

Comparative Study of National and State Commissions' Efficacy in Upholding Women's Rights in India

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I. INTRODUCTION

Human beings by virtue of being human, possess certain basic and inalienable rights which are commonly known as human rights. Human rights are inherent to all human beings whatever is their nationality, place of residence, sex, ethnic origin, colour, religion, language, or any other status. All are equally entitled to human rights without any discrimination. These rights are interrelated, interdependent and indivisible. Human rights are an essential principle in any organization of modern society and very basis of a peaceful cohabitation. Universal human rights are often expressed and guaranteed by law in the form of treaties, customary international laws, and general principles, other sources of international law and each countries' constitution and law. International human rights laws lay down obligations to governments to act in certain ways in order to promote and protect human rights and fundamental freedoms of individuals or groups.

The term human rights of women refers to the freedoms inherently possessed by women and girls of all ages, which may be institutionalized, ignored or suppressed by law, custom and behavior in a particular society. Human rights of women are rights and entitlements claimed for women and girls of many societies worldwide. In some places, these rights are institutionalized or supported by law, local custom or behavior. Human rights of women are most often associated with reproductive rights, rights against sexual and domestic violence and employment discrimination. It also includes immigration and refugee matters, child custody, criminal justice, healthcare, housing, social security and public benefits, civil rights etc. Human rights of women refers to whether women have equality with the rights of man where women and men's capacities are the same. Human rights of women include protection of women where women are subjected to special circumstances such as maternity leave for child bearing.

Amnesty International's human rights of women's work encompassed a range of human rights as they relate to the equity needs of women, working at once to advance new rights and opportunities for all women and to combat abuses against them. The Convention on the Elimination of All forms of Discriminations Against Women (CEDAW), adopted in 1979 by the UN General Assembly. According to CEDAW all rights spelled out by the Universal Declaration of Human Rights and by the two human rights covenants (on civil and political rights as well as economic, social and cultural rights) are the human rights of every woman.

The CEDAW deals with the ban on any form of discrimination of women in its entirety. In 1994, the International Conference on Population and Development in Cairo (ICPD) articulated and affirmed the relationship between advancement and fulfillment of rights and gender equality and equity. In 1995, the fourth world conference on women in Beijing generated global commitments to advance a wider range of human rights of women. The inclusion of gender equality and women's empowerment is one of the eight Millennium Development Goals of the conference. The article 6 of The Convention on the Rights of Persons with Disabilities recognizes that the State shall take measures to ensure the full and equal enjoyment by them of all human rights and fundamental freedoms, development, advancement and empowerment of women. The UN World Conference on

Human Rights (1993) in Vienna confirmed that women's rights are human rights. Today women enjoy equal legal access to healthcare, education, civic participation and economic justice as a result of generations of advocacy on behalf of women. Numerous international and regional instruments draw attention to gender related dimensions of human rights issues, the most important being the UN Convention on the Elimination of all forms of Discrimination against Women (CEDAW), adopted in 1979.

Human rights in India are an issue complicated by the country's large size, its diversity, its status as a developing country and a sovereign, secular and democratic republic. The status of human rights of women in India has been subjected to many great changes over the past few millennia from equal status with men in ancient times through the low points of the medieval period, to the promotion of equal rights by many reformers, the history of rights of women in India has been eventful. In modern India, women have adorned high offices in the recent period. However, women in India generally are still exposed to numerous human rights violations.

According to a global study conducted by Thomson Reuters, India is the fourth most dangerous country in the world for women.

The Constitution is a paramount instrument with democratic and political potent. India's status of human rights is high under the Constitution, wherein part III mentions and protects the fundamental rights and empowers the Supreme Court and High Courts under the Article 32 and 26 respectively to enforce these rights and command the State authorities to respect them, the Constitution of India has granted equal rights to men and women. According to Article 14 of the Indian constitution, "the state shall not deny to any person equally before the law or the equal protection of the laws within the territory of India". And Article 15 states "State shall not discriminate against any citizen on the grounds only of religion, race, caste, sex, place of birth or any of them". But it seems that there is a wide gap between theory and practice. The women in India have always been considered subordinate to men. Though the Article contained in the constitution mandates equally and non-discrimination on the grounds of sex, women is always discriminated and dishonored in India. Although, various efforts have been taken to improve human rights status of women in India, the condition of human rights of women in India is miserable¹⁹. According to the UN Department of Public Information, following are human rights of women in India:

- Right to equality.
- Right to education.
- Right to live with dignity.
- Right to liberty.
- Right to political activities.
- Right to property.
- Right to equal opportunity in employment.
- Right to free choice of profession.
- Right to livelihood.
- Right to work in equitable condition.
- Right to equal wages for equal work
- Right to protection from gender discrimination.
- Right to social protection in the eventuality of retirement, old age and sickness.
- Right to protection from inhuman treatment.
- Right to protection of health.
- Right to privacy in terms of personal life, family, residence, correspondence, etc.
- Right to protection from society and family system.

