# GENDER JUSTICE IN INDIA: THE CONSTITUTIONAL PROMISE AND THE LIVED REALITY

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# **ABSTRACT**

Despite constitutional promises of equality and social justice, Indian women continue to face deep-rooted discrimination, marginalization, and violence. The struggle for gender equality in India is marked by a persistent gap between the ideals enshrined in the Constitution and the lived realities of women. Social structures grounded in patriarchy, economic exclusion, and cultural traditions continue to deny women equal status and access to justice.

# 1. INTRODUCTION

Education has long been recognized as a transformative tool for societal change, with the potential to reduce inequalities and empower marginalized sections. The Constitution of India envisions education as a means to achieve a just social order. However, while education is formally accessible to women, it has not always translated into empowerment or equality. Traditional norms have often limited its purpose to reinforcing women's domestic roles rather than enabling them to participate equally in social, economic, and political life.

Moreover, legal protections meant to safeguard women's rights are frequently undermined by poor implementation and lack of awareness. Laws addressing issues such as dowry, domestic violence, child marriage, and workplace discrimination remain ineffective when women are unaware of their rights or unable to access justice.

This paper critically examines the gap between constitutional guarantees and the lived experiences of Indian women. It highlights the urgent need for widespread legal literacy among women as a foundational step toward genuine empowerment. By analyzing existing laws, systemic failures, and the transformative potential of legal awareness, this study underscores the need to make justice both accessible and actionable for all women in India.

The Constitution of India stands as a transformative document that seeks to establish a just and equitable social order. At its very core lies the Preamble, which encapsulates the guiding principles and aspirations of the Indian state. It articulates a solemn commitment to secure for all its citizens justice—social, economic, and political; liberty of thought, expression, belief, faith, and worship; equality of status and opportunity; and fraternity, which assures the dignity of the individual and the unity and integrity of the nation. These objectives are not merely rhetorical ideals but foundational values intended to shape governance, legal frameworks, and social relations in India. As such, the Preamble serves not only as an introduction to the Constitution but also as a moral and philosophical directions—that underpins the interpretation and implementation of all constitutional provisions It also forms the edrock of India's democratic vision and explicitly include women as equal beneficiaries

While the improvement of women's status was an explicit commitment made by the framers of the Indian Constitution—and acknowledged by the Government of India from the outset as one of the major tasks confronting the nation—a comprehensive review of progress in this direction has, until recently, been largely absent. Although certain legislative measures have been enacted from time to time to reflect the constitutional commitment to gender equality, and developmental programmes have been introduced with the aim of empowering women to participate meaningfully in national affairs, these efforts have yielded uneven results. To some extent, the positive changes observed are attributable to these targeted interventions; however, a significant portion of the progress is also the result of broader social transformations that have accelerated since Independence. Nevertheless, the Government of India has recognised that, while notable advancements have been made in urban areas, the condition of women in rural India remains largely unaffected by these developments. Moreover, changing social and economic conditions in the country have given rise to a host of new challenges related to women's advancement—challenges that were not anticipated by the Constitution's architects or by early post-Independence governance structures.

## 2. CONSTITUTIONAL PROMISES AND GROUND REALITY

The Preamble to the Constitution of India pledges "to secure to all citizens justice—social, economic, and political; liberty of thought, expression, belief, faith, and worship; equality of status and opportunity; and to promote fraternity assuring the dignity of the individual and the unity of the nation". These foundational values form the bedrock of India's democratic vision and explicitly include women as equal beneficiaries.

