CEDAW AND THE IMPACT ON VIOLENCE AGAINST WOMEN IN INDIA

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ABSTRACT: This article examines the effects India’s ratification of the Convention of the Elimination of all Forms of Discrimination Against Women (CEDAW) had in reducing violent crimes committed against women. Three primary acts of violence are defined and examined: (1) bride burnings and/or dowry abuse, (2) female foeticide and/or infanticide, and (3) human trafficking and/or sex slaves. Comparisons are evaluated from a statistical perspective using data gathered before and after the ratification of CEDAW to show the change in frequency of each act. National conventions, or laws that were implemented, and enforcement measures that may have been enacted are reviewed to show local actions the state government has taken to further reduce violence against women. To show government enforcement, available information is included for reported court cases, prosecution, convictions, and acquittals for each violent act. Compiled data reflects the effects India’s Ratification of CEDAW had for the elimination of violence against women.

According to India Today’s newspaper article dated June 2011, India is the fourth most dangerous place for women in the world. “The poll conducted among 213 gender experts who ranked countries on their overall perception of danger, as well as by six key categories of risks—health, sexual violence, nonsexual violence, harmful practices rooted in culture, tradition or religion, lack of access to economic resources and human trafficking” (Chowdhury, 2011). According to the poll, “India ranked fourth primarily due to female foeticide, infanticide and human trafficking” (New Delhi Television, 2011).

Although the ranking was based primarily on specific types of violence, there are other serious threats and violent crimes committed against women in India including: nutritional discrimination, rape, dowry related burnings. Dowry can refer to the money, goods, or estate that a woman brings to her husband in marriage (Dowry, n.d.) as well as acid burnings—acid purposely thrown at a victim, usually their face, to disfigure or kill them (Acid Throwing, n.d.) that also exist in Indian society. According to Saravanan (2000), in India “much of gender violence is considered normal and enjoys social sanctions” (p. 1).

In 1994, India ratified the Convention of the Elimination of all forms of Discrimination Against Women (CEDAW) treaty. The purpose, as outlined in Article 1 of the treaty, is to focus on the forms of discrimination that women face and to help eliminate discrimination that either intends to, or has the effect of, limiting women from participating equally in public life. Additionally, Articles 2 through 16 of the treaty suggest measures and laws that can be invoked in the fight against gender discrimination (Ontario Women’s Justice Network, 2009).

It is my belief that the ratification of CEDAW by India did not reduce violence against women because the international agreement was not legally implemented.
and enforced throughout Indian society. This paper will support the lack of progress made in safety for women by dividing research into three categories. First, I will discuss the ratification of CEDAW and declarations that were noted. Next, I will define the three most prevalent acts of genocidal violence that Indian women face, and review the statistical history for these acts to determine what effects the treaty has had on Indian women. Finally, I will review any national conventions, laws, and/or enforcement measures that may have been taken in regards to CEDAW or to protect women from violence. To show the statistical information, I have compiled data for each of the three violent acts, described the Acts, and provided statistical information regarding the changes in frequency of the act committed. I have also provided information on the local laws that are currently in effect. Additionally, I have included statistical information on how India has failed to enforce the laws by providing available prosecution and conviction information. This information will show India’s effectiveness at implementing the enforcement of CEDAW to eliminate violence against women.

Research

During my research, I found a significant amount of information on violence against women in India broken down into specific types of violence. While I have been able to find progress reports on how India is doing in accordance to CEDAW from a general perspective, I have been unable to find scholarly work that compiles the statistical history of various acts of violence to show progress of how India has been since the signing of CEDAW. In The United Nations’ Progress Report (2009) and from Warner’s Recognizing Rights Promoting Progress (2010), there is a clear agreement that much progress still needs to be made. However, these opinions appear to be based on an overall national perspectives, rather than compiling and analyzing independent acts. My research will compile information about the most prevalent acts of violence in India, and through statistical analysis, examine what, if any, impact CEDAW created for the safety of women in India.

