

Women's Organisation and Legal Activism

Dr. Manjula Devappa
Dept/ women's studies
KSAWU VIJAYAPURA

Law is an significant instrument for social change and has been on the schedule for move violently. determined action was taken up by women's organisations for not only pressing for legislative changes but also in exigent undemocratic laws. The national protest to resurrect the Mathura rape case in the Supreme Court and review of the alive Rape Laws was a sequel to an open letter written by four senior persons from the legal profession. The Mathura case later, became the symbol for mobilising against sexual domination of women particularly from the lower caste/class groups who became victims of custodial rape, gang rape and sexual Exploitation during caste and communal clashes. Women from different background and ideologies came together. In Bombay, Forum Against Rape was formed and various women's organisations in different cities, launched a continuous agitation against crime and violence perpetrate on women. A commentator noted that the first women-specific report and the only one where the Government asked the Law Commission to study the problem with the objective of removing the inadequacies, was the one dealing with the offence of rape. The Commission took note of various points raised by women's organisations and activists and hold discussions with them before finalising its recommendations. The Commission recommended not only amending the substantive law, but also modus operandi and evidence part of it.

In 1983 the Criminal Law Amendment Act was approved which make revealing the identity of rape victim an offence (which women's groups feel makes the task of organising campaigns difficult). For the first time the amended Act incorporated 'custodial rape' (rape by superintendents of remand homes, hospitals, prisons and of women in police custody) as a new category of offence where the burden of proof lies with the man accused of rape. one more matter which has witnessed sustained crusade over a period of time was of 'dowry murders'. A combined forum of several women's organisations and other civil rights groups and progressive organisations in Delhi called "Dahej Virodhi Chetna Manch" and organisations in major cities have been campaigning from side to side protest, expression, negotiations, avenue theatre, posters etc. to focus on domestic violence against women and its extreme manifestation in

dowry deaths. The violence against women within the boundaries of home has proved the most difficult issue to tackle, and has been the issue on which continuing hard work have been made. In 1981 a joint Select Committee of Parliament was selected to look into the problem.

The Law Commission on its own initiative also demeanour an investigation into dowry deaths and submitted the report in 1983 making wide-ranging suggestion not only on how the substantive law on Dowry should be transformed but more important what changes are essential in the Evidence Act to facilitate prosecution against the person committing the murder. The Commission mention that the reason for its taking up this issue suomotto is “an alarming increase in the number of case in which married women die in circumstances which are highly suspicious. The Report continued “The crimes that lead to dowry deaths are almost invariably committed within the safe precincts of a residential house. proof of the cause of death is thus rendered an arduous task because of scanty available evidence”.

in spite of these hard work no inventiveness was approaching from the Government and women’s organisation were pressing for an amendment in the Dowry (Prohibition) Act 1961. In 1984 a Bill was introduced which contained not any of the suggestions of the joint Select Committee or of the Law Commission. Various women’s organisations and civil rights organisations hypothetical meetings to discuss the Bill and organized a note telling amendments in the Bill. The requesting while suggesting particular additions and modifications in the Joint Select Committee’s recommendations, argued that they display a authentic and sensible endeavour to grapple with the problem of dowry with all its social, economic and political implications. segregation of some of the most very important recommendations of the Joint Select committee in the present Bill, uncases the essential objective of the amendment and Dissemble the active and informed social movement which has preceded the introduction of this amendment before Parliament”.

The 1983 Criminal Law (Amendment) Act made some crucial amendments in the Indian Penal Code of the criminal procedure and the Indian Evidence Act making unkindness (both mental and physical) and abatement to suicide by the husband and his relatives, punishable with incarceration up to 3 years with fine. In case of an not natural death of a woman within 7 years of marriage, the Act provide for an investigation by a police officer. Investigation carried out by

women's organisations on reported cases of suicides or accidents of only just married women reveal the seriousness of the problem.

The issue of 'dowry murders' brought in forcefully voices of central point and upper class women who earlier did not identify with the feminist movement. Dowry deaths took a heavy toll. The Ministry for Home Affairs admitted in the Parliament of rising prevalence of dowry deaths and crime against women during the last decade. In 1986, 7158 cases of rape, 1285 cases of dowry deaths, 16203 cases of molestation, 8326 cases of kidnapping of women and girls were reported. It was also reported in the Rajya Sabha (Upper House) that since 1982, 4400 Scheduled Caste and Scheduled Tribe women were raped. The data from bureau of Police Research and Development indicates that from in the early hours 70's to mid-eighties, crime against women have approximately doubled.

To deal with matrimonial offences, women's organisations demanded setting up of family courts and in 1984 the Family Court Act was passed, which provide intended for rapid removal of cases and an unceremonious modus operandi of pacification in cases of matrimonial dispute. The term 'reconciliation' has evoke strong response from some women who argue that this will mean squaring off approximately always, at the cost of women-putting them back into unnecessary marriages or impossible situations in the name of preserving the holiness of the family or for the welfare of children. It is this thoughts towards the family and the bogey raised by some people - for not allowing the destruction of the 'family', that has been accountable for domestic violence against women. There has been hardly any convictions (with a few exceptions) in cases of dowry deaths for want of definite evidence.

