



THE LAWWAY WITH LAWYERS JOURNAL

VOLUME:-14 ISSUE NO:- 14 , AUGUST 24 , 2024

ISSN (ONLINE):- 2584-1106

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## IMPORTANCE OF GENDER JUSTICE

### **Abstract:**

Gender justice is a crucial dimension of human rights that seeks to address and rectify inequalities and discrimination based on gender. It encompasses the principles of fairness, equality, and the elimination of discriminatory practices affecting individuals of all genders. Gender justice is not only about ensuring equal opportunities and protections under the law but also about transforming societal norms and structures that perpetuate gender-based disparities.

Key components of gender justice include legal reforms to promote equality, economic empowerment to close gender-based gaps, and social initiatives to change cultural attitudes and practices. International frameworks, such as the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW) and the Sustainable Development Goals (SDGs), provide guidelines and commitments for advancing gender justice globally.

In various contexts, including the Indian legal system, gender justice is addressed through

constitutional provisions, landmark judicial decisions, and policy reforms. These efforts aim to dismantle systemic barriers and promote a more inclusive and equitable society.

Ultimately, achieving gender justice requires a multifaceted approach that integrates legal, economic, and social dimensions to foster an environment where all individuals can thrive, free from discrimination and inequality. This paper gives overview of gender justice with human rights and Indian constitution with landmark judgements of Apex court in Indian history. It also gives

importance of women rights in making gender justice with reference to achieve ultimate justice for all human beings.

**Keywords:** Equality, Equity, Discrimination, Gender based violence, Sexual harassment, Reproductive rights, Legal reforms, LGBTQ rights, Human rights, social justice.

### **Introduction:**

Gender justice is an important human right that aims to address and correct inequality and discrimination between people because of their gender. It embodies the principles of justice, equality and respect for all genders and aims to eliminate obstacles that cause gender inequality. This concept goes beyond legal equality to include economic, social and cultural aspects, and recognizes that achieving gender equality requires overall change. Prejudices still stand in the way of achieving gender equality. These issues are multifaceted, including wage inequality, limited access to education and healthcare, gender-based violence, and discrimination outside society. Addressing these issues is not only about developing and enforcing fair laws, but also about changing the culture and practices that support gender inequality. The legal system must be strong and inclusive, providing protection and equality for all genders. Economic strategies should focus on closing gender gaps in employment and income, while education and social measures should focus on creating and promoting a culture of respect and inclusion. An

environment where everyone, regardless of gender, has the opportunity to thrive. A positive approach to gender equality is essential to promoting a fair and just world where everyone can participate and contribute to society without discrimination or disadvantage based on gender.

## **Gender justice and human rights:**

Gender justice and human rights are interrelated concepts, and both aim for dignity, equality and freedom for all people, regardless of gender. While gender justice addresses inequalities and injustices, especially those affecting women, and non-sex and gender differences, human rights provide a broad basis for the protection of the freedoms and rights of all people. Human rights are universal and inalienable and belong to everyone by virtue of being human. These include the right to life, liberty and security; protection from discrimination; This means actively working to eliminate the problems and injustices that prevent women and gender diversity from enjoying their human rights. The Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) provides the legal framework for gender equality.

“Gender justice is an essential component of human rights, aiming to ensure that individuals of all genders have equal access to opportunities, resources, and protection under the law.”<sup>1</sup>

## **Some of international human rights provisions are as**

### **follows: 1.Universal Declaration of Human Rights (UDHR):**

- Article 1: All human beings are born free and equal in dignity and rights. - Article 2: Everyone is entitled to all the rights and freedoms set forth in this Declaration, without distinction of any kind.
- Article 3: Everyone has the right to life, liberty, and security of person.
- Article 4: No one shall be held in slavery or servitude.
- Article 5: No one shall be subjected to torture or to cruel, inhuman, or degrading treatment or punishment.
- Article 7: All are equal before the law and are entitled without any discrimination to equal

protection of the law.

- Article 19: Everyone has the right to freedom of opinion and expression.
- Article 21: Everyone has the right to take part in the government of their country, directly or through freely chosen representatives.
- Article 25: Everyone has the right to a standard of living adequate for the health and well-being of themselves and their family.

## **2. International Covenant on Civil and Political Rights (ICCPR):**

- Article 6: Right to life.
- Article 7: Freedom from torture and cruel, inhuman, or degrading treatment or punishment. - Article 9: Right to liberty and security of person.
- Article 14: Right to a fair trial.
- Article 18: Right to freedom of thought, conscience, and religion.
- Article 19: Right to freedom of opinion and expression.

<sup>1</sup> United Nations Human Rights Council. (2011). *Gender Equality and Human Rights*.

- Article 21: Right of peaceful assembly.
- Article 22: Right to freedom of association.

