



Review Article

The Goal of Gender Equality in India : An Analysis

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Abstract

The root cause of gender inequality lies in the patriarchal system of the society. It is evident till now that the norm that one sex is superior to the other one is installed in the minds of the people and the problem is psychological. It is in the minds of both sexes. For example, if a man beats her wife daily, then the main point of concern is not the oppression, but the psychological belief that makes the woman accept that oppression. In the case of Ajit singh Harnam singh Gujral vs State of Maharashtra, the Supreme Court said, "In India, many women accept the bad treatments of their husbands and continue living with them, because a woman at the time of marriage is told by her parents that after marriage, her place is with her husband and she has to accept whatever treatment she gets from her husband and in-laws. She has to "nibhao" all treatment after marriage. Hence she continues living with him, even if her husband is a brutish, nasty and loathsome person." This should be identified that what is it, that makes women accept it without any objection. To understand this in Indian context, one needs to look over the evolving status of women through the ages in the Indian society.

Keywords: *psychological, marriage , Maharashtra, oppression.*

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Introduction

Can one imagine their body being half strong and the other part weak? Obviously not. For a healthy body to function properly, one needs to have their both halves working properly. This is same in the case of society. Society, just like human bodies are made of different individuals. These individuals are very diverse in nature. They are diverse in their race, background etc. But other than these, some boundaries between individuals have also been formed by the cultural practices they follow. The boundary of gender.

There has always been a separation between males and females in the way they are raised and taught even the way of life they should follow. This is the demarcation of gender. Gender is basically a state in reference to the social and cultural differences. Now since a society is made of its various genders, if one of the genders is not treated equally and is oppressed and weak, then it is impossible for the society to function properly. This problem has always been one of the biggest problems of India. The other

problems also which are pertaining currently in the country are somewhere related to the problem of gender inequality.

The meaning of the word “equality” in the above context is the equality of opportunity to be provided to all the genders and one gender should not be preferred over the other. In simple words the access to opportunities or resources should not be affected by the gender of the person. In India, the voices against gender inequality and violence against women have never raised properly. Whenever there is a case of rape or sexual harassment in the country, only spontaneous protests and some candle-light marches are taken out on roads, but a concrete discussion is never held on the question of gender equality. If we are able to achieve the goal of gender equality in the country, then the number of these cases can be mitigated. The judiciary and legislature have, from time to time recognised gender equality as very important factors for nation’s development which shall be discussed in detail further in the paper. Other than these, not having gender equality is also a issue of human rights. Gender - based discrimination reveals ugly face of the society. This issue is very old and is global as well with varying degree. Really, it is a travesty of all canons of social justice and

equity for women who constitute half of the world's population and work for two-third of the world's working hours and who earn just one-tenth of the world's property and remain victim of inequality and injustice. This anomaly is, now, being openly questioned and the underlying discrimination is seriously challenged. As human development occupies centre stage in the global development debate, gender equality is emerging as major challenges. But still, the issue is not given much concern in India.

Gender discrimination, though amongst the most subtle, is one of the most all-pervading forms of institutionalised deprivation. Joseph Mazzini who, in the days when political thinkers could provoke only the thought of rights, could exhort in his essay “Duties to the Family” to forget that man was in any way superior to woman, said: “Love and respect Woman. Do not seek only consolation in her, but strength, inspiration, redoubling of your intellectual and moral faculties. Blot out of your mind any idea of superiority to her; you have none whatever. The prejudice of ages has created through unequal education and the perennial oppression of the laws that apparent intellectual inferiority which you use today as an argument for maintaining the oppression. But does not the history of all oppression

teach you that those who oppress rely always for their justification upon a fact created by themselves?"

The hypothesis of the research paper is that the problem of gender equality will solved only by educating the society and by deleting the societal norms(which are discussed in detail further in the paper). The research is non-empirical and based on secondary sources.

Legal Backing to Gender Equality

By the time the Constitution of India was drafted the demand for equality between men and women was fully recognised. Human rights were being conceptualised by the United Nations. The UN Charter is the first ever international agreement to proclaim gender equality as a fundamental human right. Other than this, there were many other international conventions which focussed on the point of gender equality as an important issue. Intergovernmental Commission on the Status on Women (CSW) met for the first time in 1947 to discuss implementation of the UN Charter when writing of the Indian Constitution was under way. The Universal Declaration of Human Rights like the International Covenant on Economic, Social and Cultural Rights, 1966 and the International Covenant on Civil and Political Rights, 1966 lay stress on equality between men and women. The

other covenants relating to labour have also referred to the equality to women and the need for special action to provide justice to them. Covenant on Elimination of Discrimination Against Women, 1981 (CEDAW) adopted by the General Assembly in 1979 has come to be recognised as an International Bill of Rights for Women. The Covenant prohibits all distinctions and restrictions and the exclusion of the enjoyment and exercise of empowering women, her rights and freedom — civil, political, economic and cultural. The preamble to CEDAW maintains that “the full and complete development of a country, the welfare of the world and the cause of peace requires the maximum participation of women on equal rights with men in all fields”.

