

## Realising Gender Justice in the 21st Century: Law, Policy, and Socio-Legal Challenges

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### Abstract:

Gender justice has emerged as a central concern in contemporary legal and policy discourse, reflecting the persistent gap between formal equality guarantees and lived realities of discrimination. Despite constitutional commitments and international human rights obligations, women and gender diverse persons continue to face structural, institutional and socio-cultural barriers that undermine substantive equality. This paper examines gender justice as a multidimensional legal concept situated at the intersection of law, society and power structures. Drawing upon feminist legal theory, intersectionality, and human rights frameworks, the study critically analyses the evolution of gender justice debates and evaluates existing legal and policy mechanisms at both international and national levels. It engages with key instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), constitutional equality provisions and gender specific legislation addressing domestic violence, workplace discrimination and access to justice. The paper further explores socio-legal barriers, including patriarchal norms, institutional deficits, and the compounded marginalisation experienced by women across caste, class, disability and other axes of identity. Through an examination of landmark judicial decisions, the study assesses the role of courts in advancing gender justice while identifying persistent gaps in judicial protection. Comparative perspectives from selected jurisdictions highlight both innovative practices and continuing limitations. The paper concludes by proposing targeted policy and institutional reforms aimed at strengthening enforcement, promoting gender-sensitive legal systems, and advancing substantive gender justice. By integrating doctrinal, socio-legal and comparative analysis, this study contributes to contemporary gender justice scholarship and offers pathways for more inclusive and effective legal reform.

**Keywords:** Gender Justice, Substantive Equality, Feminist Legal Theory, Intersectionality, Human Rights Law, Judicial Responses

### 1. INTRODUCTION

Gender justice occupies a central position in contemporary legal and policy discourse, reflecting the ongoing struggle to translate formal guarantees of equality into meaningful and lived realities. While most modern legal systems proclaim equality before the law, gender based discrimination continues to persist across social, economic, political and cultural spheres. Law, as both a normative and regulatory instrument, plays a crucial role in shaping gender relations, either by challenging entrenched hierarchies or, at times, reinforcing them. The pursuit of gender justice therefore requires not only legal recognition of equality but also structural transformation to address systemic disadvantages rooted in patriarchy, social norms and institutional practices. At its core, gender justice extends beyond the narrow notion of equal treatment to encompass fairness, dignity, and empowerment for individuals across gender identities. It is closely linked to the distinction between formal equality which mandates identical treatment regardless of social context and substantive equality, which recognises historical disadvantage and seeks to achieve equitable outcomes through differential and affirmative measures. Legal systems that rely solely on formal equality often fail to address deeply embedded power imbalances, thereby perpetuating exclusion and discrimination.

Consequently, contemporary gender justice scholarship increasingly emphasises substantive equality as the normative standard for evaluating laws, policies and judicial interventions. The relevance of gender justice is further underscored by international human rights developments. Instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), along with evolving jurisprudence of international and regional human rights bodies, have expanded the understanding of state obligations from mere non-discrimination to proactive measures ensuring gender-sensitive governance. At the national level, constitutional guarantees of equality and non-discrimination, coupled with gender specific legislation addressing issues such as domestic violence, workplace harassment, and reproductive rights, represent important legal advances. However, the gap between legal frameworks and effective implementation remains a persistent concern. Socio-legal realities significantly complicate the pursuit of gender justice. Patriarchal norms, cultural practices, and stigma continue to shape access to education, employment, healthcare and justice systems. Institutional barriers such as inadequate enforcement mechanisms, procedural delays, and lack of gender sensitive training among legal actors further undermine the transformative potential of the law.

