

GENDER EQUALITY AND HUMAN RIGHTS IN INDIA: ISSUES AND PERSPECTIVES

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Abstract

Gender equality is the essence of human rights jurisprudence. It is at the forefront and guiding principles of the United Nation's 2030 Agenda for Development and is considered vital to all aspects of development. Gender equality means equality in opportunities for women, men and transgender people in the field of education, healthcare, economic resources, employment, leadership positions, participation in political life and decision making process and contributing towards economic, political and social development of a nation. Gender equality symbolizes that the needs and interests of women, men and transgender are taken into consideration and that all human beings are free to make any decision brushing aside all social stereotypes and prejudices about gender roles. Though these rights are guaranteed evenly to men and women but the disparity still exists which affects people in varying degrees within countries. It is the women and transgender who suffer the most from this disparity. Owing to the increased awareness about gender issues now not just women but gender inequalities faced by transgender people are also highlighted. Gender norms, patriarchal ideology, customs and practices deprive women and transgender people of their rights across social, economic and public life. This is a major barrier to sustainable development that we dream of. This paper analyses the gender equality issues and challenges in India. Though this is changing appreciably in many parts of the world but still there is a long way to go. Gender inequality remains a key issue despite the progress and economic growth achieved by India. Educating children about the significance of gender equality from an early age could shake up things positively. Changing these noxious gender norms requires an integrated approach that engage women, transgender and men separately and together to work towards it on the road to accomplish gender equality.

KEYWORDS: Gender equality, Human Rights, Women's rights, Transgender.

INTRODUCTION

Gender equality is more than a goal in itself. It is a precondition for meeting the challenge of reducing poverty, promoting sustainable development and building good governance.

Former UN Secretary General Kofi Annan

Gender equality is the essence of human rights jurisprudence. It is a precondition for healthy development and prosperous progressing nation. Gender equality is a top priority and among the goals that United Nations' 2030 Agenda for Sustainable Development sets for the international community to achieve by 2030 (Dugarova , 2019). India ranks at 95th position out of 129 countries in the new Gender Equality Index 2019 that measures global gender equality based on the state of poverty, health, education, literacy, political representation and equality at the workplace and needs more work to be done to achieve gender equality (Ghosh , 2019).The UN Secretary-General, Mr. António Guterres has also stated that "*achieving gender equality and empowering women and girls is the unfinished business of our time, and the greatest human rights challenge in our world.*"Gender equality means equality in opportunities for women, men and transgender people in the field of education, healthcare, economic resources, employment, leadership positions, participation in political life and decision-making process and contributing towards economic, political and social development of a nation (Baseline definitions, n.d.). Gender equality symbolizes that the needs and interests of all genders, women, men and transgender are taken into consideration and that all human beings are free to make any decision brushing aside all social stereotypes and prejudices about gender roles. Though these rights are guaranteed evenly to men and women including transgender but the disparity still exists which affects people in varying degrees within countries. Gender discrimination is not always against women or transgender even men are equally vulnerable. Inequality in any manner is intolerable be it against men women (Ramachandran, 2013) or transgender and is destructive and damaging to sustainable growth (Ramachandran, 2013). Gender equality is not an issue of women alone but it concerns all human beings irrespective of gender. Shifting opportunities from men to women is not the solution to gender parity, but about creating environment where everyone regardless of the gender has the right to realize their growth is required (Dugarova, 2019). Gender stereotypes impact all of us but without a doubt it is women and transgender in our country who suffer the most from this disparity. Owing to the increased awareness about gender issues now not just women but gender inequalities faced by transgender people are also highlighted. Gender norms, patriarchal ideology, customs and practices deprive women and transgender people of their rights across social, economic and public life. Gender equality begins at home, so it is imperative that parents inculcate mutual unconditional value, respect, equality and equal opportunities among children to set a strong foundation for a gender equal society (Gender equality starts at home, 2019).Gender equality will yield positive effects across the spectrum of progress by ensuring

equal rights and opportunities for all genders by boosting contribution in decision-making processes and by eliminating gender based violence and discrimination (Dugarova , 2019).

