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## “From Statutes to Selfhood: Rethinking Gender Equality in India”

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### Abstract

Gender equality is a constitutional mandate in India, enshrined in the principles of justice, liberty, equality, and fraternity. Despite progressive legal frameworks, the implementation and social reality often diverge unless society moves beyond structural patriarchy, religion conditioning, and culturally imposed gender roles, the spirit of equality remain incomplete and superficial. This paper explores the legal aspects of gender equality in India by examining constitutional provisions, statutory laws, landmark judgments, and institutional mechanisms aimed at addressing gender-based discrimination. It also analyse challenges in enforcement and suggests reforms to bridge the gap between law and practice.

### 1. Introduction

Gender equality refers to the equal rights, responsibilities, and opportunities of women, men, and gender-diverse people. Gender equality is often misunderstood, as many tend to equate equality with uniformity. Men and women are inherently different in their energies, emotions, and expressions—but these differences are not grounds for inequality. *“Man and woman are not equal, but they are not unequal either — they are unique.”* In India, the commitment to gender equality is rooted in its Constitution and further developed through legislative and judicial efforts. As laws can’t work alone, no law can create love, trust, or respect between genders. While laws are necessary, they must serve as scaffolding, not a destination and as equality is equivalent to Liberation.

*“Liberation does not come from law alone. It comes from awareness.”* However, persistent societal norms and systemic barriers continue to hinder the realization of true gender parity.

This paper delves into the legal landscape of gender equality in India and assesses the effectiveness of these legal tools in achieving the intended social transformation

## **2. Challenges in Achieving Gender Equality**

Despite India's constitutional commitment to gender equality and an evolving body of legislation designed to protect and empower women and gender-diverse individuals, the actual realization of gender parity remains fraught with persistent challenges, both structural and cultural. *Gender equality is centered on awakening human consciousness, rather than solely relying on laws. As law must serve as a facilitator, not a substitute, for inner liberation and social evolution.* His way forward blends personal transformation, social restructuring, and legal reform lead to gender equality These challenges are multi-layered and operate across legal, societal, and psychological dimensions, often reinforcing one another and impeding transformative change.

- **Patriarchal Mindsets and Deep-Rooted Social Norms**

A primary challenge is the deeply entrenched patriarchal value system that continues to dominate Indian society. Women are frequently perceived through rigid social roles as caregivers, homemakers, and dependents rather than as independent individuals with agency. As Patriarchy is a “social disease” that not only subjugates women but also emotionally stunts men, confining both to unnatural gender roles. This socio-cultural conditioning resists even the most progressive laws, making enforcement difficult and social acceptance of equality slow.

Women have been enslaved by religion, morality, and culture, and that this suppression has led to the distortion of both male and female energies. Feminism Must Go Beyond Anger “Women’s liberation has become almost man-hating.”

Gender inequality, largely a construct of patriarchal systems, can primarily be dismantled by men especially those who are secure in their identity and unthreatened by shifts in societal roles. It is not the insecure, but the self-aware men those who recognize their individuality and the injustice and something wrong around them who can become agents of change. A historical example is the abolition of Sati Pratha, a deeply rooted patriarchal practice. While it oppressed women, it was progressive and reform-minded men like Raja Ram Mohan Roy who led the movement against it, acknowledging its cruelty and pushing for legal and social reform. *This highlights how meaningful change often requires those in positions of power to recognize the*

*wrong and take responsibility for correcting it.* Patriarchy was born out of male insecurity, particularly around the power of female sexuality and Creativity.

*"One is not born, but rather becomes, a woman." Saw gender as a social construct and critiqued patriarchy's "Othering" of women,* *Simone de Beauvoir*

- **Underreporting of Gender-Based Violence**

One of the most serious barriers to gender justice is the underreporting of crimes against women, including domestic violence, sexual harassment, assault, and discrimination. Victims often remain silent due to fear of social stigma, retaliation, lack of trust in law enforcement, and the societal pressure to maintain family honor. This systemic silencing of voices creates a false perception of progress, while serious human rights violations continue unaddressed. The woman has been continuously condemned, reduced to a slave physically, mentally, and spiritually."

