

Gender Equality and Social Justice in India: A Holistic View

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Abstract

India, a nation known for its diverse cultural heritage and intricate historical background, has substantial obstacles in attaining gender equality and guaranteeing social equity for all of its citizens. Researcher believes that unity is the strength for progress and unity comes from equality. Gender inequality affects the society leading to division of unnecessary groups, affecting the economic growth and social justice. This article explores the complex challenges related to gender equality and social justice in India. It assesses the historical development of gender roles in India, the consequences of colonialism, and the effect of traditional norms and behaviors that impede progress towards achieving equality. Research examines the socio-economic obstacles, that have a disproportionate impact on women and marginalized communities, highlighting how different types of discrimination intensify inequities.

The article analyzes the legislative frameworks, Constitutional provisions, significant court decisions, and different initiatives designed to empower women and marginalized communities, despite of which significant inequalities exists in India.

Moreover, the paper offers a comprehensive perspective on the concept of gender equality and the issues relating to gender equality and social justice in India. The conclusion emphasizes changes needed to attain genuine equality and justice, urging united dedication from all segments of society.

Keywords: Equality, Gender, Justice, Law, Education, Awareness

1. Introduction

“The Lord divided his own body into two parts, half male and half female and thus was created the Universe.” – Manu Smriti

Since the origin of human civilization, the blending of male and female was considered to be the most important requirement for the proliferation and development of universal visions. While understanding the strength of any culture and to recognize the value of its excellence much importance is to be given to study the position and condition of women in the society. The ancient India worshipped women as “DEVI”, means comparing them with Goddess. The ill treatment to women commenced in medieval period where the male started dominating the will of the women. India is now in 21st century and the inequity, disparity between men and women is clearly visible in naked eye of every individual. In India people worship Lord Shiva and Goddess Shakti, and the “ardhanariswararoupa” of Shiva and Shakti, but in the same country the transgender communities face atrocities from the society and even in their own family. Though law has recognized them as third gender but the mentality of people in many areas are still has not developed in that way and need awareness.

Gender equality is maintained by ensuring equality in every respect amongst all irrespective of any gender-bias in any sphere of life- be it social, political or economic. Gender equality is not synonymous with sameness. Gender equality means there should not be any discrimination on any ground or field based on gender i.e., male, female or third gender. But discrimination based on gender still persists in all societies, whether developed or undeveloped. Women and other marginalized communities all over the world are victim to it in one way or the other.

Gender equality and social justice are closely intertwined, as gender inequality is a form of social injustice that affects individuals and communities in various ways. Civil society, mostly those associated with the non-governmental organizations (NGOs), community-based organizations (CBOs), and social movements, play a crucial role in promoting gender equality ensuring social justice. Civil society organizations can provide a platform for marginalized communities, including women and gender-diverse individuals, to voice their concerns and advocate for their rights. They can also raise awareness about the harmful effects of gender inequality and promote positive attitudes towards gender diversity.

As opined once by Justice V.R. Krishna Iyer the very reason of the Indian women being treated unequally by the society is due to the genetic sin they are suffering from regarding her discriminated gender. She suffers in every respect including matrimonial, in inheritance and allied rights in economic opportunities, public life and power process.”

As of 2024, no nation has successfully attained gender equality. Out of all the countries, 33% have not made any advancements since 2015. Additionally, the condition of women has worsened in 18 countries, including Venezuela, Afghanistan, and South Africa. Based on the current pace of advancement, it is estimated that it will require an additional 131 years to attain global gender equality. Approximately 40% of women across the globe reside in nations with stringent abortion legislation. Despite the legalization of the right to abortion, its security remains vulnerable.¹

Gender equality should be rightly implemented and exhibited though women and the third gendered individuals are also human beings and they also deserve to enjoy their rights fully without any violence.

2. Objectives of the study

The objectives of this article are:

- a) To understand the broader concept of gender equality
- b) To analyze the legislative frames working for the proper implementation of rights regarding gender equality.
- c) To evaluate the social, economic, and political factors that contribute to gender inequality.
- d) To detect the ways in which gender inequality intersects with other social identities, such as race, class, and sexuality.
- e) To raise awareness about the gender-based inequalities and discrimination that exist in society.

