

A Study on the Concept of Gender Inequality and the Laws enforced to achieve Gender Justice in India .

Kamlesh Rishi

HoD, Deen Dayal College, Muzaffarnagar

Abstract: The patriarchal Indian society is a male dominant society in which gender inequality is deeply penetrated. In this society, differential treatment on the bases of gender is practised right from the childhood. Inequality between men and women runs around every sphere of the country whether it may be education, governance or economic opportunities.

Advances have been made in social legislation but gender inequality has not ended. The government of India has made many laws and acts to safeguard and secure the rights of women and banish practices leading to gender discrimination.

Gender equality can only be realised in India when the traditional practices like female infanticide, dowry deaths, honour killings, and violence or abuse is eliminated. And women are provided with their right to education. Only when women are fully aware of their rights and potentials, they can lead an empowered and respectful life.

Keywords: *gender inequality, gender parity, gender discrimination, gender sensitization, gender socialization*

Introduction

Gender inequality refers to unequal treatment or perceptions of individuals due to their gender. It arises from the idea that women and men are not equal. Any denial of equality and opportunity on the basis of gender is gender discrimination. Gender inequality is deep penetrated in the patriarchal Indian society. The male dominant society of India makes its women habitual of this discrimination. As a result, most women fail to understand their own rights and freedom. Discrimination against women is found even before her birth in the form of female foeticide and when she is born, female infanticide has been found in practice. Differential treatment on the bases of gender is found right from the childhood.

In spite of progress been made economically, gender parity has not been achieved. Advances have been made in social legislation but gender inequality has not ended. There is a need for changes in perception towards women. Only when the women are treated equally and are not deprived of their rights, the situation can be changed.

Statistics

India ranks 141 out of 142 nations and 2062 districts in the world that are categorized as gender critical when it comes to health and survival of women as compared to men. As a whole the country ranks 127th on gender inequality index and 114th on gender gap in the world (Global gender gap report, 2015). According to the report, declining sex ratio is a major issue giving rise to gender inequality. According to 2011 census, the female literacy rate was 65.46% compared to 82.14% for males.

According to Prof. Amartya Sen (2001), there are several types of gender inequalities at present in India. There is unusually high mortality rates for women. A preference is always given to boys over girls. Parents want their newborn to be a boy rather than a girl. In terms of employment as well as promotion at work women often face discriminations. Men get better work opportunities and pay scale than their female counterparts. Since ages the traditional property rights have favoured men in the most parts of India. The absence of claims to property can not only reduce the voice of women, but also make it harder for women to enter and flourish in commercial, economic and even some social activities. Even the opportunities of higher education may be far fewer for young women than young men. Gender biasness in higher education and professional training can often be observed in India. The discrimination can be seen in the households too, in terms of sharing the burden of housework and child care.

Census 2011 shows decline of girl population under the age of seven, which most probably is a result of female foetus abortions. The child sex ratio in India has dropped to 914 females against 1,000 males, one of the lowest since Independence. As per a study by National Commission for Women (NOW; Delhi, Punjab and Haryana) may be economically progressive but have a skewed sex ratio compared to other states.

Some other statistics on women conditions in India include; one bride was murdered every hour over dowry demands in 2010 (National Crime Records Bureau), almost 45% of Indian girls are married before they turn 18 (International Centre for Research on Women), one in five Indian women, many child mothers, dies during pregnancy or child birth (the United Nations), upto 50 million of girls are missing over, due to female infanticide and female foeticide, 66% of women who have experienced physical violence in their lifetimes are divorced, widowed or deserted, 85.3% of women reporting violence claim that their husbands are perpetrators, women and girls from the northeast region in India living in urban centre have reported experiencing social discrimination and marginalization and many times physical violence.

Causes of Gender inequality/ discrimination

Society expects different attitudes and behaviours from boys and girls. Gender socialization is the tendency for boys and girls to be socialized differently. Boys are raised to conform to the male gender role, and girls are raised to conform to the female gender role.

A gender role is a set of behaviours, attitudes, and personality characteristics expected and encouraged of a person based on his or her sex. Every culture has different guidelines about what is appropriate for males and females, and family members may socialize babies in gendered ways.

