

**“Gender Bias - A Catalytic Phenomenon acting perniciously”**

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This world that we live in at present speaks progressive, acts progressive or at least believes to be one. In this immediate progressive surrounding that boasts of liberalism and modernism, we as individuals find an urge to address the issue of Gender Bias, needless to say that it is deep rooted in our system since ages. The wave of gender bias that we witness presently has been perpetually existent. However this wasn't the milieu that prevailed in the past. What prevailed in the environment back then did not seem dysfunctional to the social setups at all. The reasons for not paying heed to such dysfunctions were the customs and traditions which were unquestionable thus resulting in practices though irrelevant. It is only these customs and traditions on the basis of which policies are formulated and laws are governed. The prime motto of law is to provide rights and liberties to its people. But when we come to think of it, there are laws which more than benefit harm an individual and such laws are gender biased laws. These laws when formulated must not be in the eyes of policy makers be gender biased and that is so because the narrative or the societal functioning during that time was not what it is now. To begin with, gender biases which are present in the legal system build a mindset that is tedious to change. The present legal setup in most of the countries have their backing or to say school of thought on the basis of customs. The customs where a human being is believed to be inferior to another category of human being merely on the difference of gender is the reason why we have stereotypes dominating the society. Such stereotypes act as hindrances to those individuals who pursue things beyond the societal norms. Gender bias is commonly perceived as a bias between two genders predominantly male and female. However transgender in common parlance are overlooked quite often. It was quite recently when an “other” section was introduced in the gender section in various forms ranging from academics to job based forms and many more survey reports. Until then the society and our system was quite comfortable with male and female genders only and raised no question or showed disagreement regarding the disparity faced by the transgender community. The social set up that we live in has its set of biases reserved for the male and female whether it is a developing set up or a well accepted developed place.

Men and Women have distinct characteristics needless to say that these characteristics are physiological differences leading to certain psychological differences in them. These differences in men and women are since birth. Biases are differences that occur among genders due to stereotypes and the judgment of an individual capability on the ground of gender. The instances of bias that arise are biases in cerebral opportunities. Opportunities in academics, job opportunities, opportunities at workplaces and as odd as it may sound, opportunities to dream big, dream different and live it. Gender bias is more prevalent in females as the bias draw its

origin from history .It is pertinent to note that bias against women should not be a women issue but a human issue and both women and men should be equally responsible in uprooting the evil from the social environment. The laws in India are formulated with the foundation that women in our country have had a backward standing socially and hence it provides protection to women with these laws. However quite a number of laws that were meant for the protection of women have been not working in favor of women. A father is treated as the natural guardian in case of a boy or an unmarried girl (not below the age of 5 years) and after the father the mother is treated to be a natural guardian.<sup>1</sup> This status of a natural guardian that a father receives portrays male dominance in the society even in today's scenario where a mother should be equally entitled to and is capable of being a natural guardian .These position of authority that men receive makes the stature of women low in the society. The laws made for women protection have more than protection made women gullible and has depicted a weak picture in our eyes. To begin with, offences against women in India are at peak and laws treating such offences are quite stringent. But the question remains whether these laws are enough to curb the heinous crimes against women? Our laws that protect women are biased in a lot of aspects for instance , A provision in IPC allows a woman to put her husband and his family in a position that lands them into jail wherein no strong evidence is required however it provides for no repercussions to the women in case of false claims.<sup>2</sup> In instances of sexual harassment a man could be punishable up to three years of imprisonment as per section 354 of IPC, 1860 whereas oddly enough there are no such provisions for women. Also, law relating to maintenance entitles a boy to maintenance till the age of 18 years whilst a girl is entitled for the same until she gets married. <sup>3</sup>Though under the Hindu Marriage Act alimony and maintenance can be claimed by both husband and wives however the Special Marriage Act of 1954, only the wife can claim permanent alimony and maintenance.<sup>4</sup> It is an undeniable fact that women since the inception of society have been treated unfairly and need protection from misogynistic behaviorism. However such behaviorism need not necessarily result from the position being enjoyed by the male in the society but also to a great extent comes from females who got to grips with such behaviorism all along. This very delineation results into a psyche among the male population which is, women already have too much leeway and need no succor pertaining to issues of bias. An instance of such psyche is when in Montreal Polytechnic School, 14 women were massacred by a man due to hatred as he could not join the School due to seat occupancy and then at the same place he shot himself too leaving a note that read, "Feminists have always enraged me," he wrote. "I have decided to send the

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<sup>1</sup> Under Section 6 of the Hindu Minority and Guardianship Act, 1956, the natural guardianship of a child vests in the father.

