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## **From Formal Equality to Substantive Justice: A Constitutional and Socio-Legal Analysis of Women's Empowerment in India**

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### **ABSTRACT**

*Gender equality is a core constitutional value in India, yet the reality of women's empowerment reflects a persistent gap between legal guarantees and lived experiences. This research paper examines the transition from formal equality, which emphasizes equal treatment under the law, to substantive justice, which focuses on achieving real and meaningful equality by addressing structural and social disadvantages faced by women. The study analyzes constitutional provisions, including Articles 14, 15, 16 and 21, along with Directive Principles and Fundamental Duties, to highlight the strong legal foundation for gender justice in India.*

*The paper further evaluates the role of judicial interpretation in expanding the scope of women's rights through landmark judgments that emphasize dignity, autonomy and non-discrimination. It also reviews key legislations and policy initiatives aimed at protecting and empowering women. However, despite these progressive developments, the research identifies significant socio-legal challenges such as patriarchy, lack of legal awareness, limited access to justice, economic inequality and emerging digital risks.*

*Using a doctrinal and analytical methodology, the study concludes that legal provisions alone are insufficient to achieve substantive equality. Effective implementation, social transformation and increased*



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*awareness are essential to bridge the gap between law and reality. The paper suggests that a combined effort of legal reform, policy support and societal change is necessary to ensure true empowerment of women in India.*

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## **Introduction:**

Gender equality is a foundational value of a democratic society and an essential element of justice. In India, the idea of equality between men and women is not only a social aspiration but also a constitutional mandate. The Constitution guarantees equality before the law and equal protection of laws, aiming to create a society where women can live with dignity, freedom and equal opportunities. However, despite these legal guarantees, women in India continue to face various forms of discrimination and inequality in social, economic and political spheres.

Traditionally, the legal system focused on *formal equality*, which means treating men and women alike under the law. While this approach ensures non-discrimination in a narrow sense, it often fails to address the deep-rooted social and structural inequalities that disadvantage women. As a result, there has been a gradual shift towards the concept of *substantive equality*, which recognizes that different groups may require different treatment to achieve real and meaningful equality. Substantive equality focuses on outcomes and aims to remove barriers that prevent women from fully enjoying their rights.

The evolution of women's rights in India reflects this transition. From early social reform movements to constitutional protections and progressive judicial interpretations, there has been a continuous effort to improve the status of women. Yet, the gap between legal provisions and ground reality remains significant, raising important questions about the effectiveness of existing laws and policies.

This research paper seeks to examine how Indian law has moved from a formal understanding of equality to a more substantive approach in the context of women's empowerment. It aims to analyze constitutional provisions, judicial decisions and legislative measures that contribute to this shift. The study also explores the socio-legal challenges that hinder the realization of substantive justice for women.

The research is based on a doctrinal and analytical methodology, relying on constitutional provisions, case laws, statutes and secondary sources such as books, journal articles and reports. Through this approach, the paper attempts to critically evaluate whether the existing legal framework is sufficient to ensure true empowerment of women in India.



### **Conceptual Framework:**

This research is based on the idea that equality is not only about giving equal rights on paper, but also about ensuring equal outcomes in real life. The traditional concept of *formal equality* focuses on treating everyone the same under the law. However, this approach often ignores the social and economic disadvantages faced by women. Therefore, the concept of *substantive equality* becomes important, as it aims to achieve real and effective equality by addressing existing inequalities.

Feminist jurisprudence plays a key role in understanding gender justice. It questions the neutrality of law and argues that laws are often shaped by patriarchal values. Thinkers like Catharine MacKinnon and Carol Gilligan have emphasized that women's experiences must be included in legal reasoning. This approach helps in identifying hidden biases in legal systems and promotes a more inclusive understanding of justice.

Another important concept is *intersectionality*, developed by Kimberlé Crenshaw. It explains that women do not face discrimination only on the basis of gender, but also due to caste, class, religion and other social factors. In the Indian context, this means that the challenges faced by a rural Dalit woman are very different from those faced by an urban educated woman. Thus, a uniform legal approach cannot ensure true equality.

The framework also considers law as a tool for social change. Laws are not only meant to regulate behavior but also to transform society. However, the effectiveness of law depends on its implementation and social acceptance. Even progressive laws may fail if social attitudes remain unchanged.

Finally, the concept of *transformative constitutionalism* is important in this study. It suggests that the Constitution is not a static document but a living instrument that aims to bring social change. It encourages courts and lawmakers to interpret laws in a way that promotes justice, dignity and equality for women.

In this way, the theoretical framework of this research combines feminist thought, intersectionality and constitutional values to understand how law can move from formal equality to substantive justice for women in India.

