
FROM VISION TO REALITY: EXAMINING GENDER EQUALITY THROUGH THE LENS OF THE INDIAN CONSTITUTION

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ABSTRACT

The Indian Constitution is the premise of all the existing laws of the land justifying it being called as the supreme law of the land. As the largest democracy, the law of the land stands on the jurisprudence that supports equality and equity in all levels which includes gender equality as well. This article focuses on the current condition of the vision of the Constitution to have gender equality in the country. The reason for such a basic thing that must be present in every civilized society is a topic of discussion is because of the historical incidents that has proven to be diverting from the very notion due to patriarchy and practices of inequality that is so ingrained in the minds of the people that has continuously challenged the presence of gender equality in the Indian society. Further the article will be diving into the discussion of the legal structure of the country that specifically shapes the legal backbone of the notion to stand head high, which covers the fundamental rights, the directive principles, the amendments made to enhance the political representation and decision-making power of women to bring parity in the society because of the age-old chain of discrimination and deprivation towards women. The article also covers few highlighting precedence that transformed the legal structure to break the restrictions, challenges which hinders the notion of gender equality. Though these many provisions and precedence still could not break the social disparity and discrimination towards women due to failures that the article will conclude with by critically examining the same which particularly picks up the attention towards the need of taking steps and policies that increases systematic accountability so that the Constitutional vision of gender equality rises high as it should be in its true sense.

Keywords: gender equality, Constitution, patriarchy, legal framework, social disparity.

INTRODUCTION

Gender equality is a concept that attracts the basic rights of human beings without the consideration of their gender. This basic human right historically was not considered to be something normal instead had to go through a long history of struggle which is in a continuous process because of the deep-rooted mindset of a huge chunk of the population that is still stuck in the mud of patriarchy and social discrimination. In India, the concept of gender justice can be understood better if the focus is on the dynamic branches of intermingled reasons that influences the whole concept of the same. It can be understood by variants or observances that are believed to be one's part of lifestyle in daily basis like caste, class, religion and other social identities. The society is majorly premised on these particulates that influences the gravity to sustain the concept of gender equality in the center to walk miles in the road of being a fully developed country. This is the reason why our Constitution was made with an approach where every citizen has been given the right to be in the same pedestrian as to others. Our legal structure is such that has included all possible ways to form a society that fulfils the aim and intention of the constitution makers but the discussion ignites when those laws are not being enough to make it possible to uphold the basic human rights like gender justice. The discussion of such a topic which has garnered recent attention is to serve a platform to make an impact that helps in the development by dismantling gender stereotypes and impede the advancement of women within the community in all aspects like the socio-legal, political and economic level.

HISTORICAL BACKGROUND

To understand the current scenario of the law and practical condition of gender justice, we need to first understand the reasons for the existing laws, is the legal structure having the compatibleness and equivalence to dismantle the existing problems and have the society in its true sense addressed all the relevant oppressions, problems that are creating gender injustice till now or are there more things that were overlooked in the past.

The major transformation that took place in India regarding gender justice and the need to uplift gender equality is believed to be in the 19th century. This phase witnessed the transformation by addressing the orthodox religious and cultural practices like child marriage, sati practices; caste hierarchies, etc. which was highly influenced by the colonial modernity. The colonial modernity created a gap between the traditional mindsets and the reformative mindsets that erupted the oppressed section of the society to stand up for themselves in which the reformers

played the most important role. Here comes the importance of stable governance and strong legal structure to build a fair, just and reasonable socio-legal structure that is justiciable and equal in nature to all. These efforts to transform by dismantling the age old unequal practices lead to a lot of backlashes from majority of the society because of the rigid patriarchal mindsets of the population which included both genders. Thus, the fight was with the existing minds as well as the process of the society that ingrains these thoughts in their minds that education for women is a sin deed or political participation of women are a waste or that caste is the deciding factor for the quality of life of people as well as occupation regardless of their passion, interest and ability. The main target of the law makers or rather the constitution makers were to address these factors and build such a space where these mindsets are quashed away and a reformation is possible not only then but also in future to have an easy access to amend laws and implement to obstruct the diversion from gender justice. This brings us to look into the particulates of the legal structure in our constitution that serves as the commander of all law.

