

LEGAL CHALLENGES IN ACHIEVING GENDER EQUALITY IN INDIA

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Abstract:

In India, gender equality stands as both a constitutional mandate and a cornerstone of national progress, yet its attainment is fraught with formidable legal obstacles. Although the Constitution, through Articles 14, 15, and 16, enshrines equality before the law and prohibits discrimination, the practical enforcement of these provisions remains inconsistent. Legislative measures such as the Equal Remuneration Act, the Protection of Women from Domestic Violence Act, and recent amendments to the Penal Code addressing gender based violence have strengthened the legal framework. Nevertheless, weak implementation, prolonged judicial processes, and entrenched socio cultural resistance continue to undermine their impact. Deep rooted patriarchal structures often erode the effectiveness of laws designed to advance gender justice, while gaps in labor policies and personal laws perpetuate disparities in employment, inheritance, and marital rights. Additionally, intersecting factors such as caste, class, and religion intensify the challenges faced by women, particularly those belonging to marginalized communities. Judicial intervention has significantly contributed to progress in gender justice in India, but inconsistencies in understanding and a lack of consistency in personal law remain challenges. The difficulty lies not only in enacting progressive laws but also in ensuring their effective enforcement, enhancing the sensitivity of law enforcement agencies, and raising public awareness. Accomplishing the true gender equality requires a comprehensive strategy one that aligns personal law with constitutional principles, strengthens institutional accountability, and promotes social transformation alongside legal reform. This article explores the systemic and procedural barriers to gender equality within the Indian legal framework and emphasizes the urgent need for comprehensive reforms to bridge the gap between constitutional ideals and social realities. Eliminating these barriers is crucial for India to realize its constitutional vision of providing justice, freedom, and equality for all citizens.

Keywords: Gender equality, Economic, Social & Cultural issues, Constitution Law

1.1. Introduction:

The pursuit of gender equality in India is both a constitutional duty and a vital element of national progress. The Constitution, through Articles 14, 15, and 16, affirms equality before the law, prohibits discrimination, and guarantees equal opportunities in public employment. Yet, despite these commitments, the realization of genuine gender parity remains hindered by entrenched legal, institutional, and cultural barriers. Over the years, several significant laws have been enacted to strengthen the framework for gender justice such as the Equal Remuneration Act, the Protection of Women from Domestic Violence Act, and amendments to the Indian Penal Code addressing sexual harassment and gender based violence. While these measures mark important progress, their impact is often weakened by poor enforcement, lengthy judicial processes, and

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persistent patriarchal attitudes that resist reform. Inequalities are further reinforced by gaps in labor legislation and inconsistencies across personal laws governing marriage, inheritance, and family rights.

Women from marginalized communities face compounded disadvantages due to the intersection of caste, class, and religion, which intensify systemic barriers. Judicial pronouncements have played a pivotal role in advancing gender justice, but inconsistent interpretations and the lack of uniformity across personal laws remain contentious. The challenge lies not only in enacting progressive legislation but also in ensuring its effective implementation, sensitizing law enforcement agencies, and raising public awareness. Achieving gender equality in India requires a multidimensional approach that harmonizes personal laws with constitutional principles, strengthens institutional accountability, and promotes social transformation alongside legal reform. This article explores the structural and procedural challenges within India's legal system that obstruct gender parity, while emphasizing the urgent need for reforms to bridge the gap between constitutional ideals and societal realities. Addressing these obstacles is essential for India to fulfill its constitutional vision of justice, liberty, and equality for all citizens.

1.2. Legal Framework:

1.2.1. Constitution Law:

The Preamble emphasizes justice, equality, and dignity, which serve as guiding principles for gender equality.

India's commitment is reinforced by international conventions like **CEDAW**, aligning constitutional guarantees with global standards. These provisions not only establish equality but also empower the State to adopt affirmative action for women's advancement.

Article 14 – Guarantees equality before the law and equal protection under the law for all.

Article 15(i) – Prohibits the discrimination on the basis of religion, race, caste, sex, or place of birth.

Article 15(iii) – Authorizes States to take special measures to promote the well-being of women and children.

Article 16 – Guarantees equal opportunities in public service employment regardless of gender.

Article 21 – Protects the right to life and personal liberty, which are fundamental to dignity and gender justice.

Article 39 and 42 – Advocates about equal rights to life, equal wages for equal work, and humane working conditions, including maternity leave benefits.

Article 51 A (e) – Specifies that citizens have an obligation to refuse any behavior that demeans women.

Article 243D and 243T – stipulate that seats must be reserved for women in local government and municipal bodies to ensure women's participation in local governance.

1.2.2. Hindu Succession Act (Amendment, 2005):

Hindu Succession Act (Amendment, 2005) Amendment marked a significant step towards gender equality. This Act granted daughters equal inheritance rights to ancestral property, eliminated discriminatory

provisions, and guaranteed equal status for both daughters and sons in inheritance. This modification strengthened women's economic independence and upheld the constitution principle of equality.

