

“Intersectional Approaches to Gender Justice: Evaluating Inclusive Legal Frameworks in India”

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Abstract

Gender justice in India has developed through constitutional guarantees, progressive legislation, and transformative judicial interpretation. However, women in India do not experience discrimination in uniform ways, their lived realities are shaped by intersecting identities such as caste, class, religion, disability, tribe, and sexuality. The concept of intersectionality provides a critical framework to understand how multiple and overlapping systems of oppression operate simultaneously. Intersectional approaches tends to the path of analyses fundamental rights, directive principles, affirmative action policies, political reservation mechanisms, and landmark judicial decisions to assess whether existing laws adequately address layered forms of disadvantage faced by marginalised women.

The study highlights the role of constitutional provisions such as Articles 14, 15, and 16 in promoting substantive equality, as well as the significance of political reservations under the 73rd and 74th Constitutional Amendments and the Constitution (106th Amendment) Act, 2023. Judicial interventions in cases relating to workplace equality, personal autonomy, and representation are examined to demonstrate the judiciary's contribution to inclusive gender justice. While India has made notable progress in expanding women's representation and legal protection, the paper identifies persistent challenges, including implementation gaps, socio-cultural resistance, economic dependency, and institutional bias. It argues that formal equality alone is insufficient to achieve real empowerment. The paper concludes that meaningful

gender justice in India requires explicit integration of intersectional analysis in law-making, policy formulation, and governance structures to ensure substantive equality for women across diverse social locations.

Keywords : Intersectionality, Gender Justice, Substantive Equality

1. Introduction

Gender justice is central to the constitutional vision of India. The Preamble guarantees justice—social, economic, and political—while Fundamental Rights and Directive Principles reinforce equality, dignity, and non-discrimination. The Constitution envisions a democratic society where every individual, irrespective of gender, enjoys equal opportunities and protection under the law. Over the decades, India has enacted progressive legislation and witnessed transformative judicial interpretation aimed at eliminating gender-based discrimination. Despite these constitutional commitments, structural inequality persists in multiple spheres of public and private life. Women continue to face barriers in education, employment, property ownership, political participation, access to healthcare, and access to justice.

Importantly, gender discrimination is not uniform or monolithic. Women's experiences vary depending on their social location. A Dalit woman experiences caste-based exclusion alongside patriarchal oppression.¹ A tribal woman may face displacement, land alienation, and economic marginalisation in addition to gender inequality. A Muslim woman may encounter both gender-based discrimination and communal disadvantage. Women with disabilities experience social exclusion combined with institutional inaccessibility and stigma. Similarly, women from economically weaker sections face financial dependency that restricts autonomy and political participation. These realities demonstrate that gender cannot be examined in isolation from other axes of identity.

The concept of intersectionality provides a critical framework to understand how different systems of oppression intersect and reinforce one another. In India, caste hierarchy, patriarchy, economic inequality, religious marginalisation, and social conservatism operate simultaneously to produce layered disadvantages. A single-axis approach to gender justice risks benefiting only relatively privileged women while leaving the most marginalised behind. Therefore, legal frameworks addressing gender justice must incorporate intersectional awareness to ensure that policies, laws, and institutional mechanisms respond to diverse lived experiences.²

In this context, examining India's constitutional provisions, legislative reforms, and judicial developments through an intersectional lens becomes essential. Such an approach enables a deeper evaluation of whether

¹ Sharmila Rege, *Dalit Women Talk Differently: A Critique of "Difference" and Towards a Dalit Feminist Standpoint Position*, *Economic and Political Weekly*, Vol. 33, No. 44 (1998)

² Government of India, *National Policy for the Empowerment of Women* (2001).

existing governance models truly promote substantive equality or merely formal inclusion. Only by acknowledging intersecting inequalities can the constitutional promise of justice, equality, and dignity be fully realised for all women.

2. Conceptual Framework: Intersectionality in the Indian Context

Intersectional approaches to gender equality recognize that women and gender-diverse people experience overlapping, compounded discrimination based on combinations of identity factors—such as race, class, sexuality, ability, and age—rather than gender alone. Coined by Kimberlé Crenshaw, this framework moves beyond "one-size-fits-all" advocacy to address unique, systemic power structures that marginalize specific groups.³

Intersectionality recognises that discrimination operates through interconnected systems of power rather than isolated or single categories. It challenges the traditional assumption that gender inequality can be understood independently of other social hierarchies. Instead, it emphasises that identities such as caste, class, religion, disability, tribe, sexuality, and gender identity overlap and shape experiences of discrimination in complex and interdependent ways.

