards sustainable development was stressed as a duty of corporations and as a corporate social responsibility.

Enterprises are increasingly undertaking greater responsibilities to promote and administer self-regulation in ensuring minimum impact on health and the environment. This ethical management of processing products has helped in minimizing waste and encouraging in reuse, recycle and reduce the impact on the environment and society. With various government initiatives and international organization partnering, many companies are implementing different initiatives to develop sustainably. Companies should have a check

on the impact caused by the companies on the environment due to consumption of resources.

Preventive strategies are more efficient as well as economic and environmentally friendly. Therefore, responsible preventive measures and strategies should be adopted in protecting the environment and proceed sustainably.

Large scale businesses should strive to partner with medium scaled business and small scaled business for market and technological development.

Current Status of CSR In India

With emergence of globalization, many companies lacked in making efficient guidelines towards sustainable development. Since time immemorial CSR lacked a definite structure and definition. There should always exist a corporate social responsibility committee in order to evaluate and formulate policies to undertake activities in the company, to recommend specific expenditure for various activities and to monitor different corporate social responsibility policies

The board of the company should take into account all recommendation to make any shift or change in the corporate social responsibility policies, acknowledge the need of stakeholders and shareholders, employees, communities and customers and once the new policies are approved it should be uploaded in the company's website to ensure all employees are aware of the newly approved policies. The board of the company should make sure that they work towards their corporate social responsibility policies.

Chapter 4

Right to Education – Human Rights

Author: Akshita Dhiman, Co-Author: Aditya Mahajan, Shubhani Ghai²⁹

Introduction

The main text of this paper focuses on the various laws enacted by our government and the awareness about them and whether these laws are serving their real purpose or blemishing the quality education. We have tried to highlight the ground realities of the various laws and what are their psychological effects on the students, parents and teachers.

Right to Education is one of the primary Human Right. The present scenario of our country is such that basic needs are not being fulfilled. Statistics from FAO state that 195.9 million people are undernourished in India. Hunger being most serious problem other vices like Corruption, Malicious Activities, Mob Lynching, Communalism add up to the fact that Laws are neither respected nor enforced in India.

These problems have their roots repressed deep inside the system that has been developing over the past hence to work against them is not an easy task. To eliminate these problems, one has to work on the grass root level that requires strengthening our six basic fundamental rights (right to equality, right to freedom, right against exploitation, right to freedom of religion, cultural and educational rights, right to constitutional remedies). And to strengthen them one has to work on Right to Education. Because education is the only key to unlock the doors of awareness in our society.

Although our government is working on this subject but the concern still remains unsolved, Why? The answer is well known that our government works on Quantity Education and not on Quality Education. This gives rise to one question, “Are laws enacted by our government advantageous for our education system?”

²⁹Author- Akshita Dhiman

Class- B.A 2nd Year

Government Post Graduate College, Dharmshala (Himachal Pradesh)

Email- akshitadhiman001@gmail.com

Co-Author- Aditya Mahajan

Class- B.A 3rd Year

Government Post Graduate College, Dharmshala (Himachal Pradesh)

Co-Author- Shubhani Ghai

Class- B.A 2nd Year

Government Post Graduate College, Dharmshala (Himachal Pradesh)

The research focuses on answering these questions and other queries like:

Ground realities behind the present order of education system.

Awareness about Act to Education in general population by keeping in different accounts.

The laws introduced in RTE and their effect on the education system on practical basis.

Ground Reality

India is a vast country with a population of 1.3 Billion people. In this country of diverse cultures and backgrounds Kerala is ranked as the most

literate state in the country with a literacy rate of 93.91%, while Bihar as the least literate state with a literacy rate of 63.82%.

The Majority of the people who undertook the survey claim to know the RTE act but the results showed otherwise that is, most of the people are still unaware.

In the state of Bihar, majority of the fathers in a family work as laborers with no guaranteed daily wage or food. Majority of the citizens of Bihar are also unaware of the free and compulsory education provided by the govt. for 6-14 years old. And some among the minority who are aware of these refuses to send their kids to school because of high unemployment rates of Bihar and low certainty of a school kid securing a job.

The schools we visited, not all govt. schools abide by the laws made by the govt.

The Govt. in 2013 spent 3.8% of GDP on education sector whereas Kothari Commission recommends to have 6% of GDP allocated for education.

In H.P (focus of survey on H.P) before the amendments were made to No Detention Policy in 2019 [4]. The govt. teachers interviewed revealed that some of the students in 9th class doesn't even know how to spell their names in English, and majority didn't know how to write basic English words like fruit, juice, etc.

Majority of the govt. teachers are still unaware of the new amendments made in RTE regarding No Detention Policy in 2019.

Parents living on a less income resort to substance abuse to deal with their emotions, anxieties and stresses in life. These coping behaviors further leads to other coping behaviors, among these coping behaviors (defense mechanisms) the most often used are projection and displacement which is the cause of domestic violence and proves to be an unsafe environment for kids even at their homes.

Kids at a very young age are exposed to harmful behaviors such as substance abuse, physical abuse, emotional abuse, etc. These behaviors are detrimental to their emotional health which leads to high stress and low performance in school.

Literature review

The Right of Children to Free and Compulsory Education Act or Right to Education Act (RTE) is an act of the Parliament of India enacted on 4 August 2009, which describes the modalities of the importance of free and compulsory education for children between the age of 6 to 14 years in India under Article 21A of the Indian constitution. It came into force on 1 April 2010.

Various studies have been conducted in the field of Right to Education and Right to Education awareness. A study conducted to analyze the awareness of primary school teachers towards Right of Children to Free and Compulsory education Act, 2009 revealed that the awareness among teachers towards Right to Education Act was affected by their gender. Also, a study conducted in the districts of Doaba and Malwa

regions in the state of Punjab to find out the level of awareness among the parents of children belonging to economically weaker sections of the society about the Right of children to Free and Compulsory Education Act revealed that parents residing in urban areas had significantly higher levels of awareness than the parents residing in rural areas. A research conducted by Ms. Shruthi Raman and Ms. Kritika B S (2017) regarding implementation of the Right of children to Free and Compulsory education act, 2009 revealed that the key stakeholders who are responsible for the implementation of the act are neither aware of the act nor of their roles and responsibilities under the act. Along with this there are many reasons for bad quality of education in India like shortage of teachers, lack of innovative practices of teaching, overburdening of teachers with non-teaching work, lack of sensitivity towards children and their needs, lack of basic amenities, lack of awareness among parents about their duties etc. According to Annual Status of Education Report (ASER) 2019 one out of every Class 8 student in rural India is unable to read even a Class 2 text. And over one in two Class 8 students cannot solve a problem that involves basic division. Only a little more than half of all children enrolled in Class 5 can read a Class 2 level text. The figure was 47.9% in 2016, and it rose to 50.3% in 2018, courtesy an improved performance by Himachal Pradesh, Uttar Pradesh, Odisha, Chhattisgarh, Karnataka, Kerala, Arunachal Pradesh and Mizoram, according to the survey of ASER

Research Report

Overall review of the research:

The questionnaire contained 20 questions related to awareness of RTE.

The questionnaire was filled by people of age between 15 to 45 years.

The total number of respondents were 87.

The data show that out of these 87 respondents 43.7% went to government schools for their primary and secondary level education while 39.1% went to private.

The rest 17.2% went to both.

The respondents between age of 20-23 years who were either graduates or post graduates had maximum number of right answers as compared to other age groups.

Based on family incomes of the respondents, those with high family incomes had a negative attitude towards government schools.

56% out of the total respondents were not aware about the new changes in the RTE.

Most of the respondents who had their primary and secondary level education from government schools were not aware that according to various RTE provisions a pupil should be provided with basic facilities like libraries, free books, free uniform, separate toilet for boys and girls etc. in government schools.

54.2% of the respondents didn't know that education in India is free for children between the age 6 to 14 years. 7.1% think that it is free until the student complete his education, 21.2% think that it depends on the socio-economic status of the family while 25.9% think that it is not free. Only the rest that is 45.9% are aware of this fact.

25.9% of the respondents were not aware that education is also compulsory for 6-14 years old children in India.

Suggestion

Children are highly receptive until the age of 7, and they will adapt to whatever environment they are brought up in - learning the intrinsic ways, and behaviors of the people in their environment. In these crucial years the children in poor families are abused and traumatized frequently. They suffer from malnutrition; hence their bodies don't develop well and their brains remain inefficient due to lack of nutritious foods.

As humans, our basic and most important priority is survival. When our basic necessities of survival like food is not being met, and when we don't even know if we could even

survive a month, it is highly unlikely to think ahead 10 years in the future. And this is the case with poor families, as they don't have the money to even feed their family properly. For some families, it 5

is hard enough already to even feed every member in the family, even with all the members working as laborer's, and kids doing what little they could by begging or working. In family situations like these, even with all they can do, it is still not enough. Yet we ask of them to be aware, know their rights, and fulfil their duties but how can they worry about anything else if their basic needs are not even being met and the grown-ups in the family have to resort to subduing their ever-growing pain by drugs because the pressure is too much to bear. These people live in constant fear, and have lost all hope that their lives can get better; that they can quit addictions; that even their children will see better days.

So, to tackle this we purpose two solutions: One in schools and the other for the family. The two places where the students spend most of their time.

For School: The govt. schools today focus on passing as many students as possible; Quantity. And not much upon how well the student learns; Quality. Children and teenagers are more sensitive to emotions than adults, hence they feel more intensely and get hurt easily. Teaching emotional intelligence in schools especially in govt. schools (because of the frequent emotional abuse in majority of families) is very crucial for the child to show up well in adulthood. By learning how to handle failures, setbacks, heartbreaks, suicidal thoughts, managing temptations, controlling anger, self-care, and optimizing performance in academics and in life. By learning how to manage emotions, the child will have better control over their reactions and decision making. As the child will not be swayed by emotions easily and will have better impulse-control. Teaching emotional intelligence at least twice per week in schools is recommended.

For Family: Aside from the reason mentioned above, another root cause of willful ignorance among majority of the poor is that they have lost hope for a better future: for themselves and their family. And then because they have lost all hope, they believe that it is pointless to try and act, because it will reap no rewards. So, no efforts to learn, and educate themselves.

So, to really change our education system and how much quality it brings to the lives of the learning students, in hope for a better future. It is crucial that the mind-sets of the family are improvised over time, as parents' influence on their child's personality is evident, as proved by many researches in the past.

And, to do that. We suggest an experiment:

12 Food facilities situated across 12 different states in India ordered in descending order of the literacy rate in India. The purpose of these facilities is to provide breakfast every day to the poor families and citizens. The No. 1 reason for choosing breakfast is that after having full bellies with a healthy protein rich breakfast, the brain of these people will be

more inclined to think about other important things other than food. No. 2 reason is that it will keep their bodies well fed for the better half of the day, hence less exhaustion and no more displacement of their anger on their kids. No. 3 reason is that if instead of breakfast, they are given dinner, they will sleep well but wake up hungry in the morning and won't be able to do much productive work.

The food facility will be open only from 7:00am - 9:00am and will not serve afterwards. This encourages them to be punctual. As being late will not be rewarded, hence a probable change in the behavior soon. During these two hours, the only thing that will be played on speakers is podcasts, and top news headline that every citizen needs to be aware of. The podcasts will be in the local language to communicate well with the citizens. These podcasts will include self-development, productivity tactics, ensuring the strength in character, emotional health, biographies and success stories of people who made it big despite their circumstances, and most important of all – child psychology, and how to raise children properly. All these topics mentioned above work together intrinsically, complementing one another to ensure that if some parent/citizen is not ready to accept new beliefs in one area, they will be able to change some of their perspectives in others. The facility will be under strict no smoking, alcohol, pan policy and violators will be banned for a week to ensure that rules are not broken and citizens learn to respect the boundaries set by the facilities.

Taking a hypothesis of an average person eating in the facility every day for a month. During the 20 minutes breakfast that this average person will spend eating here, they will learn something. In 30 days of learning something, this person is likely to find at least one thing interesting and is likely to try it. Possible outcomes of this is either success in getting the result, or failure. If the person succeeds, the method is repeated, which will lead to a habit, and a very likely behavior and perspective change in that field. However, if that person fails, they are either going to give up or look for solutions; in any situation, the person would have found something useful in the podcasts in the follow up day or the days to come in the future. Hence repeating the loop. As the loop gets repeated, the probability of a breakthrough increases, until eventually, some day in the future they breakthrough, which will lead to hope, and faith that the information is valuable. And once there, the word of mouth will spread, encouraging the society to try, test, fail/succeed, and repeat, until breakthrough. And then the loop begins all over again. The suggestive period for this experiment is 5 years, even though significant quality changes would be afoot in the first 3 years in most families and their children.

During this time, families' behavior must be observed for 3 days, observations held monthly, where changes in the families' behavior, emotional, and physical health are being tracked.

This makes sure that the progress made by a child in learning and growing as a human is not hindered, as the families grow more understanding and supportive rather than detrimental and abusive.

Conclusion

The data collected shows that most respondents were unaware about Right to Education. Although most of the respondents were educated yet the results show that the laws in India are neither respected nor enforced. This conclusion can be withdrawn keeping in mind the answers given by respondents. It is a common site that the citizens are unaware about the rules made by the government and the same was seen in the case of Right to Education.

Chapter 5
***Marital Rape –
An Issue To Transgress The Boundaries Of Private
Domain***

Author: Gnana Deepika.M³⁰

Abstract

“I say nothing, not one word, from beginning to end, and neither does he. If it were lawful for a woman to hate her husband, I would hate him as a rapist.”

— Philippa Gregory, The Red Queen

Sexual intercourse between the spouse's sans consent amounts to marital rape which is considered to be a discrimination against women as per the convention on the elimination of all forms of discrimination against women and declaration on the elimination of violence against women 1993. Marital rape is being criminalized in many countries, however in India it still continues to be a great menace to women as the Indian Penal Code exempts unwilling sexual intercourse between spouses above fifteen years from Section 375's definition of "rape". The Constitution of India guarantees right to life and right to privacy to all individuals in India where marital rape would amount to infringement of the fundamental rights. Various International and National conventions and acts are being introduced and amended for criminalization of marital rape. In a patriarchal society and a male chauvinistic society, the women are always considered as machines to produce babies. The National Family Health Survey stated that 31% of married women have been subjugated to physical, sexual violence at the hands of their spouse.

Lawyers and various NGO's have filled petitions to protect the safety of the women and have toiled to make marital rape a criminal offence. The United Nations has directed all the State Parties to take appropriate measures to eliminate discrimination against women and ensure that they are not deprived of any rights. In UK the sexual assaults are dealt

³⁰ **Author(s):** M.Gnana Deepika

Name of the Institute: School of Excellence in Law

E-mail Address: deepikamurugavel97@gmail.com

Class: 5th year of BBA.LLB (hons)

under the Sexual Offences Act, 2003 and USA spousal rape is criminalized and hence there is a need for a specified law for criminalizing the sexual assaults against women in India.

Introduction

Sexual intercourse between the spouse's sans consent amounts to marital rape. It is one of the worst domestic violence against women. Women nowadays face coercion within their relationship. It causes serious health and mental problems. Nearly 36 countries do not criminalize the marital rape. India is also one of these 36 countries which do not criminalize marital rape.

*Maheshbhai Bharathi desi v. St of Gujarat*³¹

The HC of Gujarat defined the term marital rape in this particular case. Marital Rape Refers to unwanted intercourse by a man with his wife obtained by force threat of force or physical violence or when she is unable to give consent .it is a non- consensual act of violent perversion by a husband against wife where she where she is abused physically and sexually.

The three kinds of marital rape:

Battering rape: In this case the women experience mental and physical violence where the men want to and coerces with his wife for sexual intercourse against her will.

Force only rape: Here the man uses the necessary force to coerce with his wife.

Obsessive rape: These assaults involve torture and pervasive sexual acts and mostly involve physical violence.

It creates a long-term impact on the victim. The victims are abused either verbally or physically which will psychologically affect them. Marital rape is not only a serious violence against women it is also violation of a person's personal freedom and liberty. Rape is being criminalized however marital rape is excluded which causes a great menace to the womanhood who suffer various kinds of torture at the households.

When God created man and woman, he was thinking, 'Who shall I give the power to, to give birth to the next human being?' And God chose woman. And this is the big evidence that women are powerful

-Malala Yousafzai

³¹ Criminal Misc. Application Nos. 26957, 24342 of 2017 and R/Special Criminal Application No. 7083 of 2017

The ability to give birth to a child is given and is gifted to women. However, it cannot be forced to be done against the will or consent of the women. No person can be forced to have sexual intercourse with their partners. Though a non-criminalized offence it is high time that we all support women for all the tears and the cruelty they have undergone by their opposite partners. Ravishing women is the worst crime that every man could do on this earth. Most of the cases are not established as marital rape is never considered as serious as the other rape committed by a stranger. They are mostly not reported because of fear of husband the family reputation and the societal pressure.

But now there is a need to recognize the need for a new legislation to criminalize the marital rape to protect the modesty of women and to stop outraging the dignity of women.

Human Rights and Marital Rape

Human rights are standards of human behavior that are protected regularly as an inherent and a natural right. Any deprivation of such human rights is an offence. It is inherent right of all the human beings regardless of the sex, religion, caste, etc. It includes right to life and freedom without any discrimination. Protection of the rights of women is an important aspect of human right. According to Jeremy Bentham the function of law is to liberate the individual from any kind of deprivation of freedom and human rights. According to him “the end of the legislation is the greatest happiness of the greatest number”³²

Crime has effect both on the victim and the society. The marital rape has various effects on human rights both directly as well as indirectly i.e., the fundamental right for a healthy living is affected because the women undergo various reproductive health issues and also miscarriage, stillbirth, pre-term delivery and low birth weight babies. Women may suffer isolation, inability to work, loss of wages, lack of participation in regular activities and limited ability to care for themselves and their children³³.

It is a basic morality that every husband and his family should treat a woman as a human being. She should be permitted to enjoy the basic human rights.

Social and Interpersonal intimidation

Marriage is one of the essential institutions of society. And it is considered to be important for the procreation of children. But a question arises if that would give a husband the liberty to torture his wife. However sexual intercourse between the husband and wife is an integral part of a marriage and is considered to be one of the chief aims and objects of the marriage.

32 (Tiwari, 2013, p. 75)

33 <https://www.who.int/news-room/fact-sheets/detail/violence-against-women> last accessed on 15.08.2019

Consummation is one of the important factors of a marriage. The consent of the wife for a sexual intercourse is considered to be inherent on acceptance of marriage. However, it is not correct as it is the fundamental right of women to decide if she should have a sexual intercourse with her intimate partner. The Domestic Violence Act 2005 states that any sexual abuse against women is punishable offence³⁴. The Indian Divorce Act 1921 provides divorce from the husband when any women are sexually abused by her intimate partner. Non consummation of marriage is a ground for divorce. An analysis of cases brought under Section 9 of the Hindu Marriage Act (which is also a patriarchal and barbaric provision) reveals the patriarchal attitude of the judges while adjudicating upon the status of the “holy institution of marriage”³⁵. Marriage can’t be regarded as a license or a permit to rape nor does it give the right to the husband to ill-treat his wife.

The Law Commission in its 172 report stated that interfering in the sexual assault complaint by the wife above the age of 18 years would amount to excessive interference in the marital relationship whereas the Supreme Court of India in plethora of its judgment has stated that character of women is not a good defense in case of marital rape and also stated that the chastity of a women is a factor which does not allow her to allege false complaint of rape and that she being the injured person her mere statement would suffice to convict a man for rape. so now arises a confusion whether marital rape would be punished or if enquiry of the same would amount to excessive interference of the marital relationship.

Elimination of violence against women

The concept of marital rape should be eliminated so that every woman lives a peaceful life. There were various committees like that of the Verma committee which spoke about the criminalization of the marital rape. Only on criminalizing and punishing people would know that marital rape is a grave offence against the women. Women should be courageous to step out and bring their problems and hardships before the appropriate desk or forum for relief.

There are various international law obligations that support criminalization of marital rape. The international laws that are general in nature provide/establish the necessity to uphold right to life, right to equal protection before law and right to human dignity etc.³⁶ and the laws that are specific in nature emphasize the duty of the state to protect women against

³⁴ Section 3 of the Domestic Violence Act, 2005

³⁵ https://www.academia.edu/37659330/Criminalization_of_marital_rape_A_boon_or_a_bane last accessed on 15.08.2019

³⁶ <https://thewire.in/36111/indian-exceptionalism-cannot-be-a-valid-excuse-for-india-not-to-criminalise-marital-rape>

any form of violence, irrespective of who the perpetrator is³⁷. The sec 375 of IPC isolates marital rape from the term rape which expresses the domination of the male chauvinism in the society.

The preamble of the Convention on the Elimination of All Forms of Discrimination against Women states that "extensive discrimination against women continues to exist", and emphasizes that such discrimination "violates the principles of equality of rights and respect for human dignity"³⁸. A study conducted by the Joint Women programmed, an NGO found that one out of seven married women had been raped by their husband at least once³⁹. Approximations have quoted that every 6 hours; a young married woman is burnt or beaten to death, or driven to suicide from emotional abuse by her husband. The UN Population Fund states that more than 2/3rds of married women in India, aged between 15 to 49 have been beaten, raped or forced to provide sex. In 2005, 6787 cases were recorded of women murdered by their husbands or their husbands' families. 56% of Indian women believed occasional wife-beating to be justified⁴⁰. All these crimes against the women should be eliminated at its commencement or the initial stage to prevent the greater violence against women. Therefore, protection of the same is a mandatory need of the hour.

Marital Rape –infringement of the fundamental rights of the constitution

Article 14 of the Indian Constitution ensures that "the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India"⁴¹. The criminal law denies the criminalization of marital rape which turns out to be an immense violation of the basic fundamental right of every women to life and liberty.

*Burhan Choudhary v. State of Bihar*⁴²

The Supreme Court stated that classification under article 14 of the Constitution would be subject to reasonableness test that can be passed only if the classification has some rational nexus to the objective that the act seeks to achieve. However, the husband would take up a defense under section 375 of the IPC which exempts the marital rape from being criminalized. However, the effect of both rape and marital rape would be the same for every

37 *The International Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)*, read with general comment no:12

38 <https://www.un.org/womenwatch/daw/cedaw/text/econvention.htm> last accessed on 17.08.2019

39 Garg, Mukesh (Dr.) and Singla, Nareshlata (Dr.), *Marital Rape Under Indian Law: A Study*, *International Journal in Management and Social Science*, July, 2013

40 Priyanka Rath, *Marital Rape and the Indian legal scenario*, *India Law Journal*, 2007.

Retrieved from: http://indialawjournal.com/volume2/issue_2/article_by_priyanka.html

41 *Indian Constitution art. 14*

42 AIR (1955) SC 191 (India)

woman. Marital rape causes adverse effect on woman and hence it can be said that it affects the fundamental rights of a person.

Article 21 states that no person shall be denied of his life and personal liberty except according to the procedure established by law⁴³. The Article 21 guarantees each and every citizen a Right to a healthy and a decent life without any kind of encroachment from the State or any other party. But sexual intercourse with his wife without her consent amounts to violation of her right to a decent life and infringement of her right to life.

*Chairman, Railway Board & Others v Chandrika Das & Others*⁴⁴

foreign woman, SMTP Hanafi was raped by 4 men belonging to railway department. She was given 10 lakh and Supreme Court in this regard pointed out that rape is not only a crime against the victim individual but it is also a crime against the society at large. Rape disturbs the entire society as well as the victim equally. The Supreme Court has given the liberty regarding intimate relations.

Section 375 of the Indian Penal Code defines a rape and its ingredients however exception 2 to Section 375 exempts unwilling sexual intercourse between a husband and a wife over fifteen years of age from Section 375's definition of "rape" and thus immunizes such acts from prosecution.

Therefore, it is clear from the above stated that Section 375 which exempts marital rape from the definition of rape is an infringement of Articles 14 and 21 of the Constitution.

Need for a State law on marital rape

There is no particular law or provision of a statute that criminalizes marital rape. The IPC also exempts marital rape. The effect or the aftermath of the victim of a marital rape is immeasurable it brings both mental and physical disturbances to a woman. Therefore, there is a need of a separate law for punishing marital rape accused.

"The new ordinance on Criminal Law (Amendment) Ordinance 2013 at long last reforms India's colonial-era laws on sexual violence, but fails to provide crucial human rights protections and redress for victims," said Meenakshi Ganguli, South Asia director at Human Rights Watch. "Indian parliamentarians should insist on a law that deals with these critical issues⁴⁵." Meenakshi Ganguli insisted that there is need for new law or an amendment to protect the rights of women.

⁴³ Article 21 of the constitution of India

⁴⁴ Civil appeal no:639 of 2000 arising out of S.L.L.(C) No:16439 of 1998.

⁴⁵ <https://www.hrw.org/news/2013/02/11/india-reject-new-sexual-violence-ordinance> last accessed on 18.8.2016

In United States researchers estimate that 10% to 14% of married women experience rape in marriage. If we examine the laws in different countries, we see that most countries punish rape within and outside marriage⁴⁶.

Examples of criminalization of marital rape in certain countries:

Australia a person can apply to a judge or magistrate for an order allowing him/her to marry if he/she has reached the age of 16 years⁴⁷.

In the UK, a marriage below the age of 16 years is void⁴⁸.

In New Zealand, a person under 20 years of age but over 16 years old can only marry with parental consent. The age of sexual consent for women is also 16 years⁴⁹.

Hence it is high time that we stand up for a new statute to criminalize marital rape and hence eventually protect the fundamental rights of women.

Conclusion

It is evident from the above article that a woman faces an adverse effect because of marital rape. It infringes the right to life guaranteed by the constitution of India. Hence non-criminalization of marital rape would be a defense for the husband and others who provoke the husband to have a sexual intercourse with his wife without her consent. There is a need of a state law to govern the issue of marital rape. It should be framed in such a way that a woman receives a proper relief. As the future pillars of the society it is our duty to put forward all the socio legal problems before the eyes of the legislature and the society so that proper laws are being framed to tackle all the problems and for protection of the fundamental rights of the human beings.

46 <https://www.lawteacher.net/free-law-essays/family-law/marital-rape.php> last accessed on 17.08.2019

47 *The Australia Marriage Act, 1961 with amendments up to act No. 46 of 2006, Part II*

48 *Marriage Act 1949, Halsbury's Laws of England, 4th Edn. Reissue, Vol.29(3) p.41*

49 *Marriage Act 1955*

Chapter 6

Auxiliary Role Of Human Rights Courts To Accomplish Sustainable Development Goals

Author: Deepak Chatap, Co-Author: Vaishnavi Somani 50

International Laws on Human Rights and Sustainable Development Goals

Idea of Human Rights evolves with international law, through treaties, conventions and other international instruments such as the Universal Declaration of Human Rights (UDHR), International Covenant on Civil and Political Right (ICCPR), International Conventions on Economic, Social and Cultural Rights (ICESCR) of which India is a signatory. Human Rights have great importance in many parts of democratic world. The implementation of human rights is the major criteria for securing democratic values.

Article 25 of the Universal Declaration of Human Rights (UDHR)⁵¹ emphasizes on the right to an adequate standard of living and article 22 of UDHR guarantees right to social security.⁵² There are various provisions in Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) which emphasis on equal rights of women in economic life all. These international instruments related to human rights have to ensure by the government to accomplish first goal of sustainable development goals that is ‘no poverty.’

Article 25 and 28 of UDHR laid down provisions related to right to adequate food⁵³ which is also important to realize for accomplishing second sustainable development goal that is ‘zero hunger.’

Various international instrument guarantees right to life and right to health as well as article 21 of the Constitution of India guarantees every person to live life with dignity and personal

⁵⁰Author: Deepak Chatap

Position: Legal Researcher | Organization Name: SAHYOG TRUST, Prabhat Road, PUNE

Email: deepakchatap27@gmail.com

Co-author: Vaishnavi Somani

Class: 3RD LLB | University Name: Savitribai Phule Pune University, Pune.

Email: vaishsm111@gmail.com

⁵¹ Available at- <http://hrlibrary.umn.edu/edumat/studyguides/righttohealth.html>

⁵² Booklet on UDHR published by United Nations , P.46, available at-

https://www.un.org/en/udhrbook/pdf/udhr_booklet_en_web.pdf

⁵³ Ibid, p. 52 & p. 58.

liberty in accordance with procedure established by law.”⁵⁴ It is important to priorities this recognized human rights for marching towards third goal of SDG that is ‘good health and wellbeing.’

Article 13 of ICESR elucidates educational right for every human being without any discrimination.⁵⁵ Also Article 21(a) under the Constitution of India provides provision on right to education.⁵⁶ Though currently, India’s female literacy still 22% points behind world average.⁵⁷ Not only basic education but also quality education has to ensure to achieve forth goal of SDG that is quality education. Also, cases of human rights violence against women, transgender, and children rapidly grow across the world hence supreme value to be given to gender equality which is fifth goal of sustainable development goals.

16th goal of the SDGs emphasizes on the peace justice and strong institution to promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective accountable and inclusive institution at all level targets include reducing all form of violence ; ending violence against and trafficking against children promoting rule of law and justice for all reducing illicit financial and arms flows , corruption and bribery developing effective institution participation in decision making at all level legal identity of all. Right to life, liberty, security of person, protection of children from all form of violence, abuse or exploitation, right to access to justice and due process, right to legal personality, right to participate in public affairs, right to access to information.⁵⁸

Various goals enumerated such as clean water and sanitation affordable and clean energy decent work and eco growth industry innovation and infra-structure reduce inequality sustainable cities and community’s responsible consumption and production climate action, life below water life on land peace, justice and strong institution and partnership for the goals can be achieve rapidly by establishing human rights courts.

Amongst the calls for more resources, more political will, more tools, technology and faster implementation, it is a reminder that equitable and sustainable development must be achieved with and not for people. Achieving the transformational promise of the SDGs

⁵⁴ *The Constitution of India published by GOVERNMENT OF INDIA MINISTRY OF LAW AND JUSTICE (LEGISLATIVE DEPARTMENT)* , P. 10 available at- <https://www.iitk.ac.in/wc/data/coi-4March2016.pdf>

⁵⁵ *Website of the United Nations Human Rights Office of the High Commissioner.* available at- <https://www.ohchr.org/en/professionalinterest/pages/cescr.aspx>

⁵⁶ *The Constitution of India published By Government Of India Ministry Of Law And Justice (Legislative Department)* , P. 11, available at- <https://www.iitk.ac.in/wc/data/coi-4March2016.pdf>

⁵⁷ *News published in FIRSTPOST News Portal.* Available at- <https://www.firstpost.com/india/indias-female-literacy-has-gone-up-but-still-22-percentage-points-behind-world-average-education-among-young-women-rising-7197631.html>

⁵⁸ *Website of the United Nations Development Programme.* Available at- <https://www.undp.org/content/undp/en/home/sustainable-development-goals/goal-16-peace-justice-and-strong-institutions.html>

depends on ensuring the empowerment, inclusion and equality of all people, which is so closely Inter connected with human rights.⁵⁹

In the 2030 Agenda for Sustainable Development, it is specifically mentioned in the goal 17 of Sustainable Development Goals (SDGs) that the government around the world must be committed to a blue print for a more just and sustainable path for people, planet and prosperity, and “seek to realize the human rights of all.”⁶⁰

Thus, violations of human rights cases have to decrease for achieving Sustainable Development Goals. But as many numbers of cases are arising in human right violation it become difficult to access justice in lower judiciary. So, Human Rights Courts need to establish to achieve sustainable development goals.

Indian scenario on Human Rights Courts

The Supreme Court bench headed by Chief Justice Ranjan Gogol issued notice to the Central and states on 8th July 2019 in plea to specify and set up Human Rights Court for each district across the country, as required under section 30 and section 31 of the Protection of Human Rights Act, 1993.

