



Right to equality and gender justice with special reference to legal education in India

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Abstract

If you educate a man, you educate an individual, however, if you educate a woman you educate a whole family. Women empowered means mother India empowered”.

PT. JAWAHARLAL NEHRU

India is now a leading country in the field of women education. Women education in India has also been a major concern of both the government and civil society as educated women can play a very important role in the development of the country. Education is target of women empowerment because it enables them to responds to the challenges, to face their traditional role and change their life. So that we can't neglect the importance of education in reference to women empowerment India is poised to be coming superpower, a developed country by 2020. The growth of women's education in rural areas is very slow. This obviously means that still large womenfolk of our country are illiterate, the weak, backward and exploited. Education of women in the education of women is the most powerful tool of change of position in society. Education also brings a reduction in inequalities and functions as a means of improving their status within the family. EFA programmer was launched in 2002 by the Government of India after its 86th Constitutional Amendment made education from age 6-14 the fundamental right of every Indian child. But position of girl's education is not improving according to determined parameter for women. To know the present position of women education, this study conducted by us. And study concluded that the rate of women education is increasing but not in proper manner.

Historically, women have been central to the shaping of Indian legal thought and scholarship but they have seldom done so from – or exclusively from – within law schools. In this chapter, we trace the history of the early women legal academics and contrast their demographics to their more contemporary counterparts. In doing so, we argue that while increasingly favourable to female law students, law schools have been historically entrenched in patriarchal scripts that continue to harm the female legal academic in India. Instead, it is from counter-institutions like social science schools, professional practice and progressive think tanks that women have been better able to sustain their legal voice, academic credibility and activism.

Keywords: legal education, legal profession, global legal education, gender, women legal academics, women in academia, careers of women academics, gender in law schools

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Introduction

Women education is very important for the proper social and economic growth of the country. It is like an effective medicine to cure a patient completely and provide health back. Women education is a big opportunity for
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India to be developed socially and economically. Educated women are the weapons who yield positive impact on the Indian society through their contribution at home and professional fields. They are the reason of improved economy in the country

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as well as society. An educated woman has capability to handle her home and professional life. They can effectively contribute in controlling the population of India as they would like to marry at a later age in comparison to the uneducated woman.

Raja Ram Mohan Ray and **Iswara Chandra Vidyasagar** were some famous social reformers during the British rule in India who paid their attention towards the women education. Both man and woman cover the half population of the country. They are like two sides of the coin so need equal opportunity to participate in the country development. One cannot exist without other because women are everything as they give birth to the future generation. If they would be well educated, they would give rise educated future generation and thus healthy social and economic condition in India.

Objectives

- To study the Recent Position of Women in legal Education in India
- To analyze the education equality in India
- To study the current policies of education in India

Methodology of the study

The present study is descriptive in nature. The study is based on secondary sources of data. The sample covers the period from 2011 census data. The main source of data is various census Surveys of India and online data base of Indian census statistics, journals, articles etc.

Recent Position of Women Education in India

In spite of the forceful intervention by a bastion of female privilege, feminist critics, Constitutional guarantees, protecting laws and sincere efforts by the state governments and central government through various schemes and programmes over the last 62 years and above all, the United Nation's enormous pressure with regard to the uplift of the plight of women in terms education is still in the state of an enigma in India for several reasons. The 2011 Census report indicates that literacy among women as only 65.46 percent it is virtually disheartening to observe that the literacy rate of women India

is even much lower to national average i.e. 74.04. The growth of women's education in rural areas is very slow. This obviously means that still large womenfolk of our country are illiterate, the weak, backward and exploited. Moreover, education is also not available to all equally. Gender inequality is reinforced in education which is proved by the fact that the literacy rate for the women is only 65.46% against 82.14% of men as per 2011 Census.

Gender in National Education Policy 2020

There is a need to understand impact of the National Education Policy 2020 on higher education in India from a gendered lens. The policy document, released after being in the making for almost five years, aims to undertake a "complete overhaul and re-energizing of the higher education system". Many targets are laid out including one of enhancing the Gross Enrolment Ratio (GER) in higher education to 50 per cent by the year 2035. The document lists out several challenges such as severe fragmentation, rigid separation of disciplines, limited access, limited decentralized autonomy, ineffective regulation and low emphasis on research, among others.