1.2.3. Dowry Prohibition Act, 1961:

The Dowry Prohibition Act, 1961 made it illegal to give, receive, or demand a dowry. This law stipulated severe penalties to address threats and deaths related to dowries and aimed to protect women's dignity in marriage. This legislation was a significant step forward for India in achieving gender equality and social justice.

1.2.4 Protection of Women from Domestic Violence Act, 2005:

The Protection of Women from Domestic Violence Act, 2005 is a milestone legislation that expands the definition of domestic violence, provides civil remedies such as protection, housing, and financial compensation, and guarantees the dignity and safety of women in family life. It marks a vital step for India in achieving gender equality.

1.2.5. Sexual Harassment of Women at Workplace Act, 2013:

Sexual Harassment of Women at Workplace Act, 2013 provides a legal framework for preventing and addressing workplace harassment. It establishes an Internal Investigation Committee (ICC), provides a broad definition of sexual harassment, and holds employers accountable. This Act represents a significant step forward for India in achieving gender equality and empowering women.

1.2.6. Equal Remuneration Act, 1976:

The Equal Remuneration Act, 1976 guaranteed that men and women performing the same work would receive equal pay, prohibited discrimination in employment and enforced the law through scrutiny and penalties. This marked a significant step for India in achieving gender equality in the workplace.

1.2.7. Maternity Benefit Act, 1961 (Amended 2017):

The Maternity Benefit Act, 1961 (Amended 2017) mandated 26 weeks of paid maternity leave, covering both adoptive and employed mothers. The law mandated the provision of childcare facilities and allowed for flexible work options. This landmark legislation protected women's health, dignity, and equal employment opportunities, promoting gender equality in India.

1.3. Judicial Role in Advancing Gender Equality:

Indian courts have played a transformative role in shaping gender justice, interpreting the constitutional principles of equality and dignity in a progressive manner. Through landmark rulings, the judiciary frequently intervenes where legislation is inadequate or where social customs are discriminatory.

1.3.1. Vishaka v. State of Rajasthan (1997): This case stemmed from the gang rape of social worker Bhanwari Devi, highlighting the lack of legal protection against workplace sexual harassment. The Supreme Court established the Vishaka Guidelines to prevent workplace sexual harassment, which later formed the basis for the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Remedy) Act, 2013.

1.3.2. Vineeta Sharma v. Rakesh Sharma, (2020): In *Vineeta Sharma v. Rakesh Sharma* (2020), the Supreme Court ruled that daughters have equal inheritance rights with their fathers from birth and can inherit Hindu Undivided Family property, regardless of whether the father was alive when the 2005 amendments came into effect. This landmark ruling reinforced gender equality in inheritance law and ensured that children enjoy equal rights.

1.3.3. Shayara Bano v. Union of India (2017): In this landmark ruling, the Supreme Court declared that the immediate granting of three divorces was unconstitutional. The ruling reaffirms the constitutional principles of equality and dignity, which must be upheld by all laws, and marks a significant step forward in protecting women's rights under family law.

1.3.4. Mary Roy v. State of Kerala, (1986): In this case the Supreme Court overturned unfair inheritance provisions in the Travancore Christian Succession Act and applied the India Succession Act 1925 to Syrian Christians in Kerala. This landmark ruling affirmed the equal property rights of Christian women and promoted gender equality in India.

1.3.5. Joseph Shine v. Union of India (2018): The court overturned Section 497 of the Indian Penal Code, which criminalized adultery. The judgment held that the law was discriminatory; treating a woman's property as her husband's property. By decriminalizing adultery, the court emphasized individual autonomy, equality, and the right to privacy.

1.3.6. Suchita Srivastava v. Chandigarh Administration (2009): This case is a milestone in Indian constitutional history because it affirms Article 21 of the Constitution's protection of women's reproductive rights and bodily autonomy, including those with mental disorders. It reinforces the principle that the principle of consent cannot be circumvented, except in very rare exceptional circumstances.

1.3.7. Navtej Singh Johar v. Union of India (2018): In a landmark ruling, the Court decriminalized homosexuality by striking down Section 377 of the IPC. This judgment expanded the scope of equality and dignity to LGBTQ+ individuals, marking a historic step toward inclusivity.

These rulings demonstrate how the judiciary can drive social change and correct outdated or imperfect laws. By addressing issues such as workplace harassment, discriminatory laws, and outdated criminal provisions, the courts promoted gender equality, reaffirmed protections for the LGBTQ+ community, and reiterated the importance of the judiciary keeping pace with societal development.

