

CONSTITUTIONAL PROMISE TO SOCIAL REALITY: Cultural Resistance and Gender Inequality in India

Author:

Ankit Shaw

Student of BBA.LL.B (hons.), Adamas university, Kolkata, Email: ankitshaw1710@gmail.com

Co-Author:

Debapriya Dubey

Student of BBA.LL.B (hons.), Adamas university, Kolkata, Email: debapriya.dubey@gmail.com

Theme 6: Cultural change and societal attitudes towards gender roles

The Constitution of India, which reflects a revolutionary vision of gender justice and social reform, expressly forbids sex-based discrimination and upholds equality before the law. In India, gender inequality shapes women's lived experiences in a variety of social, economic, and cultural contexts despite these constitutional provisions and legal developments. This study looks at the gap between social reality and constitutional promise, paying special attention to how cultural resistance upholds patriarchal systems. The persistent disparity between formal legal equality and substantive gender justice is the main research issue this study attempts to solve. Although women's rights have been gradually extended by India's constitutional framework and judicial interventions, ingrained cultural norms, customs, and socio-religious traditions frequently oppose or reinterpret these reforms in ways that restrict their revolutionary potential. The study contends that the persistence of gender disparity is caused by a complex interplay between legal institutions and ingrained patriarchal attitudes found in family structures, social norms, and socioeconomic hierarchy rather than just insufficient legislation. Using a qualitative and analytical approach, the study examines how cultural resistance appears in areas like education, employment, political participation, and personal autonomy by examining constitutional provisions, court rulings, policy frameworks, and scholarly discourse. The study emphasizes the structural and cultural obstacles that prevent gender equality by critically examining the conflict between progressive constitutional goals and conservative social practices. In the end, it highlights the necessity of a multifaceted strategy that combines ongoing social change with legal reform in order to fulfill the emancipatory objective of the Constitution.

Keywords: Gender Inequality, Constitutional Promise, Cultural Resistance, Patriarchal Structures, Substantive Gender Justice

Introduction:

Since independence, gender equality has been a major focus of India's constitutional and social development. In India's past, caste systems, religious beliefs, patriarchal traditions, and economic dependence have all contributed to institutionalized discrimination against women. Gender-based disparities persisted in both public and private domains despite social reform efforts in the nineteenth and twentieth centuries challenging traditions like child marriage and limitations on women's education.ⁱ With a revolutionary constitutional framework intended to ensure social, economic, and political fairness for all citizens, post-independence India attempted to overcome these ingrained disparities. A progressive vision of equality and dignity is embodied in the Constitution of India. It forbids sex-based discrimination, allows affirmative action to promote women's rights, and ensures equality before the law and equal protection under the law.ⁱⁱ The state's duty to advance gender justice, guarantee decent working conditions, and provide equal compensation for equal work is further reinforced by the Directive Principles of State Policy. When taken as a whole, these clauses demonstrate what academics refer to as the Constitution's transformational nature, which aims to alter highly hierarchical social systems.ⁱⁱⁱ Gender inequality is still ingrained in India's social reality despite the country's strong constitutional framework and important court rulings that have expanded women's rights. The ongoing discrepancy between formal constitutional protections and women's actual experiences is the main research issue this study attempts to address. It looks at why, in spite of substantial legislative reforms, substantive gender justice has remained elusive. The study intends to examine how institutional constraints, patriarchal norms, and cultural opposition undermine constitutional ideals. This study uses a qualitative and analytical approach, drawing on policy documents, important court rulings, constitutional clauses, and secondary academic literature. The paper is organized to first describe the legal framework, then investigate cultural resistance and sectoral disparities, and lastly evaluate the structural obstacles that impede the achievement of substantive gender equality in India by critically analyzing the conflict between constitutional morality and social morality.

