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A DIAPHANOUS ELUCIDATION ON GENDER JUSTICE

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Abstract:

In an era where individuals are aware of their rights and demand equality, if a gender is condemned by nature, it to be considered as a heinous crime. Today's society promotes the idea of globalization and during an epoch of development and new achievements made by all the gender, no gender can be spun or forbidden from any aspect job or any level of labor they wish to get employed in; and in such a society a person with a narrow mind considering his/her gender to be superior over the other can be very infectious towards the said development and flourishing of the society as every gender gives in equal, adequate and appropriate contribution. Numerous institutions work towards this goal of gender equality. However, it is evident that Indian minds are becoming receptive towards the idea of gender equality when compared to earlier times of discriminative practices. It is true that umpteen developments have been made in this field about social and legal awareness, but the greater truth is that plenty lies ahead to achieve the optimum gender equality.

Keywords:

Gender Justice, Gender Equality, Breaking Gender Stereotyping, Gender Equity.

Introduction :

In a nation like India where the stepping on Mars is just months away, there are also interior regions where sending girls to school is forbidden. This perceptive issue is likewise attempted to be taken consideration by numerous other women's activist gatherings and gatherings yet then it makes a negative contact with no legitimate delineation or advancement of the sexual orientation correspondence issue yet rather centers around the possibility that ladies are more fit and prevalent and has the high ground in specific perspectives and they ought to be celebrated for that. While the most amazing aspect disclosing the treachery done to the different sexes can be clarified by delivering the perspective on sex correspondence and sexual orientation value. It is not just women who are discriminated and looked down upon in the Indian society; the third gender who are known as transgender are also condemned in many scenarios for their existence and involvement in the society. On the other hand, the efforts taken in this interest must also be appreciated. As The society has also improvised to a point where every government form now includes a separate option other than male and female and they are also considered and

accepted the way and this practice should be widespread. The concept of gender equality does not mean that they are same but simply means that the opportunities should not be segregated and distributed differently because of their gender.

Global Gender Justice:

Gender Justice inculcates the idea of equality and equity between the sexes. The struggle for equal rights, opportunity and justice have been fought by activists and NGO's from time to time and is being upheld through the judicial and administrative system. The United Nations since its origin as has emphasized on sexual orientation balance and Gender justice. In 1946, a separate body was formed to deal with the advancement of women. The Commission on the Status of Women worked from its origin to gather and assemble information on women's circumstances around the world and to advance women's human rights and bring issues to light for their improvement.¹

As it very well may be plainly perceived from the Gender Development Index positions, gender disparity, in the current point of view, in UK and USA isn't similarly grave as the gender elements that exist in the developing nations. The European Union has been enthusiastic about making sure about gender justice. Equality among people is a key standard of the European Union.

The law in UK as to gender justice has been firmly displayed on those of the European Union. The nineteenth amendment to the United States Constitution in 1920 giving women equal rights as men regarding casting a ballot was the first constitutional recognition of gender rights. A critical part of sex imbalance in USA is oppression of ladies in the working environment. One of the first issues for women was the financial status of women.

Conventions on justice²:

¹http://www.legalserviceindia.com/articles/gen_j.htm#:~:text=Recently%20the%20Government's%20piecemeal%20approach,issues%20are%20receiving%20greater%20attention (Last accessed on 03.02.2021)

² UNHRC report.

- *Vienna conference on human rights:*

It had a detailed review over the status of human rights and had also explicated regarding the factual women rights that is needed for the present society and the methodologies of implementing best techniques to obtain equality among gender. Tribunals were set up to put spotlight on trifling violations of human rights, the program of action also called for extradition of any conflicts which may arise between the rights of women and harmful effects of certain customary practices.

- *International conference on population and development:*

It had been held in 1994, which itemized to improve gender equality, concept of family, reproduction, and health. The convention's program of action dealt with the advancement of gender equality, gender justice and ensuring women's ability to control their own fertility, it also contributed much to the one's affected with HIV and AIDS.

- *Beijing declaration:*

It highlighted the strategic objectives to eliminate discrimination against women by boycotting discriminatory legislation as well as harmful traditions and customary practices too.

- *Millennium Development:* "OUR MISSION YOUR SUCCESS"

The goal of this convention was to promote equality and to empower women. It also aimed at integrated human rights and gender equality throughout the millennium.

- *UN conference on sustainable development:*

It had enhanced the idea of equal rights for women inclusive of proper social, economic, and political leadership and rights for women and promoted the materialistic view of decision making for women.