Section 2(d) of the Protection of Human Rights Act, 1993 defines human rights as “the rights are relating to life, liberty, equality and dignity of the individual guaranteed by the Constitution or embodied in the International Covenants and enforceable by courts in India.”⁶¹ Therefore it is pertinent to note that any court intended to be a human rights court must take into account the various human rights guaranteed to citizens by virtue of the Constitution and agreed to by the State as a ratifying party in international covenants and treaties.

Section 30 of the Protection of Human Rights Act, 1993 states as follows “For the purpose of providing speedy trial of offences arising out of violation of human rights, the State Government may, with the concurrence of the Chief Justice of the High Court, by notification, specify for each district a Court of Session to be a Human Rights Court to try the said offences. Provided that nothing in this section shall apply if (a) a Court of Session is already specified as a special court; or (b) a special court is already constituted, for such offences under any other law for the time being in force.”⁶² It specifically mentioned provision to ensure Human Rights Courts in each district. Unfortunately, law remains on paper and implementation of the said provision is malady. Implementation of this provision

⁵⁹ Available at- <https://sustainabledevelopment.un.org/post2015/transformingourworld>

⁶⁰ Available at- <https://sustainabledevelopment.un.org/post2015/transformingourworld>

⁶¹ The Protection of Human Rights Act, 1993. P.6. Available at- <https://indiacode.nic.in/bitstream/123456789/1970/1/199410.pdf>

⁶² *Ibid.* P.13.

will create positive impact in Human Development. As people will not have to approach directly to apex court for ensuring their human rights and they may approach to District Human Rights Courts established under this enactment.

In *D.K. Basu v. State of West Bengal*, (2015) 8 SCC 744, Honorable Supreme Court emphatically stated regarding the question of human rights courts, thus: “There is no reason why the State Governments should not seriously consider the question of specifying Human Rights Court to try offences arising out of a violation of human rights. There is nothing on record to suggest that the State Governments have at all made any attempt in this direction or taken steps to consult the Chief Justices of the respective High Courts. The least which the State Governments can and ought to do is to take up the matter with the Chief Justices of the High Courts of their respective States and examine the feasibility of specifying Human Rights Court in each district within the contemplation of Section 30 of the Act.”⁶³ Therefore, it is clear that the Supreme Court has interpreted Section 30 of the Protection of Human Rights Act, 1993 constructively and emphatically that State Governments must seriously consider the establishment of human rights courts.

The Constituent Assembly while drafting the Indian Constitution ensured that citizens were guaranteed certain fundamental rights and freedoms such as equal protection of law, freedom of speech and expression, freedom against double jeopardy, right against self-incrimination etc. Part III of the Constitution deals with the fundamental rights and Part IV talks about the Directive Principles of State Policy further emphasize the protection of people against human rights violations.

By virtue of Article 32(3) of the Constitution of India,⁶⁴ it is possible to confer the power of enforcement of human rights or fundamental rights on the District Court or Courts inferior to them. It would then be possible for these courts to function as Human Rights Courts for providing remedies with respect to violations of fundamental rights as well as rights contained in the various international instruments to which India is a party and signatory.

On this background, it is important to note that United Nations General Assembly in its 53rd Session on Agenda Item 110(b) passed a resolution adopted by the General Assembly about Declaration on the Rights and Responsibilities of Individuals, Groups and organs of society to promote and protect universally recognized human rights and Fundamental Freedoms.⁶⁵ With rising human rights violations, it is the statutory duty of the central and state government under the Protection of Protection of Human Rights Act, 1993 to take necessary steps to establish Human Rights Courts for the benefit of the victims and render justice to them.

⁶³*D.K. Basu v. State of West Bengal*, (2015) 8 SCC 744

⁶⁴ Constitution of India. Article 32(3) ., P.18. Available at-
https://www.india.gov.in/sites/upload_files/npi/files/coi_part_full.pdf

⁶⁵ United Nations General Assembly in its 53rd Session. Available at-
<https://www.un.org/en/ga/53/resolutions.shtml>

The United Nations have always prioritized human rights in its agenda. However, this 'Rights Agenda' is wrongfully lacking within the judicial system in India. The High Courts and the Supreme Court are for the people can be hopeful of approaching to redress human rights violations. The common man has almost no access to justice at the local level in these cases. The lower courts have restrained themselves from using human rights principles, relying solely on Art.32 and Art 226 of the Indian Constitution. There is a dire need for citizens to be able to access lower courts for human rights violations. It is equally important to see human rights violations in cases that are tried at the District level as the inter connections are important for broader interpretation. For example, a case of domestic violence that woman files are her human right violation even as described in Convention on Elimination of All forms of Discrimination against Women (CEDAW). Presently the trial courts do not look at human rights to be intersecting in cases they are already handling and at the same time they think that human right is a matter that has to be dealt with only under Article 32 and Article 226 of the Indian Constitution.

The special courts being established in districts will be able to cater to the people who often cannot approach the higher courts either due to distance, financial constraints or more often lack of knowledge. Thus, these special courts should be established with the aim of percolating justice to the masses. Moreover, it will also help resolve the lack of equity within civil society, and the disparity between civil society organizations based in the metropolitan areas versus those based in the rural areas in their ability to successfully litigate issues of human rights violations.

If we consider police as protectors of fundamental rights of the citizens then it is also required that they should work on issues related to human rights. Only conducting inquiries as and when directed by NHRC/SHRC is the limited aspect of work which police are doing at present. Police personnel are also need to be trained.

The Protection of Human Rights Act came to force in the year 1993. There are provisions related to establishment of National Human Rights Commission and State Human Rights Commission at the National and State levels across the country. Apart from this the Human Rights Courts were supposed to be constituted in districts designating a Sessions Judge.

There is also a need to formulate 'Rules of Practice' for human rights courts, regarding procedures for taking up complaints from individuals, how the police shall report the same, how the Magistrate will take cognizance thereof, penalties, rights of victims and the duties of court.

Maharashtra with estimated 7.47 lakh persons infected with HIV stands second in the country with respect to the number of HIV patients. As per the latest sentinel surveillance report, the State has HIV prevalence of 18.4% amongst STD patients and 1.8% in ANC.⁶⁶ There is no comprehensive law to deal with the menace of HIV/AIDS and protect the people infected from discrimination and social stigma. The infected people are susceptible

⁶⁶ Available at- <https://hetu.org/india/mh/healthstatus/aids-control.htm>

to various discriminations for example isolation and boycott of HIV positive patients, no standard procedure for maintaining confidentiality, pre-employment HIV testing, etc. The persons living with HIV/AIDS are many times not getting medicines and ART and second line drugs Treatment which amounts to violation of right to life and health. Thus, issues related to the persons living with such diseases, Issues of journalists such as they faced increasing pressure to self-censor due to threat of legal action and even threats of physical attacks, Issues of mob violence, etc. These issues can be addressed by a Human Rights Court.

Conclusion

The Agenda 2030 promise of ‘leaving no one behind’ is a reaffirmation that human rights and sustainable development are mutually reinforcing. Development is a powerful tool, but it can also be a tool of the powerful unless human rights for all, without discrimination, are part of its design. With limited time and resources, it is crucial to focus on securing rights for all, as not only the right way, but the smart way to achieve more sustainable development.⁶⁷

Human Rights protection and implementation is about empowering people to stand up for themselves and for each other, for ensuring right to equality and to move towards no discrimination among humans. Effective implementation of Human Rights can transform and accelerate development agenda. When we think of struggles for empowerment, inclusion and equality we think of heroes who have fought for their rights: luminary individuals like Mahatma Gandhi, Rosa Parks, Malala Yousufzai or Marielle Franco. They stood up for the rights of marginalized peoples, for the rights of the excluded voices who suffered in silence and whose dignity was not respected. Out of these movements the message for justice and human rights continues to spread across the world: ‘Yes, every human being matters, everyone is born equal in dignity and rights. Human rights matter because they embody the power of people standing up to change the world. Above all this is what the 2030 Agenda needs to accelerate its course.’⁶⁸

Provisions given under Human Rights Protection Act, 1993 must be strictly enforced and Cases of Human Rights Violations increases in the contemporary world and debate on human rights has emerged as a potential discourse of analysis and development as UN elucidates Sustainable Development Goals to realize human rights for all. Thus, setting up Human Rights Courts will bring judiciary into action to play an auxiliary role in transforming human rights into reality.

⁶⁷ *Empowerment, Inclusion, Equality: Accelerating sustainable development with human rights. P.1, Available at- <https://www.ohchr.org/Documents/Issues/MDGs/Post2015/EIEPamphlet.pdf>*

⁶⁸ *Ibid. P.1.*

Chapter 7

The Preferential Justice: Ignorance of Refugee's Rights

Author: Abhijit Harendran Co-Author: Binitha M Abi⁶⁹

Abstract

"It is the obligation of every person born in a safer room to open the door when someone in danger knocks."

— Dina Nayer

A person who cannot return to her/his country because s/he are at real risk of persecution or other serious human rights violations or abuses, due to who or what they believe in, since their own government cannot or will not protect them, refugees are forced to flee their country and seek protection elsewhere. The protection of Refugees should be an obligation to the nation rather than seeing it as a hurdle to the governing bodies. The Rohingya refugees are those who were denied by the Myanmar government in terms of recognition of groups and identified them as illegal Bengali immigrants. In the year of 1982 citizenship law, Rohingyas were declared as "Non-National" or "Foreign residents". According to UNHRC, Rohingyas are on the most persecuted ethnic group in the world. As of the data per 2012 the government was lenient and much reserved in the recognition of the rights of refugees. The denial of admitting a secured economic and social life in terms of national security is a paradox to the justice system and a challenge to the human rights. The question comes in the frontline is whether the governing body is negligent about this grave deprivation of right to life. And why UNHRC needed to act as a controlling body in limiting the violation of refugees. Our aim of this study also was to get a better understanding of cause, scale, composition, process, trends and impact of Bangladeshi migrants to India particularly to the state of Assam.

⁶⁹ Name of Author: Abhijit Harendran

Class: B.A LLB. 3rd year

University: VIT School of Law, Vellore Institute of Technology, Chennai, Tamil Nadu.

Email: abhikanhari@gmail.com

Co-Author: Binitha M Abi

Class: B.A LLB. 3rd year

University: VIT School of Law, Vellore Institute of Technology, Chennai, Tamil Nadu.

Email: mail2binitha1999@gmail.com

An Overview

Over the past millennium people had been moved due to earthquakes, persecution to war or a flood to famine. Instead of protecting the people, doors are closed and tagging them as illegal migrants or invaders which totally dehumanize people in need or international protection, the authorities fails by ducking their responsibilities to protect people. International refugee laws and human rights law provide a sophisticated and balanced system to allow to escape from war and persecution and to have access to live in the third country. It is important to note down that no human can be treated as illegal. Staying in a third country in an irregular fashion should not be considered as a criminal activity. There exist around 2.9 million refugees all over the world.⁷⁰To confront this the best example that can be taken down to picture is about Rohingya Refugees one of the most persecuted Muslim group in world, where the Myanmar government denied the recognition of groups and identified as illegal Bengali immigrants. They are the primitive people who all are stateless, at the end of the day they will go wherever they told to be. And Migration is a phenomenon which is constant but dynamic. There are lot of factors which drive to migration like socio-economic imbalance, political dynamics at regional and local levels, disparities in demography, and changes in environment like climate change, natural disasters and advanced social networking. It is predicted that migrants around the world will increase from 214 million in 2010 to almost 405 million by 2050, mainly due to “change in environment, revolution of technologies, new economic and political dynamics, demographic disparity” (World migration report, 2010, p.3). The definition that is given by UNPD (United Nations Population Division) for migrants is “Persons who move to a country other than that of their usual residence for a period of at least one year, so that the country of destination effectively becomes their new country of usual residence”⁷¹.

People move from one place to another for many purposes mainly increase in poverty, discrimination, economic gain, for having better standard of living, better education for off springs, environmental and political changes. These movements maybe forced and voluntarily. In India illegal migrant is a person residing in India without official permission as per Indian law. From the year 1971, during the time of war of Independence which resulted in the creation of Bangladesh as a state, millions of Bangladeshis migrated to India out (most of them were illegal migrants).

It is not an easy task to assess how many illegal migrants are residing in India as of now. During 1971 civil war at least 10-million Bangladeshis would have poured into West Bengal which is situated on eastern part of India. Majority of those migrants were Hindus

⁷⁰*HumanRightsLawNetwork, Report of Refugee Populations in India, (Nov.2007), p.3, www.hrln.org/admin/issue/subpdf/Refugee_populations_in_India.pdf.*

⁷¹*World Bank Migration and Remittances Fact Book (2011), p. 264*

who fleeing due to ill treatment (murder, rape, forced conversion etc..) they received from Muslims. But if we see recent trends, most of the illegal migrants fleeing from Bangladesh are Muslims seeking to escape poverty. Some lawmakers in India allege that many of these illegal migrants are dire threat to our country as a whole through terrorism and increased criminal activities.

A Glimpse On

Rohingya Refugee's:

The state of Myanmar had a rate of population about 54 million people in 2019 after a long conflict for colonial heritage from the year of 1824 to 1948 where a very strong and hard times of military power stepped up in the state resulted in division of population into 135 recognized ethnic group. The state experienced an everlasting conflict between these ethnic groups and geographical boundaries. One of the main issues of the political and ethnic revolved around Muslim minorities and particularly Rohingya community.

Tibetan Refugee's:

As of 1914, peace convention Tibet and China is considered as independent country. In the year Of 1949 China occupied Tibet and killed, arrested and detained thousands of Tibetan citizens. Following the incursion of 1951 China continued the gravies activities resulted in human right violation in vast which resulted in flee of Tibetan refugees.

Spillanian Refugee's:

More than 20 years Priyanka has covered up with conflict with Spillanian Army and Liberation Tigers of Tamil Eelam (LTTE) who has been fighting for Tamil minorities. These prolonged conflicted had resulted in death of the many lives. Since 1983 they started fleeing to India after the conflict begins. The conflict escalated since 2005 and in March 2007 after continuous four years of negotiations, but even though the peace process between belligerent strife collapsed down.

Afghan Refugee's:

The country was in more in violent during the civil war between the Taliban and the Najibullah regime. During the early period between 1979, the Soviet Union invaded Afghanistan resulted in fierce resistance which resulted in flee of 60,000 Afghans. The widespread human rights violation in form of torture, extra-judicial killing, rape were the factors played as a factor for flight of Afghan Refugees to India.

Impacts Of Immigration Affecting Assam And Its People

There are both positive and negative impacts, as a result of migration. The main argument in support of undocumented immigration is that migrant workers are ready to do jobs that Indians do not want to do. They are ready to do work for cheap rate. Migration of skilled labor helps in development in economic growth and alleviates poverty from the sending country.

Migration to a country like India which is already densely populated lead to new challenges as there is only limited resources, increase in poverty, limited civic amenities and poor sanitation and health. Bangladesh-India migration corridor is placed fourth out of top ten migration corridors in the world (World Bank, 2011).

Migrants are used for vote bank, for the sake of votes Muslims from Bangladesh are brought to Assam and other North Eastern states. Illegal immigration has become a sensitive issue, which is being exploited due to vested political interests.

Agricultural sector in Assam got benefited from this migration, as skill and tenacity both are essential for agriculture and these migrants had these both. Migrants put lot of pressure on land as migration leads to average land holding to decline. Governments burden of debt increases as the population increases revenues from loans as well as from all sources have to be pulled together to manage food supply for increasing population. A considerable amount has to be spent on development of people and Assam is a state where revenue base is smaller than other Indian state. As population of migrants increases government has to spend considerably huge amount on infrastructure and other sectors like health and it comes at the cost of communities. Youths get unemployed when population in rural area increase, they are forced to leave agricultural sector and find job in some other sectors. There are chances of emergence of black market, migrant economy run through informal and unofficial channel. Corruption gets flourished and a bank too gets affected from such economy and they will be constrained to give investors credits. In border areas illegal trade got increased due to migration. Security forces inability to prevent such trades and similarities of culture and ethnicity on both sides has helped people to do illegal trade in border.

Migration may happen due to inverse changes in the environment, while on the other hand migration leads to environmental degradation as the population in receiving areas increases. This degradation has increased in recent years due to human expansion which is done without any proper plan, use of chemicals used for agriculture, usage of in irrational way, in the name rehabilitation, allotment of land in the forest fringe villages to fulfill political interests, usage of land in irrational way, mineral resources and valuable species of fauna-flora are exploited, insurgency and political unrest.

Since the year of 1979 movement for deportation started in Assam, political condition of the state got worsened along with deterioration of law and order. Smugglers and poachers used this opportunity to eliminate tuskers and rhinos from Mamas National Park.

If there is any dispute between locals and migrants, it reported to the police. Most of the cases are negotiated and settled through even personal deals without going through expensive and lengthy legal methods. The whole community of migrants will be in trouble, if their details are searched.

What Problems Does Infiltration of Bangladeshis Into India Pose?

Human trafficking is a major problem that is girls from Bangladesh are imported to India and are forced to work as prostitutes. Sometimes illegal human trafficking is mistaken with issue of illegal migration. There are incidents where victims of human trafficking are mistaken as illicit migrants and they are prosecuted as illegal migrants. Children and women from India are trafficked to Bangladesh and from there they are sent to Arab countries. People who fall for this are given fake promise of better living across the border and most of the victims who get trapped are from poor families. Major deterrent is prosecution of these criminals, complex bureaucratic process makes prosecution of perpetrators complex. According to Convention on the Elimination of all forms of Discrimination against Women (CEDAW) 10% of all prostitutes in India and 27% of prostitutes in capital of West Bengal are from Bangladesh⁷² Smuggling of illegal products in India, drugs. Illegal cattle trade flourish in Indo-Bangladesh border. Many cases of kidnapping are being reported, done by Bangladeshi refugees. Threat to internal security – terrorist organization uses migrants as material for doing criminal and terrorist activities around India. Politicians on other hand uses these people as their vote bank by providing them voter ID.

Function Of UNHRC And OHCHR

UNHRC India on Refugees:

As of UNHRC fact sheet 2016, India have 828 New refugee registration, the below fact sheet shows the number of population of refugees from their origin registered under UNHRC as refugees.

⁷²Third and fourth periodic reports of States parties, COMMITTEE ON THE ELIMINATION OF DISCRIMINATION AGAINST WOMEN, UNITED NATIONS.

Country	Total Population of Concern (Pock)
Myanmar	18,914
Afghanistan	13,381
Somalia	672
Others	1483
Other Assisted by Government of India:	
Tibetans	1,10,095
Sri Lankans (as of 31 st May 2015)	64,689
Total	209,234
Source ⁷³	

UNHRC protects the refugees by providing them with documentation to prevent from harassment, detention and deportation. Registered refugees' children can access free education in the government schools with local children. UNHRC assists the refugees in accessing government hospital and dispensaries for concerns regarding health issues. The commission introduced Biometric Information Management System (BIMS), community empowerment, child protection, and assist people with special needs and collaboration with other stake holders.⁷⁴

Refugees as an integral part of UNHRC's global mandate the commission come up with solutions which cover up voluntary repatriation of refugees to their domestic country or one who wishes to be part of India can remain and qualify for Indian Citizenship Law.

Role of OHCHR

An expected 258 million individuals, around 3 percent of the total populace, right now live outside their nation of origin, a large number of whose relocation is characterized by varying degrees of compulsions. While migration is an empowering and positive experience for some, it is certain that an absence of human rights-based migration

⁷³ <https://www.unhcr.org/protection/operations/50001ec69/india-fact-sheet.html>

⁷⁴ Figures At Glance, UNHRC, (Jun. 19, 2019), <https://www.unhcr.org/en-us/figures-at-a-glance.html>.

administration in local, global and national levels is prompting to violation of migrant's rights in travel, in the countries they migrate to and at international borders.

In a situation which is irregular for migrants, they will in general be excessively vulnerable to abuse, underestimation, discrimination, frequently living and working in the shadows of others, afraid to complain to the concerned authorities, denied their human rights and major freedoms.

Human rights infringement against migrants include torture, denial of political and civil rights, absence of fair treatment, not giving financial, cultural and social rights, for example, the rights to wellbeing, education and housing. The forswearing of migrant's rights is regularly firmly connected to oppressive laws.

In this situation, OHCHR Office of the United Nations High Commissioner for Human Rights attempts to secure, promote and satisfy the human rights of migrants, paying little heed to their status, with a specific focus on children, men and women who are more prone to human rights violations. OHCHR encourage human rights-based way to deal with migration, which places the migrants at the focal point of governance and migration policies, and looks to guarantee that migrants are included in all significant national action plans.

Existing Legal Work and Policy

India has not yet developed any law regarding to refugee even though traditionally India has been providing shelter to refugees from other country. Without any proper law dealing with illegal migrants and refugees, all the foreigners in India only come under Foreigners Act 1946, which says foreigners as person who is not Indian citizen. India is not a signatory to UN 1951 Refugee convention and 1967 protocol. Foreigners act hasn't mentioned any difference between illegal migrants and refugees, it doesn't talk about refugees as a category of people whose human rights are being violated and they should be given humanitarian protection.

The human rights of refugees and asylum-seekers are protected by the constitution. They have access to health care and their children can go to school. In regard to Tibetan Refugees they were issued with registration certificates which have to be renewed once or twice in a year. And Tibetans who were born in India are eligible of birth certificate only by attaining the age of majority as per Indian Law at the age of 18. They are the only refugees privileged with travel permits.

The Spillanian Refugees are officially governed by Indian Foreigner's Act 1946 and Citizenship Act 1955. They are treated as illegal Migrants even under legal statutes and a threat to national security and deemed as militant and detained in special camps. The

government of India issued Afghan refugees a valid permit which permits them to stay in the country even though they didn't possess passport as a proof for identification.

Recent Developments:

The latest recollection about refugees is about Rohingya's whose living conditions went from bad to worse. Their living condition is linked with Nazi concentration camps during Second World War. Their conditions were totally in a black hole where genocidal intent was at peak, and a hard restraint over movement of the civilians.⁷⁵

The current change in Chinese position has paved a new hope for Rohingyas by helping by settling the impasse between Bangladesh and Myanmar for Rohingyas. Instead of internationalizing the issue China would persuade Myanmar to resolve the existing crisis through peaceful dialogue.

And more than 50,000 Rohingya refugees got their ID as an official document that proves their identity.⁷⁶

Deploying National Register of Citizens (NRC) is a hot discussion from the year of 1964 across the state, which empowers state government and district magistrates of all states and UT's to set up tribunals to identify a foreigner who is living in India illegally. It's actually a question of losing citizenship in the country which is acquired by birth even though not by soil. There is high chance in rejecting the birth certificates even though the grandparents and parents or the person itself have lived in India before 1971.

Findings:

The study has completed with findings such as:

The rate of refugees and illegal migrants will drop down to an extent when the countries come into a bilateral peace of talk, as the same the resident country also have a duty to provide a shelter which gives a life to the refugees or illegal migrants more than mere

⁷⁵ Volume 36, Habib, FrontLine Magazine, (16th ed, 2019), pg. 56.

⁷⁶ Bose Nayana, Refugees in India share daily struggles with UNHCR chief, High Commissioner António Guterres has a candid discussion with refugees about life in India and holds meetings with top government officials (Dec. 21, 2012),

<https://www.unhcr.org/news/latest/2012/12/50d47f056/refugees-india-share-daily-struggles-unhcr-chief.html>

existences which India is doing a better version of service in terms of other third countries for the refugees.

Conclusion:

After the continuous research, we can draw a conclusion that the refugees as well as the illegal migrants were under a condition of total deprivation of their right to life which can be precisely perceived through diverse examples of conditions of the refugees which we already discussed. The concerned authority have to adapt and implement new policies as well as new initiatives through commissions such as UNHRC for providing a standard life of living for the refugees as well as for the illegal migrants considering the fact they are also humans who have all the right to enjoy and exploit all the resources needed for the survival just like other beings.

Chapter 8

Dynamics Of Transgression Of Women's Human Rights: The Contemporary Legal Framework In India

Author: Siddharth Pareek⁷⁷

Introduction

The most fundamental requirement in today's world for people, especially women, to live with dignity is the existence of legal rights. These rights are the backbone of a human being and belong to them because of their very existence. The very purpose of having certain human rights is to get protection against the ill elements of the society. The umbrella of human rights protects the women's interests globally. The basic fact behind is that "all men are born and remain free and equal in their rights."⁷⁸ The human rights basically are a philosophy of egalitarian social relations expressed in law through contracts between states and people, as individual and as social groups. States pledge to maintain indivisible, universal and interdependent standards agreed by the international community, articulated in the human rights instruments.

The United Nations and Rights Of Women

For centuries past, women all over the world have not only been denied full social, economic and political justice but also as a 'weaker sex' they have been abused and exploited. The UN General Assembly⁷⁹ recognized that 'gender-based violence, torture, sexual abuse, sexual slavery and exploitation, international trafficking in women and

⁷⁷ Author: Siddharth Pareek

Class: BA. LL.B., 2nd Year

University: National Law University, Jodhpur

Email: siddharth.pareek@nlujodhpur.ac.in

⁷⁸ France: Declaration of the Right of Man and the Citizen, 26 August 1789.

⁷⁹ "Women 2000: Gender Equality, Development and Peace for the 21st Century" The UN General Assembly 23rd Special Edition.

children, forced prostitution and sexual harassment; as well as violence against women and girls resulting from cultural prejudice, racism and racial discrimination, etc. are incompatible with dignity and worth of human person.’ In India, the principles of human rights were embedded in Indian ethos since the *Vedic* age. The “*Vedas*” and the “*Natyashastra*’s” have the concepts like equality of rights of men and women and just and equal treatment of humans in the society.

“Due to the non-stopping efforts of the International Women’s Rights movement, the violence against women received the attention it deserved.”⁸⁰ The moral, humanitarian, economic and political imperatives are clear. Taking cognizance of this repression all over, the United Nations passed various instruments with a focus on women’s emancipation and with the object of enhancing the dignity of women all over the world. The standards set out universally by the United Nations’ Charter⁸¹, and elaborated through the *International Bill of Rights*⁸² that includes the *International Covenant on Economic, Social and Cultural Rights*, together with its sister *Covenant International Covenant on Civil and Political Rights*⁸³, and *Universal Declaration of Human Rights*⁸⁴, along with the *Convention on the Elimination of all forms of Discrimination Against Women*⁸⁵ and *Convention on the Rights of Child*⁸⁶ should be honored. Gender justice, a facet of social justice is a composite concept. The term ‘Gender equality’⁸⁷ refers that women and men should be treated alike and it stands for the wiping out of male domination and focuses on protection of the legal rights of women.

Violation of Women’s Rights: “The Indian Corner”

The primary reason for the exploitation of women is violence against them. Its 21st century and even now the social ills against women take place quite often in different parts of India and around the world. At the international level, a significant number of declarations, conventions and treaties have been adopted in the field of human rights and protection of women. The international community has reacted to these agreements and documents positively. But still, we come across scandalous violations of human rights often.

⁸⁰ Radhika Coomaraswamy and Nimanthi Perera Rajasingham, “Constellations of Violence: Feminist Interventions in South Asia”, *Women Unlimited*, 2008.

⁸¹ United Nations, *Charter of The United Nations*, 24 October 1945, 1 UNTS XVI.

⁸² Newman, ‘The International Bill of Rights: Does it exist?’ in Cassese, A., *Current Problems of International Law*, (ed.) at 107-16.

⁸³ UN General Assembly, *International Covenant on Civil and Political Rights*, 16 December 1966, United Nations, *Treaty Series*, vol. 999, p. 171.

⁸⁴ UN General Assembly, *Universal Declaration of Human Rights*, 10 December 1948, 217 A(III).

⁸⁵ UN General Assembly, *Convention on the Elimination of All Forms of Discrimination Against Women*, 18 December 1979, United Nations, *Treaty Series*, vol. 1249, p. 13.

⁸⁶ UN General Assembly, *Convention on the Rights of the Child*, 20 November 1989, United Nations, *Treaty Series*, vol. 1577, p. 3.

⁸⁷ B.K. Ghatak, *Dr. Ambedkar’s Thought*, APH Publishing Corporation, 1997 at p. 121.

India, the world's largest democracy, having an independent and extremely vibrant press also frequently suffers from incidents relating to gross violation of women's rights. Going back a few decades, during the *UN Decade for Women (1976-1985)*, women from diverse cultural, geographical, religious, racial and class backgrounds initiated and organized to improve the status of women globally. There were different conferences held at different places to spread the awareness about the ills and problems that women faced globally. These conferences were critical and at primary venues at which different women came and stood together to help and support their community and bridge differences to create a global movement. The concept and the term 'women's human rights' does not point only to the theoretical approaches and stands that women have used to recreate the concepts of human rights, agendas and different programs. Also, the idea of rights of women is directly related to and has immense impact as a tool for political activism since it's a revolutionary notion.

According to the *Thomson Reuters 2018 Survey*⁸⁸ on the 'World's Most Dangerous Countries for Women', India lies at the top. This survey measures problems like sexual and non-sexual violence, status of healthcare, numbers of human trafficking, discrimination, etc. This shows our country's inability to protect the rights of our women and how vulnerable they are. It not only stops there, furthermore according to the National Crime Records Bureau⁸⁹, there were 338,954 incidents of crimes happened against women in 2016. Out of these, there were a total of 38,947 rape crimes. The major crimes and problems faced by the women in the society are categorized further on.

Sexual Harassment & Rape and Burden of Proof

The offence of sexual harassment and rape is considered to be one of the most cruel and heinous crimes. But it's disheartening that such offences against women are still widespread and prevalent. Section 375 of the Indian Penal Code deals with the offence of rape. No person has the right to transgress or encroach a women's body. Much more than physical agony, rape creates a mental turmoil. "It is a crime against basic human right and it is also violative of victim's most cherished of fundamental human rights, namely the right to life contained in article 21. To many feminists and psychiatrists, rape is less a sexual offence than an act of aggression aimed at degrading and humiliating women."⁹⁰ It destroys the physical integrity of a woman.

⁸⁸ Thomson Reuters 2018 Survey, *The World's Most Dangerous Countries for Women*.
[Link - <https://poll2018.trust.org/>].

⁸⁹ National Crime Records Bureau, *Crime in India Survey, 2016*
[Link - <http://ncrb.gov.in/StatPublications/CII/CII2016/pdfs/NEWPDFs/Crime%20in%20India%20-%202016%20Complete%20PDF%20291117.pdf>].

⁹⁰ *Bodhisattawa Gautam v. Subhra Chakraborty*, (1996) 1 SCC 490.

Sexual harassment can be in various forms. It is something, which compels a person to join in unwanted sexual contact or attention. *Exhibitionism* (exposing sexual parts in public) and *Voyeurism* (gaining pleasure by watching others private sexual acts) are some examples of sexual harassment without physical contact. The distinguishing factor between rape and sexual intercourse is consent⁹¹. However, it is extremely difficult to prove the presence or absence of consent in a rape offence. A man is said to commit the offence of rape⁹² when he has sexual intercourse with a woman, without her consent and against her will or when the consent has been obtained by putting that person under threat of death or hurt. If the victim in a rape offence submits that her body was put under threat of danger or fear, then the same would never amount to consent. It has been laid down⁹³ that there is a rule of prudence requiring corroboration of the victims in a case of rape. A woman is just a victim of a carnal desire. In cases of rape, corroboration need not be searched for by the judge if in the particular circumstances of the cases before him, he is satisfied that it is safe to rely on the evidence of the victim.