3. Concept of Gender Equality

The concept of gender impartiality champions for maintaining equality in visibility, empowerment and involvement of both sexes in every sphere of life including the public and the private one. While ensuring gender equality several factors including the behavioral aspirations as well as the varied requirements of both men and women are to be taken into consideration to provide equal favor. It means, though are not

¹ Focus2030, Overview of Gender Inequality Around the World

equal in their physical structure, but the rights accrue to them due to their birth as human beings should not depend upon their sexual orientation.

In order to define gender equality, a closer look has to be taken at the gender concept. There is a difference between gender and sex². The term 'sex' is applied to those distinctions between men and women which are based on biological difference, such as anatomy, physiology, hormones and chromosomes and the term gender is applied to the cultural aspects of male and female roles, in other words the behavior, personality and other social attributes that are expected of males and females.

The difference in Sex is created by God but the differences made between different sex is made by human beings on the basis of gender. Equality means the situation in which everyone has the same rights and advantages. Gender equality extends equal rights, opportunities and treatment to all irrespective of any gender. Gender equality is nothing but to ensure equal chances and treatment to all individuals standing in equal footing in every sphere of society regardless of gender. The principle needed for ensuring that all genders have access to same rights, resources and opportunities.

The concept of gender equality is very deeply connected to other social justice movements, such as feminism and LGBTQ+ rights. It recognizes that gender interconnects with other social identities, such as race, class, and sex, and that individuals who experience multiple forms of marginalization are particularly vulnerable to discrimination and inequality.

Overall, the concept of gender equality represents a vision of a society in which individuals are free to express their gender identity and pursue their goals and aspirations without fear of discrimination or marginalization. It is an ongoing process that requires ongoing commitment and action from individuals, communities, and institutions.

4. Historical Background

Gender inequality has been a pervasive issue in India for centuries, with women facing discrimination and marginalization in various forms. The debate on gender equality is not new, rather it has been a topic of discussion and struggle for eras. Throughout history it has shown that, women had faced intolerance, inequity, unfairness and oppression in various forms, including restricted access to education and employment, unequal pay, limited political rights, and societal expectations. However, India also has a rich history of women who have challenged and subverted gender norms and stereotypes.

In the eighties and nineties, various women's organizations and feminist groups emerged in India, advocating for the rights of women and challenging against gender discrimination. These groups motivated for larger representation of women in political and public life, as well as to bring reformations in protecting the rights of women for combating gender-based discriminations.

In the 19th century, Indian women began to participate in the country's nationalist movement and demand greater political rights and social equality. Prominent female leaders such as Sarojini Naidu and Annie Besant played important roles in the struggle for Indian independence from British colonial era.

The movement that started in the later part of 19th and early part of 20th centuries to demand for women's suffrage was to be considered as the most important step in the fight for gender equality. The movement aimed to secure the right to vote for women, as well as other rights such as access to education and the right to own property. Women's suffrage was achieved in various countries right the way through the 20th century, with New Zealand being the pioneer in granting the women the right to vote in 1893.

In the mid-20th century, the feminist movement emerged, seeking to challenge and change the societal

² Handbook on Combating Gender Stereotypes, Supreme Court of India

norms and beliefs that perpetuated gender inequality. The feminist movement brought attention to issues such as sexual harassment and domestic violence and called for the inclusion of women in all aspects of society, including politics, the workplace, and education.

The 1960s and 1970s saw significant progress in the fight for gender equality in many parts of the world, including the passage of laws that prohibited discrimination on the basis of gender in areas such as employment and education. The United Nations also began to focus on gender equality in 1946, with the formation of the UN Commission on the Status of Women and adoption of the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) in 1979.

After the country achieved its independence in 1947, India adopted a constitution that guaranteed equal rights and opportunities for all citizens, regardless of gender. The constitution also provided for affirmative action policies to address historical injustices and promote gender equality. However, the implementation of these policies has been uneven and slow.

In recent decades, India has made significant strides towards gender equality, including the enactment of laws to address issues such as dowry, domestic violence, and sexual harassment. The country has also witnessed an increase in the number of women participating in politics and the workforce, although gender disparities persist in both these areas.

