



A LOOK AT GENDER DISPARITY AND GENDER EQUALITY LAWS IN INDIA IN COMPARISON WITH OTHER COUNTRIES

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ABSTRACT

Even in the 21st century, we have different standards for men and women. There are a lot of behaviour, conduct and actions that are considered socially unacceptable depending on your gender, which sounds absurd. We talk about gender equality in the Constitution of India, but do we actually give gender equality? Quite often we hear that so and so thing can be done by men and not by women. There are restrictions, limitations, prohibitions, and curtailment of freedom at every level. We talk of gender equality in theory, International Instruments, the constitution of the country and other laws of the land have mentioned it, but in reality, we are in a completely different space. The law of equity demands jurisprudential norms to establish the women towards mainstream, but the society seems to be stagnant in terms of changing the mindset.

This paper "***A look at gender disparity and gender equality laws in India in comparison with other countries***" focus on current social behaviour and conduct which are different for men and women, laws which has disparity between men and women in India and comparison with other countries and finally the gender equality laws in India, other countries and the current International scenario.

INTRODUCTION

Even in the 21st century, we have different standards for men and women. There are a lot of behaviour, conduct and actions that are considered socially unacceptable depending on your gender, which sounds absurd. We talk about gender equality in the Constitution of India under Article 14. We talk about right to life under Article 21 but where is the right to life given to her literally, yes, we have it in books, but there is no quality life to her. Quite often we hear that so and so thing can be done by men and not by women. There are restrictions, limitations, prohibitions, and curtailment of freedom at every level. We talk of gender equality in theory, International Instruments, the constitution of the country and other laws of the land have mentioned it, but in reality, we are in a completely different space. The law of equity demands jurisprudential norms to establish the women towards mainstream, rethink for while we have not at all accepted the decorum of women in her nature and exploitation is aspect of end-to-end business in the world.

The law makers understood the importance of gender equality and enshrined it in the Constitution and in other laws of the Country, but we have failed in changing the mindset of the people. What women are asking is 'equality' and not 'superior position' than men. Let us stop believing that she is either a "devi" or a "dasi", she is a very normal human being with her flaws, desires and wants. Let's consider her of the same species and believe that '**she has it in her**' and in the least respect the Constitution.

We have gender discrimination practices, and which have become deep rooted in the society. But we also have gender inequality laws whether taxation laws (indirect tax), payment of unequal wages to men and women on the pretext of women being weak and men being strong, pregnancy laws for the women and so on and so forth.

STATE OF AFFAIRS FOR THE WOMEN IN THE SOCIETY

In actual practice we have different rules/laws for men and women quite different from what are guaranteed under the International Instruments like UDHR, ICCPR AND ICSECR and Constitution of India. Men can go out at night and misbehave with women, though we know that under the penal code¹ eve teasing and outraging the modesty of women is a punishable offence. Also, under IPC Sec 354A,² committing of Sexual harassment attracts punishment and instead of controlling their behaviour, we tell women not to fall out in late hours. Her freedom is curtailed by making all these restrictions. When, god forbid, any incident happens we blame the women for her going out late hours or her dressing up inappropriately. Surprisingly, No one is trying to mend the boys, IPC under sec. 354B³ also punishes disrobing a woman with criminal force. The men get the

¹ IPC Section 354, Assault or criminal force to woman with intent to outrage her modesty is an offence and shall be punished with imprisonment for a term which shall not be less than one year but which may extend to five years, and shall also be liable to fine

² IPC Sec 354A, committing of Sexual harassment attracts punishment² and acts like physical contact and advances involving unwelcome and explicit sexual overtures; or(ii) a demand or request for sexual favours; or(iii) showing pornography against the will of a woman; or(iv) making sexually coloured remarks, shall be guilty of the offence of sexual harassment, he shall be punished with rigorous imprisonment for a term which may extend to three years, or with fine, or with both.

³ IPC Sec. 354B Any man who assaults or uses criminal force to any woman or abets such act with the intention of disrobing or compelling her to be naked shall be punished with imprisonment of either description for a term which shall not be less than three years but which may extend to seven years, and shall also be liable to fine.

message that they can get away with anything, there is no restriction on their conduct and definitely no one fears law as they know women has to undergo shame if she opens her mouth. Many times, she doesn't come ahead to bring the perpetrators to books due to shame, society barriers and guilt.

