



The Judiciary's Crucial Role in Achieving Gender Justice

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Introduction

Law is everywhere and affects many aspects of people's lives. The importance of law and rights in influencing people's lives is increasing as the legal sector expands into the public and private realms. Law helps people by giving them the right to enjoy a legal life and live as a representative of a free and independent society. Equality in access to rights is remedied by rules and institutions, whether social or legal, created or created as a result of such rules. However, this inequality affects both men and women, but women lag behind men in many areas. This inequality can deny women the ability to acquire, manage, and their own assets, limiting their financial capabilities, economic productivity, and terms of trade in the household. The law should reflect how the difference in social, economic and legal rights of women and men affects the practice of law and justice in their lives.

Men and women often face the same challenges when it comes to justice, but women face additional obstacles.

The Court As A Change Agent For Gender Equality

When the judicial system is gender neutral and supports gender equality, it can make important changes in society. The decisions made by the court become natural for all people in the society by establishing state-citizen relations, and the influence of the court through those who directly interact. However, the judicial system may not always be effective in supporting gender equality, because it may not be able to influence many court decisions, for example customary law can govern many people.

Judicial Decision

The court's primary duty is to interpret the constitution and uphold gender equality in such decisions. Courts have the power to strike down statutory provisions that promote discrimination on the basis of sex, such as unequal inheritance of property.

The court has issued guidelines in the absence of domestic law in the country enforcing rights. The Supreme Court of Nepal has ordered the government of Nepal to bring a new bill to Parliament after consulting women's groups and sociologists and legal scholars in various countries. The Supreme Court of India has declared sexual violence illegal under the Indian constitution and international conventions, and has issued guidelines and guidelines to be followed by all workplaces and other organizations pending the adoption of laws related to sexual violence by Parliament.

Rules And Regulations

The rules and regulations that govern the court process are usually made by the court itself. These rules may provide a gender-sensitive environment and may include allowing sexually assaulted women to testify in private rooms, victim waiting areas, victim privacy and confidentiality, and simplified evidentiary requirements. These rules create an unfavorable and discriminatory environment for women

Gender Balance In The Judiciary

The court must show that there is no norm that discriminates against women in the appointment of judges. Equal representation of both sexes on the bench will affect the gender-responsiveness of the court, and judges will contribute to the diversity and representation of the court. Female judges will better understand women's grievances and help achieve gender equality.

Physical Access And Resource Allocation

Physical access to justice is important, and policies aimed at increasing the number of courts or judges or making mobile courts can benefit women more than men, as women typically suffer from limited mobility and limited time. Court fees also hinder women's access to redress their grievances.

Role Of Indian Judiciary In Neutralizing Gender Equality

The Indian judiciary plays an important role in empowering women and creating gender justice in a country where gender inequality exists at almost all levels of society. The Indian judiciary has helped women to get what is rightfully theirs through their decisions and has shown that discrimination against women will not be tolerated in Indian society.

The job of the judiciary is to interpret and apply the laws contained in the constitution. The main purpose of the law is to provide justice to the victims. Legislature can make legal provisions, but the judiciary must implement the law in such a way as to ensure justice for all, keeping in mind the principles of equity, justice and conscience. The judiciary reviews all the rules and then enforces them as necessary for the betterment of society.

Through the courts, the Indian constitution has protected women from injustice. The Indian constitution has always promoted women's rights. The Constitution has made provisions for the protection of their rights and allows for special laws for women such as the Women's Prohibition Act, 1961, Medical Termination of Fertility Act, 1971, Indecent Act (Prevention) Act, 1956, Maternity Relief Act, 1961. , The Indecent Representation of Women (Prohibition) Act, 1986. Personal Laws specifically provided for the maintenance of women under sections 24 and 25 of the Indian Marriage Act, 1955 and section 18 of the Indian Adoption and Maintenance Act were developed. 1956 and this rule also applies to the Parsi Marriage and Divorce Act, 1936 and the Indian Divorce Act, 1869. Provisions for Muslim women are provided in the Muslim Women (Protection of Rights and Divorce) Act 1986.

Case Law

The judgments given by Indian courts have greatly influenced and brought about the customary norms of society.

Air India etc. vs. Nergesh Meerza, Indian Airlines has imposed certain provisions which violate Article 14 of the Constitution of India. Regulations state that air hostesses cannot marry in their first four years and will lose their jobs if they become pregnant, and will retire at 35 unless extended at the discretion of the managing director. The Supreme Court held that the termination of service during the first pregnancy and the extension of the post of managing director also violate the principle of equality described in Article 14 because the situation gives unlimited discretion in the hands of the individual.