- The human rights treaty on gender equality:

The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) has been ratified by 185 states and the optional protocol by 90 states. Since 1995 and the adoption of gender mainstreaming as a critical strategy for achieving gender equality, intergovernmental bodies such as the General Assembly, the ECOSOC and the Commission on the Status of Women have worked to mainstream gender perspectives as an integral part of all policy areas.

- The UNIFEM is another agency of the UN:

It is the development fund for women at the United Nations. It provides technical and financial assistance to innovative programs and strategies to foster women's empowerment and gender equality.

- The United Nations Development Program (UNDP):

It has the Gender Development Index (GDI). It is an indication of the standard of living in a country, developed by the UN. It aims to show the inequalities between men and women: long and healthy life, knowledge, and decent standard of living.³



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Indian legislation regarding women's rights:

- Hindu adoption and maintenance Act 1956:

It applies and binds to a person of Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj, to any person who is a Buddhist, Jain or Sikh by religion, and to any other person who is not a Muslim, Christian, Parsi or Jew by religion unless it is proved otherwise⁴.

³<https://www.unwomen.org/en/news/in-focus/end-violence-against-women/2014/rights#:~:text=Under%20international%20treaties%20such%20as,legal%2C%20social%20and%20political%20empowerment.> (Last accessed on 03.02.2021)

⁴Available at <http://www.hrln.org/hrln/child-rights/laws-in-place/1714-the-hindu-adoption-and-maintenance-act-1956.html> last viewed on 3 September 2017.

- Hindu succession Act 1956 section 14 :

In this sub-section, “property” includes both movable and immovable property acquired by a female Hindu by inheritance or devise, or at a partition, or in lieu of maintenance or arrears of maintenance, or by gift from any person, by prescription, or in any other manner whatsoever, and also any such property held by her as stridhana immediately before the commencement of this Act⁵.

- Hindu minority and guardianship Act 1956 :

It applies to any person who is a Hindu by religion in any of its forms or developments, including a Virashaiva, a Lingayat or a follower of the Brahmo, Prarthana or Arya Samaj Buddhist, Jaina or Sikh by religion and to any person domiciled in the territories to which this Act extends who is not a Muslim, Christian, Parsi, or Jew by religion⁶.

- The equal numeration Act 1956 :

It states to how there should be no discrimination in distribution of wages and should be carried out just with respect of their labor and irrespective of the gender, caste, or creed.

- Sex Discrimination Act, 1975 and the Equal Pay Act, 1970:

Sex equality laws can be found in the The Equal Pay Act covers all that identifying with pay and conditions and the Sex Discrimination Act covers those zones which fall outside the domain of the EPA. The EPA infers a fairness statement into the work contract guaranteeing that there is no less ideal treatment than the treatment a comparable individual gets.

- Title VII of Civil Rights Act, 1964:

This Act denies discrimination based on sex. It prohibits discrimination by employers based on sex. It also precludes victimization of an individual because of their relationship with another person of a sex.⁷

The instances of gender discrimination:

⁵Available at <https://indiankanoon.org/doc/1235465/> last viewed on 2 September 2017.

⁶Available at <http://www.vakilno1.com/bareacts/hinduminorityact/hinduminorityact.html> last viewed on 3 September 2017.

⁷<http://www.legalserviceindia.com/article/1358-Gender-Justice.html> (Last accessed on 03.02.2021)

There are various instances where women are being discriminated on the basis of gender.

- R.S. Kavitha v. M. Revathi⁸

The job of a government bus conductor was denied to two women in Tamilnadu due to the less allocation of jobs for women and despite the required qualification they were not selected. However, the court gave verdict in favour of the women, it is very important to know that these types of discriminations take place very often in the country.

- Vishaka Vs State of Rajasthan⁹

Bhanwari Devi, a social worker from Rajasthan, was cruelly gang-raped by five men for averting a child marriage. Determined to seek justice, she decided to go to court. In an unexpected verdict, the trial court acquitted all five accused. Vishaka, a Group for Women's Education and Research, took up the cause of Bhanwari Devi. It joined hands with four other women's organisations and filed a petition before the Supreme Court of India on the burning matter of sexual harassment at the workplace. On August 13, 1997, the Supreme Court commissioned the "Vishaka guidelines" that defined sexual harassment and put the onus on the employers to provide a safe working environment for women. The court recognised their rights and their plea of rights of women under Art. 14, 19(1)(g), 21 was accepted. The verdict in these cases, which were fought to provide justice to one woman, continue to bring hope to several women facing circumstances that undermine their dignity and their fundamental right to equality. This case led to the passing of The Prevention of Sexual Harassment at Workplaces Act 2015.

