

Empowering Women with the New Laws and Reforms

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Abstract

Gender issues and 'women-empowerment' has become the new buzzword across the globe in the last few decades. The increased familiarity with this term has resulted in the slow transformation of most of the ideologies that have justified inequalities in the social structures for the past so many years. The emerging debates that surround the concept of 'empowerment' have had considerable effects on the well-established roots of the institutions that provide support to the existing power structures such as family, state etc. Women have started to become aware of the limitations and confines of the territories within which they have been placed all these years. They have demanded control over their own bodies, equal spaces in the social institutions and an acknowledgment for their identity. Last few years have witnessed a sharp increase in the strategies of women's development by the state in order to eliminate the gender gaps in the work opportunities, political participation, health facilities and distribution of resources.

India as a nation has taken significant steps to fill the gender gaps existing in the societies here. The constitution of India provides equality of employment opportunity, voting rights and equal pay for equal work. It lays great emphasis on the dignity of women and constitutes several pro-provisions like maternity reliefs to maintain a gender-sensitive environment at the workplace. Government schemes like 'Beti bachao-Betipadhao', 'jananisuraksha', intend to ensure the better health care and education facilities. Policies like 'New National Policy for Women' endeavour to follow the 'socially inclusive rights-based approach' for the women empowerment. Apart from this, the introduction of Gender Budget Statement promises a just distribution of resources in the country across gender divisions as well.

The past decade has also experienced an expansion of the definitions of terms like 'rape' and 'violence' in the legal context. Law has enlarged its frame in order to bring the exploitation of women in private and public sphere through the formulations of laws like Protection of Women from Domestic Violence Act, 2005' and 'Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act, 2013'. Institutions like the National Commission for Women have been formed to identify and register the cases of oppression faced by women. Ministry of Women and Child Development is specifically dedicated to addressing the issues, policies and their implementations related to the women and children in the country.

India has observed immense changes in its socio-political and economic conditions by the

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introduction of these measures as well as under the impact of globalization and technological advancements. Census 2001-2011 has recorded a significant rise in the literacy rate of women. The expansion of the service sector has generated fresh work opportunities for women. To a large extent, equality in the wages and participating roles among the women and men can be seen in the urban areas. It is in these areas that the phenomenon of 'emerging women power' is being most acutely observed.

Women are dominating the key positions in many fields that were earlier denied to them. The emergence of women to the strategic positions in the social structures has given way to a relatively better understanding and identification of the oppressive practices. However, these transformations seem to be insignificant when compared to the number of issues that continue to degenerate the conditions of women in the society. Also, new challenges have emerged that impede the holistic development of women.

Crime against women has been on the rampant rise in the country along with the growth in the number of career-oriented women in the professional space. Cyber crimes such as sexual harassment and molestation of women through the internet and mobile devices have gone up along with the technological development in the country. As the nation basks in the various scientific and economic achievements, half of its population writhes under the fear of rape, trafficking, domestic violence, honour killing, acid attacks, and sexual harassments. Child marriage, dowry demands, and female infanticide remain a harsh reality even after the strict attempts of their prohibition through the law. These practices are the major reasons behind the skewed sex ratio in the society.

While the country congratulates itself on the achieving the Millennium Development Goal of gender parity at the primary school level, it has done little to overcome the high dropout rates of female students. As the country boasts of women holding the significant chairs in governance like Head of the state, Speaker of Lok Sabha, eminent ministries and top-notch places in the corporate sectors and strategic positions in other arenas of productivity, a large number of women are struggling for their livelihoods as migrant labourers and low paid workers in the informal sector. According to a recently released Monster Salary Index, there exists a gender pay gap of 27% in the country. The overlapping of gender issues with several other issues like caste and poverty worsens the plight of women belonging to these categories. Women workforce in the rural areas that is more exposed to these tribulations comparatively experiences larger pay gaps. India records a High Maternal Mortality Rate and a large number of women suffer from anaemia in the face of the new schemes continuously launched by the government to improve the health conditions of women. The discrimination and violence faced by the women also have deep-rooted effects on their mental health which goes largely unnoticed by the government policies. The concept of 'emerging women power' seems to be eyewash in the context of these ground realities.

Most of the measures adopted by the state follow the top-down approach and essentially consider women as mere beneficiaries of the welfare schemes. Women are not empowered to understand and confront the structures of patriarchy. 'Decision making' which is emphasized upon in the process of empowering women, have to emerge out of knowledge and informed mediation to in still changes in

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the familial structures and social arrangements that would help in the evolution of gender roles.

Education plays an important role in the conditioning of the young minds towards the concept of gender. Schools become one of the initial stages where internalization of the performance of gender roles takes place. Gender sensitized pedagogy is needed for the subversion of these roles. Instilling sensitivity towards the dignity of women, emphasizing the development of ethical stand towards the equality in the boys can provide the society with responsible and sensitive individuals.

