

## WOMEN'S RIGHTS AS HUMAN RIGHTS: A CRITICAL ANALYSIS OF GENDER JUSTICE IN INDIA

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### ABSTRACT:

Women's rights are an integral part of human rights and are essential for ensuring equality, dignity, and justice in society. In India, the concept of gender justice is reflected in constitutional principles, legislative measures, and judicial interpretations aimed at protecting women from discrimination and violence. The Constitution guarantees equality before law and prohibits discrimination on the basis of sex under Articles 14, 15, and 21. Various laws, including the Protection of Women from Domestic Violence Act, 2005 and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, have been enacted to safeguard women's rights and promote gender equality.

Despite these legal protections, women in India continue to face social discrimination, violence, workplace inequality, and limited access to justice. This article critically examines the concept of gender justice in India by analysing constitutional provisions, legal frameworks, and contemporary challenges affecting women. It highlights the gap between legal guarantees and social realities and emphasizes the need for effective implementation of laws, gender sensitization, and social reform. The study concludes that true gender justice can be achieved only through both legal protection and societal transformation.

**Keywords:** Women's Rights, Human Rights, Gender Justice, Gender Equality

### 1. INTRODUCTION

Women's rights are universally recognized as an essential part of human rights and play a significant role in ensuring equality, dignity, liberty, and justice within society. The concept of gender justice aims to establish fairness and equal treatment for all genders by eliminating discrimination, oppression, and inequality faced by women in social, political, economic, and legal spheres. In a democratic society, the protection of women's rights is considered a fundamental requirement for social progress and human development. The recognition of women's rights as human rights reflects the principle that women are entitled to enjoy all basic freedoms and opportunities equally without discrimination on the basis of gender.

In India, the struggle for women's rights has a long historical background influenced by social reform movements, constitutional developments, and international human rights principles. During the colonial period, social reformers such as Raja Ram Mohan Roy and Savitribai Phule contributed significantly towards the upliftment of women by opposing harmful practices such as sati, child marriage, and denial of education to women. After independence, the Constitution of India established the foundation for gender equality by guaranteeing fundamental rights and equal protection under law. Articles 14, 15, and 21 ensure equality before law, prohibit discrimination on the basis of sex, and protect the right to life and personal liberty. The Directive Principles of State Policy further

encourage the State to promote social justice and ensure equal opportunities for women.

Over the years, India has enacted several legislations to strengthen the protection of women's rights and address gender-based discrimination and violence. Laws such as the Protection of Women from Domestic Violence Act, 2005, the Dowry Prohibition Act, 1961, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 were introduced to provide legal remedies and ensure women's safety and dignity. Judicial decisions have also played an important role in expanding the scope of women's rights and promoting constitutional morality. At the international level, India is also a signatory to various human rights instruments adopted by the United Nations, including the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), which emphasizes gender equality and protection of women's rights.

Despite constitutional guarantees and legal protections, women in India continue to face numerous challenges in everyday life. Gender-based violence, domestic abuse, workplace harassment, unequal pay, limited political representation, cyber harassment, trafficking, and social discrimination continue to affect women across different sections of society. Patriarchal attitudes and traditional social structures often prevent women from exercising their rights fully. In many cases, there exists a significant gap between legal provisions and their practical implementation. Lack of awareness, fear of social stigma, delayed justice delivery, and institutional weaknesses further reduce the effectiveness of laws intended to protect women.

The concept of gender justice therefore requires not only the existence of laws but also their proper enforcement and social acceptance. True gender justice can be achieved only when women are treated with equal dignity and provided equal opportunities in all aspects of life. The protection of women's rights must be viewed

as a matter of human rights, constitutional morality, and social justice rather than merely a legal obligation.

This article critically examines the concept of women's rights as human rights and analyzes the status of gender justice in India. It focuses on the constitutional framework, important legal protections, judicial approaches, and major social challenges affecting women. The study further evaluates whether the existing legal system has been successful in ensuring substantive equality and justice for women in contemporary Indian society.