Moreover, for proving guilt in sexual harassment or an offence of rape a woman is on the safer side since she is not required to prove that there was any sort of resistance on her part while the commission of the act. Under the India Evidence Act⁹⁴, there is a compulsory statutory presumption, which requires the courts to believe that consent is absent in such cases. This section was included in furtherance and aftermath of the infamous *Mathura rape case*⁹⁵ in which the court acquitted the accused because there were no signs or marks of resistance, which were visible on the body of the accused. Also, to protect the women at workplace and in the light of absence of legislation, the Supreme Court formulated a set of legal framework and guidelines.⁹⁶ If the victim alleges that there was an absence of consent, then the burden of proof lies on the accused to prove his innocence. It would be inhumane and disastrous if we try to shift this burden of proof on the victim since this would put them in an extremely uncomfortable and vulnerable situation and it might even deter them from filing the complaint in the first place. Therefore, we need more safeguards to protect the women and the victims from primary and secondary victimization.

Assault and Criminal Force against Women

Section 354 of the Indian Penal Code criminalizes assault or criminal force to women. The use of criminal force against women means assaulting a woman with intent to outrage her modesty. Such cases happen frequently and everyday but only a small fraction of them are reported. The Supreme Court while deciding the case of *State of Punjab v. Major Singh*⁹⁷

⁹¹ *Tukaram v. State of Maharashtra*, AIR 1979 SC 185.

⁹² S. 375, *The Indian Penal Code*, 1860.

⁹³ *State of Maharashtra v. M.N. Mardikar*, (1991) 1 SCC 57.

⁹⁴ S. 114, *The Indian Evidence Act*, 1872.

⁹⁵ *Supra note*, 14.

⁹⁶ *Vishakha v. State of Rajasthan*, (1997) 6 SCC 214.

⁹⁷ *State of Punjab v. Major Singh*, AIR 1967 SC 63.

pointed out that an offence, which does amount to rape, may come under the ambit of section 354 of the I.P.C.

In the case of *People's Union Democratic Rights v. Police Commissioner, Delhi, Police Headquarters*⁹⁸ the Supreme Court charged the accused under Section 354 I.P.C. where the accused stripped a woman bare and thrashed her. Though she was awarded compensation but the actual loss that she suffered is not recoverable since the damage was done. We need strong preventive measures rather than merely providing some sort of compensation to the victims.

In the case of *Ripen Deo Bajaj v. Kanwar Pal Singh Gill*⁹⁹, the Supreme Court stated that any offence under this section should not be treated trivially since it's a grave offence transgressing and outraging the modesty of a woman. Right to privacy and personal liberty are sacrosanct rights of any individual, therefore any action, which affects the modesty of a woman, or put her into an uncomfortable situation should be made an offence and the accused should be properly dealt with.

Honor Killing and Women

The expression 'honor killing' is in itself falsified. It is used to cover the cold-blooded murders done by the members of family if any member has brought shame and dishonor to the family. It is often perceived as ritualistic form of murder. In majority of the cases females are the victims of honor killings when they do anything, which the family considers as immoral or impure. It is also called as customary killing in which another member justifies the killing of a member of family.

The perceived dishonor can be because of various reasons. There are several actions, which are strongly linked to honor-based violence; some of them are as follows:

- Pre-marital pregnancy
- Infidelity
- Asking for custody of children after divorce
- Falling victim to rape
- Loss of virginity outside marriage
- Having unapproved relationships
- Refusing an arranged marriage

⁹⁸ *People's Union Democratic Rights v. Police Commissioner, Delhi, Police Headquarters*, (1989) 4 SCC 730.

⁹⁹ *Rupen Deo Bajaj v. Kanwar Pal Singh Gill*, (2005) 6 SCC 161.

- Asking for divorce
- Leaving the family or marital home without permission
- Causing scandal or gossip in the community

In India, honor killings have been reported in various northern regions (primarily in the states of Punjab, Uttar Pradesh, Haryana, Rajasthan and Bihar) as a result of persons acting against their family's will. Also, the erroneous concept of 'Chap Panchayat's is a serious concern since it is against the law of the land. The only legally constituted body to account such issues is the Judiciary and any other non-judicial body should be scrapped. It is very obvious that the country needs stringent legislations to tackle this heinous crime as thousands of people in India have become victim to this social ill and have died.

Domestic Violence

Domestic Violence is an expansive term but one of the very astonishing features is that economic, emotional, mental and verbal abuses have been considered to be constituents of domestic violence. In some countries like the U.S.A., the above-mentioned elements are not considered to be in the ambit of so-called domestic violence. The first set of international norms in the area of protection of women from violence was the *UN Declaration on the Elimination of Violence against Women*¹⁰⁰, which focused on the security of women from certain forms of violence. Both the terms 'legislation' and 'violence' are extremely controversial.

When we talk about the Indian society, violence in home or violence behind closed doors even today in many areas isn't considered as an unacceptable behavior. This "practice" is deep rooted in the Indian society. However, after the recent developments in legislation related to domestic violence have helped women in the society to raise their voices and fight against the violent patriarchal society. But so far if we talk about the efficacy of such legislations, it is limited and somewhat have a dubious benefit to women. "The statistical literature on domestic violence in India till date has focused on sub-national scale such as studies over a few villages in a sub district or slum areas in a metropolitan city."¹⁰¹ The approach of domestic violence is complex. "Across the subcontinent there exist a wide variety of cultural norms and practices relating to domestic violence. The over-arching regional pattern is of more patriarchal and traditional states in the North such as Uttar Pradesh and Punjab, and relatively more egalitarian and educated states in South, such as Kerala and Tamil Nadu."¹⁰² There have been various social and non-social factors emerged which have helped the women to change their outlook towards the society on one hand and

¹⁰⁰ *Declaration on the Elimination of Violence against Women, A/RES/48/104, 20 December 1993.*

¹⁰¹ Hackett, Michelle T. "Domestic Violence against Women: Statistical Analysis of Crimes across India." *Journal of Comparative Family Studies*, vol. 42, no. 2, 2011, pp. 267-288. [Link - JSTOR, www.jstor.org/stable/41604436].

¹⁰² *Id.*

have changed society's perception towards them on the other. Phenomena like industrialization, globalization, and migration have given a 'positive push' to the women in the society and have enabled them to work away from home and become self-sufficient. Thus, we can see that the structural inequalities present in the society have begun to dilute. Penal provision like *Section 498A*¹⁰³ and *The Protection of Women from Domestic Violence Act, 2005* is the major legal framework in India to protect women from Domestic Violence.

The Contemporary Legal Framework

- The International Perspective
- The progress towards constitution of women's legal rights can be categorized into 3 stages.
- The first stage witnessed the development of international convention that focused on specific rights of women.
- The Second stage witnessed the emergence of Universal Declaration of Human Rights¹⁰⁴, International Covenant on Economic, social and Cultural Rights¹⁰⁵, European Convention for the Protection of Protection of Human Rights¹⁰⁶ etc. were developed.
- Finally, the third stage witnessed the development of important conventions like *Convention on Elimination of Discrimination of All Forms of Discrimination Against Women*¹⁰⁷ and various laws, practices and policies to bring in a genuine change in the society.

Convention on Elimination of Discrimination of All Forms of Discrimination Against Women (CEDAW) – It lays down comprehensive rights for women and also the additional measures for the protection of the women's rights in the international arena. This convention imposes obligations on the Governments of various countries to take comprehensive actions to combat violence against women and to carry out efforts for safety of women. "CEDAW is a truly significant statement of Women's rights, which supersedes and particularizes the applicability of other instruments of other instruments of

¹⁰³ S. 498A, *The Indian Penal Code, 1860.*

¹⁰⁴ *Supra note, 7.*

¹⁰⁵ UN General Assembly, *International Covenant on Economic, Social and Cultural rights, 16 December, 1966, United Nations, Treaty Series, Vol. 993, p. 3.*

¹⁰⁶ Council of Europe, *European Convention for the Protection of Human Rights and Fundamental Freedoms, 4 November 1950.*

¹⁰⁷ *Supra, 8.*

international law to women. Its comprehensiveness touches every aspect of women's lives, in the political, social, economic, legal, health and family spheres."¹⁰⁸

The National Perspective

“As a reaction to the male-dominated patriarchal structural and culture of our society and politics and the chauvinistic role of men, women of our time have become vocal and started amplifying their equal rights to that of men. So, ours is a women's era in as much as there is an increased consciousness about women rights.”¹⁰⁹ India, today has a set of stringent legislations like –

- The Immoral Traffic (Prevention) Act, 1956
- The Criminal Law (Amendment) Act, 2013
- The Commission of Sati (Prevention) Act, 1987 (3 of 1988)
- The Dowry Prohibition Act, 1961 (28 of 1961) (Amended in 1986)
- Protection of Women from Domestic Violence Act, 2005
- The Sexual Harassment of Women at Workplace (PREVENTION, PROHIBITION and REDRESSAL) Act, 2013
- The Indecent Representation of Women (Prohibition) Act, 1986

But still we need a lot more stringent and comprehensive women-specific legislation to protect the rights of women and spreading an air of deterrence against crimes against women in the society. “To make population policies fully supportive of women's rights, countries must modify restrictive national laws, enforce laws that ensure women's rights and reassess policies of non-ratification of international treaties that bear on women and reproductive rights.”¹¹⁰

Sine India ratified the CEDAW, which imposes a positive obligation to take appropriate steps to take appropriate steps to prevent discriminations of all forms against women besides taking steps to protect the honor and dignity of women. In *Madhu Kishtwar v. State*

¹⁰⁸ Tinker, Catherine. “Human Rights for Women: The U. N. Convention on the Elimination of All Forms of Discrimination against Women.” *Human Rights Quarterly*, vol. 3, no. 2, 1981, pp. 32–43.
[Link - JSTOR, www.jstor.org/stable/761855].

¹⁰⁹ Das, Jogendra Kr. “Reflections on Human Rights and the position of Indian Women”, *The Indian Journal of Political Science*, vol. 64, no. 3/4, 2003, pp. 203–220.
[Link - JSTOR, www.jstor.org/stable/41855782].

¹¹⁰ Pine, Rachel N. “The Legal Approach: Women's Rights as Human Rights.” *Harvard International Review*, vol. 16, no. 4, 1994, pp. 26–77.
[Link - JSTOR, www.jstor.org/stable/42760499].

of Bihar¹¹¹, the Supreme Court observed that CEDAW is an integral scheme of Fundamental Rights and Directive Principles of the Indian Constitution. “The Government had ushered in the new millennium by declaring the year 2001 as ‘Women’s Empowerment Year’ to focus on a vision ‘where women are equal partners like men’. The objective of Government policy in India has been to bring about development, advancement and empowerment of women in the country through active participation of all stakeholders.”¹¹²

Conclusion

The present social system cannot be called as a full-fledged prosperous system because we have not reached the stage where we can bring men and women at parity. India, the world’s largest democracy, having an independent and extremely vibrant press frequently suffers from incidents relating gross violation of women’s rights like Rape and Sexual Harassment, Cruelty and Dowry Death, Domestic Violence, Honor killing and suppression of their liberty.

But we have come a long way and have been fighting to bring a genuine change through effective legislations and social participation. Due to phenomena like globalization, industrialization and migration, we can see the transformation in the ideologies of people in the society and the change in the outlook of people towards women with a positive difference. We still have a long way to go but with constant productive efforts, we will surely be able to achieve the status of a society in which women are self-sufficient and safe.

¹¹¹ *Madhu Kishwar v. State of Bihar*, 1996 AIR 1864.

¹¹² Ojha, Purnima. “Women’s Issues in India: Role and Importance of Media”, *The Indian Journal of Political Science*, vol. 72, no. 1, 2011, pp. 87–102.

[Link - JSTOR, www.jstor.org/stable/42761809].

Chapter 9

Rights Of Domestic Workers In India: A Substantive Analysis Of The Indian Legal Framework

*Author: Awasthi Vinod Co Author: Nandini Praveen*¹¹³

Introduction

The term “Domestic Worker” is defined as a person who is employed for remuneration whether in cash or kind, in any household through any agency or directly, either on a temporary basis or permanent, part time or full time to do the household work or allied work, and it shall include activities such as cooking, washing clothes or utensils, cleaning or dusting of the house, and caring/nursing of the children/sick/old/handicapped.¹¹⁴ Doing household work is to this day seen as below someone’s dignity. Cooking, cleaning, caring for children are all skilled jobs but they fall under the unorganized sector, with no law to protect their rights, no health cover and no pension. Beyond just being a paid worker, the work that these women do is one of the reasons that the modern Indian woman can go out of her home to work without having to worry about the burden of household chores. Institutionalizing this sector shall improve the working conditions and wages of domestic workers, leading to their economic development and contribution towards sustainable development of the country.

According to UNESCO, migration is the crossing of the boundary of a political or administrative unit for a certain minimum period of time.¹¹⁵ Indian emigration to the Gulf countries for work has a long historical background. According to the latest estimates by the Ministry of Overseas Indian Affairs (MOIA) of the Government of India, approximately 6 million Indian migrants are living and working in six Gulf countries, thus

¹¹³ Author: Awasthi Vinod

University: His Highness Maharaja’s Government Law College, Ernakulam

Email: aswathyv206@gmail.com

Co-Author: Nandini Praveen

University: His Highness Maharaja’s Government Law College, Ernakulam

Email: nandini.praveen2000@gmail.com

¹¹⁴ Section 2(f) of the Domestic workers (Registration, social security and welfare) Act 2008.

¹¹⁵ UNESCO, Social and Human Sciences, International Migration, Migrant/Migration (Aug 19, 2019, 10:06 am), <http://www.unesco.org/new/en/social-and-human-sciences/themes/international-migration/glossary/migrant/>.

becoming an important destination for Indian migration.¹¹⁶ Private placement agencies are some of the prime recruiters for individuals to move overseas. However, viewing this to be an opportunity to make easy money, these agencies are engaging in exploitative practices by colluding with the employer. Moreover, the often-precarious legal status of migrant workers in the destination country, and lack of knowledge of the local language and laws, puts their social security at risk. Women migrants who are employed as domestic workers face ill treatment in Gulf countries, sometimes even being subjected to sexual abuse. The exclusion of domestic workers from key protections in national labor laws, immigration policies that give employers inordinate control over workers, and the isolation of domestic workers in private homes, are the main factors that increase their vulnerability to exploitation. Trafficking of these workers is one such example.¹¹⁷ India is a source and transit route for trafficking of women and girls going to the Middle East for domestic work.

The Palermo Protocol¹¹⁸ defines trafficking in persons as:

“... the recruitment, transportation, transfer, harboring or receipt of persons, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of the giving or receiving of payments or benefits to achieve the consent of a person having control over another person, for the purpose of exploitation. Exploitation shall include, at a minimum, the exploitation of the prostitution of others or other forms of sexual exploitation, forced labor or services, slavery or practices similar to slavery, servitude or the removal of organs.”

In order to prevent such hardships faced by the workers, the government must have a better regulatory framework governing this sector.

Issues Faced By Domestic Workers

Data released by the Ministry of Women and Child Development in February 2014, published in response to a question tabled in the upper house of Parliament, track reports of violence against domestic helpers between 2010 and 2012.¹¹⁹ Overall, in India's 28 states and 7 union territories, there were 3,564 cases of alleged violence against domestic workers reported in 2012, up slightly from 3,517 in 2011 and 3,422 in 2010.¹²⁰ According

¹¹⁶Sudhaveni Naresh, *Indian Migration to Gulf Countries: Issues and Challenges, Volume 6 Issue 6 [Year - 2015] ISSN 2319 – 9202*.

¹¹⁷Pg 14, *Indispensable yet unprotected: Working conditions of Indian Domestic Workers at Home and Abroad / International Labour Office, Fundamental Principles and Rights at Work Branch (FUNDAMENTALS) - Geneva: ILO, 2015*.

¹¹⁸ *The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children 2000, supplementing the United Nations (UN) Convention on Transnational Organized Crime*.

¹¹⁹UN India, *Rights of Domestic Workers*, (Aug 12, 2019, 12:22 am), <https://in.one.un.org/page/rights-for-domestic-workers/>.

¹²⁰ *ibid*

to data provided by Delhi Labor Organization, there are over five crore domestic workers in India, most of whom are women.¹²¹ From not being given food during long working hours to being subject to all kinds of abuse, the situation remains terrible. Sexual, verbal and physical abuse against domestic workers have become very common. The maid is seen as an easy and defenseless target. They are objectified, are subject to offensive jokes and lewd comments and worst of all, such behavior is seen as casual and socially acceptable.

Legal Provisions

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 includes domestic workers in its ambit. The Act mandates the constitution of an Internal Committee (IC) at the institutional level and a Local Committee at the local level.¹²² The constitution of LC and its effective functioning is of particular relevance for the informal sector. According to ILO, there are currently 9 crore women in the unorganized sector in India and the provisions of the SHW Act extend to all these women. Both live-in and live-out domestic workers are protected under the SHW Act 2013 and have the right to seek redressal from the LC when they are sexually harassed at their workplaces. But this can only happen when the domestic workers and other informal sector women workers would become aware about the act. The Act mandates the LC to conduct regular awareness and sensitization sessions for the workers and employers to make them aware about the issue and provisions of the act. It also mandates the LC to appoint one nodal officer at the block/tehsil/taluka level to forward complaints to the committee. These nodal officers are to act as first points of contact, who will receive information about such instances of violence in the unorganized sector workplaces, report them and sensitize and generate awareness in their communities. It has been found that LCs are unaware of their roles and responsibilities in preventing sexual harassment at workplace in the informal sector. LCs haven't been conducting regular awareness or sensitization programmes, due to which women workers are unaware about their rights and employers continue to behave with impunity. This is further aggravated because in most states, functioning LCs are lacking. According to an RTI query filed by Martha Farrell Foundation in 2017, out of 655 districts in the country, only 191 districts have setup an LC; out of these only 18% have conducted orientation of members or awareness programmes, 97% did not respond about SC/ST membership, 11 districts have no NGO representative and 20 districts and 103

¹²¹ *The New Indian Express, The Sunday Standard, "Congress to soft launch outreach effort for domestic workers", (Published: 09th December 2018 09:32 AM), www.newindianexpress.com/thesundaystandard/2018/dec/09/cong--to-soft-launch-outreach-effort-for-domestic-workers-1909114.html.*

¹²² The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

replied to say that they are yet to establish an LC.¹²³ With absence of LCs in many parts of the country and LC members unaware about their roles and responsibilities, it is needless to say that domestic workers continue to lack governance support to prevent sexual harassment at workplace.¹²⁴ The number of working hours in the proposed Domestic Workers (Regulation Of Work and Social Security) Bill is 48 hours a week and a maximum of 9 hours a day. The challenge here is going to be have a mechanism whereby the employer abides by this and more importantly, the employee should be aware of such a thing. Most of the domestic workers are illiterate or can barely read and write and are unaware of their rights as workers. When there is lack of awareness, they will be forced to work the way their employer wants them to, and in case they retort, they are simply replaced by another maid. Bringing the domestic workers community together and making them more aware of their legal rights is extremely crucial. The maids are met with outright denial if they ask for a raise. The lack of respect and recognition in the society for their work is the main reason that they are ill-treated.

Issues Faced by Migrant Domestic Workers

The majority of women who migrate for work has a very minimal understanding of their working conditions that were communicated to them orally. While many of them got the payment, they were promised and were allowed to leave after two years as agreed, some of them had deductions made from their salaries of which they were not informed earlier. This was the money that finally went to pay their agents, relatives and others who had got them their visas. So, despite a significant number saying that they paid nothing to go abroad, in most cases the deductions in their salaries were made deceptively by relatives or agents at a later date. They felt they had no choice but to accept whatever payment and working conditions they received since they were in a foreign country and needed the protection of their employer or agents.¹²⁵

Most of the migrant domestic workers are not even asked for their work contract before leaving the country, which indicates that none of them had actually received the required emigration clearance as the legal age for emigration for unskilled female domestic workers is 30 years. They require an emigration clearance to travel at which time they are also

¹²³ Martha Farrell Foundation, Sexual Harassment of Domestic Workers at their Workplaces, An Ongoing Study on Part-time Domestic Workers in Gurgaon, Faridabad and South Delhi, Context Setting and Release of Initial Findings.

¹²⁴ibid

¹²⁵ Pg 18, *Indispensable yet unprotected: Working conditions of Indian Domestic Workers at Home and Abroad / International Labour Office, Fundamental Principles and Rights at Work Branch (FUNDAMENTALS) - Geneva: ILO, 2015.*

required to produce a work contract from the employer that gives the details of the employer and the wages to be paid.

Upon arrival in their destination countries, some of the women could not even keep their passports. Others were told by their agents that they had to work for at least two years for their employer, even if they were exploited and abused. There were instances where exploitative employers registered false criminal cases against the domestic worker in retaliation for the worker wanting to leave prior to the expiration of the work contract. Many of the women who migrated say that they did not know that only recruiting agents that under The Emigration Act 1983¹²⁶ are permitted to recruit workers for overseas employment. None of these workers were aware of the various schemes and welfare funds of the government for workers in distress.

Legal Provisions

The Emigration Act 1983 aims to safeguard the interests of migrant contract workers and ensure their welfare. Under the Act, only recruiting agents registered with the Ministry of Labor and Employment can recruit for overseas employment after obtaining a registration certificate from the PGE. While the GOI has realized that the institutional framework created by the Emigration Act is not as effective as it should be and that it lacks coherent legal, administrative and policy structures necessary to implement it, there is little or no acknowledgement that the existing framework discriminates against ‘low-skilled’ emigrants from the country in general and ‘low-skilled’ women migrants in particular. The Act divides citizens into two categories according to their educational qualifications: low-skilled migrants whose passports are marked Emigration Clearance Required (ECR) and others who do not require such clearance (ECNR – Emigration Clearance not required). Ostensibly, this is done in order to protect less educated migrants. However, it does not offer sufficient protection to ‘low-skilled’ emigrants from the country, particularly women. In fact, it prohibits the movement of specific categories of women. In order to assist emigration processes in Kerala where the number of emigrants is large, Nora-Roots (Non-Resident Keralite Affairs Department) of the Government of Kerala was created in 2002. It has three offices in the State, in Kochi, Kozhikode and Thiruvananthapuram, and two outside it, in Mumbai and New Delhi and it has an integrated programmed for overseas job seekers. It conducts pre-migration and pre-departure orientation programmers twice a year in each district, developing awareness among aspirants about the general job situation abroad and imparting essential information relating to passports, visas, emigration rules, employment contract laws, travel formalities etc. It is also an authorized agency for manpower recruitment. It has an online platform for employers to hire quality talent as well

¹²⁶ The Indian Emigration Act, 1983

as a 16-hour call center with a toll-free number. It is noteworthy that even though the Overseas Department at NORKA is authorized to recruit domestic workers, they are reluctant to do so because domestic workers are not covered by any protective legislation in the Gulf countries and hence cannot obtain legal redress there. Faced with numerous issues confronting the workers, NORKA¹²⁷ has a scheme for providing legal assistance to weaker sections of returnees and another to give assistance to returnees in distress to cover medical bills, funeral expenses etc. as well as a Karuna scheme to repatriate deceased workers. NORKA also provides an identity card for those working abroad with residential permission for more than six months. Such persons are entitled to accident coverage of INR 200,000 (USD 4,444). In case of harassment, NORKA assists with repatriation. There is a special Non-Resident Indian (NRI) cell at the Police headquarters in Thiruvananthapuram to deal with issues of the NRIs. It mainly takes up cases of cheating by recruiting agents.

NORKA roots is thus setting an example through their abovementioned schemes and one can borrow from these ideas.

What We Propose- Solutions

Taking examples of Legislative and Legal provisions from across the world, we propose the following solutions –

1. We require a provision where all the domestic workers in a district is educated or is provided awareness classes regarding their rights.

Argentina's Legislative Decree 326/56 on Domestic Service¹²⁸, requires that a domestic worker be given a work book provided by the Ministry of Labor and Welfare that includes a copy of all relevant laws in place at the time of employment.

Austria's Federal Act Governing Domestic Help and Domestic Employees¹²⁹, requires the employer of a domestic worker, at the commencement of the employment relationship, to provide the worker with a copy of applicable laws, including minimum wage laws, and collective agreements, or with material published for this purpose by the workers' organization concerned.

South Africa's Sectoral Determination 7¹³⁰, requires that employers of domestic workers make a copy of the law or an official summary accessible to the domestic worker in the

¹²⁷ *Norka Roots, Kerala Government, (Aug 14, 2019, 16:30 PM), www.jobsnorka.gov.in*

¹²⁸ *Article 11, Legislative Decree 326/56 on domestic service, dated 14 January 1956, and the related Decree 7979/56, dated 30 April 1956.*

¹²⁹ *Section 2 (2), Federal Act Governing Domestic Help and Domestic Employees, Act No. 60, dated 23 July 1962, as amended.*

¹³⁰ *Section 30, Sectoral Determination 7: Domestic Worker Sector, binding as of 1 September 2002*

workplace: Every employer on whom this sectoral determination is binding must keep a copy of the sectoral determination or an official summary available in the workplace in a place to which the domestic worker has access.

2. We require a legislation that establishes an autonomous apex body at the central level which sets the rules and regulations and controls the functioning of the state and district level boards.

Convention No. 189¹³¹, Article 18: “Each Member shall implement the provisions of this Convention, in consultation with the most representative employers’ and workers’ organizations, through laws and regulations, as well as through collective agreements or additional measures consistent with national practice, by extending or adapting existing measures to cover domestic workers or by developing specific measures for them, as appropriate.” And India being a signatory to this convention it has a responsibility to do the same. The state governments of Kerala, Maharashtra, Tamil Nadu have already constituted Welfare Boards for domestic workers. We require a central level welfare board as well.

3. We need a team of labor inspectors at the state and district levels to monitor and inspect domestic workers living and working conditions so they can take up the issues to the state or district level boards respectively.

In South Africa, the labor inspection services are responsible for monitoring compliance with Sectoral Determination 7¹³². Under the BCEA¹³³, labor inspectors have the right to enter private homes following authorization by the Labor Court. While the possibility to apply for such an authorization is rarely used, labor inspectors have carried out campaigns targeting domestic work since 2005. Households in certain designated areas during a specified period of time were contacted in advance and invited to receive labor inspectors. Depending on the extent of a given campaign, several hundred households were visited each time. Questionnaires for employees used by the inspectors included 20 questions on working conditions and social security. For example, in January 2011 labor inspectors visited some 200 households in the Western Cape province, out of which roughly half were fully compliant with the applicable legislation. During follow-up inspection, previously non-compliant employers were generally found to be compliant.

4. The hours of work should be limited to 48 hours and the employers must be required to maintain a record book that must be periodically inspected by the labor officers and in case of variations, the book should be presentable to the labor inspectors and the district level boards.

¹³¹ Article 18, *Domestic Workers Convention, 2011 (No. 189) and its supplementing Recommendation (No. 201)*;

¹³² *Sectoral Determination 7: Domestic Worker Sector, binding as of 1 September 2002*

¹³³ *Section 65 (2), Basic Conditions of Employment Act, Act No. 75 of 1997*

Finland's Act on the Employment of Household Workers¹³⁴, requires the employer keep track of extra hours worked by domestic workers: Employers shall draw up a work schedule indicating the beginning and end of working hours, the break ... and the weekly rest period. Employers shall keep a separate register on any emergency work and overtime and the increased wages paid on them. Any Sunday work and the increased wages paid for it, and any work performed during weekly rest period and the resulting reduction in regular working hours or separate remuneration paid for it must also be recorded in the register. It also requires the work schedule and register to be kept available for inspection by the worker and, on request, be made available for inspection by the occupational safety and health authority. Employers must on request provide the worker or his or her representative with a written report on the records concerning the workers in the said register.

5. A domestic worker who is aggrieved by the grievance redressal system should be able to appeal to the state level board or a special court instead of having the collector¹³⁵ resolve the issue.

In Kazakhstan, with respect to article 217 of the Labor Code¹³⁶, individual labor disputes between the domestic worker and the employer are resolved by agreement of the parties and (or) in the court. In the Labor Codes of Kyrgyzstan¹³⁷, the Republic of Moldova¹³⁸ and the Russian Federation¹³⁹, individual labor disputes between the worker and the employer (physical person), which cannot be resolved upon mutual agreement are brought to the court under the procedure established by the labor law.

6. We require more stringent punishment for offenders, and for non-compliance of regulations.

The Pluractional State of Bolivia's Household Workers Act, 2003¹⁴⁰, Article 21, setting out various obligations of the employer, includes a clause regarding respectful treatment and refraining from abuse: Employers shall be obliged to: (a) treat household workers with consideration and respect, in keeping with human dignity, refraining from physical or verbal abuse. ... Section 23 of the Act assigns responsibility for investigating complaints from domestic workers regarding abuses to specific public authorities: The Brigade for the Protection of Women and the Family, the Police Force, the Public Prosecutor's Office and the competent authorities shall receive complaints or claims lodged by household workers concerning abuse, physical assault and sexual or other harassment by employers, children, relatives or others, and the appropriate investigations shall be initiated by the competent authorities. The institution which prosecutes or investigates the complaint shall immediately inform the Labor Inspectorate of the facts of the case so that wages and social

¹³⁴Section 31, *The Employment of Household Workers, Act No. 951 of 1977 (as amended up to Act No. 73 of 2001)*

¹³⁵ Pg 15, Section 50(5), Chapter VI, *The Domestic Workers (regulation of work and social security) bill, 2017,*

¹³⁶ Labour Code of the Republic of Kazakhstan, 15 May 2007, as amended.

¹³⁷Article 365, Labour Code of 4 August 2004, as amended.

¹³⁸Article 288, Labour Code of 28 March 2003, as amended.

¹³⁹Article 308, Labour Code of 30 December 2011, as amended.

¹⁴⁰ Domestic Workers Act, dated 3 April 2003.

benefits may be duly paid without the legal actions being suspended. Criminal acts shall be referred to the Public Prosecutor's Office for prosecution.

In Singapore, the Penal Code of Singapore¹⁴¹, provides for specific offences against the integrity of domestic workers, such as causing hurt or grievous hurt, wrongful confinement, assault or using criminal force, or acts intended to insult the worker's modesty. Penalties imposed on employers or other household members for such crimes can be 1.5 times as severe as they would have been had that offence been committed against a person other than a domestic worker. Employers found guilty of psychological or physical abuse, exploitation or ill-treatment or other criminal offences against domestic workers will be barred from employing further domestic workers.

Conclusion

Although the first step towards bringing about a positive change in the working conditions would be through proper legislative action, it is equally important that a change be brought in the mindset of the people, and the social stigma surrounding their job be done away with. We must listen to them, their plight, and the government must work with domestic worker unions and NGOs that work in this field to reach out to this community and work for their betterment. In the same way, migrant domestic workers are integral to the economy of our country and therefore institutionalizing the whole migrant workers sector in a better manner will help the workers and the country in return. They too, are human, citizens of our country and are entitled to the same rights as we are.

¹⁴¹ Section 72, Penal Code, as amended by Act 18, commencing 15 May 1998.

Chapter 10

Human Trafficking – Need of the Hour

*Author: Roshni. R, Vybavi.S.S*¹⁴²

Abstract

This paper is a study on the problems arising due to Human Trafficking in the society. Human Trafficking is a serious crime which is a grave violation of the human rights. Human Trafficking is a trade carried upon human beings. It is nothing but an act of illegally transporting people from country to another, typically for the purpose of using them as forced labor or sexual exploitation. Humanity is under threat, any human being regardless of their gender, their financial status and so on needs to be given due respect and care for the very fact that he is a human being who is enshrined with basic human right.

In this era where the development of human race is increasing day by day, the rate of Human Trafficking has also become a widespread issue. These sorts of social evils need to be dealt with great concern especially for the reason that “Women” need to live a desiring life free from any external force. No one has rights to curtail the basic fundamental right of the citizen namely, human right. Human Trafficking is one of the most heinous crime as it is a worst kind of abuse against any human.

