

GENDER JUSTICE AND DEVELOPMENTAL GOALS

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ABSTRACT

Why do we keep developing ourselves? Is it not to achieve the best of our self and give back what we have received? A perfect equilibrium is said to be achieved when the people get to enjoy their rights bestowed upon them as human born. Sustainable development and equality with regard to human rights promises a future with such wide vision. The greatest gift man has been enshrined with is his power of consciousness and rational thinking to choose the best for himself and others. When he claims a perfect plan has been made for the benefit of all ensuring what has been promised, there will be a few unnoticed minorities to whom it has not reached or could reap the benefits. Those downtrodden and beasts of burden are the subjects of my presentation.

SUSTAINABLE DEVELOPMENT AND GENDER EQUALITY.

We cannot succeed if half of us are held back.- Malala Yousafzai.

The new 2030 Agenda for Sustainable Development is largely about youth and for the youth. Therefore, we cannot dismiss today's young men and young women as solely the beneficiaries of development or even as the leaders of tomorrow – for they are already leading today. The force and inspirations of our youngest leaders represent one of the critical drivers for accelerating progress on sustainable development and gender equality.

Facts and Figures from United Nations Factsheet on Girls and Young Women

- There are 1.8 billion young people aged 10-24 Years old in the world, the largest youth population Ever. Of these, 600 million are Adolescent girls and young women.

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WOMAN EMPOWERMENT

Woman empowerment can be understood as a process where woman, individually and collectively develop awareness of the existing discrimination and inequality between woman and men and how it affects their lives. For many women, young women, adolescent girls, and girls, progress is not happening nearly fast enough. No country in the world has achieved gender equality, and many are still far behind. At the current pace of change, it will take 50 years to achieve parity in political participation and 118 years for true pay equality to break these trajectories and achieve by 2030 requires us to take bold and decisive actions.

The concept of empowerment arose from an understanding that increasing woman's participation in development process, without fundamental changes to these process would bring about little changes.

Woman need to be able to assert their own agency to break out of the gender discrimination. Empowerment involves awareness, raising and building self-confidence, expansion of choices involvement in decision making and increased access and control over resources.

The greatest flaw of the millennium development goal was that their broad targets allowed the most deprived groups to be over looked. In the future neither income, nor gender, nor ethnicity, nor disability, nor geography will determine whether people will live or die, whether her child has a fair chance in life.

WHY IT MATTERS?

Woman and girls represent half of the world's population and therefore half of the potential is vested with them. Gender equality is fundamental human right critical to all areas of a healthy society from reducing poverty to promoting health, education and well-being.

Over the past 25 years, trade and openness spread of information and communication technologies have expanded economic opportunities. What started with greater trade openness is growing into global economic integration, independence, and interdependence. The capital accelerates and transitional movement of people and information various doors that remained locked for many were accessible.

These factors lift the constraints to greater gender equality. Female employment in manufacturing sector has grown faster in developing countries and increased female employment levels between 1995 and 2015 with increase in international trade.

We recognize the need to include and engage young men and young women with greater seriousness and urgency. We are at a defining moment at which the women's movement and the youth movement must come together with stronger partnerships and greater focus to ensure that the new agenda for sustainable development delivers for all women and girls, especially those facing multiple and intersecting forms of discrimination and marginalization. The United Nations Youth and Gender Equality Strategy seeks to Empower young women and young men as partners **In achieving gender equality. The Framework, Includes three thematic pillars –**

1: Leadership of Young women in all spheres strengthened,

2: Economic Empowerment and skills development of young Women

3: Action on ending violence against Young women and girls – **three crosscutting Approaches:**

1: Strengthening Participation,

2: Voice and Partnerships with young women and their organizations,

3: Partnerships with young men as partners of Gender equality; and Intergenerational Partnerships throughout the life cycle to achieve a gender transformative Society.

Consider the modern world as an aircraft designed to shoot the dreams and imaginations about a better living to a level better than the present. It will only be possible if the aircraft has two wings that can balance and help what human has ever aspired to achieve.

Like wise both man and woman being the wings should guide and fly the aircraft through the trajectory.

INDIAN CONSTITUTION AND FUNDAMENTAL RIGHTS.