## **2. CONSTITUTIONAL SAFEGUARDS AND CHALLENGES TO WOMEN'S RIGHTS IN INDIA**

Gender justice refers to the protection and promotion of equal rights, opportunities, and dignity for all genders without discrimination. In the Indian context, gender justice primarily focuses on addressing the social, economic, political, and legal inequalities faced by women. The Indian legal system has developed several constitutional provisions, legislations, and judicial principles to ensure the protection of women's rights. However, despite the existence of strong legal safeguards, women continue to experience discrimination and violence in different forms. This reveals the continuing gap between constitutional ideals and social realities.

The foundation of gender justice in India is rooted in the Constitution of India. Article 14 guarantees equality before law and equal protection of laws to all persons. Article 15 prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth and also permits the State to make special provisions for women and children. Article 16 ensures equality of opportunity in matters of public employment, while Article 21 guarantees the right to life and personal liberty, which has been judicially interpreted to include the right to live with dignity. The Directive Principles of State Policy under Articles 39 and 42 direct the State to ensure equal pay for equal work and provide humane

working conditions and maternity relief for women. These constitutional provisions collectively form the basis of gender justice in India.

The Indian judiciary has played a crucial role in strengthening women's rights through progressive interpretations of constitutional principles. In *Vishaka v. State of Rajasthan*, the Supreme Court recognized sexual harassment at the workplace as a violation of fundamental rights under Articles 14, 15, and 21. The Court framed the Vishaka Guidelines to prevent workplace harassment, which later resulted in the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. This judgment became a landmark step in recognizing women's dignity and safety in professional spaces.

Similarly, in *Shayara Bano v. Union of India*, the Supreme Court declared the practice of instant triple talaq unconstitutional and arbitrary. The judgment was significant in protecting the rights and dignity of Muslim women and ensuring constitutional morality over discriminatory personal practices. Another important judgment is *Joseph Shine v. Union of India*, where the Supreme Court struck down the offence of adultery under Section 497 of the Indian Penal Code on the ground that it treated women as property of their husbands and violated gender equality.

In *Navtej Singh Johar v. Union of India*, although primarily related to LGBTQ+ rights, the Supreme Court emphasized constitutional morality, dignity, privacy, and equality, which indirectly strengthened broader concepts of gender justice and individual autonomy. Judicial activism in India has therefore contributed significantly towards expanding the scope of women's rights and promoting substantive equality.

Apart from constitutional protections, India has enacted several legislations specifically aimed at protecting women from violence, discrimination, and exploitation. The Protection of Women from Domestic Violence Act, 2005

provides civil remedies to women facing physical, emotional, verbal, sexual, and economic abuse within domestic relationships. The law recognizes domestic violence as a violation of human rights and ensures protection orders, residence rights, and maintenance for victims. The Dowry Prohibition Act, 1961 criminalizes the giving and taking of dowry and seeks to prevent dowry-related violence and deaths. Similarly, provisions under the *Bharatiya Nyaya Sanhita, 2023* continue to protect married women from cruelty and domestic abuse by husbands or relatives.

The enactment of the Criminal Law (Amendment) Act, 2013 after the 2012 Delhi gang rape case marked an important development in strengthening laws relating to sexual offences. The amendment expanded the definition of rape, introduced offences such as stalking and voyeurism, and increased punishments for sexual violence. It reflected growing public concern regarding women's safety and the need for stricter legal measures against gender-based crimes.

Despite these legal developments, crimes against women continue to increase in India. Domestic violence, rape, honour killings, acid attacks, trafficking, workplace harassment, and cybercrimes remain serious concerns. Many women hesitate to report offences due to fear of social stigma, family pressure, victim-blaming, and lack of confidence in the criminal justice system. Delayed investigations and prolonged judicial proceedings further discourage victims from seeking justice. In rural areas, women often face additional barriers such as illiteracy, poverty, lack of legal awareness, and social dependency.

