

A Study on Gender Justice and Enforcement of Law

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Abstract - This research looks at the real-life problems women have when trying to get legal help and how gender justice laws are really enforced. Despite the existence of many laws meant to safeguard women against assault and discrimination based on their gender, there are still gaps in their implementation caused by institutional, social, and cultural obstacles. To evaluate the efficacy of these legislation, the research used a mixed-method approach, integrating quantitative survey data with qualitative interview insights. The results show that women aren't aware of the problem, that law enforcement isn't effective, and that patriarchal traditions are a major obstacle to justice. Additionally, the study underscores the compounded discrimination faced by marginalized groups, emphasizing the need for an intersectional approach to gender justice. Recommendations are provided to improve legal awareness, strengthen institutional responses, and enhance support for victims.

Keywords: Gender justice, Law enforcement, Gender-based violence, Women's rights

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INTRODUCTION

The fight for human rights and equality has made gender justice a central tenet. In both the public and commercial sectors, it means treating people fairly regardless of their gender. Achieving formal legal equality is just one aspect of gender justice; other aspects include fighting systematic discrimination, guaranteeing substantive equality, and strengthening oppressed genders, especially women and non-binary people. The enforcement of laws that promote gender justice is essential to reaching these objectives, but there is still a long way to go until these goals are realized. This empirical research delves at the challenges that persons, particularly women, have when trying to obtain justice and how well legal systems work to promote gender justice.

Significant legal progress has been made in the previous several decades as a result of the worldwide drive for gender equality. These advancements are reflected in national legislation that tackle topics like sexual harassment, domestic violence, job discrimination, reproductive rights, and international accords like the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW).

Despite the good intentions behind these regulations, there are several social, institutional, and cultural obstacles that make it difficult to implement them.

LEGAL FRAMEWORK FOR GENDER JUSTICE

Globally, gender justice has been enshrined in numerous international conventions and national legal systems. Conventions such as the **CEDAW (Convention on the Elimination of All Forms of Discrimination Against Women)** have provided guidelines for member states to enact gender-equitable laws. Countries have responded with laws addressing domestic violence, sexual harassment, workplace rights, and reproductive health.

However, as highlighted in several empirical studies, there is often a significant gap between the existence of these laws and their practical enforcement. Scholars like **Sally Engle Merry** and **Dorothy Roberts** argue that the legal frameworks themselves are not enough to address deep-rooted gender inequalities. Enforcement mechanisms, coupled with societal transformations, are crucial to ensure substantive justice.

In many countries, laws addressing gender-based violence, equal pay, workplace discrimination, and

political representation are already in place. These laws provide the framework for addressing gender injustices. However, despite these formal legal frameworks, the lived experiences of women and marginalized genders highlight persistent inequalities.

For instance, laws such as the **Prevention, Prohibition, and Redressal (Sexual Harassment of Women at Workplace) Act, 2013** in India or the **Equal Pay Act** in various countries aim to ensure fair treatment. However, systemic barriers like patriarchal social norms, institutional biases, and inadequate enforcement mechanisms restrict the efficacy of these regulations.

GENDER JUSTICE AND CONSTITUTION

Despite the many obstacles women encounter, they continue to be stereotyped despite their centrality to society and unique status in every country on the planet. Even India, a contradictory country, is not an exception. Empowering women is important in this setting since they are valued as symbols of Shakti. There must be a shift in the legal, social, political, and economic climate to better empower women. However, societal awareness to women's problems is the bedrock of gender equality and empowerment [1].

Gender justice is shown by the many provisions in the Constitution that provide men's and women's equal rights and opportunities. Key aspects to consider are:-

According to several publications, the Indian Constitution's framers gave careful consideration to women's struggles in Indian culture. Women in India are guaranteed certain rights under the Constitution, which is generally considered the highest law of the nation. The right to be free from discrimination is guaranteed under Article 15. The foundation of the right against discrimination was motivated by the prevalent sexism and misogyny that existed at the time. Article 15.3 addresses the specific protections granted to women, whereas Article 16 guarantees equal employment opportunities for all people, irrespective of gender. By enacting this measure, we want to encourage more women to cast ballots and take part in policymaking. This is the context in which the 74th amendment, which mandated gender quotas in Panchayats, must be interpreted. By virtue of Article 19, we are granted the liberty to speak our minds both orally and in writing, to congregate without resorting to violence, to establish and join unions and associations, to traverse the Indian subcontinent at will, to reside and work in any place we choose, and to travel all over the globe. Providing the freedoms necessary to participate in society, this improves the right to equality. Achieving gender justice requires gender equality first. Article 39 of the constitution guarantees all citizens the right to adequate food, housing, and medical care, as well as the right to an equal wage for equal effort. According to Article 42, the government is

obligated to provide fair working conditions and offer time off for mothers.