### **Constitutional provisions:**

The Constitution of India provides a strong foundation for ensuring gender equality and women's empowerment. It not only guarantees equal rights but also allows the State to take special measures to improve the condition of women. The idea is not limited to formal equality but extends to achieving substantive justice in real life.



Article 14 of the Constitution ensures equality before the law and equal protection of the laws. This means that women and men must be treated equally in similar situations. However, mere equal treatment is not always sufficient to address historical disadvantages faced by women. Therefore, the Constitution also permits positive discrimination.

Article 15 prohibits discrimination on the grounds of sex. At the same time, Article 15(3) allows the State to make special provisions for women and children. This provision recognizes that women may require additional protection and support to achieve real equality. It reflects the shift from formal equality to substantive equality.

Article 16 guarantees equality of opportunity in matters of public employment. It ensures that women have equal access to government jobs and positions. However, social barriers and stereotypes often limit women's participation, which shows that legal guarantees alone are not enough.

Article 21, which protects the right to life and personal liberty, has been interpreted broadly by the judiciary. It includes the right to live with dignity, privacy and autonomy. These aspects are essential for women's empowerment, as they support bodily integrity and personal decision-making.

The Directive Principles of State Policy also play an important role. Article 39 directs the State to ensure equal pay for equal work and adequate livelihood for both men and women. Article 42 provides for just and humane conditions of work and maternity relief. Although these principles are not enforceable in courts, they guide the State in making laws and policies.

Further, Article 51A(e) under Fundamental Duties calls upon citizens to renounce practices that are derogatory to the dignity of women. This highlights that achieving gender equality is not only the responsibility of the State but also of society as a whole.

In recent years, the idea of constitutional morality and transformative constitutionalism has gained importance. These concepts emphasize that the Constitution is a living document and should be interpreted in a way that promotes justice, equality and dignity. They encourage a progressive understanding of women's rights beyond traditional limitations.

In conclusion, the constitutional framework in India goes beyond formal equality and supports the idea of substantive justice. However, the real challenge lies in effective implementation and social acceptance of these constitutional values.



## **Judicial Interpretation: From Formal to Substantive Equality:**

The Indian judiciary has played a crucial role in transforming the idea of equality from a formal concept to a more meaningful and substantive one. While the Constitution guarantees equality before the law, it is through judicial interpretation that these rights have been expanded to address real-life inequalities faced by women.

In *Maneka Gandhi v. Union of India*, the Supreme Court broadened the scope of Article 21 by holding that the right to life includes the right to live with dignity. This judgment laid the foundation for recognizing women's rights as part of fundamental human rights. It moved beyond a narrow understanding of equality and emphasized fairness and reasonableness in state actions.

Similarly, in *Air India v. Nargesh Mirza*, the Court struck down discriminatory service conditions imposed on air hostesses, such as termination based on pregnancy or marriage. This case highlighted how formal equality was insufficient and that laws must also address indirect discrimination.

A major step toward substantive equality can be seen in *Vishaka v. State of Rajasthan*, where the Court recognized sexual harassment at the workplace as a violation of women's fundamental rights. In the absence of specific legislation at that time, the Court laid down the Vishaka Guidelines, thereby actively protecting women's dignity and equality in practical terms.

In *Anuj Garg v. Hotel Association of India*, the Supreme Court adopted a progressive approach by striking down a law that prohibited women from working in establishments serving alcohol. The Court rejected the idea of "protective discrimination" and emphasized that such restrictions reinforce gender stereotypes instead of empowering women.

Further, in *Joseph Shine v. Union of India*, the Court decriminalized adultery and recognized women as equal partners rather than property of their husbands. This judgment strongly reinforced the idea of dignity, autonomy and individual choice, which are essential elements of substantive equality.

These cases show that the judiciary has not limited itself to a literal interpretation of equality. Instead, it has actively worked to remove structural barriers and social disadvantages faced by women. However, despite these progressive judgments, challenges remain in consistent implementation and in changing deep-rooted societal attitudes.

In conclusion, judicial interpretation in India has significantly contributed to the shift from formal equality to substantive justice. The courts have expanded constitutional rights to make them more meaningful in



the lives of women. Yet, the journey towards true gender equality requires continuous judicial sensitivity along with strong social and institutional support.

### **Legal Framework and Policy Measures:**

India has enacted several laws to promote women's empowerment and to ensure gender equality in society. These laws aim to protect women from violence, discrimination and exploitation, while also creating opportunities for their social and economic development. However, the effectiveness of these laws depends not only on their provisions but also on their proper implementation.