- Mary Roy Vs State of Kerala¹⁰

In this case women from the Syrian Christian community in Kerala were barred from inheriting property due to male-controlled traditions. This decree was challenged by Mary Roy, a woman's right activist and educator. After the death of her father, she filed a case

⁸ RS. Kavitha v. State of Tamilnadu available at indiankanoon.com last viewed at 03/09/2017.

⁹(Air 1997 Sc 3011

¹⁰1986 AIR 1011

against her elder brother when she was deprived of equal share in the family's inheritance. However the plea was rejected by the lower court, the Kerala High Court overruled the previous judgment. In 1986, the Supreme Court provided a landmark judgment that granted Syrian Christian women the right to seek an equal share in their father's property.

- Lata Singh Vs State of Uttar Pradesh¹¹

Lata Singh was an adult when she left her household to marry a man from a lower caste. Her brothers, who were calamitous with the alliance, filed a missing person report, and purported that Lata had been abducted. This resulted in the arrest of three people from her husband's family. To get the charges dropped, Lata Singh filed a petition which resulted in the landmark judgment by the Supreme Court that allowed an adult woman the right to marry or live with anyone of her choice. The court additionally ordered that the police initiate criminal action against people who constrain violence against those who decide on inter-religious or inter-caste marriages.

- Tamil Nadu Vs Suhas Katti¹²

This case led to the first conviction under the Information Technology Act, 2000. The victim was being harassed by the accused, SuhasKatti, when she repudiated to marry him. He would send messages that would affect her reputation and obscene messages to her online in a Yahoo message group. To add to her torture, she began to receive phone calls from strange people soliciting sex work. The victim filed a complaint in February 2004, and within seven months the accused was convicted. In an age of hard-hearted trolls and other manners of online harassment, this judgment acts as a tool that woman can use to safeguard their dignity

- Sudha Sandeep Devgirkr vs Union Of India:¹³

¹¹(2006) 5 SCC 475

¹²cc No. 4680 of 2004

The petitioner, a rape survivor, who desired to remain faceless, approached the Supreme Court seeking permission to abort her 24-week abnormal fetus. The petition challenged the 46-year-old Maternal Termination of Pregnancy Act that does not authorize abortion of a fetus after 20 weeks. The Supreme Court ruled in favour of the petitioner after the medical board acquiesced a report stating that enduring with the pregnancy would put the mother's life at risk.

Organization working for women's rights:

There are numerous organizations working for women rights and empowerment in India. Of them these six organizations are playing a good role

- **Commit2Change:** Commit2Change seeks to provide training for orphaned women and other at-risk young ladies in India. Commit2Change believes that schooling is one of the high-quality avenues for younger Indian women to keep away from cycles of poverty, provide higher entry to and information about nutrition, and substantially improve the whole country's GDP¹⁴.
- **Sayfty:** Rape is a difficulty of large proportions in India: an Indian woman is raped every 20 minutes, and about one in ten rapes are committed towards ladies underneath the age of 18. Because laws against rape in India do not provide women with nearly enough protection, the corporation Sayfty emerged to equip girls with tools that assist preserve them safe from acts of sexual violence, and educate women in matters of self-protection¹⁵.
- **WASH United:** WASH United seeks to educate Indian communities approximately intervals and menstruation, hoping to reduce the bad outcomes of the taboo surrounding periods, and assist girls and ladies to have safe, hygienic intervals¹⁶.

¹³<https://timesofindia.indiatimes.com/india/Abnormal-fetus-Supreme-Court-permits-woman-to-terminate-24-week-old-pregnancy/articleshow/53378678.cms>(Last accessed on 03.02.2021)

¹⁴Available at www.comit2change.com last viewed on 3 September 2017.

¹⁵Available at <http://sayfty.com/speaking-up-on-gender-violence/> last viewed on 3 September 2017.

¹⁶ Available at <http://www.wash-united.org> last viewed on 3 September 2017.

