

# Role of National Commission for Women in Protecting the Rights of Women

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## Abstract

*It is said that the best way to know about a civilisation, society and its culture is to know about the status and position of the women therein. Indian women had come a long way from the rare women scholars in ancient times to the women participating in almost every field today such as in art, information, armed forces, politics etc which were previously male dominated only. Even though the Indian woman has fought against the patriarchal society, still the cases of dowry deaths, rapes, sexual harassment etc are rampant in our society. Words "Time to be ashamed" are enough to describe the prevailing situation vis-à-vis crime against womenfolk in our society is concerned. Despite the stringent legislations, debates, discussions there is no deterrent effect and the crime against women is increasing at an alarming rate. Though there are some provisions in Indian Constitution like Article 14, Article 15(3) and Article 21 which are in favor of women but they are general in nature and only provide for making special provisions for women, while they are not themselves such provisions. Supreme Court in various cases has also tried to provide safeguards to the women but these have hardly sufficed to improve their position. Thus, the Government of India consulted the Committee on the Status of women, NGO's, social workers etc in 1990 and it was recommended that there should be an apex body for women at the national level. Therefore, in 1992 the National Commission for Women was constituted.*

*What were the reasons that urge the establishment of such Commission? How Commission deals with the crimes against womenfolk? What are the steps that Commission has taken to realize its objectives? What are its functions and powers? What is the nature of the recommendations given by such Commission? Is there any such Commission in our State? I will throw light on all these aspects in my paper.*

## Introduction

Woman has always faced discrimination due to the patriarchal structure of our society. Violence against women in our society is deep rooted in the unequal distribution of power between men and women, where women is always dominated by the men. Woman is considered weak and subordinate to the

man, thus depriving the women from realizing their full potential. Indian Constitution talks about the gender equality by giving equal status and opportunities to both men and women. The Preamble to the Constitution talks about the equality of status and opportunity, the Fundamental Rights and the Directive Principles, enshrined in Part III and Part IV respectively; of the Constitution also promote gender equality. Constitution not only talks about equality but also provides for making special provisions to promote the equality of women. Although the Indian Constitution talks about equality but there is not any provision which is specifically made in favor of women. No doubt there are provisions like Article 14, Article 15(3), and Article 21 of the Constitution but they are more general in nature. They only provide for making of special provisions but they themselves are not such provisions. Supreme Court in various cases has also tried to provide safeguards to the women but these have hardly sufficed to improve their position. Thus, the Government of India consulted the Committee on the Status of women, NGO's, social workers etc in 1990 and it was recommended that there should be an apex body for women at the national level. Keeping in view the desirability of having commission for women the National Commission for Women Bill, 1990 was introduced in Lok Sabha on 22nd May, 1990 which later on became the Act. On 31st January, 1992 First Commission was constituted with Mrs. Jayanti Patnaik as its the Chairperson.

## Importance

In the social interest and due to the lack of the constitutional machinery and judicial ability the National Commission for Women was established under the National Commission for Women Act, 1990 in year 1992. It was set up as a statutory body to review the Constitutional and other legal safeguards relating to women; to suggest the remedial legislative measure, to facilitate the redressal of grievances and also advise the Government on all policy matters which will be affecting the women.

## Composition of the Commission

National Commission for Women which is established as a statutory body consists of

- One Chairperson (Women).
- Five members (from different fields)
- One Member Secretary (expert in the field of management, organizational structure, sociological movement or a member of the civil service of the Union).

However, it is the Central Government who nominates all the members of the Commission.

#### **Mandate of the Commission.**

Section 10 of the National Commission for Women Act, 1990 provide fourteen point mandate to the Commission. After having brief overview it can be divided into four heads-

1. Safeguarding the rights of women which have been guaranteed by the Constitution and other laws.
2. Studying all the problems faced by the women and recommend solutions for their eradication.
3. Evaluating the status of women in the society
4. Fighting and funding the women's rights violation cases.

#### **Functions of the Commission.**

The strategy adopted by the Commission in dealing with the problems of women's right violation can be divided into three categories-

*1. Complaint and Counseling Functions:* The core unit of the Commission is the Complaint and Counseling Cell. This Cell processes all the complaints received by the Commission under Section 10 of the Act of 1990. The Complaints can be made to the Commission either orally or in writing. The Commission also has a power to take suo moto action.

