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## Gender Justice in India A Comprehensive Legal Analysis

Swapna Bijayini

Capital Law College, Bhubaneswar, Odisha, India

Affiliated to Madhusudan Law University, Cuttack, Odisha, India

mail2swapna81@gmail.com

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### Abstract

The struggle for gender justice in India is influenced by the interplay between constitutional provisions, affirmative laws, judgments made by the Supreme Court, and patriarchal institutions. Even though Article 14 provides for equality before the law, Article 15 makes it unconstitutional to discriminate against anyone, while Article 21 upholds personal liberty, there remains an ongoing struggle against inequality, violence, and oppression as evidenced by laws such as the Dowry Prohibition Act, 1961, the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace Act, 2013. The Vishaka v. State of Rajasthan case, the C.B. The case of Muthamma vs Union of India and the case of Mary Roy vs the State of Kerala are among the factors that have contributed to the progression of women's rights; nevertheless, problems remain with the implementation of such laws and handling resistance from society, especially rural society. Popular culture, which consists of films and the internet, operates in the context of strengthening and challenging the patriarchal system. It is, therefore, possible to note how the concept of feminist awareness is present in the Indian setting.

**Keywords** Gender justice, gender equality, patriarchal norms, Indian judiciary, constitutional rights

## 1: Introduction

Gender justice is vital for a true understanding of human dignity, constitutional democracy, and sustainable development. In India, despite constitutional guarantees of equality and various laws and protections for women, deeply rooted patriarchal norms still promote gender-based discrimination, violence, and unequal opportunities. The Constitution of India states that all citizens deserve equality before the law and equal protection without discrimination based on sex, caste, religion, or place of birth. It also requires the State to promote the welfare of women and children (Constitution of India, arts. 14, 15, 15(3), 21, and 39). However, these ideals often weaken due to social practices, economic dependency, and cultural stereotypes that view women as secondary or subordinate within the family, workplace, and public life.

Data shows that India is one of the few large countries where girls face higher mortality rates at younger ages, and a skewed child sex ratio indicates a preference for male children (Office of the Registrar General & Census Commissioner, 2021; Ghosh & Saha, 2023). Girls are more likely than boys to experience early marriage, drop out of school, have limited mobility, and lack decision-making power in issues related to their education, work, and health. As they enter adulthood, these disadvantages persist as low labor-force participation rates, job segregation, wage gaps, and high risks of domestic and sexual violence. According to the National Crime Records Bureau (NCRB, 2023), crimes against women are still rising, even as courts declare these acts as violations of fundamental rights under Articles 14, 15, and 21 of the Constitution.

The Indian judiciary has often intervened to broaden the scope of gender justice. It has overturned unfair service conditions and recognized women's rights to live with dignity and freedom from sexual harassment and domestic violence. The judgments of cases like *Vishaka vs. State of Rajasthan* (1997), *C.B.*

*Muthamma vs. Union of India* (1994), and *Mary Roy vs. State of Kerala* (1986) are examples of the evolution of principles of equality, non-discrimination, and dignity to protect women's rights. In addition, cultural depictions in films, television shows, and on the internet capture not only the continued influence of patriarchal ideologies but also the emergence of feminist ideology that questions them.

Through a legal and socio-legal perspective, this essay analyzes the concept of gender justice in modern India. It traces the historical roots of gender equality in India, the development of laws protecting women from discrimination and violence, and the limitations of the law in ensuring the lived experiences of those protected by law. Gender justice is explored in a larger context of human rights, sustainable development, and the need to transform societies, cultures, and institutions. Ultimately, an interrogation of the following question arises: How can India achieve real gender justice?

## Review of Literature

The discourses on gender justice in India have evolved in several interlocking ways, which can be grouped into discussions related to the Constitution of India, feminist jurisprudence, socio-legal approaches, and examinations of the gap between policy and practice. In early works on gender justice, Baxi (2002) and Upadhyaya (2011) argue for gender justice in relation to human rights and constitutional morality and assert that Articles 14, 15, and 21 of the Indian Constitution should be read purposefully to ensure women's protection from direct and indirect forms of discrimination. Such a discourse is at the heart of many discussions on women's rights thereafter, as gender equality is seen as more than a mere entitlement.

