



Women's Sexual Harassment issues in Health Sector of India

Dr. Sumitra

Asst. Professor, CR Institute of Law, Rohtak, Haryana

ABSTRACT

Modern women have proved that they are second to none, whether it is home or outside home at their workplace. Even in areas which are far away from their traditional role as a housewife. With changing times, they have risen up to the occasion and managed the work both inside and outside the home at her work place such as in industry, media, IT, politics, technology, administration/ management, armed forces or civil services. At home, they rear children with love and affection at home and manage household activities. They have shown their capability to deal with the recent economic depression - a situation of – with ingenuity.

I. INTRODUCTION

Like a financial expert they meet the challenges of the present times of ever rising prices in their own income. Outside, they work shoulder-to-shoulder with men almost in all the areas. They are educated. Many of them are financially independent. Modern women are more aware than their predecessor of their rights and are keen to exercise them. They know their worth in within the family, in the society and in the world. It did not happen overnight. Women fought a fierce battle to reach up-to present position. They continuously worked hard to get equality, liberty and opportunity.

Movement for empowerment of women

Woman's movement for empowerment in India is quite different from the similar movements in Western nations.

Women in Eastern World

The eastern world, especially nations in Asia are still struggling to give to its women their rightful place. Problems of high female mortality rate, sexual harassment, deaths during childbirths still exist there. There are millions of women who have go through sexual harassment, domestic violence, discrimination, abuse or are denied of pleasures of life because of their gender. Their problems are deeply ingrained in the history, laws and cultures of complex and sophisticated Asian societies.



In India, initially the focus of the movement for emancipation /empowerment of women-folk were to improve and not to denounce the traditional values and systems. It was to lead women to freedom and remove darkness spread all over due to the apathy of powerful lobbies of the society, which crushed the spirit of men and women alike. It aimed to empower not only the women, but the nation as a whole. Therefore, under the guidance, encouragement and support of eminent male leaders like Gandhi, Nehru, Patel and social reformers like Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, Vivekananda etc., women in India also challenged those quarters which were interested in holding all backwards. Being under the foreign domination, India suffered for a long time due to multiple ills – poverty, illiteracy, ignorance due to superstitions and blind following of outdated customs and social practices, women being the worst victim. Therefore, the movement for empowerment focussed on education, social and legal reforms like equal civic, personal and property rights to men and women. Stress was laid on ‘Stree Dharma’ (fundamental duties of women). The strength of the whole movement was based on its being above party, caste or communal politics.

Women’s Liberty

The darker side of women’s lib is that woman who acted as a pivot around which the whole familial and social life revolved, is losing her grip and is under the influence of her whims and fancies. She is becoming more and more aggressive and rude, most of the time shouting on others and showing all kinds of tantrums – emotional and violent outbursts. Is Child-care a dilemma? -Child care and proper upbringing of small children, who need twenty four hours mothers’ attention and presence at home has become a dilemma for career women. Parenting and inculcating right values in children requires a lot of time and patience during a child’s growing years. Dearth of time and required attention of parents at right time, lack of stimulation at home, while children are growing up, tense atmosphere and impaired relationships between parents, dictatorial handling of children during their tender age and easy availability of and access to money tempts children to bad habits. The concept of spending ‘quality’ or ‘quantity’ time with children does not work well. Many parents buy materialistic goods for them to clear their guilt conscience of not being there for them. In the dual worker families with dependent children, the concerns can range from sheer logistic problems associated with providing proper child-care to emotional challenges tied to not being there, when one’s children are growing.

II. EXISTING LAWS ON WOMEN IN INTERNATIONAL LAW

The Universal Declaration of Human Rights (UDHR) is a declaration adopted by the United Nations General Assembly on 10 December 1948 at Palais de Chaillot, Paris. The Declaration arose directly from the experience of the Second World War and represents the first global expression of rights to which all human beings are inherently entitled. The full text is published by the United Nations on its website. It consists of 30 articles which have been elaborated in subsequent international treaties, regional human rights instruments, national constitutions and laws. The International Bill of Human Rights consists of the Universal Declaration of Human Rights, the International Covenant on Economic, Social and Cultural Rights, and the International Covenant on

Civil and Political Rights and its two Optional Protocols. In 1966 the General Assembly adopted the two detailed Covenants, which complete the International Bill of Human Rights; and in 1976, after the Covenants had been ratified by a sufficient number of individual nations, the Bill took on the force of international law.