The Cell adopts three-point method to deal with the cases-

- Monitors the investigations conducted by the police.
- Resolves the family disputes through counseling.
- In case of serious crimes, an Enquiry Committee is constituted by the Commission which makes spot enquiries, examines witnesses, collects and sends a report with recommendations to the Commission.

*2. Legal Function:* the Legal Cell of the Commission deals with the activities which can be divided into three categories:-

a)Legal Amendments: From time to time the Commission analyses the existing laws and recommends the amendments wherever needed. Till date the Commission has proposed almost sixteen amendments. Some of them are amendment to the Indian Penal Code, 1860 to curb the sale of minor girls; to omit epilepsy as a ground for divorce amendments in the Hindu Marriage Act, 1955 was proposed; also Dowry Prohibition Act 1961 was proposed to be amended so as to bring the problems of dowry deaths into limelight and deal with them.

b)New Bills Proposed: The Commission has also proposed almost seven bills. It has also drafted one convention for SAARC relating to trafficking of women and children. Some of the bills proposed by the Commission are the Marriage Bill, 1994; and the Domestic Violence to Women (Prevention) bill, 1994; the Criminal Laws (Amendment) Bill, 1994.

c)Court Intervention: the Commission also intervenes in the court cases in order to provide help to the women whose right has been violated. Some of the cases in which Commission has intervened –

*Bhateri Gang Rape Case (Rajasthan):* In this case the Commission had taken suo moto cognizance and extended the full support to the Bhanwari Devi, who was a victim of rape, by providing security and to argue her case public prosecutor was appointed.

*Obscenity Cases:*

- Due to the intervention of the Commission the Delhi High Court has put injunction on the Ministry of Information & Broadcasting, Govt. of India for launching +21 adult channel.
- For showing the obscene pictures on television and other media the Commission has moved to the Delhi High Court against Star TV, Zee TV, etc.

Against outdated customs and traditions (*Maimon Baskari's Case*): Ms. Maimon Baskari was a tortured and raped for marrying a person of her choice. Commission took up the case and united the couple.

*3. Research Functions:* Research Cell of the Commission looks after the emerging problems of the women due the gender inequality and discrimination. The Cell educates the women about their rights, of which they are mostly unaware, by conducting workshops, public hearings, seminars and conferences.

#### **Steps and Initiatives taken by Commission**

In order to carry out its mandate the Commission has taken various steps from past 25 years of its existence. These steps were taken by the Commission either on its own or in collaboration with other organizations for the welfare, development and safety of women.

- On 4th March, 2018 an event namely "Reclaim Safety of Women by Night" was organized by Commission at India Gate in New Delhi.
- In order to improve the living conditions of women in the jails and other custodial homes the Commission has devised a proforma for obtaining information about the jail conditions. Now the proforma is being used to inspect the jails and identify the deficiencies there.
- On January 24, 2018 national seminar on "Combating Acid Attacks in India: Socio-Legal Aspects" in

collaboration with Jamia Millia Islamia, was conducted by the Commission in the Commission's premises.

- The Commission had also organized Seminars and legal awareness programs namely Mahila Sansad in collaboration with State Women Commissions

#### Complaints and Investigations:

One of the most important activities of Commission is to redress the complaints relating to the women's rights deprivation and non implementations of the laws which are enacted for safeguarding the rights of women. This Cell deals with the complaints from all over the country, which can be made either in writing or orally or through online mode. Services of experts and professionals are taken to redress the complaints. Number of complaints received during 2017-2018 are 15381 and the State from which highest number of complaints has been received is Uttar Pradesh with 8454 complaints.

#### *Some Interventions by the Commission*

- A woman approached the National Commission for Women alleging that her services have been terminated because of her pregnancy. The matter was taken up with the concerned organisation (a private technical institution in Delhi) and the concerned HR Head of the organization was directed to comply with the mandatory provisions of the Maternity Benefits Act, 1961. With the intervention of the Commission, the organization reinstated the complainant and also assured to give her maternity leave and benefits as per the Maternity Benefits Act, 1961.
- The Commission received a complaint regarding non-congenial environment in a residential complex in Gurugram, Haryana where the lady residents were experiencing harassment. The Commission took up the matter with the Commissioner of Police and other concerned police officials, both in writing and telephonically. The police authorities visited the spot and informed the Commission that necessary action had been taken and the accused had been arrested.
- A telephonic call was received in the Commission from a victim of rape alleging that she was sitting in a police station in Delhi and police was reluctant to register the FIR. Immediately, the DCP and SHO concerned were contacted telephonically and the FIR was registered u/s 376/328/509/506/34 IPC and warrants were issued against the accused on the same day.

