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AN ANALYSIS OF GENDER DISPARITY IN CRIMINAL JUSTICE SYSTEM OF INDIA

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ABSTRACT

The Supreme Court once opined that although sex is not a matter for determining case in many countries, in Indian Justice system gender is a trivial matter and considered when deciding the maximum punishment given to a Female criminal. Furthermore, Indian judges often use social and cultural bias to determine whether a female culprit is guilty, and in sentencing her if she is found guilty. Hence, this paper entirely outlines the comprehension of gender disparity in Indian Criminal justice system and the reasons for it. Further the paper also discusses about several provisions which reflects the gender disparity that exist. In addition to that, this will assist the reader in understanding how a woman accused is being treated by the Indian Justice system and whether this act of gender disparity is destroying the real essence of criminal law enforcement. The paper gives space for more analysis on how this gender disparity affects the society as a whole. The present paper starts by giving a brief introduction on the current situation of gender disparity in the criminal justice system in India. The Researcher Further explains the causes and various instances where this disparity in gender is seen. The paper ends by suggesting how this disparity of gender can be reduced. The writer, through this piece of writing, basically aims to summarize all possible and necessary information regarding gender disparity in judicial system and its effects for the sake and betterment of readers. The ultimate purpose of this paper is to highlight and condemn the issue in order to initiate a dialogue and healthy discussion in a field of law that is otherwise neglected.

Keywords: Indian Criminal Justice system, Gender disparity, Feminism, Women, Crime.

INTRODUCTION

Gender disparity in the criminal justice system has been a significant social issue for decades. Men and women experience the criminal justice system differently, with women being disproportionately affected by issues such as discrimination, abuse, and marginalization. This is largely since the criminal justice system is designed with men in mind, and often fails to account for the unique experiences of women.

Women have been subjected to several cruelties across the world for a long time now. India being a patriarchal country, woman has faced lot of discrimination, oppression, and violence etc in the societal level. Male and female convicts are not treated equally in India. The Indian judges often take social as well as cultural biases while sentencing a female offender. It is evident that most of the judges across the world have always shown a leniency towards the women culprits as they feel that women are always fighting for gender equality and believe that this might be the result of their protest towards the bias they face in every phase of their life. As mentioned earlier, even the Supreme Court has once opined that although sex is not a matter for determining case in many countries, in Indian Justice system gender is a trivial matter and considered when deciding the maximum punishment given to a Female criminal.

RESEARCH QUESTION

1. Is gender disparity in the criminal justice system a major problem?
2. In what ways does this affect society?

STATEMENT OF PROBLEM

The present study is an attempt to find out to what extent this gender disparity is justified and how this disparity affects serving justice. The study is entitled as “Analysis of Gender disparity in criminal Justice System of India”

SCOPE OF STUDY

The study is about the Analysis of Gender disparity in the criminal Justice System of India. The study focuses on the existing gender disparity seen in the criminal justice system in India and the probable justifications. The paper also mentions the causes and recommends the ways to reduce the same. The research paper is focused on literature studies taken from online collections of journals, websites, blogs, newspapers, and news portals as secondary sources. The method of study is quantitative study.

REFLECTING GENDER DISPARITY IN INDIAN CRIMINAL JUSTICE SYSTEM

The Indian criminal justice system has several provisions that reflect gender disparity. Here are some examples:

1. **Rape laws:** The Indian Penal Code (IPC) has provisions for rape, but they are gender-specific and only apply to women. The laws do not recognize the possibility of a man being raped by a woman, which reinforces traditional gender roles and ignores the experiences of male victims.
2. **Domestic violence laws:** The Protection of Women from Domestic Violence Act, 2005, is a significant step towards addressing gender-based violence. However, it only provides protection to women in domestic relationships and ignores the experiences of men who may be victims of domestic violence.
3. **Sentencing:** Research suggests that women are often punished more harshly than men for the same crimes. This is particularly true for women who have committed crimes related to drugs or sex work. Women who are incarcerated also often receive fewer opportunities for rehabilitation and education, which perpetuates their disadvantage.
4. **Police response:** Police often lack sensitivity when dealing with victims of gender-based violence, particularly in cases involving sexual assault. This can discourage victims from coming forward and exacerbate the trauma they have experienced.
5. **Access to justice:** Women from marginalized communities, such as Dalits and Adivasis, face additional barriers when accessing justice. They are more likely to experience discrimination and may not have the resources to navigate the legal system.

