



GENDER INEQUALITY & CONSTITUTIONAL RIGHTS OF WOMAN TO FIGHT IT

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In this era of feminism in India, despite progress being made toward attaining equal rights; women and girls in India continue to face inequality, discrimination, and harassment and experience consequential barriers for achieving their full prospective. The daily encounter of gender inequality ranges from undermining portrayals of women in the media and underrepresentation of women in positions of power, to direct discrimination and breaches their human rights. Social suppositions and assumptions about the abilities, roles, and opportunities which should be presented on the basis of gender continue to elucidate the life chances of women today.

Gender refers to the socially constructed attributes of women and men, such as norms, roles, and relationships of and between groups of women and men. It varies from society to society and can change over time.

Gender equality means that the different behaviour, aspirations, and needs of women and men are considered, valued and favoured equally. If you believe in **gender equality**, you are a feminist. Feminism is the belief that men and women should have equal rights and opportunities.

Gender inequality refers to unequal treatment or perceptions of individuals based on their **gender**. It arises from differences in socially constructed **gender** roles.

The major cause of Gender Inequality are religious and cultural norms (preference or dominance of men over women), social stigma, rigid culture and traditions, illiteracy, lack of empowerment, unequal pay for equal (and even bigger) work if compared with men, lack of medical care. Poverty makes women to take up jobs which pay insufficiently, this is also one of the reasons why they get involved in human trafficking and prostitution. Most people still think that women are too weak to perform serious work and obtain top positions.

The examples of gender inequality in our society are:
Education: Many of the girls and women in our country have never stepped inside a school.

Economic independence: Even if some women are allowed to visit the school and get an education, they still face a problem of inequality when participating in the labor market. They work hard but are paid lower wages. It happens because women are thought to be weaker employees compared to men.

Illiteracy: A child from an illiterate mother has fewer chances of survival till the age of five. Illiteracy is the primary reason why they cannot gain the necessary knowledge and help their children to cope with diseases in the right way.

Infant life expectancy: Due to some cultural matters, many tribes give preference to male children. A girl child is provided with little to no basic necessities. That's why one can observe a high risk of child mortality of girls between the ages from one to five years.

Access to medical care: Most of the mothers in developing countries like ours, with male child preferences, give birth to their infant girl child in improper conditions. The men



get both necessary medical care and vaccination.

Women leadership positions in government: Gender inequality is one of the key reasons why you do not see a lot of women in administrative organs.

Child marriages: This problem destroys not only the hope for a happy future but isolates the young girls from the world and the opportunities, which are accessible for men.

Violence against women and sexual assault: Women often become the victims of violence and sexual assault both at work and home.

The only way out of the gender inequality problem is expanding women's rights, freedoms, desire to get education and work. Balancing the genders will lead to the perfect cooperation of labor opportunities and harmony in the society as well.

Constitutional Rights of Women to fight Gender Inequality

The Indian Constitution under the fundamental rights ensures that men and women are treated equally. It notes that in certain respects women have been ill-treated or regarded as inferior. To remove this injustice and to ensure equality, the Constitution allows the state to make special provisions favouring women. The Directive Principles of State Policy of the Constitution obligates the State to make special efforts to improve the position of the weaker sections of the society, including women. The Constitution also provides for the state to take steps to prevent the exploitation of women. The Indian Constitution ensures equality between men and women. Article 14 of the constitution provides that the state will not deny to any person equality before the law and equal protection of the laws within India. The Constitution prevent discrimination against women. Article 15 (1) of the

Constitution provides that the State shall not discriminate against any citizen on grounds of religion, race, caste, sex or place of birth.

Article 16 (1) and Article 16 (2) prohibit discrimination in general and also discrimination on the ground of sex in employment and those employed under the State. Article 15 (3) of the Constitution specially provides that the State is permitted to make special provisions for the benefit of women. Article 39 (a) of the Constitution provides that the state shall, in particular, direct its policy towards securing that citizens, men, and women equally, have the right to an adequate means of livelihood. This is a Directive Principle of State Policy.

Article 39 (b) of the Constitution provides for the State to direct its policy towards ensuring equal pay for equal work for men and women. This is a directive principle of State policy. In accordance with this principle, the Parliament has enacted the Equal Remuneration Act, 1976 for the payment of equal remuneration to men and women workers and for the prevention of discrimination on the ground of sex, against women. Article 39 (c) of the Constitution requires that the state should secure the health and strength of workers, men and women and that child are not abused and citizens are not forced by economic necessity to enter vocations unsuited to their age and strength. This again is a directive principle of State policy. Article 51A(e) of the Constitution provides that it will be the duty of every citizen of India to renounce practices derogatory to the dignity of women.

Under Article 15(3) of the Constitution reservation of certain posts exclusively for women

was upheld by the Supreme Court in Union of India VV.P. Prabhakaran. (1997) 11 SCC 638.



Similarly, the Court held that rules providing preference/reservation in favour of women for posts of Principal/Teacher/ woman Superintendent in exclusive Girls college is not violative of Articles 14, 16. Further, it said that the Court cannot sit in appeal against policy decision taken by State under Article 15(3)."¹

Section 36 of the Special Marriage Act allows maintenance (during the pendency of litigation) only in favour of wives. Its validity has been upheld.²

Women are exempted from punishment for adultery the validity of this exception has been upheld.³

Provisions exist in the Code of Criminal Procedure giving special rights to women for release on bail. These also have been upheld.⁴

Under the Code of Civil Procedure, summons cannot be served on a female member of the family. This has been held to be valid.⁵

Provisions for reservation of seats for women in local bodies have been held to be valid.⁶

Similarly, provisions for reservation for women in educational institutions have been upheld.⁷

The provision in section 354 of the Indian Penal Code punishing indecent assault only on women has been held to be valid as a reasonable classification Part IX of the Constitution of India has reserved one-third of the total number of seats in every Panchayat for women.

There are provisions in the Legal Services Authority Act for providing legal aid to the

woman free of cost, irrespective of the situation she is placed in.

The National Commission for Women had been constituted to look after the complaints and harassment of women as a class either by the Government bodies or other persons.

India is still a very sexist and male-dominated country, even with all of the new developments. There may be laws and rights given to Indian women, but they are not strongly enforced. Over time, there have been many women who have surpassed the standards that are expected from women. To begin a new era of equality in the world, everyone must aid in promoting the cause of women, irrespective of sex, age, or ethnicity.

An equal society begins with women reclaiming their strong voice, and then gender wouldn't be as much of a relation of power. Gender equality is a fundamental right which contributes to a healthy society filled with respectful relationships between one another. "Women can address their conditions in life, either resisting or submitting to oppressive relations".

Women who begin to step outside of the norm are questioned for their power and capability to accomplish their great ambitions. Women have every right in the world to strive for what they want, it is a society that tells them differently.

¹ Vijaya Lakshmi v. Punjab University and Ors. AIR 2003 SC 3331.

² Purnananda Banerjee v. Swapna Banerjee, AIR 1981 Cal 123, (1981) 1 CompLJ 220 Cal

³ Yusuf Abdul Aziz v. State of Bombay, 1954 AIR 321, 1954 SCR 930

⁴ Vishaka and others V. State of Rajasthan and others. (AIR 1997 SUPREME COURT 3011)

⁵ M.I. Shahabad v. Mohd. Abdulla, AIR 1967 J & K 120, 122

⁶ Dattaraya v. State of Bombay, AIR 1953, Bom. 311

⁷ P. Sagar v. State of A.P., AIR 1968 A.P. 165, 174.