Constitutional Framework for Gender Equality:

Gender justice is a constitutional goal since the Constitution of India clearly incorporates equality into the country's legal framework. The Fundamental Rights, which forbid discrimination and provide equal treatment before the law, are the cornerstone of this system. A key legal foundation for preventing gender discrimination is provided by Article 14, which guarantees equality before the law and equal protection under the law. This clause is considered to mean that state acts must be just, reasonable, and non-arbitrary. By outlawing discrimination on the basis of sex, religion, ethnicity, caste, or place of birth, Article 15 reinforces this commitment even more. Notably, Article 15(3) affirms the constitutional acceptability of positive discrimination to rectify past disadvantages and permits the State to establish

special arrangements for women and children. This is complemented by Article 16, which ensures equality of opportunity in public employment and prohibits gender from being a barrier to participation in the workforce or government service. Articles 14, 15, and 16 together make up a fundamental constitutional provision that forbids exclusion based on gender and encourages equality in public life.^{iv} The Constitution's larger ambition for substantive equality is reflected in the Directive Principles of State Policy in addition to Fundamental Rights. While Article 42 demands fair and humane working conditions and maternity assistance, Articles 39(a) and 39(d) instruct the State to guarantee equal livelihood possibilities and equal compensation for equal work for men and women, respectively. Legislative and policy initiatives aimed at improving women's socioeconomic status are guided by these non-justiciable ideas.^v Additionally, political empowerment initiatives have increased the scope of constitutional provisions. In order to translate constitutional equality into political agency, women's participation in governance and decision-making at the grassroots level is greatly increased by Articles 243D(3) and 243T(3), which reserve seats for women in Panchayati Raj Institutions and urban local councils.^{vi} The Preamble of the Constitution, which guarantees social, economic, and political fairness to all citizens, reflects the Constitution's commitment to gender justice. The Preamble establishes a normative criterion for evaluating laws and programs that impact women by incorporating equality as a fundamental value.^{vii} However, how courts, the legislature, and the executive interpret and carry out these clauses also influences how these guarantees are realized. Many academics contend that although constitutional provisions set forth an ambitious goal for gender equality, the true difficulty is in converting legislative pledges into meaningful results in the face of sociocultural opposition.^{viii} In conclusion, the Indian Constitution offers a strong legal and normative framework for gender equality by combining directives for constructive state action with clear prohibitions against discrimination. However, the discrepancy between these constitutional principles and social realities highlights how difficult it is to actually achieve gender justice.

Judicial Role in Advancing Gender Justice:

The expansion of the constitutional promise of gender equality into workable legal protections has been made possible in large part by the Indian court. Although equality and dignity are guaranteed by the Constitution, these concepts have been applied to actual circumstances through judicial interpretation, which has challenged discriminatory customs and filled legislative gaps.

In *Vishakha & Ors. v. State of Rajasthan & Ors. (1997)*, the Supreme Court of India addressed the lack of statutory protections for women experiencing sexual harassment at work, is a landmark decision in this regard. According to the Court, sexual harassment infringes fundamental rights under Articles 14 (equality before the law), 15 (prohibition of sex-based discrimination), 19(1)(g) (right to pursue any profession), and 21 (right to life and personal liberty). The Court established the Vishakha Guidelines, which mandated that businesses establish internal complaint procedures and take preventative measures against harassment in the absence of formal legislation at the time. Before Parliament passed the Sexual

Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, these principles served as legally binding standards.^{ix}

Another landmark decision is *Joseph Shine v. Union of India (2018)*, where the Supreme Court struck down Section 497 of the Indian Penal Code, which criminalised adultery. The Court determined that because the statute only penalized men as criminals and denied women equal agency, it was discriminatory and violated the constitutional guarantee of equality. The Court upheld that criminal law must respect each person's autonomy and dignity in interpersonal relationships and that gender-based discrimination cannot be justified by marriage by ruling Section 497 unconstitutional.^x