Every structure without a rigid framework or support is abolishable. Constitution is the backbone on which the entire system holds up. The varied consciousness and polychromatic mode of thinking is definite in inviting differences among men. These indifferences should be embraced and a social system where each and every individual irrespective of the indifference can perform, function and prosper. Every country is more than a horde of people settled in a large land mass for procreation. It is an organic body of its own, and constitution is its soul.

Bringing into the scenario, all major countries constitution has guaranteed equality between man and woman.

It should be the prime motive to advance woman to all sectors of the living organism called society and be its driving force. Fundamental right promises equality in all areas of a healthy society from reducing poverty and ensures no exploitation is made behind the veils.

ARTICLE -14

The state shall not deny to any person equality before law or equal protection of the laws within the territory of India.

Equality before law is taken from English law, the declaration of equality of all persons on the eyes of law.

EXPANDING THE HORIZONS OF EQUALITY

Equality is a dynamic concept which goes on changing with times and social contexts. The equal protection of laws should be read as a positive obligation on the state to ensure equal protection of the laws by bringing in necessary social and economic changes so that everyone may enjoy equal protection of laws and nobody is denied the protection. The underlying principle of equality is not

the uniformity of treatment to all in all respects, but rather to give them the same treatment in those respects in which they are similar and different in which they are different. But let us clarify, that even though no two human beings are similar in all respects, they are similar in one respect, namely they are human beings. They should be treated as human beings.

The state must not treat people unequally, but it must also take positive steps to remove existing inequalities especially those which treat human beings less than human beings.

Justice Bhagwati J, Justice Chandrachud, Justice Krishna Iyer JJ in a concurring opinion in *E.P Royappa v. State of T.N* propounded a new approach to Article 14, in the following words.

Equality is a dynamic concept with many aspects and dimensions and it cannot be 'cribbed, cabined and confined' within traditional and doctrinaire limits. From a positive point of view, equality is antithetic to arbitrariness; one belongs to the rule of law in a republic while the other, to the whim and caprice of an absolute monarch. Where an act is arbitrary, it is implicit in it that it is unequal both according to political logic and constitutional law and is therefore violative of article 14. Phenomenal advancement has been made by the judiciary in numerous cases where the beacon of light has been held high by renowned Justices who have dedicated their life in the achievement of equality and washing away arbitrariness from the face of society.

ARTICLE 15

Prohibition of discrimination on grounds of religion, race, caste sex, or place of birth.

ARTICLE 21

Protection of life and personal liberty. No person shall be deprived of his life or personal liberty except according to the procedure established by law.

In *Munn v. Illinois*, Field J spoke of the right to life in the following words.

“By the term ‘life’, as here used, something more is meant than mere animal existence”.

TRANSGENDERS RIGHTS AND HUMAN RIGHTS

What is Human? Human body as per the scientific knowledge acquired after centuries of trial and error process can only state that it is a complex mechanism of biochemical activism coordinated by the main processing unit called brain suspended in a cerebrospinal fluid protected in a skeletal frame. This is what the centuries of study process and calculation and experiment could define about human body. What we have defined in a complex scientific language is just like constricting knowledge to a limited source of light. We humans are more than what we tend to believe, the driving force of nature and the invisible aura of energy that channelizes through our body is more than the mere definition given by the scientific society about humans. All beings have the same energy conspiring them to fulfill the motive of their existence. The definition of life is not to be confined in any pressed wood or on any stone. Its quintessence cannot be denied or restricted by any living or nonliving. Thus I come to the conclusion that nature and justice should be in equal conformity and any deviation from nature is without doubt injustice. There is disparity between artificial laws, customs and institutions of natural law. This disparity is the main reason of social dissention. The state should mold its seal that sanctions and elevates those laws facilitating equality, equal protection of law and preservation of the right to live with dignity. If the state leaves the existing inequalities untouched by its laws, it fails in its duties of providing equal protection of its laws to all persons. Discrimination of Transgender people on the ground that they are not in accordance with laws of nature is deprivation of an individual his right to live.

Transgenders are individuals of any age or sex appearance, personal characteristics or behavior differ from the stereotypes about how men and woman are supposed to be. Transgender people have existed in every culture, race and class since the story of human life has been recorded.