This paper provides a general overview on the issue which covers the history of the crimes, relevant cases, measures taken and possible suggestions to curtail the same. The laws related to the freedom and will of women need to be taken into consideration in order to frame stringent laws to curtail the crime rate.

It studies various legislations such as “The Immoral Trafficking Prevention Act”, “The Trafficking of Persons (Prevention, Protection and Rehabilitation) Bill 2018”. It analyzes the United Nations Convention on Transnational Organized Crimes to prevent the human rights and other international conventions on the subject matter. The primary concern of this paper is to detail the current problem and to recommend measures which would be taken to stall this problem to the most possible extent.

Keywords: Human Trafficking, Victim- Centered approach, Stringent Laws, Domestic Legislations, International Conventions.

¹⁴²

NAME: Roshni. R

NAME OF THE INSTITUTION: Student, V Year B.COM., LL. B (HONS), School of Excellence In Law, The Tamil Nadu Dr. Ambedkar Law University, Chennai, Tamil Nadu.

E-MAIL: rroshini6@gmail.com

NAME: Vybavi.S.S

DESIGNATION AND NAME OF THE INSTITUTION: Student, V Year B.COM., LL. B (HONS), School of Excellence in Law, The Tamil Nadu Dr. Ambedkar Law University, Chennai, Tamil Nadu.

E-MAIL: vybu16@gmail.com

Introduction

Trafficking is one of the most complex crimes in India in this era. Although illegal under Indian law, it remains a significant problem. Trafficking is a form of trade which is illegal. Human Trafficking is carrying out a trade on humans. These humans are being trafficked for the purpose of sexual slavery, Commercial sexual exploitation, extraction of organs or tissues, forced labor, marriage or domestic servitudes.

Many international conventions for preventing human trafficking of which more of the countries have ratified it. It is a serious violation of human rights of the individuals. Sexual exploitation of children is the most heinous form of crime. Not only women and children but men too are subjected to human trafficking.

Large number of people are trafficked not only for sex trade but for various other forms of servitudes such as bonded labor, drug peddling/smuggling, organ harvesting etc. Human trafficking seems like a distant problem or one that does not involve us directly, but we are unwittingly involved any time we buy something made by exploited labor.

Historical Background of Human Trafficking

We can understand the phenomenon of 'trafficking in persons', and the need for a clear and unambiguous definition better if we trace the historical development of the concept of "trafficking", and see what it has meant to different people, organizations and governments over 2 time. The earliest understanding of "trafficking" comes from UN instruments. The term "traffic" was first used to refer to the so-called 'white slave trade' in women around 1900. The trafficking and voluntary migration of white women from Europe to Arab and Eastern States as concubines or prostitutes was of particular concern to European middle-class men, women and governments. The result was the creation of an international agreement for suppression of the 'white slave trade' in 1904. At this time, "traffic" meant the movement of women for an immoral purpose i.e., prostitution. Initially, this definition required the crossing of country borders, but by 1910 it changed to acknowledge traffic in women could occur within national boundaries. Traffic in women was seen as related to slavery, but also to closely linked to prostitution.

The link between trafficking and prostitution solidified even more in the following decades, most clearly in the adoption of the 1949 Convention. We already discussed this problematic treaty under 'Primary Human Rights Instruments'. This early confusion of trafficking with prostitution is still seen in the anti-trafficking activism of some individuals, organizations and governments today.

Unfortunately, governments of some destination countries also continue to conflate trafficking with undocumented migration, particularly into prostitution. The response of

such governments is predictable and harmful to women; they adopt stricter immigration policies particularly to combat the movement of young women, under the guise of combating "illegal trafficking in persons". Some countries of origin object to this approach because it violates the rights of their citizens abroad. However, some countries of origin have adopted similar policies to prevent young women from leaving their country under the mistaken belief that they are preventing 'trafficking'.

So, we can see that at different times in history, the then prevailing concept of trafficking has

- (1) Ignored the human rights of trafficked persons;
- (2) Been used by moralists to dictate to women in prostitution;
- (3) Been used by governments to restrict the movements of women.

Scenario of Human Trafficking in India

The recent trafficking in persons Report, observes that India is a destination of women and girls from Nepal and Bangladesh for the purpose of commercial sexual exploitation. According to the report, India does not fully comply with the minimum standards for the elimination of trafficking. However, the report also points out that India in making significant efforts to control it. Despite the efforts there has not been sufficient progress in its law enforcement to address human trafficking. Child-trafficking for so called 'sex - tourism' is increasing in places like Goa, Kerala, Karwar and Himachal Pradesh as poor parents use their poverty as an excuse. Agents enter the picture; they bribe the police to turn a blind eye. Andhra Pradesh, West Bengal, Maharashtra, Tamil Nadu, Karnataka, Bihar, Orissa and Delhi have been identified as the most affected states. At the cross-border level, the major victims trafficked into India for the purpose of commercial sexual exploitation, belong to Nepal and Bangladesh.

Demographics of Traffickers

Traffickers of young girls into prostitution in India are often women who have been trafficked themselves as adults they use personal relationships and trust in their villages of origin to recruit additional girls.

Causes and Modes of Trafficking

There are several contributing factors for trade in human beings particularly in women and children. The factors of trafficking in women and children can be divided into two categories: push and pull factors.

The push factors include: poor socio-economic conditions of a large number of families, poverty coupled with frequent, almost annual natural disasters like floods leading to virtual destitution of some people, lack of education, skill and income opportunities for women (and for their family members) in rural areas, absence of awareness about the activities of traffickers, pressure to collect money for dowries which leads to sending daughters to

distant places for work, dysfunctional family life, domestic violence against women, low status of girl children, etc. It appears from the case studies that extreme poverty and other causes of deprivation not only push people to fall in the tripod the traffickers, they also create for some an incentive for trafficking. Often the prostitutes, who have no option to come out of the exploitative environment, gradually develop intimate connections with the traffickers and follow in their footsteps.

The pull factors are: lucrative employment propositions in big cities, easy money, promise of better pay and a comfortable life by the trafficking touts and agents, demand of young girls for marriage in other regions, demand for low-paid and underage sweat shop labor, growing demand of young kids for adoption, rise in demand for women in the rapidly expanding sex industry, demand for young girls in places of military concentration like Kashmir in India in recent times, demand for young girls for sexual exploitation as a result of the misconception that physical intimacy with young girls reduces men's chances of contracting HIV / AIDS, or of the myth that sex with a virgin can cure HIV / AIDS and impotence. The rampant practice of female feticide in the northern states of Haryana and Punjab has also fueled internal trafficking. Since there is a shortage of women in these states having a low female to male ratio, they have become fertile ground for the operation of traffickers. Traffickers procure girls from faraway states like Assam and Orissa; trick their families into believing they are to be married, only to later push them into prostitution.

The causes of human trafficking are multi-fold also because of the fact that we so far have made inadequate progress in addressing the issue. Thus, weak enforcement machinery and inordinate delay in justice delivery helps the traffickers to recruit or re-traffic women and children from the districts and send them to distant destinations with relative ease. Rare conviction of the real traffickers encourages the operators of the trade to continue the lucrative trade and earn huge margins without any investment. Moreover, unwillingness of the victims to seek legal redress due to absence of support from the police and the community members is also contributing to the spread of this crime.

Human rights most relevant to trafficking

The prohibition of discrimination on the basis of race, color, sex, language, religion, political or other opinion, national or social origin, property, birth, or other status, the right to life;

(a) The right to liberty and security

(b) The right not to be submitted to slavery, servitude, forced labor or bonded labor

(c) The right not to be subjected to torture and/or cruel, inhuman, degrading treatment or punishment

- (d) The right to be free from gendered violence
- (e) The right to freedom of association
- (f) The right to freedom of movement
- (g) The right to the highest attainable standard of physical and mental health
- (h) The right to just and favorable conditions of work
- (i) The right to an adequate standard of living
- (j) The right to social security
- (k) The right of children to special protection.

Different human rights will be relevant at different points in the trafficking cycle. Some will be especially relevant to the causes of trafficking (for example, the right to an adequate standard of living); others to the actual process of trafficking (for example, the right to be free from slavery); and still others to the response to trafficking (for example, the right of suspects to a fair trial). Some rights are broadly applicable to each of these aspects.

Legal Frameworks to Counter Human Trafficking in India

Indian penal code 1860

Interestingly the Indian Penal Code which came into existence in 1860 addresses the problem of human trafficking in human beings. It is addressed in Section 370 and 370 A of the Indian Penal Code. It prohibited trafficking of women and girls and prescribed ruthless punishments for the criminals. It lays down that anyone who buys or sells the person under the age of 18 years for the purpose of prostitution and for sexual exploitation and for other immoral purposes shall be liable to imprisonment for up to 10 years and also be liable to fine. It also recognizes cross border trafficking into prostitution and whoever imports into India from any country outside India any girl under the age of twenty one years with the intent that she may International Journal of Pure and Applied Mathematics Special Issue 46 be, or knowing it to be likely that she will be, forced or seduced to illicit intercourse with another person shall be punishable with imprisonment which may extend to ten years and shall also be liable to fine.

Constitution of India, 1945

The Indian Constitution of India prohibits trafficking in persons and guarantees many of the internationally acknowledged various human rights norms such as the right to life and personal liberty, the right to equality, right to freedom, the right to constitutional remedies. The right to be free from exploitation is also assured as one of the fundamental rights of any person living in India.

The juvenile justice (care and protection of children) act, 2000

According to this Act there is no difference between a minor and a child. All the persons under the age of eighteen years are considered children. A child who is a child in need of care and protection (NATIONAL LEGAL RESEARCH DESK 2016).

The scheduled castes and the scheduled tribes (prevention of atrocities) act, 1989

Many victims of trafficking belong to marginalized groups. Traffickers target only such area which is backward in social and literacy sense. This gives an additional tool to safeguard women and young girls belonging to scheduled Caste and scheduled Tribes and also to create a greater burden on the trafficker or offender to prove his lack of connivance in the matter. If the offender has the knowledge that victim belongs to these communities then this act can be effectively used to counter the offence of trafficking. Section 3 of this act deals with atrocities committed against people belonging to Scheduled Caste and Scheduled Tribes. It covers some forms of trafficking such as forced or bonded labors and sexual exploitation of women. A minimum punishment of ix months is provided which may extend to five years if the offence is covered under section 3.

Immoral traffic prevention act 1986

The government of India ratified the International Convention for the Suppression of Immoral Traffic in persons and the exploitation of the Prostitution of others in 1950. As an

International Journal of Pure and Applied Mathematics Special Issue 47 consequence of this ratification of the convention the Government of India passed the Suppression of Immoral Traffic in Women and Girls Act (SITA) in the year 1956. In the year 1986 the act was further amended and changed which was known as the Immoral Traffic Prevention Act, 1986 (PITA). This is an interesting law because according to its preamble the purpose of this Act is to give effect to the Trafficking Convention and to prohibit the immoral human trafficking. This act deals with trafficking and it has its objective as to abolish traffic in women and girls for the purpose of sexual exploitation. The offences included are taking persons for prostitution, detaining persons in premises where prostitution is carried on, seducing or soliciting for prostitution, making life on the earnings of prostitution, seduction of a person in custody, keeping a brothel or allowing premises to be used as a brothel, prohibits employment of children in certain conditions of work of children.

The Immoral traffic (prevention) act, 2018

This amendment is enacted for the purpose of investigation of all types of trafficking, and rescue protection and rehabilitation of trafficked victims. The act classifies certain aggravated forms of trafficking such as forced labor, bearing children, begging or for inducing early sexual maturity. These cases classified as aggravated trafficking attracts higher punishment than the other form. The punishments provided for the cases under this amendment are higher than the previously prevailing laws.

Cases Related to Human Trafficking

The most of the cases of trade are referred to decisions of Supreme Court of India or to the ones of the High Court. These cases are mostly not reported unlike those of the High Court and Supreme Court cases. Most of the convicts have been abysmally low and that very often victims have been re-victimized in the process.

There are various principles laid down by the Hon'ble Supreme and High Courts which have positive impact on the approach of the judiciary to cases of trafficking.

1. Victim's Rights

In *Prajwal v Union of India*, the implementation of a victim protocol was demanded. There have been cases where compensation has been ordered to be paid by a perpetrator of crimes to victims of the crime. This principle was applied in trafficking too in *Pucci v Union of India* where compensation was ordered to be paid where children were trafficked/bonded for labor.

2. Directions to state functionaries

Directions are made to the state functionaries to tackle the problems of trafficking. In the case *Gaurav Jain v Union of India*, the court affirmed that the state had a duty to rescue, rehabilitate and enable women to lead a life of dignity. Further, the court has also taken serious notes on what it referred to as the indifferent and callous attitude of the state administration in identifying and rehabilitating bonded laborer's in the country.

In *Neeraj Chaudhary v State of Madhya Pradesh* it was shown that a laborer is made to provide forced labor, the court would raise a presumption that he is required to do so in consideration of an advance received by him and is, therefore, a bonded laborer the burden of rebutting this presumption is upon the employer.

3. Special Protection to Children

These children are categories into two types firstly, those who are been trafficked themselves and the children who are in need of care and protection (those vulnerable to being trafficked).

In *Lakshmi Kant Pandey v Union of India*, they have examined vulnerability of children being trafficked in adoption rackets due to the lack of an effective protection mechanism. The court went to create an appropriate mechanism to fill the gap, especially in the context of inter country adoptions.

In the case *Prerenal v State of Maharashtra*, it is clearly stated that children who have been trafficked themselves should also be considered as children in need of care and protection and not as children in conflict with the law.

Prevention

The Immoral Trafficking Prevention Act only combats against the Human Trafficking but it is done only for the purpose of sexual exploitation. Thus, the legal provisions related to trafficking must be strengthened as a whole in order to prevent human trafficking in India. New stringent provisions need to be enacted.

Human Trafficking can neither be countered through penal laws alone nor by only forming Non-Governmental Organizations but only by implementing them wisely.

Conclusion and suggestion

Human trafficking is the illegal trade of human beings mainly for the purposes of commercial sexual exploitation and forced labor. Recently, human trafficking is especially popular for the purpose of extraction of organs. Trafficking is a lucrative industry. It is second only to drug trafficking as the most profitable illegal industry in the world. Thousands of people suffer from various forms of human trafficking and this problem needs effective solutions. The most popular form of human trafficking is for the purpose of sexual exploitation. Fake job offers are a common way to obtain women in India.

In general, sex trafficking victims are found in horrible circumstances and easily targeted by human traffickers. Individuals, circumstances, situations defenseless to traffickers comprise homeless persons, runaway teenagers, refugees, displaced homemakers, job seekers, kidnap victims, tourists, and drug/alcohol addicts. Such people are often extremely vulnerable and cannot protect themselves. It is far more difficult to attract grown up men to the forced labor but traffickers manage to recruit men using various threats and forced debts.

An important aspect of prevention of Human Trafficking is education: making sure people are aware of the existence, as well as the nature of human trafficking. Education further helps empowerment of women by developing "Intrinsic Capacity, inner transformation of one's consciousness to overcome barriers, access resources and traditional ideologies". Education is crucial in halting the flow of women, children and men into forced bondage. It is through education that we can elicit the most direct influence in the fight against human trafficking.

Promotion of Technical Education also helps to reduce the problem of human trafficking. Technical education emphasizes on the acquisition of employable skills and therefore well placed to train the skilled and entrepreneurial workforce that developing countries needs to create wealth and emerge out of poverty.

Human trafficking jeopardizes the dignity and security of trafficked individuals, and severely violates their human rights. Constitutions of India guarantee the equal rights of men and women, but they are often merely rhetoric when it comes to the question of practical implementation. In order to combat trafficking and thus to protect the human rights of the vulnerable people, strong political will of the government is vital in implementing their antitrafficking mandates. Thus, we can say any crime which can be used as business one day becomes a big social evil as in the case of human trafficking. The problem is still in our hands to be solved if the strong steps are taken deliberately and policies are made and implemented strictly. If timely steps are not taken then in very short time it will remain late but too late.

Chapter 11

Chernobyl And Bhopal Gas Tragedy

Author: Aditi Mehta, Co – Author: Arshad Mech Vikraman ¹⁴³

Abstract

Few calamities leave indelible marks on our minds and the environment, which take ages to recover from. Two such significant incidents in the history of mankind are Chernobyl and the Bhopal Gas Tragedy. Though they took place at different places and at different times, they are connected. The damage done by both the incidents is almost the same. However, the steps taken by the governments to deal with the after effects of the incident were strikingly different. The concept of sustainable development has been rife for many years but has never been seriously implemented by any of the countries because the principal reason stands- they don't understand it. In order to ensure that sustainable development is a long-term goal in polity as well as policy, knowledge about the subject would do wonders to help implement the concept. If anything should compel us to understand how sustainable development works, it is these two incidents which highlight the very need for it.

In this paper, we will be primarily outlining the tragic incidents which occurred and distinguishing between the two on the basis of the steps taken to move forward from the damage done. We will then offer a comparative analysis of the two incidents to highlight the dire need for sustainable development connected with law. Only when it is complied with the law and strictly implanted, it will be viewed as far more than a mere concept which dies out in discussions and more as a tool one can use in securing the planet which was left to us by our ancestors. Throughout this paper, we will establish the link that is present between the two incidents and how sustainable development should play a crucial part in the policy making of any nation.

Towards the end, we will be focusing on how India as a developing country, must take the required steps which are in concurrence with the international treaties and policies for

¹⁴³Author: Aditi Mehta

Class: BA. LL.B. 2nd Year

University: Tamil Nadu National Law University

Email: aditi.mehta0809@gmail.com

Co-Author: Arshad Mech Vikraman

Class: BA. LL.B. 2nd Year

University: Tamil Nadu National Law University

Email: arshamechvikraman@gmail.com

ensuring that in pursuit of development we don't end up destroying our vast natural resources.

A Brief History - Bhopal Gas Tragedy

On the unfaithful night of December 2, 1984 one of the worst industrial disasters in the history of mankind took place in Bhopal, the capital city of Madhya Pradesh. The incident happened due to the leakage of highly toxic gas, Methyl Isocyanate (MIC) from the premises of Union Carbide India Limited, a pesticide plant set up in the center of the city.¹⁴⁴ MIC leaked out due to the malfunctioning of the safety valve as a result of which water seeped into the storage tank reacting with nitrogen and resulting in the removal of the blanket.¹⁴⁵ The gas after its leak quickly spread over the entire city claiming the life of the innocent individuals who slept with the hope of getting back to work on the next day. Within few hours an estimate of 3,800 people died immediately and even more were seriously injured.¹⁴⁶ The incident not only impacted the lives of the people then but has its impacts till now.

Chernobyl Disaster

On April 1986, a nuclear accident took place in the No.4 Nuclear reactor in Chernobyl Nuclear Power Plant, in the north of Ukraine, erstwhile USSR. In the history of commercial nuclear power to cause fatalities from radiation, Chernobyl happens to be the only accident.¹⁴⁷ The incident took place due to flawed soviet rector design and negligence of the operators and the owners. According to NEA, the graphite fueled fire took about 10 days and 250 firefighters to extinguish. Also, there was the largest uncontrolled radioactive release in the environment which existed for about ten days as the plant, unlike most nuclear power plants elsewhere in the world, didn't have the fortified containment structure.¹⁴⁸ As a result, evacuation process began, in 1986, 115,000 people were evacuated. The government subsequently resettled another 220,000 people.

¹⁴⁴ Malini Nair, *Bhopal Gas Tragedy- A Social, Economical, Legal and Environmental Analysis*, MPRA (December 10th, 2005), https://mpr.ub.uni-muenchen.de/37856/1/MPRA_paper_37856.pdf.

¹⁴⁵ *Ibid.*

¹⁴⁶ Edward Broughton, *The Bhopal Disaster and its Aftermath: A Review*, *Environmental Health* (May 10th, 2005), <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC1142333/>.

¹⁴⁷ *Chernobyl Accident and Its Consequences*, NEI, (May 2019), <https://www.nei.org/resources/fact-sheets/chernobyl-accident-and-its-consequences>.

¹⁴⁸ *Ib.*

The Concept Of Sustainable Development

The United Nations define Sustainable Development as “*development that meets the needs of the present without compromising the ability of future generations to meet their own needs*”. It essentially aims at integration of environment policies and development strategies¹⁴⁹. To achieve sustainable development efforts, need to be put into the three interconnected elements, which are; economic growth, social inclusion and lastly environmental protection.

Over a period of time, human beings’ relation with the environment has shifted from environmental determinism to possibilism. Environmental determinism refers to naturalization of humans, wherein the humans were dictated by the nature and its force due to low level of technology during the earliest stage of human social development. Gradually, with development in technology and increased understanding of the humans regarding their surroundings they started creating possibilities with the resources obtained from nature. This is referred as humanization of nature. It is in between this transition that the need of sustainable development arose. Every country has had its own way of harmonizing with the nature while moving ahead on the path of development, though the term explicitly wouldn’t have been used.

It was in the year 1972 that the term “sustainable” was used in the modern sense as a part of Club of Rome. After this another large step forward in this movement, when the World Commission on Environment and Development (WCED) was tasked by the Secretary General of the UN, in 1983, to “re-examine critical environmental and development problems around the world and formulate realistic proposals to address them.” This culminated in the 1987 Brundtland Report’s publication of “Our Common Future”, which established a suggested path for sustainable development on a global level and served to bring the concept of sustainability into the foreground on an international level. Followed by this in the year 1992, the first UN Conference on Environment and Development (UNCED) took place in Rio de Janeiro, Brazil. At this conference, an agenda called Agenda 21 was adopted, which “recognized each nation’s right to pursue social and economic progress and assigned to States the responsibility of adopting a model of sustainable development.” The Secretary General of UNCED regarded Agenda 21 as a “program of action for a tolerable future for the human family and an initial step toward making sure the world will change into a more just, secure and wealthy habitat for all humanity.” Kyoto climate Agreement in 1997 is also one of the notable international protocols designed to guide the international community towards sustainable development. The goal was to reduce the emissions of its signatories, with special emphasis placed on developed countries.

¹⁴⁹ UN General Assembly, 1987.

Fast forward to 2015, when the general assembly began the negotiation process on the post-2015 development agenda. The process culminated in the subsequent adoption of the 2030 Agenda for Sustainable Development, with 17 SDGs at its core, at the UN Sustainable Development Summit in September 2015.

Aftermath Chernobyl

United Nations Scientific Committee on the Effects of Atomic Radiation (UNSCEAR) in the year 2018 reported that the accident was responsible for nearly 20,000 documented cases of thyroid cancer among individuals who were under 18 years of age at the time of the accident in the three affected countries including Belarus, Ukraine and the Russian Federation. This was due to the high levels of radioactive iodine released from the Chernobyl reactor in the early days after the accident. Radioactive iodine was deposited in pastures eaten by cows who then concentrated it in their milk which was subsequently ingested by children.¹⁵⁰ The United Nation study found considerable shortcomings in the Soviet Union's implementation of Countermeasures. "In the first few weeks, management of animal fodder and milk production (including prohibiting the consumption of fresh milk) would have helped significantly to reduce doses to the thyroid due to radioiodine," according to the study. "There is no doubt that a substantial contributor to the excess incidence of thyroid cancer has been exposure to radioiodine released during the Chernobyl accident."

Soviet authorities started evacuating people from the area around Chernobyl within 36 hours of the accident. In 1986, 115,000 people were evacuated. The government subsequently resettled another 220,000 people. But for last two decades resettlement projects have been going on.

In the year 2011 Chernobyl was officially declared as a tourist attraction with many visitors.

One of the most astonishing things to observe about this whole incident is the "wildlife's resilience in the face of chronic radiation stress." The exclusion zone area which is uninhabited by the people has become a refuge for all kinds of animals from moose, deer, beaver and owls to more exotic species like brown bear, lynx and wolves.¹⁵¹

¹⁵⁰ *Supra* note 4.

¹⁵¹ *Supra* note 4.

¹⁵¹ John Wendle, *Animals Rule Chernobyl Three Decades after Disaster*, *National Geographic* (April 18, 2016),

Aftermath: Bhopal Gas Tragedy

The first law suit which was filed was filed in the US Court., which was eventually taken out of the US jurisdiction and placed under Indian courts. In March 1985, the Indian government enacted the Bhopal Gas Leak Disaster Act as a way of ensuring that claims arising from the accident would be dealt with speedily and equitably. The Act made the government the sole representative of the victims in legal proceedings both within and outside India.¹⁵²

In a settlement mediated by the Indian Supreme Court, UCC accepted moral responsibility and agreed to pay \$470 million to the Indian government to be distributed to claimants as a full and final settlement. The figure was partly based on the disputed claim that only 3000 people died and 102,000 suffered permanent disabilities. As further insult, UCC discontinued operation at its Bhopal plant following the disaster but failed to clean up the industrial site completely. The plant continues to leak several toxic chemicals and heavy metals that have found their way into local aquifers. Dangerously contaminated water has now been added to the legacy left by the company for the people of Bhopal.

A Comparison

These incidents both lead to complications and deaths and even today, a few decades after the incidents, we still feel the effects of these incidents. The Chernobyl reactor incident can be attributed to the fact that the USSR at the time had no nuclear legislation concerning the use of nuclear energy and safety. Unlike countries like the USA or the UK.¹⁵³

Nuclear legislation had been drafted about two years prior to the incident at Chernobyl but it wasn't implemented. However, after the Chernobyl incident, the scale of the incident itself was so grave that it was impossible for authorities not to take legal action for the gross violations that had occurred during the event and the many who had suffered. These two incidents showcase a very common problem here. A lack of proper legislation. Both Chernobyl and Bhopal, lacked legislation in these matters. In the case of Chernobyl, there was no proper legislation at the time, which is why, hardly any action was taken at all in regards to the incident. People were simply asked to evacuate the region but despite this evacuation, the fumes from the fire had managed to reach countries which were further away and affected their residents as well, although indirectly. However, even after the incident, the fact remains that the location of the tragedy has become a tourist spot. Instead

¹⁵² *Supra* note 3.

¹⁵³ Milan Zgorsky, *Legal Regime of the Chernobyl Problems in the USSR, Belarus, Russia and the Ukraine*, NSRG, <http://www.rri.kyoto-u.ac.jp/NSRG/reports/kr21/kr21pdf/Zgorsky.pdf>.

of showing people the scale of the tragedy, it showcases a more marketable way of capitalizing on the tragedy. A recent TV series by HBO, aptly named “*Chernobyl*”, has gained a lot of traction recently and now several residents of Chernobyl who still have houses there, have taken painstaking measures to remodel their houses to resemble those of a 1980’s era Soviet house, complete with appliances of the era, which rake in far more tourists who are fans of the show.

Even the Bhopal Gas tragedy for that matter, became the subject of many small indie flicks which garnered some attention but it didn’t draw any amount of significant attention. The movies mainly tried to focus on the victims and how they were affected by the tragedy and tried to draw the audience’s attention towards the tragedy but the movies did well at the film festivals but didn’t garner any large reaction from the masses.

It is rather interesting to note how entertainment draws the masses towards pressing issues. Had it not been for the several movies and television series talking about these incidents, bar a few, no one would have bothered to look up or have known about these incidents.

Laws Applicable In Chernobyl And Laws Applicable In Bhopal

In relation to Chernobyl, the first law that came out was “On the Legal Regime of the Territories Exposed to Radioactive Contamination in Consequence of the Catastrophe at the Chernobyl NPP”. It was adopted in the Ukraine on the 27th of February, 1991. This law gave definitions to the territories affected by the radioactive contamination that occurred after the explosion of Chernobyl NPP for the first time. The territories affected by Chernobyl were further divided into Zones such as Restricted Zone, Zone of Unconditional Resettlement, Zone of Guaranteed Voluntary Resettlement and Zone of Intensified Radio-Ecological Control. Following in the footsteps of Ukraine, the republic of Belarus was next with the adoption of a special Law, “On Legal Regime of Territories Exposed to Radioactive Contamination in Consequence of the Catastrophe at the Chernobyl NPP” on the 12th of November, 1991. This law regulates the regime of the contaminated territories, conditions of residence, economic and scientific-research activity in these territories. A special law which was based on the status of the territories affected by the radiation was not adopted, despite being drafted in 1993. Furthermore, the ecological problems of the contaminated territories are regaled by a special article of the Law, “On Social Protection of Citizens Exposed to Radiation Effects in Consequence of the Accident at the Chernobyl NPP” which was adopted by the Supreme Soviet of the Russian Federation on the 15th of May, 1991.¹⁵⁴

¹⁵⁴ *Ibid.*

With regards to Bhopal, apart from the civil proceedings mentioned before, there were also criminal proceedings which took place were initiated before the Chief Judicial Magistrate in Bhopal. It was initiated in the year, 1987. The clause in the settlement order which had quashed criminal proceedings had been held invalid and unjustifiable, the criminal proceedings could continue. The proceedings were initiated under Sections 304 A, 336, 337, 338 read along with Section 35 of the Indian Penal Code. One of the main questions that remains to this day however is the issue of absolute liability which arose in this case. The issue was discussed elaborately in *M.C. Mehta v Union of India*.

Soon after the tragedy, the Government proposed and passed a series of laws regulating the environment, prescribing safeguards and specifying penalties. These laws filled the legislative lacunae that existed at the time of the incident. The tragedy was also in a way responsible for the passing of the Public Liability Insurance Act, 1991 which provided for compulsory insurance of any unit or factory undertaking a hazardous activity.

Conclusion: Need For Sustainable Development In India

After drawing the parallels between the two incidents and understanding the similarities between them, we come to a common objective: The need for sustainable development in India. Corporations seem to come to India with the notion of expanding at an alarming rate, without caring about the harm they cause to our country's environment.

Furthermore, India as a whole should move towards a far more rigid stance on Sustainable Development as we slowly move into an era where future generations are being made aware of the importance of it, amid a global warming crisis. The country needs to continue placing liability on corporations as well as individuals whose acts impact lives for generations. We can still see the effect of the Gas tragedy on victims today who suffer from various ailments as a consequence to their contact with the hazardous gas. All citizens must be made aware of the repercussions of not adhering to sustainable development and how their actions, if not checked now, could lead to the extinction of several natural resources at a rapid pace, which would inevitably lead to the extinction of the human race in no time.

This comparison was meant to show as an example of how India should learn from the Chernobyl incident and how after the incident, the laws became far more stringent for many countries, so as to prevent an incident like that ever occurring today. India needs to preserve

its environment and it give it as much importance as it gives it defense or government, otherwise soon, we'll be left with nothing to preserve.

Chapter 12
***India's Mission Of Providing Clean And Affordable
Energy: Analyzing The Prospect Of KUSUM And
NEMMP***

Author: Aryan Bajpal¹⁵⁵

Introduction

Climate change is an issue which has been discussed for decades. It is a broad issue which covers a variety of sub-issues which might be a cause or result of climate change or even both. Resource inequality is one such issue. Inequitable distribution and excess use of resources have resulted in an over-exploitation of resources all over the globe. The global population is set to grow by 28 percent and is predicted to use 71 percent more resources per capita by 2050. Without urgent steps to increase efficiency, the global use of metals, biomass, minerals such as sand, and other materials, will increase from 85 to 186 billion tons per year by 2050. The Sustainable Development Goals will not succeed without greater resource efficiency. Resource efficiency policies and initiatives can cut resource use by 26 percent and reduce greenhouse gas emissions by an additional 15-20 percent, by 2050.¹⁵⁶

This increase in resources can be explained in terms of the expansion of population and consumer trends. The world has seen a rise in population since the beginning of the Industrial age which in turn brought about a change from the use of non-renewable to renewable resources. With the urban and modern ways of life becoming more famous, the need of material-use increased exponentially. As a result, the stock of natural resources like fossil fuels, land under forest cover decreased to critical levels. This, in turn, affected the poor and the rural people who depend on such natural resources.