Moreover, gender discrimination is not experienced uniformly, it is compounded by intersecting factors such as caste, class, disability, ethnicity and socio-economic status. An intersectional approach is therefore essential to understanding how multiple axes of disadvantage interact to produce distinct forms of marginalisation. Judicial institutions play a pivotal role in interpreting and operationalising gender justice norms. Courts have, in several instances, expanded the scope of equality and non-discrimination through progressive interpretations, contributing to the advancement of women's rights and gender justice. Yet, judicial responses have not been uniformly progressive, and gaps persist in addressing structural inequalities and lived experiences. Comparative analysis of different jurisdictions reveals varying approaches to balancing individual rights, social realities and institutional constraints, offering valuable insights into best practices and persistent challenges. Against this backdrop, the present study seeks to critically examine gender justice through a doctrinal, socio-legal, and comparative lens. The paper aims to analyse existing legal and policy frameworks, identify socio-legal barriers, evaluate judicial responses, and draw lessons from comparative experiences. The central objective is to assess whether current legal mechanisms effectively promote substantive gender justice and to propose reforms that strengthen enforcement, inclusivity, and institutional accountability. By integrating theory, law and practice, this study contributes to ongoing debates on gender justice and underscores the necessity of reimagining legal systems to achieve genuine equality and social transformation.

### 2. LITERATURE REVIEW

The discourse on gender justice has evolved significantly over time, reflecting shifts in social movements, legal theory and international human rights norms. Early legal approaches to gender equality were largely grounded in liberal notions of formal equality, which focused on eliminating explicit legal discrimination against women. While these approaches played an important role in securing basic civil and political rights, scholars soon highlighted their limitations in addressing structural and systemic inequalities embedded within social and institutional frameworks. As a result, gender justice scholarship progressively moved beyond formal equality towards more substantive and transformative understandings of justice.

**Historical Evolution of Gender Justice Debates:** The historical evolution of gender justice is closely linked to feminist movements and their engagement with law. First wave feminism primarily sought legal recognition of women's rights, particularly suffrage and legal personhood. Second wave feminist scholarship expanded the scope of inquiry to include private spheres such as family, work and sexuality, exposing how ostensibly neutral laws often perpetuated patriarchal power structures. Contemporary gender justice debates, influenced by third wave and post colonial feminism, emphasise diversity of experiences and critique universalised notions of womanhood. These developments underscore the transition from equality as sameness to justice as equity and empowerment.

**Feminist Legal Theory:** Feminist legal theory constitutes a foundational framework for analysing gender justice within law. It challenges the claim of legal neutrality by demonstrating how legal rules, institutions and interpretations often reflect male centric norms. Liberal feminist theorists advocate reform within existing legal structures to ensure equal opportunities, while radical and cultural feminists interrogate deeper power relations and social norms that sustain gender inequality. Socialist and Marxist feminist perspectives further situate gender injustice within broader economic and class based structures. Collectively, feminist legal theories highlight the necessity of reimagining law as a tool for dismantling, rather than reproducing, gendered hierarchies.

**Intersectionality and Gender Justice:** Intersectionality has emerged as a critical analytical lens in gender justice scholarship, recognising that gender discrimination is shaped by intersecting identities such as caste, class, race, disability and sexuality. Scholars argue that legal frameworks which treat gender as a singular category often fail to address the compounded disadvantages faced by marginalised groups. Intersectional analysis exposes the inadequacy of 'one size fits all' legal solutions and calls for context sensitive approaches that acknowledge multiple forms of exclusion. This perspective is particularly relevant in plural societies, where socio-economic and cultural stratification intensifies gender based injustice.

**Human Rights Approaches to Gender Justice:** Human rights frameworks have significantly influenced gender justice discourse by internationalising equality norms and imposing affirmative obligations on states. Instruments such as CEDAW have shifted the focus from formal non-discrimination

to substantive equality, requiring states to adopt legislative, administrative and policy measures to eliminate both direct and indirect discrimination. Scholars have highlighted the transformative potential of human rights law in addressing systemic inequalities while also critiquing gaps in enforcement and cultural contextualisation. The integration of human rights principles into domestic legal systems remains a central concern within gender justice literature.

