



Talk by Veena Gowda on Understanding Gender Bias in the Legal System

at ISME, Mumbai on 8th March, 2019

On International Women's Day 2019, the None in Three (Ni3) Research Centre in India organised a talk delivered by Advocate Veena Gowda, a prominent women's rights lawyer based in Mumbai, on "Understanding Gender Bias in the Legal System". The event was held at ISME Mumbai and attendees included human rights activists, professors, non-profit organisation facilitators, students, and lawyers.

A concise introduction to Ni3 was presented by Mr. Bhanu Varma, Country Co-Director of the centre. He spoke about the history of the project, with the initial idea being piloted by Dr. Adele Jones in Barbados and Grenada. The main agenda was to create awareness around gender-based violence (GBV) in the form of a video game; considering its influence on youth. In October 2017, it became a transnational project involving 4 countries, with India being one of them. The area-focus of Ni3 India became recognising and eliminating gender bias that leads to normalisation of GBV. Ms. Prarthana Patil, Country Co-Director of Ni3 India, introduced the guest speaker for the day, Advocate Veena Gowda, who has been practising in the High Court of Bombay, Family Court and other trial courts for over two decades. She has been a legal counsellor and an advocate for survivors of domestic violence, child abuse, and sexual harassment.



Adv. Gowda began with a few local examples depicting the impact of gender bias to show how every single one of us have assimilated this. Gender bias stops us from constantly challenging expectations that ultimately leads to undermining a woman's identity. She spoke about the stages in the life of a woman, where discrimination in the form of sex-selective abortion or birth celebration occurs much prior to the child's birth. However hard we try to eradicate social injustice, it metamorphoses and keeps affecting women's lives, each time differently.

She elaborated the need to rethink a woman's position in society, where subtle as well as obvious biases still exist. Adv. Gowda explained that women from various locations including the upper classes have endured victimisation and harassment, particularly in male dominated and male defined workspaces. Women are expected to dress in a certain way, meet the corporate curfews, and remain silent when their space and identity is violated. A pertinent point brought up by Adv. Gowda was regarding sexual harassment at workplaces, that is not restricted to any specific caste or class location. She asked the audience: if one of our colleagues had to go through a situation of harassment, how many of us will actually stand up for them?



In India the Domestic Violence Act, came about in 2005 but it has hardly had any proper legislative impact. Adv. Gowda explained that women who have approached the police to report domestic violence, have often been catcalled or demeaned, with the officers saying “ghar ki baat hai” (tr: this is a private problem), implying that domestic violence is beyond the purview of the state. She believes that the importance of marriage in women’s lives actually reemphasises the patriarchal construct of binaries. Women, she said, live in perpetual uncertainty of their homes, they are not given claim to ancestral property, and women themselves don’t take up this issue seriously. All forms of violence except adultery is quietly dealt with, which leads to the normalisation of violence and unjustified importance on monogamy, marriage, fidelity. She explained that because marriage in India means “automatic consent”, women have to prescribe to those norms of marriage with “tann, mann, dhan” (tr: body, mind, wealth). She drew up the case for normalisation of violence through stereotyped and patriarchal gender roles that ultimately leads the law to construct women as “victims”. To eradicate this idea of women in India, everyone should actively speak up about everyday abuse and sexism. Women need to realise that we can live on our own, walk out of sexual violence and oppression, have an identity, and utilise established laws.

Adv. Gowda also reminded the audience about the changes in Maharashtra Prohibition of Obscene Dance in Hotels, Restaurants and Bar Rooms and Protection of Dignity of Women (working therein) Act, 2016, which had earlier banned women in dance bars, calling it “exploitation of women”. Her position clarified that working women need not seek protection from the state, but instead, ask for policies that empower them at their workplace, wherever that is. The state’s narrative needs

to shift from a paternalistic approach, towards creating a safer environment where no individual feels threatened just because of their gender.

Another recent legislation on surrogacy, emphasised by Adv. Gowda, further evidenced the absence of sensitivity around women’s issues in public and legal discourse. The Surrogacy Regulation Bill, 2016 identifies and encourages intervention for “protection of the wombs”, opined Adv. Gowda. She explained the possibility of exploitation in this “unregulated industry”, yet, it is impossible to negate the income supplement aspect it has for many poor and marginalised women. The state’s apathy towards giving women the right to choose work shows clearly that even so-called women-centric laws still maintain the gender role stereotype.

Audience interaction after Adv. Gowda’s talk revealed that her words had resonated in the minds of all individuals present. Pertinent questions surfaced –is there statistical data to prove women’s “misuse” of legal provisions, through research on the kinds of complaints filed? Adv. Gowda didn’t think statistical data is necessary to show women’s misuse of IPC 498A or Domestic Violence Act. To quote her, “when all laws are being misused, why do we want statistics only from women?” a response many members of the audience agreed with. How lawyers should treat women survivors in most sensitive ways was another relevant question from the audience. Adv. Gowda, a self-identified feminist lawyer, explained her process of first making her clients comfortable, and then encouraging them to realise the violence they had faced. This process of realisation is slow for many women, because many women are unaware of the multifacetedness of violence, an outcome of the process of normalisation. Discussion around the courts’ responsibility to

FEMALE



sensitively tackle proceedings of domestic violence is critical. However, some audience members felt that it should not only fall on women judges, lawyers and police officers to sensitively address issues. Adv. Gowda explained that even though men should be sensitised and made to be aware of women's rights, to help facilitate comfort of the survivors, sometimes justifiably women public servants are given more women-centric cases.

Another concern raised during discussion on gender bias in public policy pertained to the recent Maternity Benefit Amendment Act, 2017, wherein maternity leave is much longer than paternity leave. Interestingly, this paradox was explained by Adv. Gowda by referring to the gender stereotype of women as primary caregivers, therefore this legislation, albeit imbalanced, is still necessary in India. Paternity leave is important, but she asked, do men really invest in the same way in their children as women?

On a positive note, Adv. Gowda said she believed that we can achieve legislative and social equality in the near future. She referred to the Prevention of Child Sexual Offences Act, 2012, as one legislation which is gender neutral—safeguarding both boys and girls equally against all forms of sexual abuse. Although, she also exclaimed that as a society we have not reached that moment in history where more “equal laws” can be passed, as women continue to be most vulnerable and marginalised.

Today, India as a country is battling with social injustice. Through her talk, Adv. Gowda directed why it is still important to give marginalised communities laws that empower them, even if those laws seem to be ‘biased’.