



Gender based stratification and Gender justice : An emerging challenge from Human rights perspective in an Atmanirbhar Bharat.

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Abstract

Gender stratification refers to the inequalities between women and men regarding wealth, power and privilege. Gender stratification is a relatively new concept borne of the feminist perspective in social sciences, especially in sociology. Bharat had been witnessing gender stratification in its history towards mankind..

Bharat has been a patriarchal society and gender justice is a challenge in a Nav and an Atmanirbhar Bharat. From feminist perspective in social sciences women has been facing gender discrimination in education, jobs, power and privileges.

It is an emerging challenges from human rights perspective. Across the globe if we take the continent of Asia and Africa largely and some parts of Western Europe gender stratification is a challenge from feminist point of view specially regarding girl's education. In the middle- east women are discriminate to a large extent in all spheres of life. This amounts to human rights violations because Universal Declaration of Human Rights (UDHR) 1948 declares that there should not be any discrimination in respect of race, sex, colour and religion. The Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979, is an international legal instrument that requires countries to eliminate discrimination against women and girls in all areas and promotes women's and girls' equal rights.

The objectives of the paper will be to emphasize on the International Instruments that is UDHR 1948 and CEDAW 1979. It will look into the legal aspects of human rights and also the Constitutional rights of India where women can be given gender justice inspite of the stratification.

The methodology adopted will be doctrinal.

Keywords: human rights, constitutional rights, gender discrimination, gender justice, emerging Bharat.

1. Introduction

Gender stratification refers to the social ranking, where men typically inhabit higher statuses than women. Often, the terms gender inequality and gender stratification are used interchangeably. Gender stratification, also termed gender inequality, is a social phenomenon in which there are inequalities related to wealth, power, and privilege between men and women. These gender inequalities may be influenced by culture, biology, or psychology. For example, women

in many cultures are expected to put their careers on hold for childbearing and raising a family while men earn the money to support their family. Many positions on the higher rank are taken away by men than women having a discrimination in salary where men earn more than a women. Gender discrimination is in the workplace where women face sexual harassment from male counterpart.

The birth of sons was given more weight than daughters. Girls were not allowed to study the Vedas

or become Brahmacharians. 'Women have to be under their father throughout childhood, under their husband during youth, and under their son during old age,' said Manu, the lawgiver of Indian society.

History of Indus valley civilization indicates that women were given job of their house nursing their offspring and were mainly responsible for household activities and they were immensely respected for their contribution but still the head of the family was a 'MAN' and their superiority was unquestionable.

In the Vedic period, women had the right to education. Therefore, Brahmanism is to remain, unmarried throughout their lives and practiced enlightenment. In some "Upanishads", there were stories of "Gargi and Maitreyi" where they were women scholars who imparted education.

In the post-vedic period the status of women were declined. During this period, scriptures were composed to add the secondary status of women. "Manusmriti" was also composed during this period. Due to the addition of religion in the "Manusmriti", the status of women were degraded in the society. There was gender stratification and Bhartvarsha was more patriarchal centric. The age of marriage of women decreased. Child marriage system came into existence. She was expected to give birth to male offspring.

In the mediaeval period the status of women were based on gender stratification. Many invaders invaded India but with the coming of the Islamic rule in Bharatvarsha, the gender stratification was prominent and the status of women which was degraded already became even more secondary. The women were kept in veil and were put under the four walls of the house. Sati pratha, Jauhar came into existence.

In Indian society, women were worshiped as mothers and Gods; while on the other hand, women were treated as secondary. In the nineteenth century, women had a secondary place in society and at home. No scope was given to her activism.

With the coming of the British in the nineteenth century the era of modern age started to evolve. From the beginning of the British rule in India in the early nineteenth century, a new system of colonialism and capitalism came to the Indians. The great significance was the period of Renaissance where we can see the upliftment of women in the society. Indian social reformer like Raja Ram Mohan Roy first enacted the Prohibition of Sati Act in 1829 with the help of Lord Bentinck. Recognizing the main reason for the backwardness of Indians was the confinement of

women. Mahatma Jyotiba Phule started the first school for girls in Pune in 1848. Widow Remarriage was later enacted in 1856.

Women were educated in the British education system. Women participated in the freedom struggle also. The participation of women in the political, social, economic and educational spheres began to increase. But in the male-dominated system, the status of women has not changed much.

Democracy was adopted after independence. India adopted an independent constitution. The 20th and 21st centuries are very important for Indian society. This period has literally brought about many radical changes in the lives of Indian women.

