

**GENDER JUSTICE - A SOUTH ASIAN PERSPECTIVE. Edited by S. Sivakumar, Lisa P. Lukose, and Manohar Thairani, Commonwealth Legal Education Association and Thomson Reuters, Gurgaon, 2022. ix + 394., Rs. 1100, ISBN: 978-93-91340-29-2.**

GENDER JUSTICE and gender equality are concepts intrinsically linked. Equality and justice for the disadvantaged is essential for equality and justice for all. Equality under most democratic constitutions distinguishes between formal and substantive equality. While formal equality simply means treating men and women alike, the concept of substantive equality entails positive rights wherein difference among groups is identified and ameliorative measures are taken accordingly. The provisions of law have varied gender impact hence, a systematic and effective achievement of gender equality and gender justice should transgress into concepts of equity and agency.

While equity on the one hand, deals with the concept of fairness and justice. Agency, on the other hand, deals with accessible and effective participation. Therefore, both equity and agency should form a base of most democratic constitutional designs.<sup>1</sup> The philosophical discussion of the notion of ‘justice’ as a virtue begins with Plato.<sup>2</sup> Our understanding of justice requires us to first establish the norms of justice and subsequently derive the account of virtue considering those norms. And these norms of justice require redressing wide range of injustices based on gender. Before travelling further, it is important to understand that gender in itself is viewed as a category of identity and its meaning is shaped by the structures of society that internalize the norms, biases and learnt roles.

Having said this, the book, ‘Gender Justice - A South Asian Perspective’ considers some of the most interesting and contemporary aspects of gender justice in order to build a “positive” theoretical framework for mainstreaming gender rights.<sup>3</sup> It begins with the premise that gender equality and elimination of gender discrimination should focus primarily on empowerment, promoting women’s education and protecting women from violence and exploitation, ensuring effective participation of various groups in social and political institutions, and keeping in mind the varied socio-cultural limitations to make effective laws and policies to alleviate gender inequality. The book recognizes the interlink between gender

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<sup>1</sup> Irving, Helen, “Gender, and the Constitution: Equity and Agency in Comparative Constitutional Design”, Cambridge University Press (2008).

<sup>2</sup> Julia Annas, *An Introduction to Plato’s Republic*, Oxford University Press (1981).

<sup>3</sup> S. Sivakumar, Lisa P. Lukose, and Manohar Thairani (eds.), “Gender Justice - A South Asian Perspective”, Commonwealth Legal Education Association and Thomson Reuters, Gurgaon, (2022).

justice, equality and various other factors and addresses them in a coherent manner. The book adopts a holistic approach to examine the issue of gender inequality. The unique aspect of the book is that it provides a South Asian perspective keeping in mind the differences in socio-cultural and political backgrounds. It further draws the attention to SAARC countries and comprehensively analyses measures taken South Asian countries to resolve the issue of gender inequality.

The book comprises of 28 chapters highlighting various aspects of gender justice including justice to third gender which is also mentioned in the 'Foreword' by Justice Indira Banerjee.<sup>4</sup> Further, the concept of gender justice is familiar to various spheres of study. Many theorists have recognized the deep structural inequalities that exist in various social and political institutions leading to failure in implementation of laws and policies framed for gender empowerment. Tackling this issue, S Sivakumar and Lisa P. Lukose in the introductory chapter on *Gender Justice and Women Empowerment in India: A Study of Kudumbashree* in Kerala highlights the "Kudumbashree" mission that has become a women focused initiative. It is a three-tier structure working in collaboration with the Kerala government and NADARD to build the community network for empowering economically deprived women in the state.<sup>5</sup> It is an approach that continues to focus on building self-reliance and bottom-up approach towards achieving gender justice.

While Manohar Thairani lays emphasis on providing equal opportunities in all aspects of life especially education, Authors such as Upma Gautam and Deeksha B. Tewari reflect upon the ongoing problem of sexual harassment in workplace. Akhilesh Kumar Khan highlights the idea of law as a tool for social transformation and how it can be formulated to bring about gender justice. Further, the book comprehensively covers topics on various challenges faced by woman in unorganized sector<sup>6</sup> and role of policy frameworks in alleviating gender inequality<sup>7</sup>. Keeping in mind the varied impact of situations and policies on gender, the chapter by Ashuthosh Raj Anand and Kislay Soni lay emphasis on the socio-economic disparity within gender that led to disparate effects of calamities. The book further weaves around the challenges faced by women for inclusion in various sectors. The chapter

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<sup>4</sup>*Id.* at X.

<sup>5</sup>*Id.* at 15.

<sup>6</sup>*Id.* at Chapter 5: Women in Labour Market: Gender Perspective.

<sup>7</sup>*Id.* at Chapter 6: Economic Gender Justice in South Asia: A Reflection on the Law Half Decade.

by Bhavana and Kavita Singh reflect on challenges for women's inclusion in policing while Mariam Anna examines the same in tourism sector. All these chapters direct towards adopting an approach that encompasses within itself concerns of education, poverty eradication, empowerment transcending into development process thereby furthering the goal of gender justice.

In any democratic nation, the path to achieving gender justice primarily begins with the transformation of the unequal dynamics of power relations and norms. The solution is to understand the systematic and institutional barriers in achieving gender equality. The chapter by Gimahni Hirunika takes us further than equality and emphasizes on the need for effective political participation to solve the gender gap concerns. Interestingly, the book highlights and focuses on the efforts made by SAARC countries towards achieving the goal of gender justice. Sachindri Piyahsie Dias in her chapter explores the idea of gender justice through the lens of personal laws. The chapter looks at the differences in customs of different communities and suggests that the same needs to be accounted for by South Asian countries while suggesting measures and solutions for promoting gender justice and equality.