1.4. Major Legal Challenges:

1.4.1. Implementation Gaps:

Although India has introduced several laws to safeguard women such as those against dowry, domestic violence, and sexual harassment their effectiveness is often undermined by weak enforcement. Many women are unaware of their rights, while corruption, lengthy legal procedures, and social stigma discourage them from seeking justice. As a result, even strong legislation fails to provide consistent protection.

1.4.2. Reproductive Rights:

Women's reproductive autonomy is recognized under Indian law, including provisions for safe abortion and access to contraception. However, in practice, many face barriers such as limited healthcare facilities, lack of awareness, and cultural stigma. Unsafe abortions remain common, and women's choices are often restricted

by societal pressures or family control. This makes it difficult for women to exercise full control over their reproductive health and well-being.

1.4.3. Violence against Women

Even though India has strict laws against sexual assault and domestic violence, these crimes often go unreported. Victims are discouraged from coming forward due to fear of retaliation, social stigma, and a lack of confidence in law enforcement agencies. This underreporting weakens the effectiveness of legal protections and allows offenders to escape accountability. The 2012 Nirbhaya case exposed not only the horrific nature of gender-based violence but also the shortcomings of existing legal measures, highlighting the urgent need for stronger deterrents and better support systems for survivors.

1.4.4. Personal Laws and Family Rights

India's diverse legal framework allows different religious communities to follow their own personal laws in matters such as marriage, divorce, and inheritance. However, these laws often clash with the constitutional principle of equality. For example, Muslim personal law permitted the practice of triple talaq until it was declared unconstitutional in the landmark Shayara Bano v. Union of India (2017) case. This highlights the tension between religious customs and the need for uniform rights for women across communities.

1.4.5. LGBTQ+ Rights

The Supreme Court's historic ruling in Navtej Singh Johar v. Union of India (2018) decriminalized homosexuality, marking a major step toward equality. Yet, India still lacks comprehensive anti-discrimination legislation to protect LGBTQ+ individuals in areas such as employment, housing, and healthcare. Without such safeguards, many continue to face systemic exclusion and social prejudice despite the legal recognition of their rights.

1.5. To achieve genuine gender equality:

1.5.1. Strengthen Enforcement:

Laws alone cannot guarantee justice; they need to be complemented by strong enforcement mechanisms. India wants to set up emergency courts for speedy resolution of sexual violence cases. The training of police officers needs to be strengthened so that they can hold sensitive cases with compassion. And accessible legal aid needs to be provided so that vulnerable women can access justice without barriers.

1.5.2. Establish specialized regulatory bodies: Form an independent committee or strengthen existing institutions (e.g., the National Commission for Women) by empowering them to oversee compliance with the law, investigate violations, and recommend corrective measures.

1.5.3. Establish specialized courts and expedited trial mechanisms: Establish gender-equal expedited trial courts to handle cases of domestic violence, sexual harassment, dowry-related deaths, and workplace discrimination to ensure timely justice.

1.5.4. Enforce rigorous accountability measures for employers and organizations: Penalize organizations that fail to comply with laws such as the Sexual Harassment in the Workplace Act of 2013 or the Equal Pay for Equal Work Act of 1976. Rigorous oversight and monitoring of compliance will enhance the effectiveness of law enforcement.

1.5.5. Training for police and judicial officials: Provide training for police officers, prosecutors and judges in gender sensitivity to reduce prejudice and ensure fair trials in cases involving women.

1.5.6. Implementation at community level: Strengthen the monitoring of gender equality measures by local governments (municipalities and communities), especially in rural areas with significant social and cultural barriers.

1.5.7. Technology and transparency: Use digital platforms for anonymous reporting of violations, tracking of case progress and publishing compliance reports to improve accountability.

1.5.8. Uniform Civil Code:

The Uniform Civil Code (UCC) is a common set of personal laws applicable to all citizens regardless of religion, covering matters such as marriage, divorce, inheritance, adoption, and property succession. Currently, India has separate personal laws for Hindus, Muslims, Christians, and other communities, which often contain discriminatory provisions against women. Under Article 44 of the National Guiding Principles, India was obligated to ensure the application of a single civil code to all citizens, thus leading to the enactment of the Uniform Civil Code (UCC).

1.5.9. Elimination of inequality in private law: Many private laws limit women's rights in inheritance, divorce, and custody. The Uniform Civil Code (Uniform Civil Code) guarantees equal rights to all citizens.

1.5.10. Strengthen constitutional guarantees: Strengthen equal treatment and strengthen Article 14 of the Constitution (equality before the law) and Article 15 (protection against discrimination).

1.5.11. Promoting women's economic independence: Equal property and inheritance rights will enhance women's economic independence.

1.5.12. Promoting social justice: helping to bridge the gap created by patriarchal interpretations of religious law. Although the UCC promises to promote gender equality, its implementation has raised concerns about India's religious sensitivities and cultural diversity.

