Feminism in Indian Society: Problem and Prospective

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Abstract: The word feminism derived from the French word feminine which refers to the women. In the year 1871 this word feminine came into practice in the area of medicine, doctors used this word for the male human being, who behave like female human being. Therefore gradually this word feminine not referred to women rather than to men, that he is not sexual (secondary). In the year 1901 Oxford Dictionary first time referred feminism for the women. Then new trend started that feminism referred to virilization of women, meaning thereby those women who started behaving like men or who (male) behaving like female. Now this word used almost every branch of knowledge such as philosophy, psychology, Medicine, political science, law, etc. and male was at the center of study but now women are at the center of study. Now the problem is, what is difference between sex and gender, whether both are the same things or differences occurs; the answer is, the sex is biologically determined term or physical difference between man and woman while gender is socially assigned role, it is adopted by our society, our society say to women that you are women, you have to make food, you will take care of your children, you will have to wear saree, you cannot go outside of the house and many more restrictions have been imposed upon her.

Key Words: Gender, Feminism, Pregnancy, Discrimination, Women.

1. Introduction: Gender Discrimination:
Based on social, cultural and psychological factor we can divide gender discrimination into three categories, viz:

a) Social discrimination;

b) Cultural discrimination;

c) Psychological discrimination.

One survey has been conducted in Bangladesh about opinion of women over men and where women were having the opinion that husband has right to beat his wife/wives, they said so because it is culturally, psychologically, and religiously inbuilt in their mind that a man is superior to woman and woman is subordinate to him, he is her lord, her swami and her master. She has to obey her husband notwithstanding his order is against morality or against law or against social values.

However the concept of feminism is developed in the patriarchal society, the offence of rape is unknown to matriarchal society, patriarchal society is so biased with respect to women that even a mother of the girl child does not provide milk to her rather she gives preference to male child.

2. Definition of Feminism:
There is no easy and single answer on what feminism is. Moreover, many modern feminists believe that no single theory can account for all aspects of the domination and oppression of women and some deny the usefulness of general theories, at least the Grand Theory. For the purposes of exemplification, I use the description of feminism as provided by Deborah Rhode: “At the substantive level, it implies a commitment to equality between the sexes. At the methodological level, it implies a commitment to gender as a focus of concern and to analytic approaches that reflect women’s concrete experiences. Underlying these commitments are certain core values of broader scope. Any ethical framework adequate to challenge gender subordination must similarly condemn the other patterns of injustice with which it intersects.”

This definition shows that feminism is goal-oriented; it is not an abstract theory detached from practice. Feminist theory is informed by practice; it is grounded in the experiences of different women ‘as women.’ At the same time, feminist theory aims to effect and transform the (oppressive) experiences of women.

Feminist jurisprudence likewise is not a single theory. Katherine Barlett defines it as ‘a family of different perspectives or frameworks used to analyze the actual, and the desirable, relationship between law and gender.’ Christine Littleton defines feminist jurisprudence as including all ‘attempts to explain, critique, and change law on behalf of, and from the perspective
of, women." While this definition contains a problematic notion of essentialism, it points to feminist jurisprudence’s grounding in women’s experiences, and its goal to transformation of law. Indeed, feminist legal theory is practice oriented. Carol Smart sees feminist jurisprudence as Praxis (borrowing the idea from Marx)—a combination of theory and practice, constructed through the development of a methodology which ensures that the insights of theory are reflected in the politics of action, and that the insights of practice are reflected in theory construction. 

3. Gender Justice:
The concept of gender justice is based on two prepositions:
- Participation of women in decision making;
- Protection of women from domination of men.

3.1. The basic unit of the society is family but decision is always taken by the male, among Hindus, Dharmastras laid down that Karta of the family shall be male only. You can see the position of woman in Indian society by the following verse of Ramcharit Manas where Goswhami Tulsidas said:

“Dhol, Gawar, Pashu, Shudra, Naari; Shakal Tadan ke Adhikari.”

Meaning thereby drum, rustic people, animal, schedule caste & schedule tribe and women are liable to be tightened and they shall be dealt with strictly.