During the Second World War the allies adopted the Four Freedoms: freedom of speech, freedom of religion, freedom from fear, and freedom from want, as their basic war aims. The United Nations Charter "reaffirmed faith in fundamental human rights, and dignity and worth of the human person" and committed all member states to promote "universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion". A universal declaration that specified the rights of individuals was necessary to give effect to the Charter's provisions on human rights. At the time Humphrey was newly appointed as Director of the Division of Human Rights within the United Nations Secretariat. The Commission on Human Rights, a standing body of the United Nations, was constituted to undertake the work of preparing what was initially conceived as an International Bill of Rights.

While not a treaty itself, the Declaration was explicitly adopted for the purpose of defining the meaning of the words "fundamental freedoms" and "human rights" appearing in the United Nations Charter, which is binding on all member states. For this reason the Universal Declaration is a fundamental constitutive document of the United Nations. Many international lawyers, in addition, believe that the Declaration forms part of 'customary international law' 1 and is a powerful tool in applying diplomatic and moral pressure to governments that violate any of its articles. The 1968 United Nations International Conference on Human Rights advised that it "constitutes an obligation for the members of the international community" to all persons.

The declaration has served as the foundation for two binding UN human rights covenants, the International Covenant on Civil and Political Rights, and the International Covenant on Economic, Social and Cultural Rights and the principles of the Declaration are elaborated in international treaties such as the International Convention on the Elimination of All Forms of Racial Discrimination, the International Convention on the Elimination of Discrimination Against Women, the United Nations Convention on the Rights of the Child, the United Nations Convention Against Torture and many more. The Declaration continues to be widely cited by governments, academics, advocates and constitutional courts and individual human beings who appeal to its principles for the protection of their recognised human rights.

The Universal Declaration has received praise from a number of notable people. Charles Malik, Lebanese philosopher and diplomat, called it "an international document of the first order of importance,"¹ while Eleanor Roosevelt, first chairwoman of the Commission on Human Rights (CHR) that drafted the Declaration, stated that it "may well become the international Magna Carta of all men everywhere." 10 December 1948. In a speech on 5 October 1995, Pope John Paul II called the UDHR "one of the highest expressions of the human conscience of our time". And in a statement on 10 December 2003 on behalf of the European Union, Marcello Spatafora said that "it placed human rights at the centre of the framework of principles and obligations shaping relations within the international community.



III. LEGAL PROTECTION OF WOMEN IN INDIA

The principle of gender equality is enshrined in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality to women, but also empowers the State to adopt measures of positive discrimination in favour of women. Within the framework of a democratic polity, our laws, development policies, Plans and programmes have aimed at women's advancement in different spheres. India has also ratified various international conventions and human rights instruments committing to secure equal rights of women. Key among them is the ratification of the Convention on Elimination of All Forms of Discrimination against Women (CEDAW) in 1993. The Constitution of India not only grants equality to women but also empowers the State to adopt measures of positive discrimination in favour of women for neutralizing the cumulative socio economic, education and political disadvantages faced by them. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality of opportunity to all citizens in matters relating to employment. Articles 14, 15, 15(3), 16, 39(a), 39(b), 39(c) and 42 of the Constitution are of specific importance in this regard.

Legal Provisions

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women. Although women may be victims of any of the crimes such as 'Murder', 'Robbery', 'Cheating' etc, the crimes, which are directed specifically against women, are characterized as 'Crime against Women'. These are broadly classified under two categories.

