

Beyond Constitutional Rights to Actual Facts: Understanding Indian Empowerment for Women

SUBMITTED BY: -

KEYUR HARSHADBHAI THAKKAR

**CORPORATE AND COMMERCIAL LAW GROUP, ANAND LAW COLLAGE (AUTONOMOUS)
(ONE YEAR LL. M. SEM – 02)**

ROLL NUMBER: 07

**Author: Keyur Harshadbhai Thakkar
Anand Law Collage**

ABSTRACT

Although the idea of women's empowerment in India is based on a commitment to constitutional equality and gender equality, it has been extended to freedom, dignity and social participation in a broader sense. The Constitution of India provides women with equal rights and legal protection against discrimination, but in real life, women's freedom and dignity still remain constrained by socio-cultural traditions, economic dependency and unequal power relations. The process of empowerment is further complicated by the deep-rooted patriarchal systems in gender-based politics and governance structures.

Therefore, assessing women's empowerment is not sufficient to rely solely on constitutional rights or legal guarantees. It is also necessary to measure it through social and economic outcomes, which reflect the actual social status and freedom of women. In this context, this paper critically studies the transition from constitutional justice to real dignity and freedom. It argues that women's empowerment is a multifaceted and multidimensional process, in which legal entitlements alone are not enough.

The proper empowerment of women requires institutional accountability, participatory governance and inclusive policies in planning, which actively promote social and economic development. The paper concludes that empowerment should not be limited to legal entitlements, but should be a continuously changing and transformative process for equality, sustainable development and social justice.

KEY WORDS:

- FAIRNESS WITHIN THE CONSTITUTION
- INDEPENDENCE OF WOMEN
- DIGNITY IN SUBSTANCE
- POLITICS OF GENDER
- SOCIAL DEVELOPMENT

Introduction

Background of Women Empowerment in India

After independence, the Constitution of India granted women equal civil rights, which were not limited to political freedom, but were based on gender equality and social justice (Constitution of India, 1950).

But even in today's period, the question arises whether legal equality has been able to translate into empowerment for women in real life?

Constitutional Perspective of Equality

The Indian Constitution has a strong foundation of equality and dignity for women. Important articles such as Article 14 (Equality before law), Article 15(1) (Prohibition of discrimination on the basis of sex), Article 15(3) (Special provision for women), Article 16 (Equal opportunity in government employment), Article 21 (Right to a life with dignity), and Article 39(d) (Equal pay) have set strong legal standards for the rights of women (Constitution of India, 1950).

Supreme Court also strengthen these rights:

Vishakha v. Rajasthan (1997)— Gave guidelines against sexual harassment at the workplace.

Air India v. Nargesh Mirza (1981)—Air hostesses protected from discrimination on the basis of marriage.

Shayra Bano v. Union of India (2017)— 'Triple Talaq' declared unconstitutional.

These cases show that the judiciary is not satisfied with mere legal equality, but goes further for real justice and dignity.

Need to go beyond formal rights

Rights written in law are just the beginning. For real empowerment, women need to experience these rights in life.

It is clear that laws alone are not enough, social mindset and institutional accountability are also required.

Problem Statement

The main question of this research is: Have the constitutional rights given to women in India been translated into real freedom and dignity?

While women are legally equal, socially:

Economic dependency still exists,

Domestic violence is increasing,

Political representation is limited,

Women are underrepresented in leadership positions.

It is clear that there is a gap between constitutional equality and actual empowerment.

Scope and relationship with social development

Women's empowerment is not just a personal issue, it is important for national and social development. If women are educated and economically independent, then:

Families become educated and empowered,

Poverty is reduced,

Democracy is strengthened.

Gender equality is also at the heart of the United Nations Sustainable Development Goals (United Nations, 2015).

This research will analyze constitutional provisions, judicial decisions, legal framework, and social, economic conditions, and highlight gaps in governance and implementation.