Work for men and women often falls into distinct categories in most cultures. That is why it is absolutely not "natural" for men and women to do different amounts of labor. This is unrelated to biology as men and women do distinct types of domestic and outdoor labor. Men are perfectly capable of doing all the housekeeping, cooking, cleaning, child care, etc. that women do, and pregnancy is the only really biological process. The regrettable stigmatization of this labor as "women's labour" stinks. Both the paid "public" sector and the home are structured according to traditional gender roles. What important is that women always experience lower pay and poorer favorability whatever of the job they undertake, regardless of whether it is labelled "women's labour" or not. For instance, middle-class women choose higher-paying occupations, whereas women in nursing and teaching, especially at lower levels, earn less.

In India, women make up almost one-third of the working-age population. A higher proportion of rural women than urban women work in agriculture and other unorganized jobs. Many women in metropolitan areas work as domestic staff, ironers, vendors of fresh produce, and construction workers, among many other vocations. Traditional and low-skilled occupations make up the bulk of the informal sector, which employs a disproportionate number of women in India. The informal sector employs more than 80% of city people; this sector is known for its low salaries, long hours, and lack of PTO, as well as its lack of social security benefits such as health insurance, pensions, and paid sick leave.

POSITION OF WOMEN IN ANCIENT INDIA

The way women are treated in a culture reflects the socioeconomic conditions of that community. Paternalism has long been a defining feature of Indian society. A number of deities, including Marichi, Yama, Yajnavalkya, and Manu, established rules that were exclusive to women. The legislators imposed the requirement that girls must be married before they reach puberty. A close examination of ancient texts reveals that the position of women varied throughout the ancient era. But women's lives were often short, and they were expected to follow the lead of their male relatives [2]. One of the dictums written by the ancient legal philosopher Manu [3] states that a woman needs to stay subservient throughout her entire life. After serving her father as a child, her husband and his extended family as an adult, and her son after his widow's death, a woman is never really prepared to be independent. In another place, the author adds, "Gods dwell where women are worshipped" [4]. Women, who are more committed to their spouses and Dharma than men, are the offspring of women, according to the ancient philosopher Varahamihira, who spent a considerable amount of space praising them in his enormous work. Despite their great

status as wives and mothers, women clearly lacked autonomy in other spheres of society. Although several female sages and seers are described in ancient scriptures such as the Rig Veda and the Upanishads, the general situation for women was far from perfect [5].

The position of women was fluid and subject to change all through ancient India. It is reasonable to assume that the Brahmana period saw the start of change, even if it is in its infancy. When it came to managing the home and caring for the children, mothers often enjoyed a lot of freedom. A few of the ladies from the upper class were not only very bright, but they also contributed significantly to philosophical debates. In reality, both boys and girls were welcome in the upanayan rite of passage, which introduced them to the scholastic traditions of Vedic India. Regardless, Hindu households did not traditionally provide their daughters with much authority or responsibility positions. She was nurtured with tender loving care, taught to be modest, and encouraged to be an independent woman. Although marriage had great religious and social importance, the widespread usage of the word "Amajur" suggests that it was not mandatory. Although women's position was high during the early Vedic period, it was commonly assumed that it declined throughout the later Vedic period [6].

HISTORICAL BACKGROUND OF CHILD LABOUR IN INDIA

There is evidence from ancient Indian history that shows how gender, age, family, and caste all played a role in childrearing. On the other hand, kings like Ashoka (268–31 B.C.) and Chandragupta Vikramaditya (c. A.D. 375–415) sought to spread a moral code that saw loyalty to parents and respect for elders as both desirable and expected. The most prevalent kind of child labour in ancient India was child slavery. In the third century B.C., according to Kautilya's Arthshastra, domestic slavery was prevalent in certain affluent households, with the slaves being members of lesser castes. With the arrival of Afghans, Turks, Arabs, and Mughals, the Middle Ages lasted from about the eleventh to the seventeenth century. It was common practice to hire youngsters as apprentices to painters and craftspeople, and certain occupations relied only on this workforce [7].