Nevertheless, when considering the social status of women in the society and the gender stratification, the gender status is considered. Various progressive laws, various projects and opportunities were developed for gender justice but the question still arises does a patriarchal society really treat women as equal to men? Women have tried to prove their existence in education, jobs, business, politics, and social activity in the post-independence period but whether gender justice can be seen in the development of women in society.

It is an emerging challenge from human rights perspective. Also how far we have achieved in the 'AmritKaal' in an Atmanirbhar Bharat.

Objectives of the Study

1. The research paper will emphasize on the International Instruments that is, Universal Declaration of Human Rights 1948, and Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) 1979 and also on the Treaties and Commissions of United Nations.
2. The research paper will emphasize on the Constitutional Rights of India where women can be given gender justice in spite of the stratification.
3. The research paper will also emphasize on the steps taken by the legislators of Bharat to enact policies and legislations.

Methodology

The methodology adopted for the research paper is doctrinal. The research paper is based on secondary source. The data required for the study is collected through various books, journals, internet and newspapers. The purpose of the study on gender discrimination has been completed through collecting the relevant data.

Discussions

Women and girls represent half of the world's population and, therefore, also half of its potential. Gender equality, besides being a fundamental human right, is essential to achieve full human potential and sustainable development. Moreover, it has been shown that empowering women spurs productivity and economic growth.

UN support for the rights of women began with the organization's founding Charter. Among the purposes of the UN declared in Article 1 of its Charter is "To achieve international co-operation in promoting and encouraging respect for human rights and for fundamental freedoms for all without distinction as to race, sex, language, or religion".

As the international feminist movement began to gain momentum during the 1970s, the General Assembly declared 1975 as the International Women's year and organized the first World Conference on Women, held in Mexico city. At the urging of the Conference, it subsequently declared the years 1976-1985 as the UN Decade for Women.

Five years after the Mexico City conference, a Second World Conference on Women was held in Copenhagen in 1980. The resulting Programme of Action called for stronger national measures to ensure women's ownership and control of property, as well as improvements in women's rights with respect to inheritance, child custody and loss of nationality.

In 1985, the World Conference to Review and Appraise the Achievements of the United Nations Decade for Women: Equality, Development and Peace, was held in Nairobi. It was convened at a time when the movement for gender equality had finally gained true global recognition. The event was described by many as "the birth of global feminism."

The Fourth World Conference on Women, held in Beijing in 1995, went a step further than the Nairobi Conference. The Beijing Declaration and Platform for Action asserted women's rights as human rights and committed to specific actions to ensure respect for those rights.

The Commission on the Status of Women (CSW) is the principal global intergovernmental body exclusively dedicated to the promotion of gender equality and the empowerment of women. The Commission is instrumental in promoting women's rights, documenting the reality of women's lives throughout the world, and shaping global standards on gender equality and the empowerment of women.

The 1948 Universal Declaration of Human Rights

constitutes the first international instrument to detail the rights and freedoms of individuals, and contains 30 articles covering the integrity of the individual, political and civil rights (such as freedom of thought, expression, religion, association and access to the political process) and economic rights (such as the right to employment, education, social security, and full participation in society). Echoing the Charter of the United Nations which encourages respect for human rights and fundamental freedoms for all people "without distinction as to race, sex, language or religion" the Declaration proclaims that everyone is entitled to the rights and freedoms it sets forth without distinction of any kind, including that in gender.

Since its adoption, the United Nations has worked to translate the principles of the Universal Declaration into international treaties that protect specific rights. Each of these treaties is grounded, in the concepts of equality and non-discrimination contained in the Universal Declaration, and many explicitly provide that the rights that they establish shall be available to men and women on a basis of equality.

In 1967, the international community adopted the Declaration on the Elimination of Discrimination against Women, which expressed concern that despite progress which has been made in human rights, considerable discrimination against women continued to exist.

The non-binding Declaration set the stage for the elaboration and adoption in 1979 of the Convention on the Elimination of All Forms of Discrimination against Women. The Convention brings together, in a single legally binding instrument, provisions requiring the elimination of discrimination on the basis of sex in the enjoyment of civil, political, economic, social and cultural rights, and specific rights of particular concern to women and girls.

The convention resulted from initiatives taken within the UN Commission on the Status of Women (CSW), to consider and make policy recommendations to improve the status of women. The Convention was based on the provisions of the United Nations Charter, which expressly affirms the equal rights of men and women, and the Universal Declaration of Human Rights, which proclaims that all human rights and freedoms are to be enjoyed equally by men and women without distinction of any kind.

The Convention moves beyond guarantees of equality and equal protection before the law in existing legal instruments and sets out measures for the achievement of equality between men and women,

regardless of their marital status, in all aspects of political, economic, social and cultural life.