**Empirical and Doctrinal Studies:** Existing empirical and doctrinal studies reveal a mixed picture of progress and persistence of inequality. While legislative reforms and judicial interventions have expanded gender rights, studies consistently document implementation deficits, institutional resistance and social stigma as major obstacles. Doctrinal analyses further point to inconsistencies in judicial reasoning and limited engagement with intersectional realities. These findings underscore the need for holistic approaches that combine legal reform with social and institutional transformation.

### 3. LEGAL AND POLICY FRAMEWORKS FOR GENDER JUSTICE

Legal and policy frameworks constitute the normative backbone of gender justice by translating equality principles into enforceable rights and obligations. Over time, both international and domestic legal regimes have evolved from a narrow focus on non-discrimination to a more comprehensive understanding of substantive equality, requiring proactive state intervention. This section examines the international human rights instruments, constitutional commitments and statutory mechanisms that shape contemporary gender justice discourse.

**International Human Rights Instruments:** International human rights law has played a pivotal role in advancing gender justice by establishing universal norms and standards. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) is widely regarded as the cornerstone of international gender equality law. CEDAW obligates State Parties to eliminate discrimination against women in both public and private spheres and to adopt affirmative measures to achieve substantive equality. Its monitoring mechanism, through periodic state reporting and General Recommendations, has progressively expanded the understanding of discrimination to include indirect, structural, and intersectional forms. In addition to CEDAW, instruments such as the Universal Declaration of Human Rights, the International Covenant on Civil and Political Rights and the International Covenant on Economic, Social and Cultural Rights reinforce gender equality as an integral component of human dignity. The work of UN Women and the integration of gender equality within the Sustainable Development Goals, particularly Goal 5, further reflect the global commitment to gender justice. However, scholars note that despite robust normative frameworks, enforcement remains uneven, particularly in domestic implementation.

**Constitutional Frameworks and Gender Justice:** National constitutions serve as the primary legal instruments through which international gender norms are internalised. Constitutional guarantees of equality before the law, non-discrimination on grounds of sex, and equal protection provide the foundation for gender justice claims. Many constitutions also incorporate directive principles or state obligations aimed at promoting social justice, which courts have increasingly relied upon to interpret equality provisions in a substantive manner. Judicial interpretation has been instrumental in expanding constitutional equality beyond formalistic readings. Courts have, in several jurisdictions, recognised gender based discrimination as a violation of fundamental rights to dignity, life, and personal liberty. Nonetheless, constitutional commitments often coexist with deeply entrenched social inequalities, limiting the transformative potential of constitutional law in practice.

**Gender Specific Legislation:** Gender justice is further operationalised through targeted legislation addressing specific forms of discrimination and violence. Laws relating to domestic violence, sexual harassment at the workplace, equal remuneration, maternity benefits, and reproductive rights represent critical interventions aimed at correcting systemic disadvantages. Such legislation reflects a shift from gender-neutral lawmaking to gender responsive governance, acknowledging the need for differentiated legal protection. Despite legislative advancements, implementation challenges persist. Weak enforcement mechanisms, limited awareness, and institutional apathy often dilute the effectiveness of gender-specific laws. Moreover, gaps remain in addressing the needs of marginalised groups, including women from lower socio-economic backgrounds, persons with disabilities, and gender diverse individuals. These limitations highlight the need for continuous legal reform supported by institutional capacity-building.

**Policy Measures and Institutional Mechanisms:** Beyond legislation, policy initiatives and institutional frameworks play a crucial role in advancing gender justice. Gender budgeting, national action plans, and specialised bodies such as women's commissions are designed to mainstream gender considerations across governance structures. While these mechanisms signal political commitment, their impact depends largely on adequate resourcing, accountability and coordination among institutions.

### 4. SOCIO LEGAL BARRIERS TO GENDER JUSTICE

Despite the development of comprehensive legal and policy frameworks, the realisation of gender justice remains constrained by persistent socio-legal barriers. These barriers operate at the intersection of social norms, institutional structures and legal processes, often undermining the transformative potential of law. Understanding these constraints is essential to assessing why formal legal equality frequently fails to translate into substantive justice.