If the woman drinks, she is labelled as a "loose character women", for man there is no such rule, and it is just a health hazard. Whereas we know that drinking in public place creates nuisance and is an offence under the law and for both men and women drinking too much affects the health. Man can flirt and date openly, when woman talk about it, she is "shameless or characterless", or she is making passes or too free. Is the right to freedom of expression under Article 19 (1) (a) of the Indian Constitution is guaranteed to everyone in the country, so why shouldn't the woman be expressive? The film Industry and media portrays women as objects of desire, focus on their looks, body shape, choice of clothes, the men enjoy the view of women, but the same men do not want their own women to be part of such industry, it is not considered as a good profession for women. Moreover, even in childhood, girls are already more conscious about how their body weight affects their appearance compared to boys. Furthermore, girls' body esteem is already reduced when they are overweight, whereas boy's body esteem is only affected when they are obese. Having a beautiful and healthy body should be equally important for both. Why are we so obsessed with a women's body and not of men? There is a lot of pressure on women to conform to the body ideal and to look good. Women are more frequently confronted with ideal bodies in the media than the men and beauty is more essential to the feminine than to the masculine gender role. What surprises me is that we are talking about gender equality only in the paper. The judgmental aspect of society towards women is improper the involvement of outsider to decide what is right or wrong is the main cause for injustice, do not blame the system till you enjoy the freedom, it's a question to that man who plans for trap that she is a Women. The sexuality is a desire of individual it needs control of understanding and accepting the rejection no matter whatever may be the position you are in if it is an uncontrolled act do not defend or speculate as an outsider this is your responsibility towards society. I only say to be responsible that you have to think on "are you an outsider?" then the decision is yours.

Men and women frequently differ in the amount of competence that is assigned to them and in the emotional reactions they receive when they attempt to occupy leadership positions. Moreover, women who do achieve such positions often have difficulties exerting influence. For instance, they tend to be perceived as aggressive whereas men exhibiting the same behavior are seen as decisive. In addition, there are usually differences in the types of personality characteristics that men and women are expected to exhibit (e.g., women are expected to be more sensitive than men). There are also gender differences in the rules specifying what degree of informality is acceptable in a given situation. When right to education is given as a fundamental right in the Constitution of the Country, equally to men and women, how can there be differences in efficiencies between the two.

Women have equal right to property with men in their parental property, and again equal right in their husband's property under the Hindu Succession Act and Indian Succession Act, but we see that Men have the right to decision making in property matters apart from other matters, women don't get such right either at her maiden home or matrimonial home in relation to economic decision making or any other matter related to it.

The women got the right to employment under the laws, she got the right to work after marriage, but we have still failed to do away from 'double shifts' concept. Even when the woman is working, she is expected to do 'double shifts' and complete her household responsibilities and her career is expected to fall 2nd in the list of priorities. The right to work which is mentioned in the Constitution under Article 21 is given to her subject to "conditions" by her family.

Women are expected to be shy, timid, tolerant, and soft spoken and under the control of men. Whilst inequalities do persist, women also prefer men to be in charge of the relationship, household and believe it's natural for a man to want to appear to be in control of his partner in front of his male friends and many women accept and adjust to the situation. Whatever the case, the mindset of the people doesn't change and many times the expectations are very unreal and illusory. Man doesn't stop believing that women is his personal property and conducts in that way.

Woman is expected to be highly tolerant, and not supposed to throw tantrums or she is identified as a 'drama queen'. When she dresses up too much, she is categorized as 'trying to attract men'. As sadguru jokes in one of his videos, "lets understand this, women are not of different species". He has put it as a joke, but there is a deep thought there. Women have a mind of her own, she can think, she can act, she knows to decide her priorities. Why have we made separate rules for women and men? When law is impartial both at national and International level. The women have the same qualities as men do and have the same desires as men. Why can't she be angry? Why can't she express herself? Why can't she give opinions as against men? Why can't she laugh loud? Why is there a question on her character, every time she opens up about things? Can she mingle with men without been labelled? Is having fun and light moments just the right of a man? Why can't she wear the clothes she wants to wear? Why there is a judgment passed depending on the way she dresses up, as the right to freedom of expression under Article 19 (1) (a) is given to every citizen as a fundamental right then why are we doubting her capabilities even after she is educated and at par with men? Strangely she is expected to sacrifice all the time for the male members of the family. Woman is the 'shakti' and giver of birth, life comes into existence because of her and look at the irony she is fighting for her basic rights.