Despite these advancements, India still faces significant challenges in achieving gender equality. The country also has one of the highest Gender biased pay gaps in the world. Gender inequality continues to persist in various forms, including less participation of women in leadership positions, violence based on gender, workplace discriminations, the disparity in internet access between genders and gender-based brutality. Women still continue to face discrimination and cruelty, including sexual assault, honor killings, and dowry-related crimes. However, the struggle for gender equality remains an ongoing one, where activists and organizations continue to fight for gender equality and push for progress and meaningful change.

5. Need For Gender Equality

In 21st century if we are still debating about gender equality in many spheres then it is obvious that we have not achieved it till now. Whenever we heard the term gender equality we thought about the equality right of women. This actually have two impacts. Firstly, we are judging the capabilities of women by looking them less than men, secondly, we are not at all ready to accept that women also need equal opportunities to shine bright. In this race, the other marginalized communities like LGBTQ+ are also fighting for their right to equality. In the male dominated society the gender equality is mostly claimed for women and transgender people to live with dignity, respect and to get equal opportunity in every sphere. Women and transgender too are human beings and they also deserve to enjoy their rights freely. In the global parameter too, more steps are required to maintain gender equality by eliminating the harmful evil practices against women and girl child, including sex trafficking, female foeticide, and sexual violence during work time. Gender equality is essential in order to enable all sexes to contribute equally and get benefitted from economic, social, cultural and political developments within society. The economic growth will be enhanced by equating the entire individual in every sphere. Men, women, transgender are physically different but that doesn't mean social, economic, political, educational discrimination be made to them. The inequality leads to injustice for and in between them.

For a society to be just and equitable, gender equality is necessary. Here are a few explanations:

- **Human right:** In terms of human rights, gender equality is a basic one. Both men and women should

be treated with respect and decency since they are equally valuable.

- **Economic Growth and Development-** Gender equality may result in higher economic expansion. Women can contribute more fully to the economy when they have equal access to resources, work opportunities, and education. Women's participation in the labor force is substantially lower than men's, which limits the country's economic potential. Increasing women's participation can significantly boost GDP. Supporting women entrepreneurs can drive innovation and job creation, contributing to economic growth.
- **Education and Empowerment-** Ensuring equal access to education for girls can lead to higher literacy rates and more skilled workforce, which is essential for economic development. Education empowers women to make informed decisions about their lives, health, and careers.
- **Social well-being:** Greater social well-being may result from gender equality. Women may contribute to the growth of their communities, foster social cohesion, and aid in the reduction of poverty when they are given equal opportunity to engage in society.
- **Health and Well-being-** Gender equality in healthcare ensures that women receive adequate medical attention, which can reduce maternal mortality rates and improve overall family health. Addressing gender discrimination and violence can significantly improve the mental health and well-being of women. Gender equality is crucial for good health. Women are more likely to be healthy when they have equal access to healthcare. Gender equality is crucial for good health. Women are more likely to have successful pregnancies, deliver healthy children, and live longer, healthier lives when they have equitable access to healthcare.
- **Peace and security:** Gender equality is essential for both peace and security. Since women are frequently disproportionately impacted by war, their involvement in peace-making efforts can contribute to a more enduring and durable peace.
- **Political Representation-** Increasing the representation of women in political and decision-making positions can lead to more inclusive and representative governance. Policies designed and implemented with women's perspectives can better address issues affecting women and society at large.
- **Cultural and Social Norms-** Changing traditional gender roles and stereotypes can lead to a more progressive and inclusive society. Promoting gender equality can improve family dynamics and ensure that responsibilities and opportunities are shared equitably.
- **Global Commitments-** Aligning with global standards and conventions on gender equality enhances India's international standing and fosters global cooperation.

Achieving gender equality in India is not only a matter of social justice but also a critical factor in the nation's development and prosperity. Addressing the multifaceted aspects of gender inequality can lead to a more equitable, prosperous, and sustainable future for all citizens. Gender equality provides significant social, economic, and political advantages for everyone.