Further, evolving perspectives on the value and necessity of education have reflected the shifting priorities of societies at different historical junctures. Traditionally, education has been justified on two principal grounds. First, it is regarded as an intrinsic value—one that cultivates individual personality and rationality. This view assumes that society, recognising the inherent worth of knowledge and reason, accords elevated status to the educated. The second justification is more instrumental: education is seen as serving a vital social function. The knowledge and skills acquired through education contribute to the broader society, thereby enhancing the social status of educated individuals. From an individual standpoint, education provides the essential qualifications to participate in various economic, political, and cultural domains, thereby improving socio-economic mobility and status

Recognising the need to channel social change toward specific developmental goals, education has increasingly come to be seen as a powerful instrument of transformation. As aptly noted in official discourse: "The realisation of the country's aspirations involves changes in the knowledge, skills, interests, and values of the people as a whole. This is basic to every programme of social and economic betterment of which India stands in need. If this change on a grand scale is to be achieved without violent revolution (and even for that, it would be necessary), there is one instrument, and one instrument only, that can be used: Education." This perspective underscores the centrality of education not only as a means of individual advancement but also as a cornerstone of national development and social equity.

One of the principal expectations from the strategic deployment of education is its potential to reduce existing social and economic inequalities. The assumption underlying this objective is that education can serve as an equalising force, bridging the status gap between individuals belonging to historically unequal socio-economic strata. Education is thus seen not only as a fundamental human right but also as a mechanism to promote social justice. This vision aligns with international frameworks such as the Constitution of UNESCO, which commits to the ideal of equality of educational opportunity, irrespective of race, sex, or any form of economic or social distinction

The global movement for improving the status of women has, since its inception, placed strong emphasis on education as the most potent instrument for transforming women's subordinate position in society. From the 19th

century onwards, advocates of women's emancipation have consistently called for the expansion of educational facilities and the dismantling of traditional barriers that restricted women's access to certain branches and levels of education. In India, both liberal and revivalist social reformers recognised the crucial role of women's education in elevating their societal status. However, a closer examination of their rationale reveals a set of limitations. The dominant motivation behind educating women was not necessarily to empower them as active participants in the socio-economic and political life of the country. Rather, education was promoted primarily as a means to enable women to better perform their traditional roles within the domestic sphere—as wives and mothers.

Opposition from conservative orthodox groups was countered by the argument that educating women would, in fact, reinforce traditional family structures. Reformers posited that the denial of education and the prevalence of early marriage led to the stunting of women's intellectual and emotional development, which in turn disrupted family harmony. Education, in this context, was viewed as a means of enhancing a woman's role within the family, not as a tool for broader societal participation or autonomy. The slow progress of women's education in India was thus largely due to the absence of any perceived economic necessity or compulsion for women to pursue education beyond their familial duty

This historical trajectory underscores the deep-rooted structural and cultural barriers to gender equality in India. A jurisprudence concerning gender cannot be based on the presumption of equality between men and women, given the persistent economic marginalisation and social subordination of women over centuries. Indian cultural traditions have been deeply embedded in a patriarchal framework that privileges male dominance and assigns women a subordinate status. This systemic inequality has led to the near-complete exclusion of women from domains of economic independence, perpetuating their dependence and limiting their agency in both private and public spheres.

India, the control of national resources—including means of production, industry, trade, and commerce—remains overwhelmingly concentrated in the hands of men. Despite women constituting nearly half the population, their share in the gross national income remains nominal. In effect, women represent one of the largest and most persistently deprived sections of society. Recognising this disparity, the Constitution of India declares the nation to be a sovereign, socialist republic and, through Article 39, mandates the equitable distribution and utilisation of the country's resources. This provision obliges the state to dismantle monopolistic control and ensure that production resources are distributed not among select individuals, but for the collective benefit of the nation's population. True economic democracy and justice for women can only be realised when both men and women have equal access to and control over the wealth and resources of the nation.

Meaningful equality cannot exist where inequality is structurally embedded. Economic justice for women—and by extension, social justice—remains unattainable so long as men retain monopoly control over economic power. Without dismantling this systemic imbalance, women will remain in a state of economic dependency and social subordination. For genuine change to occur, a fundamental reorientation of societal attitudes and the educational system is required—one that equips women with the skills and opportunities necessary to enter and excel in traditionally male-dominated, better-paid sectors of employment. However, within the current economic order, women are often relegated to low-paying, unskilled roles, further entrenching their economic marginalisation.