The equality principles were reaffirmed in the Second World Conference on Human Rights at Vienna in June 1993 and in the Fourth World Conference on Women held in Beijing in 1995. India was a party to this Convention and other Declarations and hence, is committed to actualise them. Now, in respect to the Indian laws, the Constitution of India makes specific mention of equality between the sexes in Articles 14, 15(1) & (2) and 16(1) & (2) which prohibit discrimination against women and also make room for affirmative action which is so eloquently

spoken of in CEDAW and subsequent declarations aimed at implementation of CEDAW. The Directive Principles of State Policy contained in Part IV of the Constitution direct the State to protect human rights of women including right to equal pay for equal work, the right to health and work in hygienic conditions, right to maternity benefits, etc. The Equal Remuneration Act, 1976, the Maternity Benefit Act, 1961, the Prenatal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, the Dowry Prohibition Act, 1961 and the Immoral Traffic (Prevention) Act, 1956 are some of the enactments which owe their existence to those provisions of the Indian Constitution. Even without CEDAW and other conventions, the State was under obligation to bring about gender justice. And yet the importance of the international covenants cannot be lost sight of.

The fundamental rights and the provisions of constitution relating to equality were influenced by the above conventions. In *Keshvananda Bharti vs State of Kerala*, (then) Chief Justice Sarva Mittra Sikri observed, "I may here mention that while our fundamental rights and directive principles were being fashioned and approved of by the Constituent Assembly, on 10-12-1948, the General Assembly of the United Nations adopted a Universal

Declaration of Human Rights. The Declaration may not be a legally binding instrument but it shows how India understood the nature of human rights."

The Supreme Court, also, in *Charu Khurana vs Union of India*, recognised gender equality as a fundamental right. Hence, it is quite very clear that the gender equality has very strong legal backing in India. Whether it be domestic laws or judgements or international conventions adopted by the country, the nation has always sought to achieve the target of gender equality.

Major Causes of Gender Equality & Solutions

The root cause of gender inequality lies in the patriarchal system of the society. It is evident till now that the norm that one sex is superior to the other one is installed in the minds of the people and the problem is psychological. It is in the minds of both sexes. For example, if a man beats her wife daily, then the main point of concern is not the oppression, but the psychological belief that makes the woman accept that oppression. In the case of *Ajitsingh Harnamsingh Gujral vs State of Maharashtra*, the Supreme Court said, "In India, many women accept the bad treatments of their husbands and continue living with them, because a woman at the

time of marriage is told by her parents that after marriage, her place is with her husband and she has to accept whatever treatment she gets from her husband and in-laws. She has to “nibhao” all treatment after marriage. Hence she continues living with him, even if her husband is a brutish, nasty and loathsome person.” This should be identified that what is it, that makes women accept it without any objection. To understand this in Indian context, one needs to look over the evolving status of women through the ages in the Indian society.

If we look on to the theoretical aspects of ancient India, then it can be said that women have been held in great esteem and treated with kindness and courtesy and it can be seen from numerous verses contained in the Vedas, the Upanishads, the Puranas, and the legal literatures that formed part of the Dharma Sastras, which is the source material for Hindu Law. It has been stated:

यत्र नार्यस्तु पूज्यन्ते रमन्ते तत्र देवताः ।

यत्र ताः न पूज्यन्ते सर्वास्तत्र अफला क्रियाः ॥

“Where women are worshipped, the Gods rejoice; Where they are not respected, all tasks become fruitless”. One other verse in this regard is

“Only that home is a household, which is presided over by a housewife. Where there

is no housewife, that house is nothing but a wilderness”.

But some verses, even show how women were considered inferior to men. An Edict of Manu is that the father protects the daughter during her childhood, the husband during her youth and the son during her old age. Women must never be ‘left unprotected’ and they deserve to be protected always. One of the synonyms for women in old Sanskrit, was ‘Abala’ which means not strong physically, that is to say, one who needs to be protected. It was in this sense that the ancient Edicts enjoined upon man, as the father, as the husband, and as the son, the duty to protect the women at all times of her life. This mere assumption that women need protection shows that they were considered inferior to men.

But this was about the theoretical aspect. Not even a single explicit reference is found in the past about the practical status and position of women in ancient Indian history. But the societal traditions that are inherent in the society clearly depict that women were not at par with men, even in the ancient society. Certain specific references of women who were found with equal footing with men in ancient India cannot be considered as if the society at large were not discriminatory against women. As a girl, she has been under her parents, as an adult under her husband and

as a widow, under her son. She was never independent enough to decide even the issues of her own household. In epics like Mahabharata also, it can be seen that women were considered fickle-minded and to be easily won over by abundance and flamboyance.

