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Gender Discrimination in India: A Persistent Barrier to Progress

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ABSTRACT

Gender-based discrimination and violence are all hanging swords in the Indian social structure. The gender-based violence and brutality are increasing day by day. Instead of constitutional and other legal provisions, the cases of violence are allegedly in bulk against women and transgenders. Gender discrimination in Indian society leads towards scarcer progress of social structure. In India, gender-based violence and discrimination are many facets. Gender discrimination is not limited to family, but it can practice in every walk of life. Gender discrimination is based on opportunities, economic background, poverty, lack of education, traditional influence on the family and society, and many more factors are responsible for gender discrimination in India. Merely providing legal clutches will not serve the purpose of gender discrimination unless we develop a sense of equity and equality in our hearts; gender discrimination and hate will persist in society. The laws, policies, and rules will not be helpful unless we exhibit a mature understanding and concern for another gender in reality. Considering the same, this research paper aims to analyse the forms of gender-based violence and its effects on society, which leads towards the absence of progress in humankind. The author will try to discuss the issue of gender violence with the help of judicial decisions and analysis of recent trends.

Keywords: Gender, Discrimination, Violence, Constitution, Social structure, Equality, Equity.

I. INTRODUCTION

Gender discrimination is grounded on sexual identification and leads to unequal treatment of all prospects. Gender discrimination refers to different forms of discrimination against women, and transgender people experience at all levels in day-to-day life. The lack of access to everywhere, gender-based violence and harassment lead towards gender discrimination. Gender equality in India is the most desired state of form, which our Nation has been craving to have for since long. Gender equality is no more a moral pressure or social issue but also a social and economic challenge². The concept of gender discrimination and gender-based violence has its

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² <https://hindrise.org/resources/gender-equality-in-india-empowering-women-empowering-india/> access on 10/04/2023

root in olden society. The edifice of Indian society only centralises towards the preferment of male genders. In male dominating society, women are always set at the back or next to males in every walk of life. Violence and gender-based discrimination are rooted in the daily practice of Indian traditions. From the immemorable period of time, women and other gender people (except males) did not get any prominent place in society.

Gender discrimination in Indian society leads towards scarcer progress of social structure. Due to gender discrimination, society is not progressing as probable. Despite a Constitutional guarantee of equal rights for men and women and decades of legislation, some deep-rooted gender discrimination in India takes a brutal toll on women's lives.³ The constitutional provisions and other legal provisions, including the international convention, provided protection to all people irrespective of any gender discrimination. But in reality, the practice of gender-based violence and discrimination is still persistent.

In India, gender-based violence and discrimination are many facets. Gender discrimination is not limited to the home only. Gender discrimination is based on opportunities, economic background, poverty, lack of education, traditional influence on the family and society, and many more factors that are responsible for gender discrimination in India. The lack of opportunities in the educational sector, employment, political positions, poor health and violence against women and other genders are common practices of gender discrimination in India.

II. REASONS FOR GENDER DISCRIMINATION

There is no specific root cause for gender discrimination. The forms of gender discrimination and practices are diverse from place to place and person to person. Considering the Indian position, it is observed that some major reasons for gender discrimination are as follows.

Diagram 1 shows reasons for gender discrimination.



This is not an exhaustive list of reasons for gender discrimination. There are many more other factors which are responsible for gender discrimination. Gender equality is referring the

³ Gender Inequality In The Indian Society, <https://www.careindia.org/blog/gender-in-inequality/> access on 10/04/2023

phenomena of being fair to women and men, but on many occasions, men and women are not treated equally.

Gender equality refers to equal enjoyment of all rights and benefits on equal footing. But in reality, people experience various discriminative treatments at different levels and occasions.

III. REALITY OF GENDER DISCRIMINATION AND CONSTITUTIONAL PROTECTION

To fill the gap based on gender discrimination, the constitution of India provides ample and equal rights to all. The constitution of India provides protection to all sets of society and sections. The main aim of constitutional provision is to give equal status to men and women irrespective of their gender identity. The constitution, in its preamble, provides justice to all, irrespective of any kind of discrimination.⁴ The principle of equality includes before the law and protection of the law.⁵ Men and women shall not be discriminated against based on sex, race, caste, religion, class etc.⁶ the aim behind this provision is to provide equality in opportunity and welfare in every social field. Additionally, certain provisions should be laid down to provide employment by creating job opportunities for the public and appointment procedures for jobs in government offices.⁷ The opportunities in services are basic fundamental rights of everyone. No person is denied merely on the ground of gender identity⁸. The plethora of constitutional provisions provide protection against gender discrimination, but in reality, India has the highest levels of sex discrimination at birth. According to the 2017 analysis of demographic data, India shall continue to have the worst sex ratio in South Asia, even in 2050,⁹ which shows the contentious practices of gender discrimination at the grass root level. The women are not allowed to give birth on earth, then how will we protect our society against gender discrimination? The dark reality of women's representation in various positions and constitutional positions is not satisfactory. The constitution of India provides under Article 243 D (3), and Article 243 T (3) says that one-third of the total number of seats in Panchayats and Municipalities for women to be allotted by rotation to different Constituencies (including a number of seats for women belonging to SC and ST). Article 243 D (4) T (4) says that 'one-third of the total number of officers of chairperson in the Panchayat and Municipalities at each

⁴ See Preamble of Constitution of India, 1950

⁵ See Art. 14 of the Constitution of India, 1950

⁶ See Art. 15 of the Constitution of India, 1950

⁷ Everything important you should know about Gender Equality under the Constitution, Available at <https://blog.ipleaders.in/gender-equality-under-the-constitution/> access on 11/04/2023

⁸ See Art. 16 of the Constitution of India, 1950

⁹ Gender Equality in India – Empowering Women, Empowering India, Available at <https://hindrise.org/resources/gender-equality-in-india-empowering-women-empowering-india/> access on 14/04/2023

level to be reserved for women¹⁰. But in reality, most of the posts were either vacant or not represented by women this shows the gender discrimination practices in Indian democracy.

