



## Gender Equality and Rights of Women in India

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### ABSTRACT

*Over the past decade, gender equality and women's empowerment have been explicitly recognized as key factors in the country's social and economic development. In addition, promoting gender equality and women's empowerment is one of the eight Millennium Development Goals (MDGs) to which India is a party. Equality does not mean that women can get everything they want, but that both sexes have the same opportunities. Gender equality is equal and measurable representation of women and men. The right to equality is a right that allows every citizen of a country to have the same position before the law. There are various things in our daily lives that seem easily available and accessible to most people, but they are not. We see that in every place there are many restrictions in one way or another. Temples, Mosques and even the country's Supreme Court and the list goes on. Gender equality protects women through Articles 15(1), 16(2) and 42 of the Constitution of India, which protect a person from injustice in equality, employment and benefits based on gender. Gender equality aims to enable each gender to live with dignity and freedom. Gender equality also includes shared activities such as the distribution of power and responsibilities at normal levels between men and women in households, workplaces, educational institutions, and generally in the national and international community.*

### KEY WORDS

*Discrimination, Freedom, Gender Equality, Right to Equality, Women.*

### INTRODUCTION

“Gender equality is more than a goal in itself. It is a precondition for meeting the challenge of reducing

poverty, promoting sustainable development and building good governance”

*Kofi Annan*

Women, who play different role in family, complete the world. Law is the set of rules upheld to regulate the conduct of individuals. From ancient time in this world, women are treated as a more vulnerable class and they are the survivors of the offences like assault, eve-teasing, female infanticide, settlement, aggressive behaviour at home, marriage during childhood and acid attacking. They were just spent their life underneath the shoes of their husband and father. Laws are being made to assure them about the lives of the women from the viciousness of their families and social orders, and to give them their rights of which they are entitled.

Women's right may be understood as the right to opportunities as well as freedoms that women have, particularly the chance to be treated equally and given indistinguishable lawful rights similar to men. The rights accessible to woman in India can be grouped into two classifications, particularly as constitutional rights and legal rights. The constitutional rights are those which are endowed in the different provisions of the constitution. The legal rights are those which are given by the different laws of the Parliament and the State Legislatures.

Women should confine their exercises to the confines of the home. Despite the fact that the conventional view is changing, the “prison boundaries” have not yet been destroyed. The fact that women work outside the home is not a new trend. Women have been involved in financial affairs since prehistoric times. It is believed that since the post-Vedic period, only women of the lower social classes worked outside the home. A remarkable change occurred after India became free in 1947. The Constitution of independent India proclaimed that employment of women should not be discriminated against. This opened more doors for women's employment, and the employment rate increased, especially among educated women of the upper classes.

## **Status of Women in India**

### **Ancient India**

The evidences and manuscripts available related to life in ancient India have allotted women a subordinate way of life as these writings define the role of Aryan men in detail however, women are disregarded as the other subaltern classes. The Indian sacred writing the Bhagwad Gita places Women, Vaisyas and Sudras in a single classification. According to another contents, the discipline for killing either a woman or a Sudra is the equivalent.

The subordination of women to men is plainly portrayed in the Manu Smriti. Some other chronicled confirmations recommend that during the Vedic period women had an equivalent status to men. They were permitted to contemplate the Vedas and take an interest in Philosophical conversations. Indeed, even a few hymns of the Rig Veda were made by women. In the wake of finishing their instruction, they could either enter wedded life or give themselves to religious and mystical investigations simply like men. According to the Vedic rituals the marrying girl ought to be an adult woman, develop in body and mind. She is known as a Kanya, who picks a spouse for herself. Religious sacred writings and stories not just think about the wife and husband of equivalent status yet additionally lay accentuation on her dignity and regard in social and individual life.

