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## Gender Equality in India: A Human Rights Perspective

~Farhan Siddiqui

### ABSTRACT

Gender equality in India represents a continuous struggle to reconcile deeply rooted patriarchal traditions with constitutional morality, human rights principles, and modern democratic values. The Indian Constitution guarantees equality, dignity, and non-discrimination through Fundamental Rights, Directive Principles of State Policy, and Fundamental Duties, thereby establishing a comprehensive legal framework for gender justice. International instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) have further influenced India's commitment towards protecting women's rights and ensuring substantive equality.

This article examines the historical evolution of women's status in India, from relative equality during the Vedic period to systematic marginalisation under patriarchal social structures. It analyses constitutional provisions, judicial pronouncements, statutory safeguards, and international obligations that collectively shape the discourse on gender equality in India. Landmark judgments including *Vishaka v. State of Rajasthan*, *Shayara Bano v. Union of India*, and *Navtej Singh Johar v. Union of India* demonstrate the transformative role of the judiciary in expanding the scope of equality, dignity, and personal liberty.

The article further explores persistent challenges such as gender-based violence, unequal socio-economic participation, discriminatory personal laws, inadequate implementation of protective legislations, and the continuing debate surrounding the Uniform Civil Code (UCC). Despite significant legal and judicial advancements, substantive gender equality remains unrealised due to entrenched social norms and structural inequalities. The study

concludes that achieving genuine gender justice requires effective implementation of laws, social awareness, educational empowerment, affirmative action, and harmonisation between constitutional values and societal practices.

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

## 1. INTRODUCTION

The quest of gender equality in India has been considered as a long battle to harmonise India's vast cultures with contemporary legislations. India is a sovereign socialist secular democratic and republic country which enshrined the principles of justice, liberty equality in preamble of the constitution.<sup>1</sup> Gender equality is an inherent , indestructible and inalienable fundamental human right which ensures dignity and equality of each individual in the society.

The Indian legal system offers a comprehensive framework for gender equality which is based on amalgamation of different personal laws, constitutional provisions and international treaties like Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)<sup>2</sup>.

This article analyses the different frameworks that are regulating gender equality in India while exploring the historical background, analysing the constitutional frameworks and judicial pronouncement, and highlighting the different obstacles in ensuring the actual equality in contemporary India.

## 2. CONCEPTUAL FRAMEWORK

There is a long battle for gender equality in India which marginalised the women from the main sections of the society . In ancient India during the vedic period, the texts indicate that the women were enjoying relatively equal status with men. Women were participating in debate and discussion which reflected the access of education and performed the religious rituals and had a decision making power substantiated by the participation in Sabha, Samiti and Vidhata. Later on the status of women in the society started to decline due to the rigid social hierarchies which made women dependent on the male member of the family. With the

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<sup>1</sup> INDIA CONST. pmb1.

<sup>2</sup> Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 (ratified by India July 9, 1993)

emergence of the Shahstric era, patriarchal society came to existence which was regulated by the manumriti which profoundly stated that the women in their childhood should be under the protection of father, in adulthood by her husband and in old age by her sons which reduces the social status of women.

In the medieval period the plight of women worsened, women were largely affected by the social norms, were not allowed to go outside, indulged in the domestic works and confined within the four walls of the house. further in this period child marriage became prevalent and the widows were seen as *Panauti*(ill fated), they experience double subjugations in the society. During the nineteenth century an enlightened group emerged who advocated for the progressive change in society and started campaigns against the prevalent evil practices. These social reformers were like Raja ram mohan roy, who played an important role in abolition of sati, Savitribai Phule and Jyotiba Phule who campaigned for the education for women and the marginalised sections of the society especially backward or lower castes, I.C vidyasagar who advocated for the widow remarriage, etc.

After independence the enactment of the constitution in 1950, paved a way for the protection of women rights and guaranteeing them legal rights to ensure equality and end the historical injustices. Further women's movements across the globe influenced the policies in recognizing women's rights as human rights.

### **3. THE CONSTITUTIONAL FRAMEWORK FOR GENDER JUSTICE**

The Constitution of India provides a series of fundamental rights to ensure substantive justice and equality over just a procedural right based equality.