Additionally, the judiciary has expanded its interpretations of Article 21 to safeguard individual and reproductive liberty. Judicial experience has confirmed that decisions pertaining to physical integrity, privacy, and reproductive rights are essential to the right to life and liberty, even though they are not necessarily contained in a single titled judgment with a solid publicly accessible link. These ideas have been cited by courts in rulings about protection from coerced medical treatments and access to safe abortion services. The judiciary has highlighted constitutional morality the notion that social norms and patriarchal standards must yield to constitutional objectives of equality, dignity, and nondiscrimination through these rulings. This has made it possible for courts to contest discriminatory practices that have their roots in social resistance and historical custom. Although judicial activism has redefined gender justice in terms of the constitution and greatly increased legal protections for women, its full impact will rely on how it is put into practice. Court orders must be implemented through institutional accountability, public knowledge, and administrative action. Legal change alone cannot achieve substantive equality without matching society transformation, as seen by the ongoing cultural resistance and socioeconomic disparities that restrict the reach of court pronouncements.

Cultural Resistance and Patriarchal Structures:

The substantive equality of women in India is nonetheless threatened by cultural opposition based on patriarchal practices, despite the country's robust constitutional safeguards and judicial initiatives to promote gender justice. In Indian society, gender inequality is profoundly ingrained in the social structure, influencing daily interactions, expectations, and power dynamics. It is not merely a legal issue. An increasing amount of research demonstrates how social constructs and cultural practices uphold gender hierarchies and oppose constitutional goals. Social construction of gender norms, or the idea that men and women have fundamentally distinct responsibilities and abilities, is one of the main ways culture perpetuates gender inequality. Family socialization, schooling, media portrayals, and communal customs all contribute to the early instillation of these views. Research has demonstrated that prejudice against traditional gender roles endures beyond geographical boundaries, perpetuating the notion that women should prioritize household duties above public or economic involvement, so restricting their independence and involvement in public life.^{xi} In India, patriarchy also interacts with other social structures like caste and religion to create multi-layered oppressive systems. Social pressure and moral

policing are used to impose chastity, obedience, and family honor rules that limit women's life in many cultures. Research on gender norms in South Asian contexts reveals that these structures are passed down through community expectations, religious teachings, and family customs, legitimizing restrictive behavior and limiting women's mobility, labor force involvement, and decision-making authority.^{xii} Economic involvement, which is frequently hailed as a crucial component of women's empowerment, is nonetheless restricted due to both statutory obstacles and cultural norms that predominantly assign women to perform unpaid household chores. According to a sociological analysis of workplace barriers in India, household duties, biased hiring practices, and gendered cultural expectations hinder women's career advancement and financial success even when they attain greater levels of education and professional abilities.^{xiii} Additionally, patriarchal standards quietly influence interpersonal dynamics and societal relationships. For instance, a qualitative study on gender relations among students discovered that traditional patriarchal values continue to shape perceptions of gender roles despite shifting attitudes in some urban contexts, limiting women's self-assurance, leadership participation, and assertiveness in both social and educational contexts.^{xiv} Internal cultural belief systems that place a high importance on male authority and decision-making are also connected to the maintenance of patriarchal opposition. Subtle types of discrimination, including restricting women's agency in the home or at work, are frequently normalized and defended in the name of culture or tradition, even while overt discrimination is strongly criticized. In addition to influencing women's lived experiences, this cultural logic can also influence grassroots policy implementation, lessening the impact of legislative changes. India's cultural opposition to gender equality is very complex, functioning at the institutional, societal, and interpersonal levels. In addition to limiting women's prospects for full involvement and weakening the link between constitutional rights and actual reality, these deeply ingrained norms also create expectations about women's responsibilities in families and society. Legal changes must be accompanied by ongoing cultural transformation, such as gender sensitive education, community discourse, and media representation that questions long standing conventions, expands definitions of gender roles, and advances equality as a lived value, in order to achieve substantive gender justice.

Gender Inequality in Key Areas:

In many facets of Indian society, gender inequity endures despite constitutional protections and court rulings. These disparities, which impact women's opportunities in education, employment, political engagement, and personal autonomy, are rooted in cultural, structural, and institutional practices rather than just being legal or economic.

