

FAIRER SEX IN SPORTS: AN UNFAIR GAME

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ABSTRACT

Women have long been considered inferior to their male counterparts in most of the activities and playing a sport is no different. Gender discrimination is strongly evident in sports and is visible to the naked eye. One need not go into the details and intricacies as the said discrimination is omnipresent throughout different games. Be it cricket, hockey, tennis, athletics or any other game, the biasness is hardly hidden. The relationship between gender equality and sport is not solely about achieving equality in women's participation and treatment within sports, but it is also about promoting 'sport for gender equality', or harnessing the potential of sport for social empowerment of women and girls.

Our world is presently witnessing the fourth wave of feminism but despite that when looked closely, finding differential treatments offered to two sexes in sports is not a herculean task. Sport is a major, yet largely neglected site of gender inequality today. The issue of women's participation in sports is important not only due to its benefits for individual participants, but also because of the significant social and political space that the phenomenon of sports occupies in a nation, transcending the lives of individual participants into greater relevance to society as a whole. It is not only India where such discrimination is an issue, in fact; this inequality is prevalent throughout the world. The different countries, societies and cultures are joined together by a common factor which is their beliefs towards women. Gender discrimination in sports include issues of Gender *Microaggressions* in forms of *Microassault*, *Microinsult* and *Microinvalidation*. However, the problems faced by female athletes in India are much more

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daunting than the problems faced by their counterparts from other countries. These problems are primarily of the sociological variety, however, administrative authorities and the administrators must share the blame for the same equally. Moreover there is a clear dearth of trained female coaches, training facilities, playing equipment and medical amenities.

The Constitution of India lays down a general framework in the form of various provisions like Article 14, 15, 39, 51A, etc over which laws penalizing gender discrimination can be based and the Supreme Court has taken the shelter of these provisions in order to protect the interests of fairer sex. Additionally, the apex court has played its role in an attempt to restore the balance, time and again, by calling for parity in treatment meted out to both the genders by resorting to various International instruments as well. However, despite all these Constitutional provisions and judicial activism, the present state of affairs does not inspire too much confidence. Till date no law for eliminating gender discrimination in sports has been introduced either in India or globally. Thus, in absence of any concrete law and the challenges faced by female athletes, it is imperative that certain laws are introduced which can effectively deal with the problem of gender discrimination in sports.

INTRODUCTION

The relationship between gender equality and sport is not solely about achieving equality in women's participation and treatment within sports, but it is also about promoting 'sport for gender equality', or harnessing the potential of sport for social empowerment of women and girls.²

Discrimination, be it on the ground of race, color, caste, gender or any of them is prevalent in every facet of human life and sports are no different. One can very easily find instances of discrimination in sports especially on the basis of color and gender. Even though, times have changed and the world has long moved on from the practice of apartheid, still inequalities, discrimination and abuse on the basis of skin color haunt the professional sports. Similarly, even

² UN Division for the Advancement of Women, Department of Economic and Social Affairs, Women 2000 and Beyond: Women, Gender Equality and Sport (December 2007).

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though we talk about women equality, equal rights for men and women and the related concepts, but when looked closely, finding differential treatments offered to two sexes will not be a herculean task.

Gender discrimination, in simple words means difference in treatment, representation and opportunities for men and women. Jan Graydon asserts:

Sport is a major, yet largely neglected site of gender inequality today. The issue of women's participation in sports is important not only due to its benefits for individual participants, but also because of the significant social and political space that the phenomenon of sports occupies in a nation, transcending the lives of individual participants into greater relevance to society as a whole.³

Gender discrimination is strongly evident in sports and is visible to the naked eye. Be it cricket, hockey, tennis, athletics or any other game, the biasness is hardly hidden. Men teams are thoroughly supported by every authority in the country while women teams beg for attention and basic assistance. This is primarily the reason that a player like Sachin Tendulkar, Roger Federer or Lionel Messi is considered a global superstar while players like Anjum Chopra, Martina Navratilova or Saina Nehwal strive for recognition.

GENDER MICROAGGRESSIONS

Prof. Chester M. Pierce in 1970 coined the term Microaggression to explain the discriminatory treatment faced by Black Americans through the hands of White Americans.⁴ He defined the term as "subtle, stunning, often automatic, and non-verbal exchanges which are 'put downs.'"⁵ Microaggression has also been defined as "Subtle insults (verbal, nonverbal, and/or

³Jan Graydon, *But It's More Than a Game. It's an Institution: Feminist Perspectives on Sport*, 13 FEMINIST REV., 5 (1983).

⁴Microaggression Theory, available at: https://en.wikipedia.org/wiki/Microaggression_theory (last accessed on 15 March 2016).

