

GENDER BASED VIOLENCE AND HUMAN RIGHTS ISSUE: AN ANALYRTICAL STUDY

Rashmi Rekha Singphow.

Faculty of C.G. Purbanchal Degree college, Dibrugarh.

Email ID: rashmisingphow@gmail.com

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Abstract

Human rights violations are committed against both men and women, but their impact is clearly different depending on the victim's gender, such violence is directly related to our society's unequal distribution of power and asymmetrical relationships between men and women, which perpetuate women's devaluation and subordination to men. What distinguishes this type of violence from other forms of aggression or coercion is that in this case, the risk factor is simply being a woman. Gender-based violence can take many forms, and depending on the context and type of power exerted, this crime may fall into one of the following categories: rape and incest, sexual harassment at work or school, sexual violence against women detainees or prisoners, acts of violence against displaced women, trafficking in women, and domestic violence. The study investigates various forms of gender-based violence and discusses the concept of gender as well as the evolution of gender-based violence. It also emphasised various existing legal frameworks for the protection of women's rights.

Keywords:women, human rights, gender inequality, violence, laws.

Introduction

Violence that perpetuates the subjugation and devaluation of women relative to men and that reflects the current asymmetry in power relations between men and women is referred to as gender-based violence. Within the framework of the patriarchy, violence occurs as a symbolic system that gives rise to a variety of daily practices that deprive women of their

rights and perpetuate the existing inequality and imbalance between the sexes. This type of violence is distinct from other forms of aggression and coercion because, in this instance, being a woman is the source of vulnerability or risk factor. The dominance of some sectors or groups over others has resulted in the manifestation of various forms of violence in society throughout history. Given that male hegemony power is based on social control over women and is regarded as the generic patrimony of men (Amoros⁹⁰). Gender-based violence is a crucial social mechanism in this context for maintaining the subordination of women. As a result, the gender system and popular cultural values are either directly or indirectly linked to violations of women's human rights. Sexual violence against women in detention or prison, violence against displaced women, rape, incest, sexual harassment in the workplace and in educational institutions, and trafficking in women are examples of gender-based violence that can be considered criminal acts based on the power dynamics and relationships at play. Human rights, defined as a set of ethical principles with a legal dimension, stem from the desire of every individual to have access to the necessities of life. These rights have evolved over the last two centuries as a result of a long process of change.

Objectives

- To understand the concept of gender
- To analyse gender-based violence
- To examine various national and international law for the safeguard of women's rights.

Methodology

The study is based on analytical method and secondary data are used to write the paper. The secondary data are gathered from a range of sources, including government reports, magazines, books, journals, articles, newspapers, and research papers.

The concept of gender

Gender is the result of a social construction process. It refers to the social classification of men and women based on their biological sex. Sex is a biological and natural difference in the genital organs of individuals. Gender, on the other hand, is a socio-cultural construct of society in which masculine and feminine qualities, roles-responsibilities, and behaviours are imposed on girls and boys. They learn to follow and behave masculine and feminine tasks and responsibilities as boys and girls in Patriarchal society. Patriarchy is a belief system in which women are subordinate to men, with men serving as the leader, decision maker, and controlling all aspects of society. The concept of gender is a product of patriarchal thinking; it leads to gender inequality between men and women based on unequal division of labour, which is deeply embedded in various corners of society. For example, based on biological organs, women can give birth to a child and require more facilities and rights, but patriarchal society considers women to be weaker than men because they can only give birth and are unable to do work like men. Through the process of gender socialisation, children learn the

traits associated with men and women. For instance, when parents provide their boys a car to play with and a dollhouse for girls to play with, the children learn about different gender roles. The process of gender socialisation involves the influence of multiple social agents, including family, peers, educational institutions, religious organisations, and social media, to conform to societal norms regarding gender roles.

Evolution of the Issues of Gender Based Violence

Gender-based violence has gained international recognition in the last few decades as a serious issue that affects women as well as the pursuit of equality, development, and peace (United Nations, 1986). During the United Nations Decade for Women: Equality, Development, and Peace (1976–1985), the issue gained prominence among women's organisations in the region and became a topic of feminist discourse. More recently, regional governments have started to pay attention to the issue. 1979 saw the adoption of the Convention on the Elimination of All Forms of Discrimination Against Women by the United Nations General Assembly. The Committee for the Elimination of Discrimination Against Women recommended in 1989 that member states submit reports on the policies they had implemented at the governmental level to end violence against women. It was decided at the 1991 Expert Group Meeting on Violence Against Women that gender-based violence was not adequately taken into account by the current instruments and that there was a lack of a clear definition for this type of crime. For their part, the governments of Latin America and the Caribbean reaffirmed that the state should prioritise measures that promote respect for women's rights, their equal participation in national life, the eradication of all forms of covert or overt discrimination, and particularly the eradication of gender-based violence in the San Jose Declaration on Human Rights, which was adopted at the end of the Regional Meeting for Latin America and the Caribbean of the World Conference on Human Rights, held in January 1993 in Costa Rica. The World Conference on Human Rights adopted resolutions that recognise women's rights to family planning services, equal access to all educational levels, and a life free from violence, among other things, all underline the importance of ensuring that women can enjoy the highest possible level of physical and mental health throughout their lives. One of the successes made possible by the recommendations made by the Latin American and Caribbean women's movement was the inclusion of a recommendation for the appointment of a Special Rapporteur to provide updates on the state of affairs regarding violence against women in the Conference's final declaration. The United Nations General Assembly established that post during its forty-eighth session in November 1993. The media is also more open to publishing articles condemning gender-based violence, editorials on the subject, and research findings. Gender-based violence is no longer confined to sensationalist police reports in the news. Other sections of newspapers publish women's perspectives, but there is still no critical reflection on the media's role in the reproduction and perpetuation of violence against women and the dominant gender system.