- **Judicial Delays and Inaccessible Legal Remedies**

Although various protective laws exist, judicial backlogs and procedural delays significantly hinder timely justice. Gender-sensitive legal aid remains inaccessible to many, particularly in rural and marginalized communities. The lengthy, intimidating, and often patriarchal nature of legal proceedings further deters women from seeking legal redress, creating a gap between law and justice. Rigid roles that society assigns to men and women provider, protector, homemaker, nurturer as cultural prisons. They themselves not aware about their own rights.

- **Gendered Economic Inequality**

Women in India continue to face wage gaps, unequal access to employment opportunities, and workplace discrimination. According to the Periodic Labour Force Survey, female labor force participation remains significantly lower than male participation. Additionally, unpaid care work, predominantly performed by women, is not recognized or valued economically, reinforcing gendered divisions of labor.

Gender justice laws should promote collaborative models at workplaces by providing paternity leave which shows that Parenthood is not on women only and acknowledge the part that something wrong is happening as they carry equal caliber but still not getting equal paid. As it earlier mentioned that the one who are secure in their identity and unthreatened by shifts in societal roles. It is not the insecure, but the self-aware men those who recognize their

individuality and the injustice and something wrong around them who can become agents of change. As patriarchy as a psychological illness a system built on fear, control, and suppression of the feminine.

- **Educational and Digital Divide**

Access to quality education remains unequal for girls in many parts of India due to poverty, cultural bias, early marriage, and safety concerns. The digital divide has further widened this gap, especially post-COVID, where online education excluded many girls due to lack of access to smartphones, internet, and private space for learning

- **Gender Roles as Social Construct**

Another fundamental challenge is the internalization of socially constructed gender roles, where both men and women unconsciously live out societal expectations rather than embracing their true individuality. It emphasized that real liberation comes not from legal battles alone but from awakening human consciousness to transcend gender-based conditioning. “A woman is forced to become homemaker, and man is forced to become a provider and protector.” These imposed roles limit freedom, creativity, and spiritual evolution

- **Lack of Institutional Gender Sensitivity**

From police stations to courts to healthcare systems, many public institutions lack gender-sensitive training and protocols. This often leads to secondary victimization, where survivors of gender-based violence face apathy, blame, or disbelief from authorities meant to support them.

- **Legal Gaps and Ineffective Implementation**

While laws such as the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 and the Protection of Women from Domestic Violence Act, 2005 exist, implementation remains uneven and weak. Many institutions have not constituted Internal Complaints Committees (ICCs), and state mechanisms often fail to monitor or enforce compliance.

- **Exclusion of Gender Minorities**

Most mainstream legal discussions on gender equality remain binary, ignoring the rights and identities of transgender and non-binary individuals. Although the Transgender Persons

(Protection of Rights) Act, 2019 was a step forward, it has been criticized for its lack of clarity, inadequate enforcement mechanisms, and failure to address deep-rooted prejudice.

True equality lies in the recognition of uniqueness, the dissolution of imposed roles, and the awakening of consciousness that transcends hierarchy, competition, and domination. Only by addressing both external systems and internalized beliefs can Indian society move toward a future where gender equality is not merely an ideal but a lived, liberating reality.

### **3. Constitutional Provisions Promoting Gender Equality**

The Constitution of India lays a strong and progressive foundation for gender equality, embedding it not only in legal provisions but also in the philosophical vision of justice, dignity, and human freedom. The Preamble itself affirms the commitment to securing justice, liberty, and equality for all citizens, reflecting a moral aspiration beyond mere legal formality. Article 14 ensures equality before the law and equal protection of laws, while Article 15 explicitly prohibits discrimination on the basis of sex and empowers the state under Article 15(3) to make special provisions for women and children, recognizing historical injustices and structural inequalities. Article 16 furthers this by guaranteeing equality of opportunity in public employment, promoting merit within an inclusive framework. The Directive Principles of State Policy, particularly Article 39(a) and (d), call upon the state to ensure equal rights to livelihood and equal pay for equal work, aligning with the deeper philosophical belief that equality is not just about sameness, but about dignity, opportunity, and fairness in the human experience. Additionally, Article 42 mandates the state to ensure just and humane working conditions and maternity relief, acknowledging the unique biological roles of women without reducing their social and economic agency. Together, these provisions reflect not only a constitutional guarantee but also a moral vision of an egalitarian society, true equality must respect difference while affirming shared humanity.

