

Women in Indian Law: Progress, Challenges, and the Reality of Justice

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Abstract: *The concept of gender justice exists between three domains which include constitutional morality and social reality and developing legal systems. The Indian legal system has undergone a lengthy process which started from its original patriarchal structure to develop a legal framework that provides women and gender minorities their rightful equal rights. The study investigates how Indian gender justice systems develop through two main elements which include legislative structures and judicial systems. The paper studies how legal authorities established through Supreme Court judgements and existing laws in criminal law, family law, labor law and constitutional rights create a difference between actual legal practices and formal legal standards. The study examines global gender rights discussions while showing how specific cultural issues in India remain unsolved. The paper concludes by asserting that true gender justice needs to create institutional changes together with complete modifications of both institutional attitudes and social customs*

Keywords: Gender Justice, Constitutional Equality, Feminist Jurisprudence, Women's Rights, Crime against Women.

I. INTRODUCTION

The legal field continues to debate the meaning of gender equality because it remains one of its most challenging questions. Legal systems throughout the world have shifted between two approaches which include formal equality that treats all people equally without considering their gender and substantive equality which recognizes that equal treatment can result in significant different outcomes. The constitutional and statutory framework of India demonstrates this conflict in a clear manner.

Article 15 of the Indian Constitution guarantees all citizens the right to equal protection which creates an explicit legal barrier against sex-based discrimination. The National Crime Records Bureau data shows that all types of crimes against women which include domestic violence and rape and trafficking remain at extremely high levels. The existing legal framework fails to bridge the substantial gap that exists between constitutional commitments and actual societal conditions.

This paper is an attempt to map that space. The study examines four main areas which include constitutional guarantees, judicial interpretation, criminal law reforms which address gender-based violence and personal laws which affect women's rights and the recognition of transgender and gender-diverse rights which exists in contemporary society. The analysis will demonstrate how the country has achieved significant progress since independence while it will also reveal persistent obstacles that hinder the advancement of gender justice.



II. OBJECTIVES

1. To examine the Constitutional provisions related to gender equality in India — Article 14, 15, 16, 21, and 39 and to assess how far these provisions have been used through legislative and executive action since the Constitution came into force.
2. To trace and critically analyse the evolution of gender justice jurisprudence through Landmark Judgments of Supreme Court of India that have expanded the Constitutional guarantees available to women.
3. To evaluate the existing legislative framework for the protection of women's rights in India
4. To analyse the persistent gap and challenges between legal rights and social reality

III. RESEARCH METHODOLOGY

The current research uses a doctrinal and analytical research methodology which depends on secondary data for its qualitative research. The research conducts a comprehensive study of constitutional provisions and statutory laws and pivotal judicial decisions that shape gender justice in India. The study uses a thematic approach to examine constitutional rights, criminal law, personal laws, labour laws and feminist jurisprudence while using a comparative method to evaluate the difference between legal requirements and their actual application. The research study uses a socio-legal framework to examine how laws interact with social realities which helps to deliver gender justice in India.

IV. RELEVANCE OF THE RESEARCH

The current research holds significant importance because it demonstrates how constitutional gender equality rights remain unmet by Indian society today. Women experience ongoing discrimination and violence while judicial system access remains biased against them despite existing constitutional and legislative and judicial protections. The research reveals how legal systems fail to operate effectively while judicial systems function to protect gender rights and social traditions such as caste and class and patriarchal power structures shape legal decisions. The research examines personal law and labor rights along with international treaties such as CEDAW to present a detailed socio-legal study of gender justice in India. The research shows that legal reform needed for social change.

V. CONSTITUTIONAL FRAMEWORK FOR GENDER EQUALITY

5.1 Foundational Provisions

The Indian Constitution which the country adopted in 1950 contains multiple features that were advanced for its time. The founding generation established individual rights through a strong legal framework which included equality rights that specifically addressed gender issues because they followed the anti-colonial freedom movement and the ideas of B.R. Ambedkar and B.N. Rau and Hansa Mehta.