Dharwad District PWD Employees Association said that there will be no discrimination on the basis of gender among judicial employees and they will be paid fairly according to their work and Article 39 (d) of the Constitution of India envisages payment. Equal consideration for men and women for the same job or similar work and Article 16 guarantees equal opportunities for all citizens in matters of employment.

In the Shah Bano Begum case, the Supreme Court of India ordered the Parliament to frame a uniform civil code regarding the responsibility of Muslim husbands to maintain their unruly wives after the iddat period. He said that Article 125 of the Criminal Procedure Code, 1973 applies to all husbands regardless of religion and that husbands must protect their wives from divorce.

Vishakha of Rajasthan Vs state of rajasthan The Supreme Court held that gender equality can be established through the fundamental rights guaranteed under Articles 14, 19 and 21 of the Indian Constitution and that sexual violence at work is a fundamental offence. In the absence of domestic law to address the evils of gender-based violence and rights that violate the principle of gender equality, help can be sought from international conventions and regulations, provided that this does not conflict with domestic law or constitutional interests. From India. Guidelines have been laid down for employers to follow to ensure a fair, safe and comfortable working environment for workers, especially women

A common problem for women

Law plays an important role in supporting gender equality in society, and it is important to consider how differences in social, economic and legal capacity of women and men affect the experience of law and justice in life and really shape their daily lives. example of his life.

The lack of legal security and the prevalence of unequal legal provisions in family, property, and personal status laws limit women's access to legal justice. Economic, social, psychological, and educational factors contribute to women's limited access to legal justice. Once they enter the judiciary, women's access is further restricted by bias, gender insensitivity and limited opportunities.

The concept of gender role is internalized and accepted by men and women who find the theory of equality and human rights abroad and threaten the social order they already know their roles.

Barriers to access to justice

Discrimination laws limit women's ability to choose and access wider opportunities. Examples include unequal inheritance rights, equal rights and responsibilities in marriage, and laws requiring women to obtain spousal permission for travel or work.

Lack of appropriate legislation to address inequality against women. For example, even though there are laws against harassment in the workplace, women face verbal, physical and sexual harassment in the workplace.

Women do not have proper access to information about their rights and entitlements, as well as how to seek legal remedies. They are generally excluded from participating in external household affairs, such as land and business negotiations.

The financial costs involved in litigation, such as court fees and transportation costs, result in delayed or unsuccessful legal proceedings.

Women who are aware of their rights are still unable to seek justice because of dependence, shame or fear. Women are concerned about their relationships and don't want to sue their partners or family members.

Jurisprudence can be gender biased or gender insensitive. For example, in the judiciary, people believe that matters related to marriage are beyond the authority of the institution.

Lack of appropriate judges and judicial institutions to address gender inequality in society. The limited capacity of judges and the legal structure contribute to that.

Recommendation

Legislation should be developed to address individual discrimination and gender-based regulations. This can be achieved through legal evaluation, law revision, temporary special measures, awareness programs, special funds and the appointment of women to judicial offices.

Women must be empowered individually and collectively to claim their rights. Recruiting women decision-makers in the judiciary, opening space for women to talk and dialogue, and empowering women's groups will allow women to participate in social activities and address the causes of gender inequality.

Judicial mechanisms should be developed and established to overcome all obstacles to access to justice by women. Initiatives can be taken to effectively address women's complaints, increase women's access to legal aid services, develop gender strategies, plans and mechanisms, and provide gender sensitivity training and capacity building for those involved in the judiciary.

Since unclear laws open the door to discriminatory rules, in-laws must be clear and specific.

Gender-specific regulations should be created to fill existing gender gaps in law enforcement, as using gender-neutral language can sometimes lead to problems such as uniform laws. It sets gender-specific standards and creates conceptual clarity for implementing the law.

Conclusion

Discrimination on the basis of gender is a social evil that must always be curbed. The judiciary of a country must strengthen and interpret the law by upholding the principle of equality. Constitutional efforts should be made to improve the status of women in our society and to change existing laws that prevent women from making choices and enjoying all the opportunities in life. The government should introduce programs, schemes, funds and welfare policies that focus on the social, economic and educational empowerment of women. Initiatives must be taken to change public opinion.