CONSTITUTIONAL FRAMEWORK IN INDIA

The constitution is the main source from which the interpretations are made by the judiciary that helps to serve a purpose in the path of gender justice in both ways, sometimes it helps in advancement or it impedes the cause. These interpretations need to be scrutinized through the lens of gender equality to have a clarity of what the society needs to uplift the same cause in all spheres. To expand this thought, it is required to have an alignment in the law, its interpretation and its implementation, all of which grows its branches from the grand norm of laws which is discussed in the following that will help to understand the premise of the existing laws.

➤ FUNDAMENTAL RIGHTS

It is a truly aware fact that our Part- III of that Indian Constitution is majorly inspired by USA. If we put our magnification a little closer into the history, during the making of the Constitution we had a duty as a signatory and contributor towards the making of UDHR, to lead to the premising of establishing the notion of gender justice in our fundamental rights. We have successfully outlined the notion through various articles like under Article 14, Article 15 all individuals have equal and non-discriminatory provisions to protect them from any sorts of discrimination based on any sort of ground and to provide equity along with equality. It specifically mentions that gender-based discrimination will be prohibited which emphasizes on

the fact that the supreme law of the land is not just sidelining the notion for interpretation but pin points the notion to uphold the gender justice. Under Article 15(3), the makers went on to lay the space of substantive equality by providing a path to establish new provisions for women and children as and when required. This empowerment is significant as it shows the intention of the makers of the constitution to imprint the notion in every root of our fundamental laws which no one can go against.

Argumentatively, the concept of reverse discrimination hits the ground which needs to be seen through the lens that our Constitution has Article 21 which gives all individuals right to life and personal liberty which is an ultimate protection to all. But to create an equilibrium in true sense the neglected, discriminated and even tortured section of the society has to be given an extra push to have an equal level to match with the others, be it be based on gender, caste, religion, etc.

➤ **DIRECTIVE PRINCIPLES OF STATE POLICY**

This part of the Constitution enshrines the directions that the states may imply upon to provide social, economic and political equilibrium to all, by making special provisions for women through provisions like Article 39 which focuses on the need of women to have maternity leaves which confirms the fact that the supreme law of the nation is having a ground for practical possibility for changes that may be brought due to any possible reasons like health, compassion, social support, etc. Part IV of the Constitution acts a guiding compass for the governments to delve into matters that are not so significant to be put into the Part III but need to be focused on based on crucial grounds.

Other than Part III and Part IV of the Constitution, as a common law country we have by virtue of Article 141 seen multiple times when judiciary's independentness has been a crucial point to establish precedence to be followed for the time period till the parliament acted upon the guidelines or precedence to make law. The most highlighting instance can be Vishakha Guidelines which later on was implemented via POSH Act.

Constitutional Amendments have also been a crucial part of the process of serving the purpose of justiciable legal system in terms of gender and other aspects as well. The 73rd and 74th Constitutional Amendments have been a highlighting pedestrian that holds up the notion of inclusivity in decision making powers, increased representation of women in every corner of

the society. There was a concern of the participation of women in rural areas due to the comparatively deep rooted believes of people of the rural areas which was first looked upon and worked upon after which was matched by the amendments in the 74th Constitutional Amendments. This shows the intention of both the Constitution makers and the different organs of the government leading up to the true sense of the notions of the makers by focusing on the flexible nature of the supreme law as required at the relevance of the time.