Article 14 guarantees equality before law and equal protection of the laws to all persons. The state must not treat any citizen differently because of their religion or race or caste or sex or place of birth according to Article 15(1). The state is allowed to create special laws for women and children according to Article 15(3) which establishes the legal basis for protective and affirmative laws. Article 16 provides equal rights to all people for public employment while Article 21 protects personal freedom and life according to judicial interpretations which extend beyond its original definition.

The Directive Principles of State Policy have non-justiciable status yet they influence the creation of gender-based laws. The law requires equal pay for equal work according to Article 39(d) while Article 42 demands fair and safe work environments which provide maternity benefits.

5.2 Wide Judicial Interpretation of Article 21

Article 21 of the Constitution has become the most flexible constitutional provision which supports gender justice efforts. Women and gender minorities have gained direct advantages from the Supreme Court's decision to expand the right to life and personal liberty into a complete fundamental right.



The Supreme Court heard a Public Interest Litigation case which arose after Bhanwari Devi's gang rape who worked as a social worker in Rajasthan to stop a child marriage. The Court established new rules to recognize workplace sexual harassment as a violation of Articles 14, 15, and 21 through its special power to create judicial law. The Vishaka guidelines remained the law until the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act was enacted in 2013, sixteen years later. The case demonstrates how judicial authority can intervene when legislative bodies fail to take action.¹

The Court established through its decision in Francis Coralie Mullin v. The Administrator, Union Territory of Delhi² that the right to life extends beyond basic human survival needs. This expanded reading was applied in subsequent cases to protect women from degrading treatment and to uphold their right to live with dignity.

VI. CRIMINAL LAW AND GENDER-BASED VIOLENCE

6.1 The Rape Law Reforms

The evolution of rape legislation from its initial establishment until today in India mirrors the evolving understanding of how the government interacts with women's right to control their own bodies. The original provisions under Sections 375 of the Indian Penal Code, 1860 (Now Section- 63 of Bhartiya Nyay Samhita, 2023) were inadequate. The definition of rape required proof of conditions that described the victim while survivors faced examination through the two-finger test found to be invalid and threat to their dignity. The 1983 amendments to the IPC and the Code of Criminal Procedure introduced custodial rape as an aggravated offence and shifted the burden of proof in such cases. The fundamental changes to law enforcement systems emerged after the Delhi gang rape case which happened in December 2012 and caused citizens across the nation to demand additional changes.

The Justice Verma Committee was established to review existing rape laws and all legal codes which govern offenses against women and it produced its complete findings within a short time period. The Criminal Law (Amendment) Act, 2013 established new legal boundaries for rape through extending its definition to include all forms of penetration and it introduced stricter penalties while establishing new legal provisions which included acid attacks and stalking.

6.2 Domestic Violence

The Protection of Women from Domestic Violence Act, 2005 established domestic violence as a recognized legal concept which includes five types of abuse while offering protection through protection orders and residence orders and monetary relief.

The Act describes domestic violence as a public crime which violates women's fundamental rights instead of treating it as a private matter between spouses. The Supreme Court established that women living in relationships which resemble marriage can receive protection under the 2005 Act according to its decision in Indra Sarma v. V.K.V. Sarma³, which expanded the law's reach to include women who are not legally married.

The implementation of existing laws still faces major challenges despite progress in creating new laws. The Act requires protection officers who need to be appointed in sufficient numbers to conduct their critical duties.

6.3 Sexual Harassment at the Workplace

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which people call the POSH Act, transformed the Vishaka guidelines into legal requirements. The law obligates every company which employs ten or more workers to establish an Internal Complaints Committee while it requires Local Complaints Committees to be created at every district to address complaints from people who work in unorganised sectors.

¹ Vishaka v. State of Rajasthan, (1997) 6 SCC 241

² (1981) 1 SCC 608

³ (2013) 15 SCC 755



A large proportion of women in India work in the informal sector which includes domestic workers and agricultural labourers and construction workers because they face multiple obstacles that prevent them from accessing the legal protections established by the Act. The #MeToo movement that swept India in 2018 brought into sharp focus how many women had faced harassment in workplaces ranging from media houses to film studios to academic institutions, and had no meaningful avenue for redress.