In recent times, there has been a significant number of review-based studies conducted on gender-based legal reforms in India. An example includes the work by Gupta & Sharma (2025), who give a critical overview of the trend of gender-related laws in India, asserting

that even though there have been some remarkable successes recorded in terms of reforms within the spheres of family and criminal laws, the overall trend of gender-based legal reforms is still very much focused on “protection” and women being victims rather than equal players. Similarly, in an article written in 2024 for the Gender Justice and Legal Reforms journal (Anonymous, 2024), there has been a critical review of major gender-based statutes such as the Protection of Women from Domestic Violence Act of 2005, Sexual Harassment of Women at Workplace of 2013, and others, finding out that there is poor implementation of these laws in rural and semi-urban areas owing to socio-cultural resistance.

Yet another relevant thread in the existing body of research focuses on the concept of feminist jurisprudence in India. Works by Menon (2012) and Krishnan (2018) illustrate the effect of feminist critical theories on the judicial system of India. More specifically, Menon (2012) discusses the Vishaka case from 1997, in which the court ruled that sexual harassment violates the principles of equality and human dignity. Similarly, the Joseph Shine v. Union of India judgment from 2018 illustrates the applicability of the feminist theory to the Indian case-law. Importantly, the application of feminist jurisprudence to legislation and judicial rulings has led to discussions about overcriminalization, evidentiary burdens, and misuse of the concept, especially in the areas of family law and domestic violence.

Studies regarding gender disparity and implementation gap provide an empirical contribution to the academic discourse. According to Ghosh & Saha (2023), through the examination of the child sex ratio and violence against women, legal reform has failed to keep pace with the deeply entrenched social norms favoring sons, restricting girls' freedom of movement, and perpetuating domestic violence. The authors suggest that the skewed maternal mortality rate and child sex ratio in India are indicative of a constitutional

compliance gap where, despite the availability of progressive laws, regressive social practices prevail. Moreover, other socio-legal studies, such as those by IJLR and IJFMR scholars, suggest that, even though there is a well-developed legal framework, women face barriers to justice because of ignorance, social taboo, and lack of legal aid facilities.

Several current review articles emphasize the importance of considering gender alongside caste, class, and religion in India. According to Lahiri (2022) and Narayanan (2023), the discourse of gender justice fails to recognize the additional difficulties that women from marginalized castes and communities such as Dalits, Adivasis, and Muslims face in accessing their rights, with violence and discrimination against them taking place along several lines of oppression. In sum, this research calls for a more nuanced and intersectional approach to gender justice that recognizes diverse legal and social needs of women.

The academic community is increasingly paying attention to policies that would address the issue of gender justice, through examining recent legislation like the Maternity Benefit (Amendment) Act, 2017 and the Muslim Women (Protection of Rights on Marriage) Act, 2019. The relevant literature reviews (see, for instance, IJLLR, 2025 and Women's Care Foundation, 2024) indicate that, even though these reforms may represent political will, their implementation requires joint actions by the judiciary, police, and local courts of women's rights, nari adalats and Gram Nyayalayas, respectively. In general, all literature points to one crucial aspect: despite the availability of a highly developed legal framework for ensuring gender justice, cultural change remains essential.

## **Discussion**

### **The Relationship Between Constitutional and Legal System and Ground Reality**

The Indian constitution presents an excellent theoretical framework that supports gender justice, where Articles 14, 15, 15(3), 16, 21, and 39 ensure

equality, non-discrimination, social and economic rights of women and children (Constitution of India, 1950). The various legislations ranging from the Sati Prevention Act of 1829 to the Dowry Prohibition Act of 1961, and other recent acts such as Protection of Women from Domestic Violence Act of 2005, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013, reflect a legislative commitment to righting past wrongs (Lawful Legal, 2024; IJFMR, 2024). However, as numerous empirical research shows, there continues to be a wide gap between equality in the law and substantive equality (IJFMR, 2024; PP-GER, 2023).

The distorted ratio of children in terms of gender (914 girls for 1,000 boys at birth; Office of the Registrar General & Census Commissioner, 2021), higher cases of early marriages, and lower health status and educational achievement among girls suggest that the preference for male children is still prevalent in decision-making. In addition to that, despite the presence of more progressive labor and family laws, only about 25% of women are present in the official workforce, and gender differences in pay still exist in areas where many women are educated (PLFS, 2022–23; Ghosh & Saha, 2023).