To tackle these issues, it makes many propositions including changing the pedagogic structure of undergraduate courses to a 4-year system, proposing a centralized research curriculum to prevent early narrow specialization, expansion of vocational education and open distancing learning (ODL), amendments to the dropout policy etc. There is need to evaluate these propositions and their implications in addressing the present challenges within India's higher education sector using a framework of gender equity and right to education.

The previous two decades have witnessed a rapid growth of the higher education system with the period between 2002 and 2013 recording an increase in the number of institutions from 12,080 to 35,357 and an increase in student intake from 10.7 million to 32.3 million. However, it is noteworthy that much of this increase has been in the private sector which currently accounts for 78 per cent of all the colleges and 67 per cent of total

college enrolments in India. Furthermore, there is a sharp decline in GER at higher levels of higher education such as post-graduate and research levels. While 80 per cent of the GER in higher education is accounted for at the undergraduate level, this falls to 10 per cent for postgraduate level education and a bleak 0.43 per cent at research level. Studies have pointed out the dormancy of gender as part of the framework that drives the discourse on higher education policy in India. The only real metric within which it finds a mention is while addressing the gender gap in GER which currently stands at 25.4 per cent for men and 23.5 per cent for women. However, when coupled with other marginalised identity positions such as caste and religion, these gendered inequities get dangerously aggravated. In terms of total enrolments, students belonging to Scheduled Castes (SC) account for 13.9 per cent, those belonging to Scheduled Tribes (ST) account for 4.5 per cent, 33.75 per cent is made up by students belonging to Other Backward Classes (OBC), 4.7 per cent is accounted for by students belonging to Muslim minority (MM), and a meagre 1.7 per cent of total enrolments are accounted for by students from other minorities. There are several institutional and structural challenges which have led to skewed and unequal access to higher education in India. Education as a whole is a sector that has consistently grappled with low public expenditure, under-financing and under-allocation of resources. The public expenditure on education is currently estimated to be around 3 per cent of India's GDP which the policy aims to expand to 6 per cent. However, even at the suggested rate, the proposition that a higher GDP might pave ways to higher spending is contingent upon a higher tax-GDP ratio. With both the central government and state governments grappling with shortages under the present GST regime it remains to see how much money would be made available and through what processes. However, the expansion of public expenditure on education is not a new promise and has remained undelivered despite changes to political regimes. Even with the present public

outlay, the policy has to pave pathways that are effective in dealing with several other problems such as inadequate infrastructure, deficiencies in decentralised planning, shortage of human resources and a highly skewed gender disaggregated distribution of faculty, lack of investment in human capacity building and teacher training, and delayed fund flows. First and foremost, in order to achieve any real increase in GER at the higher education level, it is imperative to start at the elementary, middle and senior school levels where early dropouts, limited learning levels, rampant and discriminative segregation based on socio-economic backgrounds and learning levels, infrastructural and human resource bottlenecks and low-quality private provision continue to remain central challenges. The expansion of Right to Education to include children between 3-18 years is a welcome change in the document. However, with many propositions including altering the pedagogic structure, implementing new assessment models, regulatory bodies, curricula restructuring and enhancing private and community led initiatives within Special Education Zones (SEZs), it is crucial to evaluate whether these would have the intended consequences, and what, if any, would be the unintended consequences of these on school education. The All India Survey on Higher Education (AISHE) notes that women account for very low proportion of enrolments in institutes of national importance and state open universities, pointing to a skewed distribution of state resources based on gender. Much of the expansion in higher education, as noted previously, has been recorded in the private sector. Such an expansion of privately funded education has routinely been criticized as leading to a model where those who can afford are accorded high quality while those who cannot afford to pay are forced to choose from an array of low-quality low fee private providers that hamper learning, knowledge, skilling and employability. The composition of students across disciplines of higher education presents a gloomy picture of gender-based stereotypes influencing young