Gender equality is a common agenda and part of the plans of United Nations, World Health Organisation, International labour organisation, United Nations International Children's Emergency Fund (UNICEF), United Nations Entity for Gender Equality and the Empowerment of Women (UN-Women) and other international organisations which are also emphasising on the need to address the causes of persistent gender discriminatory practices (United Nations Development Programme, 2019).The happiness and well being of all genders amounts to the human welfare.. Gender equity has to be encouraged in the national interest and for the sake of humanity. Ending gender discrimination is not only a question of human right but an issue of national development (Vepa, 2007, p. 328-329).

GENDER EQUALITY: ISSUES AND CHALLENGES FOR WOMEN AND TRANSGENDER

ISSUES AND CHALLENGES FOR WOMEN

The origin of gender inequality in the Indian society lies in its patriarchal setup. The devastating part of gender inequality for our society is that many women through persisting social and cultural conditioning have accepted that they are not equal to men (Gender Inequality in India, n.d.).Undoubtedly women are the agents of change and contribute towards the socio-economic development. Strengthening women's capabilities in the field of education, health, economic independence, access to resources has a positive impact on not only in terms of women's freedom and wellbeing but also on the well-being of the whole family, society and the nation. Improved and better care of children in terms of education, health and their future prospects are some of the positive changes that have been observed in various studies (Vepa, 2007, p.329). The Millennium Development Goal (Millennium Development Goals, 2000) also emphasised on gender equality and empowerment of women. It is now widely accepted that gender equality and women's empowerment are fundamental foundation for accomplishing development milestones. Women in India are discriminated at every level in the society whether it is social economic or political participation, economic prospects, educational status or access to resources etc. Majority of Women in India are poor, uneducated, underprivileged, dominated and insufficiently trained, unaware, uninformed and are unable to push themselves out of the authoritarian and regressive socio-economic circumstances.

Equality for women does not necessarily mean treating everyone in the same manner. Women often require different treatment than men in order to enjoy the same rights. (Bunch, 1999, p 20).As man and woman are biologically different and woman has to play a different role than man. A woman gives birth to a child i.e. has a reproductive role to play and owing to the biological differences goes through so many bodily changes throughout her life. So she needs a more sensitive and nurtured treatment than men to enjoy her basic rights for example safe transport, flexible schedules and childcare support etc which will lessen their burden. The major issues debarring women from enjoying and achieving equality in our country are:

- a) **Education:** Education is a potent instrument of women empowerment but it is beyond the reach for many women in India, especially from the rural or remote areas with low income. There are numerous blockades which restricts access to the basic right to education for many women. Traditional mindset results in keeping girls at home for help in household chores or looking after the younger siblings etc, also the lack of usable toilets, safety concerns of adolescent females who have to travel long distances for schools and early age marriages are major deterrents for young girls to get education (Empowering women, 2018).
- b) **Preference for sons:** The preference for a son is also rooted in the patriarchal system of our Indian society as Sons are regarded as means of social security. Another major factor is that of religious practices, which can supposedly only be performed by males like sons are often the only person entitled to performing funeral rights for their parents (Sekher and Hatti, 2004., P. 30) and old age security, economical role of sons, continuation of the family name etc (Mutharayappa, Choe, Arnold & Roy, 1997., P.5) are few other major factors that make sons more desirable in our society.
- c) **Domestic Violence:** In spite of 'Protection of Women from Domestic Violence Act 2005', domestic violence still remains a serious problem in India. The reasons for violent behaviour are rooted deep in the patriarchal norms of the Indian society and problem of alcoholism, violent nature of husband or desire for a male child are some other factors responsible for domestic brutalities in India. Domestic violence involves psychological and bodily abuse against women like slapping, beating, public humiliation, etc. (Saryal, 2014). There is need to focus on the safety of women and combat all kinds of violence, Insecurities and abuses against women
- d) **Female foeticide:** The horrendous practice of female foeticide exists in India despite such growth and modernization. There are many families which regard the girl child as a trouble and burden for the family and have no reservations in preventing their birth by adopting any means. Reason behind such practices is the traditional patriarchal mindset where a male child will become source of income for

the family and will carry the family line whereas the girl child will be married off to another family. (Gender Discrimination,2016). The saddening part is that Female foeticide exists in a country where many forms of Goddesses are celebrated and worshipped. It not only negatively impacts the growth and development of the country but also tarnishes the image of nation worldwide.