Education- Despite the fact that education is a fundamental component of personal empowerment, gender differences in educational performance persist in India. UNICEF India Data (2024) shows that although girls and boys are almost equally enrolled in primary schools generally, the gender gap grows considerably in secondary and higher education. Higher female dropout rates, especially in rural areas, are caused by socioeconomic limitations, early marriage, and household duties. The research also

emphasizes that girls are more likely to drop out of school because of family expectations about home labor, lack of sanitary facilities, and safety concerns.^{xv}

Employment and Economic Participation- The percentage of women in the workforce is still far lower than that of men. According to data from the World Bank Gender Data Portal (2024), just about 21% of women aged 15 and older are employed, compared to 69% of men, making India one of the countries with the lowest rates of female labor force participation worldwide. Women's economic involvement is nevertheless hampered by structural obstacles such restricted access to childcare, enduring salary disparities, and occupational segregation. Economic dependency and vulnerability are further exacerbated by the fact that many women perform unpaid home work or informal labor without legal rights.^{xvi}

Political Participation- Women are still underrepresented in legislative bodies, despite the fact that political representation is essential for equitable governance. In the Lok Sabha (Lower House), women hold about 15.5% of the seats, according to the Inter-Parliamentary Union (IPU) database (2025). Women's participation in decision-making processes is limited by the lack of widespread reservations for women in state assemblies and Parliament, despite steady progress over time. Due to constitutional reservations, women now hold more than one-third of seats in Panchayati Raj institutions, according to the Ministry of Panchayati Raj (2024). However, obstacles including tokenism and a lack of actual authority still exist in local government.^{xvii}

Personal Autonomy and Safety- Concerns about safety, freedom from violence, and individual autonomy are further areas where gender discrepancy is evident. According to data from the National Crime Records Bureau (NCRB) for 2023, crimes against women, including as assault, kidnapping, and domestic abuse, are very common. These figures show how common violence is and how more women are willing to report incidents, but they also highlight the pervasive patriarchal beliefs that support or normalize violence. (NCRB Crime in India, 2023) Furthermore, discussions concerning equality are still sparked by personal rules pertaining to marriage, inheritance, and families, especially when customs clash with constitutional ideals.^{xviii}

Intersectionality: Caste, Class, and Gender- In India, caste and class dynamics are inextricably linked to gender inequity. Women from lower socioeconomic and marginalized caste groups face compounded disadvantages in education, health, and employment, according to research from the International Institute for Population Sciences (IIPS) using data from the National Family Health Survey-5 (2019–21). The disparity between legal safeguards and actual reality is widened as a result of the numerous forms of discrimination these women experience.^{xix}

Structural Barriers: Gap Between Law and Practice:

Despite India's robust constitutional framework supporting gender equality, there is nevertheless a persistent gap between the application of legislative guarantees and their actualization. The transformative potential of gender-just laws is severely constrained by structural impediments, including institutional deficiencies, ignorance, socioeconomic disparity, and enforcement failures. Weak

implementation procedures are one of the main structural problems. For example, data from the National Crime Records Bureau (NCRB) shows a persistent increase in instances reported under "cruelty by husband or relatives" (Section 498A IPC), despite the protective of Women from Domestic Violence Act, 2005 offering civil remedies and protective orders. According to the Crime in India 2023 report, the rate of crimes against women is still high, indicating that laws by themselves have not been successful in preventing violence (NCRB, 2024). The continuance of these cases is a result of insufficient support services, delays in court proceedings, and gaps in enforcement.^{xx} Limited access to justice, especially for rural and economically disadvantaged women, is another systemic issue. The International Institute for Population Sciences (IIPS) National Family Health Survey-5 (2019–21) found that a sizable portion of women defend domestic abuse in specific situations. This internalization of patriarchal standards suggests that the assertion of legal rights may be weakened by social conditioning (IIPS & ICF, 2021). It is challenging to operationalize legislative protections when women themselves believe that violence is acceptable.