VII. PERSONAL LAWS, FAMILY STRUCTURES, AND WOMEN'S RIGHTS

7.1 The Unfinished Debate on a Uniform Civil Code

The question of establishing a Uniform Civil Code which would create identical marital and divorce and maintenance and inheritance and adoption regulations for all religious groups in India stands as one of India's most politically divisive issues. The Constitution's Article 44 requires governments to implement a Uniform Civil Code for citizens but this goal has remained unfulfilled for more than seventy years.

The personal laws of different communities in India show great differences about which rights they give to women. The Supreme Court ended Muslim personal law which allowed Indian men to practice polygamy until 2017. The Hindu Code Bills from the 1950s and the Hindu Succession (Amendment) Act 2005 transformed Hindu personal law through their establishment of equal property rights for daughters. Christian and Parsi laws have undergone their own reforms, though unevenly.

The Supreme Court has changed its legal interpretation throughout its history. The Court decided that a divorced Muslim woman had the right to financial support according to Section 125 of the Code of Criminal Procedure in the case of *Mohd. Ahmed Khan v. Shah Bano Begum*⁴. The decision was politically controversial and was effectively reversed by the Muslim Women (Protection of Rights on Divorce) Act, 1986. The Supreme Court interpreted the 1986 Act constitutionally in *Danial Latifi v. Union of India*⁵ which maintained most of the Shah Bano decision's essential elements.

7.2 The Hindu Succession (Amendment) Act, 2005 and Its Interpretation

The Hindu Succession (Amendment) Act, 2005 amended the original 1956 legislation to give daughters the same rights as sons in ancestral property under the Mitakshara coparcenary system. The amendment was a significant legal reform, but uncertainty arose about whether it applied to daughters whose fathers had died before the amendment came into force. The Supreme Court settled this question authoritatively in *Vineeta Sharma v. Rakesh Sharma*⁶, where a three-judge bench held that the amended provision was retroactive in operation and that a daughter's right as a coparcener by birth does not depend on whether her father was alive at the time of the amendment.

7.3 Triple Talaq and the Shayara Bano Judgment

Muslim women who experienced the practice of instantaneous triple talaq brought a legal challenge against the system that allowed Muslim husbands to end their marriages through the immediate declaration of 'talaq' three times. The Supreme Court declared the practice unconstitutional in *Shayara Bano v. Union of India*⁷ through a decision that passed by three to two ratio. The majority held that triple talaq violated Article 14 on the ground that it was manifestly arbitrary, enabling a husband to dissolve a marriage capriciously with no recourse to the wife.

The central government passed the Muslim Women (Protection of Rights on Marriage) Act 2019 after the judgment which made it illegal to pronounce instantaneous triple talaq and established three years as the maximum prison sentence for offenders.

⁴ AIR 1985 SC 945

⁵ (2001) 7 SCC 740

⁶ (2020) 9 SCC 1

⁷ (2017) 9 SCC 1



VIII. GENDER JUSTICE IN LABOUR LAW

Gender-specific reforms in labour law establish proof that workplace equality needs specific programs to achieve its goal. The Maternity Benefit (Amendment) Act, 2017 extended paid maternity leave from twelve to twenty-six weeks for women employed in establishments with ten or more employees.

The Equal Remuneration Act, 1976, which mandates equal pay for equal work regardless of gender, has been in existence for nearly five decades. The reality shows that different job sectors and professional fields still allow companies to practice wage discrimination against their workers. The law lacks effective enforcement methods, and authorities have obtained only a few successful convictions under the Act. The issue of women in the unorganised sector deserves special mention, which include home-based employment, agricultural work, and self-employment, that do not provide them with access to official labour protections.

The Code on Social Security, 2020 creates one of the four labour codes which Parliament enacted to combine existing labour laws, but it provides limited benefits to gig and platform workers because its actual implementation and coverage of informal workers remains unfinished.

The Mahatma Gandhi National Rural Employment Guarantee Act, 2005 (MGNREGA) has established a significant gender aspect to its implementation. The Act mandates that one-third of its beneficiaries must be women while the program has demonstrated success in helping rural women achieve economic independence according to evidence. The program's effects on gender equality have shown different results in various states.

