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# **‘GENDER INEQUALITY AND WOMEN EMPOWERMENT-A COMPARATIVE ANALYSIS WITH SPECIAL REFERENCE TO INDIA AND THE US’**

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## **ABSTRACT**

*“You can tell the condition of a nation by looking at the status of its women”*

*Jawaharlal Nehru*

Gender inequality has been a historically and continuously prevalent evil in both India and the United States. But ironically, both the country’s constitutions promise women an equal status in their countries. They grant the freedom and equality in the eyes of the law that they aspire to one day implement. Various law researchers have always looked into India’s deep rooted cultural practices and traditions, and how a patriarchal society like India have made equality for women possible. Women in India have long been ostracized in various fields of politics, public sector jobs and other sectors which have been dominated by their male counterparts. Female suppression is deeply imbibed in the governing system itself, with women representation in governmental posts and the Supreme courts in both countries being very less. Voting rights itself were granted to women in the US in 1920, and in India during the 1950s. This very treatment of women show how they were long perceived and even now, unfortunately, as beings without a rational and living mind of their own. This research paper attempts to break down the historical reasons of both countries as to why women were mere audiences or spectators since time immemorial, and how the laws were reformed to protect women’s rights in the respective countries. It also aims to analyze the status quo of female participation in sectors like economy, education and politics.

**KEYWORDS: Women, Constitution, US, India, Rights, Equality**

## **I. INTRODUCTION**

It was common to hear in history that the man is superior to the woman. Although gender is a social terminology with no specific definition, one 'gender' has, since time immemorial, been socially, culturally and professionally ostracized, on the global context of being created to be confined to motherhood and physically/mentally undemanding occupations.<sup>1</sup>

Gender specific ideals can be seen in our homes and communities everyday- in textbooks and in the media. Children see their parents assuming unequal responsibilities at home, with mothers bearing the brunt of caregiving and chores. Psychologists have often propounded that men who have constantly seen domestic violence growing up are more likely to perform it on their spouses or female counterparts. This cycle of aggression towards the majority of women is increasing daily, especially during the pandemic. This does not undermine the fact that men are also prone to such forms of violence, but the proportion is obviously unequal.

On the economic forefront, the majority of low skilled and underpaid community health workers who attend to children are also women, with limited opportunity for personal growth. This indicates the vulnerability of women in the labor market.

The cliché concept of inequality between the genders has always been discussed, with revolutions arising, and politicians using this vulnerability to their advantage. Even though the world evolved and gender roles have begun to reverse, the stigma surrounding women and their daily lives have very little difference. Presently gender inequality has decreased significantly due to the combined efforts of activists and various organizations, but it still prevails all over the world.

## **II. THE IMPORTANCE OF GENDER EQUALITY**

The importance of gender equality boils down to the vicious circle of education, health and well-being. Despite the cliché 'women deserve as much as men', there's a much more larger aspect to this, considering the fact that if a female is educated, a lot of other connected problems will have found a solution. About 496 million women worldwide cannot read<sup>2</sup>- this simply makes illiteracy more prevalent among women. Had there been more awareness to make

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<sup>1</sup> <https://www.unicef.org/gender-equality>

<sup>2</sup> Liz Ford, Two-thirds of the World's Illiterate Adults are Women, report finds, THE GUARDIAN, 20<sup>th</sup> October 2015

education equal for both men and women, a woman could have read, and transformed many lives around her. This can reap a lot of benefits for her children's health, nutrition and education. A women's situation in her country can also be judged by the economy of the country. Developing countries, mainly, have failed to promote women and break gender roles. This has caused a shortage in the contribution to the GDP. According to the McKinsey Global Institute report, about 26% more could be added to the GDP if countries can break gender roles and can participate in the same labor market as of men<sup>3</sup>.

Besides all these important advancements, female literacy and equal participation of the genders in all fields can help reduce serious concerns like infant mortality rate and malnutrition, for a woman can be made more aware of her value and the importance of educating herself and standing up for herself.

### **III. THE ROOTS OF INEQUALITY-A HISTORICAL AND CULTURAL PHENOMENON**

Since time immemorial, women have been considered inferior to men, intellectually and physically. Women had no property rights, no freedom of speech or expression, and would not be allowed access to education. In India, the laws of Manu had propagated the idea that women were servants of male relatives, widows were to be bound to her home, and Sati was appropriated as an act of honor. India is a country which hails its culture and religious practices, and in such a country, it was very difficult to do away with the long-standing practices which involved myths and superstitions that discriminated against women. Long ago in the United States too, women were seen as a man's mere properties, and they had no right to vote or express their opinions on any public platform.