Forms of Gender based violence

Domestic Violence: In India, domestic violence remains a grave social concern. Due to a variety of factors, including patriarchal customs, rituals, early marriage, son-cantered desires,

alcoholism, domineering husbands, and the weight of household work, approximately 70% of Indian women fall prey to this social ill.

Many forms of abuse are inflicted upon them, including physical harassment in the form of beatings, slaps, boxing, and kicks; emotional abuse in the form of mental pressure, mental torture, isolation, and blaming; and sexual harassment in the form of unwanted sex, forceful touching, and extramarital affairs, among other forms of abuse. One cannot separate the social context of domestic violence against women from its reinforcement and perpetuation of sexist ideas and a discriminatory social structure founded on the historical creation and replication of the gender system. Numerous factors contribute to this kind of violence, including the sociocultural contexts in which it thrives. Conditions that contribute to violence are created by the gender-based division of labour on the one hand, and the ideological and cultural attitudes that are acquired through the process of differential socialisation and daily learning, wherein psychological traits and stereotyped roles are attributed to men and women and become ingrained in their identities. Therefore, abuse and aggression are not isolated incidents; rather, they are a part of a dynamic process motivated by ideals associated with dominance-submission dynamics and gender inequality.

Workplace sexual harassment: Sexual harassment at work infringes upon women's rights to equality, liberty, and life. Every citizen of the country has the right to work in a safe and compassionate environment. Harassment has detrimental effects on a person's physical and mental well-being and impedes the development of the economic institution as well as the country as a whole. Sexual harassment arises not only from objective differences in the amount of power held in the workplace, but also from men's "cultural power" over women, in accordance with the dominant gender system, which discriminates against women through control, disposition, and use of their sexuality and bodies. As a result, there have been reports of sexual harassment among colleagues or on the part of lower-level employees of female executives. In these cases, harassment is used to degrade their role in the workplace, their professional capabilities, and their leadership abilities, as well as to draw attention to their sexuality, while also undermining the exercise of power by women.

Dowry demands and dowry deaths: Women are oppressed in various spheres of society under the pretext of dowry demands. In Indian society, dowries are demanded differently by the various classes and castes. Women who did not receive enough dowry—which took the form of material goods associated with the marriage system—were subjected to emotional and physical abuse at the hands of their husbands and in-laws. Demands for dowries drive young women to commit suicide or murder. These dowry deaths represent extremely dangerous forms of violence against women.

Rape: Based primarily on the use of physical force and terror, rape is the most extreme form of sexual violence. Its victims suffer from severe physical and psychological injuries. The spread of the HIV virus and unintended pregnancies are among its worst effects, as they cannot be reversed. In addition, most of the countries in the region criminalise abortion, even in cases of rape.

Other forms of gender-based violence that deserve special attention include sex tourism, illegal trafficking in women, and their exploitation through prostitution, particularly in light of the region's increasing poverty and unemployment, both of which are aggravating factors. Adoption of legislative and other types of measures to combat these practises, especially those affecting children and young women.

Constitutional Provision for the Safeguard of Women's Rights

Article 14: The Indian Constitution guarantees everyone the right to equality before the law, meaning that everyone living on Indian soil will have equal protection under the law.

Article 15: This article guarantees every citizen the freedom from discrimination on the basis of any of the following: race, caste, religion, sex, or place of birth.

Article 15(3): This article gives the legislature the authority to enact any unique legislation that will benefit women and children.

Article 16(2): No citizen shall be subjected to sex-based discrimination in any employment.

Article 19(1) (a): Every citizen has the right to freedom of speech and expression under this article

Article 21: Everybody is entitled to life and personal freedom under this article. A person's right to life and personal liberty can only be taken away under specific circumstances and under legal procedures.

Article 23: Under this article prohibited traffic in human being and forced labour. As per the article, it is an offence and subject to punishment to violate this provision

Article 39(a): The article stressed that the state will guarantee equal rights for men and women and will offer sufficient means of subsistence.

Article 39(d): According to this article, equal pay for equal work will be given to men and women.