Encouraging the analytical understanding of exploitation and discrimination among girls shall result in more confident and aware women who can further help in the formation of a gender just society. Prohibitions, reservations and punitive measures can only be the immediate and temporary interventions to promote gender equality. Only a shift in the mindset can facilitate the progress of the society in the longer run. Stricter laws and their honest enforcements have to be followed up by a change in the attitude towards social evils like rape, female foeticide, acid attacks along with the better treatment of the victims. NGOs and SHGs need to be strengthened as part of the empowerment process. These bodies work at the ground level and encourage the victims to share their experiences. Punishing the convicts is just a small part of the justice provided to the victims of gender violence. The major challenge is to help her rehabilitate and to develop a social environment that would preserve her sense of self-confidence and dignity. The role of community institutions like khap panchayats which dictate the social conduct of a community and promote inhuman practices like hon-our killing should be taken into account. These institutions have a strong hold on the psychology of a particular community. The fault lines of such structures have to be exposed in a manner that has a significant impact on the people of the community.

The major role played by women in the economic growth of a country is known throughout the world. Last year, IMF's chief Christine Lagarde stated that economic inclusion of more women workers in India would expand its GDP by 27% which is massive as compared to the similar impact on the U.S. and Japan which is 5% and 9% respectively. Progressing towards this, the first step would be to acknowledge the huge amount of unpaid care work done by women which hold back their possibilities of boosting the economy in a more productive manner. Moreover, discriminated approach towards the maternity process leaves women workers at a larger risk of being less favoured and losing job opportunities as compared to a male worker. These problems have their roots in the perception and performance of the gender roles assigned by patriarchy. Sharing of responsibilities and coexistence in an equitable manner is what should be of the larger concern in society. It is along these lines that vocational training and skill development should be focussed upon.

The Union Cabinet has cleared the move to raise the legal minimum age at marriage for women to 21, and will introduce an amendment to the Prohibition of Child Marriage Act comes as a blow to women's rights. The move is neither feasible, nor grounded in evidence, nor respectful of women's rights.

Why isn't it feasible? The law prohibiting marriage below the age of 18 has been in effect in some form since the 1900s, yet child marriage has persisted virtually undeterred until 2005 when almost

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half of all women aged 20-24 had married below the legal minimum age. By 2015-16, this proportion declined significantly to 27 per cent and more modestly to 23 per cent by 2019-20 (NFHS4, NFHS5) an impressive shift that is largely attributable to social changes such as greater access to education and expanding aspirations. Even though more than one in five marriages took place below age 18, hardly any violations of the Act appear in our criminal records. Moreover, the magnitude of the population of women of marriageable age who will be affected is immense, with over 60 per cent (more than three in five women) marrying before 21. So while we have failed to even enforce a law against marriage before age 18, it is hardly feasible that we can succeed in enforcing a law that expands the age range, and affects such a vast canvas of India's population.

The move is, moreover, not justified by evidence. Notably, the stated rationale for raising the age of marriage, which incidentally had stemmed in 2020 from an apparent concern for "the imperatives of lowering maternal mortality, improving nutritional levels and related issues" has now been modified as necessary for "the empowerment of women". Of course, it is true that those marrying at the age of 21 and later are healthier, better nourished, better educated, and have better career opportunities than those experiencing child marriage. But are they so advantaged because they delayed their marriages, or because they come from better-off households, did not have to discontinue their education prematurely, have at least one better-educated parent, and do not come from socially excluded castes and tribes? The evidence suggests the latter. The two groups - early and late marrying - are not comparable. As Mary John notes, while almost half (45 per cent) of those belonging to the poorest households married in childhood (before 18), just one in 10 (10 per cent) of women from the wealthiest households did so. Moreover, evidence gathered by demographer Ann Blanc and others, suggests it is giving birth in adolescence (the ages at which those who marry below 18 may experience pregnancy) that is unsafe, and maternal mortality after 18 is by far the lowest.

Growing evidence shows, disturbingly, that the number of child marriages (under 18) may have increased in many states during the pandemic and lockdown periods, calling again for concerted government efforts to ensure adherence to the present law, rather than expending efforts to further raise the marriage age.

Most of all, as in the case of the love jihad laws, this move is one more attempt to deny young women their reproductive rights. Surveys in several states have observed that most women wish to marry only after they attain 18 (the legal minimum age at marriage in most countries globally). At the same time, romantic relations are increasingly taking place in adolescence (as in the world over) and some young women will certainly make an informed decision to marry before they are 21. Should they be denied this right as long as it is consensual? The comment of Jaya Jaitley, that the task force's decision was enthusiastically supported by students of 16 universities and 15 NGOs, across all religions and by those most disadvantaged is simplistic, misleading and once again, generalising from a biased sample. Students of 16 universities and representatives of 15 NGOs are certainly not representative of young people or NGOs at large. University students are advantaged simply by virtue of having reached this milestone and hence are a select group. Moreover, relying on their view about an ideal age to marry quite likely neglects their perceptions about a woman's right to make informed marriage decisions,

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including whether or not to marry between the ages of 18 and 20. Likewise, the 15 privileged NGOs cannot be said to represent NGOs at large, and certainly it appears that the NGO voices that were raised against this proposal in 2020 have remained unheard.