#### **Contribution by the Judiciary for Gender Justice**

The Indian judiciary is credited with having brought about transformational changes in the interpretation of certain provisions of the constitution in regard to gender justice. For instance, the ruling in the *Vishaka v. State of Rajasthan* case of 1997 held that workplace sexual harassment amounts to discrimination under Articles 14, 15, and 21 of the constitution. Other court rulings in cases like *C.B. Muthamma v. Union of India* (1994), *Mary Roy v. State of Kerala* (1986), and *Gita Hariharan v. Reserve Bank of India* (1999) have served to restrict certain discriminative conditions in public services, inheritance practices, and guardianship laws respectively (IJLLR, 2024; IJFMR, 2025). All these cases fit into the category referred to as

“transformative jurisprudence”, whereby a ruling repositions the relationship between the state, society, and women (Richa & Ananda, 2025).

On the other hand, it is also argued that there is significant judicial-feminist rhetoric that is reactive rather than structural in nature, emerging out of instances and cases that receive a lot of media and social attention, as seen in the case of Nirbhaya rape that took place in 2012 (Menon, 2012; IJLLR, 2025). While the judiciary has a lot of powers, it is unable to change the patriarchal mindset within families and local cultures, let alone in the bureaucracy.

#### **Gender Roles in Popular Culture and Public Consciousness**

A shift from previous stories in the movies, such as *Agnisakshi* (1996), where the woman is portrayed in a violent marital relationship, to new movies like *Thappad* (2020), highlighting respect, autonomy, and equality in relationships, represents a wider cultural re-negotiation of gender roles. Television series and digital media content like *Sadda Haq: My Life, My Rules* persist in undermining the assumption that women are born to be homemakers and not professionals. Art and culture become soft law that encourages the idea that women can achieve equality in education, work, and empowerment.

The same phenomenon explains the emergence of counter-movements like the Bois locker room scandal, among others, which highlight how social media tends to perpetuate misogynist behavior, especially in young men who internalize hegemonic masculinity. The case of the 12-year-old boy trying to get sexual favors from a 21-year-old girl proves how early exposure to pornographic content may affect perceptions about body sovereignty. The research indicates that aside from policies, educational initiatives like sex education and gender studies should also be implemented in school settings.

### **Interlocking Vulnerabilities: Caste, Class, and Religion**

One significant shortcoming of the current debates on women's rights is that "women" tend to be viewed as a homogenous group without considering the intersectional vulnerabilities that they encounter. The women from the Dalit caste, indigenous groups, and the Muslim community suffer from multiple dimensions of discrimination stemming from their caste, religion, and economic status. For instance, literature on the criminal justice system reveals that women from lower castes and minority communities tend to exhibit higher levels of under-reporting of sexual assault and domestic abuse because of the fear of stigmatisation, reprisals, and doubts about police intervention (IJLRA, 2024; Xaxa, 2022). Customary norms prevalent in specific areas may exacerbate gender injustice at times, even superseding the rule of law.

According to legal theorists, an effective model of gender justice requires taking into account an intersectional analysis in order to ensure that any process of reform in laws recognizes the differences arising from class, language, disability, and urban-rural discrimination. It involves reviewing those laws that address gender issues in such a way that they do not ignore men as potential victims (for instance, in cases of rape and domestic violence) while still protecting women's interests as the vulnerable party.

### **Implementation Gaps and Policy Challenges**

The academic literature has constantly emphasized that there are three main implementation gaps: (1) inadequate facilities for complaints redressal and protections, (2) lack of proper training and awareness about gender-justice among law enforcement and judicial officers, and (3) lack of political will in favor of prioritizing gender-justice reforms in developing countries (IJFMR, 2024; PP-GER, 2023). There is an increasing number of cases where women still opt for the use of informal redressal channels like nari adalats,

community mediators, and community leaders who take into account family honor before individual rights.