What we understand as transgender has been understood quite differently at various periods of time. In the earlier ages, people who were quite seem to bridge the fending were quite often thought to possess wisdom that traditionally generated people did not and were venerated for this.

As civilizations transformed from matrilineal and communal societies into male driven societies with rigid class divisions and emphasis on property ownership those male driven cultures reduced the

status of woman and they were threatened by a persistent belief that the blurred gender lines possessed some greater insights, they set out to crush gender transgressive people most of all. Mostly they were neglected and suppressed because the opinion of the majority outweighs the minority and such indifference incline toward inequality and injustice. Into the modern age even though they resurfaced, it was a long climb back just to restore any sense of equality.

Hijras are transgenders called in India have a recorded history of more than 4000 years. Ancient myths bestow them with special powers to bring luck and fertility.

Shikhandi the character in Hindu epic the Mahabharatha is one such depicted as transgender. He was born as a girl child named Shikhandini to Dhruvad, after much penance to lord Shiva who promised that his child will attain sex change at a later phase, the king of Panchala Shikhandi, fought in the Kurukshetra on the side of the Pandavas which changed the course of war overnight. Bhishma laid down his weapon in front of Arthanareeswarar, showing his respect towards holy union of Shiv and Parvati. Yet despite the supposedly sanctioned place in Indian culture, Hijras face severe harassment and discrimination from every direction.

There are upward 4 million Indians who identify as Hijra with community recorded back more than 4000 years. Maximum number of Hijras found in Uttar Pradesh with around 5% of total percentage of state population.

Transgenders have always been in the Indian scenario for centuries. If we inspect into the social setting of ancient India, Hijras have held a respected position among people and led a pious life dedicated to art and worship. New born children are blessed by Hijras to bring prosperity and they are considered a good omen and treated as utmost respect. However, when Indian subcontinent came under colonial rule during the 19 th century ,British authorities sought to eradicate and criminalize the Hijra community through various rules. These shattered the status from a respected to repelled class. They were pushed to the periphery as a social outcaste and many end up begging and dancing.

The main problems that are being faced by the transgender community are of discrimination,unemployment,lack of education facilities, homelessness, lack of medical facilities like HIV, care and hygiene, depression, hormone pill abuse, tobacco, alcohol abuse, penectomy and

problem related to adoption/marriage. This is by all mean, human trafficking. Sometimes running out of all option to feed themselves thus even engage themselves as sex workers for survival. HIV rates are very high among the Hijracommunity, Statistic vary between 50% and 80%.

Study documented that in 2014, the Supreme Court ruled that the government must enact broad reforms to correct the custom of transgender discrimination of the parts of gender identity.

Specific findings – 85% believe that transgender people should be protected from discrimination by the govt.

82% of Indian supported the 2014, Supreme Court order protecting the transgender rights with 47% of them strongly agreeing.

64% of Indian believes that transgender person should be allowed to the biological parents to children.

Hijra social movement have campaigned for recognition as a third sex in 2005. Indian passport application forms were updated with three gender options M. F. and E.

In 2009 India agreed to list enuncich and transgender people as others distinct from males and females in voting rolls and voter identity cards. Trangenders are again resurfacing with rights and dignified living. Kerala became the first state to unveil transgender policy .The policy covers all categories of Transgender including male to female transgenders and intersex people. The policy is a first of its kind envisaging to end the social stigma towards the sexual minority group and ensure them non discrimination.It has provisions to protect the community by providing equal access to social and economic resources, protecting the right to equal treatment under the law, the right to life, liberty and justice, and the right to non-discrimination based on sex. We are witnessing the growth in society. As we have contemplated before any growth that is in conformity with natural law and natural justice is a positive growth for human kind.

A very powerful statement made by SheetalSmitoj, a transgender activist from Kerala in her thirties, speaking at the International Conference on Gender Equality in Thiruvananthapuram, Sheetal said, "Why are we called the third gender? Who is first gender and second gender? Men? Women? Why are we third?"

G.B road- A close survey.

The much known red light area of Delhi presently knows as

Shradannand Marg named after the Arya Samaj leader. The close proximity to the New Delhi railway station exacerbates the crowded and unhygienic living conditions with influx of anonymous and fast moving population.