Article 39(e): This article forbade mistreatment of female labourers and forced labour for inappropriate tasks.

Article 42: This article gives the legislature the authority to enact any unique laws necessary to ensure maternity leave and a fair and humane working environment.

Article 243-D (3): One-third of the seats reserved for women in the panchayat election are provided by this article.

Article 243-T (3): One-third of the seats reserved for women in the municipal elections are provided by this article.

Some important Legal Frameworks in India

Apart from the constitutional provisions there are some legal framework for the protection of women's rights in India.

1) The Protection of Women from Domestic Violence Act ,2005: It is a law enacted by the Indian parliament to protect women from domestic violence, which includes sexual abuse, physical harassment, mental abuse, and dowry demands that are not legal. The act protects a wife from abuse by her husband, sister, mother-in-law, or another female or male household member. It includes the right of widows, mothers, and young girls to be protected from these crimes.

2) The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013:The Indian parliament passed this act to protect women from sexual harassment at work. The act guarantees the right to life, liberty, and gender equality in both public and private workplaces, in order to improve women's participation in work and lead to economic empowerment and inclusive growth of society in a humanitarian environment.

3) The Special Marriage Act, 1954 Act: _The act provided a special form of marriage to Indian citizen and Indian nationals in foreign countries irrespective of their religion. The act replaced the old Act III, 1872. The new enactment has 3 new crucial objectives –

- To provide a special form of marriage in certain cases
- To provide for registration of certain marriage
- To provide for divorce' (Yunus and Varma 368).

4)The Dowry Prohibition Act 1961:The act forbids dowries of any kind from being demanded, given, or received during Indian religious marriages. Money, assets, and gifts from parents or other family members of either spouse are all considered dower. According to the act, if the dowry is greater than the allowed amount, there could be a 5-year maximum sentence of imprisonment and a fine of up to \$15,000.

5) The Maternity Benefit Act, 1961:The legislation offers pregnant women fully paid leave for prenatal and postpartum child care, in addition to other benefits.

6) The Equal Remuneration Act, 1976:All women shall receive equal compensation for equal work under this act, and there shall be no sex-based workplace discrimination.

7)The prohibition of Child Marriage Act, 2006:The act includes provisions that forbid child marriage, protect victims of child marriage, and stiffen penalties for those who encourage child marriage. According to the act, a child is defined as a male who is under twenty-one years old or a female who is under eighteen.

Conclusion

From the preceding discussion, it is clear that constitutional provisions and various governmental initiatives exist, but oppression, discrimination, and violation persist, and women face difficulties. Gender issues have an impact on women, either directly or

indirectly. Various gender roles, traditional customs, and belief systems institutionalised women's inferior status in society, as well as low self-esteem and self-confidence. They lack access to education, employment opportunities, and participation in government activities. As a result, women must think critically in order to see the reality and recognise the various barriers and social evils that stand in their way of achieving their own rights. Women's economic, political, and social empowerment are critical in the fight against patriarchal dominance and discrimination at all stages of life. Women's empowerment will be effective in reality when women recognise themselves as strong and confident human beings capable of overcoming any and all obstacles to achieve success in life and to establish a gender equal and developed nation. Women's empowerment will be real and effective only when they are endowed with income and property, allowing them to stand on their own and establish their identity in society. The most important metric of their success should be the extent to which they enable women to interpret, apply, and enforce laws of their own creation, while taking into account their own voices, values, and concerns.

REFERENCES

- Shoba Jasmin, K.S. -GENDER EQUALITY IN INDIA: AN ANALYSIS. International Journal of Pure and Applied Mathematics, Vol. 120 No. 5 2018, pp.207-216.
- Bhat, Rouf Ahmad. -Role of Education in the Empowerment of Women in India. Journal of Education and Practice, Vol.6, No.10, 2015.
- Florence, Dr. K. -WOMEN EMPOWERMENT AND ROLE OF LAW IN INDIA. Journal of Positive School Psychology, Vol. 6, No. 4, 2022, pp.22-67.
- Derne, S. -Globalisation and Reconstitution of Local Gender Arrangements', Men and Masculinities, Vol-23, No-11, 2002, 144-164
- Parpart, J. -Exploring the transformative potential of gender mainstreaming', Journal of International Development, vol.6, No.7, 2013.
- Kapoor, Pramila, The Life and World of Call Girls in India, Vikash Publication, Delhi, 1978.
- Kapoor, M.D., International Law, Allahabad Law Agency, Allahabad, 1998.
- Subramaniam, Human Rights and International Challenges, Manas Publication, New Delhi, 1997
- Singh, Seema and Singh, Antra. -Women Empowerment in India: A Critical Analysis. Tathapi, Vol-19-Issue-44, 2020, pp.4-16.
- Singh, Tejvir. -THE OVERVIEW OF WOMEN EMPOWERMENT IN INDIA. International Journal of Management, Volume 11, Issue 12, 2020, pp.3046-3054