#### **Patriarchy, Socio-Cultural Norms and Stigma**

Patriarchy continues to shape social relations and power structures, influencing both the formulation and enforcement of laws. Deep-rooted cultural norms regarding gender roles often normalise inequality, restrict women's autonomy and legitimise discriminatory practices within families, workplaces and communities. Social stigma associated with reporting violence, asserting rights or deviating from prescribed gender roles further discourages individuals from engaging with legal institutions. As a result, many forms of gender based discrimination and violence remain underreported and inadequately addressed.

#### **Institutional Barriers and Access to Justice**

Institutional barriers significantly impede access to gender justice. Procedural complexity, delays in adjudication, high costs of litigation and lack of gender sensitive infrastructure within courts and law enforcement agencies disproportionately affect women and marginalised genders. Inadequate training of judicial officers, police personnel and administrative authorities often results in stereotypical reasoning and victim blaming attitudes, weakening legal protections. Moreover, the absence of effective monitoring and enforcement mechanisms contributes to the gap between legislative intent and actual outcomes.

#### **Intersectionality and Marginalised Groups**

Gender injustice is not experienced uniformly; it is compounded by intersecting identities such as caste, class, ethnicity, disability and socio-economic status. Women and gender diverse persons belonging to marginalised communities face layered forms of discrimination that legal frameworks frequently fail to capture. Intersectional exclusion manifests in limited access to legal remedies, heightened vulnerability to violence and systemic neglect by state institutions. Laws that adopt a homogeneous understanding of gender risk excluding those at the margins, thereby reinforcing structural inequality.

#### **Informal Norms and Parallel Justice Systems**

In many contexts, informal dispute resolution mechanisms and customary practices continue to operate alongside formal legal systems. While such systems may offer accessibility, they often reinforce patriarchal norms and deny women equal participation and protection. The coexistence of formal law with informal justice mechanisms creates normative tensions that dilute the authority of gender just legal provisions.

#### **Implications for Gender Justice**

These socio-legal barriers reveal that gender justice cannot be achieved through legal reform alone. Structural inequalities, cultural attitudes and institutional weaknesses must be addressed simultaneously to ensure meaningful access to justice. A holistic approach that integrates legal enforcement with social transformation is therefore essential.

### 5. CASE LAW AND JUDICIAL RESPONSES TO GENDER JUSTICE

The judiciary plays a pivotal role in advancing gender justice by interpreting constitutional principles, statutory provisions and international obligations in a purposive and progressive manner. Judicial interventions have often acted as catalysts for social change, particularly in contexts where legislative measures are inadequate or poorly implemented. Courts, especially constitutional courts, have expanded the scope of gender justice through dynamic interpretation of equality, dignity, and personal liberty.

#### **Constitutional Interpretation and Gender Equality**

Indian courts have consistently interpreted Articles 14, 15 and 21 of the Constitution as foundational pillars for gender justice. The Supreme Court has moved beyond formal equality to embrace substantive equality, recognising that identical treatment may perpetuate disadvantage. Through landmark judgments, the judiciary has acknowledged systemic discrimination and endorsed affirmative measures to address historical and structural inequalities faced by women and gender diverse individuals.

#### **Judicial Recognition of Gender-Based Violence**

Judicial pronouncements have significantly shaped the legal discourse on gender based violence. Courts have recognised sexual harassment, domestic violence and workplace discrimination as violations of fundamental rights rather than merely private wrongs. By framing such acts as affronts to dignity and bodily autonomy, the judiciary has reinforced the state's obligation to protect individuals from violence both in public and private spheres.