Many children work for companies that focus on carpet making, cotton weaving, and silk weaving. The agricultural system compensated youngsters depending on their abilities. Despite the prevalence of child labor in earlier agrarian societies, the issue gained more attention and encountered resistance throughout the 18th century, when England saw a profound economic and social upheaval due to the Industrial Revolution. The Industrial Revolution saw the emergence of tools that could evaluate internal transactions, such as control systems and ownership. The proprietors of the mill and, subsequently, the factory, hired a huge number of children under the age of 18. Many young people are compelled to work as

manual laborers in the fields due to the significant rise in the demand for agricultural labor caused by adult male migration to urban centers [8].

As other nations began to industrialize, it spread and became one of the most recognized scandals of the 1800s. Even though there is historical and sociological understanding about ancient Indian civilization, there are still underlying prejudices concerning childrearing. In an effort to bring social harmony, the Ashoka king Chandragupta Vikramaditya (268–31 B.C.) (375–415 A.D.) sought to codify universally accepted moral principles. As a whole, children often suffer as a result of the financial crisis their parents experience. No family should have to go hungry or go without proper education because of financial constraints; this is particularly true in rural regions. Despite its ubiquitous nature, the prior focus on basic education progressively waned [9].

Following are some sections outlining the origins of child labour:

- Child Labour After the Independence of India
- Child Labour in Ancient India
- Child Labour in Medieval Period
- Child Labour in Modern Period
- Constitutional Provisions
- Legislative Enactments

The gap between the existence of gender justice laws and their effective implementation remains a critical issue. Despite the existence of laws meant to safeguard women's rights, the research reveals that these laws are rendered ineffective due to systemic challenges such as inadequate enforcement, societal norms, and institutional biases. A lack of knowledge, patriarchal beliefs, and social shame all make matters worse. Gender justice cannot be achieved via legal frameworks alone; these obstacles must be addressed [10].

The Role of Law Enforcement and Judiciary

It is impossible to exaggerate the importance of the legal system and police enforcement in achieving gender parity. But victims of gender-based crimes are not adequately protected since these institutions are not gender sensitive. A more victim-centered approach in judicial processes is necessary, and there should be gender sensitization training for police officers.

Intersectional Approach to Gender Justice

An intersectional approach to gender justice is crucial for addressing the compounded inequalities

faced by women from marginalized communities. Recognizing the intersecting identities of women and how factors such as caste, race, and religion influence their experiences of justice is essential for crafting more inclusive legal frameworks.

GENDER-BASED VIOLENCE AND LAW ENFORCEMENT

How the law should respond to cases of gender-based violence is a hotly contested topic in the field of gender justice. **Domestic Violence Act, 2005** in India and **Violence Against Women Act (VAWA)** in the US are examples of laws that ban violence against women; yet, their implementation is sometimes uneven. Many studies have shown that victims of abuse do not get prompt and compassionate responses from law enforcement due to institutional biases and patriarchal attitudes. Underreporting or insufficient follow-ups in instances of sexual assault and domestic abuse are common, according to Amnesty International's criticism of police forces' lack of accountability [11].

GENDER SENSITIZATION AND INSTITUTIONAL REFORMS

There is a lot of research that stresses how important it is for public institutions, courts, and police departments to be more gender sensitive. If the institutions tasked with enforcing the law are deeply rooted in patriarchal values, then even the rule of law cannot provide fairness, argue **Carol Smart** and **Margaret Thornton**. To ensure that incidents of gender-based violence, employment discrimination, and harassment are handled professionally and with empathy, it is crucial that law enforcement, judges, and attorneys undergo gender-sensitive training [12].

Programs aimed at gender sensitization, such as India's **Mahila Police Volunteers (MPV)** initiative and international efforts by organizations like **UN Women**, have yielded positive results in certain regions, but remain unevenly applied across the globe.

INTERSECTIONALITY AND GENDER JUSTICE

The concept of **intersectionality**, introduced by **Kimberlé Crenshaw**, has revolutionized the way gender justice is perceived. Intersectionality highlights the compounded discrimination faced by individuals who belong to multiple marginalized groups, such as women of color, disabled women, and LGBTQ+ individuals. These intersecting identities create unique barriers to justice that are often ignored in mainstream legal frameworks. Scholars like **Nivedita Menon** and **Angela Davis** have expanded on this, calling for an intersectional approach to gender justice laws that

consider race, class, caste, and sexuality alongside gender [13].

In countries like India, caste-based discrimination further exacerbates gender inequality. **Sharmila Rege's** work on Feminism within the Dalit community has brought attention to the ways in which caste and gender contribute to the prejudice and violence that Dalit women face. The law, while addressing gender justice on a broad scale, often fails to account for these intersecting identities, thereby rendering marginalized groups invisible in legal remedies.