G.B road presents a composite picture of mini India with diversity of caste creed, religion and languages with girls from all states. There are 96 brothels and 10 dancing rooms. There are about 20-25 girls in one brothel. In total there are 2300 girls in total. The trafficked population includes Hindus, Muslims and also foreigners. There are specific *kothas* called *Nepali Kotha* where the majority of the girls are from Nepal.

The trafficked girls are disoriented from the very first. They are forced into trade by different tactics physical abuse or psychological pressure. The police turn a blind eye toward the exploitation and trafficking happening here. When a new girl arrives the *kotha* owner has to pay the respective police officials. Some of them even said the police officers advice them to change their name and also tells minor girls to say they are above 18 years of age.

Will you be ever able to reconcile to the fact that I am also a woman not a prostitute? I know I am pure and innocent, but you all made me a prostitute. A deafening question by one of the intimates in *kotha* at G.B road. A person dies when hope inside them dies. The woman here are nothing but machine set to motion for the gratification of basic instinct of humans called sex. Most of the intimates are either trafficked or sold to the pimps by their own parents. Many are stuck to this profession because they fear they would be ostracized by the villagers if they came to know about their profession. A woman aged 50 who insisted her name to be kept pseudonymous said, “once we are labeled as sex workers, we feel we are impure and have no opportunity of getting married or going back to our families to start a normal family life”.

Majority of the woman showed their interest in pursuing other works and return to normal life, but the ghost of their past haunts where ever they go. They are outcasted form their family and village where they live. This leads to no other option but to go back to the dirty rooms of *kotha*.

NirmalChhaya is a complex of welfare institutions run by Department of Social Welfare of Government of Delhi.

On 2001 Dec 15, 250 minor girls were rescued from the darkness of G.B road. They were given accommodation and facilities.

Those who were suffering from serioushealth ailment were taken to hospitals. Marriges and related functions were organized. 15 girls who chose men they wish to spend their life with. As a follow up of High Court decision these marriges were solemnized.

In the dim lights of Kotha rooms and crowded streets, many birds forget to fly maybe some may even lose feathers. The work of various NGO's and other human welfare societies have proved effective, but on the upper level where they can operate. The main problem lies in the root of family where the woman does not know her rights, her individual rights and she is bend by the maledominance either it can be her father or husband. These words should eco throughout our mind when we deal with the problems of trafficked woman "Will you be ever able to reconcile to the fact that I am also a woman not a prostitute? I know I am pure and innocent ,but you all made me a prostitute"

CONCLUSION

Today even after the claimed modernization and revolutionizedmentality, visibly there is not enough to be proud about and comes with real risk to safety especially for those who are part of marginalized community. It will take fifty years more to achieve gender equality in many of the developing nations and many programs and initiatives by international organizations need to penetrate into grass root level to solve the existing injustice and gender disparity. One solution that I

find most effective is sowing the seeds when the soil is fertile. By fertile land I mean the minds and soul of young children should be enlightened with knowledge about their rights and existing inequalities and their duty towards society as an individual. For this we should plant healthy seeds and nourish it with sunlight, water and fertile soil.

The beacon of hope for a prosperous future can be ensured if the present generation is well educated and thereby securing the future generations evolve in a progressive manner. At last is it not the purpose of our existence?

REFERENCE

- 1: World Development Report 2012
- 2: Women's Rights and Empowerment:
Gender Equality in the New Millennium.
Presentation by Carolyn Hannan, Director
United Nations Division for the Advancement of Women
United Nations Day Banquet
Organized by the Dallas Chapter of the United Nations Association
October 24, 2004.
- 3: U.N Women Youth leap into gender equality UN Women, April 2017.
- 4: Global Development Goals 2014 U.N.
- 5: Constitution Of India – V.N Shukla.

6: Trafficking in Woman and Children in India. P.M Nair and Shankar Sen.

7:Kerala Government has unveiled a policy to enforce constitutional rights of Transgenders. *The Huffington Post*. Retrieved 2016-06-28

8 : E. P. Royappa vs State Of Tamil Nadu &Anr on 23 November, 1973

Equivalent citations: 1974 AIR 555, 1974 SCR (2) 348