While the Constitution promises both social and economic justice to women, these constitutional guarantees have not been meaningfully translated into practice. In reality, women continue to remain economically vulnerable and socially disadvantaged. In most households, with few exceptions, men are still regarded as the primary breadwinners, while women are viewed as dependents. This persistent economic inequality renders the promise of justice illusory. Even after more than seven decades of independence, Indian women continue to face systemic discrimination and deprivation. This period, rather than being a time of emancipation, has often been marked by broken promises, suppressed aspirations, and continued exploitati

Although successive governments have enacted a series of legal reforms ostensibly aimed at protecting and advancing women's rights, in practice, many of these laws have failed to effect real change. They often remain confined to rhetoric, with inadequate implementation and enforcement reducing them to little more than symbolic gestures. As a result, the struggle for women's economic independence and social equality continues, demanding stronger policy commitments and transformative social reform.

As early as 1967, the General Assembly of the United Nations recognized that "discrimination against women—by denying or limiting their equality with men—is fundamentally unjust and constitutes an affront to human dignity".

Building on this recognition, the United Nations declared 1975 as the International Women's Year, with the explicit objective of eliminating discrimination against women. The accompanying resolution called upon member states to actively promote gender equality and to enhance women's participation in the economic, political, social, and cultural spheres of national life. Furthermore, the resolution urged the international community to support women's active involvement in advancing peace, cooperation, and progress among nations.

In consonance with these international commitments, the Constitution of India guarantees equality of status and opportunity to both men and women. It not only affirms the equal rights and privileges of women but also mandates the state to adopt special measures for their welfare. Despite these constitutional assurances, women in India continue to face widespread deprivation, systemic violence, and exploitation.

To achieve these national objectives, the Constitution confers a range of fundamental rights and freedoms upon all citizens, including women. These include positive rights, such as the freedom of speech and the right to life and personal liberty, as well as negative rights, such as the prohibition of discrimination and the denial of equal protection under the law. Indian women are entitled to these rights in the same manner as Indian men.

Article 14 guarantees equality before the law, while Article 15(1) prohibits discrimination on grounds of religion, race, caste, sex, place of birth, or any of them. Notably, Article 15(3) empowers the state to make special provisions for women and children, even if such provisions appear to deviate from the general principle of non-discrimination. This constitutional safeguard has enabled the state to enact protective legislation for women, particularly in the realm of labour law, such as the Factories Act and the Mines Act

Further, Article 16(1) guarantees equality of opportunity in matters relating to employment or appointment to any office under the state, while Article 16(2) prohibits discrimination in public employment on the grounds mentioned above. These provisions lay the legal foundation for gender parity in public service and employment.

Beyond fundamental rights, the Directive Principles of State Policy (Part IV of the Constitution) articulate the broader socio-economic vision of a welfare state. Though non-justiciable in nature, these principles are deemed fundamental in the governance of the country, as articulated in Article 37, which enjoins the state to apply them in framing laws and policies

Several of these directives are directly relevant to the status and welfare of women. Article 38 directs the state to promote social, economic, and political justice and to work towards the welfare of all people. Article 39(b), (c), and (f) advocate for the equitable distribution of material resources, the prevention of wealth concentration, and the protection of children and youth from exploitation and neglect. Articles 40 through 47 contain further socio-economic mandates, including the organisation of village panchayats (Article 40), the right to work and education (Article 41), decent working conditions and living wages (Article 43), the adoption of a Uniform Civil Code (Article 44), and improved nutrition and public health standards (Article 47).

In this constitutional and international context, the empowerment of women through legal literacy emerges as a critical and urgent necessity. This paper emphasises the importance of legal literacy programs aimed at educating women about the laws of the land, their legal rights, and available entitlements. Legal awareness not only equips women to protect themselves from abuse and injustice but also fosters a sense of autonomy and citizenship. The integration of legal literacy into school and college curricula—especially in institutions focused on women's education—is imperative. Such inclusion would enable women to understand, access, and assert their rights more effectively. As gender biases and violence against women continue to escalate, legal literacy stands out as a transformative tool for women's empowerment and the realisation of constitutional promises.