- e) **Sexual harassment at the workplace:** Sexual harassment violates a woman's rights to 'Gender Equality' and 'Life and Liberty' in the workplace .Everyone have the right to a workplace that is protected, safe, without discrimination. Sexual harassment hinders the realization of gender equality and has a negative effect on the overall growth of the country and the well-being of its people (International labour organisation, 2013, p.8). It has a lasting impact on individuals including psychology and physical being which disturbs the state of mind. In India, the Vishaka Guidelines addressed sexual harassment of women within the workplace and recognized that sexual harassment in the workplace is violation of their basic rights of gender equality, right to life and liberty and the right to any occupation, trade or profession. But still more efforts and awareness are needed to address sexual harassment in the interest of society (International labour organisation, 2013, P.11).
- f) **Gender-based violence:** Gender-based violence involves physical, sexual, psychological and economic violence. Common forms of violence against women in India include acts such as domestic abuse, rape, honour crimes, sexual violence, dowry deaths, gender-based sex selection; cyber violence and many more. Men can also be subject to such abuse and exploitation but majorly its women who suffer the most (Dugarova, 2019). Gender inequality is a universal concern and violence and abuse against women is not only a crime but also an infringement of women's human rights. The Convention of the Elimination of All Forms of Discrimination against Women (CEDAW) also acknowledges that gender-based violence such as rape affects women's right of equality and freedom (Ignatius, 2013, P. 13-14). Laws are there but their stricter implementation and execution will make the difference.
- g) **Healthcare Issues:** Poverty, gender bias and reproductive role makes women prone to various diseases and unable to access the health services (Kowsalya & Manoharan, 2017, p.110). There are several barriers to access these services like Economic barriers, Health system barriers such as scarcity of human resources for health, lack of sensitization and Social barriers such as stigma concerning certain diseases such as HIV/AIDS, sexual health, unawareness regarding the various schemes and programmes for women (Gender and Health, 2011, p.297) which results in unfavourable health outcomes for females. Addressing and improving issues of healthcare among women will not only contribute in strengthening women but also building a healthy nation.

ISSUES AND CHALLENGES FOR TRANSGENDER

Transgender people are the victim of social transphobia world over (Amodeo, Picariello, Valerio & Scandurra, 2018, p.3). In India too transgender people have been the subject of gender inequality and social exclusion on various fronts. Preventing such human rights violations is important for sustainable development. This applies for Transgender people as much as other human beings. Achievement of all 17 SDGs is of prime importance to every human being, including transgender people (Divan, Cortez, Smelyanskaya & Keatley, 2016). Like all human beings, transgender people also have fundamental rights to life, liberty, equality, health, privacy, speech, and expression, but these rights are denied to them owing to the rejection of acknowledging their gender identity. Under these circumstances, there can be no attainment of goals set out by the United Nations' 2030 Agenda for Sustainable Development (Divan, et al., 2016). The transgender community in India face discrimination and cruelty despite safeguards under various provisions of the Constitution. In April, 2014, Supreme Court in the landmark judgment of NALSA v. Union of India recognised various civil and political rights of the transgender persons on the basis of right of equality for all genders which is the inseparable part of human rights. Disparity is so evident even in some fundamental necessities like health, employment and education and Positive measures to ensure that transgender people do not drop out of school at an early age due to the social exclusion or harassment is crucial. Awareness and sensitisation of transgender as well as other genders of the society to ensure their social inclusion is need of the hour (Parashar, 2017, p.105,123) .In NALSA v. Union of India supreme court acknowledged that transgender people are deprived of basic human right of equality guaranteed under the Constitution of India (Para 5)and these rights are also reaffirmed under YOGYAKARTA PRINCIPLES (Yogyakarta Principles, 2006) that Human beings of all sexual orientations and gender identities are entitled to equality in dignity and the full enjoyment of all human rights(Para 22). They are eligible to proper education, social inclusion, access to public and other places employment prospects like all of us(Para 110) (National Legal Services Authority vs. Union Of India & Ors, 2014).The proposed Transgender Persons (Protection of Rights) Bill, 2019 prohibits any form of discrimination against a transgender person in education; employment; healthcare; access or enjoyment of goods, services, opportunities available to the public; and other basic fundamental rights. The Bill provides for the social and economic empowerment (The Transgender Persons Bill, 2019) but this bill is being opposed by many for its few provisions.