### **4. Judicial Interpretation and Activism**

The Indian judiciary has played a pivotal role in shaping the nation's gender justice framework through activist jurisprudence and progressive constitutional interpretation. The Supreme Court of India has not only addressed the gaps in existing laws but has also acted as a catalyst for social change, advancing the cause of dignity, autonomy, and equality for women and gender minorities.

In *Vishaka v. State of Rajasthan* (1997), the Supreme Court recognized the absence of effective legislation to address sexual harassment at the workplace. Using constitutional provisions such as Articles 14, 15, 19(1)(g), and 21, and drawing upon international instruments like CEDAW, the Court laid down the now-famous Vishaka Guidelines. These guidelines defined sexual harassment, mandated employer responsibility, and recognized the right to work with dignity as an essential component of the right to life. This judicial intervention not only bridged a legal vacuum but also laid the foundation for the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

In *Joseph Shine v. Union of India* (2018), the Supreme Court struck down Section 497 of the IPC, which criminalized adultery only for men and treated women as passive victims. The Court ruled that the provision was unconstitutional, violating Articles 14, 15, and 21, as it denied women agency and dignity, and perpetuated patriarchal notions of ownership in marriage. The judgment marked a major step in ensuring marital equality and sexual autonomy, reinforcing that gender equality must include equal respect for personal decisions within private relationships.

The verdict in *Shayara Bano v. Union of India* (2017) dealt with the constitutionality of instant triple talaq (talaq-e-biddat) under Muslim personal law. The Court, by a 3:2 majority, held that the practice was arbitrary and violative of Article 14, and not an essential religious practice protected under Article 25. The ruling emphasized that religious freedom cannot be a cover for gender discrimination and led to the enactment of the Muslim Women (Protection of Rights on Marriage) Act, 2019, giving legal support to Muslim women's rights in marriage and divorce.

In *Navtej Singh Johar v. Union of India* (2018), the Supreme Court decriminalized consensual same-sex relations by reading down Section 377 of the IPC. The Court held that the criminalization of homosexuality violated Articles 14, 15, 19, and 21, and was based on outdated morality and social prejudice. It emphasized that sexual orientation is a natural and immutable part of identity, and that constitutional morality must prevail over societal morality. This judgment was not only a victory for the LGBTQ+ community but also a powerful reaffirmation of the right to equality and dignity, regardless of gender or sexuality.

In *Babita Puniya v. Union of India* (2020), the Supreme Court addressed the issue of gender discrimination in the Indian Army. Women officers were previously denied permanent commission and combat roles on the basis of gender-based assumptions. The Court ruled this denial as a violation of Articles 14 and 15, calling out the entrenched gender stereotypes within

military institutions. The judgment emphasized that equality of opportunity must extend to all spheres, including defense, and that administrative convenience cannot justify discriminatory practices. This landmark decision paved the way for greater gender inclusion in the armed forces.

Collectively, these judgments represent a transformative shift in Indian constitutional jurisprudence, where the judiciary has not merely interpreted laws, but actively expanded the horizon of gender justice.

## **5. Institutional Mechanisms**

Achieving gender equality requires not only progressive laws but also strong institutional mechanisms to ensure their effective implementation and accessibility. Legal rights remain abstract unless backed by systems that enable enforcement, redressal, and empowerment on the ground. In India, several key institutions play a vital role in supporting the legal framework for gender justice. The National Commission for Women (NCW) serves as a statutory body that addresses women's grievances, advises the government on policy matters, and advocates for the protection and promotion of women's rights. At the state level, State Commissions for Women perform similar functions, providing region-specific support and acting as watchdogs for local gender issues. Legal Services Authorities under the Legal Services Authorities Act, 1987 ensure that women, particularly those from marginalized backgrounds, receive free legal aid and representation, making the justice system more inclusive and accessible. Additionally, Internal Complaints Committees (ICCs), mandated under the POSH Act, 2013, are crucial in enforcing workplace protections against sexual harassment, helping to institutionalize the right to dignity and safety at work. Together, these mechanisms not only uphold constitutional promises but also bridge the gap between law and lived reality, ensuring that gender justice is not just theoretical but tangible.