Although India has been a patriarchal society ever since history can remember, one cannot but wonder about how inequality can be prevalent in a country like the US, especially given its development status. The unfortunate truth is that although women achieved the right to vote and other rights in such a developed country, they still lag behind in so many fields, like politics. This very obvious underrepresentation of women in the legal, political and public arena is a flaw, and is deep rooted in American history which somehow, is part of every other

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<sup>3</sup> Jonathan Woetzel, Anu Madgavkar, How Advancing Women's Equality can add \$12 Trillion to Global Growth, MCKINSEY & COMPANY (September 01, 2015), <https://www.mckinsey.com/featured-insights/employment-and-growth/how-advancing-womens-equality-can-add-12-trillion-to-global-growth#>

country's historical and cultural ideology- that women are mere housekeepers, and they cannot stand a chance against men in such important platforms. This can be seen from the case of *Bradwell v. Illinois*,<sup>4</sup> where the Illinois had the power to ban women from practicing law on the basis that follows:

'Man is, or should be, a woman's protector and defender. The natural and proper timidity and delicacy which belongs to the female sex evidently unfits it for many of the occupations of civil life...

The paramount destiny and mission of woman are to fulfil the noble and benign offices of wife and mother. This is the law of the Creator.'<sup>5</sup>

#### **IV. HOW THE EXISTING LEGAL MECHANISM IN BOTH COUNTRIES TRIES TO SOLVE THE PROBLEMS OF INEQUALITY**

Both nations, over the years post-independence, have tried to formulate a legal framework and a system that has to an extent, helped women officially achieve an equal status to that of men. Both countries being democracies, have opted for a constitution that provides statutes and laws that try to ensure that both the genders are at par with one another. Although this has not been fully achieved, some laws in both countries have successfully created the image of a free nation that allows everyone, irrespective of gender and sex, to have an inalienable right to equal treatment and opportunity.

In the United States, the Women's Rights Convention 1948, was the beginning of a revolutionary march towards gender equality and justice. It empowered women to fight for their right to vote, which was successfully accepted in 1920. In addition, the Civil Rights Act of 1964 made it illegal to treat men and women differently. Another landmark ruling was in *Roe v. Wade*<sup>6</sup>, in which the Supreme Court had finally addressed the issue of abortion and had given women the right to choice about her own body, and made abortion legal in all states in the country. The U.S. currently ranks 53 in the Global Gender Gap Index 2020<sup>7</sup>, which is a major drop since 2006, when it stood at the 23<sup>rd</sup> rank. This is due to the increased amount of

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<sup>4</sup> *Bradwell*, 83 U.S. at 130.

<sup>5</sup> *Id.* at 141

<sup>6</sup> *Roe V. Wade*, 410 U.S. 113 (1973)

<sup>7</sup> World Economic Forum, Global Gender Gap Index, 2020

domestic violence, sexual abuse and other forms of harassments that increased in the country over the years.

In India women groups started emerging in India in the early 1900s and at first they focused on social reform. The women in India have campaigned vigorously and successfully for social and political rights. It was in the year 1950 women and men above the age of 21 were given voting rights. The crimes against women are on a rise in India for a very long time especially domestic violence, <sup>8</sup>The struggle of Kiranjit Ahluwalia(1989) who burnt her husband to death in response to ten years of physical, psychological and sexual abuse, fictionalised in the movie 'provoked' has raised awareness against domestic violence and gave birth to the 'bell bajao' campaign to show that domestic violence is a social issue and should not be brushed under the carpet as a private matter of the family. Another problem in India is marital rape which has till not yet been criminalized even though it is long due. Another oppressive tradition is the act of giving dowry and it has been abolished by the Dowry Prohibition Act, 1961, which still fines and a minimum imprisonment of 5 years in prison for violation. Female infanticide has been seen as a very serious problem in India and the punishment for it can go up-to life imprisonment.

Even though both nations have adopted so many reforms and enacted and implemented so many laws against gender inequality, it is not easy to say that they have been successfully influencing the general population. In a country where a much celebrated president can make sleazy remarks against a colleague and other women and get away with it, and in another country where ministers consistently make unapologetic and tone-deaf comments despite the plight and sufferings of their women, gender equality seems like a distant dream.

#### **V. PROBLEMS OF FEMALE UNDERREPRESENTATION-HOW MEN DOMINATE SOME KEY FIELDS**

Education, politics and economy are some key fields which influence the running of a country, and its development and progress. A country which does no justice to women in all these three fields will fail in its prosperity, and this can be seen through the rate of females having access to careers or a position in these three main areas.

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<sup>8</sup> Gender Justice: A Comparative Study of U.K., U.S.A., E.U. & India (legalservicesindia.com)

- 1) **Education:** ‘Educate a man and you educate one person but educate a woman and you educate a whole civilization,’ said Mahatma Gandhi. Even though India may be marching towards achieving this goal set by Gandhiji but the truth is that the education of a woman in India is still considered as disadvantageous to the sustenance of patriarchy. Nearly 6 million children are not in school in India and most of these children are girls. Between 2006 and 2010 only 26% of girls completed secondary school compared to 50% boys.<sup>9</sup> The taboo that exists in rural areas about menstruation and its physical constraints on women further encourages households to bar girls from attending school or educational facilities. It is this lack of a structured and comprehensive education system that has provided a protective umbrella on the gender biases that are passed onto generations perpetually.
  