### **Medieval India**

The status and rights of women in Medieval India can be gathered into four classes alongside the socio-religious, economic and political set-up of medieval India. Among these classifications one is of the upper caste and high society Hindus and the second that of the lower caste and lower-class Hindus. The third gathering is of the world class women from illustrious families in Muslim people group and the fourth of the Muslim women from the average people and poor families. Some illustrious women from Muslims families looked into exchange and business. Be that as it may, there is no notice anyplace if Hindu and Muslim women from the centre and lower classes partook in exchange and trade during the medieval India. The economic wellbeing of women in medieval India was to a great extent chastised along the socio-religious divisions of the Indian society. The great and insidiousness part of medieval Indian society needed to do a ton with the caste

and class of the women, on the off chance that they were furnished with certain benefits because of their caste and class they were additionally denied of numerous different benefits due their caste and class.

Despite the fact that the economic and political pretended by the women from the Muslim eminence had changed the impression of women in the Indian Society. Be that as it may, no new advancement happened during this period as the job of women was restrained in correlation with a lot bigger than role in ancient India. The women of royalty enjoyed in a magnified situation in the Mughal courts. These women were furnished with the materialistic solaces as well as the chances of mental and otherworldly development.

### Modern India

It is an extremely critical advancement and is characteristic of independent India. There are numerous factors which are liable for this change. Socio-economic emancipation had been most prominent factor. The adjustments in the mentality of individuals are likewise significant. Justice Desai points out that “the genuine development which has been made during this period is actually in the upheaval that has been realized in the standpoint as to the origination of the status of women and her job in society. Presently women are never again viewed as a child bearing machine and prostitute in the home. She was obtained another status and another social structure”. The employment of women has brought blended reaction both from expert and lay people. It is normal information that social changes inspire once in a while more negative than positive feelings. With respect to the employment of women, even social researchers generally, took a negative view. Clinicians gave negative remarks. Lundberg and Farnham communicated a specific negative advancement.

A few sociologists likewise would in general bump the increased employment of women alongside different patterns, for example, higher separation rates, more wrongdoing and delinquency. Other, for example, Bossard took a solid negative position contending that such employment was gravely inconvenient to youngsters. Numerous individuals alert for a straightforward clarification of the various and complex social issues, conjectured that the employment of women was the principal reason for current social issues. It was suggested that women ought to be constrained out of employment. All the more significantly, the provincial set-up gave women a passage into the modern economic part and furthermore in the organized sector of the economy.

### Gender Equality

Gender equality can be characterized as ‘Just power relations between women and men in which both are valued equally in society and empowered to pursue their human rights and fundamental freedoms’.

During the previous century, not with standing gigantic progressions in society, women are as yet not treated equally and are not managed same chances. They are still at the peripheries of economic, political, social and social rights. In post catastrophe and struggle settings, women often experience the ill effects of absence of security and are rejected from dynamic procedures in economic, social, and political justice.



The Preamble of the Constitution inter alia discusses social, political and economic justice for all citizens of the nation. The Preamble discusses social justice which ought to be comprehended in the light of guaranteeing nullification of a wide range of inequalities which may result from inequality in status, class, rank, sex, race, title and so forth. Economic justice guarantees that every individual ought to get his only duty for the work given by him/her independent of rank, statement of faith, sex, status and so forth. Political justice guarantees that superfluous qualification among people in political issues ought not be permitted. The Preamble discusses nobility of an individual and that poise ought to be guaranteed by guarantying equal key rights to all people. All the fundamental rights contained in Part III of the constitution are relevant to all citizens of India regardless of sex.

## Gender Discrimination

Discrimination is definitely not another wonders it is as old as civilization. Discrimination in workplace can be in various structures, there may be a solitary explanation or a mix of different grounds of discrimination. Discrimination in a workplace may establish sex, capability, incapacity, pregnancy, national starting point, race, shading, religion, sexual harassment, equal compensation or compensation, station and ethnicity. Discrimination alludes to inequality. Gender discrimination is treated people diversely in their employment explicitly on the grounds that an individual is a woman or a man.