In the Indian context, caste and patriarchy are deeply intertwined. Historical and social practices such as untouchability, child marriage, denial of inheritance and property rights, restrictions on mobility, and exclusion from education reflect layered forms of discrimination. These practices demonstrate that gender-based oppression often operates through caste structures and economic hierarchies. Therefore, understanding women's marginalisation requires examining how multiple systems of domination function simultaneously.

For example, Dalit women frequently face caste-based sexual violence that serves as a mechanism of social control, reflecting both caste dominance and patriarchal authority. Women from economically weaker sections experience financial dependency and limited access to political funding, which restricts their participation in governance. Tribal women often face displacement, land alienation, and loss of livelihood due to development projects, intensifying both economic and gender vulnerability. Muslim women may experience gender discrimination within personal law frameworks while also facing communal marginalisation in broader society.⁴ Women with disabilities encounter gender bias alongside physical inaccessibility, institutional neglect, and social stigma. Similarly, LGBTQ+ individuals assigned female at birth face layered discrimination based on both gender and sexual orientation or gender identity.

³ Kimberlé Crenshaw, Mapping the Margins: Intersectionality, Identity Politics, and Violence against Women of Color, 43 Stanford Law Review 1241 (1991)

⁴ Flavia Agnes, Law and Gender Inequality: The Politics of Women's Rights in India (Oxford University Press, 1999)

In India, caste remains a central axis of structural inequality. The caste system historically restricted social mobility, access to resources, education, and dignity. When caste oppression intersects with patriarchy, the resulting discrimination becomes intensified and deeply institutionalised. Economic inequality further compounds these disadvantages, limiting access to education, healthcare, legal remedies, and political representation.⁵

Intersectionality therefore challenges the notion that women form a homogeneous category with uniform experiences. A single-axis approach to gender justice risks benefiting only relatively privileged women while excluding those situated at the margins. An intersectional approach requires legal frameworks and governance models to acknowledge overlapping identities and design targeted, context-sensitive interventions rather than one-size-fits-all policies.

Thus, gender justice cannot be reduced merely to numerical representation or formal equality. It must address the social, economic, cultural, and institutional hierarchies that structure inequality. Only by recognising and responding to intersecting systems of disadvantage can legal frameworks move toward substantive equality and inclusive justice in India.

3. Historical Background

The development of gender justice in India is rooted in social reform movements of the 19th century. Reformers such as Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar campaigned against practices like sati, child marriage, and restrictions on widow remarriage. These early reform efforts challenged entrenched patriarchal norms and laid the foundation for legal intervention in matters affecting women.

During the colonial period, certain legislative measures such as the abolition of sati (1829) and the Hindu Widow Remarriage Act (1856) were introduced. However, these reforms were limited in scope and did not fully dismantle caste-based and patriarchal hierarchies.⁶

A significant turning point came with the adoption of the Constitution of India in 1950. The Constitution guaranteed equality before law, prohibited discrimination on grounds of sex, and allowed special provisions for women and socially backward classes. Post-independence legal reforms, including changes in personal laws and labour protections, further strengthened women's rights.

The 73rd and 74th Constitutional Amendments (1992) expanded women's political participation through reservation in local governance. In recent decades, the focus has shifted toward intersectionality,

⁵ M.N. Srinivas, *Caste in Modern India and Other Essays* (1962)

⁶ Lata Mani, *Contentious Traditions: The Debate on Sati in Colonial India* (1998).

recognising that gender discrimination interacts with caste, class, religion, and disability, requiring more inclusive legal frameworks.⁷

4. Objective of the Research

- To examine the concept of intersectionality in the Indian context.
 - To analyse constitutional provisions relating to gender equality and affirmative action.
 - To evaluate key legislations and judicial decisions addressing intersectional discrimination.
 - To assess the effectiveness of political reservation in promoting inclusive representation.
 - To identify implementation gaps and structural barriers.
 - To suggest reforms for strengthening intersectional gender justice in India.
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5. Hypothesis of Research

Although the Indian constitutional and legal framework provides a strong foundation for gender equality, it does not fully incorporate an explicit intersectional approach in its implementation.