6. Outcomes of Maintaining Gender Equality

Gender equality leads to: -

- Equality in career opportunities for men, women and transgenders.
- Creating a conducive environment devoid from any kind of gender-bias especially meant for addressing the exclusive needs of women without being limited to maternal functions, family responsibility or child care.

- Enhancement of gender roles for women and men eliminates restricting standards of society.
- By providing equal working opportunities to all sex, a major step is forwarded to all of them for living independently.
- Empowering women and gender-diverse individuals to become leaders and change agents in their communities.
- Encouraging men and boys to become allies in the fight for gender equality and to challenge harmful gender norms and stereotypes.
- Promoting positive attitudes towards gender diversity and creating inclusive environments where all individuals can thrive and reach their full potential.
- Gender equality will also lead to a more equitable and just society where individuals of all genders will enjoy equal rights and opportunities.

7. Legislative Frameworks in India

Constitutional Provisions

There are certain Constitutional provisions that have been provided to enable gender justice in the society though the implementation is not that effective till now.

- Article- 14 – right to equality irrespective of gender
- Article- 15 – no discrimination on the ground of sex, race, caste, religion, place of birth
- Article-15(3) – state can make special provision for women and children
- Article-16 – no discrimination in matter of public employment on the ground of sex
- Article -19 to 22 – deals with different kind of right to freedom irrespective of gender
- Article -21A – right to free and compulsory education provided from 6 to 14 years of children of both boys and girls
- Article- 23 – prohibition of human trafficking irrespective of gender
- Article- 39(a) – state shall in particular direct its policy towards securing the citizens, men and women equally have the right to an adequate means of livelihood
- Article – 39(d) – equal pay for equal work for both men and women
- Article 42 – maternity relief should be provided to women in every work sphere

Although there are several constitutional provisions for non-discrimination and gender equality, the women and transgenders are victimized and not getting their rights fully.

Statutory Provisions

India has various statutory provisions related to gender equality, including:

- a) The Protection of Women from Domestic Violence Act, 2005 - This act provides for the protection of women from domestic violence and abuse, including physical, sexual, emotional, verbal, and economic abuse.
- b) The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 - This act aims to prevent and address sexual harassment of women at the workplace and mandates the formation of Internal Complaints Committees (ICC) in every organization.
- c) The Maternity Benefit Act, 1961 - This act provides for maternity leave and benefits for working women in India. It guarantees 26 weeks of paid leave for women employees who have worked for a minimum of 80 days in a year.

- d) The Dowry Prohibition Act, 1961 - This act prohibits the giving or taking of dowry in connection with marriages. It aims to prevent the exploitation of women in the name of dowry.
- e) The Prohibition of Child Marriage Act, 2006 - This act prohibits child marriages and provides for punishment for those who promote or facilitate such marriages.
- f) The Equal Remuneration Act, 1976 - This act provides for equal pay for equal work for men and women workers in India.
- g) The National Commission for Women Act, 1990 - This act establishes the National Commission for Women (NCW), a statutory body that aims to protect and promote the rights of women in India.
- h) The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, (PCPNDT) Act, 1994

International Treaty

- a) Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW): CEDAW is an international treaty adopted by the United Nations General Assembly in 1979. It defines discrimination against women and provides a framework for national action to end such discrimination. CEDAW is often referred to as the international bill of rights for women.
- b) Beijing Declaration and Platform for Action: The Beijing Declaration and Platform for Action is an outcome document of the Fourth World Conference on Women held in Beijing, China, in 1995. It provides a comprehensive framework for advancing women's rights and gender equality.
- c) Convention on the Rights of the Child (CRC): The CRC is a human rights treaty adopted by the United Nations General Assembly in 1989. It outlines the civil, political, economic, social, and cultural rights of children, including girls.
- d) United Nations Security Council Resolution 1325 (UNSCR 1325): UNSCR 1325 is a resolution adopted by the United Nations Security Council in 2000. It recognizes the disproportionate impact of armed conflict on women and calls for their full and equal participation in all aspects of peacebuilding and conflict resolution.
- e) International Labour Organization (ILO) Convention No. 100: ILO Convention No. 100 is a treaty adopted by the International Labour Organization in 1951. It requires countries to promote gender equality in the workplace by eliminating discrimination against women in employment, pay, and other conditions of work.
- f) Convention on the Rights of Persons with Disabilities (CRPD): The CRPD is a human rights treaty adopted by the United Nations General Assembly in 2006. It recognizes the rights of persons with disabilities, including women with disabilities, and calls for their full inclusion and participation in society.
- g) Convention on the Prevention and Punishment of the Crime of Genocide: The Convention on the Prevention and Punishment of the Crime of Genocide is a treaty adopted by the United Nations General Assembly in 1948. It includes provisions prohibiting gender-based genocide and other forms of violence against women.
- h) Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children: The Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children is a supplement to the United Nations Convention against Transnational Organized Crime. It was adopted by the United Nations General Assembly in 2000 and calls for the prevention and punishment of trafficking in persons, with a particular focus on women and children.