Source: ICF & International Institute for Population Sciences (IIPS) (2021). Furthermore, effective legal enforcement is still hampered by economic dependency. India's low female labor force participation rate restricts women's financial independence, according to the World Bank's Gender Data Portal (2024). Many women are unwilling to seek legal remedies against abusive family members in the absence of financial security because they fear social censure or unstable finances. Another obstacle is institutional capability. UN Women's reports from 2023 highlight that while India has passed progressive laws that are in line with international agreements like CEDAW, their successful implementation necessitates qualified law enforcement officers, gender-sensitive legal procedures, and easily accessible support services like shelters and legal aid. The impact of otherwise robust legal frameworks is diminished in the absence of coordinated institutional actions.^{xxi} In conclusion, institutional and sociocultural hurdles rather than constitutional inadequacies are the cause of India's legal and practical disparity. Converting formal equality into actual justice requires strengthening institutional responsibility, raising legal awareness, increasing economic opportunities for women, and changing patriarchal attitudes.

Conclusion:

India's constitutional structure has a strong dedication to nondiscrimination, gender equality, and dignity. Articles 14, 15, and 21 preserve the right to life and personal liberty, forbid sex-based discrimination, and ensure equality before the law. As demonstrated by significant rulings like *Vishakha v. State of Rajasthan (1997)* and *Joseph Shine v. Union of India (2018)*, which upheld women's autonomy and workplace safety, the judiciary has extended these safeguards throughout the years through progressive interpretation. These advancements show that the Indian legal system has solid normative underpinnings for gender justice. However, actual evidence shows that lived equality has not completely materialized from constitutional commitments. Gender differences in education, work, health, and household decision-making authority are still present, according to the National Family Health Survey-5 (2019–21) (IIPS &

ICF, 2021). In a similar vein, low female labor force participation is highlighted by the World Bank Gender Data Portal (2024), which reflects systemic economic disparities. Violence against women is still a major concern, according to data from the National Crime Records Bureau (Crime in India 2023), highlighting the disconnect between nominal rights and real safety (NCRB, 2024). These facts show that deeply ingrained patriarchal practices, institutional flaws, and legislative limitations all contribute to gender inequity in India. The transformative power of progressive laws is weakened by cultural resistance, economic reliance, restricted access to justice, and implementation flaws. Even if it is crucial, legal reform cannot erase centuries-old social hierarchies on its own.

Therefore, a multifaceted strategy is needed to achieve meaningful gender justice. Important actions include increasing women's economic involvement, strengthening institutional accountability, enhancing gender-sensitive education, and making sure protective legislation are effectively enforced. To turn constitutional aspirations into social reality, cooperation between the legislative, executive branch, judiciary, and civil society is required. In conclusion, considerable legislative advancements but little societal change are reflected in India's progress toward gender equality. The Constitution serves as the cornerstone; to guarantee that equality is not only protected by law but also experienced in daily life, persistent institutional reform and cultural transformation must be built upon it.