Factors causing gender inequality:

### 1. Social Factors

- **Education:** In India female education rate is lower than the male literacy rate. According to the statistics, literacy rate of females is 65.46% when contrasted with males which is 82.14%.
- **Health:** On health problem, the gender imbalance among women's and men's life anticipation and women experience contrasted with men in good health due to loads of savagery, sickness, or other important variables.
- **Patriarchal Society:** The greater part of India has strong man centric custom, where male hold authority over female and acquire property and title. It is the custom where inheritance passes from father to son, daughter move in with the spouse and his family upon marriage and relationships incorporate a bride price or dowry.
- **Dowry:** The dowry framework in India adds to gender disparities by impacting the discernment that daughters are a burden on families. Such conviction restricts the assets put by parents in their daughters and cutoff her bartering power inside the family.
- **Gender-based Violence:** Gender-based viciousness like assault, rape, affront to humility, kidnapping, abduction, remorselessness by her spouse or family members, importation or trafficking of girls, oppression for dowry, obscenity and other remaining crimes are practiced on women. These crimes show the serious level of disparity in India.
- **Women's Inequality in Decision Making:** In India, women have less authority than men to lawful acknowledgment and security, as well as less access to public information and data, and less decision-making power both inside and outside the home. This is likewise one reason for disparity in gender.

### 2. Economic Factors

- **Labour participation:** There is wage imbalance among people in India. A significant number of women enter the job market after thirties, by and large after culmination of their conceptive jobs of child bearing.

- **Access to Credit:** There are enormous inequalities among people regarding admittance to banking administrations. Women generally need guarantee for bank advances because of low degrees of property proprietorship and miniature credit plans have gone under investigation for coercive loan practices.
- **Property Rights:** In spite of the fact that women have equal freedoms under the law to possess property and get equal inheritance privileges, yet by and by, women are in a difficult place. The Hindu Succession Act of 2005 gives equal inheritance rights to hereditary and jointly possessed property, the law is feebly authorized.
- **Women's Inequality in Equal Inheritance:** Women are irrelevantly denied of their legitimate inheritance socially and religiously as well. The religious constitution doesn't give women equal inheritance; there is an isolation of giving the property to women as they won't be given the property as men can have.
- **Employment Inequality:** Women in India are as yet not found at higher position and in the event that they found at later phase of their vocation. In the work environment the men for the most part stand firm on the higher situations and the women often stand on lower paid footings like secretaries.

### 3. Cultural Factors

- **Old Age Support from Sons:** A key variable driving gender inequality is the inclination for sons, as they are considered more valuable than daughters. They are supposed to support the old age security of their parents.
- **Partials System:** It is a typical compassion framework wherein an individual's family membership determines just through his/her father's lineage. It by and large includes the inheritance of property, names, or titles by people related through one's male kin.
- **Role of Sons in Religious Rituals:** Another element is that of religious practices, which must be performed by sons for their parents' afterlife. Sons are in many cases the main individual qualified for performing funeral rights for their parents.
- **Son Preference:** Sons are given the exclusive privileges to acquire the family name and properties properties and they are seen as extra status for their family. In addition, the possibility of parents losing daughters to the spouse's family and costly dowry of daughters further deters parents from having daughters.



### 4. Legal and Political Factors

According to our Constitution men and women are equal as indicated by the laws and it means they have equal privileges. Yet, unfortunately, legal and political predisposition have prevented the law to accomplish the progress of uniformity in gender. This is one more justification behind inequality in gender.

## National Legal Framework on Gender Equality & Women's Rights in India

Women comprise a large percentage of inhabitants in the society and it is assumed that God's greatest creation is women. On the other hand, it is an unforgiving reality that women have been abused in each society for a very long time and India is no special case. Tribal, agricultural and industrial fronts of the society creating a kind of favour for the men, resulting in the established gender hierarchies. We have been inherited with a past

with discrimination. In India, it is accepted that women are seen with equal status as men in the Vedic Period. However, after this period, women are denied of monetary and economic assets and are reliant on men for their living. Women works are regularly bound in local limits, she needed to do all house hold works, which are not perceived and unpaid.

## **Constitution of India & Gender Equality**

Our Constitution, the fountainhead of all laws and the law of the land, recognizes equality of the sexes and prohibits discrimination on the basis of sex. It also provides legislation to be made to confer more rights on women by making special provisions.