⁵C. Pierce, *et. al.*, *An experiment in racism: TV commercials* in C. PIERCE (ED.), TELEVISION AND EDUCATION 62-88 (Sage 1978).

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visual) directed toward people of color, often automatically or unconsciously”.⁶Microaggression is further classified into three types: Microassault, Microinsult and Microinvalidation.⁷

With time, seeing the other forms of discrimination, this concept was expanded to be applied to the discrimination on the grounds of gender as well as sexual orientation.⁸ D.W. Sue explains these terms by saying that Microassault is the most blatant and express form of discrimination. Here the perpetrator makes the derogatory remarks intentionally and even the cases of sexual harassment fall under microassault. These cases are clear instances of racism or sexism. Microinsult on the other hand takes into account the unintentionally and sub-consciously meted out discriminatory treatment for e.g. praising a woman driver for her driving skills. It has been proposed that “Microinvalidations are characterized by communications that exclude, negate, or nullify the psychological thoughts, feelings, or experiential reality of a person of color.”⁹

Emily Kaskan and Ivy Ho try to apply the concept of Microaggressions in the field of sports in particular to the women athletes. They assert that women athletes have to come across these types of discriminatory treatment on a routine basis.¹⁰ The comments such as “You throw like a girl” or “Don’t be a girl and show some fight” are pretty commonly heard on a sports field, implying that sports are the domain of males only and female athletes do not belong to this domain. These are examples of a mindset and thought process which is “dismissive of women’s physical abilities, potentially disparaging women who choose sports.”¹¹

DISCRIMINATION IN INDIA

Gender is a very important factor in regard to sporting activities. People have long taken the defence of natural differences between the two genders for justifying the differential treatments

⁶Solorzano, D., Ceja, M., &Yosso, T., *Critical race theory, racial microaggressions, and campus racial climate: The experiences of African American college students*, JOURNAL OF NEGRO EDUCATION 60–73 (2000).

⁷ Sue, D., et al., *Racial Microaggressions in Everyday Life: Implications for Clinical Practice* 62(4) AMERICAN PSYCHOLOGIST 271-286 (2007).

⁸DERALD WING SUE, *MICROAGGRESSIONS IN EVERYDAY LIFE: RACE, GENDER, AND SEXUAL ORIENTATION*(John Wiley & Sons, 2010).

⁹*Id.* at 3.

¹⁰Emily Kaskan and Ivy Ho, *Microaggressions and female athletes*, SEX ROLES 1(2014).

¹¹*Ibid.*

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being meted out to men and women. Indian society is still haunted by the dogma of male superiority. As per UN statistics of 2021, the sex ratio in India is among the lowest in the world as India ranks shamefully at 189 among 201 countries.¹² Similarly as per World economic Forum, India ranks at 108 among 145 countries in Global Gender Gap Index.¹³ In India, women face discrimination right from the very early stages in their family. Saina Nehwal talked about how her family, especially grandmother, always wanted a grandson. Thus, had her grandmother got her wish fulfilled, India would have been deprived of one of its shining gems. This is the story of every alternate family in India. Therefore, where a girl needs to struggle for bare survival, getting through the resistance of family and society for participating in sports is a farfetched notion. So, the primary responsibility for this gender discrimination has to be borne by the family and society.

Gender discrimination is a very wide term and may take various forms. Every kind of differential and unequal treatment on the ground of gender will qualify to be gender discrimination.¹⁴ Discrimination based on gender often gives room to other related problems like violence, harassment and abuse. The harassment and abuse of women players is nothing new and discourage women from participating in sports. The issue of sexual harassment of women athletes especially, demands serious attention. These cases have been increasing at an alarming rate in the recent times.¹⁵

¹²India, with Sex Ratio of 108 ranks at 189 among 201 countries. Available at: <http://statisticstimes.com/demographics/countries-by-sex-ratio.php> (last accessed on 25 August 2021).

¹³These rankings are based on a country's performance in terms of economic participation and opportunity, educational attainment, health and survival and political empowerment, available at: <http://www.ndtv.com/india-news/india-moves-up-to-108th-spot-in-global-gender-index-world-economic-forum-1245222> (last accessed on 17 March 2023).

¹⁴A famous Indian swimmer, after becoming the first Indian swimmer to qualify for Sydney Olympics 2000 alleged that her coach gave her qualification time wrongly which ultimately led to her being clubbed with the weakest competitors. Thereafter, she was threatened that her career would be over in case she disclosed the said incident before the press. For details, see Sidhartha Saxena, "Discrimination for Indian sportswomen at all levels, available at: <http://timesofindia.indiatimes.com/sports/hockey/top-stories/Discrimination-for-Indian-sportswomen-at-all-levels/articleshow/6239724.cms> (last accessed on 17 March 2016).