Fairness Within the Constitution

The Constitution of India is not just a governing document, it is a declaration of equality, justice and gender equality (Constitution of India, 1950). "Fairness within the Constitution" means not only legal equality, but also fair and dignified treatment.

Article 14 – Fundamental Basis of Equality

Article 15 – Safeguards and Prohibition of Discrimination

Article 16 – Equal opportunity in employment

Article 21 – Life with dignity and freedom of women

Directive Principles – Guidelines for Social Justice

Article 39(d) – Equal pay

Article 39(e) – Protection of health and strength

Article 42 – Protection of maternity

These articles ask the state to give priority to women's welfare.

The Maternity Benefit Act is a law inspired by Article 42 which provides protection to women during maternity.

Limitations of Formal Equality

Formal Equality means equality in law. But in real life:

The law provides equal pay, yet women get comparatively less pay (Gender Pay Gap).

The law provides equal inheritance, but wealth mostly goes to sons.

The law provides right of entry, yet social opposition and restrictions remain.

It is clear from this that "Fairness within the Constitution" is a strong basis, but it is not enough.

The Indian Constitution provides equality, dignity and protection to women. The Supreme Court decisions, especially Sabarimala (Indian Young Lawyers Association v. State of Kerala (2018)), Vishaka (Vishaka v. State of Rajasthan (1997)), and Babita Puniya (Secretary, Ministry of Defence v. Babita Puniya (2020)), show that the judiciary is now moving beyond mere legal equality (Formal Equality) to substantive equality (Substantive Equality). However, the limitations of Formal Equality in the social and institutional framework are still clearly visible.

Women's Freedom: Legal and Real Freedom

The most important element in women's empowerment is freedom. The Constitution and laws of India give many rights to women, but the question is whether these legal rights have been able to become women's freedom in real life?

Although the legal framework in India is strong, social and economic conditions become obstacles to the implementation of these rights.

Economic Freedom

Women's empowerment remains incomplete without economic freedom.

Legal Provisions:

Article 16 – Equal opportunity in employment

Article 39(d) – Equal pay

Equal Remuneration Act, 1976

Maternity Benefit Act, 1961

Political participation

There is more than 33% reservation in local self-government, even up to 50% in some states.

But:

There is often "**proxy representation**", where a woman is the head of the state but the power rests with her husband or family.

Women's representation at the state and national levels is limited.

Education and employment

Right to education is provided under Article 21A. Without education, economic and social independence is not possible.

Educated women:

Know their rights

Become financially independent

Become decision-makers

But in reality:

Education remains incomplete due to child marriage in villages

Women are underrepresented in technical fields

Right to property and inheritance

Legal basis:

Hindu Succession (Amendment) Act, 2005

Article 14 and 15

In many families it is said that "girls get married, land should be given to boys," which social mentality prevents the implementation of rights.

Legal provisions against real situations

The law says:

There is equality

There is freedom
There is dignity
But in real life:
Domestic violence is increasing
Complaints of harassment at work place are less registered
Economic dependence continues

The court said that guidelines are needed to prevent harassment at work place, because there are loopholes in the law. Hence, the court sometimes fills the gaps in the law.

Legal freedom for women in India is strong:

Economic rights
Political rights
Right to education
Equal rights in property

But in real life:

Social tradition
Economic dependence
Institutional shortcomings
Gender-based mentality

All these together prevent legal freedom from being converted into real freedom. Therefore, empowerment is possible not only through law, but also through implementation, awareness and social change.

DIGNITY IN SUBSTANCE

Real justice is achieved when security, freedom and dignity are truly felt in a woman's life. Here, we will understand issues like Substantive Equality, human dignity under Article 21, Bodily Autonomy, dignity at work and social mobility from a legal perspective (Constitution of India, 1950).

