

Breaking Barriers: Law & Gender Equality

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Abstract : Gender equality is a constitutional guarantee in India, but its realization has depended heavily on judicial intervention. This paper critically examines the Supreme Court of India's role in dismantling legal and societal barriers to gender justice through constitutional interpretation and progressive jurisprudence. Drawing on landmark decisions in employment, property rights, bodily autonomy, and protection from violence, the research analyzes the evolution from formal to substantive equality. Using a doctrinal and case-law methodology, the study identifies gaps in implementation and suggests pathways for enhanced enforcement. The findings reveal that while the Supreme Court has played a transformative role, persistent societal and institutional resistance continue to hinder full realization of gender equality.

Keywords- Gender equality, Supreme Court of India, constitutional law, women's rights, judicial activism, landmark cases, substantive equality.

Introduction - Gender equality is enshrined as a foundational value in the Constitution of India, reflected in its Preamble's commitment to justice, equality, and dignity for all citizens. The constitutional scheme explicitly mandates both formal and substantive equality through a combination of Fundamental Rights and Directive Principles of State Policy. **Article 14** guarantees equality before the law and equal protection of laws¹, **Article 15(1)** prohibits discrimination on grounds of sex², and **Article 15(3)** allows the State to make special provisions for women and children³. **Article 16** ensures equality of opportunity in matters of public employment⁴, while **Article 21**, as expansively interpreted, protects the right to life with dignity, encompassing bodily autonomy, reproductive rights, and freedom from violence⁵.

The Directive Principles—particularly **Articles 39(a) and 39(d)** - direct the State to secure adequate livelihood for men and women equally, and equal pay for equal work⁶. **Article 42** mandates provisions for just and humane conditions of work and maternity relief⁷, while **Article 51A(e)** imposes a fundamental duty on citizens to renounce practices derogatory to the dignity of women⁸.

However, the lived reality of Indian women often diverges sharply from these constitutional ideals due to systemic discrimination, patriarchal norms, and institutional gaps. In this context, the **Supreme Court of India** has emerged as a transformative agent, using judicial review to interpret constitutional guarantees progressively and dismantle legal and social barriers against women.

Literature Review

Scholars like Upendra Baxi have described the Indian Constitution as a "transformative document" whose promise of social justice relies on proactive judicial interpretation⁹. Flavia Agnes notes that while formal legal equality exists, substantive equality demands dismantling socio-cultural barriers¹⁰.

Studies have examined **Vishaka v. State of Rajasthan** as judicial law-making under constitutional morality¹¹, **Mary Roy v. State of Kerala** as a milestone in property rights¹², and **Joseph Shine v. Union of India** as an assertion of sexual autonomy and dismantling of gendered moral policing¹³.

However, critics argue that judicial activism alone cannot guarantee implementation, as judgments often lack effective monitoring mechanisms.

Hypothesis: The Supreme Court of India has been instrumental in advancing gender equality through progressive constitutional interpretation and landmark rulings, but the absence of robust enforcement mechanisms and deep-seated patriarchal norms have limited their practical impact.

Data & Methodology

Nature of Study: Doctrinal legal research

Sources Of Data:

1. Primary Sources: Constitution of India, statutory enactments (POSH Act 2013, Hindu Succession Act 1956 as amended in 2005, Maternity Benefit Act 1961, Domestic Violence Act 2005), Supreme Court judgments.

2. Secondary Sources: Academic journals, books, Law Commission reports, CEDAW observations.

Case Selection Criteria:

1. Landmark significance in advancing gender equality:

The foremost criterion for selecting cases is their status as judicial landmarks in the discourse on gender equality. A case qualifies as a landmark when it not only resolves the dispute before the court but also sets a precedent that reshapes the legal landscape. In the context of gender justice, such cases typically challenge entrenched patriarchal structures, question discriminatory practices, and expand the ambit of constitutional protections for women and marginalized genders. Landmark judgments are often referenced in subsequent litigation, cited in academic literature, and invoked in policy discussions. Thus, the inclusion of landmark cases ensures that the research engages with moments of profound transformation in India's jurisprudence on equality.

Example: *Shayara Bano v. Union of India* (2017) – The Supreme Court declared instant triple talaq unconstitutional, a landmark in dismantling gendered practices within personal law. This judgment redefined women's rights in the sphere of marriage and family law.

Example: *Joseph Shine v. Union of India* (2018) – The Court struck down Section 497 IPC on adultery, emphasizing gender neutrality and rejecting paternalistic control over women's autonomy.

