

## “Gender Bias in the Society”

*C. Sri Yajushya*

*GITAM Deemed to be University*

Gender bias an ancient word still have its pieces spilled out in the society. It is generally a preference or prejudice of one over another, which can be conscious or unconscious. India been around this for long, still have its essence in some parts of the society. This gender bias not only had greater impact on women it also been to men, children, transgender as we see at present, but comparatively less. Gender bias can be subtle, results in small or large consequences. There are still such existence of these inequality even after centuries though time has changed many.

India had its history and great heritage. But couldn't find better position for women back those days, it can be said due to patriarchy. Women were restricted to the domestic work and not even allowed to step out of the house. The parada system where women were not allowed without covering their face without covering their faces. Women where not given rights on inherited property which later brought an amendment as there exists equal coparcenary rights in the year 2005, under Hindu Succession Act, 1956. There were many problems associated with women right from their birth till death. Abortion of girl child- female infanticide, education, dowry deaths & domestic violence, cruelty, rape, and many more that shatter.

### Female infanticide:

This means that killing the young girl child. Men were treated as pride of the family and girl child were aborted as they thought of been burden. This raised to high in the society at times. In India, the Pre-conception and Prenatal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 later amended in 2003 prohibits sex-selection or disclosure of the sex of the foetus. It also prohibits sale of any ultrasound machine or any other equipment that detects sex of foetus to persons, laboratories and clinics not registered under the Act. Apart from Pre-natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994 (PNDT Act), India also enacted the Medical Termination of Pregnancy (MTP) Act in 1971 to have access to safe abortions. The MTP Act of 1971,amended in 2002 gave access to abortion up to 20 weeks of pregnancy in cases where the continuance of the pregnancy would leave risk to the life of the pregnant woman or of grave injury to her physical or mental health.<sup>1</sup>

### Education:

Every child deserves to reach her or his full potential, but gender inequalities in their lives and in the lives of those who care for them hinder this reality.<sup>2</sup> Education is where people stand by themselves. Girl child was not given education back those days because of many reasons like child being girl,

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<sup>1</sup> <https://www.downtoearth.org.in/news/health/india-witnesses-one-of-the-highest-female-infanticide-incidents-in-the-world-54803>, India witnesses one of the highest female infanticide incidents in the world: study, by DTE staff

<sup>2</sup> <https://www.unicef.org/india/what-we-do/gender-equality>, Accelerating progress and opportunities across India for every girl and every boy.

poverty etc. Right to education of the right under article 21 of Indian constitution. Which states that no one can deprived and been discriminated.

Dowry deaths and Domestic violence:

Dowry death under Indian penal code, section 304 B states that if the demand for dowry by husband or by his relatives lead any bodily injury or burns or any unusual circumstances to the wife immediately 7 years from the marriage would amount to dowry death.<sup>3</sup> In the case Pawan Kumar vs state of Haryana<sup>4</sup> essentials were laid down to fulfil the above section. Dowry is generally gifts that acquired from the brides family to groom in demand. The Dowry Prohibition Act 1961 was twice been amended to get the exact meaning of the word dowry, which means exchange of properties by one party to marriage and other party to marriage, in reference to the case Shanti vs state of Haryana<sup>5</sup>. It is India's first Act related to dowry. Under section 113B of Indian Evidence Act, 1872 the court shall presume that dowry death, when there is any unusual circumstances after death or death due to demand of dowry.<sup>6</sup>

Domestic violence has been defined under section 3 of The Protection of Women from Domestic Violence Act, 2005.<sup>7</sup> It has been one of the recognised crime by section 498 A under Indian Penal Code, which deals with cruelty by him or by his relatives that creates an unusual act like chopping of limbs, likely to commit suicide etc. In Onkar Nath Mishra v. State (NCT of Delhi),<sup>8</sup> it was stated that this section cannot be taken as to achieve oblique motive. Cruelty can either be physical or mental. What amounts cruelty for one person cannot be so for others. Every individual differs. This gives greater impact on one's mental and physical health.