Ratification

According to the United Nations, India ratified CEDAW in July 1993 with two declarations, which the Netherlands noted as being “incompatible with the object and purpose of the convention [on the elimination of all forms of discrimination against women]” (United Nations, 2013). The first declaration states:

i) With regard to articles 5 (a) and 16 (1) of the Convention on the Elimination of All Forms of Discrimination Against Women, the Government of the Republic of India declares that it shall abide by and ensure these provisions in conformity with its policy of non-interference in the personal affairs of any community without its initiative and consent (United Nations, 2013).

The first declaration in regards to 5 (a) keeps India from enforcing equal rights between men and women by stating they will not interfere in personal affairs of a community. The second declaration states:

ii) With regards to 16 (2) of the Convention on the Elimination of All Forms of Discriminations Against Women, the Government of the Republic of India declares that though in principal if fully supports the principle of compulsory registrations of marriages, it is
not practical in a vast country like India with its variety of customs, religions and level of literacy (United Nations, 2013).

This second declaration states they cannot adhere to setting a legal age for marriage and will not require marriages to be registered under the pretense of their customs, religions, and levels of literacy. In addition, India stated in their reservation, that with regards to article 29 of the Convention, the Indian government did not consider itself bound by paragraph 1 (United Nations, 2012).

I understand that enforcing the articles in CEDAW may be difficult due to elements like culture, religion, and literacy, but I contend that if they believed it was important to prevent young girls from getting married they would accept the provision. Also, India has not ratified the Optional Protocol to CEDAW.

By ratifying the Optional Protocol, a State recognizes the competence of the Committee on the Elimination of Discrimination against Women -- the body that monitors States parties’ compliance with the Convention -- to receive and consider complaints from individuals or groups within its jurisdiction (National Alliance of Women, 2000).

Therefore, India does not comply with regular reporting and several reports due to be submitted to the supervisory committees remain outstanding as of June 6, 2002. Finally, a reservation India makes states they will not submit to arbitration if there is a dispute of CEDAW. If the country is not going to enforce equal rights for women, an adult age of marriage for girls, individual complaints, or submit to arbitration, then it seems to me that India ratified CEDAW a bit halfheartedly.

In India, the constitution states that the State shall endeavor to foster respect for international law and treaty obligations; however, because of India’s special ‘dualist’ regime, any provisions or international laws ratified by the central government are not directly binding unless there is an explicit measure, through enactment of a statute, to internalize these obligations. Therefore, in India, international conventions and laws are not very effective unless they have been translated into domestic laws (Hameed, Hlatshwayo, Tanner, Turker & Yang, 2010). This then may not cause the ratification of CEDAW to change any actions or inactions that are taking effect. In fact, it may simply become rhetoric and propaganda for the international community, instead of a viable action plan to protect the female population of India.

Acts of Violence

Due to the length limitations of this paper, I will focus on the following three acts of violence against women that are most prominent in India: (1) bride burnings and/or dowry abuse; (2) female foeticide and/or infanticide; and (3) human trafficking and/or sex slaves. I will define the nature of each act of violence and then examine the statistical changes of these acts both before and after ratification of CEDAW. If CEDAW has impacted the women in India in a positive way, a statistical decrease in reported acts of violence is expected. If the ratification of CEDAW has not made a positive impact for women in India, statistical similarity or increase should be evident. It is important to keep in mind that the findings will be, for the most part, based on reported cases only, as it is difficult to estimate the number of unreported cases.
Bride Burning – Dowry Abuse

Bride burning or dowry deaths are when a bride is doused with a flammable liquid, usually kerosene, and lit on fire by a husband and/or in-laws when they determine a dowry is inadequate, dowry payments fall behind, or a new demand to the bride or the bride’s parents is not fulfilled. Bride burning will often result in the wife’s death. This makes the husband available for remarriage (Jutla & Heimback, 2004). According to Lakhani (2005):

between 1947 and 1990, approximately 72,000 young brides between the ages of 15-20 years old were burned to death, an average of 1,674 murders per year. Between 1990 and 1998 alone, more than 20,000 women were killed, an average of 2,500 murders per year. In 1995, the Indian government reported that an estimated 6,500 women per year die as a result of dowry-related deaths (p. 258).

It is important to note that these figures are based on officially reported cases, and therefore do not account for population growth or demographic areas that historically do not report.