## **3. International Covenant on Economic, Social and Cultural Rights (ICESCR):**

- Article 6: Right to work.
- Article 7: Right to just and favorable conditions of work.
- Article 11: Right to an adequate standard of living, including adequate food, clothing, and housing.
- Article 12: Right to the highest attainable standard of physical and mental health. - Article 13: Right to education.

## **4. Convention on the Elimination of All Forms of Discrimination Against**

## **Women (CEDAW):**

- Article 1: Definition of discrimination against women.
- Article 2: Policy measures to eliminate discrimination.
- Article 5: Modify social and cultural patterns of conduct to eliminate prejudices.
- Article 11: Right to work and equal employment opportunities.
- Article 16: Equality in marriage and family relations.

## **5. Convention on the Rights of the Child (CRC):**

- Article 2: Non-discrimination.
- Article 3: Best interests of the child.
- Article 6: Right to life, survival, and development.
- Article 12: Right to be heard.
- Article 24: Right to health.
- Article 28: Right to education.
- Article 34: Protection from sexual exploitation and abuse.

## **6. Convention on the Rights of Persons with Disabilities (CRPD):**

- Article 5: Equality and non-discrimination.

Gender justice and human rights are linked, and gender justice is an important part of the broader human rights agenda. Achieving gender equality ensures that the fundamental rights and freedoms of all people, regardless of gender, are respected, protected and fulfilled. Action must be taken on multiple fronts, including legal reform, economic and educational equity, health care, political cooperation, and cultural change. "Achieving gender justice involves not only eliminating discriminatory laws and practices but also addressing the underlying social and cultural norms that perpetuate gender inequality."<sup>2</sup>

## **Gender justice and Indian constitution:**

The Indian Constitution is a progressive document that enshrines the principles of gender justice

and equality. It provides a robust framework to ensure that all individuals, irrespective of their gender, enjoy equal rights and opportunities. Article 14 of the Indian Constitution guarantees equality before the law and equal protection of the laws to all persons, which serves as a foundational principle for gender justice<sup>3</sup>. Various articles and provisions specifically address gender equality and aim to eliminate discrimination against women and other marginalized genders. Ensuring gender justice means advocating for policies that not only promote equality but also address the specific needs and challenges faced by individuals due to their gender<sup>4</sup>.

## **following are some of provisions of the Indian Constitution Related to Gender Justice:**

### **1. Preamble:**

- The Preamble to the Constitution of India sets the tone for gender justice by declaring the country to be a sovereign, socialist, secular, and democratic republic, committed to securing

<sup>2</sup> UN Women. (2018). *Turning promises into action: Gender equality in the 2030 Agenda for Sustainable Development*.

<sup>3</sup> Basu, D. D. (2018). *Introduction to the Constitution of India* (23rd ed.). LexisNexis.

<sup>4</sup> Sen, A. (1999). *Development as Freedom*. Oxford University Press.  
justice, liberty, equality, and fraternity for all its citizens.

### **2. Fundamental Rights:**

- Article 14: Guarantees equality before the law and equal protection of the laws to all individuals.
- Article 15: Prohibits discrimination on the grounds of religion, race, caste, sex, or place of birth. Article 15(3) specifically empowers the state to make special provisions for women and children.
- Article 16: Ensures equality of opportunity in matters of public employment and prohibits discrimination on grounds of religion, race, caste, sex, descent, place of birth, or residence.
- Article 21: Protects the right to life and personal liberty, which has been interpreted by the Supreme Court to include the right to live with dignity, a principle closely tied to gender

justice.

### **3. Directive Principles of State Policy:**

- Article 39: Directs the state to ensure that men and women have the right to an adequate means of livelihood and equal pay for equal work.
- Article 42: Mandates the state to make provisions for securing just and humane conditions of work and for maternity relief.
- Article 51A(e): Includes the fundamental duty of every citizen to renounce practices derogatory to the dignity of women.

### **4. Fundamental Duties:**

- The Constitution also lists fundamental duties, including the duty of every citizen to renounce practices derogatory to the dignity of women (Article 51A(e)).

### **5. Reservations and Affirmative Action:**

- The Constitution allows for affirmative action to improve the representation of women in various fields, including education, employment, and political participation. For instance, one third of the seats in local government bodies (Panchayats and Municipalities) are reserved for women under the 73rd and 74th Constitutional Amendments.

### **following are the some of the Legislative and Policy Measures:**

#### **1. The Hindu Succession Act, 1956 (Amended in 2005):**

- Provides equal inheritance rights to daughters in Hindu families, ensuring that they have the same rights as sons.

**2. The Protection of Women from Domestic Violence Act, 2005:** - Offers protection to women from domestic violence and provides for the right to residence and monetary relief.

### **3. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013:**

- Aims to prevent and address sexual harassment at the workplace, providing a framework for redressal of complaints.