One of the biggest paradoxes, which the advocates of gender equality, identify, in the context of Indian society, is that on one hand, women are found as the symbols of faith and worship and on the other hand, are exploited and molested. On one side, goddesses like Durga, Laxmi etc are worshipped and on the other hand, the status of women is found to be degraded. But actually this is not a paradox but one of the main reasons why women are exploited in the society. We became so ignorant while worshipping women as goddesses, that we forgot, they are humans first. When we worship someone and label them as symbol of sacrifice or power, then each and every girl is expected to reflect these symbols. If a girl does not want to reflect these qualities and still wants to lead a lifestyle which is at par with the male section of the society, then it is considered as outrageous. Hence, considering women to be goddess, rather than removing the gender bias, increases the problem of gender bias in the society. The society should realise that

worshipping women is not at all necessary. Only if women are identified and respected as humans, the work shall be half done.

Another mistake which the society does is not understanding the differences between the words “sex” and “gender”. People often tend to use these two interchangeably. But this is not right. Gender and sex are totally different terms. The Supreme Court in “National Legal Services Authority vs Union of India ” said that “Gender Identity is one of the most fundamental aspects of life which refers to a person’s intrinsic sense of being male, transgender or transsexual.” Typically, there are a number of key distinctions between the terms – sex and gender. Sex refers to the biological distinction between males and females, and is usually taken to include things like chromosome make – up, reproductive organs etc. By contrast, the term gender refers to the social aspects of differences and hierarchies between male and female. Gender is evident throughout the social world, shaping how we think about ourselves , guiding our interaction with others and influencing our work and family life. But gender involves much more than difference ; it also involves power and hierarchy, because in most societies men enjoy a disproportionate share of most social resources. Now the

problem arising out of this is assigning of gender roles. For example, when a boy is born, a gender role will be assigned to him that he has to be brave, strong and should not cry. And if a girl is born, the gender roles assigned to her state that she should stay indoors, should be shy in behaviour etc. These assigning of gender roles lead to gender inequality in the society. What needs to be done is that distinctions should be made on the basis of sex and not gender because sexual differences are natural and gender differences are social.

The biggest problem which arises against the goal of gender equality in the Indian society, is lack of education. According to the 2011 census, the male literacy rate in India is 82.14% whereas the female literacy rate is 65.46%. The disparity between both rates is clear enough to understand the status of women in the country. But here not only male or female, but the society as a whole needs to be educated. Educating the male section of society is more important than educating the female section. They need to be told to identify each other as equal part of society and respect each other. The society should be educated that both the sexes need to have equal opportunities in all matters and should not be discriminated.

Conclusion

"To call woman the weaker sex is a libel; it is man's injustice to woman. If by strength is meant brute strength, then, indeed, is woman less brute than man. If by strength is meant moral power, then woman is immeasurably man's superior. Has she not greater intuition, is she not more self-sacrificing, has she not greater powers of endurance, has she not greater courage? Without her, man could not be. If nonviolence is the law of our being, the future is with woman. Who can make a more effective appeal to the heart than woman?"

These were the words of Gandhiji regarding the status of women in Indian society. This quote is a poetic expression of social realities. Looking onto the social aspects, various surveys and social realities, it will be not wrong to say the status of women is degraded in the current Indian society also. Despite the ancient verses acknowledging the respect for woman, the traditional practices and culture suggest that the status of women in ancient India was also not very good. They were not allowed to take big decisions, did not have any say in crucial matters. Women were assumed to be weak and hence it was said that they need to be protected. This assumption is the clear

indicative of the exploited state of women in the society.

After the independence of India, the farmers of constitution identified the problem of gender inequality and hence the constitutional provisions as mentioned above were framed that way. Other than this, the international conventions regarding gender equality have also been accepted by India at times. Judiciary also helped to identify the problem and gave solutions accordingly. Dr. B.R. Ambedkar measured the progress of a community by the degree of progress, which the women have achieved.

Hence, in this paper, after analysing the important aspects, the author came to the conclusion that the problem is psychological. It is the mentalities of people that needs to be changed in order to bring gender equality in true sense. The best solution is to educate people. Not only girls, but boys also need to be educated. They need to be told that girls are also part of the society equally and should not be treated just as objects for their use. Both the sexes need to be educated to respect each other. The author does not at all suggests that there should be differences. The sexual differences should be respected as they are natural, but the gender differences, that have been constructed by the society, should be not at all tolerated.

The literacy rate cannot define the education level of the people. Literate and educated are words that people usually use interchangeably like they are synonymous. They are different and are independent of each other. A literate person might not be educated and vice versa. One who is able to write their name is said to be literate. But this not what the nation should aim for. The nation should aim for educating people. It means that people are now able to differentiate between right and wrong.

Society needs to identify that the fight for gender equality is not only a fight for the women of the world but actually it is a fight for all humans. It is a human fight. When people will be educated enough to understand difference between sex and gender and will stop worshipping women, instead treat them as humans, then only the goal of gender equality shall be achieved in the Indian society. It is sad to see that in the second decade twenty-first century, after seventy years of democracy, India ranks 108th in the Global Gender Gap Index. Hence, this is high time that India should spend more time thinking about this issue and take appropriate actions. The country needs to follow some crucial steps to come over the problem of gender inequality. If the gender gap is vanished, gender inequality has been overcome and the goal of gender equality is achieved, then and only then it can be said that India has achieved some development.