6. Scope of the Research

Intersectional approaches to gender justice within the Indian legal and constitutional framework. It focuses on constitutional provisions related to equality and affirmative action, key legislations addressing gender-based discrimination, and significant judicial decisions that interpret and expand the scope of substantive equality. The study also analyses political reservation policies and governance mechanisms to evaluate their effectiveness in promoting inclusive representation.

The scope is limited to the Indian context and primarily adopts a doctrinal and analytical approach based on legal texts, case laws, and secondary academic sources. While it discusses socio-economic dimensions of inequality, the research does not include empirical field studies. The central aim is to assess whether existing legal frameworks adequately address intersecting forms of discrimination and to suggest reforms for strengthening intersectional gender justice in India.

7. Methodology of Research

This research adopts a doctrinal and analytical approach. It is based on the study of constitutional provisions, relevant statutes, landmark judicial decisions, and scholarly literature on gender justice and

⁷ 73rd and 74th Constitutional Amendments (1992)

intersectionality in India. The study involves critical analysis of legal texts and secondary sources to evaluate whether existing frameworks adequately address intersectional discrimination and promote substantive equality.

7. Significance of Research

This research is significant as it highlights the need to examine gender justice in India through an intersectional lens rather than a single-axis approach. By analysing constitutional provisions, legislations, and judicial decisions, the study contributes to understanding how overlapping identities such as caste, class, religion, disability, and sexuality shape women's experiences of discrimination.

The research also identifies gaps in implementation and policy design, thereby offering insights for legal reform and inclusive governance. It is particularly relevant for strengthening affirmative action, political representation, and institutional accountability. Ultimately, the study contributes to academic discourse and policy development by emphasising the importance of substantive equality in achieving meaningful gender justice in India.

9. Relevant Legislative Provisions on the Topic

Constitutional Foundations of Intersectional Gender Justice:

Article 14- Equality Before Law :Article 14 guarantees equality before law and equal protection of laws. The Supreme Court has interpreted this provision to prohibit arbitrariness and promote substantive equality. Substantive equality recognises that identical treatment may perpetuate inequality where structural disadvantages exist. Therefore, differential treatment to uplift marginalised groups is constitutionally valid. This interpretation forms the foundation for affirmative action policies benefiting women from disadvantaged communities.⁸

Article 15: Non-Discrimination and Special Provisions- Article 15(1) prohibits discrimination on grounds including sex, caste, and religion. Article 15(3) empowers the State to make special provisions for women and children. Article 15(4) permits measures for socially and educationally backward classes. Together, these provisions create constitutional space for intersectional affirmative action. For instance,

⁸ Bare Act: The Constitution of India, Lexis Nexis

reservation for Scheduled Caste women in Panchayats combines gender-based and caste-based measures, reflecting layered protection.

Article 16: Equality in Public Employment - Article 16 guarantees equality of opportunity in public employment. Reservation policies for SC/ST categories include women within those groups, promoting representation in administrative structures. Inclusion in civil services ensures that governance mechanisms reflect social diversity.

Directive Principles of State Policy: Article 39(a) and (d) direct the State to ensure equal livelihood and equal pay. Article 42 mandates humane working conditions and maternity relief. Though non-justiciable, these principles guide inclusive socio-economic reforms and link economic empowerment with political participation.⁹

Political Representation and Intersectional Governance : The 73rd and 74th Constitutional Amendments introduced reservation for women in Panchayats and Municipalities. Importantly, the framework includes sub-reservation for SC and ST women, recognising caste-based marginalisation within gender representation. Bare Act: The Constitution of India, Lexis Nexis

This reform resulted in millions of women entering local governance. Studies show increased focus on sanitation, drinking water, maternal health, and education in women-led Panchayats. Many states have extended reservation to 50 percent.¹⁰

The Constitution (106th Amendment) Act, 2023 provides one-third reservation for women in Parliament and State Assemblies, extending intersectional inclusion to higher legislative bodies.¹¹

Legislative Frameworks Reflecting Intersectional Concerns:

India has enacted several laws addressing gender justice with intersectional dimensions, reflecting an effort to respond to layered forms of discrimination faced by women across different social locations. These legislative measures go beyond formal equality and attempt to address structural vulnerabilities linked to caste, disability, employment status, and gender identity.

