

Gender discrimination and resilience: The Women of Modern India

Dr. Arpita Kapoor, Assistant Professor, Amity Law School, Amity University Uttar Pradesh
Lucknow Campus

Abstract:

“Even though we have no control over many events in our life – accidents, natural disasters, crime, illness, the economy, etc. – we can control how we respond to these events and we can choose to do so with resilience.”

Dr. Wagnild

Even today, ‘gender’ remains one of the factors for commission of crime and discrimination. Most of the crimes that take place in our society, the majority of them are driven by gender orientation. The force that gives impetus to gender oriented crimes is the patriarchal set up of the society. Since majority of the places have a patriarchal set up, they see women empowerment and gender equality as a threat to their powers. Hence, any concept of equality is disliked amongst these groups as they are firm believers and followers of deep rooted norm that propagate and practice gender discrimination. Many of us believe that the practice of gender orientation has its origin in the societies of ancient India. However, this notion is totally wrong. On the contrary, it is in the societies of modern India, that the position of women have deteriorated. The position of women in ancient India was equal to that of men. During the medieval India, the invasions proved to be harmful to the position of women because of which their position confined to mere household works. The Constitution of India made serious efforts to grant equality to the women but the supreme law of the land still continues to be ignored and violated when it comes to granting equality to women. Not only homes but the modern era has witnessed drastic discriminative attitude and policies against women. However, the women of modern India and her resilient spirit cannot be overshadowed by these discriminations and she continues her strides of empowerment.

Introduction:

Violence means use of physical force which is intended to hurt or cause damage. When the basis of intended use of this violence is purely gender, it becomes violence against women. Hence any violence particularly directed against women may be alternatively termed as violence against basic human rights, violence against peaceful existence, violence against sustainable development for all and above all it is violence against equality and existence with dignity. According to World Health Organization ‘the intentional use of physical force or power, threatened or actual, against oneself, another person or against a group or community that either results in or has a high likelihood of resulting in injury, death, psychological harm, mal-development or deprivation.’ Violence against women and girls may more particularly be described as ‘any act of gender based violence that results in ‘any act of gender based violence that results in or is likely to result in physical, sexual or mental harm or suffering to women, including threats of such acts, coercion or arbitrary deprivation of liberty, whether occurring in public or private life.

Violence has various manifestations like domestic violence, dowry deaths, acid attacks, assault and sexual harassment. It is both physical as well as mental, economic, emotional and

mental violations have been recognized as forms of domestic violence in India under the Domestic Violence Act. Considering the various types of violence faced by women, they may be classified as

Violence that occurs within the family, including psychological, economical and sexual abuse

- Child marriages
- Female feticide
- Human trafficking
- Sexual harassment at workplace

These are only indicative of different forms of violence but are however not limited to. The only common factor behind each of them is that they are deliberately gender oriented. In India, feminism is often misunderstood. Its advocacy often results in generating unrest amongst the genders. Therefore it becomes a struggle concept from the perspective of Indian society. It is not against patriarchy as most of them think it to be but it is against the practices, cultures, policies and traditions that advocate only patriarchy form of social existence, male domination and suppression of womanhood and denial of freedom to them, freedom of thought, expression and independent existence. Thus, feminism has a totally different role to play in Indian sociology. More than a movement or a wave, it is an impeccable tool to help the women to give them reason, to introspect their own independent existence, rights, freedom rather than associating their dignity with a male member of their family, be it father, husband or son. It gives them the courage not to blindly follow the dictatorship of rules that give them submissive positions in the society and their lives on which they themselves have no rights. To challenge this age old patriarchy, different shades of feminism advocacy like liberal, cultural and radical views emerged. Among these views the concept mooted by traditional liberal view is commendable. It talks about law in women emancipation. The views of this school are laudable from the point of view of developing societies and more particularly for those societies which are characterized by deep rooted and age old gender inequality and discriminative attitudes. 'Cultural liberal feminists target the patriarchal culture by developing in women the ability and confidence to become independent. This involves enabling individuals to resist authority and think for themselves, it gives them reason.