EFFECTIVENESS OF THE CONSTITUTION IN THE CURRENT TIME

To truly examine the growth of the society with respect to gender equality it is important to scrutinize the practical existing problems of the society and how the Constitution can play the pivotal role to change and transform the notion into practicality in real life situation. The country is definitely in need of a more effective efforts in all levels which premises on the most stable pedestrian which is the legal system supremized by the Constitution. There have been various discussions on the fundamental precedences, statutes, Acts but the analysis can be best judged by throwing some light on the reality and compare with the vision of the makers to have a nation so justiciable that does not bow down to any discrimination be it be by virtue of custom, ritual, religion, caste, gender, class and many more. Our Constitution is having the ultimate components of human rights yet there are way too long path left to cover to attain the purest form of the notion of gender equality which through the following discussions can be understood properly.

According to the World Economic Forum's Global Gender Gap Report 2025, India has ranked 131 out of 148 countries slipping two places from its position last year.¹ This speaks volume about the implementation of the ideological aspect of the very notion of gender equality. The Constitution acts as the guardian law of the nation which at present provides protection, guidelines and orders that will help to improve the condition of women. But in reality, these are not implemented the way it should be creating a gap between the intention and the work. The Report herein as mentioned considers various branches like economic participation, educational attainment, health sector, and the most important of all which is, political empowerment. Thus if we evaluate in a dynamic spectrum with mere instances like this, it would give a clear picture of the base reality which needs attention. The most profound way of

¹ World Economic Forum, Global Gender Gap Report 2025 (2025), https://reports.weforum.org/docs/WEF_GGGR_2025.pdf

development of gender equality in Indian society is evolvement of women participation in the political domain. Moreover, representatives will help to recognize, understand and work towards the issues been faced.

Further, more female inclusivity in the judiciary is highly recommended as we often here instances where many concerns by the people of the profession especially inclining by female gendered section of the profession has repeatedly raised their voice that the need of having more inclusivity of females are required.

In India, currently the most talked about issue is law for marital rape, the issue concerns a lot of spectrums and a crucial scrutiny out of which the layer of making a law, that is intact to serve justice to the wife as well as not to unjustify the husband in the given circumstances, is what can be assessed by the lens of gender equality and it is needed in spite of incidences happening daily as the Constitution has given the right to equality and equity along with the right to life which in no circumstances be curbed otherwise the Constitution has another provision to raise voice among which the most used are Article 32, Article 226. The most difficult part of all is to prove any allegation but the difficultness cannot become an obstacle of an existing crisis of the society where women are suffering on daily basis.

Another most talked about aspect is of education, India has it enshrined in the Constitution about the right to education till a basic level which to a certain level is being fulfilled but the dropout rate is the main concern. To have a progressive society we need to have a youth who is in a continuous process of learning and skill development. Additionally, the results of the board exams shows that the pass rates of female candidates are more in number giving a clear idea of the more skilled candidates are getting out of the loop of the youth of the nation who are the main source of the nation to transform from being a developing to a developed nation.

The previous discussions might give an idea of instances where the Constitution has mandates, provisions, yet the problems are existing; or with the help of the Constitution statutes need to be made whereby all citizens are served with equality without favoring or discriminating a particular gender. But there are issues in the present time which were preexisting, which were addressed and implementations were also done yet they are still in existence. Discrimination of gender based on caste, religion, class are still prevalent. Few incidents are required to be discussed as that can play a pivotal role in stressing of the fact that though our Constitution promises, premises the notion of gender equality yet the vision is still farfetched to be met.

MAJOR SECTORS THAT FACE GENDER INEQUALITY IN INDIA

➤ ECONOMIC INEQUALITY

India has been described as a ‘unique cocktail of lethal divisions and disparities’² in terms of gender equality in the economic stratum. The most important fact that needs to be the focus of the hour is the slow process of transformation of the educated female youth into employed female youth. Women in India in daily basis faces discrimination on various levels which at first starts via being an obstacle in their education. This obstacle combines together to raise further more problems like forced marriages, dowry deaths, domestic violence leading to female infanticide and countless more sufferings. The most crucial and impactful way is by utilizing the educated female youth into the power house of employment, which would be the best way out for the empowerment of women.

The Constitutional support can be taken into account to support the backbone of the policies, statutes, laws in making in the future or to implement the ones that are already there. The ultimate supremacy plays its crucial role against these obstacles which leads to throttle the notion of gender equality.