The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 addresses caste-based violence and discrimination, including sexual offences committed against Dalit and tribal women. The Act recognises that violence against women from Scheduled Castes and Scheduled Tribes is often not merely

⁹ M.P.Jain, The Constitution of India

¹⁰ 73rd and 74th Constitutional Amendments

¹¹ The Constitution (106th Amendment) Act, 2023

gendered but also rooted in caste hierarchy and social domination. By providing special courts, enhanced punishments, and victim protection mechanisms, the law seeks to address structural power imbalances.¹²

The Protection of Women from Domestic Violence Act, 2005 expands the understanding of domestic violence beyond physical abuse to include emotional, verbal, sexual, and economic abuse. It provides civil remedies such as protection orders, residence rights, and monetary relief, thereby addressing the economic dependency that disproportionately affects women, particularly those from lower socio-economic backgrounds.¹³

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 extends protection to women in both organised and unorganised sectors. By covering domestic workers and informal labourers, the Act acknowledges that vulnerability to harassment is often shaped by class, employment insecurity, and power asymmetry.¹⁴

The Rights of Persons with Disabilities Act, 2016 incorporates gender-sensitive provisions and recognises that women with disabilities face multiple barriers, including discrimination in education, employment, healthcare, and reproductive autonomy.¹⁵

The Transgender Persons (Protection of Rights) Act, 2019 expands the scope of gender justice beyond binary categories by prohibiting discrimination based on gender identity. It attempts to address exclusion in employment, healthcare, housing, and education, thereby recognising the intersection of gender identity with socio-economic marginalisation.¹⁶

Although these laws reflect progressive intent and constitutional commitment to inclusion, their transformative potential is often limited by weak enforcement, lack of awareness, institutional bias, under-reporting of offences, and socio-cultural resistance. Effective implementation requires stronger accountability mechanisms, legal literacy programs, and sustained institutional support to ensure that intersectional justice moves beyond legislative text into lived reality.

10. Judicial Case Laws

State of Kerala v. N.M. Thomas (1976) :

¹² Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; see also Subhash Kashinath Mahajan v. State of Maharashtra, (2018) 6 SCC 454

¹³ Protection of Women from Domestic Violence Act, 2005

¹⁴ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Vishaka v. State of Rajasthan, (1997) 6 SCC 241

¹⁵ Rights of Persons with Disabilities Act, 2016;

¹⁶ Transgender Persons (Protection of Rights) Act, 2019

The Supreme Court emphasised substantive equality and upheld affirmative action in promotions. Though primarily concerning caste, the judgment reinforced the principle that equality permits differential treatment to remedy structural disadvantage—an idea central to intersectionality.¹⁷

Indra Sawhney v. Union of India (1992):

While dealing with reservation for Other Backward Classes, the Court recognised social and educational backwardness as valid grounds for affirmative action. The decision strengthened constitutional support for layered reservation policies, indirectly benefiting intersectional groups such as backward-class women.¹⁸

Vishaka v. State of Rajasthan (1997):

The Court recognised sexual harassment as a violation of Articles 14, 15, and 21. It acknowledged that workplace harassment disproportionately affects women's economic participation, particularly those in vulnerable employment.

Anuj Garg v. Hotel Association of India (2008)

The Court struck down a law prohibiting women from working in establishments serving alcohol. It rejected paternalistic protectionism and emphasised autonomy and substantive equality.¹⁹

Navtej Singh Johar v. Union of India (2018)

The Court decriminalised consensual same-sex relations, recognising dignity, privacy, and identity. It broadened the understanding of gender justice to include sexual minorities, aligning with intersectional principles.²⁰

Joseph Shine v. Union of India (2018)

The Supreme Court struck down the adultery law for treating women as property of husbands. The judgment affirmed autonomy and gender equality, rejecting patriarchal assumptions embedded in criminal law.²¹

Secretary, Ministry of Defence v. Babita Puniya (2020)

The Court granted permanent commission to women in the Indian Army, rejecting stereotypes regarding women's capabilities. It emphasised that structural barriers must be dismantled to ensure real equality in public institutions.²²

¹⁷ SCC Online: <https://www.scconline.com>

¹⁸ Indian Kanoon: <https://www.indiankanoon.org>

¹⁹ Indian Kanoon: <https://www.indiankanoon.org>

²⁰ SCC Online: <https://www.scconline.com>

²¹ SCC Online: <https://www.scconline.com>

²² Indian Kanoon: <https://www.indiankanoon.org>

11. Major Findings:

Strong Constitutional Foundation but Uneven Implementation: The Indian Constitution provides a robust framework for gender justice through Articles 14, 15, 16, and Directive Principles. These provisions support substantive equality and affirmative action. However, implementation gaps weaken their transformative impact, especially for marginalised women.