The economic viability of women remains severely constrained, impeding the possibility of their emergence as a dynamic and talented human resource. Educational opportunities are often denied to the girl child due to entrenched family constraints, patriarchal norms, and restrictive socio-cultural values. These limitations severely curtail women's potential for advancement and self-actualization. The denial of political justice—defined as equal presence and participation in governance—is equally stark. Despite constitutional guarantees, women remain significantly underrepresented not only in the administrative services but also within legislative bodies, political parties, trade unions, and other instruments of democratic participation. Although technically a woman can rise to the highest office, such as Prime Minister, the political system effectively marginalizes her

This exclusion is symptomatic of a broader pattern of "social untouchability" that persists within the fabric of Indian society. Women are still subjected to discriminatory family laws, denied adequate protection or support in marriage and

divorce, and frequently deprived of even basic subsistence rights. Thus, the struggle for justice—social, economic, and political—remains an unfinished project. The constitutional provisions meant to empower women have too often remained symbolic, serving as weapons yet to be fully wielded, rather than victories achieve

The notion of equality of opportunity or status, while enshrined in the Constitution, often remains merely aspirational. Discrimination against the female child begins as early as the womb; female foeticide is a tragic reality in many parts of India. A deeper investigation into employment patterns and literacy rates reveals the grim reality of widespread gender-based subjugation, challenging the very idea of substantive equality. A landmark study conducted more than a decade ago revealed that Indian women continue to face systemic marginalisation—relegated to the status of bonded labour, victims of gang rape, trafficked for sale in regional markets, or exploited as brides for purchase by foreign nationals. Though some of these egregious practices have declined, they still persist in both rural India and urban centres plagued by prostitution and exploitation.

These gross injustices violate the constitutional guarantees of equality, dignity, and freedom. The state, including the judiciary, legislature, and executive, bears a collective responsibility to abolish man-made inequalities and fulfil its constitutional mandate. Social action groups have taken up this cause, underscoring the urgent necessity for legal literacy—a foundational tool to empower women to defend their rights and access justice.

However, the law remains inadequate in both its letter and application. Law enforcement agencies often demonstrate apathy toward the plight of women, and atrocities committed against them show no signs of meaningful decline. Most disturbingly, violence frequently originates within the home, at the hands of family members. Justice Krishna Iyer rightly condemned such practices: "Wife-burning, that atrocious species of murder horrendously escalating in some parts of the country, is a shocking crime." Gender justice must, therefore, occupy a central place in the interpretation and application of Indian criminal jurisprudence

India is not lacking in laws designed to protect women—yet many remain in what can be called a state of "suspended animation." These laws are more often violated than respected, reducing their protective function to a mere illusion. Despite the existence of fundamental rights and directive principles, women continue to suffer discrimination across all sectors of life. In a society that increasingly turns to law as an instrument of social change, the failure lies not in legislative absence but in poor implementation and lack of accountability.

A particularly harrowing legacy of colonial and patriarchal oppression is the continued economic and social vulnerability of widows in India. Ill-treated by their in-laws, many live in abject poverty. The infamous Elaru episode in Andhra Pradesh, in which women were sold into prostitution, poses a disturbing question about the state's commitment to women's rights. Similarly, the heart-wrenching case of Kamla, a woman purchased for a mere Rs. 2,300 from Dabri Mandi in Madhya Pradesh, reflects the deep contradictions in Indian society—a society that worships goddesses yet commodifies real women. From despair to degradation, Kamla's story is emblematic of countless others, reminding us that in parts of India, women are still bought and sold like chattel. Equally distressing are recent cases such as the Vihar incident, where a girl was murdered for amusement by local youth, or the Jaipur hostel rape and acid attack cases—incidents that underscore the continuing vulnerability of women in public and private spaces alike

Gender inequality is further entrenched by archaic personal laws, particularly those that permit polygamy. While monogamy has been codified for Hindus, its actual enforcement remains inconsistent. Muslim personal law still allows polygamy, despite broader trends moving toward monogamous norms. A uniform civil code ensuring monogamy across all communities is essential for safeguarding women's status and dignity. Without such reform, the declining position of women in society is bound to continue.