The root cause of gender inequality in Indian society lies in its patriarchy system. It is a system of social structure and practices in which men dominate, oppress and exploit women. Women's exploitation is an age old cultural phenomenon of Indian society. The system of patriarchy finds its validity and sanction in our religious beliefs, whether it is Hindu, Muslim or any other religion. For instance, according to ancient Hindu law book Manusmriti; women are supposed to be in the custody of their father when they are children, they must be under the custody of their husband when married and under the custody of her son in old age or as widows. In no circumstances she should be allowed to assert herself independently.

Extreme poverty and lack of education are also some of the reasons for women's low status in society. Poverty and lack of education derives countless women to work in low paying domestic service, organized prostitution or as migrant laborers. Women are not only getting unequal pay for equal or more work but also they are being offered only low skill jobs for which lower wages are paid. This has become a major form of inequality on the basis of gender. Educating girl child is still seen as a bad investment because she is bound to get married and leave her paternal home one day and will only serve their husbands and family in future. It makes the parents unwilling to spend on girl's education. Thus, without having good education women are found lacking in present day's demanding job skills.

The traditional joint family system confines women's roles mostly to the domestic sphere, allocating them to a subordinate status, authority and power compared to men. Men are perceived as the major providers and protectors of a family while women are perceived as playing only a supportive role. Women are not able to enjoy equal status in society as men and have very little say or authority.

Female infanticide and sexselective abortion is adopted and strongly reflects the low status of Indian women. The grant of equal rights by the Constitution does not bring any significant change in their position and respect in the society. Most of the women are unaware of their basic rights and capabilities. They even do not have the understanding as to how the socio-economic and political forces affect them. They accept all types of discriminatory practices that persist in family and society largely due to their ignorance and unawareness.

Laws for gender inequality/discrimination

The principle of gender equality is enshrined within the Indian Constitution in its preamble, elementary rights, elementary duties and directive principles. The Constitution not solely grants equality to women, however additionally empowers the State to adopt measures of positive discrimination in favors of women. Among the framework of a democratic polity, our laws, development policies, plans and programmes have aimed toward women's advancement in numerous spheres.

The law of our country is continually being reformed to change the lives of women, to make them live with dignity and respect not as a slave. The Constitution of India guarantees to all Indian women equality (Article 14), no discrimination by the State (Article 15(1)), equality of opportunity (Article 16), and equal pay for equal work (Article 39(d)). In addition, it allows special provisions to be made by the State in favour of women and children (Article 15(3)), renounces practices derogatory to the dignity of women (Article 51(A) (e)), and also allows for provisions to be made by the State for securing just and humane conditions of work and for maternity relief. (Article 42).

Women in India are being provided with the legal security to secure their economic, social and cultural lives. These are various acts made by Indian Government in interest of women's life safeguard such as Dowry Prohibition Act 1961, Maternity Benefit Act 1961, Births, Deaths & Marriages Registration Act 1886, Medical Termination of Pregnancy Act 1971, National Commission for Women Act 1990, Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act 1999, Protection of Women from Domestic Violence Act 2005, Sexual Harassment of Women at Work Place (Prevention, Prohibition & Redressal) Act 2013, Hindu Widows Remarriage Act 1856, Muslim women (protection of rights on divorce) Act 1986, Guardians and Wards Act 1890, Indian Penal Code 1860, Christian Marriages Act 1872, etc.

In 1993 the constitutional amendment called for one third village council leader or pradhan position in gram panchayat to be reserved for women. Recent researches on quota system has revealed that it has changed perception on women's abilities, improved women electoral chances, and raised aspirations and educational attainment for adolescent girls. The Women's Reservation Bill was passed by the Rajya Sabha in 2010.

In 1992, the Government set up a statutory body, National Commission for Woman, to study and monitor all the matters relating to the safeguard of women and reviews the existing legislation to make and suggest amendments wherever necessary. National policy for the empowerment of women (2001) was aimed to bring advancement, development and empowerment of women.