The traditional liberal view talks about the purpose of feminist legal theory which is foremost to identify discriminatory rules and policies and devise strategies thereof.

The position of women in society in India has been ever fluctuating. In ancient India women enjoyed equality of status in the society. They were educated and played an important role in social governance. From archery to education to running *ashram*(the place of abode of Indian sages), managing the affairs of the village, no sphere was left untouched from their presence. This was the era of as we popularly call, the Vedic Age. Later, their position deteriorated considerably because of the foreign invaders that came to India. The Indian sub-continent because of its riches allured the invaders from all over the world. These repeated invasions proved to be injurious to the native culture of India and it instigated its transformation. These invasions had a negative impact on the Indian cultures, customs and traditions particularly on the status of women. In order to save the dignity of women from the intruders new social norms were formulated which resulted in their suppression. New practices like *Purdha of Veil System* (the practice of covering the entire body specially faces so that no one could see the body and face of a woman), early child marriages, sati system were introduced. Girls and women were confined to their homes and as a result they were denied education. Their only role was to look after the household chores. These practices gave a further impetus to the patriarchy and it slowly

started gripping the Indian society, after all power allures each and every person. So when a particular group in the society has the powers and rights concentrated in their hands, they start enjoying it. Most of these practices were introduced to protect the dignity of the women but soon they were adopted as per the convenience of the society which was transforming into a male dominant society.

With the passage of time women were denied all rights and became exposed to injustice and violence. The violence against women took different forms, ranging from domestic violence, to dowry harassment including other forms of social, economic, sexual and emotional abuse. This situation continued for a considerable period of time. Though some reflections regarding women empowerment could be seen during the period of cultural renaissance of nineteenth century in India. Many social reformers championed for the cause of women emancipation. Efforts were made to prohibit sati, introduce widow remarriage, stop child marriages and encourage women to indulge in educational and other social activities. The efforts that were made at this time also had an impact on the freedom struggle of India where many women actively participated in the independence struggle. These efforts however failed to transform the society at large and influenced only certain sections of the people because these were only individual efforts which did not have a legal sanction behind them. Any radical change in the age old norms and traditions of the society could not be brought overnight and only by a small section of the society. Most of the women by this time had become accustomed to powerlessness, marginalization, cultural imperialism, exploitation and violence. Reorganization of the society to bring about a structural and cultural change was thus a challenging task at this point of time as there were two struggles going on within the country, firstly and most importantly, the freedom struggle against the British and secondly and equally important which ironically also happened to be a freedom struggle, but this was only for a certain section of the society, the women; the freedom of women from age old discriminative norms and suppression. The status of women again changed in modern India. With the enactment of the constitution a holistic approach for a pro-woman development and empowerment was adopted and which was the need of the hour too.

For any society to be a progressive society its overall development is required, division of power and labor is required in order to ensure that social, economic and political justice prevails. For this a robust and comprehensive guideline was needed that would bring about social transformation along with legal sanctions for its effective implementation. This comprehensive guideline was called the Constitution of India whose objective was to establish India as a socialist, secular and democratic republic where justice: social, economic and political would prevail, where freedom of thought and expression would be guaranteed to all and where equality of status and opportunity would be enjoyed by one and all. In order to ensure that these objectives would be implemented, the fundamental rights were guaranteed to all by the Indian Constitution. Fundamental Rights in India are those rights which are protected and enforced by the Indian Constitution. Which one posse's against the State and where any enactment which violate, abridges or takes away these rights is declared to be null and void. The Supreme Court is the guardian of these fundamental rights in India. Some of the noteworthy fundamental rights directed to bring about gender equality are Articles 14, 15 (1) and (3) and 16 respectively. These articles hold special importance when we talk about establishing a just, economic and social order.