Gone are the days of "Agni pariksha" and "Tyag ke murat". Today's women are well equipped with everything what it takes to be successful, and she needs no support of anyone. She needs a friend not a supporter or advisor. The law makers understood the importance of gender equality and enshrined it in the Constitution and in other laws of the Country, but we have failed in changing the mindset of the people.

What women are asking is 'equality' and not 'superior position' than men. Let us stop believing that she is either a "devi" or a "dasi", she is a very normal human being with her flaws, desires and wants. Let's consider her of the same species and believe that '**she has it in her**' and in the least respect the Constitution.

India is a male dominated society where women have been considered inferior to men in practical life. Although women have been given a higher position than men in the ancient Indian scriptures, in reality the case is just the opposite. Even today women are prohibited from participating in many domestic as well as external matters especially which require decision making. They are under the influence of their parents before marriage and their husbands after marriage. Sons are preferred over daughters in most parts of the country. This leads to a preferential treatment of boys in families right from their birth. Demographic trends also show that there is

deep-rooted gender discrimination that begins with female feticide and prenatal sex determination. Sex determination is a common practice in many states of the country like Maharashtra, Rajasthan, Punjab, Haryana. The country has witnessed an unfavorable sex ratio of 927 females to 1,000 males, except for in the states of Kerala and Goa. The female infant mortality rate of 49.14 deaths per 1,000 live births is higher than the male infant mortality rate of 46.12 deaths per 1,000 lives. Girls are also deprived of certain basic needs like nutrition, access to health care, educational and employment opportunities. Girls are brought up to adjust to the male-dominated and patriarchal society. They are taught to do all the household work, so that they can be good wives once they are married.

The Indian Constitution conferred equal rights on men and women to eradicate gender inequality in the year 1950. Several laws were implemented to liberate women from oppression in the society. Various laws relating to maternity benefits, inheritance, divorce, equal wages, and action against domestic violence came into existence after independence was achieved in 1947. Despite all these laws, culturally women are still viewed as weak individuals and who are secondary to men. Many women are still the victims of domestic violence and harassment at work; even today a female child is disadvantaged from the time she is born. The number of women in the workforce is much less than men. Women in most cases make less money than men. It is estimated that women earn only 17 percent of the non-agricultural wages, out of which 13.9 percent belongs to the urban sector and 29.9 percent to the rural sector. The average wage rate of women is only 75 percent that of men and comprises 25 percent of the family income. Women in agriculture do not earn equal wages as men in any part of the country, and women are still victims of violence like dowry death, rape, sexual abuse, domestic violence etc.

We have gender discrimination practices, and which have become deep rooted in the society. But we also have gender inequality laws whether taxation laws (indirect tax), payment of unequal wages to men and women on the pretext of women being weak and men being strong, pregnancy laws for the women and so on and so forth.

GENDER DISPARITY LAWS

Not only the society is discriminating with the women but many times the laws are discriminatory in nature. There is a concept of pink tax where women are paying more tax on cosmetics, beauty products and other women related products. One can argue that the lady need not use such products, but the society has put standards on her from which she hardly deviates as many of them are looking for acceptance from the society.

GLOBAL GENDER PRICE DISPARITY – THE PINK TAX

The Pink Tax is an extra amount that women pay daily as consumers for products and services that are similar or equal to men's products, hence women are being subjected to unfair price standards. Economic gender discrimination is persisting within society due to the ingrained acceptance of cultural expectations of the genders. Women's products are more than twice as likely to be priced higher than men's products to the degree that comparable products targeted to opposing genders are only equal in price approximately 40% of the time, therefore it is branded as hidden tax. Large corporations continue to project unrealistic beauty standards on women, since a young age women are programmed to believe that their natural appearance will not be good enough and the only way to be accepted in the society is by purchasing these pink products branded on to them.