New technologies like electricity, developed in the urban, where on the other hand, the tribal and rural faced trouble while gathering resources necessary for their survival. Not only this, but such natural resources also act as a form of fuel for the basic activities of a

¹⁵⁵ Author: Aryan Bajpai

Class: B.A in Social Sciences 2nd Year

University: Tata Institute of Social Sciences, Tuljapur | Email: bajpaiaryan777@outlook.com

¹⁵⁶ UN Environment Programme, *Assessing Global Resource Use, International Resource Panel*, (December 3, 2017), <https://www.resourcepanel.org/reports/assessing-global-resource-use>

household. People who don't have access to such forms of fuel which serves as a source to keep a household warm come under what is known as 'fuel poverty'. To carry out their everyday lives, access to energy and its different forms is an 'absolute' necessity for a large population of people all around the world.

In situations where people do have access to energy, it is often the poorest that end up paying disproportionate shares of income for energy, not least because the higher upfront investments in energy-efficient equipment are more difficult to bear for low-income households.¹⁵⁷ If clean and modern energy sources like electricity are provided in rural areas, then there is a chance that it may further lead to a more inequitable society, especially when we consider the gender aspect. Women generally in rural areas, in the form of productive activity, spend time collecting wood and water for their respective households and the introduction of modern energy sources will put a stop on the productive activities taken up by women.

Along with this, even if access to electricity is somehow provided, it will lead to a similar problem of environmental degradation. If countries still use coal as the main source for providing electricity, even then, the carbon emissions produced are unfit for the environment. There cannot be a trade-off between air quality and cheap access to electricity.

To tackle the problem of inequalities and environment at the same time while providing cheap, energy access to electricity to the entire population, we need to integrate several 'Sustainable Development Goals' to bring about a 'Win-Win' situation for all classes of society. The goals which need to be considered are, 'No Poverty'; 'Affordable and Clean Energy'; 'Reduced Inequalities' and 'Climate Action'.¹⁵⁸ For achieving these goals, strong policies need to be implemented across the globe with efficient monitoring systems and laws to support the policies and bind the government institutions legally. Policymakers can address the interlinkages between energy, poverty, and inequality by combining energy access with the promotion of productive energy use while acknowledging 'fuel poverty' and supporting energy efficiency investments by low-income households.

In India, the maximum use and exploitation of resources occur in the agricultural and transport sectors where illegal storage and selling of electricity is a common thing practiced by all sections of society. The Indian Government, to enhance the energy sector, brings forward two policies, namely KUSUM (Kisan Urja Suraksha evam Utthan Mahabhiyan) and NEMMP (National Electric Mobility Mission Plan) in the agricultural and transport sector respectively. These policies can revolutionize both the sectors if implemented

¹⁵⁷ UNDP; *Interlinkages among Energy, Poverty and Inequality*; (February 12, 2018); https://sustainabledevelopment.un.org/content/documents/17480PB_8_Draft.pdf

¹⁵⁸ UNDP; *Sustainable Development Goals*; <https://www.undp.org/content/undp/en/home/sustainable-development-goals.html>

efficiently but also carry the risk of increasing the level of inequality between different classes of society.

Kisan Urja Suraksha evam Utthan Mahabhiyan

As a part of Intended Nationally Determined Contributions (INDC), India has committed to increase the share of installed capacity of electric power from non-fossil fuel sources to 40% by 2030. The Cabinet had approved scaling up of solar power target from 20,000 MW of grid connected solar power projects to 1, 00,000 MW by 2022.¹⁵⁹ (1) To achieve this target, existing solar energy and other renewable energy generation plants have to be upgraded. New plants may be developed, preferably by farmers, who could use their barren or uncultivable land for such solar energy plants, which could serve as a source of income as well as will provide them excess energy to be used in the future.

Guidelines and Implementation

At present, around 30 million agricultural pumps are installed in India, of which 10 million are diesel pumps. These diesel pumps have to be replaced by solar water pumps and solarize grid-connected agriculture pumps. Solarization of diesel pumps will lead to a reduction on the dependency on conventional resources and at the same time will reduce the burden on the Distribution Companies (DISCOMs). The Government of India, on July 22, 2019, approved a scheme with the name Pradhan Mantri Kisan Urja Suraksha evam Utthaan Mahabhiyan (PM KUSUM), which aims to provide energy and water security to farmers. Following are the major components of the approved scheme:

Component-A: Setting up of 10,000 MW of Decentralized Ground / Stilt Mounted Grid Connected Solar or other Renewable Energy based Power Plants. Component-B: Installation of 17.50 Lakh Stand-alone Agricultural Pumps; and Component C: Solarization of 10 Lakh Grid Connected Agricultural Pumps¹⁶⁰

The Component-A and Component-C will be implemented initially on pilot mode for 1000 MW capacity and one lakh grid-connected agriculture pumps respectively and Component-B will be implemented in a full-fledged manner. It is a 140 thousand crore scheme to replace diesel pumps and grid connected electric tube wells for irrigation by Solar Irrigation Pumps (SIP) with a buy back arrangement for farmer's surplus solar energy at a

¹⁵⁹ Ministry of New and Renewable Energy; *Guidelines for Implementation of Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyan (PM KUSUM) Scheme; (July 22, 2019);*
<https://mnre.gov.in/sites/default/files/webform/notices/KUSUMguidelines.pdf>

¹⁶⁰ Ministry of New and Renewable Energy; *Guidelines for Implementation of Pradhan Mantri Kisan Urja Suraksha evam Utthan Mahabhiyan (PM KUSUM) Scheme; (July 22, 2019);*
<https://mnre.gov.in/sites/default/files/webform/notices/KUSUMguidelines.pdf>

remunerative price. Farmers will be contributing 10 percent of the capital cost, along with which 30 percent will be provided by the banks in the form of loans and the remaining 60 percent will be borne equally by the Central and State Governments.

Renewable energy based power plants (REPP) of capacity 500kW to 2 MW will be setup by individual farmers/ group of farmers/ Farmer Producer Organizations (FPO) or other such groups. The REPP will be preferably installed within five km radius of the sub-stations to avoid the high cost of sub-transmission lines and to reduce transmission losses. According to the scheme, the REPP would be implemented primarily on barren or uncultivable land. Agricultural land is also permitted under the scheme given that the solar plants are installed in stilt fashion (i.e. raised structure for installation of Solar panels) and with adequate spacing between panel rows for ensuring that farming activities are not affected. Ministry of New and Renewable Energy (MNRE) will be responsible for allocating initial capacity of 1000 MW for Pilot Project to DISCOMs based on their demand and preparation for implementation. These pilot projects will be monitored during implementation and also on completion to evaluate their success and a detailed report will be prepared for further recommendations for scaling up the capacity under this component. Such evaluation may be done internally or through an external agency as per the decision of the MNRE. Under Component B, individual farmers will be supported to install standalone solar Agriculture Pumps for replacement of the existing diesel Agriculture pumps/irrigation systems in off-grid areas, where grid supply is not available, provided that these areas use micro-irrigation techniques to save water.

This scheme also supports the manufacturing of the components, to be used in the production of solar panels and modules. The guidelines make it mandatory to use indigenously manufactured solar panels with indigenous solar cells and modules. The motor-pump-set, controller and balance of the system are also to be manufactured indigenously. This scheme can check groundwater-overexploitation, offer farmers day-time uninterrupted power supply, reduce the carbon footprint of agriculture, curtail farm power subsidy burden and most of all, provide a new source of risk-free income for farmers. But even after these benefits, there are some problems which might affect the efficiency of the scheme and produce adverse effects on both the farmer and the environment.

Drawbacks of the scheme

A SIP owner might utilize the scheme for personal benefits. A farmer might 'encash' free solar energy by irrigating water intensive crops or by increasing cropping intensity. He might extract more groundwater and sell the extra water at a cheap price to neighbors. This will lead to the overexploitation of groundwater, which the scheme itself aims to reduce. Consider the case of Punjab, earlier, around 1980's the groundwater was available to farmers around a depth of 50-60 ft. but due to indiscriminate water exploitation after the

availability of electric pumps, the groundwater level has decreased drastically, lowering the water level to about 200 ft. With reliable day-time free solar power, SIP's can be way more lethal for the aquifers.¹⁶¹

India's agricultural sector relies largely on un-metered connections which make the implementation of Component C a mammoth task, as it requires an un-metered connection. Even before the announcement of this scheme, there were cases of the inability of the DISCOM's to pay any on-grid beneficiary. It presents another big problem in its capability to pay millions of additional prosumers for the next 25 to 28 years. Even though the production of indigenous cells and modules is mandated, but the production of such factories is almost one-tenth of the required capacity. Even after certain efforts by MNRE, the manufacturing process has still not gained enough pace, which might delay the entire program and adversely impact its implementation. Apart from this, economically, there are several disparities and inequalities among the farmers which might be increased and need to be addressed to ensure better efficiency of the scheme.

Suggestions and solutions for a better implementation of the scheme

KUSUM should aim to reduce the existing disparities among states regarding the deployment of solar pumps and irrigation access. The biggest problem lies with the farmers with different size of landholdings and incomes. KUSUM should provide greater financial assistance to smaller farmers belonging to socially disadvantaged groups. Small and marginal farmers might be provided with a higher capital subsidy whereas large farmers might be provided with long-term loans with interest subsidies. As mentioned earlier, many farmers already have access to SIP. Under the scheme, these farmers will also get similar subsidy rates and regular income on selling the surplus energy to DISCOM's. A different subsidy rate for such farmers will ensure a balanced level of competition and will at the same time prevent the exploitation of resources. Moreover, instead of selling-off the surplus amount of energy, a farmer can also utilize the excess amount of energy in the post-harvesting processes, which will enhance farm incomes through local value addition. More approaches must be included in the program and proper metering must be ensured to keep a tight check on the exploitation of resources, especially groundwater.

KUSUM has the ability to bring about a revolution in the agricultural sector from an era of inequitable distribution of resources and unreliable supply to one of affordable, reliable

¹⁶¹ *The Hindu*; Paddy, tube wells and depleting groundwater: Why Punjab's water resources are under strain; (August 17, 2019); <https://www.thehindu.com/news/national/other-states/paddy-tube-wells-and-depleting-groundwater/article29112950.ece>

and equitable access to energy and water if the Government succeeds in implementing it efficiently all across India.

National Electric Mobility Mission Plan

The Government of India launched the National Electric Mobility Mission Plan (NEMMP) in 2020. This plan aims to promote hybrid and electric vehicles in the country and ensure fuel security. The main target under this plan is to achieve 6-7 million sales of hybrid and electric vehicles by the start of 2020. The scheme will save about 9500 Million liters of Crude Oil equivalent to Rs. 62000 Crore savings.¹⁶² In order to provide a major push for early adoption and market creation of both hybrid and electric vehicles, the Government has also launched a scheme with the name Faster Adoption and Manufacturing of (Hybrid &) Electric Vehicles (FAME India) under NEMMP 2020 in the Union Budget for 2015-16 with an initial outlay of Rs. 75 Crore, which will allow such vehicles to become the first choice of consumers and will gradually lead to a replacement of the vehicles which use conventional resources like oil or natural gas as forms of fuel.

Implementation of the scheme

The Phase-I of the scheme was initially launched for 2 years beginning from April 1, 2015, but was subsequently extended from time to time and the last extension was allowed up to March 31, 2019. Implementation was based on four focus areas, namely Demand creation, Technology Platform, Pilot Project and Charging Infrastructure.¹⁶³ After the implementation of Phase-I, it was concluded that a sufficient number of charging infrastructure is required to achieve the expected outcome of the plan which should be given more focus in Phase-II of the scheme.

The Phase-II of the Scheme began from April 1, 2019, which aims to offer an upfront incentive on the purchase of electric vehicles and establish the necessary charging infrastructure required. The guidelines which encourage the faster set-up of charging infrastructure also aim to generate employment/income opportunities for small entrepreneurs. Apart from this, the Government has also introduced several other incentives to promote electric mobility in the country, Under the new Goods and Services Tax (GST) rules, the rates of GST on Electric Vehicles has been kept in the lower bracket of 12% (with no cess) as against the 28% GST rate with cess up to 22% for conventional

¹⁶² Ministry of Heavy Industries and Public Enterprises; *National Electric Mobility Mission Plan*; (August, 2012); <https://dhi.nic.in/writereaddata/Content/NEMMP2020.pdf>

¹⁶³ Ministry of Heavy Industries and Public Enterprises; *National Electric Mobility Mission Plan*; Press Release; (July 8, 2019); <http://pib.gov.in/newsite/PrintRelease.aspx?relid=191337>

vehicles.¹⁶⁴ Ministry of Power has also allowed the sale of electricity as a form of ‘service’ for charging of electric vehicles.¹⁶⁵ This would provide a huge investment in charging infrastructure. Ministry of Road Transport Highways has also issued notification regarding exemption of permit in case of battery-operated vehicles.¹⁶⁶

Drawbacks of the scheme

Even though this plan appears to be ambitious, but due to certain limitations and flaws, NEMMP may fail to achieve its desired output by 2020. These are mainly on account of higher cost of acquisition, challenges relating to batteries (these include issues relating to price, range, performance, etc.), consumer acceptability, performance standards of xEVs (Hybrid and Electric Vehicles) in comparison to traditional IC engine-based vehicles (range, speed, acceleration, etc.) lack of charging infrastructure, etc. Moreover, not many auto-mobile companies present the public with a variety of options when it comes to Electric and Hybrid vehicles. The Government has to consider all sections of society and all types of vehicles including 2-wheelers, 3 wheelers and large vehicles like trucks and buses. In urban areas, we have people with a budget of around 2-3 lakhs to even people who can spend crores on a luxury car. If the companies fail to provide options to all sections of society, then the acceptability of this scheme will fail to spread across the country. Similarly, in rural areas or small towns, people use 2-wheelers much more frequently than 4 wheelers like cars or SUVs. Facilities like education and healthcare have failed to reach the most remote corners of the country and it took the country around 70 years to provide the basic needs. This raises a serious question regarding the set-up of charging infrastructure for 2 and 3 wheelers in the villages.

Lastly, the electricity provided for the charging infrastructure is produced from coal. Using a conventional source in place of an alternate conventional resource should not be the case here. Coal produces more carbon emissions than petroleum. The increasing demand by the automobile industry will, on the contrary, make the conditions worse than before. It will also lead to more burden on the suppliers to provide electricity to both the stations inside and outside the household. The incentives provided by the Ministry of Power refer to the supply of electricity as a form of ‘service’ for public charging stations and not the private ones to be installed inside a household. Moreover, if people install private charging

¹⁶⁴ Central Board of Indirect Taxes and Customs; Central Goods and Services Tax (CGST); (2017); http://www.cbic.gov.in/resources//htdocs-cbec/gst/CGST_13092018.pdf;jsessionid=5D42D79D2B44A0B83FA3B7EFBDA75435

¹⁶⁵ Ministry of Heavy Industries and Public Enterprises; National Electric Mobility Mission Plan; Press Release; (July 8, 2019); <http://pib.gov.in/newsite/PrintRelease.aspx?relid=191337>

¹⁶⁶ Ministry of Heavy Industries and Public Enterprises; National Electric Mobility Mission Plan; Press Release; (July 8, 2019); <http://pib.gov.in/newsite/PrintRelease.aspx?relid=191337>

stations, they might store excess energy and sell it to reap extra income. These issues need to be addressed in Phase-II if the government wishes to get the desired output by the end of 2020.

Suggestions and solutions for a better implementation of the scheme

The Government has given incentives to the manufacturers for the selling of Electric and Hybrid Vehicles but it should incentivize the manufacturers to produce models which can be afforded by the different sections of society. A game changer can be the use of solar energy for the working of the charging infrastructure. Solar energy can be used in the daylight hours not only for direct energy generation but also for storage purposes which can then be used during the night hours. This will phase out the conventional resources of coal, petrol and natural gas at the same time, largely reducing the emissions produced. Moreover, if this technology is made mandatory, then this will increase the usage of solar panels and modules in households. The energy stored can then be used in other household activities. Reducing carbon emissions from the automobile and the residential sector will largely reduce the carbon emissions.

Introducing solar panels in the rural area will prevent the current switch from bio-fuels to coal. The same concept of storage of solar energy can be used in the villages. Introduction of this technology will not only benefit the energy sector but also the manufacturing sector. Promoting indigenous manufacturing of solar panels and modules will increase the profits of the Indian manufacturing sector and at the same time bring in more job opportunities. The phase out of coal must be a gradual process as a sudden shift from coal to renewable sector might lead to massive unemployment as the coal sector involves a large part of the Indian population. Considering such incentives will bring out a better efficiency in the working of the NEMMP.

The Case of Norway

Norway is a country which has experienced a swift and successful transition from vehicles which used conventional resources to electric or hybrid vehicles. This became possible due to the efforts of the Government which introduced several policies to bring about a transition. The Norwegian government presented a great number of incentives for the manufacturers and the consumers at the same time. Some of the policies included exemption from 25% VAT on purchase, company car tax reduction reduced to 40%, Fiscal

compensation for the scrapping of fossil vans when converting to a zero-emission van, maximum 50% of the total amount on toll roads and ferry fares for electric vehicles, etc.¹⁶⁷

The government similarly incentivized indigenous companies for the manufacturing of the solar equipment required and also invited companies like Tesla to bring in a variety of options for different sections of society. Though Norway reduces its carbon emissions by utilizing electric vehicles but on the other hand, it gathers funds exporting the same conventional resources. Even though this can be debated upon, the benefits of the introduction of electric vehicles outweigh the impact of export of conventional resources. The same logic cannot be applied to the terrain of India. But what the Indian government must and should do is bring a reform in the incentives presented to the common residents. A person from a middle-class economy, who is receiving 24 hrs. electricity all day will not think about switching to renewables. The government should keep people into the focus rather than the services provided to the people.

Conclusion

Both KUSUM and NEMMP have the potential to bring about a revolution in their respective sectors and carry a huge chance and potential for the development of the solar energy sector. The government must seize this opportunity and develop the renewable sector as much as possible to ensure an equitable distribution of clean and affordable energy.

RIGHTS OF SEXUAL WORKERS IN INDIA: A MILESTONE TO BE ACHIEVED

¹⁶⁷ Norwegian EV Policy; (June, 2018); <https://elbil.no/english/norwegian-ev-policy/>

Chapter 13

Human Rights: Rights of Sexual Workers.

Author: Chetana Prakash, Co- Author: Prakirti Jena¹⁶⁸

Abstract

In a country like India where the Constitution aims at removing the patriarchal mindset of people and empowering women and giving them the access to the rights that they deserve, we feel that not much is done for the women who are involved in the industry of sexual work. A lot of women involved in sex work are living in pitiable conditions and there are no strong laws that aim to provide safety and security to the women who are prone to a lot of hazards related to health, education, sanitation, etc.

Usually, there are two types of perspectives related to sex work. The first perspective is that, according to some people sex work is always forced upon on women who do not have any other source of employment and do it out of utter helplessness and unwillingness and it is considered as illegitimate and hence people belonging to this category usually do not respect the women involved in the industry. The second perspective is that some people consider sex work as legitimate work and they usually do not have any disrespect for the work and for the women involved in the industry.

In this research paper we are going to discuss about the shortcomings of ‘The Immoral Traffic (Suppression) Act (SITA)’ and other legal drawbacks that prevail in our society. Apart from discussing about the SITA and other legal frameworks that exist in relation to the rights of sex workers, we are going to suggest ways for the development of women involved in this industry with or without their will. In conclusion we would like to state that this issue is a very sensitive and untamed issue and deserves some limelight as it would result in the improvement of the condition of women involved in the industry. Moreover, ‘justice delayed is justice denied’ and denial of justice in this case would lead to an epitome

¹⁶⁸

Author: Chetana Prakash

Name of the Institute: Symbiosis Law School, Hyderabad

E-mail: chetanaprakashctc15@gmail.com

CO Author: Prakirti Jena

Name of the Institute: Symbiosis Law School, Hyderabad

E-mail: prakirtijena@gmail.com

of unjustness towards the women who crave freedom from the clutches of this patriarchal society.

Introduction

In a democratic country like India where the Constitution talks about providing equality to the people irrespective of their sex, gender, caste, place of birth etc. The authors of this paper feel that not much is done for the development of the 3 million prostitutes who form a major part of the population of this country. The prevailing laws have failed to ensure that the sex workers get their share of rights and are prevented from living in any brutal conditions. This failure of the legislation to legislate laws for one of the most economically and socially underprivileged population of this country is highly condemnable and hence needs the attention of the hour in order to improvise the conditions of the sex workers who are devoid of education, health care facilities and respect in the society. There are many human rights issues faced by India at this point of time but the issue that has always failed to gain the limelight is the rights of the sexual workers who live in the most pitiable conditions. The criminalization of prostitution has only added up to the problems of the sex workers instead of reducing them. The authors of this paper believe that decriminalizing or legalizing prostitution would definitely lead to legislation of new laws related to the rights of the sex workers and would also help in empowering them. Once prostitution will be legalized or decriminalized then it would also lead to decrease in human trafficking, reduce violence against women and also contribute towards the economy of this country. Hence, this research paper is going to scrutinize the prevailing laws and suggest as to whether prostitution should be legalized or not and as to how the situation of the sex workers can be improved.

Rights Of Sexual Workers In India: A Milestone To Be Achieved

1. What is the definition of prostitution as per the Immoral Traffic Suppression Act, 1956 (presently known as the Immoral Traffic Prevention Act, 1986 i.e. the ITPA)? What is the history of prostitution in India and the types of prostitution that prevail?

India being the largest democracy in the world has achieved several milestones in the past few years after independence which is well appreciated by the world. But, when it comes to human rights, the authors of this paper believe that not much has been done towards the

betterment of the underprivileged population of the country. Here, the authors would like to bring to the notice of the readers that the word underprivileged is not only applicable to the population that is economically backward but also applies to the population that is socially backward and prevented from getting their share of rights. According to the authors of this research paper, the most socially backward and underprivileged population of this country is the population consisting of prostitutes and other sex workers. In India, prostitutes are seen as mere objects and not human beings. This happens due to the fact that prostitutes are usually associated with loose character and lack of morality in the society and people often tend to forget that they face a lot of issues in their daily life, due to lack of rights and facilities available to them which worsens their condition in the society. Issues concerning women's bodily integrity and autonomy, such as abortion, rape, and sterilization, are subject to strong opinions that give rise to equally charged political policies.¹ Especially, the issues concerning women's bodily rights and rights of the sex workers and prostitutes needs to be in the limelight and deserves the attention of the hour. As with other issues pertaining to women's bodies, prostitution² discourse is largely concerned with determining whether this social practice

Debran Rowland, The Boundaries Of Her Body: A History Of Women's Rights In America Xxiii–Xxv (2004).

² Prostitution is herein defined as a social practice by which men gain sexual access to the bodies of predominantly women, children, and sometimes other men, through the exchange of money, goods, or housing. Prostitution, as a social construct, arises from "men's dominance and women's subordination." SHEILA JEFFREYS, THE IDEA OF PROSTITUTION ³ (Janet Mackenzie ed., 1997). Pornography is included in this definition as a subset of

is exploitative, empowering, or a consequence of immorality.³ Hence, before we terming the practice of prostitution as uncivilized and immoral, we first need to know whether the practice is exploitative, empowering or a consequence of immorality. In our country, there are not enough laws that deal with the rights of sexual workers. The Immoral Traffic Suppression Act, 1956 deals with prostitution and criminalizes every kind of sexual activity without taking into consideration the fact that at times prostitution may be consensual and not forcible. The aforesaid act only gives the definition of the terms related to sex work and punishment on being caught in any kind of illegal sexual activity. It does not talk about the rights that should be given to the sexual workers for their economic as well as social development. Hence it lacks the effect that it should tend to achieve.

Before we go any further into the topic, we need to know the emergence of the concept of prostitution in our country and also the types of prostitution that prevail. So, let's take a look at the history of prostitution in India and also the different types of prostitution.

Goa was set up in Portuguese I nidi in the early 16th century and it became flooded with the slave population of the Portuguese community. The Portuguese traders also traded in Japanese slaves and these Japanese slaves were brought to Goa and these slaves were kept as sex slaves for the Portuguese traders. The women were usually young Japanese women who were captured and brought to Goa for the purpose of sex slavery.

During the Mughal era, there were tawafs in the courts of the Mughal emperors who excelled in the field of art, dance and Urdu literary tradition. They were considered as an epitome of etiquette during the Mughal era. The tawafs worked for entertaining the Mughal emperors and the tawafs usually hailed from Northern India during the 16th century. The tawafs became even more prominent during the mid-18th century when the Mughal empire had almost come to an end. The contribution of the tawafs towards the Indian cinema, art and music has been immense and inevitable.

Then there was the emergence of the nautch during the period of the British East India Company rule. The nautch was actually an alluring form of dance. It was during the British rule that brothels were established for the British troops to fulfill their sexual desires. The women and girls who were involved in this profession usually belonged to poor and uneducated families and their families were paid for the prostitution work rendered by the women and girls. It was during this time that the establishment of the brothels and the red-light areas took place. The British rulers considered prostitution as a "necessary evil" and even enacted the Cantonment Act that made prostitution legal and there were girls appointed as prostitutes by the British Government who were allowed to provide services only to the troops. The girls involved in this used to stay in brothels which were known as chaklis during that time and the girls were usually captured from Continental Europe and Japan.

With the emerging times, there was increase in the business of prostitution and this increase has led to the emergence of different types of prostitution. Following are the types of prostitution that prevails on the basis of operation: -

- i. Street prostitution: The prostitute tries luring customers on the streets and then takes them to a private place to render service.
- ii. Call girl prostitution: The prostitute works independently and the customer needs to contact the prostitute for sex. This involves middle-men for bringing in customers for the prostitute.
- iii. Brothel prostitution: The prostitutes work in brothels and the customer goes to the brothels and the prostitute is paid as per the service rendered by her.

The types of prostitution based on profession are tawaf, nautch, Randi, kanjira, kalbi and noshi.

Hence, this is how prostitution emerged in India and the types of prostitution that prevail in this country.

2. What is the legal status of prostitution in India? Is it decriminalized? If not, then whether it should be decriminalized or not?

The laws relating to prostitution in India is dealt by the Immoral Traffic Suppression Act, 1956 also known as the Immoral Traffic Prevention Act. As per Section 3 of the Act, 3rd parties are punished if they are found to be involved in prostitution in any way. Section 3 of the aforesaid Act criminalizes prostitution. Section 5 of the aforesaid act states that any person found guilty of carrying on prostitution shall be punished with not less than 3 years of imprisonment and not more than 7 years of imprisonment and may even be bound to pay a fine of two thousand rupees. In cases where it is found that the girl or woman was forced into prostitution in that those cases the term of imprisonment will be not less than 7 years and not exceeding 14 years. The authors of this paper feel that in a country like India where there are about 3 million people involved in the sexual activity industry criminalizing prostitution only adds up to the miseries of the prostitution population. According to the authors of this paper, instead of criminalizing prostitution, it should be decriminalized because it's not every time that there are victims of prostitution. Sometimes the prostitutes are victimized because of the assault that the customers commit towards the prostitutes. If prostitution is legalized then it would result in the following: -

I. Human trafficking reduction: Criminalizing prostitution would only punish the trafficker but it would lead to loss of employment by the prostitute even when the prostitution work that she had taken up was consensual. If prostitution is decriminalized then the prostitutes would not lose their livelihood and even trafficking would be reduced because strong laws can be framed for the protection of women from involuntary prostitution which would lead to decrease in human trafficking.

II. Improvement in working condition of women: The present law only criminalizes prostitution and does not grant any special rights to the prostitutes. If we want the conditions of the socially underprivileged women to improve then we must provide them with medical and educational facilities. If prostitution is legalized then medical centers can be set up near brothels in order to prevent sexually transmitted diseases. The setting up of medical center would lead to better health of the prostitutes and if they are detected with any sexually transmitted disease then they can be treated and preventive measures can be taken. Similarly, it is very important that the sex workers are provided with education so that they know about their rights and they can't be exploited easily at the hands of the illegal human traffickers. Likewise, the children born to prostitutes should be given a chance to avail educational facility so that they get to decide what they actually want to do in future.

III. Provide identity to the commercial sex workers in the society: If prostitution is decriminalized then the commercial sex workers would be prevented from the wrath of the society and would be given some respect in the society because their profession will be no more an illegal one. When prostitution is criminalized then apart from losing their livelihood the prostitutes also lose their dignity and are viewed as sex objects in the society. Moreover, they are deemed unfit for any other profession that suits their skills.

Legalization is closely related to complete decriminalization in theory and in practice, hence the concepts will be dealt with by the authors simultaneously in this paper. Proponents of legalization and decriminalization often proceed from the standpoint that prostitution arises from personal choice, is an indication of women's empowerment, and is a business agreement made between consenting adults with equal power.⁵ In this context, the authors of this would suggest that decriminalizing prostitution would remove the legal barriers on the development of prostitutes. Legalization generally refers to the regulation of prostitution through labor laws that legalize the majority of the following: pimping, buying, brothel ownership, and the sale of prostitution sex.⁶ In legalization regimes, the government takes an active role in regulating prostitution, as is the case in Victoria, Australia, the Netherlands, and Germany. Once prostitution is legalized the local and national governments may also take steps for the promotion of the sex industry. There is an advertisement in the Hamburg city's official website which states "a varied assortment of entertainment, including Reeperbahn's famous strip clubs and brothels." It also states "Just around the corner from the Reeperbahn is Herbert Street, the principal red-light area. Both ends of the street are blocked by barriers and it is inaccessible to women and minors." In the Netherlands, the "Official portal website of the City of Amsterdam" provides an information page on the red-light district. The page cautions tourists about "sex trafficking, forced prostitution," and "seedier characters" in the red-light district, but still promises "plenty of sex shops, peep shows, brothels, an elaborate condom shop, a sex museum and prostitutes in red-lit windows." The government acknowledges these dangers and also takes care of the potential safety and ethical concerns of the sex tourists and states "Sex-workers here have their own union, plenty of police protection, an information center . . . frequent monitoring and testing and professional standards." Legalization regimes embed a prostitution economy into a country's market structure enabling the country to derive major tax and tourism revenue from the industry. Legalization regimes, by situating prostitution within a labor model framework, advance profit goals. Those who identify prostitution as simply another form of labor seeks to legalize or decriminalize prostitution sex and to incorporate it into the labor market as "sex work." The theory of neoliberalism in economics fosters this endeavor because it "seeks to bring all human action into the domain of the market." Within a neoliberal framework, everything, including sex and the human body, is commodifiable and potentially saleable in a market. Neoliberalism also asserts that the best interests of the individual are advanced by unfettered market laws. Liberal discourses of empowerment, agency, and sex positivity advance the notion that sex can be labor and hence exchanged on a market. Neoliberal theory advances the concept of

“individualism” arguing that the interests of the individual take precedence over those of the state and society and that the individual should be freed from the constraints of either of these institutions to make rational decisions and contracts in the marketplace that will best serve her or his interests. Within this framework, it is argued that the practice of exchanging money for sexual access is legitimate and should be legalized or decriminalized.

3. Analysis of the ITPA and changes that can be brought about in the Act. The authors of this paper upon analyzing the ITPA Act, get to know that, Section 25 of ITPA emphasizes on prostitution and denies prostitution in the houses of ill-repute, for business reason. Initially, the Act was passed by the Parliament as Suppression of Immoral Traffic in Women and Children, 1956, later on the Act was revised twice first in the year 1978, in which discipline for specific offenses has been improved and second in the year 1986, which renamed the Act as the Immoral Traffic (Prevention) Act, 1986. The revision additionally changed the meaning of the "prostitution" and above all made the law sexually unbiased and incorporates and perceived the male prostitution. Under section 2(f) of the Act, prostitution is characterized as the sexual misuse or maltreatment of people for business reason, and the articulation "prostitute" will be translated likewise. Prior under SITA, the meaning of 'prostitution' has been characterized as-'demonstration of a female who offers her body for sexual intercourse upon any monetary promise or contract, regardless of whether in cash or in kind, and whether offered quickly or something else, and the articulation of the term prostitute will be understood likewise.