These articles had an important role to play in bringing about a social transformation. Though it was aimed to secure social justice through these articles, economic independence was

another important factor for women in a developing and emerging economy since now to a certain extent women participation could be felt and seen in different sectors. By now they had started contributing in the workforce and therefore their protection was now a difficult task at hand. The equality code as incorporated under the Indian Constitution was directed at eliminating individual, institutional and systematic discrimination against disadvantaged groups which effectively undermines their full and equal social, economic, political and cultural participation in the society. It is intended to promote a society in which hitherto powerless, excluded and disadvantaged enjoy the valued social interest such as dignity, respect access to resources, physical security, membership in community and power, available to the powerful and advantaged (Kapoor, 1996). Within this approach, discrimination consists of treatment that disadvantages or further oppresses a group that has historically institutional and systematic oppression.

Keeping this in mind division of labor and economic powers was essential for an economy to flourish. To ensure this, freedom of trade, profession and occupation was needed which was further guaranteed by Article 19(1)(g) which became an indispensable right or a means to achieve the end of gender parity at work. Apart from bringing the two genders at parity, this right would also act as a catalyst in economic and social independence of women. However, a nation that has had a long and ugly history of discrimination and gender oriented violence guaranteeing the rights was not enough, their protection and implementation was a bigger challenge. Safety, security and protection of women were critical issues left to be addressed. Just as their position in the society, the position of the women at workplaces was equally vulnerable. The workplaces of women were not left untouched from harassment, violence, discrimination and exploitation. Women are often subjected to these attitudes and behavior because of two reasons, resilience and fear. Fears of defamation, losing the job, position in family and society unemployment compel women to tolerate this behavior which in turns gives a boost to the perpetrators. Another characteristic that women are adorned with is resilience. Grammatically resilience means, the capacity to overcome difficulty quickly which actually is an inherent quality of womanhood in India. Most of the women are nurtured from their childhood with a belief that men have the right to hit them, use violence and force against them, they are taught to believe that all such actions are justified in the name of gender. When they are reared with such believes resilience to Indian women comes on its own. This is the reason why, they face violence but do not report because they know the art of recovering from them quickly. Sadly they accept it as a part and parcel of womanhood which they have never been taught to question and challenge. It is because of such reasons that majority of the cases involving violence against women, are never reported to the concerned authorities. To encourage women to raise a voice against violence committed against them, specific acts were recognized as crimes under the penal laws while for the others complete legislations were formulated. Acts like domestic violence, dowry which were greater evils had complete legislations on them while the others were included in the Indian Penal Code. Most of these crimes protected women from the violence committed against them in their families. As far as regarding prevention of harassment of women at workplace there was no comprehensive legislation that India had. Where at one hand efforts were being made to bring gender parity in homes and in social norms the gap widened in the workplaces tremendously. Nature of work, hours of work and difference in remuneration were all influenced by gender discrimination. For instance the case of *C.B.Muthamma v. Union of India* serves as an example of gender discrimination at workplace. In the instant case the petitioner was a senior member of the Indian Foreign Services and she was eventually denied promotion. She contended

that due to the long standing practice of gender discrimination at workplace and hostile work environment against women, she was asked to give an undertaking at the time of joining the service that if she gets married she would resign from the services. She challenged the discriminative service rules which indicated that women engaged in the services were required to obtain written permission from the Government before solemnization of marriage and if the Government is satisfied that her marriage would hamper her duties, she would be required to resign from the services. Another rule that was discriminatory was that no married woman shall be appointed to the service. It was observed in the instant case 'that sex prejudice against the Indian womanhood pervades the service rules even a third of a century after Freedom. There is some basis for the charge of bias in the rules and this makes the ominous indifference of the executive to bring about the banishment of discrimination in the heritage of service rules. If high officials lose hopes of equal justice under the rules, the legal lot of the little Indian, already priced out of the expensive judicial market, is best left to guess. This disturbing thought induces the making of a few observations about the two impugned rules which appear prima facie, discriminatory against the female.'