➤ HEALTH DISPARITIES

Healthcare disparity in India with respect to gender inequality is a pressing concern, as women are facing significant barriers in accessing quality healthcare. Persisting state of anemia in women in India is a distress as it not only points finger on health care system’s reach but also highlights the intersectionality of poverty tagging along with the same. Negligence and reach of healthcare in India are also a problem leading to issues like maternal mortality rates remaining higher in rural areas due to inadequate care. The healthcare system's inability to provide equitable access to women, particularly in rural communities, aggravates these disparities.

Socioeconomic barriers, such as poverty, illiteracy, and gender discrimination, hinder women's ability to seek healthcare. Cultural norms, including patriarchal societies and patrilineal norms, perpetuate gender inequality, prioritizing men's health over women's.

² Jean DRÈZE & Amartya SEN, *An Uncertain Glory: India and Its Contradictions* (Princeton University Press 2013).

To effectively address these disparities, India needs to prioritize increasing public health spending, strengthening primary healthcare, and promoting gender-sensitive healthcare policies. This can be achieved by improving healthcare infrastructure, increasing the availability of skilled healthcare professionals, particularly in rural areas, and implementing policies that support women's empowerment and autonomy.

Additionally, addressing social determinants of health, such as education, sanitation, and nutrition, is crucial to reducing healthcare disparities. By adopting a comprehensive approach that addresses the root causes of healthcare disparities, India can work towards achieving equitable healthcare for all, particularly for women, and improving overall health outcomes. Implementing these changes requires a concerted effort from policymakers, healthcare providers, and communities to ensure that women have access to quality healthcare services, and their health is prioritized and protected.

➤ **PERSONAL LAWS AND UNIFORM CIVIL CODE**

Different religious communities in India governs distinct laws related to marriage, divorce, inheritance, and adoption. These laws often perpetuate patriarchal norms, resulting in discriminatory treatment of women. For instance, Muslim men are permitted to have multiple wives, while women do not have similar rights. Similarly, inheritance laws favor men, with Muslim women receiving half the share of their male relatives, and Hindu women only recently gaining equal inheritance rights through the 2005 amendment to the Hindu Succession Act.

The need for a Uniform Civil Code (UCC) arises from these disparities, as it aims to establish a common set of laws applicable to all citizens, regardless of their religion. A UCC would provide equal rights in marriage and divorce, eliminating practices like polygamy and unilateral divorce rights. It would also ensure equal inheritance rights for women across all communities, ending discriminatory practices. Furthermore, a UCC would standardize adoption rights and guardianship laws, allowing women to have equal parental rights.

To support this thought by the Constitutional backdrop, it can be said that when the Preamble of the supreme law of the nation enshrines words like secular, socialist it carries the notions for the same. The existing condition of the personal laws does not go hand in hand with the true meaning if the concepts as mentioned before. Thus the need for UCC to uphold the gender equality notion.

CONCLUSION

India's Constitution aspires to enshrine gender equality through strong provisions from Articles 14, 15, and 16 guaranteeing legal equality and affirmative action, to Directive Principles like Articles 39 and 42 promoting economic equity, maternity relief, and humane work conditions, supported further by reserved political representation via the 73rd and 74th Amendments.

Yet, the lived reality reveals deep-rooted patriarchal and socio-cultural barriers. Marginalized groups such as Dalit, Adivasi, and tribal women continue to face intersecting discrimination, drawing attention to systemic inequities that remain beyond constitutional and legal redress. Landmark court rulings like the Vishakha Guidelines on workplace harassment and decisions affirming transgender rights ("third-gender") under Article 21 have advanced protections for bodily autonomy and social inclusion, yet many shortcomings endure in implementation.

The journey toward gender justice in India is thus incomplete. True progress demands not only strong constitutional mandates but also transformative social change, intersectional policymaking, and sustained enforcement to bridge the gap between aspiration and reality.