Secondly in any locality, caste groups or religious groups the decisions are always taken by the male, even decision relating to State affairs are taken by male irrespective of the fact that the speaker of Lok Sabha Smt. Sumitra Mahajan is a female but majority of representatives in Lok Sabha are male.

3.2.1. Marion Young a famous feminist argues for elimination of institutions which dominate and oppressed women. The institution like religious, cultural, and political organization are greatly dominated by male, although these institutions are dominated by male but our women are not less responsible for their condition, for example Sati pratha. Right from childhood they suffered discrimination, they are trained in such a manner that they feel they are inferior to men. Society always teach them you must obey your father, brother, husband, etc. I will describe in following paras how male dominate over female with the help of social institutions.

3.2.2. Marriage: According to the traditional Hindu Law in marriage, Kanyadan is a spiritual gift, father has sole authority to gift his daughter, this gift may be informed or uninformed, even if it is informed her consent is not required, she is considered to be the property of her father. Not only among Hindus even among Muslims has she had no choice at the time of Nikah but to consent for marriage.

3.2.3. Divorce: Among the classical Hindu Law it is considered that marriage relations are made in heaven; it sacrament and sacrosanct therefore no worldly power can break it. That is why divorce was never recognized in Hindu Law, if she became widow even then she cannot marry again, she will remain as it is throughout her life and her husband can marry with any number of woman. Catholic did not recognize divorced, but among higher caste Hindus divorce was allowed only by husband. Similarly among Muslims divorce can only be pronounced by husband, although in exceptional circumstances like Khula a wife can exercise right of divorce but the authority can be derived from the husband.

3.2.4. Guardianship: Almost among all the religion of the world guardianship remains with father or male member of the family and among Muslims mother will be guardian of female child if she is bellow the age of five years.

3.2.5. Division of Labour: It is considered that male is rational being and they are made for mathematics, science and politics therefore they are wage earners; while women considered as emotional human being therefore they are assigned the work within the house.

3.2.6. Food Service: In traditional Indian family meal are served first to the male then only female will be served and if there is shortage of food then she will sleep without having meal.

3.3. The aims of gender justice are twofold:
- Sameness;
- Equality of rights.
3.4. This can be achieved through various means such as:
   a) Equal distribution of powers, rights, opportunity and self respect;
   b) Women should participate in decision making;
   c) The division of labour should not be as such which lower the self respect of the women;
   d) Oppression and tyranny must be come to an end.

4. Theories of Feminism:
   - Liberal theory of feminism
   - Radical theory of feminism
   - Socialist theory of feminism
   - Postmodern theory of feminism.
   - Cultural theory of feminism

4.1. Liberal theory of Feminism

General view of the liberal feminists is that subordination of women is caused by social and legal barriers that block or preclude their access to public sphere of politics and economics. Liberal feminists demand that liberals follow their own principles of universal human rights and equality and demand equal treatment of women and men, insisting that women are fundamentally similar to men. These theorists argue for law to be gender blind- that there should be no restrictions or special assistance on the grounds of gender.

Although now mostly outdated (as a theory, but not completely as a legal strategy), liberal feminists’ insistence on equal treatment has made significant gains to women in the 1960s and 1970s- it had gotten them access to employment, education and politics. However, while equal treatment strategy proved relatively successful in challenging explicitly discriminatory laws and ‘unreasonable classifications,’ the tactic was less successful in challenging laws where different treatment was justified on the basis of purportedly ‘real’ differences. The rule in difficult to apply in the cases where there is no man as a comparison point- such as in the cases of pregnancy, and also in relation to problems that mostly women face, like domestic and sexual violence.

More fundamental problem is the theories’ embracement of ‘male’ standard. Liberal feminists have not challenged legal concepts nor have they sought transformation of law, they only asked for its gender-neutrality. However, if laws reflect only (or mostly) male experiences, making laws gender-neutral does not help women much; it least helps those most disadvantaged women whose life experiences least resemble men’s. Moreover, equal treatment of socially unequal individuals does not result in ‘real’ equality and in many cases only exaggerate the disparities.7 As MacKinnon has argued, under gender-neutral rule, men in effect ‘get preferred because society advantages them before they get into account, and law is prohibited from taking that preference into account because that would mean taking gender into account’.10