What is required to empower disadvantaged women and respect their reproductive rights is, therefore, not a simple waving of the legislative wand to raise the marriage age beyond 18. We require investments in reversing the fundamental structural disadvantages that women who marry early face. To truly empower them while respecting their reproductive rights, the government must invest far more in addressing issues of equity – measures that will enable the disadvantaged to complete their education, provide career counselling and encourage skilling and job placement, address safety issues of women in public places including public transportation, and change the perceptions of parents who are ultimately those who make marriage related decisions for a majority of women. Delays in the timing of marriage will then occur without the need for legislation.

Recently, with President Ram Nath Kovind giving surrogacy and publication of the Gazette, this law came into force across the country. In this law, many provisions have been made to set the rules of surrogacy in the country, completely ban commercial surrogacy and prevent exploitation of 'surrogate mother' and protect her interests. With the enactment of the law, India joins the ranks of countries like Germany, France, UK, Belgium and the Netherlands where commercial surrogacy is already banned. Due to the provisions contained in this law, the market of discussions in the country is hot these days. In such a situation, it is very important to understand this whole issue.

The general meaning of surrogacy is 'surrogate womb'. A kind of agreement between a couple who wishes to surrogate and a woman (surrogate mother), in which the woman agrees to rent her womb. Clinics play a mediating role in this process. The surrogacy method is based on IVF (In Vitro Fertilization) technology. Under this, the sperm of the man who adopts surrogacy and the egg of the woman are fertilized and then the fertilized egg is placed in the uterus of the 'surrogate mother'. Sometimes instead of the surrogate couple, the egg and sperm are also from another woman or man respectively. In this process, sometimes the egg of a 'surrogate mother' is also used.

Surrogacy technology is being used extensively in the country, but the interesting thing is that almost half of the surrogacy in India is done by foreign couples. Significantly, foreigners see surrogacy in India as 'medical tourism'. Surrogacy technology in India is five to 10 times cheaper than other countries in the world and also has world class IVF centers equipped with good doctors. At the same time, helpless women of weaker sections are also easily available to conceive in the country and till now there was no strict law in this regard. Because of this the attraction of foreigners towards surrogacy was natural. But, like in other countries, now there is going to be a law to completely ban the adoption of surrogacy for foreigners, which will prevent India from becoming a hub of surrogacy and also stop the exploitation of 'surrogate mother'. Can take In India too, there has been a demand for a solid law on surrogacy for a long time, but no government has shown interest in it. Here the Modi government has shown interest and tried to bring the laws related to limiting the use of surrogacy on the ground of practice. In the hope of maximum benefit, this pregnancy was done for four to five times earlier, due to which women became physically weak. But now a woman can have

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such a pregnancy only once in her lifetime. Not only this, in order to become a surrogate woman, she must also be married and the mother of a healthy child. Those who refuse to adopt disabled children after birth can also be punished with imprisonment of up to 10 years and a fine of up to 10 lakhs. has also been determined. Along with this, couples who use this technique for hobbies have also been banned. Now only childless couple will be able to get the benefit of this technique. Single parents, live-in relationships and homosexual couples will also be denied this facility. Foreigners have been completely excluded from surrogacy benefits in India. Earlier this facility was available to childless Indian citizens as well as foreigners, people of Indian origin and NRIs.

However, there is also a dark side of surrogacy technique that surrogate mothers have to face physical and mental stress. Getting pregnant is one of the most painful experiences in the world. Surrogate mothers who conceive under the surrogacy technique have to face a lot of difficulties. He does not get proper remuneration. Since the hired womb women belong to the lower income group, they are also victims of economic and physical abuse. The doctors and middlemen associated with the clinic charge a substantial amount from the couples who adopt the surrogacy method, but persuade the suffering women at a low cost. The 'surrogate mother' has to stay away from her family for nine months in the hostel attached to the clinic. Because of this, she becomes deprived of taking care of her children as well. Sometimes surrogate women become emotionally attached to the unborn child, which causes her to feel lonely in the days after the birth of the woman. The form was given, which needed to be stopped. Overall, the Indian government has tried to strengthen the surrogacy technique through legislation, which was being demanded for years.

In conclusion, it may be said that probing the ground realities of the catchy headlines like 'the new emerging women power' adds more substance and nuance to the discourse on gender justice. These nuances do not refuse the accomplishments achieved so far by society but actually point towards the remaining distance which still needs to be covered. Identification of the problem areas and weaknesses is the first step towards their eradication. India has shown a dedicated will to bring changes by pledging to achieve the Sustainable Development Goals which include ideals of gender justice and women empowerment. Only with constructive planning and comprehensive changes at various levels in society the new emerging "women power" shall be soon able to realize its complete potential in India.

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