Substantive Equality – Real Equality
Formal vs Substantive Equality

Formal Equality: Same law for all

Substantive Equality: Special protection for equal outcome in unequal situations

So it is not enough to just say "equal pay for women and men", if a woman is not protected during pregnancy then equality is incomplete (Constitution of India, 1950).

Case:

Air India v. Nergesh Meerza (1981): Dismissal from employment on the basis of pregnancy was held to be against dignity.

These judgments show that the Supreme Court looks at the real impact, not just words.

Article 21: Human Dignity

Article 21 says that "the right to life and personal liberty" represents maintained. According to the Supreme Court, life is more than just breathing—it's living with dignity.

Maneka Gandhi v. Union of India (1978): Recognition of due process.

Francis Coralie Mullin v. Delhi (1981): Life means a life of dignity.

Domestic violence, public humiliation or coercion are violations of Article 21.

Bodily Autonomy and Safety

A woman has full right over her own body.

Suchita Srivastava v. Chandigarh Administration (2009): Right to maternity choice.

K.S. Puttaswamy v. Union of India (2017): Privacy declared a fundamental right.

Vishaka v. State of Rajasthan (1997): Guidelines against sexual harassment at workplace.

If a woman employee in an office receives inappropriate comments and does not complain out of fear, then it is not Real Justice despite Formal Equality.

Dignity at the workplace

Sexual Harassment Act, 2013: Implemented after Vishaka (1997) Guidelines.

Internal Complaints Committee mandatory in every office.

Equal Remuneration Act: Despite the law of equal pay, in reality there is a higher wage gap.

In a village, a man earns ₹400 and a woman ₹250 in a farm, which is illegal according to law, but the practice continues.

Social Dignity and Mobility

A woman's social status is linked to her dignity.

Indian Young Lawyers Association v. State of Kerala (2018) (Sabarimala case): Women were given the right to enter the temple.

This judgment is a classic example of “Dignity in Substance”—a woman should not only get legal, but also social dignity.

“Dignity in Substance” means giving women not just rights, but the conditions to actually exercise those rights.

In numerous rulings, the Supreme Court has stated clearly that:

Equality without dignity is an empty word,

Freedom without security is incomplete,

Laws without social recognition are ineffective.

True equality is possible only when the law, society, and the state all work together to give women the right to "live with dignity (Constitution of India, 1950)."

POLITICS OF GENDER

If the governance structure of the state itself is patriarchal, then laws remain on paper. Here, we will understand how gender context in governance, policy-making and political representation affects women empowerment.

Patriarchal Governance Structures

India's politics and administrative structure have long been male-dominated.

Despite constitutional equality (Articles 14, 15, 16) (Constitution of India, 1950), the number of women in policy-making is low.

Charu Khurana v. Union of India (2015)

This case shows that the patriarchal mentality at the institutional level cannot withstand the law.

Gender Budgeting

Gender Budgeting is the analysis of how much contribution there is for women in the government budget and whether that benefit reaches them effectively or not.

Gender Budget Statement started being presented after 2005 (Government of India, 2005).

The question is that allocation alone is not enough.

This makes it clear that Policy + Implementation + Accountability is necessary for empowerment.

Representation in Parliament and Local Bodies

The representation of women in the Lok Sabha and the Legislative Assembly has been historically low.

Recently, 33% reservation was provided.

The 73rd and 74th Constitutional Amendments have provided at least 33% reservation in local self-government (50% in many states).

A village may have a woman Sarpanch but the husband takes the decisions — this is called “Sarpanch Pati”. Hence, despite the law, actual empowerment remains incomplete.

Policy Design and Implementation Gaps

There are many policies for women: Beti Bachao Beti Padhao, Ujjwala Yojana, Maternity Benefit Schemes. But challenges in implementation: lack of awareness, corruption, documentation hurdles.

Judicial Intervention:

Laxmi v. Union of India

The Supreme Court gave strict guidelines on compensation and control for acid attacks. This shows that the court intervenes when there is a gap in policy implementation.