In the new renowned Sudha Goel (dowry murder of a pregnant woman) case, the Supreme Court reversed the judgement of the Delhi High Court, awarding life imprisonment to husband and mother-in-law. The sessions Court gave death punishment holding that "dowry death cases of this kind deserved to be visited by the extreme penalty under the law". The judgement of the trial court was adversely commented by the Delhi High Court acquitting the accused. The Supreme Court in its observations regretted the remarks of the High Court and opined that "its views are bound to create flutter in public mind. The court must worry only to find out the truth and not public reaction and media". This case created violent argument over the High Court decision and notes on the lower court judgement, women's rights organisations and women lawyers greatly.

Agitated, made energetic hard work to bring the guilty to the book. The issue has remained at the centre of campaigning by women's group.

Violence against women is articulated in various forms such as female foeticide, infanticide, bride on fire, widow burning (Sati), rape, sexual harassment, wife thrashing prostitution etc. The issue of sex determination test (amniocentesis) for discriminating abortion of female foetuses, has also witnessed continuous efforts by women's groups to pressurise the government to ban such tests except for medical reasons. The Medical Council of India has been highly unenthusiastic to take any action against medical practitioners indulging in such practices and making enormous profits by capitalising deep rooted prejudice against the female child. Maharashtra is the only state which has passed a legislation banning such tests. The national government has yet to take any step in this regard. There is a long struggle ahead for women's basic human rights and a life with gravity.

It may not be out of place here to discuss the role of the judges in responding to quite a few issues raised by women's organisation: and legal activists and the role of the press. in spite of the mixed response of the legal system to the issues of 'gender justice' a positive development has been the public interest court case which has added a new leaf in the history of Indian jurisprudence. The public notice cases have taken up issues of plight of prisoners, pedestrian area dweller, women in remand homes, under trials, bonded labourers etc., as the courts have given the individuals and organisations a locus stands to folder cases for democratic rights of the poor and the subjugated groups who or else could not have moved the court.

There have been instance where courts have treated a news item as a summons petition Rajasthan High Court's directive in respect of rescue homes maintained by the Social Welfare Department. The High Court maintained that "in view of the report based on the evidence and personal investigation by the Chief Judicial Magistrate, Bharatpur, it was not necessary that this writ petition be admitted and notices issued". In a judgement of extensive significance, the Assam High Court (14th march 1988) well-organized an ex-gratia payment of Rs. 25,000/- to each of the 10 rape victims (assaulted by the police) for their rehabilitation. The order was based on a press report where a journalist interviewed the victims and reported in the paper. The incidence took place in January and in February Assam Tribal Women's Welfare Federation organised a mass rally but there was no response from the government. After the exploration report by the

journalist, the new Chief Justice issued a suomotto notice to the State Government to file an sworn statement. In order to pre-empt the order of the court, the State Government announced the take into custody of policemen and agreed to hold a judicial investigate. Delivering the judgement on 14th March, the Court said that “it was the delayed response of the State Government to the public demand for judicial probe which had compelled it to intervene suomotto in the matter”.

The Supreme Court’s judgements in the ‘stridhan’ case was hailed as a landmark judgement “in dismantling the massive and age old structures of injustice in the Indian matrimonial world”. The three judge bench rejecting the contrary verdict of the Punjab, Haryana and Allahabad High Court, gave an absolute and exclusive right to the woman over property and gifts in cash and in kind given at the time of her marriage. However, doubts have been expressed about the need to clarify the distinction between ‘Stridhan’ and ‘dowry’ (Indian Express - 22.3.88). The Supreme Court also asked the Union Government to give explanation why it should not strike down as unauthorized section 23 of Hindu Succession Act which totally excludes women under Hindu Law from the joint family’s property legally called ‘co-percenary’. The bench passed this order on a petition of Miss Lata Mittal claiming her rights in the dwelling house left behind by her late father. The wife of the Hindu under the Mitakshara Law (governing North India) cannot be her husband’s co-percenary.

Some of these illustration point to some positive advances in judiciary’s response to women’s issues, but most of them have been the result of mass campaigns by women organisations and contributions made by legal activists and journalists. Judiciary’s response to women’s issues has been very assorted. In a up to date judgement the Supreme Court reduced the minimum sentence of ten years awarded to two police officials in a custodial rape case. The Supreme Court opined that the ‘girl who was the rape victim’ was “a woman of a questionable character and easy virtue with lewd and lascivious behaviour”. The decrease of sentence negate all the gains achieved by women’s movement through years of protest after the Mathura case. It also cancels the specific policy conventional and incorporated after discussion for a stipulation of a smallest sentence in case of a custodial rape. In an open letter to the Chief Justice of India, several Delhi based women’s organisation protest that “the ideology underlying the 1983 Criminal Law Amendment was not to protect ‘virtuous’ women but to prevent police officials from committing sexual

violence against women in their custody. In reducing the sentence the Supreme Court has demonstrated not only continued patriarchal bias, but also a retreat to a conservative ideology which views rape only as an attack on women's chastity, and not an offence against human rights and dignity. The reinforcement of the patriarchal ideology from side to side state and legal intervention, economic, political and educational system, culture (a new imitation culture and now being promoted through government channels), media and religion, pose a fundamental challenge to women's movement.

Reference

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