States parties have an obligation to eliminate discrimination against women through legal, policy and programmatic measures. The obligation applies to all spheres of life, as well as matters relating to marriage and family relations, and includes obligations to take all appropriate measures to eliminate discrimination against women by any person, organization or enterprise

India ratified CEDAW on July 9, 1993.

The International Instruments are committed in giving gender justice to all forms of gender discrimination but the question arises had all the States parties committed themselves in eradicating all forms of discrimination. We have seen in large parts of Asia and Africa where discrimination is based on girl's education, marriages, in economic and political spheres.

In most part of Europe we see gender discrimination too. Women in Europe were not allowed for adult suffrage till 1928. In 1928 the Conservative government passed the Representation of the People (Equal Franchise) Act 1928 equalizing the franchise to all persons, male and female. So discrimination was also an issue in the Industrial countries of the world.

In Africa we see gender discrimination in women's rights. The Maputo Protocol advances African Women's Rights. The Protocol guarantees extensive rights to women, including the right to take part in the political processes, to social and political equality with men, improved autonomy in their reproductive health decisions, and an end to harmful traditional practices.

The African Charter on Human and People's Rights on the Rights of Women in Africa requires State Parties to combat all forms of discrimination against women through appropriate legislative measures.

In large parts of Asia specially in Central Asia and South Asia we see gender discrimination in all spheres of law.

The research paper emphasizes on the challenges on gender discrimination faced by an Atmanirbhar Bharat on giving gender justice inspite of the discrimination.

India adopted an independent Constitution. Since the ratification of CEDAW by India the Constitution of India has worked to inculcate the provisions of the Conventions and also of the United Nations Charter and Universal Declaration of Human Rights 1948. Adopting the provisions of the Constitution of India

Bharat has taken measures to enact legislations for women, to eradicate the gender discrimination and ensure gender justice to the women of India. This century is an era for Atmanirbhar Bharat. Bharat is emerging towards its 'AmritKaal'.

The principal of gender equality is enshrined in the Indian Constitution. The Constitution of India not only grants equality to women but also empowers the State to adopt measures in favour of women for neutralizing the socio-economic and political disadvantages, measures in developing education in favour of women. Fundamental Rights, among others, ensure equality before the law and equal protection of law; prohibits discrimination against any citizen on grounds of religion, race, caste, sex or place of birth, and guarantee equality to all citizens in matters relation to employment. Articles 14, 15, 15(3), 16, 39(b), 39(b), 39(c), 21(A) and 46 of the Constitution are of specific importance in this regard.

Constitutional Privileges

- i) Equality before law for women (Article 14)
- ii) The State not to discriminate against any special provision in favour of women and children Article 15 (3).
- iii) Equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State (Article 16).
- iv) The State to direct its policy towards securing for men and women equally the right to an adequate means of livelihood (Article 39(a)); and equal pay for equal work for both men and women (Article 39(d))
- v) To promote justice, on a basis of equal opportunity and to provide free legal aid by suitable legislation or scheme or in any other way to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities (Article 39 A)
- vi) The State to promote with special care the educational and economic interests of the weaker sections of the people and to protect them from social injustice and all forms of exploitation (Article 46)
- vii) To promote harmony and spirit of common brotherhood amongst all the people of India and to renounce practices derogatory to the dignity of women [Article 51(A) (e)]
- viii) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct

election in every Panchayats to be reserved for women and such seats to be allotted by rotation to different constituencies in a Panchayat [Article 243 D(3)]

- ix) Not less than one-third of the total number of offices of Chairpersons in the Panchayats at each level to be reserved for women (Article 243 D(4))
- x) Not less than one-third (including the number of seats reserved for women belonging to the Scheduled Castes and the Scheduled Tribes) of the total number of seats to be filled by direct election in every Panchayat to be reserved for women and such seats to be allotted by rotation to different constituencies in a Municipality [Article 243 T (3)]
- xi) Reservation of offices of Chairpersons in Municipalities for the Schedule Castes, the Scheduled Tribes and women in such manner as the legislature of a State may by law provide [Article 243 T (4)]

To uphold the Constitutional mandate, the State has enacted various legislative measures intended to ensure equal rights, to counter social discrimination and various forms of violence and atrocities and to provide support services especially to working women.

- 1) The crimes identified under the Indian Penal Code (IPC)
 - i) Rape (Sec. 376 IPC)
 - ii) Kidnapping & Abduction for different purposes (Sec 363-373)
 - iii) Homicide for Dowry, Dowry Deaths or their attempts (Sec.302/304-B IPC)
 - iv) Molestation (Sec. 354 IPC)
 - v) Sexual Harrassment (Sec.509 IPC)

Basing on the municipal law different legislations had been enacted like guidelines by the Supreme Court of India for sexual harassment in workplace after 'Vishaka case'. IPC had been Amended under Criminal Law Amendment Act 2013 regarding crimes against women after the 'Nirbhaya Case'.