- Sarvajal: In order to convey safe and fee-powerful water to slums and rural regions, Sarvajal is combining era with humanitarian questioning to the Indian water crisis. Sarvajal brings "water ATMs" that dispense easy water at less costly charges to communities where water is scarce¹⁷.
- Women on Wings: Women on Wings has created 182,000 jobs for girls in rural India, ensuing in stepped forward conditions for their whole communities. It has been shown that women in India tend to spend their income on goods that advantage kids and their network at huge, that means that an investment in India's ladies is an investment for the entire India¹⁸.
- ApneAap: ApneAap is a set committed to developing empowerment organisations for Indian ladies. The corporations provide a secure place for ladies to speak about their rights and find out about options which could assist maintain them safe from a life of pressured prostitution and sex slaving. ApneAap allows girls to hook up with every other, share tales, and share possibilities for safe employment and education¹⁹.

Transgender equality:

For many years now, there has been a pressing need to create awareness amid various communities and establishments to take active responsibility in recognizing the rights of transgender persons, and treating them with basic human dignity and at par with other genders, be it at educational institutions or for equal opportunities in employment or ensuring access to healthcare and use of public benefits and facilities. By enacting the Transgender Persons Act, India has taken a step forward in granting and protecting much deserved identity and rights to transgender persons. The Transgender Persons Act is an indication that India is making a move towards a more inclusive and progressive society where the opportunities to persons will not be limited based on their gender. In 2014, the Supreme Court of India, in the case of National Legal Services Authority v. Union of India²⁰ established the foundation for the rights of transgender persons in India by recognizing 'transgender' as the 'third gender' and laying down several measures for prohibition of discrimination against transgender persons and protection of their rights. The judgment recommended reservations for transgender persons in jobs and educational institutions and the right of transgender persons to declare their self-perceived gender identity without undergoing a sex reassignment surgery. Thus the Transgender Persons (Protection of Rights) Act, 2019 is

¹⁷Available at <http://www.sarvajal.com> last viewed on 3 September 2017.

¹⁸ Available at <http://www.womenonwings.com> last viewed on 3 September 2017.

¹⁹ Available at <http://www.apneaap.com> last viewed on 3 September 2017.

²⁰AIR 2014 SC 1863

an act of the Parliament of India enacted with the main purpose of safeguarding the rights of transgender people, their welfare, and other matters related to them.²¹

The way in which we accept the reality of mental challenge and move on with it, the society should also accept this third gender and be completely interactive with no special conceptions in mind as it has been purely scientifically proved that this is merely natural. Society is improvising in this aspect in certain regions in our country, but this new thought should be widespread and outreached. Kalki Subramanian is the first transgender entrepreneur, Padmini Prakash is the first transgender news anchor in the lotus TV channel, Madhu Bai Kumari is the first transgender mayor, Bharti is the first transgender Priest, Manabi Bandyopadhyay is the first transgender principal and JoyitaMoudal from Siliguri district in Kolkata is the first transgender Judge in the Indian jurisdiction. Even they have their own rights as human beings and are to be respected as yet another natural gender and they also have to be esteemed as many do not even show out the real gender and accept this fact and strive all their life with this issue.

Feminism:

The term though became famous since the 1990's, the idea was always persistent. Any new idea which empowers is good but when implemented a bit too much and focused more, it creates adverse effects. Feminism as started to empower women and to promote the idea that women are no less than men was welcomed whelming, but when it started to spread the word with regard to all men are the same and downtrodden with some instances in mind, it blowout a spark to condemn and criticize men which was then opposed but this oppose was shown out by the feminist as men trying that women should not come up in the society and become socially equal. The feminist ideas are helpful and good in upbringing women even in the backward regions and facilitating downtrodden women, but it should never be in such a manner of pushing down the co-gender and hurting their self-esteem. Some feminist very frequently suggest that women mocked all this while and now it's time that women mock back well in this kind of period where the society needs equal contributions and responsibility sharing, it is not the time to have revenge or avenge.

A new contemplation:

Thus, we can conclude a difference between gender equity instead and gender equality. Gender equality deals with distribution of responsibility and opportunities equally among the genders whereas, gender equity deals with providing opportunity to all genders and also promote the alternate gender to work in a particular field which was reserved for a particular gender all this time. This new thought can be

²¹<https://www.orfonline.org/expert-speak/pride-month-2020-68965/> (Last accessed on 03.02.2021)

put appropriately in a manner that can be understood very well, i.e., a new trend of women being employed into marine and mechanical engineering which was till date stereotypical. This way all genders and their empowerment methodologies do not try to superior to each other and work to the best of the society in which they live in.



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