The Crimes Identified Under the Indian Penal Code (IPC)

- Rape (Sec. 376 IPC)
- Kidnapping & Abduction for different purposes (Sec. 363-373)
- Homicide for Dowry, Dowry Deaths or their attempts (Sec. 302/304-B IPC)
- Torture, both mental and physical (Sec. 498-A IPC)
- Molestation (Sec. 354 IPC)
- Sexual Harassment (Sec. 509 IPC) vii. Importation of girls (up to 21 years of age)

State Legal Services in India

Hon'ble Mr. Justice S.H. Kapadia, the Chief Justice of India is the Patron-in-Chief and Hon'ble Mr. Justice Altamas Kabir, Judge, Supreme Court of India is the Executive Chairperson of the Authority. NALSAI is

housed at 12/11, Jam Nagar House, New Delhi-110011. In every State, State Legal Services Authority has been constituted to give effect to the policies and directions of the NALSA and to give free legal services to the people and conduct Lok Adalats² in the State. The State Legal Services Authority is headed by Hon'ble the Chief Justice of the respective High Court who is the Patron-in-Chief of the State Legal Services Authority. In every District, District Legal Services Authority has been constituted to implement Legal Services Programmes in the District. The District Legal Services Authority is situated in the District Courts Complex in every District and chaired by the District Judge of the respective district.

Women-Related Legislations

- The Indian Penal Code, 1860
- The Indian Evidence Act, 1872
- The Indian Christian Marriage Act, 1872 (15 of 1872)
- The Married Women's Property Act, 1874 (3 of 1874)
- The Guardians and Wards Act, 1890
- The Workmen's Compensation Act, 1923
- The Trade Unions Act 1926
- The Child Marriage Restraint Act, 1929 (19 of 1929)
- The Payments of Wages Act, 1936
- The Payments of Wages (Procedure) Act, 1937
- The Muslim Personal Law (Shariat) Application Act, 1937
- Employers Liabilities Act 1938
- The Minimum Wages Act, 1948
- The Employees' State Insurance Act, 1948
- The Factories Act, 1948
- The Minimum Wages Act, 1950.
- The Plantation Labour Act, 1951 (amended by Acts Nos. 42 of 1953, 34 of 1960, 53 of 1961, 58 of 1981 and 61 of 1986)
- The Cinematograph Act, 1952
- The Mines Act 1952
- The Special Marriage Act, 1954
- The Protection of Civil Rights Act 1955
- The Hindu Marriage Act, 1955 (28 of 1955)
- The Hindu Adoptions & Maintenance Act, 1956
- The Hindu Minority & Guardianship Act, 1956
- The Hindu Succession Act, 1956
- The Maternity Benefit Act, 1961 (53 of 1961)
- The Beedi & Cigar Workers (Conditions of Employment) Act, 1966
- The Foreign Marriage Act, 1969 (33 of 1969)

- The Indian Divorce Act, 1969 (4 of 1969)
- The Contract Labour (Regulation & Abolition) Act, 1970
- The Medical Termination of Pregnancy Act, 1971 (34 of 1971)
- Code of Criminal Procedure, 1973
- The Equal Remuneration Act, 1976
- The Bonded Labour System (Abolition) Act, 1979
- The Inter-State Migrant Workmen (Regulation of Employment and Conditions of Service) Act, 1979
- The Family Courts Act, 1984
- The Muslim women Protection of Rights on Dowry Act 1986
- Mental Health Act, 1987
- National Commission for Women Act, 1990 (20 of 1990)
- The Protection of Human Rights Act, 1993 [As amended by the Protection of Human Rights (Amendment) Act, 2006–No. 43 of 2006]
- Juvenile Justice Act, 2000
- The Child Labour (Prohibition & Regulation) Act
- The Pre-Natal Diagnostic Techniques (Regulation and Prevention of misuse) Act 1994

IV CONCLUSION

Enhancement of women's self-esteem, stopping their progress from getting de-railed and getting their active participation in constructive work, the attention of social and political authorities is required to be focused on social mobilization and transformation of outdated social values. Creating gender sensitization is necessary. People have to overcome negative assumptions, prejudices and religious or social practices, which had led to unproductive ethos. For it, a new way of thinking, a new philosophy, a new kind of attitude is required which regard all people, irrespective of gender, equal. A woman herself should make efforts for her empowerment and well-being – be it physical, emotional or spiritual and become an 'enlightened woman'. She has to make herself capable of thinking on her own about her well being, taking her own decisions rationally without fear or favour and without being swayed away by whims/fancies or emotions. She should be bold enough to counter the reactionary customs and social inhibitions, which have kept the Indian women in bondage and misery.

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