The idea of dignity is central to ensuring equality the same has been recognized in chapter by Anjali Thakur wherein, she reflects on the challenges faced by women in terms of maternity workplace conflicts. Anjali Nair further looks at children who become residue victims of crime committed by their mothers focusing on the importance of restorative theory in this context provides new dimensions to understanding the wider consequences of the current criminal justice system. The chapter by Sakshi Dhaulta is of particular interest as it reflects broadly on the role of language and particularly the need to reevaluate the gendered language and its nexus with law. The author further emphasizes on the need to evolve gender neutral way of expressing in legal language to break gender stereotypes will lead to social reformation through language.

As the title suggests, the book provides a South Asian perspective of gender justice. The same has been comprehensively analysed through a series of chapters on SAARC and their initiatives in progressive realization of gender justice goals and highlights the implementation glitches owing to the inequalities that exists within the social structures.<sup>8</sup> Other chapters include analyzing gender justice in light of refugee crises, role of judiciary in

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<sup>8</sup>*Id.* Chapter 16: SAARC and Gender Equality: The Eruption of Futile Equality Equation at pg.230.

protecting gender interests, SAARC as a facilitator of gender justice and initiatives taken by SAARC countries to alleviate the status of women by broadly engaging with concepts of gender based discrimination that arise due to differential treatments based on difference in legal age of marriage and various other factors.

Although, gender justice and equality build on historically subordinated groups especially women, but it is equally important to lay focus on the experiences of minorities. Human being regardless of their gender should be equal.<sup>9</sup> This is an idea reflected in various chapters of this book by locating gender neutrality in rape laws, accounting for various gender identities and highlighting the importance of parental leave and its significance in ensuring better childcare and establish gender justice.<sup>10</sup> Despite women being half the world or to say half the nation yet why they experience subordination remains a question for many theorists. In today's time it has been important to provide identity to third gender referred to as the LGBTQI community. The book also comprehensively deals with the issue of status of third gender in SAARC countries<sup>11</sup>. Riya Bhedi in this regard provides an analytical report and reflects on the limitations that society establishes by assigning roles performed by individuals.

After reading this book, several thoughts intrigued my mind, such as, revisiting the foundational understanding of viewing a person as individual and not always a part of a group or community. The inherent value of human dignity should not depend on other factors, *i.e.*, humans as an “end-in-themselves”, a principle of benevolence formulated by Immanuel Kant that seems like an extreme moral stand in today's time.<sup>12</sup> Gender roles are so imbibed in our minds that breaking away from it requires a constant gender mainstreaming and awareness. The inability to view a human as individual and that they don't not have to necessarily fall within a category and identify with it strikes at the root cause of growing gender inequalities, despite, equality being a part of the basic structure in most constitutions. Some of the pertinent questions that require further exploration are why gender inequality continues? Whether gender neutrality is merely a false imperative? Whether gender bias is implicit in establishing and maintenance of power dynamics of a society? The book provides valuable insights in this regard, the problem of implicit gender bias that influences individuals to be

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<sup>9</sup>*Id.* Chapter 21: Gender Discrimination Based on Different Gender Identities: SAARC Perspective.

<sup>10</sup>*Id.* Chapter 23: Parental Leave as a Right at pg.333.

<sup>11</sup>*Id.* Chapter 26: Analytical Report on the Status of the Third Gender in SAARC Countries.

<sup>12</sup> Immanuel Kant, “Ground Work of the Metaphysics of Morals”, translated by H.J. Paton., New York: Harper and Row, (1964).

viewed only as members of a category and therefore, generate patterns of inequality that seem legitimate and disregard structural and institutional biases. The analysis of various chapters advances one's understanding of the complex relations between various factors that make it difficult to pursue gender justice through the existing legal policy and frameworks. The importance of women empowerment and providing opportunities and equal access is essential in this regard towards which this book advances its journey.

Sivakumar *et al.* have provided valuable insights to the varying dimensions of gender justice. Tracing the problem of gender inequality through different socio-cultural lens makes this book a valuable contribution in the understanding of problem existing gender gaps. The book is significant to researchers who are trying to understand the discourse of cultural, legal, and political disparities between various groups. The book comprehensively covers the idea of gender justice through its transformations while scrutinizing the deeper structural bias that exists at the heart of equality debate. Each chapter has its own significance in catering to the question of how gender equality can become a reality within the broader context of gender justice.

The book is thought provoking and a must read for anyone who wants to gain deeper insights on reality of law and its workings with society to achieve social transformation and gender reforms. The progressive potential of law and policies to empower and protect women, mainstream gender rights, ensure effective participation, auditing the impact of various socio-political factors on gender equality, and recognizing individual identity as a part of human dignity and their relationship with gender justice are ideas interwoven within the broader theme of the book. Understanding gender inequality in the public and private sphere is equally important in defining gender equality goals. It's workings in the family structures and organizational set ups requires redeveloping the hierarchal relations. Whether gender justice will be a reality or gender biases will continue to govern our views of individuals will remain a question of further exploration, to which this book lays the foundation in developing a positive and holistic outlook to the problem of gender inequality.

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