One of the key legislations is the *Protection of Women from Domestic Violence Act, 2005*, which provides civil remedies to women facing physical, emotional, economic and sexual abuse within the household. It recognizes domestic violence as a violation of women's fundamental rights and offers protection orders, residence rights and monetary relief. Similarly, the *Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013* (POSH Act) seeks to create a safe working environment for women. It mandates the establishment of Internal Complaints Committees in workplaces and lays down procedures for addressing complaints.

The *Maternity Benefit Act, 1961* (as amended in 2017) is another important law that supports women's participation in the workforce by providing paid maternity leave and other benefits. It reflects an effort to balance work and family responsibilities, thereby promoting substantive equality. Additionally, laws such as the *Dowry Prohibition Act, 1961* and provisions under the Indian Penal Code address issues like dowry harassment and cruelty against women.

Apart from legislative measures, the government has introduced various schemes and policies to empower women. Programs like *Beti Bachao Beti Padhao*, *Mahila Shakti Kendra* and *One Stop Centres* aim to improve education, provide support services and enhance women's safety and well-being. These initiatives show that empowerment requires not only legal protection but also social and economic support systems.

Despite these efforts, there are significant challenges in implementation. Many women are not aware of their legal rights due to illiteracy and lack of legal awareness. In rural and marginalized communities, access to justice remains limited. Institutions responsible for enforcement, such as police and local authorities, sometimes lack sensitivity or adequate training. Moreover, delays in judicial processes often discourage women from seeking remedies.



Therefore, while India has a strong legislative and policy framework for women's empowerment, the gap between law and practice remains a major concern. To achieve substantive equality, it is necessary to strengthen implementation mechanisms, increase awareness and ensure that laws are accessible and responsive to the needs of all women.

### **Socio-Legal Challenges to Substantive Equality:**

Although the Constitution of India guarantees equality and various laws aim to empower women, the realization of *substantive equality* remains a significant challenge. The gap between legal provisions and ground realities continues to hinder true empowerment of women in India.

One of the major obstacles is the persistence of patriarchy in society. Deep-rooted social norms and cultural practices often place women in subordinate positions. These norms influence family structures, employment opportunities and decision-making power, thereby limiting women's autonomy despite legal protections.

Another important challenge is the lack of legal awareness. Many women, especially in rural and marginalized communities, are unaware of their rights and the remedies available to them. This lack of awareness prevents them from seeking justice and benefiting from existing legal frameworks.

Access to justice is also a serious concern. Legal processes in India are often time-consuming, expensive and complex. Women may face social stigma, fear of retaliation and institutional insensitivity when approaching courts or law enforcement agencies. This discourages them from reporting violations of their rights.

Economic inequality further weakens women's empowerment. Limited access to education, employment and financial resources restricts their independence. Economic dependence on male family members often forces women to tolerate discrimination and abuse.

Gender-based violence remains a widespread issue. Despite strict laws, crimes such as domestic violence, sexual harassment and trafficking continue to occur. Weak enforcement mechanisms and low conviction rates reduce the deterrent effect of these laws.

In recent times, the digital divide has emerged as a new challenge. Many women lack access to digital technology and online resources. At the same time, those who are online often face cyber harassment and abuse, which creates new forms of discrimination.



Therefore, while the legal framework in India is progressive, these socio-legal challenges prevent the achievement of substantive equality. Addressing these barriers requires not only legal reforms but also social change, awareness and effective implementation of laws.

### **Conclusion:**

This research paper shows that India has made strong constitutional and legal provisions for gender equality, but real empowerment of women is still incomplete. The Constitution guarantees equality under Articles 14, 15 and 21 and many progressive laws have been enacted. However, in practice, women continue to face discrimination, violence and inequality in different forms. This reveals a clear gap between *formal equality* (what the law says) and *substantive justice* (what women actually experience in society).

The study finds that legal reforms alone are not sufficient. Social attitudes, patriarchal structures and lack of awareness often limit the effective implementation of laws. Many women are still unaware of their rights or do not have easy access to justice due to economic and social barriers. Therefore, achieving substantive equality requires both legal and social transformation.

To address these issues, several steps are recommended. First, there is a need to strengthen the implementation of existing laws through better monitoring and accountability. Second, legal awareness programs should be promoted, especially in rural and marginalized communities. Third, gender-sensitive training should be provided to police, judiciary and administrative authorities. Fourth, policies must focus on economic empowerment of women, as financial independence plays a key role in achieving real equality. Lastly, there should be a continuous effort to change societal mindsets through education and public engagement.

In conclusion, moving from formal equality to substantive justice is essential for true women empowerment in India. This requires a combined effort of law, policy and society. Future research can further explore the role of technology, education and grassroots movements in strengthening gender justice.

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