people's choices and access. While the proportion of female enrolments remains lowest in science and technology streams, the opposite is true in the case of arts and humanities. Several structural inequalities relating to the present model of higher secondary schooling, high dropout rates and gendered notions give rise to such a skewed distribution. Moreover, there is the issue of inadequate and an under-representative teacher-pupil distribution across diverse socio-economic backgrounds. With many central and state universities turning towards increased contractualisation of faculty and limited autonomy to teachers and student bodies, these issues are ever more pertinent. While the NEP document does address the issue of unequal access, structural patriarchal norms and practices that often lead to the limiting of choices for women is largely left untouched. It remains to be seen whether the proposition of incorporating a Gender Inclusion Fund along with several smaller ways in which the policy aims modified curricula to address 'respect for women' would be in anyway instrumental in addressing such stereotypes. Women in higher education, along with people from several other marginalised backgrounds, are routinely subjected to discrimination and harassment within higher education institutes that often promote early dropouts or hinder their enrolments altogether. Atrocities and everyday discrimination based on caste, gender and religion are rampant across university campuses which need to be addressed and eliminated to create an environment for truly inclusive and egalitarian education. NEP 2020 should tackle these structural issues of unequal access and gender-based discrimination. The policy should impact the most vulnerable and marginalized sections of our society. It should address newer challenges which we need to foresee due to some of the propositions made by this policy. There is need of unpacking the implications of NEP using the framework provided by the Right to Education Act. There is need of envisaging the implementation of this policy in the light of the stagnant public

expenditure on education, a shoddy infrastructural setup and complex bureaucratic systems across central and state governments.

Legal Education and Gender Equality

A century ago, a well-known advocate, the father of our nation, M.K. Gandhi quoted that, "Women must realize their full status and play their part as equals of men." Law is still perceived as a male dominated profession and women's participation in the legal field as unlikely especially to the contemporary social circle. However, during the past few years women have strove considerably to mold this mindset and as an outcome their role now is far more eminent and elevated within the legal system than ever.

Being an aspiring female advocate, I think, every woman should attend law school. Law school impacts human existence tremendously, from providing the basic awareness about rights and liberties to the complexities of the legal procedure for the attainment and preservation of justice. Time and again women have been listed as one of the most vulnerable section of the society and the statistics have been immensely disturbing. This scenario can be better deal by vigilant and legally enlightened women. The most important aspects that law school inculcates in students is the ability to think, reason and anticipate the rational right. Also, these attributes are fundamental to the fight against any form of exploitation. The legal education is such a powerful tool that it not only possesses the capabilities of supporting the necessary social change in present but can also imprint the future.

Having said that I don't mean law schools are a piece of cake or one could get through them by keeping their eyes shut. Undoubtedly, it is a challenging path with enormous undiscovered and undefined opportunities. Every day, one is required to brush up his/ her skills and outperform oneself to dig deeper into the ocean of possibilities. Mentally, physically and emotionally the law courses are so demanding that constant recollection of the actual motive behind one becoming an

advocate can make the journey to reach the finish line. But after all the hard work is all worth it when law schools build students who contribute in creating a just and inclusive society for all genders. The intellectuals manufactured by law schools are nothing less than a boon to society but the society will become a heaven only when all the genders will be given equal opportunities, unbiased treatment and open-minded approach. Women have proved that although it was a cumbersome process up till here but still there's a long way to travel.

Scope Of Women In Legal Education

Being a woman in India itself is a task, as at one point almost every female has to choose between her career and her motherhood or family. No doubt, the legal field has seen an extraordinary growth of women lawyers, unsurprisingly there still remains the gender bias and discriminatory practices bias as female lawyers have to work more to and fight your way to and struggle to prove that they are good lawyers too and also to reach some level with male colleagues. I recounted how I would initially not get a lot of work, as people did not think a woman lawyer would be capable of handling it. Women are judged and compared with the male colleague. Even if you are a good lawyer and have a good amount of work, the colleagues will try to grab your work or remove you from the case because of competition in the field of law. More woman are joining profession but many of them are dropping profession because of non-encouragement from the family or the work pressure and time constrain and environment being so in hospital able at a work place.

Women joined the profession since 1923, but it in recent times has attracted large number of women to study law. Though, the number of women in the profession has been growing steadily, but their proportion in total population of the legal practitioners is still less. The women entering the legal profession, faces the traditional mindset of the Indian families posing innumerable challenges to both single and married women aspirants.