Patriarchy remains one of the major obstacles to gender justice in India. Indian society has historically been male-dominated, where women are often expected to conform to traditional gender roles. Discriminatory practices such as child marriage, preference for male children, restrictions on women's mobility, and unequal access to education and employment

continue to exist in many parts of the country. Although modernization and education have improved the status of women in urban areas, deep-rooted social attitudes still influence gender relations and perpetuate inequality.

Economic inequality is another important issue affecting women's rights. Women often receive unequal wages, face discrimination in employment opportunities, and remain underrepresented in leadership positions. The burden of unpaid domestic work and caregiving responsibilities disproportionately falls on women, limiting their economic independence and career advancement. Even in organized sectors, women frequently encounter workplace discrimination, lack of maternity support, and sexual harassment.

Political representation of women also remains inadequate despite constitutional and legal efforts. Although local self-government institutions provide reservation for women under the 73rd and 74th Constitutional Amendments, women continue to be underrepresented in Parliament and higher political offices. Greater political participation is essential for ensuring inclusive policymaking and strengthening gender-sensitive governance.

In recent years, cyber harassment and online violence against women have emerged as serious concerns. Social media platforms are increasingly being misused for cyberstalking, online abuse, morphing of images, and threats targeting women. Existing legal mechanisms often struggle to effectively address digital forms of gender-based violence due to technological challenges and lack of awareness regarding cyber laws.

The concept of intersectionality also highlights that women do not experience discrimination in the same manner. Factors such as caste, class, religion, disability, and rural background often intensify the vulnerabilities faced by women. Dalit women, tribal women, migrant women, and women belonging to economically weaker sections frequently experience multiple forms of discrimination and limited access to justice.

Therefore, gender justice cannot be achieved through a uniform approach alone; it requires inclusive and intersectional policies that address the diverse experiences of women.

Although India has established a comprehensive legal framework for women's rights, implementation remains one of the greatest challenges. Laws alone cannot eliminate gender inequality unless accompanied by social transformation, legal awareness, gender sensitization, and institutional accountability. Police authorities, judiciary, educational institutions, workplaces, and society as a whole must actively contribute towards creating an environment where women can exercise their rights freely and safely.

Therefore, gender justice in India remains both a constitutional aspiration and a continuing social challenge. The progress achieved through legal reforms and judicial activism is significant, but true equality can be realized only when societal attitudes change and women are empowered socially, economically, and politically. Women's rights must be recognized not merely as protective rights but as essential human rights necessary for democratic development, social justice, and constitutional governance.

### 3. CONCLUSION

Women's rights are an inseparable part of human rights and are essential for achieving equality, dignity, and social justice in a democratic society. India has developed a strong constitutional and legal framework to protect women from discrimination, violence, and exploitation. Constitutional provisions guaranteeing equality, various welfare legislations, and progressive judicial interpretations have significantly contributed towards strengthening the concept of gender justice in the country. Laws relating to domestic violence, workplace harassment, dowry prohibition, and sexual offences demonstrate the State's commitment to ensuring women's safety and empowerment.

However, despite these legal developments, gender inequality continues to exist in various

forms within Indian society. Crimes against women, workplace discrimination, unequal opportunities, social stigma, and patriarchal attitudes continue to hinder the realization of substantive equality. The gap between legal protections and practical implementation remains one of the greatest challenges to gender justice in India. In many cases, women face difficulties in accessing justice due to lack of awareness, social pressure, economic dependency, and delays within the legal system.

Achieving true gender justice therefore requires more than the mere existence of laws. Effective implementation of legal provisions, gender sensitization, legal awareness programs, and institutional accountability are necessary to ensure meaningful protection of women's rights. Educational institutions, workplaces, law enforcement agencies, and society as a whole must actively contribute towards creating an environment of equality and respect for women. Greater political participation and economic empowerment of women are also essential for ensuring inclusive growth and democratic development.

In conclusion, women's rights must be treated not merely as legal entitlements but as fundamental human rights necessary for the progress of society. Gender justice can be fully realized only when constitutional values of equality and dignity are reflected not only in law but also in social attitudes and everyday practices. A collective effort by the State, judiciary, and society is therefore essential for building a more just, equal, and inclusive India.

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