The Protection of women from Domestic Violence Act, 2005 had been legislated by the Indian Government to protect the rights of women from any kinds of violence at home by the members in the family. The UN system continues to give particular attention to the issue of violence against women. The 1993 General Assembly Declaration on the Elimination of Violence against Women contained "a clear and comprehensive definition of violence against women and a clear statement of the rights to be applied to ensure the elimination of violence against women in

all its forms". Violence against women is a pandemic affecting all countries in the world.

The International Day for the Elimination of Violence against Women is observed on 25 November.

The Hindu Succession Act, 1956 with amendment in 2005 has given women's equal property rights.

The Prohibition of Child Marriage Act, 2006, Dowry Prohibition Act, 1961, Immoral Traffic (Prevention) Act, 1956 has been legislated to give gender justice.

The most important achievement of Bharat is that it made Education as a fundamental right under Article 21A of the Indian Constitution. The statutory act that is the (Right to Education Act 2009) has made education compulsory from 6-14 years of age to all children without any discrimination to sex. Article 21 A has given boost to the all girls for achieving their dream in an Atmanirbhar Bharat. Bharat is emerging as an empowerment for women. 'Betibachaobetipadhaao is the motto of an Atmanirbhar Bharat in 'AmritKaal'.

The Department of Women & Child Development in the Ministry of Human Resource Development has prepared a "National Policy for the Empowerment of Women" in the year 2001. The goal of policy is to bring about the advancement, development and empowerment of women.

The 'AmritKaal' has given financial stability to a girl child when she is born. The "Sukanya Sambridhi Yogna" has empowered a girl child financially from her birth till she attained maturity.

This is the gender justice we can see in an Atmanirbhar Bharat where gender discrimination is a challenge from the human rights perspective.

The United Nations is now focusing its global development work on the recently- developed 17 Sustainable Goals (SDGs). Women have a critical role to play in all of the SDGs, with many targets specially recognizing women's equality and empowerment.

Goal 5, "Achieve gender equality and empower all women and girls". Is known as the stand-alone gender goal, because it is dedicated to achieving these ends. Deep legal and legislative changes are needed to ensure women's rights around the world.

Results

Gender stratification has been witnessed by India from ancient time to the present day Democracy but we have seen gender justice in the pre- independence and post-independence period. Gender justice can be witnessed by India greatly in the post- independence period after the Constitution was enforced in 26th January 1950. Since the time of enforcement of the

Constitution till the present day of 'AmritKaal' we have seen women of India has evolved as an enforcing power in every field of life.

From the discussion one can find out that India after ratifying CEDAW 1979, and enforcing its provisions into municipal law and laying down the principles of the United Nations Charter and Universal Declaration of Human Rights 1948 in the Constitution of India, Bharat has made all women Atmanirbhar in the 'AmritKaal' of its glorious Independence.

On 21 September 2023, Indian legislators passed the first legislation considered in the country's new Parliament building : the Women's Reservation Bill, 2023. The bill, which passed both houses of Parliament almost unanimously- with just two votes against- will ensure that women occupy at least 33 per cent of the seats in state legislative assemblies and the Lok Sabha, the lower house of Parliament.

The UN will have to empower women through many Treaties and Conventions and make Goal 5 of SDGs possible in near future.

NGOs and media should play a major role in bringing awareness among the Indians through television and cinema for women empowerment.

Specially the judiciary of India should have equal number of women judges as that of male counterpart. The National human rights Commission should be more

active towards women welfare in India.

The rural women of India and the Schedule tribes and Adivasi women should be empowered through the provisions of the Constitution.

Women studies should be included in the syllabus in all the Departments of the Universities throughout Bharat.

Bharat will be an Atmanirbhar Nation when there will be no gender discrimination and it can give true justice to different section of women taking shelter under it.

Conclusion

In the post- independence era, women are being provided education, jobs and business opportunities with the idea that if they become educationally and financially self-sufficient, it will truly enhance their social status. Women are working equally with men in jobs and businesses where she has proved her existence. Yet the question of equal pay, the mental-physical abuse that occurs, and the attitude of discriminations are evident. We can say India will get freedom when the mindset of the male dominated society will change towards women and the rural along with the urban women will hold their hands together and march forward with dignity and grace in this 'AmritKaal' of 'Atmanirbhar Bharat'.

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