- i) The Sustainable Development Goals (SDGs): Adopted by the UN General Assembly in 2015, includes Goal 5, which aims to achieve gender equality and empower all women and girls. This goal recognizes that gender equality is not only a fundamental human right but also a necessary foundation for a peaceful, prosperous, and sustainable world.

Regulatory Bodies

There are several regulatory bodies in India that work towards promoting gender equality and ensuring the implementation of relevant laws and policies. Some of the major ones are:

- a) National Commission for Women (NCW) - The NCW is a statutory body established in 1992 to protect and promote the rights of women in India. It investigates complaints of discrimination and violence against women and recommends measures to improve their status.
- b) Ministry of Women and Child Development (MWCD) - The MWCD is responsible for formulating policies and programs for the welfare and development of women and children in India. It also works towards creating a gender-sensitive and inclusive society.
- c) State Women Commissions (SWCs) - SWCs are state-level bodies that work towards protecting the rights of women and promoting gender equality. They investigate complaints of violence and discrimination against women and also advise the state government on policy matters related to women.
- d) National Human Rights Commission (NHRC) - While the NHRC is not specifically focused on gender equality, it plays an important role in promoting human rights and ensuring that the rights of women are protected. It investigates complaints of human rights violations, including those related to gender-based violence and discrimination.

Despite of all these Laws, Acts and Amendments,

- Still women suffer gender-based discriminations in some rural areas of the country
- There are weak implementation of law relating to women and transgenders
- In some areas women and transgenders doesn't aware of their rights
- No law has been made to strengthen rights of LGBTQ+ communities
- No law enacted to legalize same-sex marriages
- No law for recognition of marital rape
- Rape law made with gender specific and no law for male suffering from sexual harassment

8. Judicial Analysis

- a) **Vishaka v. State of Rajasthan (1997)**³- In this case, the Supreme Court of India laid down Vishakha guidelines that defined sexual harassment, prevent sexual harassment of women in the workplace, and put the onus on the employers to provide a safe working environment for women, but implementation of these guidelines has been uneven and sexual harassment remains a pervasive problem in many workplaces.
- b) **State of U.P. v. Krishna Master (2010)**⁴- The Supreme Court of India held that a woman who is raped by her husband cannot file a criminal complaint against him as marital rape is not recognized as

³ AIR 1997 SUPREME COURT 3011

⁴ AIR 2010 SUPREME COURT 3071

a criminal offense in India.

- c) **National Legal Services Authority v. Union of India (2014)**⁵- The Indian Supreme Court recognized the rights of transgender individuals. In this case a landmark decision given by Supreme Court of India which declared transgender people to be a “third gender” affirmed that the fundamental rights granted under the constitution of India will be equally applicable to transgender people and gave them the right to self - identification of gender. This judgement is a major step towards gender equality in India, but noted that society has not accepted them in that way till today. Transgender persons face discrimination and prejudice in society, including in education and employment, even in their own family.
- d) **Navtej Singh Johar v. Union of India (2018)**⁶- In this case, The Supreme Court decriminalized homosexuality in India, but the LGBTQ+ communities still face discrimination and marginalization in society. The society is not accepting the sexual orientation of the individuals where disparity arises.
- e) **Vineeta Sharma v. Rakesh Sharma (2020)**⁷- In this case, The Supreme Court has determined that daughters possess equal coparcenary rights in Hindu Undivided Family (HUF) possessions, irrespective of whether their father was alive on September 9, 2005, when the Hindu Succession (Amendment) Act, 2005 was enacted. Hopefully, this ruling upheld gender parity in the realm of inheritance entitlements.