<sup>2</sup> Section 498 A of the Indian Penal Code,1860

<sup>3</sup> Under Hindu Adoption and Maintenance Act,1956

<sup>4</sup> Under Section 37 of the Special Marriage Act,1954

feminists, who have always ruined my life, to their Maker.”<sup>5</sup> Such incidents go on to show hate crimes due to gender bias.

“People ask me sometimes...’ When will there be enough women on the court?’ And my answer is when there are nine.”- Ruth Bader Ginsburg, this was asked to Ginsburg who is an American lawyer and associate jurist at the U.S Supreme Court. Ginsburg’s response brings out the issues of gender bias specifically relating to the female population at workplaces, official set ups and our honorable courts too. The most evident and the most prominent place that demonstrates gender bias in a very subtle way are our work spaces. There are biases that occur and occur in a manner that one does not realize. Legal frameworks and mindset play a key role in prevailing biases at workplaces. Bias at workplaces is a complete process that begins with the job vacancy advertisement that reads ‘preferably male candidates’ and if not this then have specifications and warning signs that state ‘apply only if comfortable with flexible working hours.’ In the second instance no gender is mentioned but the target candidates are women who are being warned and are asked to be mindful before applying. Job applications and interviews are no different as they too ‘decide accordingly.’ A female while being interviewed is asked all profile related questions, how passionate they are, how long do they plan to work or as they like to put it ‘would you stay committed to this job?’ All these questions seem fair and justified to most of us but what goes behind these questions are after interview discussions by the interviewers. A prospectus candidate is of a marriageable or not, whether an already married woman would be an asset to the company or not because she must be needed more at her house looking after her family or would she plan a baby anytime soon. These are discussions that go on for hiring a female candidate whether they are smaller firms or large profitable groups. Post being employed other set of issues are waiting at the platter that are selection of team members for field visits, handling important big budget clients etc. It is presumed by workplaces that women have ‘other’ responsibilities and maybe field visit is not their cup of tea. Mentoring at workspaces becomes problematic because women do not feel confident enough to mentor a junior, solely because they haven’t seen or experienced female mentors in the office. Promotions obtained by women have an altogether different angle at certain workspaces as the unpopular notion suggests it is not possible to achieve promotion purely on basis of merit without any favors. These are all stereotypes that hinder progress at workspaces and holds back women from growth and progress. Monetary criteria too is prey of bias whether it’s the entertainment industry, corporate offices a pay gap is always witnessed. What makes individuals in the society think this way? Well, the society is of the notion that man is the sole breadwinner of the family and earnings of women are merely for supporting the same. A woman works only to support other income but cannot do it for her own passion or satisfaction or maybe they have no right to be career driven. What acts as an obstacle in a woman’s career graph? Offices claiming equal opportunity for all genders speak only of career opportunities and do not delve into the work environment at workplace. A

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<sup>5</sup> <https://www.theguardian.com/world/2019/dec/04/mass-shooting-1989-montreal-14-women-killed>

comfortable, safe and friendly environment is very conveniently ignored. Sexual Harassment Of Women at Workplace (Prevention Prohibition and Redressal) Act, 2013 states “Every employer of workplace shall constitute in writing, a committee to be known as the Internal Complaint Committee (ICC) as per section 4(1) of the Act. The composition of this committee consists one woman in senior rank and a presiding officer, two members who strongly support women cause, one member from a NGO dealing with sexual harassment issues as per section 4 (2) a ,b and c of the Act. The problem with this very composition is the last line that reads “at least one half of the total member shall be women.” It might sound convincing and empowering to few but the question here is why do women need to be attributed with “at least? ” This sends across a message that the spaces that women enter is a place that belongs to Men and some representation of Women is required only because they need it and not because they deserve it.

“I am not the Woman President of Harvard. I am the President of Harvard.” says Drew Gilpin Faust the 28<sup>th</sup> president of Harvard. How far can we relate to this? Haven’t we seen similar attributes in our country? We idolize some influential strong independent women but do we not realize that these women or women before them could have achieved the same feat had they not been weighed on the scale of bias? It seems customary how general knowledge books and quizzes and questionnaires have data such as “She is the only woman to do it” and we seem okay with these attributes. Because it is ingrained in us that if a woman achieves what a man has achieved it is a matter of pride. However we fail to recognize that this scale that we are balancing to glorify a gender specifically women is outright against their growth. Greatness and merit should be the scale and not gender that we measure an individual. It’s time we see gender as a spectrum instead of three sets of ideals.