BARRIERS TO LEGAL ENFORCEMENT

One of the most recurrent themes in gender justice literature is the systemic barriers women face in accessing legal justice. These barriers include [14]:

1. **Lack of Awareness:** Many women, particularly in rural or marginalized communities, are unaware of their legal rights, as pointed out by **Flavia Agnes** in her work on women's legal struggles in India.
2. **Social Norms:** Cultural stigmas surrounding gender-based violence and discrimination discourage many from seeking justice. **Sylvia Tamale** discusses how societal norms in African countries often prioritize family honor and community over individual rights, making it difficult for women to come forward.
3. **Institutional Gaps:** Law enforcement and the judicial system are notoriously slow and ineffective. Research shows that victims of gender-based violence often experience more victimization as they go through the judicial system. Their credibility is sometimes called into question or their cases are rejected because of procedural gaps. According to **Catherine MacKinnon**, these institutional prejudices prevent women from achieving justice via the judicial system and thereby maintain patriarchal control over their lives.

RECOMMENDATIONS

Based on the findings, the following recommendations are proposed to enhance the enforcement of gender justice laws [15]:

1. **Strengthening Legal Awareness:** Gender justice laws need more public education, especially in underserved areas and rural areas. A greater awareness of the rules may be achieved by educational initiatives that specifically target women and law enforcement officials.
2. **Gender Sensitization of Law Enforcement:** Training programs should be mandatory for

police and judicial officials to ensure they handle gender-related cases with sensitivity and professionalism.

3. **Support Systems for Victims:** Women fighting for justice would greatly benefit from the expansion of victim support centers, shelters, and legal assistance programs.
4. **Intersectional Policies:** Equal access to justice for disadvantaged women depends on laws and policies that consider the interplay between gender and other socioeconomic issues.
5. **Monitoring and Accountability:** The establishment of independent bodies to monitor the enforcement of gender justice laws would ensure greater accountability from law enforcement agencies and the judiciary.

CONCLUSION

Achieving gender justice requires more than just passing laws; it necessitates the creation of an environment where these laws are enforced effectively, and women feel empowered to seek justice. Addressing institutional shortcomings, breaking down cultural barriers, and adopting an intersectional approach are key to bridging the gap between gender justice laws and their implementation. Only through these concerted efforts can true gender justice be realized in society.

REFERENCES

1. Y.S. Sidde, Gowda and R. Indira," Women Workers in Agarbathi Industry: A Study," 'Indian Journal of Social Work', 1987, Oct., pp. 247-249. 14.
2. Majumdar, R.C & Pusalker, A.D. The History and Culture of the Indian People. vol I, The Vedic Age, Bombay: Bharatiya Vidya Bhavan. 1951
3. Thomas, P. Indian Women through the Ages, Asia Publishing House, New York, 1964, p. 220.
4. Manu Smriti (III.56)
5. Singh,S..Examining the Dharma Driven Identity of Women: Mahabharata's Kunti in, Indu Swami ed. The Woman Question in the Contemporary Indian English Women Writings, Delhi: Sarup. 2009
6. Jayapalan, N. Indian Society and Social Institutions. Atlantic Publishers & Distributors, New Delhi, 2001.
7. H.L. Kumar, *Obligations of Employers* 39 (Universal Law publishing, Delhi, 2010).
8. Vijay Kumar Dewan, *Child Labour: A Socio-*

Legal Perspective 601 (Pentagon Press, Delhi, 2009).

9. S.N. Tripathy, *Exploitation of Child Labour in tribal India* 25 (South Asia Books, Delhi, 1991).
10. Merry, S. E. (2006). *Human Rights and Gender Violence: Translating International Law into Local Justice*. University of Chicago Press.
11. Menon, N. (2004). *Recovering Subversion: Feminist Politics Beyond the Law*. University of Illinois Press.
12. Rege, S. (2006). Writing Caste/Writing Gender: Narrating Dalit Women's Testimonies. *Zubaan*.
13. Tamale, S. (2008). The Right to Culture and the Culture of Rights: A Critical Perspective on Women's Sexual Rights in Africa. *Feminist Legal Studies*, 16, 47-69.
14. UN Women (2020). *Handbook for Gender-responsive Policing Services for Women and Girls*. UN Women. Retrieved from www.unwomen.org
15. Amnesty International (2017). *Report: Addressing Gender-Based Violence in Law Enforcement*. Amnesty International. Retrieved from www.amnesty.org

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