I believe the increase in bride burning over the years clearly shows there has not been a decline in violence against women due to ratification of CEDAW. In fact, it clearly shows that CEDAW has had no effect in the reduction of this violent act towards women.

The law against dowry known as the Dowry Prohibition Act was enacted in 1961 (Act No. 28 of 1961) and forbids the taking or giving of dowry as well as makes it an offense that is punishable by up to six years in prison (Government of India, 1961). This law has proven to be ineffective and was taken up by the National Commission for Women in November of 2005 for the wording in the act is a bit ambiguous and allows for defendants to simply state that gifts were given out of affection, were customary for certain events, or were required to sustain a financial stringency that was necessary for urgent domestic expenses (National Commission for Women, 2005). In 1986, the Indian government added ‘dowry deaths’ under penal code 304-B, where a bride, within 7 years of her marriage[,] is killed and it is shown that soon before her death, she was subjected to cruelty or harassment by her husband, or any relative of her husband, or in connection with any demand for dowry, such death shall be called ‘dowry death’ and such husband or relative shall be deemed to have caused her death (Lakhani, 2005, p. 9).

The National Crime Records statistics show that in 1994 there were 4,935 dowry deaths and 25,946 cases of dowry harassment, while in 2005, eleven years after the signing of CEDAW, that number increased to 6,787 dowry murders and 58,319 incidents of dowry harassment (National Crime Records Bureau: Ministry of Home Affairs, 2005). As of 2008, there were 31,950 pending cases of dowry deaths, 117 cases withdrawn, 1,948 convicted, and 3,876 acquitted or discharged (National Crime Records Bureau: Ministry of Home Affairs, 2008).

The trend for dowry harassment and dowry deaths are on the rise, therefore there is no evidence that the ratification of CEDAW has helped reduce this violent act against women.

Female Foeticide - Infanticide

Female foeticide is where female fetuses are selectively aborted after prenatal sex determination, thus avoiding the birth of girls (Grewal & Kishore, 2004). This selected abortion has caused a reduction in the female Indian population of as many...
as 50 million girls and women (Grewal & Kishore, 2004). Infanticide, or infant homicide, is the intentional killing of infants, which in India are usually girl infants due to the preference of boy children (Tandon & Sharma, 2006). This act is extremely violent and more common:
in the nearly 300 poor hamlets of the Usilampatti area of Tamil Nadu [state], as many as 196 girls died under suspicious circumstances [in 1993] ... some were fed dry, unhulled rice that punctured their windpipes, or were made to swallow poisonous powdered fertilizer. Others were smothered with a wet towel, strangled or allowed to starve to death (Gendercide Watch, n.d.).

This gendercide has caused an imbalance in the sex ratio of the population and in some parts of India the sex ratio of girls to boys has dropped to less than 800:1,000 (Grewal & Kishore, 2004). In 1991 it is estimated that the child sex ratio (age 0-6) was 945 girls to every 1000 boys born, while in 2001 it is estimated that the sex ratio was 927:1000, and in 2011 the child sex ratio was 914:1000 (Ramaiah, Cahandrasekarayya, & Murthy, 2011).

From 1991 to 2001, female birth rates were reduced by 18 female babies, and by 2011, the number was reduced again by another 13 baby girls per 1000 births. To put this into perspective, the sex ratio at birth in the US and the UK is 1050 male births to every 1000 female births (Central Intelligence Agency, 2012). The reduction in female births of approximately 13 per thousand clearly shows an increase in female genocide and does not support the claim that CEDAW reduces violence against women.

To control female feticide, the Government of India enacted the Prenatal Diagnostic Techniques Act (PNDT) in 1994, which restrictions the determination and revelation of gender of the fetus through amniocentesis as well as specifies the code of conduct for medical practitioners. Under the PNDT Act, an individual/institution found guilty of advertising prenatal determination of gender in any form is subject to imprisonment and/or a fine. The PNDT Act was amended in 2002 and 2003, owing to innovation in technologies for sex determination through ultrasound that impede the implementation of the Act (Law is Greek Reporter, 2010). The failure of this act is evident due to the sex ratios of females to males that have continued to decline in India, as mentioned earlier. To control infanticide, the Indian government enacted Section 318, “concealment of birth by secret disposal of the dead body and amounts to culpable homicide” (Tandon & Sharma, 2006). In poorer families that cannot afford amniocentesis, blood tests, or ultrasounds, infanticide is a more prevalent problem than feticide. In 2000, “infanticide cases increased 19.5% over the previous year” (Tandon & Sharma, 2006).