¹⁵The 2010 case of charges of sexual harassment on the former coach of Indian Women Hockey Team by 31 members of the squad is just one of the names in the long list of such allegations. Four years later Indian society came across the incident where charges of sexual harassment were leveled on a coach and a fellow male gymnast by a National-level female gymnast in the training camp just before 2014 Asian Games in South Korea.

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Another addition to this shameful list is the 2015 suicide of a 15 years old athlete training at Water Sports Centre of SAI in Kerala. The girl made a suicide pact with 3 other teenage girl athletes as all were allegedly victims of sexual harassment by their seniors. All the girls attempted suicide by eating a local poisonous fruit and one of the girls unfortunately died.¹⁶ The list is endless and a noteworthy point in all of these cases is that none of the accused has been convicted so far in any of the cases. The extent of this problem can be understood from the fact that many women have actually stopped playing sports so as to protect themselves from any kind of sexual harassment or abuse.¹⁷

Sania Mirza, on being appointed as United Nations women goodwill ambassador for South Asia summed up all the responsible factors by stating:

Gender equity in sports as well as using sports to advocate for gender equality in communities is essential. Equality depends on each and all of us. From the government that changes its laws, to the company that advances equal pay and equal opportunity, to the mother and father who teach their daughter and son that all human beings should be treated equally, to the athletes who demonstrate equality and excellence.¹⁸

So, be it sporting authorities, covering media or spectators everybody is playing a role in discrimination of women especially in sports.

DISCRIMINATION PREVALENT THROUGHOUT THE WORLD

It is not only India where such discrimination is an issue, in fact; this inequality is prevalent throughout the world. So be it Australia, North America or Europe, whatever be the growth index, whatever be the GDP, women still continue to be considered inferior to men.

¹⁶More at: <http://www.india.com/sports/four-sai-athletes-attempt-suicide-one-dies-following-alleged-harassment-375603/> (last accessed on 17March 2016).

¹⁷MUKUL MUDGAL, LAW & SPORTS IN INDIA: DEVELOPMENT, ISSUES AND CHALLENGES 67(Lexis Nexis 2011).

¹⁸See more at: <http://www.unwomen.org/en/news/stories/2014/11/sania-mirza-un-women-goodwill-ambassador-for-south-asia#sthash.5QaPtLku.dpuf> (last accessed on 20March 2016).

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Women have always been discouraged to participate in games and sports which can be measured from the fact that no woman was allowed to participate in any sports at the very first Olympics in 1896¹⁹ and it took International Olympics Committee fifty long years to actually look towards Gender Equality.²⁰ In 2004, the then FIFA President advised the women footballers to wear more feminine clothes, to be precise tighter shorts to promote women football.²¹

During London Olympics 2012, Japanese football team and Australian basketball team was made to travel in economy class while their male counterparts travelled in business class. This was despite the tremendous performance of the Japanese Women Football team in the recent times going to the extent of winning the World Cup just the previous year in 2011.²²

Further, even when a woman athlete is appreciated on majority of the occasions it is more due to her fashion or style statement and less due to her skills. So a player like Venus Williams in less publicized even though she has won numerous Grand Slams while Anna Kournikova was much sought after by everyone.²³ This line of thought is further substantiated by NBC New York who while publishing report on Women Beach Volleyball at the 2012 Olympics, titled their news article as "Olympic Beach Volleyball: Great Bodies, Bikinis and More."²⁴ These incidents show that gender biasness has got deep down in everyone's mind and thoughts. Instead of lauding the women athletes for their skills and making to the Olympics, the newspaper found it better to focus on women's bodies, bikinis, etc. Though, the blame cannot only be imputed upon the

¹⁹ Women in sport commission, *available at*: <http://www.olympic.org/women-in-sport-commission> (last accessed on 15 March 2016).

²⁰INTERNATIONAL OLYMPICS COMMITTEE AND GENDER EQUALITY IN SPORTS, https://en.wikipedia.org/wiki/International_Olympic_Committee_and_gender_equality_in_sports#cite_note-olympic-1 (last accessed on 15 March 2016).

²¹The erstwhile President in January 2004 commented with regard to women footballers "They could, for example, have tighter shorts. Female players are pretty, if you excuse me for saying so, and they already have some different rules to men - such as playing with a lighter ball. That decision was taken to create a more female aesthetic, so why not do it in fashion?" *available at*: <http://www.theguardian.com/uk/2004/jan/16/football.gender> (last accessed on 15 March 2016).