Child marriage is another regressive practice that endures in many regions, with thousands of underage girls married annually. The existing legal framework does not render such marriages invalid, thereby legitimising the practice. Due to the lack of compulsory marriage registration, authorities are unable to effectively monitor or curtail either child marriage or bigamy. Despite repeated recommendations from international bodies such as the United Nations, India has yet to mandate the registration of marriages, a step critical for enforcing legal rights

Dowry continues to be a pervasive and destructive social evil. Despite the Dowry Prohibition Act of 1961 and its subsequent amendments, dowry-related deaths and violence are alarmingly frequent, indicating a failure of both social norms and legal enforcement. Similarly, rising divorce rates—even in rural areas—pose new challenges. While the dissolution of irreparably broken marriages is sometimes necessary, frequent divorce without adequate legal and social support mechanisms adversely impacts women and children alike. A child requires both a mother and a father for holistic

development, and the state must develop a robust legal framework that balances the rights of individuals with the best interests of children. This is particularly pertinent for Muslim women, who continue to face unique vulnerabilities within existing personal laws.

The provision for maintenance across various personal and secular laws has long been a source of both muted and pronounced controversy. While the law recognizes a woman's right to maintenance during marriage and even after divorce, its enforcement remains inconsistent, often influenced by patriarchal interpretations and systemic biases. There is a pressing need to evolve a comprehensive legal framework that ensures fair and timely maintenance for both married and divorced women, thereby preserving their dignity and economic security.

Inheritance and succession represent other critical areas where women continue to face substantial discrimination. Despite the codification of laws such as the Hindu Succession (Amendment) Act, 2005, which aimed to equalize property rights between sons and daughters, cultural practices and familial pressure often deprive women of their rightful inheritance. The disparity between law and practice in this domain highlights the persistence of gendered hierarchies within the family structure

Compounding these legal and social inequities is the alarming increase in crimes against women—rape, adultery, bigamy, domestic violence, trafficking, and others—which raise urgent questions about the effectiveness of the existing legal framework. The indecent representation of women in films, advertisements, and various forms of mass media further perpetuates stereotypes and objectifies women, undermining their dignity and contributing to a culture of normalized misogyny. Equally troubling is the growing number of child prostitutes, a phenomenon that reflects not only a failure of law enforcement but also a broader societal complicity in the commodification of vulnerable girls.

These pervasive challenges call for immediate and sustained action. They highlight the critical need for systemic reform aimed at the legal, social, and cultural upliftment of women in India.

# 3. CONCLUSION: TOWARD LEGAL EMPOWERMENT AND GENDER JUSTICE

Despite constitutional promises and legislative reforms, women in India remain marginalized and unequal in multiple spheres of life. Across the globe, too, women's full equality remains an elusive goal. Every effort must be made—legally, socially, and politically—to eliminate structural inequality and ensure that women enjoy the same rights and freedoms as men. Without such parity, the very notion of development becomes skewed, contributing to deeper exclusions and a hollowed-out concept of human rights.

Today, more than ever, there is a pressing need to educate Indian women about their legal, constitutional, and human rights . Legal awareness must become the foundation of any emancipatory effort. Yet, the burden of this transformation cannot rest solely on women. It must be shared by all sectors of society—workers, students, civil society, and the state. Without this collective commitment, India cannot achieve its aspiration of inclusive growth or national progress.

The exploitation of women is not a myth—it is a deeply embedded social reality. Gender justice, at present, remains a fragile and often rhetorical promise. True emancipation begins with awareness—an understanding of rights, legal protections, and the institutional mechanisms available for redress. The Indian Constitution lays out a robust framework to correct historical wrongs and institutionalize gender equality, but this vision can only be realized if the legal system is made accessible, effective, and responsive.