#### **Expanding the Scope of Gender Justice**

In recent years, courts have adopted an inclusive understanding of gender, moving beyond binary classifications. Judicial recognition of transgender rights and sexual autonomy reflects an evolving jurisprudence grounded in human rights and constitutional morality. These decisions have challenged entrenched social norms and underscored the judiciary's role in safeguarding minority rights against majoritarian morality.

#### **Limitations of Judicial Activism**

Despite progressive judgments, judicial interventions face inherent limitations. Implementation gaps, resistance from executive authorities, and lack of awareness among beneficiaries often dilute the impact of judicial rulings. Moreover, inconsistent application of gender sensitive reasoning across different courts highlights the need for institutional reform and continuous judicial training.

#### **Role of Judiciary in Bridging Law and Social Reality**

The judiciary serves as a critical bridge between normative legal ideals and social realities. By engaging with lived experiences and adopting context sensitive reasoning, courts can enhance the transformative potential of gender justice jurisprudence. However, sustained progress requires judicial activism to be complemented by legislative action and administrative commitment.

### **6. COMPARATIVE PERSPECTIVES ON GENDER JUSTICE**

Comparative legal analysis offers valuable insights into how different jurisdictions conceptualise and operationalise gender justice within their legal systems. Examining comparative experiences allows for an assessment of diverse institutional strategies, judicial approaches and policy interventions, highlighting both best practices and persistent challenges. Such an analysis is particularly useful in understanding how legal systems navigate the balance between formal equality, substantive justice and socio-cultural realities.

#### **Gender Justice in India**

In India, gender justice jurisprudence has evolved through a combination of constitutional interpretation, statutory reforms, and judicial activism. The judiciary has increasingly relied on constitutional morality, international human rights norms and substantive equality principles to advance women's rights and gender inclusivity. Legislative measures addressing domestic violence, workplace harassment, and reproductive rights reflect a growing recognition of structural discrimination. However, implementation deficits, regional disparities and socio-cultural resistance continue to limit the effectiveness of these legal interventions.

#### **European Approaches to Gender Justice**

European jurisdictions demonstrate a relatively institutionalised approach to gender justice, driven by regional human rights mechanisms such as the European Convention on Human Rights and the jurisprudence of the European Court of Human Rights (ECHR). European courts have consistently interpreted gender based discrimination as a violation of human dignity and equality, imposing positive obligations on states to prevent violence and ensure effective remedies. Policy measures such as gender mainstreaming, parental equality frameworks and workplace equality regulations illustrate a comprehensive approach. Nevertheless, challenges persist in addressing intersectional discrimination and migrant women's rights.

#### **Gender Justice in the Global South**

Countries in the Global South often face complex socio-economic and cultural barriers that shape the implementation of gender justice norms. While many states have adopted progressive constitutional provisions and ratified international treaties, enforcement remains uneven due to institutional constraints, resource limitations, and entrenched patriarchal norms. Judicial activism has played a crucial role in bridging normative gaps, but reliance on courts alone has proven insufficient without corresponding policy and administrative reforms.

#### **Comparative Insights and Limitations**

Comparative analysis reveals that while legal recognition of gender justice is widespread, outcomes depend significantly on institutional capacity, social acceptance, and political will. Jurisdictions with robust community-level interventions, gender sensitive institutions and effective enforcement mechanisms demonstrate greater progress toward substantive equality. Conversely, legal reforms without structural support tend to produce symbolic compliance rather than transformative change.

#### **Relevance for Legal Reform**

The comparative experiences underscore the importance of adopting context-sensitive, multi-layered strategies for advancing gender justice. Lessons drawn from diverse jurisdictions highlight the need for harmonising legal frameworks with social realities, strengthening institutional accountability and fostering inclusive participation in lawmaking and implementation processes.

### **7. POLICY AND REFORM RECOMMENDATIONS**

Achieving meaningful gender justice requires moving beyond normative legal recognition toward effective implementation, institutional sensitivity, and social transformation. While legal frameworks provide a foundation, their success depends on coordinated policy action, enforcement mechanisms, and community engagement. This section proposes targeted reforms aimed at strengthening gender justice outcomes within legal systems.