Hence women face the unspoken pressure in their daily lives to live upto the expectations of the society, and women are taught to buy these products as they appear feminine. The tax is imposed on everyday items which include clothes, office supply, basic self-care items, and hair styling and grooming products, dry cleaning. This alleviates financial burden on women. The tax is in place as tampons and other feminine hygiene products are viewed as luxury goods but are the basic needs for a woman. Luxury taxation in the form of sales tax of tampons and other feminine products increases the economic disparity of female consumers and women are forced to pay more for necessity products that are gender specific. Furthermore, the wage gap between men and women is still prevalent, along with occupational segregation by sex which also contributes to difference in earnings. Consumer price disparity can further be differentiated through 'Cost of being female' that derives from society's cultural norms. California, New York, Massachusetts is trying to change this in order to prevent pink tax discrimination. Ms. Floyd who attempted to have both her and her husband's identical shirts laundered at a local dry cleaner was met with the realization that cleaning of her shirt would cost more than her husband's. This left her flabbergasted as both shirts were identical and made out of the same material and design, with her shirt even being smaller in size. Stories from individuals prove the existence of gender pricing within various industries offering goods and services. Many companies continue to blast advertisements showcasing a separation of girls and boy's toys with an increase price for pink. Brands are seizing the opportunity to overprice female items in a continuation of what has been considered a norm for female consumption, they prey on the insecurities of believed gender expectations.

Today's Legislatures in U. S are attempting to enact The Pink Tax Repeal Act; however, this is not enough, and exists in a few more states like U.S. Furthermore, the Pink Tax Repeal Act does not fully address the disparity being promoted through means of international trade. Women must educate each other as well and support through various social media outlets and activist organizations.

WORKPLACE DISCRIMINATION AND NON-PREGNANCY CLAUSE (NPC).

A Non pregnancy clause (NPC), or a clause prohibiting pregnancy, is usually found in Labour contracts and states that a breach of the clause would lead to termination of the employment relationship. Although they are gender neutral, these clauses obviously apply only to women. One thing that significantly distinguishes women from men is that only women become pregnant, and if she subjected a woman to unfavorable treatment based on her pregnancy, she would be denied equal treatment under the law.

An NPC in film contracts prohibits an actress from conceiving until the shooting of the film is completed and its noncompliance can lead to the dismissal of the actress or claim for damages. These clauses have been used for some time in many other countries and have recently also been included in the Indian film industry, with many foreign studios making films in India. This clause was used in the era of 1990's where director Subhash Ghai hired actress Madhuri Dixit for the movie in "Khalnayak" where she had a serious relationship with actor Sanjay Dutt. Recently director Sanjay Leela Bhansali wanted actress Kareena Kapoor to sign an NPC for his film Ram Leela.

GENDER BIAS FACED BY RURAL DALIT WOMEN.

Rural Dalit women are subjected by patriarchal structures, they are landless wage labourers and lack access to basic resources and needs and face violence and ill treatment such as sexual harassment. They are targeted by dominant castes as a way of humiliating entire Dalit communities. Human rights abuses against Dalit women are mostly committed with impunity. Police personnel often neglect or deny Dalit women of their right to seek legal and judicial aid. In many cases, the judiciary fails to enforce the laws that protect Dalit women from discrimination. Of the country's almost 100 million Dalit women, approximately three fourths live in rural areas where they face systematic oppression, social exclusion, and direct and structural violence from within their own community as well as from 'upper' castes. Dalit girls are especially disadvantaged and suffer from malnutrition, infant mortality and lack of education and sexual abuse.