IX. FEMINIST JURISPRUDENCE AND ITS INDIAN MANIFESTATIONS

Feminist jurisprudence, which studies how laws were developed through male perspectives, helps researchers and legal experts to develop gender justice as an academic subject. The Indian feminist legal movement first appeared during the 1970s and 1980s when the women's rights movement gained momentum. Contemporary Indian feminist jurisprudence exists in a state of conflict because it contains both fundamental principles of liberal feminism and additional elements from different feminist movements. The process of intersectionality describes how gender-based discrimination interacts with discrimination based on caste and class and religion and other forms of personal identity.

A Dalit woman experiences dual discrimination through both gender and caste, which requires both frameworks to understand her complete experience. The Supreme Court acknowledged this in *Patan Jamal Vali v. State of Andhra Pradesh*⁸, where it discussed the intersecting vulnerabilities of a blind Dalit woman who was a victim of rape. The ongoing discussion about cultural relativism and universal human rights examines how both concepts relate to gender issues.

The Supreme Court's decision in *Independent Thought v. Union of India*⁹, criminalising sex with a minor wife regardless of the age of consent prescribed by personal laws, represents one answer to this question: constitutional morality and a child's dignity take precedence over customary norms.

X. PERSISTENT CHALLENGES

10.1 The Implementation Deficit

The legal system results in new laws after people spend years fighting for their approval yet the necessary systems to execute those laws remain unestablished as officials lack proper training and potential users of the law do not know about it. The Protection of Children from Sexual Offences Act 2012 (POCSO) establishes special courts that must operate to provide fast judicial proceedings for cases that involve sexual crimes against minors. Many states failed to set up the necessary special courts which required establishment after the law passed its first year of implementation.

⁸ (2021) 7 SCC 1

⁹ (2017) 10 SCC 800



10.2 Caste, Class, and Gender Intersectionality

The intersection of gender with caste and class produces forms of discrimination and vulnerability that mainstream gender justice frameworks often fail to adequately address. The Dalit women and tribal women together with women from economically disadvantaged backgrounds experience higher rates of gender-based violence in India. The 2020 Hathras incident, which resulted in the death of a young Dalit woman who had been gang raped, demonstrated how caste hierarchy affects both gender violence and the State's response to it.

10.3 Delays in Justice Delivery

The Indian court system faces structural challenges because case backlogs create special difficulties for people who have experienced violence based on their gender. Rape trials that take years to conclude revictimise survivors through repeated court appearances, cross-examination that can be traumatising, and the prolonged uncertainty about the outcome. The Supreme Court in *Nipun Saxena v. Union of India*¹⁰, issued comprehensive guidelines for the protection of the identity and dignity of sexual offence victims and for the expeditious conduct of trials. The judicial directions provide useful solutions but they fail to solve the essential issue of insufficient judicial resources.

XI. INDIA'S INTERNATIONAL OBLIGATIONS AND THEIR DOMESTIC IMPACT

India has ratified multiple international agreements that establish gender equality standards which include the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Beijing Platform for Action which was established during the Fourth World Conference on Women in 1995. India has ratified Convention No. 100 of the International Labour Organization on equal remuneration and Convention No. 111 on discrimination in employment and occupation. CEDAW establishes its importance through its requirement that state parties must implement actual measures which go beyond official procedures to eliminate all forms of discrimination against women. The CEDAW Committee conducts evaluations of India's compliance with the treaty and it has provided recommendations about multiple topics which include child marriage and maternity benefits and women's representation in public life and violence against women. Indian courts have increasingly referred to international instruments in gender justice cases. The Supreme Court used CEDAW as a legal reference point to decide the Vishaka case because no national laws existed to regulate sexual harassment. The increasing use of international law for interpreting domestic constitutional provisions has developed a stronger gender justice system in India although the country has not consistently met its international obligations.

XII. CONCLUSION

The last seventy years of India's history show both positive outcomes and serious educational experiences which need to be understood. Research findings indicate that gender justice requires our examination of legal issues beyond their established rules. The requirement includes assessment of legal documentation together with identification of enforcement personnel and access rights and evaluation of social impact and future societal development. All stakeholders including researchers and legislators and judges and civil society members and citizens need to consider this question. The question exists as a shared responsibility among all members of a constitutional democracy.

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