Intersectionality Partially Recognised in Law : Certain laws, such as the SC/ST (Prevention of Atrocities) Act and political reservation provisions, reflect intersectional awareness by combining caste and gender considerations. However, most legal frameworks address gender in isolation rather than systematically integrating caste, class, disability, and religion.

Political Reservation Improved Representation but Not Full Empowerment: The 73rd and 74th Constitutional Amendments significantly increased women's participation at the grassroots level. Sub-reservation for SC/ST women is a positive intersectional measure. Yet, proxy leadership, lack of training, and financial dependence limit effective decision-making power.

Judicial Activism Advanced Substantive Equality : Landmark judgments such as Vishaka, Babita Puniya, and NALSA expanded the scope of gender justice by recognising dignity, autonomy, and non-discrimination. The judiciary has played a crucial role in interpreting equality beyond formal sameness.

Economic Inequality Remains a Core Barrier: Economic dependency, informal employment, wage gaps, and limited access to political funding restrict women's meaningful participation in governance. Intersectional disadvantages intensify these barriers for Dalit, tribal, Muslim, and disabled women.

Fragmented Legal Framework : Gender-related protections exist across multiple statutes, but there is no unified intersectional policy framework. Lack of coordination between welfare schemes, legal protections, and governance reforms reduces effectiveness.

Need for Structural and Institutional Reform: Legal reform alone is insufficient. Capacity-building, awareness programs, gender-sensitive training for institutions, and political party reforms are necessary to translate formal rights into substantive empowerment.

Socio-Economic Dimensions of Intersectional Justice: Economic independence is crucial for political empowerment. Women's labour force participation remains low, particularly among marginalised communities. Informal sector employment lacks security and benefits.

Dalit and tribal women are often engaged in manual labour with wage discrimination. Muslim women experience lower literacy and employment rates. Women with disabilities face accessibility barriers.

Government schemes such as self-help groups, skill development programs, and microfinance initiatives attempt to address these inequalities. However, uneven implementation limits impact. Education, healthcare access, and digital inclusion are equally essential for intersectional empowerment.

Persistent Challenges: Despite progressive frameworks following are challenges which still prevails:

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- Implementation remains inconsistent.
 - Social norms discourage independent decision-making by women.
 - Legal awareness among marginalised women is limited.
 - Data disaggregated by caste, gender, disability, and religion is insufficient.
 - Judicial delays undermine access to justice.
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Intersectional gender justice requires structural transformation rather than isolated reforms.

12.Suggestions and Conclusion.

Suggestions:

Introduce Intersectional Impact Assessments: All gender-related laws and policies should be evaluated for their impact across caste, class, religion, disability, region, and sexuality to ensure inclusive implementation.

Strengthen Capacity-Building : Provide regular training to elected women representatives, especially from marginalised communities, to enhance governance skills and independent decision-making.

Enhance Legal Aid and Awareness: Expand legal literacy programs and strengthen free legal aid services in rural and disadvantaged areas to improve access to justice.

Reform Political Party Practices: Political parties should adopt transparent and inclusive nomination processes to ensure diverse women's representation.

Promote Institutional Sensitisation: Judges, police, and administrators should receive gender- and caste-sensitive training to ensure fair enforcement of laws.

Improve Data Collection: Strengthen gender-disaggregated data systems further classified by caste, disability, religion, and region for better policy planning.

Ensure Strong Enforcement: Improve monitoring mechanisms and judicial efficiency to make gender justice laws more effective.

Promote Economic Empowerment: Expand skill development, credit access, and equal employment opportunities to reduce economic dependency and enhance participation in governance.

Conclusion:

Gender justice in India rests on a strong constitutional and legal foundation that promotes equality, dignity, and representation. However, women's experiences are shaped by intersecting identities such as caste, class, religion, disability, and sexuality, making a single-axis approach inadequate. While progressive laws and judicial decisions have expanded rights, gaps in implementation and structural barriers continue to limit real empowerment.

Achieving substantive equality requires integrating intersectionality into legislation, policy-making, and institutional practices. Strengthening enforcement, capacity-building, political inclusion, and economic empowerment is essential to translate constitutional promises into lived realities. True gender justice is not only a legal mandate but a democratic necessity for inclusive governance in India.

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