In India, Dalits – officially known as Scheduled Castes – constitute one sixth of the population. They are consistently discriminated against despite a constitutional ban on 'untouchability', and the enactment of specific legislations including the Protection of Civil Rights (PCR) Act, 1955 and the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. In India, Dalit rural women face serious challenges in carrying out their multiple productive and reproductive roles within their families and communities, in part due to lack of rural infrastructure and lack of access to essential goods and services. They have the highest poverty levels, are landless and depend on the dominant caste for employment, wages and loans. Their access to resources or even their efforts to access them are often met with violence. Due to the intersection of caste, class and gender, Dalit women are subjected to direct and structural violence. Specifically, the structural violence and lack of access to resources perpetuate their poverty and undermine their dignity.

Dalit women are met with physical, verbal and sexual violence from the landlords when they try to assert their economic right to wages or land and their right to sexual integrity. In India, Dalit women are often met with violence when attempting to assert their rights in areas such as access to housing, drinking water, the public distribution system (PDS), education or open spaces for open defecation. Dalit women who attempt to utilize their power in the *panchayat* are met with male and dominant caste backlash, pressure and sometimes violence. Many times, Dalit women are told they are not even allowed to sit on a chair but must take their place on the floor.

Dalit women face targeted violence, even rape and murder, by the powerful members of the dominant castes used to inflict political lessons and crush dissent within the community. Dalit women are assaulted for not being dutiful wives, not bearing children or male children specifically or not bringing enough dowry into the marriage. Dalit women face violence from community members, complicit police personnel, their in-laws and their families. Dalit women are often the victims of trafficking and sexual exploitation. Dalit women's sexual and bodily integrity are threatened and violated, even from a young age. Due to the caste hierarchy, dominant caste men have a perceived right over Dalit women's bodies while gender inequality and subordination norms play an important role in the perpetuation of marital rape and in-caste sexual assault. Dalit women are considered to be available sexually to any dominant caste man. Additionally, the use of forced temple prostitution and trafficking are major concerns for young Dalit girls. Sexual exploitation of Dalit women is a common occurrence due to their low socio-economic status.

In Nepal, violence against Dalit women is being practiced on the basis of discriminatory social, cultural, economic, religious and political tradition and beliefs. If women resist their practices, they are usually punished with violence. Sixty per cent of Dalit women experience family or other gender-based violence, whether physical, sexual, psychological, social or cultural. Dalit women also face hardship because of child marriage, bigamy and dowry practices that continue to prevail despite having been officially outlawed. Alcohol abuse and subsequent domestic violence is also a significant problem. In a submission to the UN Commission on the Status of Women, three Indian NGOs reported that 86 per cent of women who were victims of violence in the three states surveyed were unable to gain entry into the legal system and their cases would not appear in any official figures. In Nepal, in spite of the enactment of the Caste Discrimination and Untouchability Law in 2011, Dalitwomen remain disproportionately affected by violence. Their cases are being neglected by the state agencies and lawsuits are not brought on the perpetrators.

GENDER EQUALITY LAWS

It's a happy state of affairs that India progressively looks at new laws and adapting it in the domestic legislations. We are continuously at par with the international laws and making it a place where everyone can live in harmony. At present we have Labour legislations which are gender equality laws, Indian Contract Act, some Social Security Acts etc. Indian Courts have heavily borrowed the antidiscrimination jurisprudence from America which is a good sign of progressive legislation.

The major Labour Legislation governing Maternity Benefits in India is the Maternity Benefit Act 1961⁴. The Act provides for a paid leave to an employee who has worked in an establishment of an employer from whom she demands maternity leave, for not less than 80 days in 12 months immediately preceding the date of her expected delivery, for a minimum period of 12 weeks. It also provides of other benefits like nursing breaks etc. The women are not required to inform of her pregnancy upon her joining her employment. In addition, dismissal of women when she is on maternity leave is illegal. The Act further provides that any agreement of service inconsistent with the Act would be overridden by the Act.

Additionally, while the production houses are not covered within the meaning of 'establishment being a factory, mine or plantation', so far as 'shop or establishment' as per State laws is concerned, all States in the country, barring Arunachal Pradesh, have a Shops and Establishments Act. The definition of shops in these Acts is almost identical. Judicial precedents have defined shops as a place where systematic economic or commercial activity is carried on, with regard to sale or purchase of goods or services and includes establishments which facilitate sale or purchase of goods or services as well. It is arguable if a production house facilitates the sale or purchase of goods or services, in as much as it creates the film which is used in the sale of tickets at the movie theatre. There is, however, no judicial precedent in this regard.