Rape:

After a massive stroke that awaken Indian laws to establish some guidelines for commission of rape resulted in amendment of definition of rape under section 375 of India Penal Code, the Nirbhaya case. It was established as one of the India's rarest or rare case. Even if a the husband had sexual intercourse with his wife without her consent it amounts to rape under section 376 A of IPC. This crime had stood most grievous hurt caused to the person. Certain guidelines were laid down after this case.<sup>9</sup>

Sexual Harassment at workplace:

It is considered to be violative of women's life, liberty and equality i.e. the violative of article 14, 21 of Indian constitution. No person have right to bring down someone's dignity irrespective of gender. In the year 2013, landmark judgement VISAKHA VS STATE OF

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<sup>3</sup> <https://indiankanoon.org/doc/653797/>

<sup>4</sup> (1998) 3 SCC 309

<sup>5</sup> <https://www.scconline.com/blog/post/2017/10/28/dowry-deaths-practiced-traditions-forbidden-law/>, dowry death practised by traditions forbidden by law, by Gauri Goburdhun

<sup>6</sup> <https://blog.ipleaders.in/dowry-deaths-india-legal-study/>, dowry deaths in India by Gazala Praveen

<sup>7</sup> <https://indiankanoon.org/doc/542601/>

<sup>8</sup> (2008) 2 SCC 561.

<sup>9</sup> <http://lawtimesjournal.in/rape-and-its-punishments/>. Rape and its punishment, by Akshita Piplani

RAJSTHAN, gave its new dimension through setting up of guidelines to be followed. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013 ("the Act") was enacted with objective to provide protection against sexual harassment of women at workplace, prevention and redressal of complaints of sexual harassment and formatter connected. Sexual harassment according to the Act includes unwelcome sexually determined behaviour such as

- I. Physical contact and advances
- II. A demand or request for sexual favours
- III. Sexually colored remarks
- IV. Showing pornography
- V. Ant other unwelcome physical verbal or non-verbal conduct of sexual nature

It is the duty of every employer to deliver a sense of security to every women employee.

1. Government should make strict laws and regulations to prohibit sexual harassment.
2. Any act of such nature should result in disciplinary actions and criminal proceedings should also be brought against the wrong doer.
3. The organization should have a well set up complaint mechanism for the redressal of the complaints made by the victim and should be subjected to a reasonable time.
4. This complaint mechanism should be in the form of complaint committee which need to be headed by a women member and at least 50% of the committee members should be women so that victims do not feel ashamed while communicating their problems.
5. This complaint committee should also have a third party involvement in the form of NGO or other body which is familiar with this issue. There is a need of transparency in the functioning of this committee and for that there is a requirement of submission of annual report to the government
6. Issues relating to sexual harassment should not be a taboo in the workers meeting and should be discussed positively.
7. It is the duty of the organisation to aware the female employees about their rights by regularly informing them about the new guidelines issues and legislation passed
8. The employer or the person in charge is duty biased to take necessary and reasonable steps to provide support to the victim if, sexual harassment takes place dur to act or omission of the third party
9. These guidelines are not limited to government employees and should also be followed by employees in private sector.<sup>10</sup>

### **EQUALITY UNDER INDIAN CONSTITUTION:**

The makers of the constitution intended to apply equality amongst men and women in all spheres of life. Article 14 states that there would be no denial of equality under law and equal protection of law irrespective of caste sex religion etc. Article 15 of Indian constitution has its

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<sup>10</sup> <http://www.legalservicesindia.com/article/716/Sexual-Harassment-at-Workplace.html>. sexual harassment at workplace by Anshularbaz

clear self-describing words no one will discriminated on the grounds of caste, sex, place of birth, religion or any of them. Here the discrimination means difference in treatment. In the landmark case National legal services authority vs Union of India, it was held that “transgender is generally describes as umbrella term for persons whose gender identity, expression or behaviour does not conform under biological sex.”<sup>11</sup> Article 16 provides equality in providing employment without any discrimination. Providing equal salary, employment on the basis of potential not on any other basis.

### **CONCLUSION:**

As time changes and scenario’s taking place there exists new amendments and laws. Women are empowering but not completely, getting their positions equally to men. There many legislations that speak about women empowerment because for past references and problems face by them in comparative to men and others. Hindu law had it amends by making equal rights of both men and women in inherited property, women can adopt, women can gain maintenance even mentioned under S. 125 CrPC. But apart from these still there exists many inequalities by individuals, men as well. Stricter the laws more in crime though with harsh punishments. Need to bring more awareness from the schooling itself to prevent the crimes. Education is what all required.

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<sup>11</sup> (2014) 5 SCC 438