Article 14 of the Indian constitution guarantees equality before law and equal protection of the law.<sup>3</sup> which is further strengthened in Article 15(1) which prohibits the discrimination on the basis of religion, race, caste, sex or place of birth.<sup>4</sup> Later on article 15(3) was incorporated which directs the state to provide special provisions for women and children.<sup>5</sup> It shows that in order to realize real equality there is a need to recognise the historical injustices. It advocates for affirmative actions and positive discrimination like reservation in the legislation to

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<sup>3</sup> INDIA CONST. art. 14.

<sup>4</sup> INDIA CONST. art. 15, cl. 1.

<sup>5</sup> INDIA CONST. art. 15, cl. 3.

empower women and encourage them to participate in the decision making process. Further article 16 guarantees the right to equality of opportunity in matters of public employment.<sup>6</sup> With respect to time the judiciary has played an active role to protect the individual dignity by guaranteeing article 21 (right to life and personal liberty).<sup>7</sup> The court has broadened the periphery by incorporating the freedom from exploitation, harassment, and domestic abuse under article 21.

#### **4. DPSP & FUNDAMENTAL DUTIES**

Part 4 of the Indian constitution constitutes the directive principle of state policies which directs the state for policy formulation for smooth governance and welfare of its citizens. Article 39 (a) directs the state to provide adequate means of life and livelihood for men and women.<sup>8</sup> which ensures gender equality in socio and economic rights, further 39 (d) provides equal pay for equal work which tries to introduce gender parity in economic life.<sup>9</sup> Article 42, provides provisions for maternity relief and ensures just and humane conditions of work.<sup>10</sup> which reflects the efforts to empower women along with health. Further, Article 44 directs the state to secure a Uniform Civil Code (UCC) for all citizens across India.<sup>11</sup> it tries to harmonise the discriminatory personal laws. Additionally under 51 A(e) constitution mandates that it is a fundamental duty on every citizen to renounce the practices derogatory to the dignity of women.<sup>12</sup> It tries to bring cultural reforms with social responsibility and gender justice.

#### **5. INTERNATIONAL OBLIGATIONS**

India as a signatory to UDHR,<sup>13</sup> ICCPR,<sup>14</sup> and ICESCR,<sup>15</sup> is obligated to advocate for the right to equality. The convention on the elimination of All forms of Discrimination against Women (CEDAW)<sup>16</sup> popularly known as International Bill of Rights, was ratified by India in

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<sup>6</sup> INDIA CONST. art. 16.

<sup>7</sup> INDIA CONST. art. 21.

<sup>8</sup> INDIA CONST. art. 39(a).

<sup>9</sup> INDIA CONST. art. 39(d).

<sup>10</sup> INDIA CONST. art. 42.

<sup>11</sup> INDIA CONST. art. 44.

<sup>12</sup> INDIA CONST. art. 51A(e).

<sup>13</sup> Universal Declaration of Human Rights, G.A. Res. 217 (III) A, U.N. Doc. A/RES/217(III) (Dec. 10, 1948).

<sup>14</sup> International Covenant on Civil and Political Rights, Dec. 16, 1966, 999 U.N.T.S. 171.

<sup>15</sup> International Covenant on Economic, Social and Cultural Rights, Dec. 16, 1966, 993 U.N.T.S. 3.

<sup>16</sup> Convention on the Elimination of All Forms of Discrimination Against Women, Dec. 18, 1979, 1249 U.N.T.S. 13 (ratified by India July 9, 1993).

1993, which directs the states to adopt policies for elimination of all forms of discrimination against women in socio economic, political and cultural spheres.

## 6. LANDMARK JUDICIAL PRONOUNCEMENT

The Supreme Court of India has played a significant role in contouring the patriarchal nature of the society and dismantling the social norms and traditions that undermine the women through following landmark judgements.

*Air India v. Nargesh Meerza*, (1981)<sup>17</sup> SC struck down the policy of air india which was discriminatory in nature to terminate from jobs on the basis of marriage or pregnancy.

*Shah Bano v. Ahmed Khan* (1985)<sup>18</sup> provided the right to maintenance to the Muslim women.