2. Constitutional relevance under Articles 14, 15, 16, and 21.

The second criterion rests on the constitutional foundation of equality and liberty. Articles 14, 15, 16, and 21 form the **core of India's gender equality jurisprudence**:

- i. **Article 14** guarantees equality before law and equal protection of laws, thereby mandating a uniform standard of justice irrespective of sex or gender.
- ii. **Article 15** prohibits discrimination on grounds of sex, while also permitting affirmative action for women and children.
- iii. **Article 16** extends equality of opportunity in matters of public employment, directly addressing issues such as workplace discrimination and representation.
- iv. **Article 21** has been expansively interpreted to include the right to dignity, autonomy, reproductive choice, privacy, and freedom from violence—all of which have a direct bearing on women's lived realities.

By focusing on cases interpreting these provisions, the research situates gender equality within the constitutional framework, ensuring that the selected cases are not isolated pronouncements but part of a broader constitutional dialogue.

Example: *Navtej Singh Johar v. Union of India* (2018) – Though centered on sexual orientation, the Court grounded its reasoning in Articles 14, 15, and 21, affirming that constitutional morality must prevail over societal morality in protecting dignity and autonomy.

Example: *Air India v. Nargesh Meerza* (1981) – Struck down discriminatory service rules that forced women air

hostesses to retire earlier than men, invoking Articles 14, 15, and 16.

3. Demonstrable Policy or Societal Impact: Finally, the selection of cases is guided by their tangible influence beyond the courtroom. A judgment's importance is amplified when it leads to legislative reforms, administrative changes, or shifts in societal attitudes. For example, certain decisions have catalyzed the enactment of progressive laws, such as the Protection of Women from Domestic Violence Act, 2005, or the decriminalization of Section 377 IPC. Others have altered workplace norms, religious practices, or institutional policies in favor of inclusivity and non-discrimination. By emphasizing demonstrable impact, the research highlights how judicial reasoning translates into real-world change, bridging the gap between constitutional ideals and social realities.

Example: *Vishaka v. State of Rajasthan* (1997) – The Court's guidelines on sexual harassment at the workplace directly led to the enactment of the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013**.

Example: *Indra Sawhney v. Union of India* (1992) – While focused on reservations, it reaffirmed Article 16's scope and opened discussions on women's representation in employment.

Employment Equality

C.B. Muthamma v. Union of India (1979) C.B. Muthamma v. Union of India (1979) — discrimination in Indian Foreign Service rules struck down

This case marked one of the earliest challenges to gender discrimination in public employment. C.B. Muthamma, the first woman officer of the Indian Foreign Service, faced discriminatory service rules which required women to seek prior government permission before marrying and made them liable for compulsory resignation upon marriage. She challenged these provisions as violative of her constitutional rights.

The Supreme Court agreed, observing that such rules were “**a hangover of the masculine culture of man's superiority over women**”, and struck them down as unconstitutional under **Articles 14 and 16**. The judgment dismantled patriarchal restrictions within one of India's most elite services, affirming that women's professional opportunities cannot be curtailed by assumptions about marriage or family obligations.

Air India v. Nargesh Mirza (1981) — termination of female staff on marriage/pregnancy held unconstitutional. In this case, the Court examined discriminatory conditions imposed on women air hostesses, including a rule that terminated their services upon first pregnancy and required them to retire at an earlier age than male counterparts.

The Supreme Court declared the pregnancy-based termination rule “**manifestly unreasonable and arbitrary**”, holding it unconstitutional under **Article 14**. It reasoned that compelling women to sacrifice motherhood

in order to retain employment was an affront to their dignity and autonomy. However, the Court upheld some retirement-age differences, which later attracted criticism for inconsistency.

Despite this limitation, the ruling advanced the principle that **employment conditions cannot penalize women for exercising personal choices relating to marriage or motherhood**. It represented a significant step from merely ensuring access to employment (*Muthamma*) to protecting dignity within the workplace

Secretary, Ministry of Defence v. Babita Puniya (2020) - permanent commission for women officers in the Army's. This case represents a milestone in the extension of equality principles to the military sphere. Women officers in the Short Service Commission sought parity with male officers for permanent commission and leadership roles in the Army. The Union Government resisted, citing physical standards, command structures, and family obligations.

The Supreme Court categorically rejected these arguments as resting on "**sex stereotypes**", holding that physiological differences cannot be a ground to deny women equal opportunities. Invoking **Articles 14 and 16**, the Court directed that women officers be granted permanent commission and positions of command equal to their male counterparts.

The ruling marked a decisive move toward **substantive equality**, breaking barriers in one of the most male-dominated sectors of employment. It reinforced the idea that constitutional

Comparative Thematic Analysis: From Bureaucracy To Military

In Taken together, these cases trace the judiciary's evolving approach to employment equality. *Muthamma*, the focus was on eliminating overtly discriminatory rules that blocked women's entry into elite services. In *Nergesh Meerza*, the Court began to address the **quality of workplace conditions**, recognizing that reproductive autonomy is part of equality. In *Babita Puniya*, the Court advanced to a vision of **substantive equality**, dismantling structural barriers in military service and affirming women's entitlement to leadership roles.