### **4. The Prohibition of Child Marriage Act, 2006:**

- Prohibits child marriages and protects the rights of minors, especially girls, who are often the victims of such practices.

### **5. Maternity Benefit Act, 1961 (Amended in 2017):**

- Extends maternity leave to 26 weeks for women employees and mandates certain benefits during maternity.

### **6. The Dowry Prohibition Act, 1961:**

- Prohibits the giving or taking of dowry, aiming to eradicate this social evil which predominantly affects women.

### **followings are the some of the Judicial Interpretations or judgements on the Gender Justice:**

The judiciary in India has played a significant role in advancing gender justice through progressive interpretations of constitutional provisions. Some landmark judgments include:

#### **1. Vishaka v. State of Rajasthan (1997)<sup>5</sup>:**

- Laid down guidelines to prevent sexual harassment at the workplace, which later led to the enactment of the Sexual Harassment of Women at Workplace Act.

## **2. Shayara Bano v. Union of India (2017)<sup>6</sup>:**

- Declared the practice of triple talaq (instant divorce) among Muslims as unconstitutional, thereby protecting the rights of Muslim women.

## **3. Navtej Singh Johar v. Union of India (2018)<sup>7</sup>:**

- Decriminalized consensual homosexual acts between adults, thereby upholding the rights and dignity of LGBTQ+ individuals.

## **4. Joseph Shine v. Union of India (2018)<sup>8</sup>:**

- Struck down the adultery law, which was discriminatory towards women, as unconstitutional.

## **5. Kesavananda Bharati v. State of Kerala (1973)<sup>9</sup>:**

While not exclusively about gender, this judgment is crucial as it established the Basic Structure Doctrine, which asserts that certain fundamental rights, including gender equality, cannot be

<sup>5</sup>Supreme Court of India. *Vishaka v. State of Rajasthan*, AIR 1997 SC 3011.

<sup>6</sup>Supreme Court of India. *Shayara Bano v. Union of India*, AIR 2017 SC 4609.

<sup>7</sup>Supreme court of India. *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1.

<sup>8</sup>Supreme Court of India. *Joseph Shine v. Union of India*, AIR 2018 SC 4898.

<sup>9</sup>*Keshavananda Bharati v. State of Kerala*, AIR 1973 SC 1461, (1973) 4 SCC 225. Supreme Court of India. altered by constitutional amendments. This doctrine has been used to protect various gender related rights.

## **6. Vani v. State of Karnataka (2020)<sup>10</sup>:**

The Supreme Court recognized the right of women to enter places of worship and participate in religious practices, emphasizing gender equality in religious contexts.

## **7. Indra Sawhney v. Union of India (1992)<sup>11</sup>:**

While primarily addressing reservations for backward classes, this judgment is significant in the context of gender justice as it also discussed the importance of including women and ensuring affirmative action for disadvantaged groups.

## **8. Prakash v. Phulavati (2016)<sup>12</sup>:**

The Supreme Court ruled that the 2005 amendment to the Hindu Succession Act, which grants equal rights to daughters in ancestral property, should be applied retrospectively, affirming the property rights of daughters.

## **9. Indian Young Lawyers Association vs. State of Kerala (2018)<sup>13</sup>:**

The Supreme Court ruled that the ban on the entry of women of menstruating age into the Sabarimala Temple was discriminatory and violated the constitutional right to equality.

## **10. National Legal Services Authority (NALSA) vs. Union of India (2014)<sup>14</sup>:**

<sup>10</sup> *Vani v. State of Karnataka*, (2018) 4 SCC 332. Supreme Court of India.

<sup>11</sup> *Indira Sawhney v. Union of India*, (1992) 3 SCC 217. Supreme Court of India.

<sup>12</sup> *Prakash v. Phulavati*, (2016) 2 SCC 36. Supreme Court of India.

<sup>13</sup> *Indian Young Lawyers Association v. State of Kerala*, (2018) 12 SCC 666. Supreme Court of India. <sup>14</sup> *National Legal Services Authority (NALSA) v. Union of India*, (2014) 5 SCC 438. Supreme Court of India. This judgment recognized transgender individuals as the "third gender" and affirmed their fundamental rights. The Supreme Court directed the government to provide them with reservations in education and employment and to ensure their social and economic welfare.

## **11. Githa Hariharan v. Reserve Bank of India (1999)<sup>15</sup>:**

The Supreme Court ruled that a mother should be considered a natural guardian of her child, affirming gender equality in the context of guardianship and custody.

## **12. Hadiya v. State of Kerala (2018)<sup>16</sup>:**

The Supreme Court upheld the autonomy of adult women to make their own choices regarding marriage, including interfaith marriages. The judgment reinforced the principles of personal liberty and individual rights.