Women have as much potential as men to contribute to the overall social and economic development of our country but they had to wage a relentless war for their emancipation from the age-old bonds. The Indian women were denied the privilege until the High Court of Allahabad took the lead and allowed the application Miss Cornelia Sorabji to practice law by its epoch-making judgment on 24th August 1921. She was the first women to be enrolled as an advocate in India. As a result of which, the Legal Practitioners (Women) Act of 1923 was passed. The first female Judge in the court was Fatima Beevi appointed in the year 1989 in the Hon'ble Supreme Court and there have been 7 more female justices in the court since then. Presently there are 3 sitting female judges out of the total 34 judges (including Chief Justice of India) in the court namely Hon'ble Ms. Justice R. Banumathi, Hon'ble Ms. Justice Indu Malhotra and Hon'ble Ms. Justice Indira Banerjee. In 1977, Justice Leila Seth was designated as a senior advocate by the Supreme Court and she was first lady Judge of the Delhi High Court. Then, Justice Indu Malhotra, in 2007 became a Senior and thereafter, elevated as Hon'ble Court Judge of Supreme Court. Then in 2013, Ms. Meenakshi Arora, Ms. KiranSuri and Ms. Vibha Dutta Makhija, all advocates-on-record became senior advocates. In 2015 two more lady lawyers became senior Advocates namely Ms. V. Mohana, Ms. MahalakshmiPavani and then in 2019 five lady lawyers became seniors namely Ms. MadhaviGoradiaDewan, Ms. Ashwariya Bhatti, Ms. PriyaHingorani, Ms. AnithaShenoy and Ms. Aparajita Singh. Another aspect is when the Government come to power various political post are there as AG, SC, ASG and it very difficult to get hold of this position from the lobby. It was only in 2009 that a woman has become ASG. In the present day there are two lady ASG in Hon'ble Supreme Court and recently appointed is Ms. Ashwariya Bhatti and Ms. MadhaviDewan (re-appointed).

Other places where women with legal education can open her wings being independent lawyer or step into cooperate

world or join as a legal officer/assistants in various organizations or authorities or Government agencies/departments and can also be Court clerks/masters or Registrars. She can also be into legal documentation work or in publishing books or editing judgments/cases and many other things.

To be in the profession the young female lawyers needs lot of family support to grow and enable you to practice as this profession requires lot of time and there is time constrain to balance your profession and family. Even many of the corporate fields don't prefer women lawyers as they feel that maternity leave and benefits are waste of their resources. The corporate lawyers have to sit for a fixed period of time, being minimum 8 hours Women in litigation also have it hard. They don't get the standard 12 weeks maternity break. Even though they have flexible time hours, as they can leave according to their professional and personal commitments.

In today's time the controversy of profession has changed you have to have network to get profession running. You have to meet people to get work from officers. Many women lawyers are mistaken as other non-lawyers and are told to do office housework like scheduling meetings, planning parties etc.

With regard to further challenges of Women Lawyers, many juniors and other lady lawyers are there in the profession but they cannot make corners at top level as women are still minority at top level. But you have to focus on your work and let work speak about you and you should always be punctual. There is denial of promotions in legal profession. More women are likely to feel they are less paid than the equally working male colleagues but it's the appearance which matter the most.

The very important aspect is that the woman should feel safe and dignified at the place of work. After the Vishaka&Ors. Vs. State of Rajasthan &Ors. judgement (AIR 1997 SC 3011), guidelines were framed for women safety. On 9.12.2013, Supreme Court Gender Sensitization and Internal

Complaints Committee (GSICC) had the first meeting headed by Hon'ble Mrs. Justice Ranjana Prakash Desai was held in the Supreme Court's premises to work out the modalities for the effective implementation of the "The Gender Sensitization and Sexual Harassment of Women at the Supreme Court of India (Prevention, Prohibition and Redressal) Regulations, 2013" and to take decision on related issues. Presently, the committee is functional too and Hon'ble Justice Ms. Indu Malhotra is part of the Committee. Any complaint by the woman lawyer has been addressed at the earliest.

A woman should support another woman instead of become jealous of her work. Similarly, men advocates and Judges should also promote women. The young lady lawyers should be given healthy atmosphere and encourage to join profession by giving them crutch benefits for her children and other facilities and separate bar rooms in all Courts.

Further, in my view, Collegium should look for more and more appointment of lady judges, those who are competent enough, the Government should have some plan and affirmative action for promotion of women lawyers and /or to take lady lawyers in top position whether it is for appointment of ASG, Judges or in politics which is the major issue to be focus upon. There is a need to bring qualitative improvement in the participation of women legal professionals. We must ensure that the best qualified individual, be they women or men should be appointed as judiciary. Gender balance is also important for public confidence in the judiciary. Some strict laws or reservations should be made to help in making the profession more conducive to women. By joining the legal profession, you get vast knowledge in the field of law and have your separate identity and you become an officer of the Court and slowly and gradually, you make your position.

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