Additionally, the directive principle of state policies¹¹ provides ample guideline to the state to fill the gap of gender discrimination. The welfare measure adopted in directive principles provides a range of protection against gender discrimination, but in reality, the ethos of the state is not working properly to transform the same in practice. With the enforcement of these provisions, most of the discriminative practices still Indian society is struggling to curb the problem of gender discrimination. The main concern behind gender discrimination is based on the attitude and mindset of society¹². Unless we expunge the nude attitude of discrimination, the constitutional provisions will not help to eradicate gender discrimination from society.

IV. GENDER DISCRIMINATION BARRIERS TO PROGRESS

Instead of various constitutional provisions and other laws pertaining to protection against gender discrimination still, the practice of gender discrimination does not vanish from society. Gender discrimination refers to challenges and alarming dangers for future generations. The growth in every sector at globe level compels human beings to work together, but due to mindset and social constrain, the practice of gender discrimination is still persisting in society. Gender discrimination refers to unequal treatment among men and women in every sector leads towards a serious threat to social progress. Discrimination in the workplace, education, unequal pay, and access to health services are significant issues in India. The numerous forms of discrimination among men and women still persist. According to the World Inequality Report 2022, men in India earn 82% of the labour income while the share of women's earnings stands at a mere 18%¹³. The literacy ratio between men and women is also disparate. The stand of India in women's literature has the sensible attention of the world. The lack of educational facilities by the family leads towards illiteracy among the women. Additionally, India is on top in cases of violence against women. The violence includes domestic and at the workplace. More than 13568 cases were filed by women against harassment in connection with the demand for dowry¹⁴. The graph of offences like sexual assault, domestic violence, and other forms of abuse is very high in India. These offences are normally committed against young girls and women due to gender discrimination. The actual number of cases is likely much higher, as many

¹⁰ Shah Shahid, Gender Equality in the light of Indian Constitution, Rising Kashmir, E-Paper Post by on Friday, June 3, 2022, available at <http://risingkashmir.com/gender-equality-in-the-light-of-indian-constitution> access on 15/04/2023

¹¹ Part IV of constitution of India, 1950

¹² Charu Khurana and Others Vs. Union of India 2015 (1) SCC 192,

¹³ <https://naarisamata.org/gender-discrimination/> access on 15/04/2023

¹⁴ Crime in India 2021 Statistics Volume I, National Crime Records Bureau, P.N. 58 Published in 2022

incidents of violence against women go unreported. One reason for this is that there is often a strong cultural stigma attached to women who have been victims of violence, which can discourage them from speaking out or seeking help. Additionally, as per data on missing persons in Crime in India, a total of 2,90,439 people in the year 2016, 3,05,267 people in 2017, and 3,47,524 people in 2018 have been reported as missing. Out of these statistics, the number of females is higher than males. Surprisingly to know that, in 2017, 418 and in 2018, 564 transgender people were also missing.¹⁵ The ratio of missing women and transgenders shows either these people were killed or may indulge in corrupt practices like prostitution, begging, immoral trafficking etc. The above figure proves the discrimination against women and transgender merely on the ground of their gender identity. More than thousands of cases are in the queue before the court, waiting for justice against discrimination.

Not only this, Women and transgender people frequently face difficulty in accessing quality health care due to a number of factors, including poverty, lack of education, and lack of access to transportation. The discriminative approach and practices at these places lead towards gender discrimination. Due to these unusual practices and approach by the other gender people, female and transgender faces the experience of restriction from the family and society too. The social norms are designed to consider discrimination against women and other gender people. These discrimination and practices lead to restriction and violation of the right to freedom of women¹⁶, which is guaranteed by the constitution. Overall, gender discrimination in India is an extensive and tenacious problem that affects women and girls across the country.

V. CONCLUSION

Gender-based violence and discrimination are a manifestation of male dominating society and an equally complex factor in the Indian social structure. Gender discrimination lies in the social process and structure. Instead of technological and scientific development, the mindset of the people is not changed. Now in India, gender discrimination is the process of socialization that does not develop a sense of right or wrong against other genders. People have a strong desire and stimulus to make others inferior based on gender identity. The genesis of gender discrimination shall be understood and need to change by tracing the various social, economic, demographic and local institutional factors. Unless a sense of equity develops in everyone's heart, gender discrimination and hate will persist in society. The laws, policies, and rules will not be helpful unless we exhibit a mature understanding and concern for another gender in

¹⁵ Report on missing Women and Children in India, Report by, National Crime Record bureau, published on 3rd June 2019, P.N. 4

¹⁶ See the Preamble and Art. 19, 21 of Constitution of India, 1950

reality.