The case of *Mackinon Mackenzie and Co.Ltd v. Audrey D'Costa* is a befitting example of such policies where there was difference of remuneration between men and women on the basis of gender. This was acknowledged by the Supreme Court of India as discriminative of article 19(1)(g). The major landmark case that brought to light the exploitative behavior towards women at workplaces was the case of *Air India v. Nargeez Meerza*. In this case there were different conditions and regulations for hiring and remuneration related issues for the air hostess and Assistant Flight Pursers. This different or rather discriminatory treatment meted out to the Air Hostesses was soon challenged. The discriminatory regulations against Air Hostesses included: termination of services on first pregnancy and restriction on marriage within 4 years and early retirement at the age of thirty-five years; extendable to forty-five years at the desire of the managing director.

Though these discriminative policies give a blow to the concept of women empowerment they also undermine a woman's resilience. It affects them adversely mentally and physically as well. Resilience has certain characteristics which are sense of purpose, perseverance, equanimity, existential aloneness. These features can be maintained by taking care of oneself, seeking and giving support, striking a balance between work and personal life. The two ends are difficult to meet. The modes that make a woman resilient are the ones which in fact are the features that are most affected once she faces discrimination and violence. Discrimination, harassment and violence not only have a physical impact but they have a long lasting mental and emotional impact which in turn affects the women physically. Sexual harassment can impact victims in various ways, causing feelings such as helplessness, lower self-esteem, shame, anxiety and depression and symptoms such as sleeplessness, nausea, suppressed immunity and increased inflammation. Individuals who are being sexually harassed are likely to be tardy or absent from work, withdraw socially, value their occupation less and show overall decline in job performance (Lips, 2015). Such discriminative attitudes undermine a woman's confidence and they influence her resilience. Over all it impacts on the existence of womanhood. In order to have productive labor output the workplaces need to maintain healthy work atmosphere and not hostile one. A positive working environment yields positive results as it brings positive impact on the personality of an employee. Discrimination and harassment at workplace are now recognized as a common problem all over the world. Also, most of these cases go unreported and hence the reality is often not brought to the forefront. Women continue to suffer silently the injustices.

Sometimes because of the resilience the women have, they overcome the stigma and sometimes it destroys them emotionally and psychologically. Each such discriminative behavior meted out to the women has psychological and as well as physiological implications on her personality.

It was only in the twentieth century that globally sexual harassment and gendered discrimination at workplace was recognized and accordingly policies were framed and legislations enacted to combat the same. To ensure that a healthy and not hostile work environment exists, the organizations need to formulate policies that encourage gender parity and not discrimination. For this it is essential for the organizations to be resilient.

Conclusion:

For building resilience in women, the organizations have to foremost inculcate this feature in organizational policies in order to progress socially, politically and economically. A resilient workplace could be built by generating awareness programs, regular assessments to gauge stress and mental strengths in persons. Introduce training programs that would help people to balance work and life, enhance their professional skills and introduce wellness and safety programs. Once these programs are formed part of the training and organization policies a healthy atmosphere shall prevail which in turn would build resilience among the women. The discriminative policies are therefore an obstacle too progress and this can be overcome by building a healthy atmosphere that would ensure equal opportunities to flourish and develop and nurture resilience to its full potential in women for as Mary Ward puts it 'women in time to come will do much.'

References:

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3. Article 15 (1), The Constitution of India: The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.
4. Article 15(3), The Constitution of India: Nothing in this article shall prevent the State from making any special provision for women and children.
5. Article 16, The Constitution of India: There shall be equality of opportunity for all citizens in matters relating to employment or appointment to any office under the State
6. Article 19(1)(g), The Constitution of India: Right to freedom to practice any profession, or to carry on any occupation, trade or business.
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