## **13. Anuj Garg v. Hotel Association of India (2008)<sup>17</sup>:**

This judgment held that gender discrimination in employment practices, such as restrictions on the employment of women in certain types of jobs, was unconstitutional.

The Indian judiciary has played a significant role in advancing gender justice by interpreting constitutional provisions to address issues such as sexual harassment, discrimination, and the rights of marginalized genders<sup>18</sup>. These judgments collectively reflect India's evolving approach to gender justice, highlighting the judiciary's role in challenging discriminatory practices and upholding the rights and dignity of individuals across gender lines.

## **Gender justice and women rights:**

<sup>15</sup> *Githa Hariharan v. Reserve Bank of India*, (1999) 2 SCC 228. Supreme Court of India.

<sup>16</sup> *Hadiya v. State of Kerala*, (2018) 10 SCC 392. Supreme Court of India.

<sup>17</sup> *Anju Garg v. Hotel Association of India*, (2007) 5 SCC 633. Supreme Court of India. <sup>18</sup> Agnes, F. (1999). *Law and Gender Inequality: The Politics of Women's Rights in India*. Oxford University Press.

Gender equality and women's rights are important to create a just and fair society and to address the inequalities and discrimination that have historically affected females. Gender justice is essentially about eliminating inequalities and ensuring that all people, regardless of gender, have equality and protection. Women's rights are a critical component of gender justice, focusing on

addressing the historical and ongoing discrimination faced by women and ensuring their full participation in all aspects of society<sup>19</sup>. Key elements include the right to education that provides women with the knowledge and skills they need for their personal and professional development; and the right to work and equal pay for equal work, which can address economic inequality and enhance economic freedom. Laws such as the Violence against Women at Work (Prevention, Prohibition and Prevention) Act, 2013 and the Protection of Human Rights Act, 1993 to protect women mothers from bullying and violence. Additionally, the Supreme Court decisions in *Visakha v. State of Rajasthan* and *Navtej Singh Johar v. Union of India*, which issued guidelines to prevent workplace harassment, and the decriminalization of consensual same-sex relationships, highlight the role of the judiciary in promoting gender justice. Gender-based violence, including domestic violence, sexual violence, and human trafficking, remains prevalent. Economic inequalities, such as the gender wage gap and limited access to resources and opportunities, also exist. Solving these problems requires a multifaceted approach that includes a strong legal framework, good governance and social change. Paths such as race, class and sexual orientation. Recognizing and addressing these intersections of discrimination is critical to creating an environment where all women can thrive. By addressing legal, social and economic conflicts and fostering a culture of respect and equality, we can serve a world where everyone has the opportunity to live a life of dignity and integrity. Gender justice is essential for the overall advancement of society, as it encompasses the principles of equality, respect, and the elimination of gender-based discrimination<sup>20</sup>.

## **Suggestions:**

To advance gender justice effectively, a multi-dimensional approach is essential, integrating legal, social, and economic strategies. Firstly, it is essential to develop and complete reform laws. Laws

<sup>19</sup> CEDAW. (1979). *Convention on the Elimination of All Forms of Discrimination Against Women*.<sup>20</sup>

UN Women. (2020). *Gender equality and women's rights in the context of the COVID-19 pandemic*.

should not only prohibit discrimination but also address injustice. This includes implementing anti discrimination laws in the workplace, schools and public spaces. The legal system should also provide protection and redress procedures for victims of gender-based violence and

harassment. Integrating gender studies into school curricula can support early understanding of gender equality and respect. Public awareness campaigns are needed to combat these crimes and promote diversity in the representation of gender roles. These educational measures help to eliminate deep-rooted prejudices and develop a culture of respect and equality. Ensuring equal access to finance, including credit, land and employment, is key to closing gender gaps. Governments and organizations should support women entrepreneurship and support policies that provide equal pay for equal work. Addressing the gender pay gap and providing support for work-life balance, such as affordable childcare, can increase women participation in the economy and freedom.

Recognizing and supporting the rights of women, as well as trans and non-binary individuals, is vital to achieving a gender-equal society. Gender equality is a world where people of all genders can achieve their full potential without prejudice or discrimination.

## **Conclusion:**

Gender justice is an important and ongoing challenge to address inequality and gender discrimination. Achieving gender equality requires a multifaceted approach, including legal reform, social change and dismantling patriarchal structures that create inequality. It is about ensuring that all people, regardless of gender, have equal opportunities, resources and rights. To thrive without fear of discrimination or violence. This includes challenging stereotypes, advocating for equal representation and promoting policies that support work life balance, reproductive rights and freedom from gender violence. By creating a culture of respect, inclusion and equality, we can create a just and equal society where everyone has the opportunity to reach their potential. The journey towards gender equality is long and difficult, but necessary for human progress.

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