These provisions reflect a systemic gender bias within the Indian criminal justice system. While efforts have been made to address these issues, there is still much work to be done to ensure that women and marginalized communities are treated fairly and equitably within the system.

CAUSES OF SUCH DISPARITIES

Some of the factors for such disparities are as follows:

(A) Economic Factors

- Division of labour: Men are given heavy tasks, while women are given light and domestic duties. Domestic work and creative work are not paid equally because of the widely held belief that men do not know money management.
- Employment issues - Women may experience a lot of workplace sexual assault, particularly in the unorganised sector. If their families do not require financial assistance, women are not encouraged in dealing in economic activity. When a woman has the resources to live, she can be sexually abused, but she is not psychologically ready to be. There is a link between being harassed and subsequently losing the job.

(B) Social Factors

- The cultural barriers that women face make it more difficult for them to act up to their abilities. By overcoming the challenges and assimilating into the culture, they are unable to seize the best opportunities.
- Life and roles play a role in inferiority. The fundamental nature of their designated roles and Preferences encourages bigotry and sexism. (C) Educational Factors
- Females are discouraged from pursuing careers in law due to a lack of general readiness among them, lower income, and other factors. The top priority in this particular field is gender equality.
- Most of the time women are forbidden from pursuing advanced level of learning due to socio-economic and cultural climate though they are encouraged to get higher education.

(C) Political factors

- Despite a decline in prosecution rates, violence against women is becoming more common.

Although there are more police stations, courts, jails, and government financial commitments than ever before, the suffering of women is still unabated.

- Justice and freedom cannot be guaranteed by the gender equality project because of social, economic, and cultural factors. Political institutions still have a long way to go before there is an equal distribution of power across all facets of society.

RECOMMENDATIONS

Both economic empowerment and education are necessary for women's growth. Increased literacy and economic mobility can change sociocultural attitudes, which would solve most women's problems. There is some sloppiness in the implementation of welfare laws and schemes as a result of the presence of men in government agencies, but this situation can be improved. Economic growth that includes women may automatically lessen patriarchal oppression. Girls succeed more and earn more than boys, according to the current trends in education at the secondary school level. Recreational activities, meditation, therapy, exercise, learning self-defence techniques, and sex education can all help women with their psychological issues. Participation in self-help groups and coordinated activities of women are effective and have benefited women, especially homemakers. Men should acknowledge the rights, equality, and empowerment of women in their families, places of learning, and places of employment. There is a reservation system in politics and governmental institutions. Women will become more likely to take advantage of opportunities and contribute to the development and growth of their country when they have access to education and political empowerment in general, as well as the elimination of corruption and the criminalization of politics, the introduction and expansion of voting-rights protections, the rights of female leaders like MLAs and Presidents, and the empowerment of officers at all levels. Eliminating poverty, expanding infrastructure, and programmes to boost agricultural output are necessary for people residing in rural areas, including women. India's path to growth is impeded by large disparities, especially those of gender, class, caste, and area. "Persistent inequalities, inadequate public service delivery, weak accountability mechanisms, and deficiencies in the implementation of pro-poor policies are further impediments to progress in this regard," the Millennium Development Goal report states.

LIMITATION OF THE STUDY

Behind every study there are potential limitations, so are behind this study. These limitations drastically affect the scope of the study. Firstly, the quality of secondary data is good, but it is less reliable and cannot be re-verified. In the second place, due to the shortage of time, all aspects of the study could not be covered. Lastly, the limitation of the work lies in the fact that there is a plurality of views in this regard and it is a difficult proportion to choose between the various perspectives.

CONCLUSION

Judges should act in a more neutral way while deciding the case and should not come into a conclusion by just understanding the role played by women in the society. It is necessary to consider other aspects as well which drives them to commit crime. To sum up, sometimes this gender disparity in the justice system is essential for the proper operation of society, but these should not cross a limit in such a way that it always favours a particular gender. Because at the end of the day “no innocent should be judged to guilty no matter a hundred guilty are acquitted

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