Seducer, child of prostitutes, person who allows to be used in these works, brothel keepers, and people earning by this means as profession, are mainly concerned throughout the Act. But the authors of this paper notices that there is lacking a proper sense of laws and an ailment of rights, to protect such person's rights. There is a need for the government to give focus on such people, despite them being recognized in the society as filthy class people. In order to curb out these occurrences, there is need of categorizing the situation into certain aspects, in order to get the solution. First and foremost is the spotting of reasons as to why there is increase in the number of people opting sex work as their profession. Despite their choice being out of compulsion or not, their rights have to be protected and a proper and separate framework with amended laws shall be made for them. Secondly, upon spotting their reasons, their requirement has to be filled as to which factors when not fulfilled lead to them to go in such a profession. For many there is need of money and source of employment is a huge reason as to why they choose it. so, the exact reason of people choosing it also necessary. Thirdly, the authors of this paper would like to bring immense focus on the point of establishing laws to guard it and to really take serious steps in order to curb this. There shall be a protocol or any kind of stringent laws made, for protection of rights of the trafficked victims. Need of proper counselling is one of the major ways to deal with such a sensitive issue. Most of the people are not aware of their rights, so making them aware of their rights is most important. For this to happen there has to be awareness drive for this to be conducted by the government directing to do to their subordinates. The

subordinates can be the NGO, school or college students or any particular governmental committee. There is a dire need of the government to look after the trafficking of victims during disasters, a remedy for which is amending laws in keeping in minds the issue of trafficking while onset of disasters. By giving importance on it along with linking or inter-relating the Disaster management act,2005 along with ITPA, there would be a solution to this. ITPA lacks in many ways, and it has to suffice in every possible way. It is so because ensuring of rights of every citizen is mandatory, regardless of the profession they practice.

Chapter 14

Rights Of Transgenders.

*Author: Juny Varghese, Co- Author: Reshmi D*¹⁶⁹

Abstract

Transgender, the newly accepted gender of the 21st century has had its fair share of struggle before even being remotely recognized or considered as a member in our society. Transgender is a biological variation, which make people to behave differently from the stereotypes of males and females. Because of this biological change, they are excluded from the society. They face many problems like discrimination, disrespect, lack of educational facilities, social exclusion etc.... They are also human beings and have every right to live like other genders as per Article 14, 15 and 21 of the Indian Constitution. In April 2014, the Supreme Court of India declared transgender to be a third gender in Indian law³. Even law cannot deny their existence; still they are denied to have their basic rights like right to education, equality, dignity, freedom of expression etc....They are also portrayed differently in movies, which creates a wrong impression among them in the society. Their very presence still makes a sense of uneasiness in the minds of general public. Equality should definitely come out of theories. Each being in this universe is indeed unique and an integral part of the nature. It would thus be wrong to judge and discriminate people who may be different from the stereotypes. Being a minority in the society, transgenders should be assisted in gaining acceptance in the important aspects of education, employment, housing and other sectors. Life cannot be contained to a binary of male or female and being a transgender is not abnormal. In the light of above analysis, this paper mainly focusses on how transgenders are alienated from the mainstream of society, their constitutional rights and the problems faced by them. The study also covers how we can convert the social exclusion of third genders into social inclusion with regards to rule and law.

¹⁶⁹ Author: Juny Varghese

Name of the University: Bharata Mata School of Legal Studies - Choondy Class: 4th Semester B. Com LL. B
Email: junyvarghese.123@gmail.com

Co-Author: Reshmi D

Name of the University: Bharata Mata School of Legal Studies - Choondy Class: 4th Semester B. Com LL. B
Email: reshmidnesh@gmail.com

Introduction

We live in 21st century where human rights are enjoyed by every human being except the third gender i.e. “Transgender”. People who are different in their biological constructions are identified as transgender. They have a gender identity that differs from their assigned sex. Our society is always unwilling to accept or embrace them, a mindset which we have to change. They are also human beings and we do not have any right to discriminate or disrespect them for what they are. The pain and sufferings undergo by transgender community must be realized by others. Over the past few centuries, transgenders have been abused, ill-treated and disrespected. They do not possess any respect and are often ostracized by the society itself. The non-recognition of their sexual and gender identity is a violation of various Fundamental and Human Rights, which are protected and guaranteed by the Constitution of India and other International Human Rights documents. In the light of the widespread discriminations faced by transgender community, a Public Interest Litigation by the National Legal Service Authority (NALSA) was filed and as a result the Indian Supreme Court has acknowledged transgender people as a third gender and it has created a special pulse over the nation.⁴ To include third gender in our society, law and order are trying very hard from their part. But still transgender community faces high level of stigma and discrimination in almost every walk of their life. They often experience isolation and abuses from others. Basic human rights which includes Right to life and liberty with dignity, Right to privacy, and freedom of expression, Right to education, Right against exploitation, violence etc..... are denied from transgender community without any reasons. We, the society should accept and recognize Transgender as a third gender so that they can overcome from social deprivation and harassment and can lead a dignified life. Despite the positive developments that have contributed to increased awareness and recognition of transgenders, some problems are still prevalent in the society. There is a high need for a progressive environment and acceptance of third genders so that they can lead a better life.

Indian Society And Transgender

India is a vast and traditionally diverse country in the world. We can see transgender community even in Indian History. They can be seen in Hindu mythology and other puranic works. The Concept of Tritiya prakriti or napunsaka was an integral part of Vedic and puranic literatures. The word ‘napunsaka’ has been used to denote absence of procreative capability.⁵ In India, the transgender community is known as Hijras and they were seen in the society since ancient times. The Sanskrit texts of the Kama sutra is an ancient Indian Hindu text on human sexual behavior in Sanskrit literature. During the Mughal Empire in

the 16th and 17th centuries, castrated hijras - or - eunuchs – were respected and considered close confidants of emperors, often being employed as royal servants and bodyguards.⁶ Transgender communities in India were considered as marginalized and deprived section of the society and possessed a very low status. Due to lack of understanding of gender variance, transgender community was alienated from the mainstream society and was given only a low social status. They were even ridiculed and neglected by family members and these things made them extremely vulnerable to harassment. They were sexually exploited and violence against these community was at its peak during the past centuries. Even in films they were portrayed in a different way which created a negative vibe about them in the society. Many of them assigned themselves for singing and dancing in bars and some of them resides themselves to prostitutions. They suffer persistent inequalities and various challenges like lack of sufficient access to quality healthcare, proper education, and lack of employment opportunities and suffer discriminations. Discrimination, Abuse, Poverty, Family and Social Exclusion, Unemployment, Educational and Marriage issues, Homelessness, Lack of security etc.... were some of the major problems faced by transgender community in India. Their problems were unnoticed, unaddressed and were not give any proper attention till 2014 in India. The problem of non-recognition of identity of hijras in India ended through the landmark judgement in the case called NALSA v. UOI in 2014. However, they are still facing discrimination and harassments in many parts of the country. They have struggled a lot to enjoy the basic rights, which other Indians enjoy. Even though earlier they were excluded from the mainstream of the society, they are now getting social inclusion through certain rules and laws. To solve the problems faced by transgender in India to an extent, pioneering efforts was started by the Government of Tamil Nadu by establishing a transgender welfare board in April 2008 Kerala, the God's own country has formulated a state policy for transgender in 2015. Transgender community were given priority in Kochi Metro in order to increase their employment opportunities.

India has a varying number of castes, sects, tribes, communities and has a rich diversity of genders and sexualities that have existed in our cultures since ancient time. The Lesbian, Gay, Bisexual, Transgender (LGBT) community is one such community out of the big pool of communities present in diverse with respect to gender and sexual orientation. Transgender in India belongs to this community. This community has also undergone a whole lot of ignorance and abuses in India. There is no need of labelling them ugly or different, as they are also God's own creation. Despite of the government policies in favor of them, we should sensitize people through articles in newspaper, magazines and electronic media in favor of this community in a sensible and logical way so that there will be a change in the mindset of people about the community and they can lead a dignified life.

Constitutional Rights Of Transgenders

The basic spirit of our constitution is to provide each and every person of the nation equal opportunity to grow as a human being, irrespective of race, caste, religion, community and social status.⁷ The Constitution of India provides fundamental right of equality to every citizens and it does not tolerate any sort of discrimination on the grounds of sex, caste, creed or religion. It mandates right to equality and prohibition of discrimination through Article 14 and 15 respectively. The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India⁸. Despite the right to equality being a fundamental right, transgender is not treated on an equal scale like others. Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth⁹. Transgender community often faces discrimination in public places and residential areas. Article 16 and Article 19 of the Indian constitution assures equality of opportunity in matters of public employment and freedom of expression but these are not enjoyed by transgender communities.

The meaning of the term ‘person’ within Article 14 and Article 21 is gender neutral and also covers hijras/transgenders who are neither male nor female. They are entitled to legal protection of laws in all spheres of state activity, including employment, healthcare, education as well as equal civil and citizenship rights, as enjoyed by any other citizen of India.¹⁰ Article 21 of the Indian constitution, assures right to life and liberty to all the citizen of the country and as per this article transgender have every right to life and liberty. Article 21 guarantees enjoyment of life by all citizens of this country with dignity, viewing this human right in terms of human development, self-determination of gender is an integral part of personal autonomy and self-expression and force within the realm of personal liberty guaranteed under Article 21.

The rights of Transgender have almost never been discussed or taken into accordance. It has always been taken for granted. They are deprived of social and cultural participation and hence they have restricted access to education, health care and public places, which further deprives them of the Constitutional guarantee of equality before law and equal protection of laws. The fundamental rights for this group of people was not even certain until the judgement for the landmark case of National Legal Services Authority v Union of India and Others¹² was passed. It affirmed and held in paragraph 60 of said judgement that: Transgenders have been systematically denied the rights under Article 15(2) that is not subjected to any disability, liability, restriction or condition concerning access to public places. Transgenders are also not been afforded special provisions envisaged under Article 15(4) for the advancement of the socially and economically backward classes (SEBC) of citizens which they are, and hence legally entitled and eligible to get the benefits of SEBC. No part of declaring the community as a socially and Economic Backward class is unconstitutional. Article 46 declares that – promotion of educational and economical interest of Scheduled Caste and Scheduled tribe and other weaker sections. The state shall

promote with special care of the education and economic interest of the weaker section of the people, and, in particular, of the scheduled caste and scheduled tribe, and shall protect them from social injustices and all forms of exploitation¹³. In *M.R Balaji and others v State of Mysore*¹⁴, the supreme court noted that ultimately, poverty, rather than community identity, was the real marker of social and educational backwardness. The same can be said here, the transgender community suffers from social ostracization, humiliation and acute lack of institutional support, which pushes them into poverty and to dangerous live hoods like prostitution, in this context reservation for transgender people in government jobs and education institution would be an excellent addition to progress their development. It would help to recognize the society's obligation towards the welfare of these people. It would also increase the economic impetus and ability to self-sustain their lives without resorting to beggary and attaining poverty.

The national commission for backward classes (NCBC) has recommended after the passing of the judgement for the inclusion of transgender in the central list of OBCs. The commission had unanimously passed a resolution to accept the verdict of the Supreme Court and decided to recommend to the Centre to include transgender in the OBC list. Irrespective of their community backward, all transgender can avail benefits under the OBC list.

Transgender Community

The first and foremost problem faced by transgender community is discrimination. They have even considered as “untouchables” by some people and are deprived of social and cultural

participation. They face many problems like poverty, depression and low self-esteem, sexual abuse, health issues, homelessness, marriage issues, educational problems, denial of medical treatment, shame, fear, psychological issues, less societal acceptance, family issues and social exclusion unemployment, zero level acceptance, illiteracy, lack of empathy, disrespect, prostitution, ignorance etc....

They also face many social, medical and legal issues.

SOCIAL ISSUES: Violence ,Chronic Unemployment Denial of housing ,Denial of education Lack of livelihood ,Denial of access to public accommodation such as shops, restaurants, and public transportation, Less security, Lack of proper livelihood Poverty, Educational issues Social pressure

MEDICAL ISSUES: Denial of medical treatment, Ridicule and mistreatment, Inability to obtain ongoing, routine medical care, Inability to obtain or pay for hormone therapy and sex reassignment surgeries

LEGAL ISSUES: Legal status as a man or a woman, Marriage, Inheritance, wills and trusts, Immigration status, Employment discrimination, Other major problems faced by transgender community involves:

DISCRIMINATION: Transgender community is always discriminated and alienated from the mainstream society. In schools, due to lack of proper knowledge about transgender, fellow students often treat them in disrespectful ways and isolate them. This rejection and isolation by other students serve as a deterrent to education. Transgenders might have the capacity to excel in studies, but due to the isolation and discrimination from classmates, they undergo severe mental stress and they rarely apply themselves fully to their studies. They are verbally abused using derogatory labels by co-workers and superiors in the workplace. They are discriminated from every sphere of society in terms of education, employment etc....Transgender find it extremely difficult to get suitable employment of their choice. Most of them are forced into sex work, as there is social discrimination towards this community to a large extent.

ISOLATION IN FAMILY: Transgender are often looked down by their family members and relatives and have not been adequately recognized by their family members. Non-transgender family members lack the knowledge that the emotions and feelings of transgender is natural and hence they criticize or often pressure them to change their mannerisms. Family members sometimes abuse them using derogatory labels. Some people see transgender as a sign of shame and the parents of transgender often isolate them without giving equal importance among all the children.

SEXUAL HARASSMENT: Transgender also become victims of teasing and harassment. Sexual harassment from fellow students due to their feminine mannerism is a common problem of many transgender while studying in school. Then often face sexual harassment in public places, trains, and in work places.

LACK OF LIVELIHOOD: Most employers deny employment for even qualified and skilled transgender people and this leads to lack of livelihood. Lack of livelihood options is a key reason for a significant proportion of transgender people to go for sex work and beggary. In this reason, they are associated HIV and health-related issues. Recently, there have been isolated initiatives that offer mainstream jobs to qualified transgender such as agents for life Insurance Corporation of India.

LACK OF ACCESS TO LIFE AND HEALTH INSURANCE SCHEMES: Due to lack of knowledge, inability to pay premiums regularly and inability to be enrolled in various schemes, many of the transgender community are not under any life or health insurance schemes. The Social Welfare departments provide a variety of social welfare schemes for socially and economically disadvantaged group but no specific schemes are available for the Transgender Community.

DEPRESSION AND LOW SELF ESTEEM: Because of their difficult childhood and adolescents, many transgender people have a low self-esteem and self-worth. Many of

them had been run away or flee from their homes in teens and early twenties. These people are mistreated in the major sphere of society. The abuse, insults, constant threat and danger from others, discrimination in all spheres of life, sexual harassments make them depressed. Due to these sorts of depression, loneliness and insecurities, they get addicted to drugs and alcohol. The constant hurt and humiliation experienced from the young age leads to mental depression. Being alienated from the natural family bondage, they often feel unwanted and less fortunate. Suicidal tendencies, lack of social support, violence related stress, shame, fear etc... are some of the other mental issues faced by them.

Social Exclusion

Even though not all transgender people feel themselves to be socially excluded or oppressed, many transgender people experience social exclusion in various ways. The problems and issues faced by the transgender community can be seen as the reason for social exclusion of this community. They are excluded from family, schools, workplaces and even from the entire society. India has a wide variety of cultures, religions, castes, languages, customs etc... but in the case of third gender, the society is reluctant to accept and encourage them. No family accepts a male child behaving in a feminine manner or inappropriate to the expected gender role. The family does not tolerate the male child dressing up as a girl and will discriminate that particular child from other children. These factors alone make the transgenders frustrated and depressed and they move out of the house. Most transgenders are not educated or uneducated and consequently find it difficult to get jobs. Moreover, it is hard to find people who employ transgender people. For being “different” some members of the society satires and ridicule gender –variant people. Transgender people face unique barriers when accessing public or private health services. Many providers treat Trans people only with great reluctance, sometimes harassing and embarrassing them and therefore they avoid seeking medical assistance. They are also excluded from social and cultural participation, and faces exclusion from economy,

Employment, and livelihood opportunities. Proper measures must be taken in order to assure the social inclusion of transgender community.

Reforms And Recommendations

Several Organizations have initiated many programs and movements in favor of transgender community. But transgender community do not enjoy a legal recognition in India, though some states like Tamil Nadu and Kerala recognize transgender as third gender. In April 2008, a transgender welfare board was established by the Government of

Tamil Nadu. The government started issuing separate food ration cards for transgender people. In addition to this, Tamil Nadu government also issued an order on May 2008, to create a third gender for admissions to government colleges. In Kerala transgenders were given priority for employment in Kochi Metro so that they can have more employment opportunities. Kerala is the first state to have a transgender policy. More states should adopt the policies of Tamil Nadu and Kerala and transgenders should be included in the mainstream of society. Equality and security should be assured to third genders. They should enjoy all the rights guaranteed to them under Indian Constitution. There must be proper rules and regulations for the welfare of transgender community. Though Lok Sabha passed the Transgender Persons (Protection of Rights) Bill, their protection still remains as a question and the provisions remain silent just in the paper. This Bill weaken the position of transgender community instead of empowering them. The Bill fails to extend protection to transgender persons who might be victims of sexual assault or rape, as the Indian Penal Code recognizes rape in strict terms of men and women as perpetrator and victim, respectively. The respective authorities should address these drawbacks of the bill properly. Awareness classes must be conducted in schools, colleges, panchayats etc.... so that the people will get familiar to transgender community. There is no proper sex education in place. A proper sex education must be given to students from school levels. Reservations must be made for them in educational institutions and priority should be given to them in government services.

A separate public toilet facility must be given for transgender community. As women commission and women cell are in existence for the protection and welfare of women, a separate commission and cell for transgender people can be instituted. And also, a separate civil rights legislation should be enacted for the welfare and protection of their rights. We should consider them as sexual minorities and should give special preferences and priorities. More credit facilities and financial supports should be given to them. And above all, there should be a change in society's outlook.

Conclusion

The term transgender is often considered as an offensive or abusive term. There is no need to discriminate them as they are also human beings and have every right to lead a dignified life. It is not something that just need a legal acknowledgement or attention but a social one too. We should understand the mental frustrations and pain of these people and we should try to socially include them in our society. They are not aliening or some different creatures in the society, they are also humans with a variation in sexual orientation. They are one among the most marginalized and vulnerable communities in India. It is the duty of the state to protect the transgenders through any means and mode as required. For years, they have been shunned by the society due to age-old beliefs, now it is high time that they

should be given the necessary reservation for their community to develop and flourish and help the nation develop as a whole. It is not only the responsibility of the state but also the obligation of each and every one of us to treat them with respect and love. Equality should come out of theories so that everyone can live in peace and harmony. Just think God created three kinds: Male, Female and Transgender and each category possess equal rights and responsibilities.

Chapter 15

ODF India: A Goal Yet to achieve

Author: Adyasha Das, Shreya Srivastava¹⁷⁰

Introduction

The United Nations General Assembly introduced 17 Sustainable Development Goals in the year, 2015 with an aim to achieve a healthier and better future for all. Among the 17 goals known as Sustainable Development Goals (SDGs), in this research paper, we shall be focusing on Goal no. 6, i.e., Clean Water and Sanitation. It aims to improve water and sanitation facilities. The official wordings being: “Ensure availability and sustainable management of water and sanitation for all.”¹⁷¹

The United Nations believes that access to better water and sanitation is a fundamental right of the people. SDG 6 has eight targets, the second target being: “By 2030, achieve access to adequate and equitable sanitation and hygiene for all and end open defecation, paying special attention to the requirements of women and girls and also those in vulnerable situation.”¹⁷² This research paper shall focus on open defecation, the problems it poses and how shall it be eliminated. We shall also throw some light on the progress made so far by the Government of India to achieve an ODF India.

To have a world free from open defecation, there has to be provisions for toilets and other schemes to be implemented by the governments and behavioral change amongst the people. Therefore, there is a need of cooperation between the government and the people so as to achieve the Target 2 of SDG 6 i.e., an open defecation free (ODF) world.

¹⁷⁰ Name of the Author:

Adyasha Das

Class: BA. LL.B. 2nd Year

University: Symbiosis Law School, Hyderabad

E-mail: adyashad19@gmail.com

Shreya Srivastava

Class: BA. LL.B. 2nd Year

University: Symbiosis Law School, Hyderabad

E-mail: shreya.srvstu98@gmail.com

¹⁷¹ “Goal 6: clean water and sanitation” UNDP, 28 September 2015

¹⁷² “Goal 6 Targets” United Nations Development Programme

Open Defecation (OD)

The practice of defecating in the open instead of a toilet is called open defecation. People go to the open in forests, fields, canals, bushes, near water bodies, railway tracks, parks etc. for the purpose of defecation. As per 2015, over 520 million people in India used to defecate in the open, which is the highest in the world.¹⁷³ Open defecation leads to several diseases like diarrhea, schistosomiasis, soil-transmitted helminth and various other infectious diseases. It poses a serious threat to the lives of children in India. Every day, almost 400 children under five die from diarrhea linked to poor sanitation and hygiene. Poor sanitation is the reason behind the stunted growth of 38% of children under five.¹⁷⁴

Open defecation poses a threat not just to women health but also safety and dignity. Defecating in open makes women more prone to rape and harassment. In addition to the shame in defecating in open, there is always a constant fear of being harassed, physically and psychologically. This leads to dropping out of schools on the onset of menstruation. Around 39.4 % of adolescent girls of the age 15-18 years drop out of schools.¹⁷⁵ For girls and women, toilet not only provides for hygiene and menstrual sanitation but also lowers the risk to harassment.

Open defecation adversely influences the environment. Defecating near the riverside pollutes the river as well as contaminates the surface and the underground water. The contamination in river water leads to increase on the toxicity level of the water. This affects the marine ecosystem. It contributes to disturbance in the marine life and causes eutrophication, which form an algal bloom resulting in cutting down of oxygen and light supply to the marine life below.

SDG target 6.2 thus emphasizes on equity, dignity, gender and sustainability.¹⁷⁶

In a survey held in 2014, in the village of Badarpur, it was revealed that financial constraint (88.40%) is one of the key reasons as to why people still practice open defecation. Around 50.72% were still waiting for government support, 23.18% were habituated of defecating in the open. In contrast, a 2017 survey in the same village reveals that the reason behind defecating in the open was space constraint (86.27%), followed by lack of financial support (67.64%) and being accustomed to the old habits (50.98%).¹⁷⁷ The people often link toilets to dirt, owing to the social norms. In spite of being provided with toilets by the government, people don't believe in using them due to social and religious beliefs. Despite the Government's efforts to make India Swachh (i.e., open defecation free) by October 2, 2019

¹⁷³ World Bank Open Data. 2015, Washington, D.C.: The World Bank

¹⁷⁴ www.teamswachbharat.in/get-the-facts.php

¹⁷⁵ National Colloquium Report, NCPCR, 36 Janpath, New Delhi.

¹⁷⁶ WHO/UNICEF Joint Monitoring Programme. Progress on Sanitation and Drinking Water—2017 Update and SDG Baseline; World Health Organization: Geneva, Switzerland, 2017.

¹⁷⁷ National Centre for Biotechnology Information. Open Defecation-Free India by 2019: How villages are progressing? –Jay Patwa and Niraj Pandit

will only be fulfilled if the government spreads the awareness about the benefits of toilet and the vices of defecating in the open.

Open Defecation Free (Odf)– Government Schemes, Policies And Progress So Far

The Government of India has defined ODF as follows:

“ODF is the termination of faecal-oral transmission, defined by

- a) no visible faeces found in the environment/ village; and
- b) every household as well as public/community institutions using safe technology option for disposal of faeces.¹⁷⁸

Government of India in collaboration with UNICEF is taking up the challenge to make India “Open Defecation Free” by 2019 and UNICEF is a key partner in Swachh Bharat Mission (SBM), Government’s flagship programmed. SBM aims at bridging the gap between people of India and hygiene and sanitation by providing the people with access to toilets. UNICEF provides the Government with strategies to develop and implement. It also aims at improving WASH in schools and health centers. UNICEF and the Government have teamed up for various campaigns such as Sanitation and Hygiene, Advocacy and Communication Strategy (SHACS), Global Interfaith WASH Alliance (GIWA) and Poo2Loo campaign which address the young minds to create an awareness and sensitize them towards the plight of open defecation and that how every youth must advocate for the need of toilets. NGOs such as Waste Warriors, The Ugly Indian and Swachh Pune have been working towards the ideals of the Swachh Bharat Mission.

SBM is a nationwide campaign launched on October 2, 2014 that seeks to achieve a cleaner and healthier India by 2019. SBM aims at eliminating open defecation by constructing toilets for the people and monitoring the use of it. It aims to achieve an ODF India by October 2, 2019 which would also mark as the 150th birth anniversary of Mahatma Gandhi. As per the statistics, since October 2, 2014, 9.98 crores of households had been provided with access to toilets, around 5.82 lakhs of villages have been declared ODF with 5.20 lakhs verified ODF. A total of 639 districts have been given ODF status.¹⁷⁹

¹⁷⁸ Swachh Bharat Mission (G). *Definition of Open Defecation Free*. Ministry of Drinking water & Sanitation, New Delhi.

¹⁷⁹ <https://swachhbharatmission.gov.in/sbmcms/in> Retrieved on 11 August, 2019.

The Swachh Bharat Mission has been backed with Rs. 620 billion.¹⁸⁰ The Government has provided Rs.12,000 for each toilet to be constructed.¹⁸¹ The World Bank had provided the Government with a loan of US\$1.5 billion and \$25 million in technical assistance in 2016.¹⁸² SBM has roped several public figures to communicate the concept.

In a big step to eradicate the practice of open defecation, the Finance Minister announced the launch of Galvanizing organic Bio-Argo resources Dham (GOBAR-DHAN) scheme in the February 2018 budget speech. The scheme forms a major part of the SBM Garmin. The scheme aims at influencing villages to achieve cleanliness and use the organic waste to generate energy and improve rural livelihood and income.

Swachh Sarkisyan is an expansive survey of sanitation conducted across India to check the progress and impact of SBM. It is commissioned by the Ministry of Urban Development and the functions are carried out by Quality Council of India. World Health Organization (WHO) has mentioned in its reports that India has prevented at least 1,80,000 diarrheal deaths since the inception of SBM.¹⁸³

WASH

It is a term introduced by Water Supply and Sanitation Collaborative Council for water, sanitation and hygiene and then was adopted by all the organizations worldwide.¹⁸⁴ WASH is interdependent on each other if one is present other has to be there, these three are the core issues which are grouped together to determine a growing sector. Adequate water, proper sanitation and hygiene can improve health, gender equality, life expectancy, can reduce various diseases and many other important issues of international development. For basic survival and development of children clean water, good hygiene and basic sanitation practices are essentials. According to the data approximately 2.4 billion people do not have access to proper and improved sanitation facilities, and around 663 million people are surviving without clean water and water resources.¹⁸⁵ WASH being the subject of the targets in Sustainable Development Goal (6) is in itself a testimony how fundamentally important role does it plays in public health and development of the nations. The program is connected to many other sectors: WASH and Health, WASH and Livelihood, WASH and Education. According to the 2017 annual report of WASH by UNICEF around 113 countries are the part of the programmed for betterment among which India is also the part.¹⁸⁶

¹⁸⁰ "Swachh Bharat: PM Narendra Modi Launches 'Clean India' mission" *Zee News*. Retrieved 2 October 2014.

¹⁸¹ "MDWS Intensifies Efforts with State to Implement Swachh Bharat Mission" *Business Standard*, 18 March 2016

¹⁸² "World Bank signs \$1.5 billion loan fact for Swachh Bharat Mission" *The Economic Times*, 30 March, 2016.

¹⁸³ "How Swachh Bharat transformed the way public hospitals function" *Hindustan times*, 29 September, 2018.

¹⁸⁴ <https://knowledgpoint.org/en/question/3663/who-invented-the-term-wash-for-water-sanitation-hygiene/>

¹⁸⁵ <https://www.unicef.org/wash/>

¹⁸⁶ https://www.unicef.org/publicpartnerships/files/2017_UNICEF_ARR_WASH_ADVANCE_COPY.pdf

WASH in India

India, a second largest populated country where around 60% of the population lives in the urban areas which is increasing in a rapid rate, putting stress on clean water, basic sanitation and proper hygiene. According to the data recently in 2014 approximately 40% of the population defecated in open because of lack of safe toilets in the country, making India the country having the highest number of diarrhea related deaths among children below five-years of age.¹⁸⁷ Along with Swachh Bharat Mission of Government of India many NGOs have adopted the WASH program which are all interlinked with each other. In past 15 years various WASH policies have been formulated by the Central and the State Governments further according to the data it was found that the policies formulated by the state government have less impact as compared to the central policies, policy making by the state government have to be strengthened.¹⁸⁸ India partnered with many organizations to improve the facilities faster and make the city clean.

Water

Our ancient History shows how pure water is important for maintaining good health and maintaining clean environment. According to Abhati¹⁸⁹, the water which is contaminated cause various water borne diseases pertaining to digestion, throat infection, skin related diseases, cough, goiter, fever etc. In present scenario, the ancient theories are coming true, children below five years of age are dying because of water borne disease, there is no clean water to drink and survive. Major rivers like the Kaveri, Ganga and Yamuna flows through highly populated areas of the country which therefore pollutes them to a high extent. According the data, the content of bacterial pollution is very high which lead to death of around 40 million people each year due to fatal illness.¹⁹⁰ Lack of safe drinking water and water for farming has become the major issue as the presence of Fluoride has increased to high amount making the water toxic. Because of open defecation the presence of coliform ranges to 500 to 100,000 MPN/100 ml but instead it should be below 104 MPN/100 ml.¹⁹¹ 45% of children in India are stunted and, in a year, around 600,000 children below age of five die due to improper water.¹⁹² 2 billion people worldwide uses water which is contaminated by faces.¹⁹³ Presence of faecal bacteria indicates the presence of other pathogens especially *Escherichia coli*¹⁹⁴ and this same water is used for cooking food,

¹⁸⁷ <https://www.usaid.gov/india/water-and-sanitation>

¹⁸⁸ <https://www.thehindu.com/opinion/op-ed/States-need-to-buck-up/article16906629.ece>

¹⁸⁹ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC3331376/pdf/ASL-7-1.pdf>

¹⁹⁰ <https://www.omicsonline.org/open-access/indian-waters-past-and-present-2157-7587-S10-001.php?aid=58185>

¹⁹¹ <https://www.omicsonline.org/open-access/indian-waters-past-and-present-2157-7587-S10-001.php?aid=58185>

¹⁹² <http://unicef.in/PressReleases/30/Water-in-India-Situation-and-Prospects>

¹⁹³ https://www.who.int/water_sanitation_health/water-quality/en/m

¹⁹⁴ <https://water-research.net/index.php/fecal-coliform-bacteria-in-water>

washing clothes, for drinking and cause serious diseases like cancer, blue syndrome, for women during the time of pregnancy it has large effects as they are exposed to harmful chemicals which could lead to low weight and fatal health problems, diseases related to cardiovascular etc.