This necessitates widespread legal literacy—especially among women—and access to free legal aid for marginalized and weaker sections. Only when women can confidently assert their rights before appropriate forums, and when legal institutions respond efficiently, can we hope to translate constitutional ideals into lived realities. In this way, legal literacy becomes not just an instrument of empowerment, but a catalyst for societal change

The provision for maintenance under various laws has often been the subject of both subdued debates and sharp controversies. Despite the existence of multiple legislative frameworks aimed at ensuring financial support, the effective realization of maintenance rights remains fraught with challenges. There is an urgent need to evolve a more coherent and responsive legal system that adequately addresses the maintenance needs not only of wives during marriage but also of divorced women

Similarly, the domains of inheritance and succession represent critical areas where women continue to face systemic discrimination. Despite the presence of numerous laws on the statute books—such as the Hindu Succession Act, 1956

(as amended), and personal laws applicable to different religious communities—the ground reality reflects a significant gap between legal guarantees and actual practice. Customary practices, societal attitudes, and procedural hurdles often conspire to deprive women of their rightful entitlements to inheritance and succession.

Thus, the challenge lies not merely in enacting progressive legislation but in ensuring its effective implementation, widespread legal literacy among women, and a cultural shift towards recognizing women's property rights as

While India has made considerable strides in recognizing the legal rights and constitutional guarantees for women, the pervasive challenges of gender inequality, violence, and socio-cultural discrimination continue to hinder meaningful empowerment. The gap between the ideal of equality and the reality of women's lived experiences remains vast. Women, particularly in rural areas, marginalized communities, and underprivileged social strata, continue to suffer from systemic exclusion and injustice, despite the extensive legal frameworks designed to protect and promote their rights

The journey towards gender equality is complex and multifaceted. While legal literacy programs have proven effective in enhancing awareness and providing women with the tools to challenge inequality, the legal system itself remains insufficiently robust and underutilized in protecting women's rights. The judiciary, law enforcement agencies, and policymakers must collectively rise to the challenge of enforcing existing laws and ensuring that they serve their intended purpose of securing justice and dignity for woman

Moreover, cultural and social barriers—such as entrenched patriarchy, social stigmas, and discriminatory traditions—cannot be eradicated through legislation alone. A comprehensive approach, combining legal reform with social education and public awareness campaigns, is essential to shift societal perceptions of women's roles and value. Men and women alike must be actively engaged in fostering an inclusive and just society, where women are not only seen as equal in theory but are truly treated as equal in pra

The state's role is paramount in this transformation. It must prioritize the implementation of laws aimed at the protection and advancement of women's rights while also addressing the socioeconomic marginalization that restricts their access to opportunities. Special provisions for women's economic empowerment, education, and political participation must be strengthened to ensure that women are not only recipients of rights but active agents of change.

The way forward involves three primary actions:

Strengthening Legal Enforcement: Improving the enforcement of existing laws, ensuring speedy and accessible legal processes, and holding perpetrators of violence and discrimination accountable.

- 1) Promoting Legal Literacy: Expanding legal literacy programs to reach a wider demographic, focusing on educating women about their legal rights and equipping them with the tools to defend themselves in the face of injustice.
- **2) Challenging Cultural Norms:** Promoting societal attitudes that value women's autonomy and rights, tackling issues like dowry, child marriage, and gender-based violence through education and media campaign
- **3) Challenging Cultural Norms:** Promoting societal attitudes that value women's autonomy and rights, tackling issues like dowry, child marriage, and gender-based violence through education and media campaigns.

Ultimately, the realization of gender justice in India requires an unwavering commitment to equality, education, and empowerment—a commitment not just on paper but also in practice. Only when women are equipped with the knowledge and resources to claim their rights, and when society as a whole embraces a culture of respect and equity, can the vision of gender justice be fully realized. This will mark the true liberation of women and their contribution to building a stronger, more equitable nation.

#### CONFLICT OF INTERESTS

None.

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