#### **Strengthening Legislative Enforcement**

One of the primary gaps in gender justice lies in weak enforcement of existing laws. Despite progressive legislation addressing domestic violence, workplace harassment, and gender discrimination, implementation remains inconsistent. Strengthening enforcement requires allocating adequate financial and human resources, establishing monitoring authorities, and ensuring accountability mechanisms for non-compliance. Regular audits, performance indicators for enforcement agencies, and time-bound grievance redressal systems can enhance legal effectiveness.

#### **Institutional Reforms for Gender-Sensitive Justice**

Judicial and administrative institutions must be equipped to address gender-based claims with sensitivity and competence. Mandatory gender-sensitisation training for judges, police personnel, prosecutors, and administrative officials is essential. Establishing specialised courts or tribunals, victim support units, and legal aid clinics can reduce procedural barriers and improve access to justice. Institutional reforms should also prioritise representation of women and marginalised genders within decision-making bodies.

#### **Community and Educational Interventions**

Legal reform alone cannot dismantle deeply entrenched patriarchal norms. Community-based initiatives and educational programs play a critical role in fostering attitudinal change. Incorporating gender justice education into school and university curricula, promoting legal literacy among women and marginalised communities, and engaging civil society organisations can strengthen grassroots awareness. Media campaigns and local governance participation further contribute to normative shifts toward equality.

#### **Integrating Intersectionality in Policy Design**

Policies addressing gender justice must adopt an intersectional approach that recognises overlapping forms of disadvantage based on caste, class, disability, sexuality, and geography. Tailored policy interventions, disaggregated data collection, and inclusive consultation processes can ensure that reforms address diverse lived realities. Intersectional policymaking enhances substantive equality by responding to structural vulnerabilities rather than treating gender as a homogeneous category.

#### **Aligning Domestic Law with International Standards**

Harmonisation of domestic legal frameworks with international human rights obligations strengthens accountability and global coherence. States should actively incorporate international norms into domestic jurisprudence, policy planning, and reporting mechanisms. Periodic review of compliance with international conventions can serve as a catalyst for continuous legal reform and institutional improvement.

## 8. CONCLUSION

Gender justice remains a foundational yet contested objective within contemporary legal systems. This paper has examined gender justice as a substantive legal and socio-political commitment rather than a purely formal guarantee of equality. By situating gender justice within constitutional principles, international human rights norms and evolving judicial interpretations, the study highlights the persistent gap between legal recognition and lived realities. The analysis demonstrates that while international instruments such as CEDAW and evolving national legislations have significantly advanced the normative framework of gender justice, structural barriers continue to impede effective implementation. Patriarchal socio-cultural norms, institutional inertia, inadequate enforcement mechanisms and limited access to justice disproportionately affect women and marginalised gender groups. These challenges are further intensified by intersectional factors such as caste, class, disability and geographic location, underscoring the inadequacy of one-dimensional legal approaches.

Judicial interventions have played a crucial role in expanding the scope of gender justice through progressive interpretation of equality, dignity, and non-discrimination. However, judicial inconsistency and enforcement deficits reveal that adjudication alone cannot ensure transformative justice. Comparative perspectives from different jurisdictions reinforce the necessity of integrated legal, institutional and community based strategies to achieve sustainable outcomes. The paper concludes that meaningful gender justice requires a shift from formal equality toward substantive and intersectional equality. Law must operate not only as a corrective mechanism but also as a transformative instrument capable of addressing systemic power imbalances. Strengthening enforcement, reforming institutions, enhancing legal literacy, and aligning domestic law with international standards are essential to translating legal commitments into social reality. Future research should focus on empirical evaluation of gender justice mechanisms, comparative impact assessments of policy reforms and the role of technology and alternative dispute resolution in improving access to justice. A holistic and rights based approach remains indispensable for advancing gender justice as a lived and enforceable legal reality.

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