II. OBJECTIVES

1. To explain the Constitutional provisions on the organisation, structure, powers and functioning of the National Commission for Women.
2. To study the measures taken by the NCW to protect the human rights of women in India.
3. To examine certain select case studies on human rights violations against women dealt by the NCW
4. To assess the effectiveness of the NCW in protecting the human rights of women in India

III. LITERATURE REVIEW

Arunatha Gosh's, book, *Women in India: Problems, Potentialities and Power* (2010) edited by Gosh, examined that in ancient India, gender discrimination was nonexistent. During the Vedic period, for instance, boys and girls used to enjoy equal opportunities in educational matters, enjoyed similar privileges and facilities in different social spheres. Things deteriorated during the medieval era when practices like sati, purdah, etc., put women on back seat. Efforts of the social reformer and the legislative measures during the colonial rule tried to restore the social prestige of the women. This work consisting of sixteen Articles and is divided into four parts. The first part contains three Articles that are theoretical in nature. Articles in the second part deals with various problems faced by the women in India, even today. The third part highlights the potentiality, the prospect of women in various field as evident from their role in the freedom struggle. The fourth part discusses about the performance of women in informal sector through self-help groups.

Anitha Kumar's Article, "Crimes Against Women in Kerala; What Do the Reads Reveal?" (2011) . This Article examines that in India, one of the determinants of violence is dowry. The abuse may be physical, verbal and emotional components. It also includes sexual violence (rape and sexual harassment) and domestic (partner violence and other domestic violence). The effects of violence can be devastating to a women's reproductive health as well as to other aspects of her physical and mental well-being. Increased risk of adverse pregnancy outcomes, unwanted pregnancies and sexually transmitted diseases are some of the consequences of the violence against women with a history of physical or sexual abuse.

Agarwal Bina's, "Bargaining and Gender Relations: Within and Beyond the Household", (2011). In this Article, the author states that, the biological weakness of a women makes her an easy prey particularly to the

physical domination. Women is often a victim of physical violence. Not only outside her home, but also, in her home. Unfortunately, women have been discriminated in all spheres of their life in all societies with varied magnitude and dimensions all through the ages. Various types of crimes and atrocities are inflicted on them. Rape, wife beating, eve teasing, sexual and physical harassment, economic exploitation, indecent representation in digital media, cybercrimes, etc are some of the major violations against the women in the modern world.

Claire M. Renzetti, Jeffrey L. Edison's (eds) book entitled, "Source Book on Violence Against Women"(2011). The authors are in opinion that, in our tradition bound society, structured on old social values, when a woman is subjected to a crime like rape, it becomes a multiple crime. She is raped at home, then in public life, followed by an agonizing cross examination in court, and the climax is reached when sensational reports about the crime appear in the media. The most is that her status in the hierarchical structure of society also comes in the way of securing justice for her. Her social status compounds her gender injustice. In these days of globalization, the global picture of women is most ignoble and inequitable. In India, with highly utilitarian approach, poor parents do not aspire for a female child. Because of the fabulous dowry to be paid on the daughter's marriage. The authors opines that the battle for gender justice has been a long drawn struggle. The sustained efforts of several social reformers, even in the face of resistance from social orthodoxy, has given impetus to the cause of gender injustice. However, more fundamental is the work and role of social reformers who sought to change the mindset of orthodox tradition bound society and usher in women's reforms in the social, economic and educational fields.

IV. RESEARCH METHODOLOGY

This study is based on descriptive method in nature based on Government documents, Constitutional provisions and related works.

Sources

Sources of data for this study are classified into two categories, i.e, primary and secondary.

The primary source of this study include the NCW's Annual Reports, Publications, Newsletters, Press releases and previous works done by the NCW.

Books, Articles from periodicals, journals and newspapers form the secondary **sources** of this study.

Delimitation

This study focuses only on cases registered with the NCW regarding the protection against violation of human rights of women in India during 2008-2012.

It was found from the pilot study there was a steep increase in the number of complaints registered with the NCW from 2008. Further, there is a dearth of works and research done on the functioning of the NCW during this period.

V. FINDINGS AND CONCLUSION

The examination of the data reveals an increase in instances of violence and crimes against women, even inside urban areas. The prevalence of crimes against women, including as rape, dowry-related offences, molestation, sexual harassment, kidnapping, abduction, immoral trafficking of women and girls, as well as female infanticide and foeticide, is on the rise with each passing day.

Violence is the most tangible expression of gender inequality. A significant proportion of criminal activities in India specifically target women. It represents a blemish on a developed civilization. It is unsurprising to see the increasing prevalence of campaigns aimed at addressing various manifestations of violence, such as rape, domestic abuse, sexual harassment, gender-based violence leading to the selective termination of female fetuses, as well as violence occurring within the context of riots and community unrest.

In the present setting, there is a growing need to examine the performance and operational aspects of the National Commission for Women, a governmental entity established with the primary objective of safeguarding and advancing the human rights of women within the country of India. Moreover, it is necessary to ascertain the extent to which the Commission has progressed in relation to its initial goals, evaluate the accomplishments it has attained, and determine if it is operating in accordance with the provisions outlined in the Acts and Laws.

The present research examines the operations of the National Commission for Women in India from 2008 to 2012, focusing on its role in safeguarding women's human rights and preventing violations. For the research, many sources were used, including the Commission's annual reports and other official papers, newspaper clippings, as well as books and journals from the relevant time. The National Cyber Warfare (NCW) organisation is comprised of many distinct units, known as cells, which serve as the operational entities responsible for executing the responsibilities of the NCW. The Legal Cell and Research and Studies Cell

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