ISSUES FACED BY TRANSGENDER

The main issues faced by the transgender people in our Indian society are:

- Discrimination and social exclusion
- lack of proper educational facilities
- Unemployment and , Lack of livelihood options
- Homelessness
- Lack of medical facilities
- Financial insecurity
- Mental & sexual health issues
- Insensitive treatment by society

LAWS AGAINST GENDER INEQUALITY IN INDIA

The Constitution of India has various provisions to ensure equality of the sexes and reassures that no one should be discriminated on the basis of sex or gender. From the point of view of Transgender like the other two genders are also entitled to the Fundamental Rights provided by the Indian Constitution. For example **Article 14** states that “*the State shall not deny any person equality before the law or the equal protection of laws within the territories of the State*”, **Article 15** prohibits discrimination against any citizen on the grounds of race, caste, religion, sex, place of birth or any of them, **Article 16** states that “*No citizen shall, on grounds only of religion, race, caste, sex, descent, place of birth, residence or any of them, be ineligible for, or discriminated against in respect or, any employment or office under the State*”, under **Article 19** all citizens shall have rights of Freedom of speech and expression; Freedom of assemble peaceably and without arms; Freedom to reside and settle in any part of the territory of India; Freedom to practice any profession or to carry on any occupation, trade or business and **Article 21** of constitution provides “*No person shall be deprived of his life and personal liberty except according to procedure established by law*” (Article 14, 15, 16, 19 and 21 of Constitution of India). These provisions apply to transgender persons as much as to other genders. Internationally the UN Charter was the first international agreement to pronounce gender equality as an essential human right. The Universal Declaration of Human Rights like the International Covenant of Economic, Social and Cultural Rights, 1966 and the International Covenant of Social and Political Rights, 1966 lay stress on equality between men and women (Goel, 2004). In 1948, the Universal Declaration of Human Rights proclaims gender equality a fundamental human right that apply to every human being. Other Member States have consistently reaffirmed their commitments to gender equality and the empowerment of women in international agreements. The Convention on the Elimination of All Forms of Discrimination against Women and the Beijing Declaration, 2030 Agenda for Sustainable Development have acknowledged that gender equality and the empowerment of women is necessary for all round development (United Nations Office on Drugs and Crime, 2019). **Utmost need is of change in attitude. Everyone should acknowledge that all are equal irrespective of gender and are entitled to the same opportunities, prospects and respect.**

WAY FORWARD

Areas that need to be focused on in our path to achieve gender equality in our country are:

1. Eliminating Gender Stereotyping

It is a recurring cause of discrimination and a major reason of many human rights violations (Gender stereotyping, n.d.). Gender stereotypes prevalent in ideologies of people, justice system, media, education, laws and practices, in various public and private institutions must be eliminated by embracing a gender sensitive approach in education system and laws and policies (Countering Gender Discrimination, 2011). Society must also be sensitized and awakened about the adverse impacts of such regressive stereotyping and should demonstrate a responsible behaviour.

