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Occupational and Health Rights of Women and Legal Protection

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Health of an individual is closely linked to his/her status in the society. Women universally have lower status. The society ascribes to the two sexes different attitudes, feelings, values, behaviours and activities. Women are seen only in their reproductive roles and their productive roles are completely ignored. There is enough evidence to show that almost all the women are economically active. However majority of them work in the unorganised sector and consequently get hardly any benefits made by the provisions of the law. Women get less money for their work, get no medical and other benefits that the employment rules provide. Women are also not protected by the rules of working hours or the leave benefits. Women have double disadvantage because of these discriminations because women bear a triple burden of reproduction, production and domestic work. Each of these has its own problems and women having to perform all the three of them, and being denied proper working conditions, has resulted in a complex situation which is reflected in poor health for women.

Having to work in the unorganised sector of the economy, women get no recognition as economically active individuals. This is evident from official data, such as census, which shows barely 10% to 12% women as active. Besides denial of fair working conditions this non recognition also denies women access to property and credit, resulting in absence of opportunities for improving their prospects.

Powerlessness of women makes them suffer injustice of being denied the right to survival. Violence against women - foeticide, infanticide, sexual abuse, rape, battering and bride burning, are crimes as per the provisions of law and yet they continue unabated. In spite of laws prohibiting tests for determining the sex of the foetus and then following it with foeticide of females the practice continues, perhaps with greater vigour. Data from Maharashtra, Haryana, Gujarat and other States provide adequate evidence to prove that the practice continues. One also sees advertisements declaring availability of the facilities for performing the necessary tests as well as the abortions. Terminations of the female foetuses has contributed to the lowering of the sex ratio of the population.

Law prohibiting infanticide was passed during later half of the 19th century, under the British rule. There seemed to be a decline in the practice, though there is evidence that it had not completely disappeared. However new evidence has become available to show that areas where women enjoyed relatively better status and infanticide was never present, are now taking recourse to female infanticide. This is believed to be due to the acceptance of the small family norm promoted by the prevailing family planning programme. It is said that couples are keeping families small by eliminating 'unwanted' children rather than regulating their fertility.

It must be realised that infanticide is practiced not merely by the use of violent methods to kill the infants, but neglect in provision of food and medical help is also so monitored that it results in the higher deaths of females in the population. Available data show that though females are biologically stronger and should have death rates lower than their brothers, in ages 0 - 4 females experience 11% higher deaths, in ages 5 - 14 they have 22% excess deaths and in ages 15 - 35 the excess is 31%. Higher death rates are results of poor health. So these differences between the death rates of the two sexes are also indicative of the neglect of the health of the women resulting in poor health of the women in general. Here it needs to be pointed out that the inter-generational effect of women's health is far more than that of men. Consequently, neglect of women's needs has resulted in a vicious circle of poor health of the population as a whole.

It is not adequate to study the provisions in the laws or the amendments over time that have been brought in them. But it becomes important to understand the functioning of the laws in the society. It is observed that the laws that are framed to counteract the consequences of the prevalent social framework are quite often followed in breach.

Women's health is generally equated to their reproductive health. Health services never looked into women's health problems in general nor did they provide for women's needs beyond MCH (maternal and child health). Now even the MCH services are split into safe motherhood and child survival, thereby the linkages between the health of the mother and her child, are overlooked.

Officially promoted population control programme is one of the major violence against women. While the society recognises women only in their mothering roles and expects them to produce male children and gives them no choice for determining their sexuality or rights over their bodies. The officials find it easy to promote fertility control by forcing provider controlled, long-acting, harmful contraceptives.

It must be realised here that coercion is practiced not necessarily through the use of physical force but it is also practiced through denial of provisions in the basic rights of people such as access to water, seeds, fertilisers, medical facilities etc. People are denied these provisions of a decent democratic society, unless they accept family planning and mainly the terminal methods such as sterilisation, and as said earlier, in the patriarchal society it is the woman who is the target of these coercive programmes. A survey conducted through USAID and claiming to have collected data from about 99% national population - National Family Health Survey (NFHS) - reports that over 23% women who have been sterilised suffer from complications. Incidence of complications for the users of the Pill and the IUD is reported to be about 20%. The women who suffered because of the latter two methods must be higher because many may have discontinued the use.

While the feminists are working to reduce the victimization of women under the patriarchal society, it becomes clear that the population lobby is operating through promoting patriarchal interests of the society.

Law prohibiting child marriages was passed in early 20th century and was suitably modified to raise the age at marriage. Above mentioned NFHS found that the girls are not only married young but 58% of the total births in the country take place to girls under age 19 years. Marriages of very young take place in the houses of the members of the parliament and other leaders and are also performed publicly and in large numbers. The rape of Bhavari Devi in Rajasthan was a result of her opposition to the marriage of a year old girl in the family of an important member of the community. Bhavari was mass raped for her temerity to oppose the leader of the community, but even judiciary is supporting the 'powerful' and not the 'just'.

The complexity of the neglect of women's health needs is aggravated in the hierarchical and the patriarchal nature of the society. Women are exposed in the same way as men when the discussion is about prevalent problems such as tuberculosis, pneumonia, bronchitis, fevers related to malaria, typhoid, gastroenteritis etc. However women's illnesses get attention much later, if at all they do, and they are likely to be treated at home rather than by a doctor or at a medical centre and women to face serious consequences of this neglect, including death.

It was pointed out earlier that the government policy of limiting family size, in a society which continues to oppress women has led to female infanticide, where it was not present earlier. Similarly the new economic policy of liberalisation, globalization and privatization is leading to greater objectification of the women's bodies. Sex tourism, larger incidence of demand for dowry, and

increase in unemployment has disturbed the family of the poor majority violence against women.

It is reported that highest increase is observed in the advertisement industry. There is promotion of consumerism as well as use of women's bodies. The consumerist society is commodifying women's bodies and creating demands that are detrimental to the interests of women.

Sexual exploitation and harassment of women in the workplace, is widely reported. Several cases of regular sexual assault on the women workers are discussed at various levels. The women who do not obey their male superiors are faced with threats of punishment including losing their jobs. This exploitation is faced by women employees of all strata is well proved by the case of Rupal Bajaj, an IAS officer, who challenged her superior. It is to be noted that she was harassed was accepted by the office as evidenced by the fact that she was allowed to file a case against the offending officer. It is important that the male officer was not required to leave his job, while the case was on, as is mandatory by the law. It also needs a notice that while Bajaj had to fight her own case, at her own cost, the expenses on behalf of the officer were borne by the office. Also in spite of the court ruling going in favour of Bajaj, the officer faced no indictment from the office. On the other hand he went getting all the promotions.

On the other hand Bajaj was exposed to further ridicule at her office arguing that her husband, who was present when the incidence took place, had not intervened. There is ample evidence that Mr. Bajaj supported his wife, morally and financially, for all the years that the case took to come to the final decision.

While the laws have become more progressive, there is evidence that harassment and exploitation of women has increased. Old conditions for the exploitation continue and there are new additions due to the changed social, political and economic demands.