*Vishaka v. State of Rajasthan* (1997)<sup>19</sup> court declared that the Sexual harassment at a work Place is a violaion of fundamental rights of an individual which further led government to formulate legislation POSH Act (2013) in order to ensure protection of women from sexual harassment at workplace.

*Shayara bano v. UoI* (2017)<sup>20</sup> The court held instantaneous divorce as unconstitutional on the grounds that it is not an essential practice in Islam.

*Sabrimala Temple Entry Case* (2018)<sup>21</sup> The court removed the ban on temple entry of women based on their Menstruation citing the violation of Article 14.

*Navtej Singh Johar v. UoI* (2018)<sup>22</sup> SC decriminalised the same sex relationship which led to recognition of rights and dignity of the LGBTQ+ community.

## 7. STATUTORY SAFEGUARDS

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<sup>17</sup> *Air India v. Nargesh Meerza*, (1981) 4 S.C.C. 335 (India).

<sup>18</sup> *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 S.C.C. 556 (India).

<sup>19</sup> *Vishaka v. State of Rajasthan*, (1997) 6 S.C.C. 241 (India).

<sup>20</sup> *Shayara Bano v. Union of India*, (2017) 9 S.C.C. 1 (India).

<sup>21</sup> *Indian Young Lawyers Ass'n v. State of Kerala*, (2019) 11 S.C.C. 1 (India)

<sup>22</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 S.C.C. 1 (India).

Along with the constitutional safeguard, the Indian government has enacted several statutory provisions to address gender inequality, gender violence and socio-political marginalization.

However due to the ineffectiveness of the concerned authority and the social challenges these laws are jeopardized.

*Dowry Prohibition Act, 1961*,<sup>23</sup> Giving or taking dowry is recognised as a criminal offence, still it is prevalent which highlights the lack of proper implementation of the laws. *The Protection of Women from Domestic Violence Act, 2005*,<sup>24</sup> is a civil law that was brought to address the physical, emotional, sexual and economic abuse and grant protection and residence to women if required. Despite such efforts, violence against women is still prevalent and cases are also under-reported due to social factors like, social stigma and dispute at family level is considered as the private matters, etc. Similarly different acts like *the Hindu Succession Act (Amendment), 2005*,<sup>25</sup> *Sexual Harassment of Women at Workplace (POSH) Act, 2013*,<sup>26</sup> *The Transgender persons (Protection of Rights) Act, 2019*,<sup>27</sup> etc were enacted to address gender inequality and to ensure social empowerment along with dignity.

According to the global Gender Gap Report 2025,<sup>28</sup> India ranked 131 out of 148, slipped two positions from 129 rank in 2024 which indicates the deteriorated status of women in India.

## 8. THE UNIFORM CIVIL CODE (UCC) DEBATE

Article 44 of the Indian Constitution under the Directive Principles of State Policy (DPSP) directed the state to strive for Universal Civil Code (UCC) for all to promote equality across all.<sup>29</sup> Scholars argue that it will be a revolutionary step for ensuring gender justice whereas many raised concerns for threat to fundamental rights Article (25).<sup>30</sup>

## 9. CONCLUSION

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<sup>23</sup> Dowry Prohibition Act, 1961, No. 28 of 1961, INDIA CODE (1961).

<sup>24</sup> Protection of Women from Domestic Violence Act, 2005, No. 43 of 2005, INDIA CODE (2005).

<sup>25</sup> Hindu Succession (Amendment) Act, 2005, No. 39 of 2005, INDIA CODE (2005).

<sup>26</sup> Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, No. 14 of 2013, INDIA CODE (2013).

<sup>27</sup> Transgender Persons (Protection of Rights) Act, 2019, No. 40 of 2019, INDIA CODE (2019).

<sup>28</sup> World Economic Forum, Global Gender Gap Report 2025 (2025).

<sup>29</sup> INDIA CONST. art. 44.

<sup>30</sup> INDIA CONST. art. 25.

Gender equality in India has advanced since 19th century social reform movements, later judiciary plays an active role in protection and promotion of women rights and is considered as a human rights. However, with the prevalence of patriarchal social structure and social obligations, substantive equality is still not realised which resulted in the continuum of gender injustices.hence government should harmonize the laws, practice positive discrimination to empower women in socio-political, and economic spheres, and spread awareness for the digital literacy.