Institutional Accountability

Institutions responsible for women empowerment:

National Commission for Women

State Commissions

Internal Complaints Committees

Vishaka v. State of Rajasthan (1997)

This case forced the government to bring safety laws for women at the workplace. Laws are not effective without institutional accountability.

Social Status and Mobility

When women are included in politics and policy-making, their status in society increases.

Becoming a woman MLA inspires village girls.

If a woman police officer takes strict action, trust in the law increases.

Hence political representation = social dignity + mobility.

Issue Legal Status Actual Status

Political Reservation 33% (at local level) Mixed results in implementation

Gender Budgeting allocation Lack of effective monitoring

Policies Widespread awareness and benefits limited

“Politics of Gender” explains that:

Laws are necessary for empowerment,

But, women’s voice in governance and policy-making is equally important.

If state decisions are not gender-sensitive, constitutional rights do not translate into real life.

Women’s empowerment requires:

➤ Law + Representation + Accountability + Implementation.

This makes it clear that women’s empowerment is not just a question of individual rights, but a pillar of overall social progress.

SOCIAL DEVELOPMENT

When women are empowered economically, educationally and politically, the growth rate of the country increases, social justice is strengthened and progress is recorded from generation to generation. Here, we will explain the legal and policy relationship between women empowerment and social development (Constitution of India, 1950).

Relationship between empowerment and GDP

Economic participation:

When women join the labour market, the national product (GDP) increases.

Legal basis:

Article 39(d) – Equal pay

Randhir Singh v. Union of India (1982) – Constitutional basis for equal pay for equal work.

If 100 women in a village start micro industries through self-help groups, then:

Family income increases,

Children get good education,

Local economy becomes stronger.

It is clear that women empowerment = economic growth.

Sustainable Development Goals (SDGs)

Gender equality has been recognized globally as SDG-5. There is a coherence between the Indian Constitution and the SDGs:

Article 14 – Equality

Article 21 – Life in dignity

Directive Principles – Social justice (Constitution of India, 1950)

The United Nations SDGs make it clear that sustainable development is not possible without gender equality. When child marriage is reduced and girls' education increases, maternal mortality decreases, health improves and poverty is reduced.

Intergenerational Impact

The benefits of women empowerment are not limited to the current generation only.

Education:

Educated mothers = educated children

Mohini Jain v. State of Karnataka (1992), Unni Krishnan v. State of Andhra Pradesh (1993) – Education was linked to Article 21.

Education of girls reduces child labour, improves health and eradicates poverty.

Health and Nutrition:

If the mother is properly nourished, the newborn will be healthy.

Women empowerment = healthy society.

Social Justice and Inclusive Growth

Women empowerment is the focus of social justice.

Double discrimination (gender + social status) against women belonging to Scheduled Castes/Scheduled Castes.

State of Kerala v. N.M. Thomas (1976) – Reservation is legitimate.

Special measures are required for Substantive Equality.

Institutional Responsibility

Institutions should be responsible for social development:

Women Commission, Legal Aid Authority, Workplace Grievance Committee.

Vishaka v. State of Rajasthan (1997) – Duty of the State to provide a safe environment for women.

Development is stunted by dysfunctional institutions.

Social Status and Mobility

When women are economically and educationally empowered:

Voice increases in family decisions,
Political participation increases,
Social dignity increases.
Everyday example:

If a woman police officer stops child marriage in her district, the vitality of the law is seen in the society.

Without women empowerment:

Economic growth remains half,
Social justice remains incomplete,
Democracy weakens.

With women empowerment:

GDP increases,
Health and education improves,
Poverty reduces,
Social dignity increases.

Society progresses only when the rights given in the Constitution are implemented in real life.

Women's empowerment =

Legal security + Economic independence + Social respect + Institutional accountability.

It is clear that women's empowerment is not only essential for women, but for the sustainable and inclusive development of the entire society.