4.2. Radical Theory of Feminism

Radical feminism does not see the issue of gender equality as an issue of difference and sameness but rather as issues of domination of women by men. The author of ‘dominance approach’ is Catherine MacKinnon, probably the most influential legal feminist of contemporary area. MacKinnon criticises both liberal and cultural feminism and Aristotelian formula of equality that they invoke (‘treat likes alike, and unlikes unlike’).11 She claims that both standards (which she calls ‘difference’ approach) embrace ‘maleness’ as a norm:

“Concealed is the substantive way in which man has become the measure of all things. Under the sameness standard, women are measured according to our distance from his measure... Approaching sex discrimination in this way- as if sex questions are difference questions and equality questions are sameness questions- provides two ways for the law to hold women to male standard and call that sex equality.”12

She sees equality question not as a question of sameness, but as a question of distribution of power, and gender question not as a question of difference but as question of male supremacy and female subordination. Her ‘dominance approach’ is therefore not concerned with the Aristotelian formula of formal equality; rather its test is whether laws and practices in question perpetuate subordination of women. As such, it aims at ‘substantive equality.’

Radical claims that the difference between man and woman can only be removed by removing “WO” from “Wo”man. Meaning thereby woman should stop the bearing of children, they said that “WO” can be removed by medical methodologies, i.e. the woman should decide the termination of pregnancy. In case of pregnancy woman should be given preference over man whether she wants baby or not, whether she is mentally and physically prepared for the baby or not.
4.3. Socialist Theory of Feminism

This theory is influenced by Marxism, psychoanalysis, and radical feminism, the key concepts are unity and integration of capitalist system and patriarchy, for example women’s oppression is complexly determined by a variety of forces, including economic, social, and psychological factors. Socialist feminism attempts to synthesize best insights of Marxist and Radical feminism. Capitalism, male dominance, racism, imperialism are intertwined and inseparable. Socialist feminism remains more historical than biological and more specific than universal: recognizes all the important differences among human beings—class, sex, but also age, race, ethnicity, nationality, sexual orientation. Women, like all human beings, are constituted essentially by the social relations they inhabit. A woman’s life experience is shaped by all these various dimensions.

4.5. Post Modern Theory of Feminism:

In postmodern feminism it is argued that not only male but women herself responsible for her poor condition, for example black women claim that our real enemy are not white men but white women. Similarly in India whenever marriage negotiation takes place mother-in-law demands for dowry. Even before marriage a bride demands from her parents a good quality of furniture, T.V. Refrigerator, Washing Machine, Maharaja Bed etc.

4.6. Cultural Theory of Feminism:

Cultural feminism (relational feminism/‘different voice’ feminism) reverses the focus of liberal feminism- it is concerned with women’s differences from men. It argues that important task for feminism is not to assimilate women into patriarchy, and prove that women are similar to men and can function like men and meet male norms, but to change institutions to reflect and accommodate values that they see as women’s nurturing virtues, such as love, empathy, patience and concern.

This strand of feminism can be traced to Carol Gilligan’s research on moral development of young girls and boys. In her book In a Different Voice, Carol Gilligan hypnotizes that men and women typically undergo a different moral development. She finds that male respondents typically respond to the moral problems with an ‘ethic of justice,’ while her female respondents typically respond with an ‘ethic of care.’ ‘Ethic of justice’ involves abstracting the moral problems from the interpersonal relationship and balancing of rights in hierarchical fashion, while the ‘ethic of care’ represents a relational and contextual approach to moral problems, which values empathy and relationship. Gilligan argues for recognizing the values of both voices, and in particular for not devaluing the ‘ethic of care.’

5. Termination of Pregnancy:

Section 312 of Indian Penal Code, 1860 deals with miscarriage of child and provided three years imprisonment for miscarriage except for saving the life of the woman. But IPC does not allow termination of pregnancy in case of rape but section- 3 of The Medical Termination of Pregnancy Act, 1971 allows termination of pregnancy by registered medical practitioner if he believes in good faith that-

a) the continuance of the pregnancy would involve risk to the life of pregnant woman;

b) of grave injury to her physical or mental health; or

c) There is substantial risk that child were born, it would suffer from such physical or mental abnormalities as to be seriously handicapped.