### **Under the Preamble of the Constitution of India**

The Preamble discusses social justice which ought to be comprehended in the light of guaranteeing abolition of a wide range of imbalances which may result from inequality in wealth, status, class, caste, sex, race, title and so forth. Economic justice guarantees that each individual ought to get his only levy for the work given by him/her regardless of caste, creed, sex, status and so forth. Political justice guarantees that pointless qualification among people in political issues ought not be permitted. The provision contains in itself the substance of general grown-up suffrage. The Preamble discusses dignity of an individual and that dignity ought to be insured by ensuring equal fundamental rights to all people.

### **Fundamental Rights Assured to Women Under the Constitution of India**

Part III of the Constitution, comprising of Articles 12 to 35, guarantees the Fundamental Rights. It has been held in Maneka Gandhi's case that these are expressive of basic values since the ancient time determining the dignity of the individual and make conditions in which each human being can build up his personality to a large extent<sup>1</sup>.

#### **Equality Before Law**

Article 14 guarantees to each individual the right to equality before law and the equal protection of the laws inside the republic of India. the Fourteenth Amendment to the American Constitution coordinates that equal insurance will be made sure about to all people inside the regional ward of the Union in the pleasure in their rights and benefits without partiality or discrimination. It is, in this way, said the "equal protection of the laws" is an assurance of equal protection.

#### **Prohibition of Discrimination on Grounds of Sex**

Article 15 concretizes and develops the scope of Article 14. Article 15 (1) prohibits the State from discrimination on certain grounds. At the end of the day, all laws are to be applied to individuals from both genders similarly, and there is an express preclusion of discrimination on the ground of sex. The right ensured right now Article 15 is given on a resident as an individual and is accessible against his being exposed to discrimination in the matter of rights, benefits and resistances relating to him as a resident for the most part. A law which denied a female proprietress to hold and make the most of her property on the ground of her sex was held violation of Article 15.

#### **Equality of Opportunity in Matters of Public Employment**

Clauses (1) and (2) of Article 16 exemplify the general principle that the State will give equal chances to all citizens in issues identifying with work or provision to any office under the State. There will be no discrimination in giving work. On the off chance that any law is passed or any official action is taken to keep the women from taking up work under the State, such law or official action could be tested under Articles 16 (1) and (2). The rule of equal pay is additionally secured by equality of opportunity in Article 16 (1)<sup>2</sup>. Discrimination in the salary scales and promotions between man and woman is also forbidden by Article 16 (2)<sup>3</sup>.

## Freedom of Trade and Occupation

Article 19 (1) (g) gives freedom for carrying on any business. This Article is the source of right to work with dignity. Any kind of ignorance in providing the work environment with dignity is violation of this freedom and the sexual harassment is one of the factors causing that violation. For a situation identifying with rape and viciousness of working women, the Court called for proper legal representation and help to the complaints of sexual offences at the police station and in Courts<sup>4</sup>. The Court held that these rules were made to secure the rights of working women with dignity under triple protection of the Constitution<sup>5</sup>.

## Protection of Life and Personal Liberty

Article 21 contains provisions for security of life and individual freedom of people. Article 21 has been framed because of the legal translation. 'Life' in Article 21, isn't only the physical act of breathing. This has been perceived by the Courts.

## Directive Principles of State Policy

Part IV of the Constitution contains what might be depicted as the duties of the State. These Directives Principles are ideals which are based on the concept of Welfare State and they fix certain goals; social and economic for immediate attainment by the Union and the State Governments while formulating a policy or enacting a law.

Under Article 39 (a), the State will co-ordinate its strategy towards making sure about that the resident's people equally, reserve the privilege to a satisfactory method for vocation.<sup>6</sup>

On the other hand, under Article 39 (d), the State will co-ordinate its provision towards making sure about equal pay for equal work for the two people.

Article 42, a significant and valuable provision for women's well-being and prosperity is included under Article 42 of the Constitution. It bound the State to make provisions for making sure about just and humane work condition and for maternity help. On account of *Dattatraya case*<sup>7</sup>, the Court held that legal provisions to give extra maternity relief to women employees under Article 42 of the Constitution doesn't encroach Article 15 (1). Article 44 provides for a Uniform Civil Code.