1.5.13. Awareness Campaigns:

Legal reforms must be aligned with social changes. Awareness campaigns can help increase public legal knowledge, enable women to understand their rights, and challenge patriarchal norms that perpetuate inequality. Education and media play a crucial role in modifying attitudes and promoting male participation in gender equality initiatives.

1.5.14. Beti Bachao, Beti Padhao (2015): Dedicated to improving the sex ratio of children and promoting girl's education.

1.5.15. HeForShe Movement: Encourages men to play a role in promoting gender equality.

1.5.16. Workplace Awareness Project: An organizational initiative aimed at disseminating knowledge about sexual harassment laws.

1.5.17. NGO-led Campaign: Grassroots organizations host workshops on domestic violence, reproductive rights, and equal pay for equal work. Activists are dedicated to bridging the gap between legal rights and real-life situations. They ensure that progressive laws are not only enshrined in law, but also understood, accepted, and implemented in daily life. This shift in perception creates an environment conducive to the easier and more effective enforcement of gender equality laws.

1.5.18. Inclusive Policies:

Legal reforms must be aligned with social changes. Awareness campaigns can help increase public legal knowledge, enable women to understand their rights, and challenge patriarchal norms that perpetuate inequality. Education and media play a crucial role in modifying attitudes and promoting male participation in gender equality initiatives. Inclusive policies aim to ensure that women of all backgrounds regardless of caste,

class, religion, disability, or urban/rural disparities enjoy equal legal rights and social benefits. These policies go beyond traditional law, comprehensively addressing discrimination and ensuring no group is excluded.

1.5.19. Key elements include: adopting an inclusive perspective that acknowledges the multiple disadvantages faced by marginalized women; promoting economic empowerment through equal pay, skills development, and entrepreneurship programs; and expanding educational opportunities through scholarships and literacy programs. These policies also emphasize equality in the workplace, providing maternity leave benefits, flexible work options and protection from harassment, as well as safe healthcare and public spaces. Importantly, inclusive policies promote women's participation in decision-making, such as retaining seats in local government and assuming leadership roles in politics and business.

By eliminating systemic barriers and empowering marginalized groups, inclusive policies make gender equality more inclusive and meaningful. They strive to bring the constitutional promises of justice, equality, and dignity to life in the daily lives of all women.

1.5.20. Collaboration:

Gender equality cannot be achieved in isolation from other forms of discrimination. Collaboration in promoting gender equality means that various sectors and stakeholders, including government, civil society, NGOs, educational institutions, and communities, must work together to ensure that laws, policies, and social initiatives lead to real change, recognizing that no one person can eliminate systemic gender inequality alone.

- **Government and Civil Society:** NGOs and women's rights organizations collaborate with government agencies to enforce laws such as those against domestic violence and sexual harassment, benefiting grassroots communities.
- **Public Sector and Private Sector:** Businesses partner with policymakers to create gender-equal workplaces, ensure equal pay for equal work, and provide maternity leave and childcare benefits.
- **Education and Support:** Schools, universities, and community organizations work together to raise public awareness, challenge gender stereotypes, and promote gender equality curricula.
- **Community Involvement:** Local government bodies (village councils, municipalities) collaborate with women's self-help groups to empower rural women and ensure inclusive development.
- **International Cooperation:** Working with global organizations (UN Women, World Bank) brings resources, expertise, and best practices to India, strengthening the country's gender equality framework.

Collaboration ensures that gender equality is not merely a legal or political goal, but a shared social mission. It includes bridging the gap between law and practice, empowering women's voices, and creating lasting change by integrating resources, expertise, and influence from diverse fields.

1.6. Conclusion:

India possesses a robust constitutional and legislative framework for gender equality, but its effectiveness is hampered by persistent enforcement challenges, isolated legal loopholes, socio-cultural barriers, and cross-species discrimination. Bridging these gaps requires not only strengthened enforcement but also social change, increased public awareness, and inclusive policies to ensure gender equality becomes a tangible reality, not merely a legal promise. Achieving genuine gender equality in India requires not only progressive legislation but also a transformation in how these laws are implemented, interpreted, and practiced. A robust enforcement mechanism, a unified civil code, advocacy campaigns, inclusive policies, and inter-sectoral collaboration constitute a comprehensive framework. While India has made significant progress in implementing laws promoting women's empowerment and gender equality, much work remains to be done to ensure these laws

bring about real change. Women's rights awareness has increased in recent years, with significant progress in areas such as education, employment, and political participation. While these laws play a crucial role in promoting women's empowerment and gender equality, much work remains to be done. When these measures work together, they can bridge the gap between legal rights and everyday realities, ensuring that equality is not only a constitutional promise but also a right truly enjoyed by all women. This holistic approach will bring India closer to true equality, allowing dignity, freedom, and justice to truly benefit all.

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