Research Objectives

The main objective of this research paper: Are the laws and court judgments leading to real freedom, dignity and social development? The objectives mentioned below are doctrinal and case law based.

To study the constitutional framework related to women's rights and equality in India.
To analyze whether constitutional equality has been translated into real freedom or not.
To assess the extent to which 'Dignity in Substance' has been achieved beyond Formal Equality.
Review the impact of Gender Politics on governance and policy implementation.
Evaluate the impact of women empowerment on social development.

Institutional Accountability and Social Mobility

The focus of these objectives:

Institutions should be accountable
Laws should be implemented
Women should get social dignity and mobility
When the state, the courts and society all cooperate, then constitutional promises are translated into real life.

According to the title "Beyond Constitutional Rights to Actual Facts", the main question of this research is: Is the Indian woman today really living an independent and dignified life?

Research Questions

The main focus of this research is whether the Indian Constitution and judicial definitions give real freedom and dignity to women or is equality on paper enough?

Does the constitutional framework of India ensure women's freedom in real life?

Key Question: Are these rights actually exercised?

Are women economically, socially and politically independent?

How effectively is constitutional equality implemented at the institutional and governance levels?

Has Substantive Dignity replaced Formal Equality?

Does every woman get a safe environment?

Is dignity maintained in every workplace?

How does Gender Politics affect policy-making and governance?

Does women empowerment contribute significantly to sustainable social development?

The main aim of these research questions is:

What is the gap between constitutional promises and real life?

Are progressive court judgments socially effective?

Is women empowerment central to development policy or not?

Research Hypothesis

This study is purely doctrinal based, i.e. Hypothesis will be examined through analysis of constitutional provisions, court judgments and legal principles.

Primary Hypothesis

“The Constitution of India guarantees equality and justice, yet due to structural, institutional and socio-political constraints, women empowerment is largely on paper (formal); it has not been achieved in a substantive manner.”

Constitutional Promises:

Structural Barriers:

Institutional Barriers:

Socio-political Barriers:

Alternative Hypothesis

“Women's empowerment in India is gradually transforming from a constitutional belief into real freedom and measurable social development outcomes.”

Judicial Activism:

Policy Development:

Measurable Social Outcomes:

Analytical Note

The Primary Hypothesis suggests that laws are in place but implementation and mindset change are not enough.

The Alternative Hypothesis suggests that progress is slow but the direction is positive.

This research will compare both hypotheses through doctrinal analysis and ultimately determine which hypothesis is more dominant.

Findings and Review Analysis

The main question is:

Has constitutional justice been able to create dignity and freedom for women in real life?

Where constitutional justice falls short

Formal Equality vs Real Conditions

Gender discrimination is still seen in the workplace

Hindering in promotion

Career halt after motherhood

Dignity under Article 21 – Practical shortcomings

The right to dignity is strong on paper, but there are shortcomings in implementation.

Structural barriers

Patriarchal social structure:

Child marriage, male inheritance, “girl marries and becomes an alien” mentality.

Laws change, but social structures change slowly.

Economic dependency:

Economic inequality limits empowerment.

Implementation gaps

Policy vs practice:

Gender Budget exists, but impact measurement system is weak.

Women welfare schemes are not implemented on time.

Laxmi v. Union of India – Strict guidelines against acid attacks, but question whether states have fully implemented them or not.

Political representation – Actual situation:

Reservation got under 73rd Constitutional Amendment, but “Sarpanch Pati” system and male influence remain.

Research: Representation has increased, but empowerment of power incomplete.

Governance challenges

Lack of institutional accountability:

Complaint system unsuccessful, limited powers of Women Commission.

Charu Khurana v. Union of India – Institutional discrimination removed, but more proactive policy needed.

Gender-Neutral vs Gender-Sensitive Policy:

Many policies are Gender Neutral, but do not take into account the specific needs of women.

Example: Women cannot take advantage of employment opportunities due to lack of security in public transport at night.