2. Education

Illiteracy is the fundamental reason for majority of socio-economic problems in a society. Education is the fundamental right of every child regardless of gender. A child’s outlook and thoughts are shaped in schools. Education is the prime factor in tackling gender discrimination and a key to the overall development of a nation. It enlightens you with knowledge and develops positive attitude and self confidence. It makes all aware of their rights and makes them self sufficient, provides employment opportunity and boosts your personality (Rama, 2017). Need for gender sensitive education system, where textbooks endorse right stereotypes that

encourage gender parity in our society will be a good move in positive direction. (Achieve gender equality, 2016) Inclusion of underprivileged women and transgender persons in schools is challenging but is a must for their upliftment and a prospering modern India.

3. Economic Independence

Gender equality and economic development are interconnected. Financial security remains a major impediment in conferring the fundamental human rights and the right to live with dignity for women, transgender community and other marginalised sections of society. Independence in economical aspect is imperative for an individual and country and it brings with it the needed confidence and freedom to survive the contemporary world. Lack of education and discrimination from society has made life extremely difficult for transgender people. Apparently very few transgender persons have been able to break the glass ceiling so it is necessary to provide them the prospects for self-employment and entrepreneurship like multi-skill training programme in computers, housekeeping, hospitality, office management etc to make them economically independent and self sufficient (Padhi & Mohanty, 2019). Likewise financial empowerment is equally vital for women as it increases their confidence but also gives them more power over their life and decision making.

4. Gender sensitization

Gender sensitization is the right approach for gender equality. Gender sensitization is not just about women and women issues but also transgender issues as they are the most neglected community. Sensitization in the field of education, health, finance and law will play a major role in emphasizing right gender stereotypes which will be crucial. Sensitizing on the different needs and gender-sensitive approach for women and transgender people will have a positive impact on their growth. For example separate toilets for girls in schools, specific areas for mothers to feed their child, crèche facilities at workplaces for those who lack support system at home, awareness about rights and facilities they can avail (Taught about Gender, 2017) and relevant transgender issues like their inclusion in society, their financial independence, their education, counselling, proper medical facilities and raising awareness about health issues, attitude of society towards them are the main problem that need even greater sensitization in the processes of teacher training, school curriculum and of society at large. If they are taught to approach transgender persons without hatred and fright, it would greatly help in influencing an attitude of acceptance. Society must learn to be more sensitive and more insightful to the plight of the transgender community (Padhi & Mohanty, 2019).

5. Creating Awareness and Imparting Knowledge about Rights

Imparting the right kind of information and awareness is necessary to strengthen gender equality. Because of lack of education many remain ignorant about their rights, facilities and resources available for them and are unable to take benefit of such schemes and policies. Hence Proper awareness and basic knowledge about laws, provisions, various initiatives, healthcare, employment, livelihood, skills, and their welfare etc should be imparted. Awareness and proper knowledge about their rights and capabilities can make them raise their voice and demand their rights. Simultaneously engaging men in the fight for gender equality is equally important for countering discriminatory practices and supporting a gender equal society (United Nations Development Programme, 2019). For example HeForShe is a solidarity campaign for gender equality, initiated by UN which aims to achieve equality by encouraging both genders to be part of the change and support gender equality (Heforshe, 2014).

6. Other Measures

India has a long way to go before it can be identified as gender equal country where all human beings are equal in every respect. Measures like Vocational training centres (Bringing Transgender in Mainstream, 2015), Promoting the skill development, gender budgeting (Budgeting for Gender, n.d.) though is a budding area in India, Media promoting positive gender stereotypes and gender norms can have positive impact on masses. Laws and policies are there but more focus is needed in their proper implementation and execution, which can provide the needed momentum to further gender equality. Though Government is making many endeavours to ensure Gender Equality but it is also the duty and responsibility of society to build an environment where there is no gender discrimination and everyone irrespective of gender have equal opportunities in decision making and roles in the social, political and economic development of the nation.

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