Explanation: 1. if pregnancy is caused by rape then it shall be presumed to constitute a grave injury to the mental health of pregnant woman.

Explanation: 2. where any pregnancy occurs due to failure of contraceptive devices or method then such pregnancy may be presumed to constitute a grave injury to the mental health of pregnant woman.

In India majority of people want male child, however Islam does not recognized this practice but still people want male child, among Hindus it is considered that male child will provide Mukhagni to the parents. Even it provided the procedure for adoption of child.

6. Female Infanticide:

Earlier there was no sex determination, therefore people used to kill female child as soon as she takes birth. It was not the problem of India only but Africa too. After technological advancement sex of fetus can be extracted thereafter the practice of termination of pregnancy started.

In order to control this practice The Pre-Conception and Pre-Natal Diagnostic Techniques (Prohibition of Sex Selection) Act, 1994 was passed by the parliament.

7. Legal Feminism:

Under this head I will describe the provisions of various Acts which are made for the women but actually causing harm to them:
7.1. According to the Child Marriage Restraint Act, 1929 the age of majority for bride and bride-groom are different, for bride it is 18 years and for bride groom it is 21 years whereas according to Indian Majority Act the age of majority is 18 years for all, it is the discrimination on the part of legislation itself. A boy can repudiate his marriage unless he attains the age of 21 years but a girl cannot repudiate her marriage at the same age. As we have heard the slogan that “Shadi to barbadi hai, Chhin jati aazadi hai”. This slogan is used by men as fun but for women it is reality.

7.2. According to Section 497 (Adultery) of IPC the aggrieved party will be the husband of such woman, neither his wife nor another woman has right to prosecute the accused, means priority goes to male.

7.3. According to section 494 of IPC whoever whether husband or wife marry again during the life time of his wife or her husband shall be punished with imprisonment up to 7 years. But who is likely to marry, of course husband having the more tendency and probability to marry again. And it is prohibited by virtue of Section 5 of Hindu Marriage Act, 1955 that is neither party having spouse living at the time of marriage but whenever second marriage is in question the court will examine the validity of first marriage.

8. Conclusion:
Feminism is such a wide area of study that we cannot analyze each and every aspect of it within few words, every year 44% girls getting married bellow the age of 18 years and even 22% girls are getting married bellow the age of 15 years and we are claiming that our culture is the great culture of the world, if 50% of population is behind the progress, whether we can claim that there is real progress?

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10. References:

1 Postmodernism feminism particularly rejects the idea of grand theorizing, which will be discussed later. See, for example Carol Smart, Feminism and the Power of Law, New York: Routledge (1989).


6 Also spelled suttee, Sati is an obsolete Hindu funeral custom where widow immolates herself on her husband’s pyre or commits suicide in another fashion shortly after death of her husband.

7 An example of ‘unreasonable classification’ that this rule has attacked was a rule that men are to have preference as estate administrators, as in the US Supreme Court case Reed v. Reed, 404 U.S.71 (1971)

8 Liberal feminists argue that even in the cases of pregnancy women do not need a special treatment. They analogize pregnancy to other disabilities, and call for its accommodation on the same grounds as other disabilities, being afraid that treating pregnancy specially would produce stigmatization of women. However, in my opinion, it seems that by analogizing pregnancy to other disabilities, liberal feminists themselves stigmatize this ‘ability.’ Debate between liberal and cultural feminists in relation to pregnancy benefits is

9 It was soon also realized that equal treatment could bring men even more benefits. As soon as a standard was embraced in law, men had start using it to challenge laws and practices that gave preference to women, such as custody and divorce rules- which has mostly resulted in exasperating women’s disadvantage.


11 Ibid

12 Ibid


14 Put fire into the mouth of a corpse when the funeral pyre is lit.

15 497. Adultery.—Whoever has sexual intercourse with a person who is and whom he knows or has reason to believe to be the wife of another man, without the consent or connivance of that man, such sexual intercourse not amounting to the offence of rape, is guilty of the offence of adultery, and shall be punished with imprisonment of either description for a term which may extend to five years, or with fine, or with both. In such case the wife shall not be punishable as an abettor.