Hence, Gender Sensitivity is essential in Governance.

India has achieved Formal Equality, but Substantive Justice is still in the process. Law, implementation, and social mindset change are all necessary for women's empowerment.

Recommendations and Reform Framework

The reform framework outlined below is to convert “rights on paper” into “real life results”.

Institutional Accountability

Recommendations:

- Make annual reporting of Internal Complaints Committee mandatory in every government and private institution.
- Give more punitive powers to the Women’s Commission.
- Make Gender Audit mandatory.

Participatory Governance

Recommendations:

- Mandatory leadership training for women representatives.
- Legal penalties against the practice of “Sarpanch Pati”.
- Creation of women’s policy-consultation committees.

Gender-Sensitive Policy Design

Recommendations:

- Gender Impact Assessment mandatory for every new policy.
- Incorporate gender-based data in public transport, health and employment policies.
- Make Gender Budget Outcome-based.

Measurable Empowerment Indicators

Suggested Indicators:

- Female Labour Market Participation Rate
- Female Political Representation Percentage
- Gender Pay Gap
- Gender Gap in Education and Health
- Grievance Redressal Rate

Conclusion

Legal reforms alone are not enough for women’s empowerment; institutional accountability, policy-level sensitivity and measurable results are essential.

The Constitution has laid the foundation, the Supreme Court has shown the direction, now the responsibility for implementation and institutional reform lies with the state and society.

If the above reformative frameworks are implemented, then we can move beyond “Formal Equality” and achieve “Substantive Justice”.

The Constitution has given rights to women in India, the judiciary has recognized dignity and the state has formulated policies.

But the question is, does all this become an experience in the daily life of women?

True empowerment will happen when:

- ✓ Women can make decisions without fear.
- ✓ Are financially independent.
- ✓ Institutions become accountable.
- ✓ Society mentally accepts equality.

Women's empowerment is a journey of social change that goes beyond legal clauses.

This research finally concludes that:

"Providing equal treatment is not sufficient; transforming it a real sense is true empowerment."

And therefore, women's empowerment is not a policy issue, but a pillar of the future of India's democracy.

Reference:

- Constitution of India. (1950). Government of India.
- Vishaka v. State of Rajasthan. (1997). 6 SCC 241 (India).
- Air India v. Nergesh Meerza. (1981). 4 SCC 335 (India).
- Shayara Bano v. Union of India. (2017). 9 SCC 1 (India).
- United Nations. (2015). *Transforming our world: The 2030 Agenda for Sustainable Development*.
- Indian Young Lawyers Association v. State of Kerala. (2018). 10 SCC 1 (India).
- Secretary, Ministry of Defence v. Babita Puniya. (2020). 7 SCC 469 (India).
- Anuj Garg v. Hotel Association of India. (2007). 3 SCC 1 (India).
- Maneka Gandhi v. Union of India. (1978). 1 SCC 248 (India).
- Francis Coralie Mullin v. Administrator, Union Territory of Delhi. (1981). 1 SCC 608 (India).
- Suchita Srivastava v. Chandigarh Administration. (2009). 9 SCC 1 (India).
- Justice K.S. Puttaswamy (Retd.) v. Union of India. (2017). 10 SCC 1 (India)
- Charu Khurana v. Union of India. (2015). 1 SCC 192 (India).
- Laxmi v. Union of India. (2014). 4 SCC 427 (India).
- Government of India. (2005). Gender Budget Statement. Ministry of Finance.
- Randhir Singh v. Union of India. (1982). 1 SCC 618 (India).
- Mohini Jain v. State of Karnataka. (1992). 3 SCC 666 (India).
- Unni Krishnan, J.P. v. State of Andhra Pradesh. (1993). 1 SCC 645 (India).
- State of Kerala v. N.M. Thomas. (1976). 2 SCC 310 (India).
- United Nations. (2015). *Transforming our world: The 2030 Agenda for Sustainable Development*.

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.