Additionally, the Model Shops and Establishments (Regulation of Employment and Conditions of Service) Bill, 2016 is presently pending in the Parliament. While a production house might not be covered within the definition of shops under this Model Law, a plain reading of the definition of establishment under the Bill

⁴ The new law codes has repealed the Maternity Benefit Act 1961 and consolidated the provisions in the Social Security Code.

indicates a likelihood of production house being covered by the Act. Therefore, while there is no guidance available from judicial precedents, there is a likelihood that the production houses will fall within the ambit of businesses covered by the 1961 Act, specifically when States adopt the Model Shops and Establishments (Regulation of Employment and Conditions of Service) Bill, 2016.

The Equal Remuneration Act 1976 is another legislation which might be relevant in this regard. Section 5 of the Equal Remuneration Act provides that there should be no discrimination between men and women at the time of recruitment and thereafter in any terms and conditions pertaining to the employment.

Section 23 of the Indian Contract Act 1872, states that an agreement whose object or considerations are illegal is null and void. It can be argued that the law prohibits the establishment of an NPC clause. The fundamental rights also indicate that preventing a woman from becoming pregnant can be considered contrary to public policies, since it amounts to renunciation of Fundamental Rights, which is inadmissible in Law. The Right to Equality, Article 14 and 15 and the Right to Life Article 21 comes to play by identifying the constitutionality of the NPCs. It needs to be reminded that while Articles 14 and 15 are available only against the State as defined under Article 12 of the Indian Constitution, Article 21 is also available against private individuals. However, subsequent cases have made progress in this regard, both on the front of Right to Equality and in envisaging the right to motherhood within the ambit of Article 21. The CRPF denied promotion to a female inspector because she was unable to attend a pre promotional course because of her pregnancy, in that instance the Delhi High court held that penalizing a woman for her pregnancy is in violation of Article 21. In this background it can be argued that an NPC clause will be violative of Articles 14, 15 and 21.

Film industry is very different from other industries as other industries can continue their business in the absence of the pregnant employee, while the film industry is heavily dependent on the appearance of the cast their exists mechanisms which can be used to hide the baby bump, these include the usage of Computer-Generated Imaginary (CGI) and stunt doubles. Film makers in Hollywood have made use of these mechanisms for example, to hide Scarlett Johansson's pregnancy during the movie Avengers – Age of Ultron.

Indian Courts have heavily borrowed the antidiscrimination jurisprudence from America. In the United States, the Civil Rights Act, 1964, prohibits discrimination-based on sex by the employers. The Pregnancy Discrimination Act, 1978 prohibits discrimination in employment based on pregnancy, in order to reverse the effect of cases prior to the introduction of the Act in 1978, which has held that discrimination based on pregnancy is not discrimination based in sex.

In the United States, Title VII of the Civil Rights Act of 1964 prohibits discrimination based on sex by the employers. The Pregnancy Discrimination Act of 1978 amended Title VII to explicitly prohibit discrimination in employment based on pregnancy, in order to reverse the effect of cases prior to the introduction of the Act of 1978, which had held that discrimination based on pregnancy is not discrimination based on sex. However, sex can be a ground of classification when it comes to such discriminations. However, the question whether sex is a factor for such discrimination, as in the case of a female actress (a male actor cannot perform the job of a female), can non-pregnancy be an additional ground arose in the case of Tylo. In the said case, there existed a material adverse change in appearance clause, as a consequence of which change in appearance not in accordance with the script could lead to termination of the employment. Actress Tylo on becoming pregnant

was terminated from employment. While the case could have been a landmark one, we don't see much discussion on the non-discrimination jurisprudence therein because of the line which Tylo's lawyers took in the court that Tylo's appearance did not change adversely because of her pregnancy.