²² Alexandra Topping, "London 2012: Japan and Australia review athletes' travel in gender equality row", *available at*: <http://www.theguardian.com/sport/2012/aug/07/london-2012-equality-japan-australia> (last accessed on 15 March 2016).

²³MukulKesavan, "A Man's Game", Apr 1, 2007, *available at*: <http://www.espn.com/blogs/content/story/609521.html> (last accessed on 15 March 2016).

²⁴ Sarah J. Jackson, *What's Wrong with Media coverage of Women Olympians*, *available at*: http://www.huffingtonpost.com/sarah-j-jackson/olympics-2012_b_1736415.html (last accessed on 15 March 2016).

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newspaper only as it was just serving to the interests of its readers. Several women footballers of 12 nations filed a lawsuit against FIFA and Canadian Soccer Association alleging sex discrimination as women football matches in the 2015 Women World Cup were decided to be played on artificial turf while men continued to play on natural grass.²⁵ Similarly, recently Norwegian women's beach handball team was fined 150 Euros per player for not following the official uniform instructions and choosing to wear shorts instead of the "traditional" bikini bottoms.²⁶

Employing women in sporting activities, even for a role other than an athlete is also seen on very rare occasions and when some women are employed for the same, they are subjected to very harsh criticism and harassment. The case of Chelsea Football Club's Team Doctor Eva Carneiro is the most recent and popular case of gender discrimination incidents outside India. She had to face the wrath of sexist fans at various occasions and in her last match as the team doctor she was unduly criticized by the team manager for not understanding the tactics and intricacies of the game. However, a doctor is not supposed to know the same as his primary and only duty is to attend the patients, Chelsea football players in this case. During a match while she attended an injured player after being called on the field by the match referee, Chelsea manager criticized her actions as in his view the player's injury was not serious. Thereafter, she was demoted from first team duties and ultimately had to resign due to discriminatory and hostile work environment. She filed cases of constructive dismissal and sex discrimination against her former employers and the manager which were settled later on confidential terms.

Although, Dr. Eva Carneiro may be considered fortunate that at least she got the opportunity to work with a sports team despite being a female as one another female physiotherapist applied for a job in 1994 at one of the biggest Football clubs, Manchester United FC but what she got in

²⁵Available at: <http://www.dnaindia.com/sport/report-leading-australian-women-football-players-sue-fifa-claiming-gender-discrimination-2023067> (last accessed on 15 March 2016).

²⁶Sharon Pruitt-Young, *The Sexualization Of Women In Sports Extends Even To What They Wear*, NPR (July 23, 2021, 09:00 AM), <https://www.npr.org/2021/07/23/1019343453/women-sports-sexualization-uniforms-problem>.

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return was a blatant rejection. The reason cited, quite obviously that “football is very much a male sport and players would prefer to be treated by a male physiotherapist”.²⁷

United Nations Division for the Advancement of Women Department of Economic and Social Affairs published a report in 2007 which mentions various reasons and instances of gender discrimination and inequality in sports by stating:

The value placed on women’s sport is often lower, resulting in inadequate resources and unequal wages and prizes. In the media, women’s sport is not only marginalized but also often presented in a different style that reflects and reinforces gender stereotypes. Violence against women, exploitation and harassment in sport are manifestations of the perceptions of men’s dominance, physical strength and power, which are traditionally portrayed in male sport.²⁸

Among other important issues raised by the said report, the issue of unequal wages and prize money for men and women also warrants serious concern. In every sport the difference between the earnings of the two genders is rife, at times even being exponential. In 2015, US Women Football team after winning the World Cup got a cash prize of \$2 million while the German national team on winning the Men’s Football World Cup took home almost 18 times more an amount.²⁹ On the similar lines, the difference between the wages of two genders of Australian cricket players is huge. While men players earn an average sum of \$1 million per year, women cricketers have to make do with \$85,000.³⁰ Thus, the disparity in wages of women and men athletes is prevalent throughout the world the term ‘Gender Equality’ has been reduced to a mere dead letter.

²⁷ Ian Gallagher, “A woman physio? My lads won’t like that, said sir Alex, as his comments spark new ‘sexism in football’ available at: <http://www.dailymail.co.uk/news/article-1356474/Sir-Alex-Ferguson-sexism-football-row-Woman-physio-My-lads-wont-like-that.html> (last accessed on 15 March 2016).

²⁸ *Supra* note 21.

²⁹ Gender Discrimination in Sports, available at: <http://www.newdelhitimes.com/gender-discrimination-in-sports123/> (last accessed on 17 March 2016).