Sanitation

A fact that around 75% of population of India account for open defecation.¹⁹⁵ Sanitation is not just mere usage of toilets, it is about providing clean environment, reducing exposure of humans to various diseases, changing behavior and providing basic technology. According to the reports in 2012 around 59% of Indians defecated in open they didn't had access to proper toilets and mostly people lived in rural areas.¹⁹⁶ The term 'Basic Sanitation' includes components like clean and healthy environment, privacy and dignity. The most dangerous component of all in human excreta is the faces. According to studies around 10% global diseases is correlated with poverty and infancy.¹⁹⁷ The major faecal transmission due to lack of sanitation is through fluids, fields, flies, fingers which there by goes in our stomach through food which we eat and when it mixes with fluids there is no chance the water is pure and safe to drink. It is a myth that only adult faces have harmful bacteria's and infants' faces is safe according to the study the infant faces have 23% higher chances to cause diarrheal diseases they shouldn't be disposed of carelessly¹⁹⁸ which shows that both the faces of adults and infants should be managed properly. Proper sanitation helps not only socially but economically also. There are various technologies to increase better sanitation from simple latrines to improved sewage systems like basic traditional latrines but improved, septic tanks, pit latrines etc. Main objectives for proper sanitation systems should be to promote health, to protect environment, to use cost effective technology, should be acceptable by the different cultures. Sanitation is not only vital for health but is also a very vital component of sustainable development goal. According to the research if all the sanitation services are used in India it could result to 14 million more years of healthy life.¹⁹⁹ India's proper participation in the initiative has increased more than 13% as estimated to be 2% per year.

Hygiene

Hygiene cannot be separated from safe water and sanitation they go hand in hand. Hygiene have always been associated with public health. Hygiene includes not only handwashing but also menstrual and food hygiene. According to the studies, if hands are washed with

¹⁹⁵ https://www.unicef.org/wash/3942_43084.html

¹⁹⁶ <https://www.indiawaterportal.org/articles/sanitation-crisis-india-urgent-need-look-beyond-toilet-provision>

¹⁹⁷ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2981586/>

¹⁹⁸ <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2981586/>

¹⁹⁹ <http://www.searo.who.int/mediacentre/features/2018/indias-commitment-accelerated-sanitation-coverage/en/>

soap and water daily it can reduce the chances of water borne diseases by 47%.²⁰⁰ There is the lack of understanding among the people that how proper hygiene is linked with poor health, economic of the country and social outcomes. The major hygiene behaviors should be focused on washing hands with soaps every time, management of safety of water from the source to its consumption, use of sanitation facilities so that human faces can be dealt properly and safely. It's not true that if people are aware about the link between hygiene and health they will adopt into practice of safe hygiene.²⁰¹ It is more about behavior change and daily practice. According to the reports of UNICEF washing your hands with after the contact of excreta reduce the chances of diarrheal diseases by 40% and 30% chances of respiratory infections. Mortality rates can be reduced by 19% if birth attendants wash their hands before delivery and if mothers wash their hands before handling new born the chances of death I reduced by 4%.²⁰² Schools are the excellent means to spread the importance of hygiene to children and parents and hygiene practices in day to day life. In schools all across the country there is an urgent need to provide well maintained toilets, wash basins with soap for proper hygiene.

Conclusion

Through this research paper we understand that Open Defecation Free is not just about building toilets all over the country. It is a task which requires continuous monitoring from every source available a change of behavior required among people to change their old habits and adapt to new and better ones. Open Defecation is not only linked with clean and healthy environment it is linked with clean water, proper sanitation and basic hygiene also. For example: human excreta on the land mixes up with the soil and pollutes it, the same soil mixes with the water and that same polluted water is used for washing clothes, hands, cooking food, drinking water and for taking bath which there by is the cause of death among children below 5 years, malnutrition, deaths related to diarrhea and many other harmful disease.

If all the links are managed and taken care properly then life expectancy can be increased to 14 million years of the age, as mentioned above in the paper. Open defecation, water, sanitation and hygiene are inseparable if one is handled then other has to be handled as well, if one is mismanaged other will also get affected.

After doing this research we realized that there is dire need of making laws on the issue. Though Government has already came up with various policies to reduce the habit. But

²⁰⁰ A. Mooijman, M. Snel, S. Ganguly and K. Shordt. (2010). *Strengthening Water, Sanitation and Hygiene in Schools – A WASH guidance*

manual with a focus on South Asia, IRC International Water and Sanitation Centre, UNICEF, WSSCC
²⁰¹ Appleton B and Sijbesma C (2005) *Hygiene promotion (Thematic Overview Paper/IRC)*, pp14-17. IRC International Water and Sanitation Centre, The Netherlands. Available at: www.irc.nl/page/27611 (accessed 2 August 2012)

²⁰² <https://www.healthissuesindia.com/2014/02/05/sanitation-health-hygiene-india/>

still when we travel in train or go to a village, we can still see the people going and defecating in open. There are many NGO's which are working towards the cause and have adopted many slums and village to stop the practice through various means. Government can make a law that if a village or a slum has not stopped the practice of defecating in open and is adopted by the NGO or any other organization then the organization will be charged. Though Government has made many toilets and people also use them but after sometime due to various reasons like dirt, smell or pit getting full people stop using them the law should be made on this where by the organizations who takes the responsibility or is given the responsibility to clean the toilets and empty the pit should do it weekly and if not done then will be charged heavily. Strict laws should be made that all the schools in the country should educate students about not defecating in open, health issues related to it and proper hygiene practices and if the schools do not adhere to the same strict actions will be taken against them. A counselling session should be given to the communities twice in a month so that behavior change can take place. We think laws like these may increase the probability of a change which is highly required right now.

Chapter 16
***Human Rights–Aren't Refugee Rights Human
Rights Too?***

Author: Gayathri N²⁰³

Abstract

This paper attempts to provide a formal discussion on the emphasis of Human Rights at the present era in the context of extant growing global consciousness about the priceless human lives. It also discusses the issue of Rohingya Monsoon Floods and Landslides where the safety of the refugees was highly uncertain leading to the displacement of nearly 6,000 refugees, damaged over 3,500 shelters, and killed two people, including a child. Whereas the paper discusses in detail about the inadequate assistance in these dreadful situations as there a looming health crisis surrounded over the outbreak. Many internal as well as International organizations put forth their endeavors in order to protect the rights of humans and further need of awareness for the same as human lives are valuable. The author also discusses present state of human rights in India and makes some suggestions over it.

Besides bringing out the increasing trend in Human Rights and its annexing issues, the author also throws light on the causes of such rise in the occurrences of such issues and the relative solutions for these issues.

The paper also makes a healthy comparison of the nature of Human Rights prevailing in different countries according to each country's value and legal framework based on the moral and ethical principles. Growing involvement of the International organizations, Human Rights awareness, Democratic Transactions and Human Rights Education are some of the solutions discussed.

Keywords: Human Rights, Rohingya Monsoon Floods, Bangladesh, Refugees.

²⁰³ Author: N. GAYATHRI,

Class: III Year B.C.A., LL.B.,(Hons.) Student

Name of the University: School of Excellence in Law, Chennai 600113

Email: gaayaaa.3@gmail.com

Introduction

The conviction that everybody, by uprightness of her or his humankind, is qualified for certain human rights is genuinely new. Its foundations, be that as it may, lie in prior custom and records of numerous societies; it took the impetus of World War II to move human rights onto the worldwide stage and into the worldwide inner voice.

All through a lot of history, individuals gained rights and obligations through their participation in a gathering – a family, indigenous country, religion, class, network, or state. Most social orders have had customs like the "brilliant guideline" of "Do unto others as you would have them do unto you." The Hindu Vedas, the Babylonian Code of Hammurabi, the Bible, the Quran (Koran), and the Analects of Confucius are five of the most established composed sources which address inquiries of individuals' obligations, rights, and duties. Furthermore, the Inca and Aztec implicit rules and equity and an Iroquois Constitution were Native American sources that existed well before the eighteenth century. Indeed, all social orders, regardless of whether in oral or composed convention, have had frameworks of legitimacy and equity just as methods for watching out for the wellbeing and welfare of their individuals.

The Rohingya individuals are an ethnic gathering from Myanmar, once called Burma. Most live in Rakhine State on Myanmar's western coast. Myanmar is a lion's share Buddhist state, yet the Rohingya individuals are basically Muslim, however a modest number are Hindu. The ethnic minority is considered "the most abused minority on the planet" by the United Nations. The tale of that mistreatment has its underlying foundations in Britain's colonization of Burma, and cutting edge Myanmar's refusal to perceive the presence of a people who have existed for a great many years.

As non-residents, Rohingya individuals need fundamental rights inside Myanmar and are viewed as stateless. In spite of the fact that Myanmar perceives 135 particular ethnic gatherings, the Rohingya are not one of them. Myanmar will not perceive the term as one that alludes to the district's Muslim minority. Prior to the 2017 emergency, an expected 1 million Rohingya individuals lived in Burma. As of August 2018, more than 723,000 Rohingya evacuees had fled to Bangladesh. Many settled in the Kutupalong outcast settlement, presently the world's biggest. The enormous camp has extended philanthropic guide and is especially helpless against rainstorm downpours. UNHCR, the UN exile organization, gauges that 200,000 Rohingya displaced people are in danger during rainstorm season, which can make avalanches and floods in the camp.

Myanmar security powers kept on submitting grave maltreatment against Rohingya Muslims all through 2018, extending the helpful and human rights fiasco in Rakhine State. More than 730,000 Rohingya have fled to neighboring Bangladesh since the military battle of ethnic purifying started in August 2017. The administration prevented broad proof from

claiming outrages, would not permit autonomous examiners access to Rakhine State, and rebuffed nearby columnists for giving an account of military maltreatment.

In August, a United Nations-ordered certainty discovering mission found that the military maltreatment perpetrated in Kachin, Rakhine, and Shan States since 2011 "without a doubt add up to the gravest wrongdoings under global law," and called for senior military authorities, incorporating Commander-in-Chief Sr. Gen. Min Aung Hlaing, to confront examination and indictment for slaughter, wrongdoings against mankind, and atrocities.

The decision National League for Democracy (NLD) under true pioneer Aung San Suu Kyi progressively smothered contradiction utilizing a huge number of harsh laws. Popularity based space lessened, with the NLD doing little to address the nation's frail standard of law, degenerate legal executive, or exemption for security power mishandles. The 2008 constitution puts the Ministries of Defense, Home Affairs, and Border Affairs under the influence of the military.

More than 30,000 regular folks were recently dislodged by battling in Kachin and Shan States in 2018, and left progressively powerless by government limitations on compassionate access.

Globally, the champions of human rights have most often been citizens, not government officials. In particular, nongovernmental organizations (NGOs) have played a primary role in focusing the international community on human rights issues. NGOs monitor the actions of governments and pressure them to act according to human rights principles

Amnesty International is a worldwide movement of people who campaign for internationally recognized human rights for all. With more than 2.2 million members and subscribers in more than 150 countries, they conduct research and generate action to prevent and end grave abuses of human rights and to demand justice for those whose rights have been violated.

The CDF is a child advocacy organization that works to ensure a level playing field for all children. CDF champions policies and programs that lift children out of poverty, protect them from abuse and neglect and ensure their right to equal care and education.

he Human Rights Action Center is a nonprofit organization based in Washington, DC, headed by Jack Healey, world-renowned human rights activist and pioneer. The Center works on issues of the Universal Declaration of Human Rights²⁰⁴ and uses the arts and technologies to innovate, create and develop new strategies to stop human rights abuses. They also support growing human rights groups all over the world.

Human Rights Watch is dedicated to protecting the human rights of people around the world. They investigate and expose human rights violations, hold abusers accountable, and

²⁰⁴ [Universal Declaration of Human Rights](#)

challenge governments and those who hold power to end abusive practices and respect international human rights law.

The support of worldwide harmony and security is one of the reasons for the United Nations Charter. Viciousness and strife undermine economic improvement. Human rights infringement are at the main drivers of contention and frailty which, thus, perpetually bring about further infringement of human rights. In that capacity, activity to ensure and advance human rights has inborn preventive power while rights-based ways to deal with harmony and security carry this capacity to endeavors for manageable harmony. The human rights regularizing system additionally gives a sound premise to tending to issues of genuine worry inside or between nations that, whenever left unaddressed, may prompt clash. Human rights data and examination is an instrument for early cautioning and early focused on activity that has not yet been utilized to its maximum capacity.

Inability to stick to global human rights norms and secure human rights debilitates harmony making, peacekeeping and peace building endeavors. Worldwide endeavors to counter fear based oppression and forestall the spread of vicious fanaticism experience the ill effects of this disappointment. The UN's recharged spotlight on counteractive action and continuing harmony is vital to both this and the past column on progressing supportable improvement. We can support both harmony and advancement by indicating how applying human rights standards can address complaints, diminish disparity and assemble flexibility. This column likewise addresses potential dangers presented by new advancements in a security setting.

Human rights is a cross-cutting topic in all UN strategies and projects in the key zones of harmony and security, improvement, philanthropic help, and monetary and get-togethers. Thus, essentially every UN body and concentrated organization is included somewhat in the assurance of human rights. A few models are the privilege to advancement, which is at the center of the Sustainable Development Goals; the privilege to sustenance, supported by the UN Food and Agriculture Organization, work rights, characterized and secured by the International Labor Organization, sex equity, which is proclaimed by UN Women, the privileges of youngsters, indigenous people groups, and handicapped people.

Chapter 17

Sustainable Development Goals - The Path To Social Harmony

Author: SR. Asiwini²⁰⁵

Abstract

People are the wealth of any nation. The 2030 agenda is a plan of action for people, planet and prosperity. In each and every definition of sustainability and sustainable development people represent an integral part. Sustainability as defined by the Brundtland commission aims to achieve economic, environmental and social development that meets the needs of the people without compromising the ability of future generations to meet their own needs. As the concept of sustainable development evolved over time, the importance of human development and the culture to attain sustainability was realized. In defining a complex and holistic understanding of sustainability the united nations has asserted that in the context of global climate change, intensifying urbanisation, increased transitional insecurities and the heightening divide between the rich and the poor, there is a pressing need to find a balance across the domains of political, ecological and cultural sustainability depending upon the place where we live. Social and cultural sustainability concerns ,issues regarding social justice, health, human rights, peace, education, religion motivation and balance in life as long term process shaping social conditions for future generations.

The scale, ambition and approach of the Agenda are unprecedented. One key feature is that the SDGs are global in nature and universally applicable, taking into account national realities, capacities and levels of development and specific challenges. All countries have a shared responsibility to achieve the SDGs, and all have a meaningful role to play locally, nationally as well as on the global scale. This paper explores the concept of social and cultural sustainability and the legal aspects in relation to human rights, social, economic,

²⁰⁵ Author: SR. Asiwini

Class: BBA LLB (H.) – VIth Year

Name of the University: TNDALU, School Of Excellence In Law

Email : raswini157@gmail.com

cultural and environmental objectives offering the latest thinking on a wide range of current themes on sustainability.

Introduction

The world has witnessed significant rise in violent extremism, religious intolerance, oppression of ethnic, religious and other minorities during the last few years. While there is universal consensus on the need to deal with all these issues at origin, the international community is still on the lookout for adopting the right approach to address the challenges of our time and foster peaceful and inclusive societies. Achieving sustainable development in an atmosphere of ethnic and religious disharmony, radicalisation and violent extremism is indeed a challenging task. Peace is the foremost prerequisite for progress and every citizen has to keep in mind that development can be attained only if we ensure social harmony in our country. The objective of development is to raise the quality of life for all people through development programmes and policies aimed at achieving population control, poverty eradication, economic, social and human resource development, environmental protection and sustainable patterns of production and consumption and guarantee of all human rights²⁰⁶. Sustainable development are not mere social goals but obligations included in the most basic international human rights agreements and thus the right to sustainable development is a human right.

The Sustainable Development Agenda :

The 17 sustainable developmental goals of the 2030 agenda adopted by world leaders at a historic UN summit on September 2015 was officially declared as come into effect on 1st January 2016. These new goals applicable to all countries universally whether rich, poor over the next 15 years with the commitment ‘ to leave no one behind’ and to ‘reach the furthest behind first’ will take all efforts to fight inequalities, tackle climate change and end all forms of poverty and address a range of social needs including education, job opportunities, health and social protection. The core feature of the SDG’s unlike the MDG’s is their strong focus on implementation – mobilisation of financial resources – capacity building and technology as well as data and institutions²⁰⁷. The sustainable development goals are not legally binding on nations but countries are expected to take ownership for implementation and follow up and review.

²⁰⁶ Pdhre.org. (2019). PDHRE: Development. [online] Available at: <https://www.pdhre.org/rights/development.html> [Accessed 24 Aug. 2019].

²⁰⁷ United Nations Sustainable Development. (2019). The Sustainable Development Agenda - United Nations Sustainable Development. [online] Available at: <https://www.un.org/sustainabledevelopment/development-agenda/> [Accessed 24 Aug. 2019].

Traditional development efforts have often focussed on single issues at a time like hunger, then clean energy and inclusive institutions for example. The SDG's recognised that interventions in one area will effect outcomes in others and therefore development should balance economic, environmental and social sustainability. Targeting investments and development efforts at those furthest behind first, SDG's are designed in such a manner to bring about the several life changing 'zeros' in the world including zero hunger, child death's, AID's, human trafficking, poverty, tuberculosis and malaria and discrimination against women and girls, leaving no one behind. Risk informed sustainable development programs to boost resilience against environmental degradation, financial shocks, conflict and war and pandemics will go a long way in saving money, resources and lives

Women and sustainable development goals :

“Women have a vital role in environmental management and development. Their full participation is therefore essential to achieve sustainable development²⁰⁸” (principle 20, Rio Declaration),there can be no sustainable development without gender equality. The goals of justice and inclusion, economies that work for all and sustaining our shared environment now and for future generations, can be ensured only by ensuring the rights of women and girls across all the goals²⁰⁹. Women empowerment is a process, through targeted policies and gender main streaming, key steps to create a safe, just and enabling environment are under taken after identifying the nature of the problem where women continue to be at a disadvantage. Women's organisations, alliances and networks are playing an important role in addressing gender equality perspectives in environmental protection and sustainable development²¹⁰. Initiatives and support by the civil society, private sector, friends and family and relevant legal reforms and policy measures at the government and municipality levels are required to create an enabling environment for women. The primary care givers for children, elderly family members and disabled family, women are put at a disadvantage being taken out of labour force with lesser pension contributions and risk of old age poverty. Over the years women have voiced their concern for policies and practices that do not threaten the health and well-being of future generation. Studies have found that the greatest burden of environmental pollution and degradation are borne by the women from the poor and under developed countries. Playing a major role as farmer, water and fuel collectors, animal tenderers women play an important role in

²⁰⁸ United Nations Sustainable Development. (2019). *The Sustainable Development Agenda - United Nations Sustainable Development*. [online] Available at: <https://www.un.org/sustainabledevelopment/development-agenda/> [Accessed 24 Aug. 2019].

²⁰⁹ UN Women. (2019). *In focus: Women and the Sustainable Development Goals (SDGs)*. [online] Available at: <https://www.unwomen.org/en/news/in-focus/women-and-the-sdgs> [Accessed 24 Aug. 2019].

²¹⁰ Sustainabledevelopment.un.org. (2019). *Empowering Women For Sustainable Development*. [online] Available at: <https://sustainabledevelopment.un.org/content/documents/549ece4.pdf> [Accessed 24 Aug. 2019].

environmental management, therefore an integrated approach to sustainable development is necessary since environmental, social, political and economic issues are closely interlinked.

Sustainable Development an Indian Perspective

‘Sustainable Development means that the richness of the earth’s biodiversity will be conserved for future generations by greatly slowing and if possible halting extinctions, habitat and eco system destructions and also by not risking significant alternations of the global environment that might – by increase in sea level or changing rainfall and vegetation patterns or increasing ultraviolet radiation – alter the opportunities available for future generation²¹¹. In the decision of the supreme court in Narmada Bachao Andolan V. Union Of India²¹², it was observed that sustainable development means the extent or type of development that can take place which could be sustained by nature/ecology with or without mitigation’ and development primarily meant economic or material progress. In India it has been proved beyond doubt that through the implementation of good legislations sustainable development with economic progress and without environmental regression can be ensured within the Indian legal frame work. In the Taj Trapezium case²¹³ the supreme court has recognised the ethical mix or sustainable development where ecological sacrifices, developmental as well as environmental goals are prioritised keeping in mind the future generations. On several occasions the supreme court of India in a bid to safeguard the environment played a significant role in shaping and adopting the doctrine of sustainable development. In the case of Vellore Citizen Welfare Forum V. Union Of India²¹⁴ where in the petitioners had filed a petition in public interest under Article 32 of the constitution of India against the pollution caused by discharge of untreated effluent by the tanneries and other industries in the river Palar in the state of Tamil Nadu, the supreme court held that “remediation of the damaged environment is part of the process of ‘sustainable development’ and as such polluter is liable to pay the cost to the individual sufferers as well as the cost of reversing the damaged ecology²¹⁵”. In Indian Council of Enviro-Legal Action V. Union of India²¹⁶ the apex court held “while economic development should not be allowed to take place at the cost of ecology or by causing wide

²¹¹ Scribd. (n.d.). India | Sustainability | Judiciaries. [online] Available at:

<https://www.scribd.com/document/165147872/India> [Accessed 24 Aug. 2019].

²¹² Narmada Bachao Andolan V. Union Of India and Others, W.P (C) No. 319 of 1994

²¹³ M.C Mehta and Anr. V. Union Of India and Ors., 1987 AIR 1086, 1987 SCR (1) 819

²¹⁴ Vellore Citizen Welfare Forum V. Union Of India , AIR 1996 SC 2715 : (1996) 5 SCC 647

²¹⁵ Ghosh, S. (n.d.). Sustainable Development and Indian Judiciary - Article 21. [online]

Legalserviceindia.com. Available at: <http://www.legalserviceindia.com/articles/jud.htm> [Accessed 24 Aug. 2019]

²¹⁶ Indian Council for Enviro-Legal Action V. Union Of India, 1996 AIR 1446, 1996 SCC (3) 212

spread environment destruction²¹⁷ and violation, at the same time the necessity to preserve ecology and environment should not hamper economic and other developments²¹⁸. Adherence to the principle of sustainable development is now a constitutional requirement and the quest is to maintain a balance between economic and environmental development. Under Article 21 of the Constitution, the right to healthy environment has been construed as a part of right to life. The National Green Tribunal (NGT) Act, 2010 was established for effective and expeditious disposal of cases involving multidisciplinary issues relating to environment. Under Section 19 of the act, The National Green Tribunal has been empowered to hear all civil matters related to environment and is not bound by the procedures of the code of civil procedure, 1908 and is bound by the principles of natural justice. While deciding a case the NGT should apply the principles of sustainable development, the precautionary principle and the polluter pays principle. In *Sterlite Industries (India) Pvt. Ltd V. Tamil Nadu Pollution Control Board & Ors*²¹⁹, the NGT held that “the environmental restrictions must operate with all their rigour but no action should be suspicion – based which itself is not well- founded. Precautionary principle should be invoked when the reasonable scientific data suggests that without taking appropriate preventive measures there is a possible indication of some environmental injury or health hazard”. On the birth anniversary of Mahatma Gandhi India ratified the Paris agreement on 2.10.2016 showing its strong commitment to combating climate change and emission reduction, increased power capacity from non - fossil fuel waste energy resources like wind and solar power and create an additional carbon sink of 2.5-3 billion tons of CO₂ equivalent through additional forest and tree cover by 2030. In furtherance of its INDC’s and national action plan on climate change the Indian government has taken steps to encourage the use of green and energy efficient measures by developers and avoid or minimise environmental degradation.

Youth and 2030 Agenda

The future of humanity and of our planet lies in the hands of today’s young people who will pass the torch to future generation ensuring that the journey to sustainable development is successful and its gains irreversible. The world “youth report on youth and the 2030 agenda for sustainable development” prepared by the UN department of economic and social affairs provides insight into the role of young people in the implementation of the

²¹⁷ Team, B. (2019). *Concept of Sustainable Development – An Indian Perspective*. [online] Biyani Group of Colleges. Available at: <https://www.biyanicolleges.org/concept-of-sustainable-development-an-indian-perspective/> [Accessed 24 Aug. 2019].

²¹⁸ Tiwari, A. (n.d.). *Economic Growth vis-a-vis Environmental Conservation: A study of Sustainability in Asia-Pacific*. [online] Legalserviceindia.com. Available at: http://www.legalserviceindia.com/articles/eco_gr.htm [Accessed 24 Aug. 2019].

²¹⁹ *Sterlite Industries (India) Pvt. Ltd V. Tamil Nadu Pollution Control Board & Ors*, (2013) 4 SCC 575

2030 agenda for sustainable development and related frameworks. The active contribution of the 16% of the global population amounting to 1.2 billion young people aged 15-24 years to avert the worst challenges of climate change, gender inequality, unemployment, poverty, conflict and migration is very crucial to the success of sustainable development goals. The United Nations Major Group for Children and Youth, mandated by the general assembly is the “official, formal and self - organised space for children and youth to contribute to and engage in certain intergovernmental and allied policy processes at the United Nations” it acts as a bridge facilitating and conducting online and offline activities associated with capacity – building, knowledge generation, policy and advocacy and youth action. The world youth report addresses issues related to other SDG’s such as gender equality (SDG-5), Good health (SDG-3), Reducing inequality (SDG-10), Combating poverty (SDG-1), Hunger (SDG-2), Action on environmental issues (SDG-14,15), Climate Change (SDG-13) In addition to education and employment. Young people and youth-led organisations should be given the opportunity and recognition to participate in the conversion of the 2030 agenda into regional, local and national policy, in implementation, in review and monitoring and in holding governments answerable. A structured mechanism for participation through decision making especially in areas that have a clear impact on young people should be offered. They have the power to engage people at the grassroot level and act as drivers of change in local communities with adequate fund allocation, right political commitment and an enabling environment the sustainable development agenda would be the achievement of the youth in our generation.

SDG’s In A Changing World – Conclusion

The success of the 2030 agenda for sustainable development lies in the transformation of its global aspirational language into local realities. Three years into implementation in the light of an ever changing national, global and economic environment the 2030 agenda requires knowledge at the global, national and sub national levels, mobilization of resources and partnerships. Active localisation is essential for the achievement of the SDG’s and its implementation need to be fully owned and shaped by local and regional governments and their communities’ other local stake holders like research institutions, business community to make the 2030 agenda a reality leaving no one and no place behind. After several years of intensive dialogue and negotiations bringing together millions of ordinary people around the world UN member states have unanimously agreed that the 2030 agenda is the “most inclusive development agenda the world has ever seen”.

Chapter 18

Human Rights With Respect To Armed Conflict Zones

Author: Sonali Jain, Co- Author: Balaji A.P ²²⁰

Human Rights with Respect to Armed Conflict Zones

Over the years it has been observed that in conflict zones there is an increasing infringement of human violations. Overall this paper will answer the pertinent questions that include reporting and data dissemination mechanisms, implementation of international and national legal framework and inter-state and individual complaint procedures with special emphasis on the Crimean situation and global and municipal political influence over the same. It is also observed by the researchers that war ethics in olden times used to protect civilians especially children and women which but now there is no distinction between volatile conflict zones and social rights.

At this juncture it is also important to note the need for obligations on involved parties to provide humanitarian assistance and a need for a sense of collective responsibility from the international community. The stakeholders this paper will be dealing with are governments, non-state actors, internally displaced persons (IDP's), civilians and military personnel. This paper will further dwell on the rise of weapon transfer surpassing trade and legal restrictions by different frameworks especially Arms and Non- Proliferation treaties ratified by member states of the United Nations and safe repatriation of displaced people and protection during rehabilitation, recovery and resettlement.

In overview this research will aim at not only the legal but also the political and socio-economic status of these zones. The researchers will also deal with the different type of conflicts including protracted and regionalized conflicts and give key attention to the fact that the post conflict time period is also very susceptible to human right violations and that these frameworks and solutions need to look at the long term effects of the situation. It is important to also note that the complaint mechanisms against state parties should ensure

²²⁰ Author: Sonali Jain

Class: BA. LL.B. 5TH Year

University: School Of Excellence in Law, Chennai

Email: sonali200599@gmail.com

Co-Author: Balaji A.P

Class: BA. LL.B. 5TH Year

University: School Of Excellence in Law, Chennai

Email: balajiap1998@gmail.com

that the supervisory body or authority is not biased or constituted by the state itself as it defeats the entire purpose.

Introduction

This paper recognizes sectarian and communal tensions often inflame these crises and complicate the process of solving the conflict and bringing normalcy to the issue. While bringing in an end to the fighting and conflict is indeed a major challenge, what is equally important is to usher in political processes and reconstruction mechanisms that do not threaten a fragile peace and threaten to plunge the regions into a crisis again. Often, this is what the world has witnessed sadly, with conflict rearing its ugly head and regions sliding into chaos again. Too often, post conflict reconstruction processes are taken up keeping in mind short term goals and achievements without due consideration for the long-term stability of the region in chaos. Such processes are often motivated by a urge for intervening parties to not prolong their involvement in the region, and retreat without further damage. This was witnessed in the case of Libya, where even though the government of Gaddafi was toppled by NATO forces, the immediate retreat of forces lead to rebel infighting that once again toppled the region into chaos. As mentioned before, communal and sectarian reasons are often the most prominent reasons for eruption of conflicts, due to the entrenchment of authoritarianism and political forces that actively look to oppress certain sections of society. Therefore, it is obvious that any post conflict reconstruction mechanism must factor in these issues while making lasting changes. This takes multiple facets, such as political representation and power-sharing agreements between different groups, the involvement of all groups at decision making levels of the government, their involvement in judicial process and law making, and in other economic and social institution building. Thereby it is important to discuss these issues and delve into how such processes could be made solid and thereby incorporated.

Key Definitions and Aspects of direct importance to this Research Paper:

Inclusion: This is by and large explanatory but to clarify, this refers to the active involvement of members of all groups in political, legislative, judicial processes etc. Inclusion takes many forms, from provisions for political representation, to affirmative action, to representation on decision making bodies that dictate the governance of the country post conflict.

Post Conflict Reconstruction: The term refers to any mechanism at helping establish stable governance and rebuild the damage the conflict leads to. The process underlying

post conflict reconstruction are multifold as they must factor in many elements, such as political

considerations, economic rebuilding, restoring governance etc. The Centre for Strategic and International Studies (CSIS) and the Association of the United States Army published a comprehensive framework of activities essential for successful post-conflict reconstruction.

The CSIS Task Framework describes three phases of post conflict reconstruction:

Initial response This phase immediately follows the cessation of violence and is often characterized by the provision of emergency humanitarian services and military interventions to create basic security.

Disarmament: It is the first step of the DDRP wherein weapons are collected, documented and suitably disposed in accordance with the brokered peace agreement. The weapons and ammunition may range from SALWs to explosives and even the development of responsible arms management programs fall under disarmament. It can be also viewed as a confidence- building measure to promote peace in the post conflict zone.

Demobilization: Demobilization is the process of turning combatants into civilians. It involves the assembly, disarmament, administration, and discharge of former combatants, and it can apply to irregular combatants, guerrilla or freedom fighters, and even regular soldiers. The process begins with a selection criteria, followed by the actual selection and processing of prospective ex-combatants to be demobilized. It may be a short-term process or may even extend to a long term stay in a secured area. It may include intermediate steps during which a combatant relinquishes weapons and equipment, undergoes medical screening and administrative processing, expresses desire for necessary life skill training and receives information and new identification documents and discharge papers. The process may also include assistance in the form of reinsertion.

Transformation/transition: During this time, legitimate local capabilities emerge and should be cultivated. A specific emphasis is placed on economic development, government reconstitution, and the establishment of basic social welfare infrastructure.

Fostering sustainability: Cultivating sustainability is a long-term process that consolidates recovery efforts in order to prevent the resurgence of conflict. Ideally, international military actors withdraw during this phase and society begins a process of normalization, moving the country from post-conflict recovery to peacetime economic development, with clean government and civil society institutions fully functioning.

Economic Terms concerning this Research Paper:

Reparation Payments: War reparations are compensation payments made after a conflict by the vanquished to the victors. They are intended to cover damage or injury inflicted during the conflict. The time period over which these payments are stretched out, directly affect the rate of economic recovery of a nation. In a post conflict region, a holistic approach involving all sections of the society are necessary including the Minorities. Reparations cannot be hurried.