## Fundamental Duties

Article 51-A(e) recognizes practices prejudicial to the dignity of women. The obligations under Article 51-A are mandatory on citizens, yet it ought to be conjured by the Courts while choosing cases.

## Reservation of Seats for Women

The Parliament has prevailing in its endeavours to accommodate reservation of seats for women in political election to the Panchayats and the Municipalities. Reservation of seats for women in Panchayats and Municipalities has been given in Articles 243 D and 243 T of the Constitution of India. Part IX and IX A have been added to the Constitution by the seventy third and seventy fourth Amendment. By 73<sup>rd</sup> amendment of the Constitution of India in 1992, the Parliament of India gave 33% reservation to women within its territory.

## Landmark Case Laws

### **Vishakha and others v. State of Rajasthan and others AIR (1997) SC 3011**

The Supreme Court Bench comprising of the Chief Justice J.S. Verma, Justice Sujata V. Manohar and Justice B.N. Kirpal conveyed a milestone judgment on 14<sup>th</sup> August, 1997 and pronounced the guidelines prescribing sexual harassment at workplace and different institutions, until important legislation is passed, the guidelines are legitimately binding and enforceable.

In this way, the Supreme Court issued guidelines to guarantee that the women have equal working conditions and are shielded from sexual harassment. Vishakha was open interest class action and came up under the steady gaze of Supreme Court of India at the instance of certain social activists and Non-Governmental Organizations (NGOs) seeking to forestall sexual harassment of working women in all workplaces. Their complaint was that while working women remained defenceless against this, neither the legislature nor the official government was taking any successful preventive measure for this benefit. Along with these lines, the plaintiffs moved towards the court for the implementation of the basic rights of the working women as ensured by the Constitution.

### **Air India v. Nargesh Meerza AIR 1981 SC 1829**

In its landmark judgment the Supreme Court has held that a woman will not be denied for employment just on the ground that she is a woman as it adds up to violation of Article 14 of the Constitution.

### **Medha Kotwal Lele and Others v. Union of India AIR (2013) 1 SCC 297**

The Supreme Court in this case has explained that the complaints committee will be considered to be an inquiry authority for the reasons of the Central Civil Services (conduct) Rules, 1964 and the grievances committee's report will be considered to be an inquiry report. The Court ordered that the amendments can be done in the industrial employment (standing orders) rules. Consequently, it may be said that the status of Vishakha complaint committee has been updated from a body that leads the preliminary inquiry to one, which directs a regular inquiry.

### **Seema Lepcha v. State of Sikkim and Others (2013) 11 SCC 647**

The Apex Court issued the following directions:

1. The State Government shall ensure wide publicity of the notification and orders given by it as per the directions of this Court in the *Vishakha's case* and the directions in the *Medha Kotwal's case* by making the same to be published after every two months in the newspapers having the largest circulation in the State.
2. Wide publicity shall be given consistently on Doordarshan Station, different advances taken by the State Governments for execution of the guidelines outlined in *Vishakha's case* and the directions given in *Medha Kotwal's case*.
3. Social Welfare Department and the Legal Service Authority of the State of Sikkim shall likewise give wide publicity to the notices and orders given by the State Government not just for the government departments of the State and its organizations or instrumentalities yet additionally for the privately owned businesses.

## CONCLUSION

In India financial, social, cultural, legal and political variables are responsible for gender imbalance. India needs to neutralize the gender imbalance. The requirements of the day are patterns where girls are capable not only to break out of the socially resolved examples of work but also to offer exhortation about professional opportunities that may be different structure from the customary one. Men and Women resemble two wheels of a carriage. The existence of one without the other is incomplete. For lessening gender imbalance in India, we ought to offer elevated degree of training to girls and increase women empowerment. NGOs



likewise play a significant part to wipe out gender disparity in India through the different cultural or societal projects. The Campaign of our Hon'ble Prime Minister Shri Narendra Modi "Beti Bachao Beti Padhao" can find actual success, when the attitude of Indian culture will be changed towards women.

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