According to an article printed in the India Tribune (2011), the Report of the Union Ministry of Health and Family Welfare showed that during 2009-2010, only 139 cases were reported under the PNTD Act (Kashap, 2011). The article goes on to state that, “an earlier media report (May 2007) had found that of the total number of 416 cases filed under the Act until 2007, only 15 had resulted in conviction” (Kashap, 2011). This is a ridiculously low number when it is estimated that “as many as 50 million female foetuses might have been aborted illegally” (Kashap, 2011). These numbers not only indicate that the ratification of CEDAW did not help to prevent violence against women; it shows the government’s lack of enforcement in this particular form.
of violence against women.

**Human Trafficking – Sex Slaves**

Human trafficking and/or sex slave is defined as:
the procurement, recruitment, transportation, transfer, harboring or receipt of persons, legally or illegally, within or across borders, by means of threat or use of force or other forms of coercion, of abduction, of fraud, of deception, of the abuse of power or of a position of vulnerability or of giving or receiving payments or benefits to achieve the consent of a person having control over another person, for monetary gain or otherwise (India Development Gateway, 2011).

In India, more than 1.2 million children are caught up in human trafficking as child prostitutes (Cable News Network, 2009). Many girls are tricked into leaving their homes with the promise of a well-paid job, some are abducted, and others sold by their families or their husband (Mathews, 2006). According to Save the Children India, men who seek out prostitutes now prefer 10-12 year-old girls to reduce their risk of HIV transmission (as cited in Mathews, 2006).

In addition to CEDAW, there are several legal provisions in India to prevent human trafficking. “In 1956 India passed the Immoral Trafficking Prevention Act (ITPA) which has severe penalties ranging from seven years’ to life imprisonment” (Shukla & Phookan, n.d.). The Indian constitution and the Indian Penal codes have another 20 provisions to make trafficking illegal (Hameed et al., 2010). In 2002, India ratified the South Asian Association for Regional Cooperation that aims to instigate regional cooperation on the rights of women and children in South Asia (Ministry of External Affairs, 2002). India also prohibits bonded and forced labor through the Bonded Labor Abolition Act, the Child Labor Act, and the Juvenile Justice Act (Hameed, et al., 2010). Even with these provisions, India’s National Crime Records Bureau reported an increase in ‘Procuration of Minor Girls’ from 253 reported cases in 2007 to 679 reported cases in 2010 (National Crime Records Bureau, 2010). The number of reported cases for ‘Selling of Girls for Prostitution’ also increased, from 69 reported cases in 2007, to 130 reported cases in 2010 (National Crime Records Bureau, 2010). An increase was also reported in ‘Buying of Girls for Prostitution’ from 40 reported cases in 2007, to 78 reported cases in 2010 (National Crime Records Bureau, 2010). With the enormous amount of children caught up in trafficking in India, the number of reported cases for 2007 and 2010 are very high. Statistically, these numbers show that CEDAW has not reduced this violent act against women.

**National Provisions**

The Indian constitution was adopted on November 26, 1949; two years after India became a sovereign nation. Article 14 of the Indian constitution, *Equality Before Law*, states, “the State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India” (Ministry of Law & Justice, n.d.). Article 15 Prohibits discrimination on grounds of religion, race, caste, sex or place of birth and further states:

(1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them. (2) No citizen shall, on grounds only of religion, race, caste, sex, place of birth or any of them, be subject to any disability, liability, restriction or condition with regard to— (3) nothing in this article shall prevent the State from
making any special provision for women and children (Ministry of Law & Justice, n.d.). The rights of women in India are a fundamental right and were recognized in the constitution over 62 years ago but never enforced.