Subsidies: Subsidies are a sum of money granted by the state or a public body to help an industry or business keep the price of a commodity or service low. It is an incredibly important tool in maintaining market balance of a nation after conflict.

Preferential Trade: Preferential Trade by certain nations with other nations involve a complex system of subsidized trade, duties and so on. It can be a very influential tool post conflict.

Social Aspects concerning Conflict zones and Human Rights

This aspect deals with basic social and economic needs, especially provisions for emergency relief, the restoration of essential services, the creation of a foundation for a viable economy, and the initiation of a sustainable development program. In the initial response phase, post-

conflict reconstruction activities mostly focus on providing emergency humanitarian aid. In the transformation phase, they establish the foundation for an independent economy. In the fostering sustainability phase, they institutionalize long-term development. The establishment of a safe environment and development of stable security institutions. Individual and collective security are preconditions for achieving positive outcomes in the other pillars. In the initial response phase, post-conflict reconstruction activities establish basic security. In the transformation phase, they develop legitimate security institutions. In the final fostering sustainability phase, they consolidate local security capacity, reducing the reliance on

international actors. For example, “belligerent control” efforts include programs supporting demobilization. In the initial response, demobilization camps providing health, food, and physical security are established. In the transformation stage, programs identify, gather, and disband belligerent groups while ensuring their safety, the safety of their families, and the safety of civilians and communities. In the final fostering sustainability stage, decommission camps are established.

Political Aspects concerning Conflict Zones and Human Rights

This aspect deals with the construction of effective administration bodies especially with constitutional representative character. It is important to include religious, sectional minorities, and women and increase their role and participation in the political process. There are three phases that are the initial response phase, transformation phase, and the final fostering sustainability phase. In the first stage it is important to formulate processes for citizen participation, following which there needs to be stature created to enforce these processes and lastly suggestive steps and methods to improve the national legislation. Key elements of this pillar include effective law enforcement, an open judicial system, fair laws, humane corrections systems, and formal and informal mechanisms for resolving conflicts.

It is important to have institutions or grievance hubs established by neutral forces such as the international community or international organizations such as United Nations Organizations that register both past and current complaints against both state and non-state actors. The reason for the establishment of a panel that is constituted of non-government officials is due to the fact that most violations that are by state officials.

Case Study: Syrian Arab Republic:

The conflict in Syria started in 2011 when protests broke out against President Bashar Al Assad and his government. It soon escalated to a war between three parties.

The Syrian Government with Assad at the helm,

The opposition who consist of the rebels against Assad, and,

The Islamic State which is a non-state actor with heavy influence in the region.

The Human Rights situation in Syria is dire with 400,000 casualties, 5 million refugees internationally and 6 million internally displaced persons. There are reports of usage of chemical weapons by both the government and the rebels with no end in sight. In terms of social development, the damage is varied across the State. Cities such as Aleppo Damascus and Homs serve as military battlegrounds for offensives and this has resulted in massive damage to infrastructure including hospitals, roads, and schools and hence causing sanitation services with over two-thirds of all water-related infrastructure being damaged. There is a similar impact on power and electricity.

Before the conflicts, 56% of the total population occupied urban areas of the region however the conflict escalated this rural-urban migration to almost 73% of the total population living in the urban areas. One other major concern is lack of medical facilities and personnel with the number of physicians dropping to half the initial amount. At this

juncture it is pertinent to note that there was worsening of mental conditions of citizens as well.

Case Study: Southern Sudan

South Sudan is one of the most disturbing conflicts of the current time. It has a complex history and numerous causes. It serves as an example for how Minority Representation is incredibly important. Given Below is an analysis on how Minority Representation could have stopped/improved the situation in Sudan to a point where the 2011 Break-up would not have happened. Governments and External Factors often fail to understand the relevance of minority rights in resolving or avoiding a conflict. It provides humanitarian actors to work alongside a framework for bringing back balance to the region. Access to equal resources by all sections of the society is key. Minorities need access to the same to ensure that a holistic development takes place. This paves the way for a future avoidance for conflict. We can identify 2 stages of unrest in the history of the North/South war in Sudan (1962- 1972) and (1983-2002). Minority rights were completely abandoned during these 2 periods. War crimes

aimed towards minorities, abduction into slavery, economic and political marginalization were among the few scenarios witnessed by the minorities. The Khartoum Government highlighted the differences in the cultures of the tribes served as the spark for the upcoming conflict. Before moving on, it is important to understand what exactly encompass Minority Rights: The International Covenant on Civil and Political Rights (ICCPR) [2] highlights the following rights in it's 27th Article. They were further expanded by the Declaration on the Rights of National or Ethnic, Religious or Linguistic Minorities, which was adopted unanimously by the UN General Assembly in 1992.

The Right to Exist: Nations are also obliged to protect the existence of minority communities as a whole, which means the prohibition of assimilation – which would lead to the disappearance of a minority as a community with its own identity – and of genocide and ethnic cleansing. It also means that the state must provide security to minority communities, to ensure they are not targeted by other Non-State or State actors.

The Right to Non-Discrimination: Protecting minorities from direct or indirect discrimination on the basis of ethnic, religious, linguistic or cultural identity. The right to non-discrimination is contained in all the UN human rights treaties and is addressed under the African Charter on Human and Peoples' Rights.

The Right to Protection of Identity: Identities in Southern Sudan were complex: two tribes might speak different languages yet share a religion, making them part of a different larger group. The same attributes that some people use to define commonality are used by others to define uniqueness: tribes which speak essentially the same language, such as the Atuot and the Nuer, who are often grouped together on a linguistic basis, take small

linguistic differences as proof of distinctiveness. Groups considered by many outsiders as having a common identity, such as the Nuba, actually comprise 1.5 million people with many different languages, cultures and ethnicities.

The Comprehensive Peace Agreement explicitly protects the right to identity. But, for a document based on the principle of decentralization, there is a failure to understand that in decentralized systems, legal protection is often enacted at the level of the decentralized unit – at the state level, in the case of Sudan. Therefore, minority identities at the state level need protection as much as those within the nation as a whole. This was not achieved and hence proved problematic in the future.

Reprisals and the violation of other human rights-the urgent need for protection

Acts of violence or threats against human rights defenders when they communicate with the UN system, or their intimidation or coercion, violate both their right to communicate with UN mechanisms, and other human rights. Legislation has been misused to intimidate human rights defenders. The Special Representative to the Secretary-General on the situation of human rights defenders indicated that the main areas of concern were laws and regulations on public order, morality, national security, and emergencies, and laws to register associations and organizations and regulate their management. She noted that, when laws to regulate NGOs and their financing hinder their activity, states interfere with individual rights to freedom of association, expression, and assembly. The use of legislation to obstruct the work of human rights defenders, rendering them liable to prosecution under domestic law, has the same effect. Arbitrary measures taken against human rights defenders may also deprive them of fair trial guarantees or effective remedies. For example, the use of specialized courts and procedures may deprive defenders of due process rights. Representatives of NGOs have been charged with spreading false information, defamation, or disturbance of public order. As a result, defenders may: be kept under constant surveillance; have their telephone lines cut or tapped; have their documents confiscated (including travel documents, identity cards, and electronic files); have their offices and homes searched, broken into, burgled, and raided; and have their bank accounts seized. A report of the UN Secretary General noted that NGOs in Bangladesh had been monitored and kept under surveillance by public authorities after they submitted information to the Office of the High Commissioner for Human Rights for the Universal Periodic Review of that country. Human rights defenders may also face arrest, prosecution, detention, and conviction on charges that accuse them of serious crimes.

Defenders have faced allegations of attempted murder of police officers; arson; conspiracy to commit unnatural acts; affiliation and contact with foreign organizations; contempt of

court; illegal exercise of their profession; propagation of false information likely to threaten public order by distribution of posters and leaflets, and the release of reports on the human rights situation in their countries; aiding and abetting terrorism; advocacy of hatred; and accepting foreign funds. In the absence of further investigation, these charges may breach provisions of the 1998 Declaration on the Right and Responsibility of Individuals, and treaty provisions,

that affirm the right to freedom of expression and the right to private life. Treaty provisions also affirm the non-derogatory of certain rights, including habeas corpus and non-discrimination. In many cases, legal proceedings end in acquittal. In other cases, defenders have been sentenced to terms of imprisonment, including life terms, after trials that failed to meet standards of due process. In some situations, defenders were judged by military or security courts in closed trials where the accused was not able to present evidence in his or her defence. In 2008, the Special Rapporteur on the situation of human rights defenders and the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression jointly sent an urgent appeal to the Islamic Republic of Iran on the case of a journalist who had been sentenced to 10 years' imprisonment on charges that included 'sending untrue reports on the situation of human rights to international organizations, e.g. the Secretary-General of the United Nations'. States may also violate human rights and their obligations by failing to protect defenders against harmful actions by non-state actors. In some cases, such conduct amounts to a reprisal, or complicity with reprisals by third parties.

A report by the Special Representative noted that human rights defenders were being targeted increasingly frequently by non-state actors who could be linked directly or indirectly with public authorities.

Conclusion

This research paper answers the following questions. The reasons of conflict with emphasis on religious and communal violence. How to better evaluate Demographics to understand the Statistical approach for constructing policies aimed at holistic development with special emphasis on minorities. How to implement post conflict indicators to understand the level of involvement for minorities. How to evaluate Post Conflict Socio- Economic and Political Reconstruction and construct a roadmap for the same.

Chapter 19

Step Towards Social Equilibrium - Liberalization Of Women

Author: R.G.Nithyaparvathy, M.Nandhitha 221

Introduction

The Indian Constitution enshrines Gender equality in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution also empowers the State to adopt measures of positive discrimination in favor of women. Our laws, development policies, plans, rules and programs have aimed at women's advancement in different spheres. Despite these privileges, there still exists a setback in the development of their position. Until the effective enforcement of existing law, this state cannot be changed in India.

Position Of Women Before Independence

In the pre-independence period, the status of women inside the nation was in a denied state. The significant reason for this was, there was pervasiveness of male strength. Because of this, the condition of women was undermined. The real responsibilities of women were committed towards the execution of family duties and they were not permitted to take part in anything in which they were interested, nor were they permitted to express their thoughts and perspective. They were overpowered by the acts of polygamy, sati, forced marriage, and female infanticide. Upgrades came to fruition in their conditions with the coming laws authorized for their welfare.

²²¹ Authors : R.G.Nithyaparvathy

Class : B.Com.;LL.B.(Hons.) 3rd Year

University : Sastra Deemed To Be University,
Thanjavur. | Email : Nithyaa0612@Gmail.Com
M.Nandhitha

Class : B.Com.;LL.B.(Hons.) 3rd Year

University : Sastra Deemed To Be University,
Thanjavur. | Email : Msnandhitha@Gmail.Com

The position of women in India, before the country attained independence, experienced numerous problems and challenges. With the prevalence of Male dominance, there were constraints imposed upon women in terms of many aspects, these include, acquisition of education, work opportunities, forced child marriage, etc. The status of women in pre-independent India was primarily dependent upon their upbringing and the society in which they lived. Before independence, there were women, who mastered skills and abilities and fought for their rights. Women also struggled for the achievement of independence against British rule. Whereas, there have been women, belonging to a lower caste and socio-economically backward sections of the society, who did not enjoy equal rights and opportunities and their living conditions were not adequate. They were dependent upon the Male members and were required to follow the rules and norms implemented by them.

Constitutional Provisions for Women In India

The Indian Constitution has embodied the grounds for gender equality²²². The Fundamental Rights, Fundamental Duties and Directive Principles together, work towards shaping policies, rules and putting safeguards not just for women empowerment in India but also for protection.

²²³*Constitutional Provisions*

The Constitution of India accredits the State to adopt measures for neutralizing socio-economic disadvantages faced by women through positive discrimination in favor of them. Fundamental Rights ensure equality before the law and equal protection of the law. It prohibits discrimination against any citizen on grounds of religion, race, caste, sex etc. and guarantee equality of opportunity to all citizens in matters relating to employment.

- Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.
- Constitutional Privileges
- Equality before law for women (Article 14)
- The State not to discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them (Article 15 (i))
- The State to make any special provision in favor of women and children (Article 15 (3))

²²² [grounds for gender equality](#)

²²³ M.P.Jain, *Indian Constitutional Law*.

- Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16)
- ²²⁴ The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d))
- To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen because of economic or other disabilities (Article 39 A)
- The State to make provision for securing just and humane conditions of work and for maternity relief (Article 42)
- The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46)
- The State to raise the level of nutrition and the standard of living of its people (Article 47)
- To promote harmony and the spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women (Article 51(A) (e)).

Right To Equal Pay

According to the Equal Remuneration Act, no one could be discriminated against based on gender when it comes to salary or wages. Working women²²⁵ have the right to an equal salary.

Right To Dignity And Decency

Any medical examination procedure on an accused woman must be performed by or in the presence of another woman.

Right Against Harassment At Work

The enactment of the Sexual Harassment of Women at Workplace Act gives the right to file a complaint against sexual harassment. A sexually affected woman employee can make her complaints to an Internal Complaints Committee (ICC) at a branch office within 3 months as per the Sexual Harassment Act. The committee will proceed with further inquiry.

²²⁴ H.M.Seervai, *Constitutional Law of India*.

²²⁵ <https://sheroes.com/articles/why-women-should-work/NDE5>

Right Against Domestic Violence

The act protects women from domestic violence at the hands of the opposite gender or their relatives. The complaint can be filed by her or anybody on her behalf.

²²⁶Section 498 states that whoever, being the husband or the relative of the husband of a woman, subjects her to cruelty, shall be punished with imprisonment for a term which may extend to three years and shall also be liable to fine. The complaint registered against an offender makes it a non-bailable one, ensuring a woman's safety and protection from domestic abuse.

Right To Anonymity For Sexual Assault Victims

Women who are victims of sexual assault have a right to anonymity. To confirm that her privacy is protected, a woman who has been sexually assaulted may record her statement alone before the district magistrate when the case is under trial, or in the presence of a female police officer.

Right To Free Legal Aid

All-female rape victims have the right to free legal aid, under the Legal Services Authorities Act. They can get their justice through this service.

Right Not To Be Arrested At Night

A woman cannot be arrested after sunsets and before sunrises. Also, police can interrogate a woman at her residence only in the presence of a woman constable and family members or friends. A woman cannot be detained at night at the police station without legal permission.

Right To Register Their Complaint Virtually

If a woman cannot physically go to a police station and lodge a complaint, there is a provision for virtual complaints where she can lodge a complaint via e-mail or write her complaint and send it to a police station from a registered postal address. The police department will take up such a complaint and start their investigation.

Right Against Indecent Representation

Women are protected from indecent representation. Law states that ‘The depiction in any manner of the figure of a woman; her form or body or any part in such way as to have the effect of being indecent, or derogatory to, or denigrating women, or is likely to deprave, corrupt or injure the public morality or morals, is a punishable offense.’

²²⁶ Ratanlal and Dhirajlal; *The Indian Penal Code*.

Right Against Being Stalked

²²⁷Section 354D of the IPC and legal action can be taken against an offender. It is a legal offense. The law defines Stalking as, "To follow a woman and contact, or attempt to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or monitor the use by a woman of the internet, email or any other form of electronic communication."

The Provision Of Zero Fir

Supreme Court mentioned that a woman who is a victim can register her complaint at any police station under the Zero FIR ruling. The Zero FIR is an FIR that can be filed at any police station irrespective of the location where the incident occurred or a specific jurisdiction it comes under. So once that FIR is lodged and investigation and filling are done with a magistrate, it can be moved to the Police Station in whose jurisdiction the case falls under.

(2) Other acts that provide special provisions to safeguard women and their interests are;

- (i) The Family Courts Act, 1954
- (ii) The Special Marriage Act, 1954
- (iii) The Hindu Marriage Act, 1955
- (iv) The Hindu Succession Act, 1956 with an amendment in 2005
- (v) Immoral Traffic (Prevention) Act, 1956
- (vi) The Maternity Benefit Act, 1961 (Amended in 1995)
- (vii) Dowry Prohibition Act, 1961
- (viii) The Medical Termination of Pregnancy Act, 1971
- (ix) The Contract Labour (Regulation and Abolition) Act, 1976
- (x) The Equal Remuneration Act, 1976
- (xi) The Prohibition of Child Marriage Act, 2006
- (xii) The Criminal Law (Amendment) Act, 1983
- (xiii) Indecent Representation of Women (Prohibition) Act, 1986
- (xiv) Commission of Sati (Prevention) Act, 1987
- (xv) The Protection of Women from Domestic Violence Act, 2005.

²²⁷ Ratanlal and Dhirajlal: *The Indian Penal Code*.

Injustice Against Women Rape

Women are regularly the victims of assault, which is generally executed by men known to them. The pace of reporting, prosecution, and convictions for assault fluctuates impressively in various domains and reflects somewhat the general public's frames of mind to such crimes.²²⁸ It is considered the most underreported brutal crime. Following an assault, an unfortunate casualty may confront brutality or dangers of savagery from the attacker, and, in numerous societies, from the injured individual's own family and relatives. Threatening or terrorizing of the injured individual might be executed by the rapist or by companions and relatives of the rapist, as a method for keeping the exploited people from announcing the assault, of rebuffing them for revealing it, or of constraining them to pull back the grievance; or it might be executed by the relatives of the unfortunate casualty as a discipline for "bringing disgrace" to the family. This is particularly the situation in societies where female virginity is profoundly esteemed and thought about compulsory before marriage; in outrageous cases, assault unfortunate casualties are murdered in honor killings. Exploited people may likewise be constrained by their families to wed the attacker to reestablish the family's "respect".

Marital Rape

The marital or spousal assault was once generally overlooked or disregarded by law and is presently broadly thought about unsuitable brutality against women and disavowed by universal shows and progressively condemned. All things considered, in numerous nations, spousal assault either stay lawful or are unlawful yet generally endured and acknowledged as a spouse's right. The criminalization of spousal assault is later, having happened during a previous couple of decades. The relation between some religions and marital rape is controversial.

Domestic Violence and Dowry Death

Women are bound to be misled by somebody that they get physically involved with, normally called "intimate partner violence" (IPV). Cases of IPV tend not to be accounted for to police and along these lines; numerous specialists think that it's difficult to assess the genuine extent of the problem. Though this type of brutality is regularly considered as an issue inside the setting of hetero connections, it additionally happens in lesbian

²²⁸ Bahl, Taur; Syed, M. H. (2003). *Encyclopedia of the Muslim world*. New Delhi: Anmol Publications.

relationships, girl mother connections, flat mate connections and other residential connections including two women.²²⁹ Viciousness against women in lesbian connections is about as regular as brutality against ladies in hetero relationships.

Women are considerably more likely than men to be killed by a personal accomplice. An UN report arranged from various investigations directed in any event 71 nations observed abusive behavior at home against women to be most common in Ethiopia. An examination by Pan American Health Organization led in 12 Latin American nations found the most astounding predominance of abusive behavior at home against women to be in Bolivia.

Dowry deaths are deaths of married women who are killed or headed to suicide by ceaseless provocation and torment by their spouses and in-laws over a debate about their share, making women's homes the most hazardous spot for them to be. Most settlement deaths happen when the young women, unfit to tolerate the badgering and torment, end it all. The majority of these suicides are by hanging, harming or by flame. Some of the time the lady is killed by setting her ablaze by her significant other or in-laws; this is known as "bride consuming", and is once in a while camouflaged as suicide or mishap. Death by consuming of Indian women has been all the more regularly ascribed to endowment conflicts. In settlement death, the groom's family is the culprit of homicide or suicide.

Cyber Bullying

Cyber bullying might be a state of terrorizing using electronic states of contact. In the 21st century, cyber bullying has wound up dynamically normal, especially among youths in Western countries. On 24 September 2015, the United Nations Broad Commission released a report that asserted that almost 75% percent of women online have encountered bullying and threats of violence, something different known as digital violence²³⁰. Sexist talk is dominating on the web, and the open discussion about over sex-based attacks has extended basically, heading to calls for a course of action interventions and unrivaled responses by social frameworks like Facebook and Twitter.

²²⁹ Girshick, Lori B. (December 2002). "No sugar, no spice: reflections on research on woman-to-woman sexual violence". [Violence Against Women](#).

²³⁰ "[cyber violence report press release](#)". UN Women. Retrieved 3 April 2016

Acid Throwing

Acid throwing, likewise called acid assault, or vitriol, is characterized as the demonstration of tossing corrosive onto the body of an individual "to harm or deform [them] out of a desire for revenge". The most widely recognized kinds of corrosive utilized in these assaults are sulfuric, nitric, or hydrochloric acid. Perpetrators of these assaults toss corrosive at their unfortunate casualties, more often than not at their faces, consuming them, and harming skin tissue, regularly uncovering and now and then dissolving the bones. The long haul results of these assaults incorporate visual deficiency and changeless scarring of the face and body²³¹. Women and young women are the exploited people in 75-80% of cases. Acid assaults are frequently associated with household questions, including endowment debates, and refusal of a recommendation for marriage, or lewd gestures. Such assaults are regular in South Asia, in nations, for example, Bangladesh, Pakistan, India and in Southeast Asia, particularly in Cambodia.

Honor Killing

Honor killings are regularly a consequence of firmly sexist perspectives towards women, and the situation of women in the public eye. In these generally male-overwhelmed social orders, women are reliant first on their dad and after that on their better half, whom they are required to comply. Women are seen as property and not as people with their organization. In that capacity, they should submit to male specialist figures in the family – the inability to do as such can bring about extraordinary savagery as a discipline. Brutality is viewed as a method for guaranteeing consistency and forestalling rebellion. According to Shahid Khan, an educator at the Aga Khan University in Pakistan, "Women are viewed as the property of the guys in their family independent of their group, ethnic, or religious gathering. The proprietor of the property has the privilege to choose its destiny. The idea of possession has transformed women into aware which can be traded, purchased and sold". In such societies, women are not permitted to assume responsibility for their bodies and sexuality: these are the property of the guys of the family, the father (and other male relatives) who must guarantee virginity until marriage; and after that the spouse to whom his significant other's sexuality is subjected – a woman must not undermine the proprietorship privileges of her gatekeeper by taking part in pre-marriage sex or infidelity.

²³¹ Bahl, Taur; Syed, M. H. (2003). *Encyclopedia of the Muslim world*. New Delhi: Anmol Publications.

Female Genital Mutilation

Female genital mutilation (FGM) is defined by the World Health Organization²³² (WHO) as "all procedures that involve partial or total removal of the external female genitalia, or other injuries to the female genital organs for non-medical reasons." As per some nearby specialists, it is accepted that FGM is connected to social rituals and traditions.²³³ It is viewed as a conventional practice that keeps on occurring in various networks/nations of Africa and the Middle East, incorporating into spots where it is prohibited by national enactment. Elderly women in the community are usually the ones carrying out this procedure. The procedure is usually done with a blade or knife, on girls aged anywhere between six and 10--the idea is to "get it over with" before they hit puberty.

Conclusion

Today as we are in the 21st century, we are still unfit to flaunt a general public where there is absolute sexual orientation correspondence or sexual orientation value. Up to this point, the topic of sex correspondence or sexual orientation value is only a subject of hypothetical exchange. Things are evolving yet rather gradually. For women strengthening we would like to recommend that education is the best weapon for battling against unfairness. The absence of education is the base of all abuse, viciousness, and persecution. Our government makes laws for women, attempt to actualize it yet additionally take the consideration that every single woman in our general public ought to be taught. Lawful attention to women's rights is an additional vital and generally significant thing that women should deal with their rights. In the expression of Prof. Harold Laski - "Internal vigilance is the price of liberty and not a particular doctrine or rule of law". We should build up a system that helps individuals all the more effectively report digital violations, share proof in a reliable way with law implementation.

That system ought to be automated; the victims should be made aware of what has happened to them; direct them to help; and encourage the sharing of the crime, and the crime doers come across government organizations and law implementation. Loopholes in criminal enactment, the poor requirement of criminal laws and guidelines, absence of appropriate limit in the criminal equity framework, discriminating nature prevalent in the society should be put to an end by taking the needed measures. Awareness programs

²³² [World Health Organization](#)

²³³ Shell-Duncan, Bettina (June 2008). "From health to human rights: female genital cutting and the politics of intervention". [American Anthropologist](#). [Wiley](#).

regarding protection and privileges available to women should be spread in all areas. The society should also be made aware of existing programs like 'Men Can Stop Rape.' Punishments for any offense made against women should be strengthened and enforced accordingly. No criminal, who has the guilt of having committed a crime, should escape from JUSTICE.

Special Delivery:
***Universal Health Coverage: Moving Together to
Build a Healthier World Accelerating Political
Momentum for UHC2030 Framework.***

Dr. Chandrakant Lahariya,

*National Professional Officer, World Health Organization(India),
United Nations India.*

Panel 1:

*“Empowering Youth in Sustainable Development, Social
Equality and Peace through Decent and Sustainable Jobs as
well as Civic and Political Participation”.*

Panel Members

Dr. Datchana Moorthy Ramu,

Founder Secretary General, International Youth Forum.

Prof.(Dr.) Sanjay Sindhu,

Director, University Institute of Legal Studies Himachal Pradesh University

Dr. Nandan Sharma,

Head for School of Law, Shooluni University

Mr. Bruce Ferguson,

Founder, Reform Through Education, USA.

Dr. Mary Shuttleworth,

Founder President, Youth for Human Rights International, USA.

Panel 2:

“Role of youth in Achieving 2030 Agenda for Sustainable Development Goals”.

Panel Members

Miss. Mai Thin Yu Mon

Steering Committee for UNFAID, Myanmar.

Mr. Devarajan Govindaraj

Advocate and Volunteer, Yhri- India.

Mr. Sudesh Pokhrel

Faculty, South Asian University, Bhutan.

Mrs. Amanda Buffalo

Faculty, Yokun University, Canada.

Ms. Olena Karpova

Faculty, Odessa National Economic University, Ukraine.

International Presentations

Miss. Juanita M. Healey, CEO Changing Cases (U.K).

Mr. Azizuddin Sultani, Afghanistan Delegate.

Miss. Nazneen Afreen, Bangladesh Delegate.

Mr. Yuvraj Parajuli, Nepal Delegate.

Miss. Mai Thin Yu Mon, Steering Committee for UNFAID, Myanmar.

IYFIndia2019 International Delegates

- | | | | |
|-----------|---|-----------|--|
| 1 | <i>Nabila,</i>
<i>Afghanistan</i> | 19 | <i>Suhail Mohamed Hisham,</i>
<i>Sri Lanka</i> |
| 2 | <i>Muhammad Daffa Fadhlullah,</i>
<i>Indonesia</i> | 20 | <i>Kudrat-E Khuda,</i>
<i>Bangladesh</i> |
| 3 | <i>REJA MD SHAMIM,</i>
<i>Bangladesh</i> | 21 | <i>Iryna Shostak,</i>
<i>Ukraine</i> |
| 4 | <i>Amankwa Mark Opoku,</i>
<i>Ghana</i> | 22 | <i>Latoyaa Neikaa Roberts,</i>
<i>Trinidad & Tobago</i> |
| 5 | <i>Oluwaseyi Aderemi Ajala,</i>
<i>Nigeria</i> | 23 | <i>Olena Karpova,</i>
<i>Ukraine</i> |
| 6 | <i>Edriss Khan Mansoor,</i>
<i>Afghanistan</i> | 24 | <i>Kristina Maslova,</i>
<i>Ukraine</i> |
| 7 | <i>BIPLOB DEY,</i>
<i>Bangladesh</i> | 25 | <i>Siyu MAO,</i>
<i>China</i> |
| 8 | <i>Projuri Dey,</i>
<i>Bangladesh</i> | 26 | <i>Danang Sigit Widiyanto,</i>
<i>Indonesia</i> |
| 9 | <i>Reid Allen S. Ugsang,</i>
<i>Philippines</i> | 27 | <i>Nasiri Mohammad Ali,</i>
<i>Afghanistan</i> |
| 11 | <i>Subramaniyam RameshKumar,</i>
<i>Sri Lanka</i> | 28 | <i>Jonathan Odame,</i>
<i>Ghana</i> |
| 12 | <i>Elizabeth Queen Necka Muluta,</i>
<i>Namibia</i> | 29 | <i>Kaameshwari Devi Juggiah,</i>
<i>Mauritius</i> |
| 13 | <i>Hasan Rakibul,</i>
<i>Bangladesh</i> | 30 | <i>Adhaura Madhuri,</i>
<i>Bangladesh</i> |
| 15 | <i>Opoku Prince,</i>
<i>Ghana</i> | 31 | <i>Mohammad Iftaharul Islam,</i>
<i>Bangladesh</i> |
| 16 | <i>Dagba Gershon,</i>
<i>Ghana</i> | 32 | <i>Nan Thiri Lwin,</i>
<i>Myanmar</i> |
| 17 | <i>Hasan Rakibul,</i>
<i>Bangladesh</i> | 33 | <i>Yeni Rahmawati,</i>
<i>Indonesia</i> |
| 18 | <i>sudesh pokhrel,</i>
<i>Bhutan</i> | 34 | <i>Amanda Deanna Darroch Mudry</i>
<i>Buffalo, Canada</i> |

- 35 **Gladys Mae Zabala Argonza,**
Philippines
- 36 **Yubaraj Parajuli,**
Nepal
- 38 **Shivang Dutta,**
Nepal
- 39 **Bajracharya Gardika,**
Nepal
- 40 **Md Talebur Islam,**
Bangladesh
- 41 **Situ Shrestha,**
Nepal
- 42 **Juthi Fahima Islam,**
Bangladesh
- 43 **Pradipto Vaskar Rakshit,**
Bangladesh
- 44 **Abu Naser Mohammad Saif,**
Bangladesh
- 45 **Adhyatma Subedi,**
Nepal
- 46 **Kazi Tanvir Hussain,**
Bangladesh
- 47 **Md Elahi Rawshan,**
Bangladesh
- 48 **Samia Nasir,**
Bangladesh
- 49 **Mohale Thabang Gloria,**
Lesotho
- 50 **Gusti Milla Quaidy,**
Indonesia
- 51 **Farhad Ahmed,**
Bangladesh
- 52 **Atham Lebbe Mohamed Rizan,**
Sri Lanka
- 53 **Abdul Kaffoor Natheer,**
Sri Lanka
- 54 **Nan Thiri Lwin,**
Myanmar
- 55 **Meilanie Zohra,**
Indonesia
- 56 **Sultana Tasmin,**
Bangladesh
- 57 **Mahdi Ebrahimi,**
Afghanistan
- 58 **Rshid Shahriar,**
Bangladesh
- 59 **Thiarma Kusuma Dewi Harahap,**
Indonesia
- 60 **Nazneen Afreen,**
Bangladesh
- 61 **Thomas Ameyaw-Brobbey,**
Ghana
- 62 **Rokun Uddin Mahamud Arif,**
Bangladesh
- 63 **Nelofar Ahmadi,** *India*
- 64 **Khatima Mahmoodi,** *India*
- 66 **Zahra Hussaini,** *Afghanistan*
- 68 **Nadim Parvez Khan,**
Bangladesh
- 69 **Jabeer Mohamed Jawas,**
Sri Lanka
- 70 **Manas Kanti Saha,**
Bangladesh
- 71 **Urmi Saha,** *Bangladesh*
- 72 **Geberyohannes Tilaye Gizachew,**
Ethiopia

ALL PAPERS HAVE BEEN PUBLISHED ON THE INTEREST OF AUTHORS
PUBLISHER OR ORGANISERS OF THE EVENT NOT RESPONSIBLE FOR
COPYRIGHT VIOLATION

VISIT US

WWW.INTERNATIONALYOUTHCOUNCIL.ORG