However there are certain laws that inhibit Indian women from gender equality such as; The Goa law on polygamy - a hindu man can remarry if his present wife cannot give birth to a male child till the age of 30, Hindu law of inheritance - the property of a woman who dies without a will is handled differently from a man, Parsi's law of inheritance -Parsi still penalize those who marry outside their community and a non-Parsi woman who is either a wife or widow of a Parsi cannot inherit. and a Parsi woman married to a non-Parsi man are not considered part of the community, Prohibition of a child marriage act - the law only prevents the marriages of children; it does not render them illegal once it actually happens, a woman can call off her marriage till the age of 20 where as a man can call off his marriage till the age of 23, Age of consent - sexual intercourse with a girl without her consent is considered rape but a man can legally have sex with his wife even if she is minor and does not give her consent to it, also marital rape is not criminalized in India, Marriageable age - The minimum age for marriage for a boy is 21, but 18 for a girl which is a legal extension of the patriarchal mindset that believes that a wife should always be younger than the man, Hindu Minority and Guardianship Act: Women are still not equal guardians of their children; a father is considered the natural guardian of a child, although the custody of offspring under the age of 5 will ordinarily be awarded to the mother, No right to marital property - upon separation or divorce, an Indian woman is the entitled only to maintenance from her husband; she has no right on the assets, such as house or commercial property, bought in her husband's name during the marriage. Indian government policies do not consider the work done at home by a woman as having an economic value.

Advances made in social legislation has led some Indian women to secure legal and political equality, enter different professions and occupy positions of power. But even after decades of independence and planned development, the position of women is considerably worse in every sphere with a declining gender ratio, a declining economic participation rate and growing gaps in life expectancy and mortality rates between men and women.

Conclusion

Women have to be considered as equal participants in shaping the future of society in India and hence, there is a need for changes in perception towards women. The society would be most advantaged only if women are treated equally and are not deprived of their rights. If gender discrimination is rooted out then women will deliver her knowledge, skills, potential to develop a family, nation and ultimately to the whole world. A country without women participation cannot achieve its full development.

The government of India has made many laws and acts to safeguard and secure the life of a woman in the country. In spite of such laws, rules and regulations the life of women is still not secure completely. Inequality between men and women runs around every sphere of the country whether it may be education, governance or economic opportunities. Gender inequality cannot be fully eliminated merely by the legal and administrative measures. The people of the country has to develop a mentality of gender equality.

The goal on gender equality and women's empowerment can be realised in India only when the traditional practices like female infanticide, dowry deaths, honour killings, domestic violence, or sexual abuse is eliminated. It is only then that gender equality and women's empowerment can become a reality.

Bibliography:

1. Basu, A. M. (1993): 'Women's Roles and Gender Gap in Health and Survival', *Economic and Political Weekly*, 28 (43), PP 2356-62.
2. Bardhan, K. and S. Klasen, (1999): 'UNDP's Gender-Related Indices: A Critical Review', *World Development*, 27(6). PP. 985-1010.
3. Klasen, S. (2004): 'Gender-related Indicators of Well-being, WIDER Discussion Paper No. 2004/05.
4. Krishnamoorthy, D. (2006): 'Gender Disparities in India: Some Evidences', *Conference Volume of Indian Economic Association's 89th annual conference*, PP 855-867.
5. Kumar, N. (2006): 'Gender Empowerment in India', *Conference Volume of Indian Economic Association's 89th annual conference*, PP 1056-1059.
6. Mishra, S.K. and P.K. Pandey (2006): 'Economic Development and Gender development in India: Differentials and Determinants', *Conference Volume of Indian*
7. Nussbaum, M. (2000): *Women and Human Development: The Capabilities approach* (1st ed.), Kali for Women.
9. Parashar A. *Women and family law reform in India. Uniform Civil Code and gender equality*. New Delhi, India, Sage Publications, 1992, 348
10. Sugandha Kohli. *Gender Inequality in India*. 2017. *International Journal of Humanities & Social Science Studies (IJHSSS)*. Volume 3(4), 178-185.
11. Sutapa Saryal. *Women's Rights in India: Problems and Prospects*. 2014. *Int. Res. J. Social Sci.* Vol. 3(7), 49-53.
12. Tauffiqu Ahmad and Anil Kumar Mishra. *Legal status and rights of women in Indian constitution*. 2016. *International Journal of Advanced Education and Research* Volume 1(1); 39-42.