The emergence of new policies such as the Maternity Benefit (Amendment) Act, 2017, and the Muslim Women (Protection of Rights on Marriage) Act, 2019, demonstrates the political recognition of gender justice needs. Nevertheless, the effectiveness of such policies depends on the empowerment of grassroots agencies, increasing access to legal assistance services, and promoting women's involvement in decision-making processes. The findings show that the low presence of women in parliament and state assemblies and the high courts hinders their ability to shape and interpret gender-related legislation (IJFMR, 2024; IJLLR, 2025).

### **Suggestions**

1. **Enhancing Enforcement Mechanisms and Institutional Framework:** There exists a dire need to harmonize progressive legislative measures with actual compliance. This can be achieved through improving Police-Women's Cells, quick court procedures, Protection Officers, and ICCs formed under the Sexual Harassment Act, along with gender-sensitivity training programs. It is proposed that the center and state governments create monitoring systems, perform routine assessments, and publish performance data to ensure enforcement of gender justice laws.
2. **Incorporation of Gender-Sensitive Training and Awareness:** The school and college curriculum should include courses on gender equity, sexual consent, bodily autonomy, and healthy relationships from the early stages. Compulsory training on gender sensitivity needs to be provided to professionals in law enforcement agencies, courts, hospitals, and social work. In rural and semi-urban areas, awareness campaigns based on anganwadis, panchayats,

and NGOs can dismantle deeply rooted patriarchal attitudes and foster better reporting of domestic violence, dowry abuse, and cyber violence.

3. **Empower Women with Economic Independence and Social Security:** In formulating policies on gender justice, there should be a deliberate effort to promote the economic independence of women by facilitating their increased access to loans, training programs, and jobs in the organized sector. Provision of subsidized childcare, secure means of transport, and supportive work environments like lactation chambers will go a long way in increasing the number of women who are active in the workforce. There is a need for legal reforms to guarantee equal application of inheritance, property rights, and pensions legislation for women from Dalit, Adivasi, and minority religions.
4. **Interventions to Tackle Multiple Discriminations via Legal Reforms:** Lawmakers and adjudicative bodies should formulate and implement legal measures in gender justice through an intersectional approach that recognizes the complex nature of discriminations faced by women from disadvantaged castes, tribes, and religions. Setting up legal aid centers for victims of domestic violence from these vulnerable groups and offering protection against threats and retaliation in the workplace should be prioritized. Statistics on crimes against women should include data on their caste, religion, impairment status, and place of residence.
5. **The regulation of digital spaces and intervention in gender-based violence in cyberspace:** With the rising instances of cyberbullying, cyber-revenge porn, and online objectification (e.g., cases like *Tamil Nadu v. Suhas Katti* and *Bois*

*Locker Room*), it becomes imperative to modify and strictly enforce the Information Technology Act along with relevant regulations. There is a dire need to make it mandatory for social media companies to introduce easy-to-follow reporting systems and swift removal processes for material that is non-consensual. Digital literacy programs for educational institutes that focus on issues like consent and cyber safety can also help in promoting healthy behavior in cyberspace.

6. **Encouragement of collective responsibility in family and society:** Campaigns for gender justice must not put the onus of change entirely on women. Awareness campaigns must include the participation of men and boys and instill in them a sense of responsibility towards sharing household chores and respecting women's freedom. Men and fathers can be engaged as role models to encourage gender justice.

### **Conclusion**

The pursuit of gender justice in India is far from over. Even as there is a well-established and well-articulated body of law and policy that speaks in unequivocal terms about equality, the patriarchal mindset, coupled with inaction and indifference on the ground level, still continues to marginalize innumerable women and girls. Though there are some progressive judgments through which the ambit of rights like dignity, non-discrimination, and protection has been broadened, there exist significant inconsistencies in their realization for all social segments. In resolving this issue, law alone is insufficient; legislation, jurisprudence, and rights-oriented rhetoric need to be followed by social action.

Through this discussion, one can easily understand that, while India has come a long way in establishing its legal-normative edifice in respect of gender justice (ranging from constitutional provisions to specialized gender-specific legislation), what really matters is the

ability to translate legal entitlements into reality. For this purpose, apart from better implementation and oversight, there is an urgent need for a change in the social attitude towards women's freedom, independence, and equal status. Till such time, however, gender justice will elude the reach of many Indians.

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