From a national level, in 1992, India established the National Commission for Women, which is the national mediator for women. In 1997 India established a parliamentary committee on the empowerment of women, and in January 2001, India announced its commitment to the empowerment of women through the launching of a new National Policy on Women’s Empowerment (United Nations, 2012). According to Amnesty International, however, “these policies should be more than just further rhetoric and should firmly address ongoing problems of non-implementation and/or discriminatory implementation of safeguards and impunity for perpetrators of violence against women” (Samiti, 1999). Violence against women is maintained in India, also, because:

- the reality of the situation on the ground for women and members of vulnerable groups continues to be extremely harsh despite the Constitutional, legislative and administrative framework in place in India. The failure to implement protective provisions and continuing gender, caste and class biases within society ensures that Constitutional, legal safeguards are rendered meaningless to many (Samiti, 1999).

India identified women as equals upon their sovereignty in 1946, and they have continued to recognize the problem of violence against women by creating provisions, committees for the empowerment of women, national policies, and other organizations and actions encouraging participation in international policies and treaties. However, if we look at the statistics for the increases in violence, the sex ratio statistics, and compare the conviction rates for offenders of violent crimes against women, one would have to agree that these policies seem rhetorical rather than meaningful, enforceable, legal safeguards.

Violence against women and the lack of protection for them may also be a direct result of the male preference commonly found in Indian society (Rande & Malhotra, 2006). Although not all families desire only male children, it is common within the culture to prefer male children due to several factors (Rande & Malhotra, 2006). These factors generally include: “economic, religious, social and emotional desires, and norms that favor male children and make female children less desirable” and less important (Rande & Malhotra, 2006). In India, “parents expect sons—but not daughters—to provide financial and emotional care, especially in their old age” as sons usually remain living in the community home throughout adulthood, take over the family business, or get higher paying jobs than women (Rande & Malhotra, 2006). Sons also become the head of the household when the father is too old to resume this role. Daughters, on the other hand, are generally considered an expensive burden because of the cost of weddings and dowries and their tendency to either not work, or receive low paying jobs (Rande & Malhotra, 2006). Sons also continue the family lineage, carrying on the household name, but daughters get married and usually move to their husband’s household, removing with them the family’s personal wealth (Rande & Malhotra, 2006). “Sons perform important religious roles; and sons defend or exercise the family’s power while daughters have to be defended and protected, creating a perceived burden on...
the household” (Rande & Malhotra, 2006). These beliefs in regards to gender roles create a clear disparity in equality and desirability between the sexes. It is important to consider these beliefs in regards to gender preference when understanding the challenges in obtaining equality for women and the complexities in ending violence against them.

**Conclusion**

In 2007, India elected their first ever female president: Pratibha Devisingh Patil. Therefore, it would appear that the rights of women are progressing and that laws would be enforced to prevent violent crimes against them. Unfortunately, that is not the case: although there are many laws and organizations in place, these practices have not reduced violent crimes due to the ratification of CEDAW. It does appear India recognizes there is a problem for the women of their country, for acts have been passed, and laws and organizations have been put into place that identify specific problems that women face. From a statistical perspective, these laws do not appear to be having a positive effect, but only show on paper that India is trying to protect women. In fact, all of the violent acts mentioned in this paper are considered crimes and are illegal in India, but it does not appear that CEDAW or any of the other laws are protecting women and reducing violence. The statistics are alarming as we see each crime presented in this paper rise statistically since the ratification of CEDAW, while criminal convictions are relatively low. Brides are being burned as their husbands and in-laws demand more dowries at a rate that has increased over the last few decades. Birth rates for women are decreasing as girl children are being aborted or murdered as infants in the form of female gendercide. Young girls by the thousands are being abducted and used as sex slaves while only a handful of these trafficked girls are being reported. In a country where boys are preferred and considered an asset for economic, social, and religious reasons, it is difficult to make changes on a national level when access to education is limited, poverty is widespread, and some individuals are unaware of the International Conventions. India’s ratification of CEDAW did not make the country change its religious and cultural beliefs about the value of the female population. In fact, the ratification of CEDAW does not appear to have changed anything. The president of India, Pratibha Devisingh Patil posts on her web site “empowerment of women is particularly important to me as I believe this leads to the empowerment of the nation” (National Informatics Centre, 2012). Yet, women as a whole are not being empowered. The statistics show the contrary. India, in order to reduce gender-based violence, needs a more effective governing policy, as CEDAW has clearly done nothing to help Indian women.

**References**