9. Issues

Recently, a number of ongoing challenges concerning gender equality have come to light. Some of them consist of: -

- a) Pay gap - The disparity in salaries earned by men and women at work is referred to as the gender pay gap. Our Indian constitution provides provision relating to equal pay for equal work under article 39(d), but Women still earn less than males on average, with differences by country and industry, notwithstanding recent progress. The gender pay gap in worldwide is at 20% now-a-days.⁸
- b) Gender-based violence - gender-based violence refers to physical, sexual, emotional, or economic violence that is directed towards an individual because of their gender. It can include domestic violence, sexual harassment, and sexual assault.
- c) Maternal health -The wellbeing of women during their pregnancies, deliveries, and afterwards is referred to as maternal health. Because to poor nutrition, limited access to high-quality healthcare, and poverty, maternal mortality rates are greater for women in underdeveloped nations.
- d) Representation in politics - Women are often underrepresented in politics and government, both at the national and local level. This could be due to a variety of factors including social and cultural norms, discrimination, and lack of access to resources.
- e) LGBTQ+ rights- Those who identify as LGBTQ+ continue to endure discrimination and inequity. This covers unfair healthcare access, racial discrimination at work, and assault and harassment.
- f) Representation in the Media- Media frequently underrepresents or stereotypically portrays women and other oppressed groups. Inequality in society may result from this, which could also reinforce negative preconceptions.

⁵ AIR 2014 SUPREME COURT 1863

⁶ AIR 2018 SUPREME COURT 4321

⁷ AIR 2020 SUPREME COURT 3717

⁸ International Labour Organisation Report, 2024

10. Suggestions

Suggestion for promoting gender equality: -

- a) Education - Education is a vital method for advancing gender equality, especially for girls and women. Women are empowered by education because it equips them with the information and abilities to actively engage in social, economic, and political life.
- b) Empowerment- Providing women and girls with the means to fully engage in all facets of life can aid in the advancement of gender equality. Access to financial resources, education, and mentoring opportunities are a few examples of this.
- c) Raising awareness of the significance of gender equality and promoting policy changes can aid in fostering an environment that is favorable to gender equality. This can involve promoting women's leadership and rights, as well as organizing campaigns to combat harmful gender stereotypes and attitudes.
- d) Accountability- One key tactic for bringing about change is to hold governments and other institutions responsible for advancing gender equality. This may entail keeping track of progress made toward gender equality objectives and holding organizations responsible for their discriminatory practices and policies.
- e) Collaboration- Promoting gender equality depends on cooperation between governments, civil society organizations, the private sector, and individuals. Together, these parties can combine their resources and knowledge to bring about long-lasting change.
- f) Intersectionality- It's critical for advancing gender equality to understand how gender intersects with other types of discrimination, such as those based on race, ethnicity, and sexual orientation. In order to do this, it is necessary to acknowledge the multiple influences that shape women's experiences and to develop strategies for dealing with these intricate intersections in both policy and practice.
- g) Legal reforms- Law need to be effectively implemented for ensuring gender equality. The victims of gender inequality must not suffer more.

11. Conclusion

Gender equality is not only a matter of social justice but also a fundamental human right. Achieving gender equality requires dismantling the social, economic, and political structures that perpetuate gender discrimination and inequality. It involves creating a world where individuals of all genders can fully and equally participate in all aspects of society, and where their contributions and achievements are recognized and valued equally. We can build a more just and equitable society for everybody by cooperating and adopting a comprehensive strategy. Promoting gender equality requires the active participation and engagement of individuals, communities, civil society organizations, and governments at all levels. By raising awareness, challenging harmful gender norms and stereotypes, empowering women and gender-diverse individuals, and creating inclusive environments, a society can be created where all individuals have equal rights and opportunities, regardless of their gender identity. In this way, gender equality can help to generate a more just, prosperous, and peaceful world for all. The procurement of gender equality requires consistent efforts of all individuals, governments, communities etc. and the effective implementation of law.

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