## **6. Comparative Legal Perspectives**

Globally, several countries have adopted affirmative action measures and gender quotas to promote gender equality in public and corporate spheres. For instance, Norway has set a global precedent by mandating 40% representation of women on corporate boards, recognizing the need for structural reforms to ensure equitable participation. Similarly, Rwanda, emerging from post-conflict reconstruction, has implemented constitutional quotas for female political participation, resulting in one of the highest percentages of women in parliament worldwide.

In contrast, India's journey toward legislated gender parity has been more prolonged and complex, as evidenced by the long-pending Women's Reservation Bill, which seeks to reserve 33% of seats for women in the Lok Sabha and State Legislative Assemblies. This comparative outlook reveals that while the commitment to gender equality is shared across borders, the pace and form of implementation vary significantly, shaped by each nation's political will, cultural landscape, and constitutional philosophy.

## **7. Way Forward and Recommendations**

India must adopt a holistic approach one that balances legal enforcement, social transformation, and inner awakening. While constitutional provisions and judicial activism have laid a strong foundation, sustainable progress depends on both external reforms and internal shifts in consciousness.

- **Ensure Effective Enforcement**

The gap between legal rights and ground realities remains vast. Strengthening the enforcement of existing gender laws and judgements. Institutional bodies like the NCW, State Women Commissions, and Internal Complaints Committees (ICCs) must be made more accountable, accessible, and empowered. As laws must serve as scaffolding, not substitutes, for justice they must support, not replace, individual dignity and freedom. Therefor individual support is also needed for effective enforcement of these laws.

- **Promote Gender Sensitization**

Patriarchy is a conditioned disease it must be unlearned through awareness and education. India must incorporate gender-sensitization programs in schools, colleges, workplaces, police academies, and judiciary training. Media, literature, and pop culture should also promote stories of balanced gender roles and respect for diversity. This awareness must be rooted in empathy, not ideology, allowing both men and women to grow beyond stereotypes.

- **Strengthen Legal Aid and Institutional Access**

Free and accessible legal support is essential, particularly for marginalized women affected by poverty, caste, and illiteracy. Legal Services Authorities should expand outreach to rural and tribal communities and ensure that every woman has the tools to claim her rights. Empowerment comes not through dependency but through self-understanding and voice legal aid should not just provide representation, but confidence.

- **Fast-track Gender-related Cases**

Delays in justice undermine faith in the legal system. Gender-based violence cases, harassment, and matrimonial disputes must be heard swiftly through dedicated courts, fast-track procedures, and victim-centric approaches. *Justice delayed is not just justice denied it becomes trauma prolonged.* Speedy resolution affirms the constitutional promise of equality and ensures that dignity is protected in real-time, not in theory.

- **Support Political Participation**

The passage of the Women's Reservation Bill, which seeks 33% representation in Parliament and state legislatures, is long overdue. Beyond this, India must cultivate female leadership in panchayats, urban local bodies, ministries, and judiciary. As it is seen that women have a natural spiritual intelligence rooted in intuition, love, and balance qualities that must find a place in public decision making, not just private life.

- **Embrace Intersectionality**

Gender cannot be viewed in isolation from caste, class, religion, and region. Policies must address how these identities intersect to create compounded discrimination. Laws should be interpreted and implemented with sensitivity to these overlaps. As Equality comes from liberation and liberation must be personal and universal no one is truly free unless all are free, and freedom must touch the most silenced and invisible voices first.

- **Foster Inner Awakening and Emotional Intelligence**

Finally, no external change is sustainable without inner transformation. Schools and workplaces should integrate emotional literacy, meditation, and non-violent communication, enabling individuals to connect beyond roles and genders.

## **8. Conclusion**

India's legal framework for gender equality is comprehensive on paper but often falls short in practice. Yet, as this research has explored, equality cannot be sustained through legal reforms alone. *Laws can mandate fairness, but they cannot awaken empathy;* they can punish discrimination, but not necessarily dissolve it. Real equality lies not in sameness, but in the celebration of difference in recognizing the unique energies of both the masculine and the feminine. This involves sensitization, stronger enforcement, and a collective moral

commitment especially by those in positions of power to challenge and dismantle patriarchal structures. The law can provide the foundation, but equality must be constructed through persistent, informed, and inclusive action.

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