³⁰ Jamie Pandaram, “Australia’s female cricketers brushed completely from share of \$70 million windfall”, available at: <http://www.dailytelegraph.com.au/sport/cricket/australias-female-cricketers-brushed-completely-from-share-of-70-million-windfall/news-story/f312866391e9e919a15e7803bd2e0a4d> (last accessed on 17 March 2016).

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INTERNATIONAL LAWS & CONVENTIONS

United Nations Educational, Scientific and Cultural Organization in its 1978 International Charter of Physical Education and Sport mentioned the importance of sports and physical activity for the very first time. Thereafter in 1979, United Nations General Assembly adopted the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). Article 10 of the said convention *inter alia* provides:

States Parties shall take all appropriate measures to eliminate discrimination against women in order to ensure to them equal rights with men in the field of education and in particular to ensure, on a basis of equality of men and women:

(g) The same Opportunities to participate actively in sports and physical education;

Article 13 of CEDAW *inter alia* provides:

States Parties shall take all appropriate measures to eliminate discrimination against women in other areas of economic and social life in order to ensure, on a basis of equality of men and women, the same rights, in particular:

(c) The right to participate in recreational activities, sports and all aspects of cultural life.”

So, through the abovementioned two Articles, CEDAW tried to strike an equality between men and women in the matters of participation in sports and games. Thereafter, in 1995 at the Fourth World Conference on Women the Beijing Platform for Action was adopted as an “agenda for women’s empowerment.”³¹ Even International Olympics Committee has tried to promote gender equality in sports and in 1995 established a Working Group on Women and Sport in order to make efforts to promote participation of women in sports. The same was elevated in 2004 to

³¹ With policy recommendations to governments and addressing the issue of women and sport, it calls for:

- the provision of accessible recreational and sport facilities by educational institutions;
- the establishment and strengthening of gender-sensitive programs for girls and women of all ages in education and community institutions; and
- the creation and support of programs in the education system, workplace and community to make opportunities to participate in sport and physical activity available to girls and women of all ages, on the same basis as they are made available to men and boys

See UN Division for the Advancement of Women, Department of Economic and Social Affairs, Women 2000 and Beyond: Women, Gender Equality and Sport (December 2007).

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Women in Sports Commission. The Commission awards those women who make notable contribution in achieving the goals of gender equality in sports.³² In 2004 itself, the Olympics Charter went through the very first amendment in the history and under its Rule 2, Para 7 an express reference was introduced as:

The IOC encourages and supports the promotion of women in sport at all levels and in all structures, with a view to implementing the principle of equality of men and women.³³

The United Nations has been very manifest in supporting the cause of gender equity in sports. It has conducted numerous surveys and published various reports³⁴ with regard to the participation of women in sports. UN considers sports an important tool for achieving an overall gender equity and achieving its Millennium Development Goals.

CONCLUSION

The issue of gender discrimination in sports should be focused upon in a concrete manner. What India requires is a substantial law which specifically deals with the issues of gender discrimination and sexual harassment of women. If the current situation has to be improved, a combined effort from all the stakeholders is imperative. There are several factors which create the risk of sexual harassment and as per Justice Mukul Mudgal:

The risk (of sexual harassment and vulnerability) arises from a combination of many factors like weak organizational control within sports clubs, dominating attitudes of coaches, as well as factors like insecurity, low esteem and the high ambition of the athletes.³⁵

³²International Olympics committee and gender equality in sports, *available at*: https://en.wikipedia.org/wiki/International_Olympic_Committee_and_gender_equality_in_sports#cite_ref-GoldsmithBelinda_14-0 (last accessed on 17 March 2016).

³³Also, Principle 6 states: "Any form of discrimination with regard to a country or a person on grounds of race, religion, politics, gender or otherwise is incompatible with belonging to the Olympic Movement."

³⁴Harnessing the power of sport for development and peace: Recommendations to governments, report prepared by Right to Play in its capacity as the secretariat to the Sport for development and peace international working group, 2008 as well as Women 2000 and Beyond: Women, Gender Equality and Sport (December 2007)

³⁵MUKUL, *supra* note 17, at 67.

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The power really lies with the agents like society, government and media to improve the present situation. The foremost thing that is required is a strong legal framework and certain policy changes from the government's end. Gender equity shall be embedded in a broader government agenda and programmes shall be made in this regard. Further, national sports policies shall be designed in a manner to promote women participation, gender equity, empowerment and quality of life of women.³⁶



³⁶Harnessing the power of sport for development and peace: recommendations to governments, report prepared by Right to Play in its capacity as the secretariat to the Sport for development and peace international working group, (2008).

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