REFERENCES

- ⁱ Forbes, G. H. (1996). *Women in modern India*. Cambridge University Press. Retrieved from <<https://www.cambridge.org/core/books/women-in-modern-india/EB14258879E9A194AF7925C9BA7636EA>>
- ⁱⁱ Baxi, U. (2008). *The future of human rights*. Oxford University Press. Retrieved from <<https://academic.oup.com/book/1963>>
- ⁱⁱⁱ Government of India Act (1950). Retrieved from <<https://legislative.gov.in/constitution-of-india>>
- ^{iv} TheLaw.Institute. (2023). *The Constitutional Quest for Gender Equality: An Indian Perspective*. Retrieved from <<https://thelaw.institute/law-and-vulnerable-groups/constitutional-gender-equality-indian-perspective/>>
- ^v Dalvoy. (2025). *Gender Equality under the Constitution – Rights & DPSPs*. Retrieved from <<https://www.dalvoy.com/en/upsc/mains/previous-years/2025/public-administration-paper-ii/gender-equality-constitutional-judicial-interventions>>
- ^{vi} Dalvoy. (2023). *Gender Justice: Constitutional Perspectives*. Retrieved from <<https://www.dalvoy.com/en/upsc/mains/previous-years/2023/general-studies-paper-ii/gender-justice-constitutional-provisions>>
- ^{vii} Jamal Academic Research Journal. *Constitutional Framework and Gender Equality in India: Progress, Challenges, and the Path Ahead*. Retrieved from <<https://www.jmcjarj.org/index.php/jarj/article/view/484>>
- ^{viii} Gautam, P. (2025). *Gender justice in the Indian constitutional framework*. Archives Journal. Retrieved from <<https://archives.publishing.org.in/index.php/archives/article/view/1460>>
- ^{ix} *Vishakha & Ors. v. State of Rajasthan & Ors.*, AIR 1997 SC 3011 (1997). Retrieved from <<https://indiankanoon.org/doc/1031794/>>
- ^x *Joseph Shine v. Union of India*, (2018) 2 SCC 189. Retrieved from <<https://indiankanoon.org/doc/42184625/>>
- ^{xi} Gopalakrishnan, L., El Ayadi, A., & Diamond-Smith, N. (2024). *The role of community-level men's and women's inequitable gender norms on women's empowerment in India: A multilevel analysis using India's National Family Health Survey–5*. PLoS ONE. Retrieved from <<https://pmc.ncbi.nlm.nih.gov/articles/PMC11633985/>>

- ^{xii} A *Cross-Cultural Perspective on the Interactive Mechanisms Between Social Structures and Gender Inequality* (2025). *Communications in Humanities Research*. Retrieved from <<https://direct.ewa.pub/proceedings/chr/article/view/24142>>
- ^{xiii} Chauhan, S., Trivedi, A., & Dwivedi, S. (2025). *Gender Inequality in Urban Workplaces: A Sociological Review of Barriers Faced by Working Women in India*. *Revista Review Index Journal of Multidisciplinary*. Retrieved from <<https://rrijm.com/index.php/RRIJM/article/view/169>>
- ^{xiv} Tharun, S., & Prabakar, P. (2024). *Subtler manifestations of patriarchal gender norms on gender relations: A qualitative investigation on engineering college students*. *International Journal of Computational and Experimental Science and Engineering*. Retrieved from <<https://doi.org/10.22399/ijcesen.473>>
- ^{xv} UNICEF India. (2024). Education and Gender Equity Data. Retrieved from <<https://www.unicef.org/india/what-we-do/education>>
- ^{xvi} World Bank. (2024). Gender Data Portal – Female Labour Force Participation. Retrieved from <<https://genderdata.worldbank.org/>>
- ^{xvii} Ministry of Panchayati Raj, Government of India. (2024). Local Governance Data – Women’s Political Participation. Retrieved from <<https://panchayat.gov.in/>>
- ^{xviii} UN Women. (2023). Legal Gender Equality Reports. Retrieved from <<https://asiapacific.unwomen.org/en/countries/india>>
- ^{xix} International Institute for Population Sciences (IIPS) & ICF. (2021). National Family Health Survey (NFHS-5), India, 2019-21. Retrieved from <<https://dhsprogram.com/pubs/pdf/FR375/FR375.pdf>>
- ^{xx} National Crime Records Bureau. (2024). Crime in India 2023. Retrieved from <<https://ncrb.gov.in/en/crime-india>>
- ^{xxi} UN Women. (2023). India – Gender Equality and Women’s Empowerment. Retrieved from <<https://asiapacific.unwomen.org/en/countries/india>>

Copyright & License:

© Authors retain the copyright of this article. This work is published under the Creative Commons Attribution 4.0 International License (CC BY 4.0), permitting unrestricted use, distribution, and reproduction in any medium, provided the original work is properly cited.