- 2) **Economy:** In India, economic participation of women is very low, such that there is a huge gap in women’s roles as officials and managers in the labor market. The lack of women in the economic participation and their loss of opportunities show Indians’ approach to women accessing jobs in general. This is due to the lag in education among women in the country, and thus, the rural and urban population see a great disparity in the work done by men and women. The general stereotype that women are homemakers and men are the major participants in finance-related matters have not helped in the contribution of half the population comprising women, to the GDP in the country. This gradually slowed down the process of development in the country. The U.S., on the other hand, economic empowerment of women is on the rise. However, their economic security is very low, with women being over-represented in vulnerable and informal jobs around the country.<sup>10</sup>
  
- 3) **Politics:** If there is something which has seen no improvement in India it is female representation of women in politics. The number of female members in politics is negligible as compared to men. There have been efforts to change this by providing one third representation for women in local bodies including the parliament but the representation is just 5 to 10% across all political parties. Every political party in India and across the world has more number of males than females as its members. In India,

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<sup>9</sup> Petrina Darrah, Keeping Girls in School : Contributing to Gender Equality In India Through Education, GVI, <https://www.gvi.co.uk/blog/keeping-girls-in-school-contributing-to-gender-equality-in-india-through-education/>

<sup>10</sup> Douglas L. Peterson & Tara Powers, Women as Drivers of Economic Growth, S&P GLOBAL <https://www.spglobal.com/en/research-insights/featured/women-as-drivers-of-economic-growth>

there is no change in this ratio since independence. Even after the passage of a Bill related to the reservation of women, it has changed insignificantly. Women politicians in India receive on average 113 problematic or abusive tweets per day, including threats and badgering, according to a report released today by Amnesty International.<sup>11</sup> In the US politics is the only forum where women representation is lagging behind but in the past few years women representation have increased but it is still not sufficient. After almost hundred years of independence, the US saw its first woman vice president in Kamala Harris. With the advent of Joe Biden as the President, female presence in office have doubled. Even after all these improvements in total the women representation is very low but the US have shown hopes of much more improvement in the coming years.

## VI. ROLE OF THE JUDICIARY IN MAINTAINING GENDER JUSTICE

The judiciary can bring about a major turn in how a society perceives women and equality. A judiciary's decision can always turn out to influence the standards in a society. Even within the judicial system, there should be no bias against women, and they should stand out as a symbol of diversity in representation.

The Indian constitution has always stood for the justice of women, and has helped in uplifting women's rights in the country. For instance, in the case of *Air India etc. vs Nergesh Meerza*,<sup>12</sup> the airlines had violated some provisions of Article 14,<sup>13</sup> wherein the air-hostess were forbidden marriage in their first four years of admission into the job. It also had the policy of terminating female employees if they get pregnant in their term of employment. The Supreme Court, however, held that the policy of termination on pregnancy violates the principle of equality and is in direct opposition to Article 14 of the Indian Constitution.

In the U.S, although women are under-represented in the judiciary, it guarantees equality before law. Various landmark case laws have shaped the legal sphere with respect to gender equality in the US, such as the *Burlington Northern & Santa Fe Railway Co. v. White*<sup>14</sup> case, wherein

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<sup>11</sup> From Threats of Gang Rape to Islamophobic Badgering, Indian Women Politicians Face High Levels of Online Abuse, Says Report, TIME, <https://time.com/5770213/india-women-politicians-twitter/>

<sup>12</sup> *Air India etc. vs Nergesh Meerza*, 1981 SCR (1) 438

<sup>13</sup> INDIAN CONSTITUTION, ART.14

<sup>14</sup> *Burlington Northern & Santa Fe Railway Co. v. White*, 548 U.S. 53 (2006)

the the company's suspension of an employee to prevent sexual harassment claims was under violative grounds of the Civil Rights Act of 1964<sup>15</sup>.

## **VII. CONCLUSION**

Even though the concept of feminism faces a lot of backlash and framing due to women themselves displaying the wrong idea of woman empowerment, there are many noteworthy incidents within the feminist movement across the world, that stays true to the essence of the whole concept of feminism. Atleast the younger generation must always be aware of long standing corrupt practices and vote banking that our country witnesses everyday. We must make sure to educate our next generations about the importance of respecting each other, and valuing equality as an important trait that can sustain human rights. Total egalitarianism can never be achieved anytime soon, but the steps towards it is very important and must be considered to prevent the world from hiding the faces of many, who aspire to at least hold a pen and change the world.

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<sup>15</sup> Civil Rights Act, 42 U.S.C., (73–27) 1964