#### *Suo-moto cognizance of cases*

The Commission takes suo moto cognizance of the women's right violation cases which appear in social, electronic and print media. If matters are serious in nature then Fact Finding Team or Inquiry Committees are constituted, which makes recommendations to the Commission. Number of cases taken Suo moto during 2017-18 is 151. Brief details of some cases taken suo moto-

Alleged Dowry Death of a Lady on 20.4.2017 at Patiala, Punjab: The Commission had received an email 17.04.2017 regarding the death of woman in Patiala. It was alleged in the complaint that she was tortured to bring money and her murder was preplanned. The Commission recommended that the police should take speedy action against accused persons and the post mortem should be conducted by specialized forensic team.

Gang-rape of Women on National Highway in Bulandshahr: Commission enquired into the press reports about four female passengers being looted and gang-raped on the National Highway passing through Bulandshahr District, UP. Commission recommended immediate release of interim assistance as well as assistance under various schemes for the girl child including educational incentive, creation of an oasis of light on the dark road through solar lighting and expeditious action by the forensic lab. The observations and recommendations of the Commission were shared with the Government for appropriate action.

Sale of Indian Child Brides to Men from Gulf Countries: The Commission took cognizance of the media reports relating to Indian child brides being sold in package deals to men from Gulf Countries and constituted a two member Inquiry Committee to investigate the matter. The Committee, after investigation, made detailed recommendations which were shared with the concerned Ministries and Telangana Government for their guidance.

#### **Jammu & Kashmir State Commission for Women**

Words "Time to be ashamed" are enough to briefly summarize the prevailing situation vis-à-vis crime against the womenfolk in Jammu and Kashmir are concerned. What to talk of other parts of state, even the capital cities have become unsafe, with continuous rise in different nature of offences being committed against the women and girls. Despite many debates, discussions, and stringent laws there is no deterrent effect and crime against women folk is increasing with every passing year. There are tremendous issues which women and children are facing in this conflict zone. **Many incidents like rape/ murder/ pellets shots etc have happened that has traumatized the women.** Because of continued political turmoil and violence many women are suffering from mental depression. The social attitude towards women is least changed which has resulted in the low confidence level in them.

In order to come to the rescue of womenfolk in state of J&K, State Commission for Women was created. J& K State Commission for Women came into existence during 1999 through an Act called "State Commission for Women Act, 1999" and started its working during 2000. The J&K State Commission for Women has been established to protect women's rights and advance the cause of women in the State. The purpose of having a Commission is to create an independent watchdog and guardian for women, especially in

backward states such as Jammu and Kashmir, where a large number of women may be unaware of their rights and are not able to protect them.

### **Shortcomings of National Commission for Women**

There is no doubt about the effectiveness in the working of the Commission but there are certain shortcomings in its working which if rectified would lead to efficient Commission. Followings are its shortcomings-

1. Commission has no concrete legislative powers. They only have the power to recommend the Amendments, Bills and send reports which are not binding on the Government. Government may or may not consider these recommendations.
2. The members are not selected by the Commission itself. These are to be selected by the government because of which Commission may be politicized.
3. Commission has to depend on the Union Government for its financial assistance which could hamper its independence. Also the financial assistance is less due to which the Commission is not able to perform its work fully.
4. National Commission for women in India seizes women's cause only when it is brought to light. Cases of oppression and suppression of women which are unreported are not attended.
5. In the rural areas women are still unaware about their rights, there is lack of education, opportunities and basic facilities for the women.
6. Most of the women, both in urban as well as in rural areas, are unaware about such type of Commission.

### **Recommendations**

1. Commission should be given concrete legislative power. Its recommendations should be binding on the Government.
2. The Commission should be free from political interference.
3. The Commission should be independent in terms of financial assistance.
4. There is one Commission at the national level and one Commission in each State, still most of the cases goes unreported. There must be Women Commission in each district so that it should be easily accessible.
5. Also women must be made aware about such types of institutions so that they will not suffer violence and injustice.