However clue can be taken from the case of *Wilson v. Southwest Airlines Co*, where it was held that authenticity is essential to the jobs of actors and actresses, thereby hinting that material adverse change in appearance clauses might be valid as a (though it remains to be seen whether the courts construe this as a clause which impacts women more adversely than men, since the changes in appearance of a man can be controlled – for instance the growth of a beard, but the change in appearance due to pregnancy is difficult to control). However, the question being asked by the Courts is if men were to require a nine-month leave, would they be discriminated against? Answering this question in the affirmative, some Courts have held pregnancy-based discriminations as valid. However, there do exist cases which, though in minority, have held using a but for pregnancy approach, that when the discrimination would not occur but for the pregnancy, it is discrimination based on sex.

The European Jurisprudence is far clearer in this regard. The employee has no obligation to disclose her pregnancy during recruitment or at any other stage. The European Jurisprudence has held that even economic interest cannot justify discrimination on the basis of pregnancy. This is so even when the presence of the woman in question is necessary for the proper functioning of the business in which she is employed, or the contract is for a fixed term and the woman is pregnant for a substantial duration of this fixed term.

So far as Labour Law is concerned, it is likely that an NPC will be invalidated by the non-derogatory provisions of the Maternity Benefits Act, 1961. Under the Indian Contract Act, 1872, read in the light of the jurisprudence on fundamental rights and the Maternity Benefits Act, 1961, these clauses can also be said to be against the public policy of India, and hence invalid as per section 23 of the Contract Act. However, it can be argued that pregnancy would result in substantial non-performance of the fixed term film contract, thereby allowing for repudiation of the contract by the counterparty, the producer, in effect leading to termination of the actress's employment. The clause is arguably in violation of Articles 14, 15, 16 and 21 of the Indian Constitution, unless the peculiar features of the film industry, where the business of the production house is dependent on the continuation of employment of the actress, might persuade the Indian Courts in holding an NPC as a valid classification instead of a discrimination only on the basis of sex. ILO's Discrimination (Employment and Occupation) Convention, 1958 (No. 111), which India ratified in June 1960 would make India liable for non-introduction of laws with respect to non-discrimination on the basis of sex in all forms of employment at the international level. However, India hasn't yet introduced a law implementing this Convention at the national level. It will also be helpful if the Film Guild Association takes lead in formulation of guidelines in this respect. With respect to the position in this regard elsewhere in the world, while the jurisprudence in the United States indicates that an NPC would fall within the exception under the Title VII of the Civil Rights Act of 1964, the European Court of Justice is likely to consider this clause as that promoting discrimination on the basis of sex, on the whole, there is no conclusive answer to the legal validity of these clauses.

This unequal treatment of women is reflected in the media in general and in the Indian Cinema industry in particular. The Indian film industry is a male-dominated industry. Women who pursue a career within the industry are mostly either actresses or playback singers. This trend has undergone a little change in recent years, where women have emerged as choreographers, costume designers, editors and screenwriters, but the number is much less when compared to their male counterparts. Very few women are lyricists or composers. While a handful of them have ventured into film direction, they have not achieved the commercial success like their male counterparts. So, in an industry that has a very a smaller number of women behind the camera, it can be assumed that the portrayal of women onscreen by male directors and other male professionals will have gender biases and constraints and this may not always convey women's world views, perceptions and subjective realities. The roles played by the women onscreen are mostly the male director's notion of what roles women ought to be playing. This notion is based on the director's beliefs, attitudes and values, combined with the director's perception of the viewer's demand. In Indian movies, women were given two major kinds of roles in commercial films, that of the mother (whose attributes are matched to that of the supreme form of feminine energy, the Goddess) and the wife based on the mythological character of Sita (epitomizes extreme devotion to the husband). Similarly, the Hindi film upholds the traditional patriarchal views of society which, fearful of female sexuality, demands of the woman, a subjugation of her desires. Male Indian audiences who view commercial Indian movies tend to hold more patriarchal values and view films that reinforce these stereotypical images of women.

Thus, cinema plays an essential role in shaping views about gender roles and gender identities within the Indian context where women are viewed as playing subordinate roles to men. Numerous studies have shown that cinema and society influence each other. It has been shown that many films in India are made in respect to what is going on in the society and cinema has also had massive influence on shaping up the society's beliefs, practices and providing a new insight into the social milieu. Family melodrama and well-choreographed song and dance routines are the basic essence of most Indian films. Blockbuster movies have been either family oriented or movies that have encompassed certain traditional values. Commercial films portrayed "ideal women" as submissive, self-sacrificing, chaste, and controlled. The "bad" woman on the other hand, is characterized as individualistic, sexually aggressive, westernized, and not sacrificing. Commercial Hindi films have constantly glorified the image of ideal Indian woman as accepting of the injustice and violence meted out towards her by men and society. Hence, violence against women has always been one of the standard components of the Hindi commercial/ formula cinema. Movies have shown men in lead roles, where in most cases women did not have a substantial role to play. Generally, most of the hindi movies or hollywood movies, that are produced every year is a combination of romance, action violence, family dramas with a lot of songs and dance. This genre of cinema is known as "masala" (formula or commercial films). In most of these movie's women are objectified, playing the role of the Hero's love interest.

The stereotypical portrayal of the ideal Indian woman in commercial hindi films has been a matter of concern amongst feminists. Despite the tendency to portray women either as the hero's love interest, successful homemaker, or as a vamp in mainstream commercial cinema, an alternative approach has been the emergence of independent films that portray issues of concern to women from a gynocentric perspective. In many films portray women as strong-willed and independent, although some research has examined the historical

emergence of this genre of film, very few, if any, social scientists have analyzed the content of women-centered films in India.

The Convention on the Elimination of all forms of Discrimination against Women (CEDAW) general has recommended the Core Obligations of States Parties under Article 2 (2010), the Committee has furthermore affirmed that “discrimination of women based on sex and gender is inextricably linked with other factors that affect women, such as race, ethnicity, religion or belief, health, status age, class, caste, and sexual orientation and gender identity”. Dalit women are vulnerable and are forced into servile marriages, sexual slavery, forced prostitution. Young women are often married at a very early age and thus unable to continue their education, resulting in high illiteracy rates and the inability to be self-sufficient and financially contribute to the family. Legal and structural mechanisms can only function effectively if the attitude and perception of people are changed.

CONCLUSION

Overall, I would like to conclude by saying that double standards are universal whether in law or in practice they are all around us. It is faced by both men and women due to the old norms and ideologies of the previous generation. Such mentality must not be carried to the next generation, this can be ensured by awareness among people, people must come together and share their experiences and fight against such discriminatory practices only then society can see some progress reduce such bias. Providing support and campaigns are still not sufficient to solve such deep rooted and rigid mentality proper legal policies and efficient legal procedures are very much essential. Laws do matter because they are actionable in the short run, compared to norms and attitude which often take longer to change. Finding the casual effect of legal reforms on inequality force participation suggests that laws can lead to positive change. Achieving gender equality is not a short-term process. It requires political will and concerted efforts of the government, civil and society, but legal reforms can pay a foundational role as an important step.

In India, principle of gender equality is established in the Indian Constitution in its Preamble, Fundamental Rights, Fundamental Duties and Directive Principles. The Constitution not only grants equality for women, but also empowers the State to adopt measures of positive discrimination in favor of women. Within the framework of democratic policy, our laws, development policy plans and organizations have aimed at women's advancement.

I would like to quote the words of Purnima Manie a well-known advocate for equality and the CEO of Pathfinder India “**A world full of empowered women isn't one where men are marginalized. It's a world where everybody thrives**”. We must work to achieve togetherness and bias free society with all our resources and power.

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S2(e) defines establishment as “any premises, not being the premises of a factory, or a shop, wherein any trade, business, manufacture, or any work in connection with, or incidental or ancillary thereto and includes a premises wherein journalistic or printing work, or business of banking, insurance, stocks and shares, brokerage or produce exchange is carried on, or which is used as theatre, cinema, or for any other public amusement or entertainment or where the clerical and other establishment of a factory, to whom the provisions of the Factories Act, 1948, do not apply, work.”

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S36 of the Contract Act provides that when a party disables herself from performing a contract in its entirety, the counter party gets a right to terminate the contract. *See also*, Gordon Youngman, *Negotiation of Personal Service Contracts*, 42(1) California Law Review 11-12 (March 1954).

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