This trajectory reflects a significant constitutional shift: from **formal equality** (treating men and women the same in principle) to **substantive equality** (acknowledging and correcting systemic disadvantages created by stereotypes and institutional bias). The judiciary has thus played a catalytic role in transforming employment spaces—from bureaucratic offices to airlines to the armed forces—toward greater inclusivity.

Implications For Future Employment Equality Jurisprudence

While these cases mark important victories, they also open the door to unresolved questions.

i. **Women in Combat Roles:** *Babita Puniya* have laid the constitutional foundation for challenging exclusion from

combat duties. Arguments based on stereotypes of physical limitations are increasingly untenable under Articles 14 and 16.

ii. **Pay Equity:** Despite statutory protections, wage disparities persist. The reasoning in *Muthamma* and *Nergesh Meerza* can be invoked to challenge systemic undervaluation of women's work.

iii. **Workplace Harassment and Dignity:** *Vishaka v. State of Rajasthan* (1997) and the subsequent 2013 Act remains crucial, but implementation gaps demand closer judicial scrutiny. The dignity-based reasoning in *Nergesh Meerza* can guide stronger accountability frameworks.

iv. **Representation and Leadership:** The expansion from access to leadership in *Babita Puniya* signals that equality jurisprudence must continue to address not just participation but also decision-making power for women across sectors. In sum, these cases demonstrate how the judiciary has progressively broadened the scope of constitutional equality. They underscore that the promise of **Articles 14, 15, and 16** is not static but dynamic—requiring the State to continually dismantle visible and invisible barriers to women's full and equal participation in public life.

Property & Inheritance Rights

Mary Roy v. State of Kerala (1986) - equal inheritance for Syrian Christian women

This case was a turning point in the struggle for equal inheritance rights for Christian women in India. Mary Roy, a Syrian Christian woman, challenged the applicability of the **Travancore Christian Succession Act, 1916**, which discriminated against daughters by granting them significantly lesser shares in property compared to sons. She argued that this law was inconsistent with the Indian Succession Act, 1925, which provided equal inheritance rights to male and female heirs.

The Supreme Court upheld her claim, ruling that with the extension of the Indian Succession Act to Travancore following independence, the discriminatory provisions of the 1916 Act stood repealed. As a result, Syrian Christian women became entitled to equal inheritance rights as men. The judgment had profound social impact, dismantling centuries of patriarchal inheritance practices in Kerala. By invoking constitutional principles of equality under **Articles 14 and 15**, the Court ensured that women's rights were not subordinated to customary or religious law when such laws were manifestly discriminatory.

Vineeta Sharma v. Rakesh Sharma (2020)

This case addressed the interpretation of the **Hindu Succession (Amendment) Act, 2005**, which conferred coparcenaries rights upon daughters in joint Hindu family property. The key question before the Court was whether daughters born prior to the 2005 amendment would also be entitled to coparcenaries rights by birth, and whether the father had to be alive on the date of the amendment. The Supreme Court, in a landmark judgment, held that **daughters, like sons, have coparcenaries rights by birth**

irrespective of whether the father was alive on 9 September 2005 (the date of the amendment). The Court emphasized that the amendment was intended to remove gender discrimination inherent in the Mitakshara coparcener system and therefore must be given a broad and purposive interpretation.

By aligning its reasoning with **Articles 14 and 15**, the Court reaffirmed the principle of gender equality in succession law. The decision has had far-reaching consequences, empowering Hindu women across India with equal legal standing in family property disputes and reshaping the understanding of property rights in traditional households.

Analytical Note

Together, these three cases illustrate the judiciary's critical role in transforming women's inheritance rights from **token recognition to substantive equality**:

- Mary Roy dismantled discriminatory personal laws for Syrian Christian women.
- Vineeta Sharma entrenched the principle of equal coparcenary rights for daughters by birth in Hindu law.
- Arunachala Gounder extended protection to women's **self-acquired property**, ensuring dignity and autonomy in succession beyond marriage.

The progression reflects a broader constitutional trajectory where **Articles 14 and 15** serve as the touchstone for striking down gender-based inheritance norms. These cases collectively mark the judiciary's shift from a **formal equality model (removing explicit discrimination)** to a **substantive equality model (securing women's independent economic rights)**, thereby reshaping the landscape of property law in India.

Protection From Violence & Workplace Safety

- Vishaka v. State of Rajasthan** (1997) — workplace sexual harassment guidelines

This case arose from the gang rape of Bhanwari Devi, a social worker in Rajasthan, which highlighted the absence of legal safeguards against sexual harassment at the workplace. In response, the Supreme Court laid down the **Vishaka Guidelines**, mandating every employer and institution to provide mechanisms to prevent and redress workplace harassment. The Court grounded its reasoning in **Articles 14, 15, 19, and 21**, interpreting sexual harassment as a violation of equality, dignity, and the right to life.

The judgment was transformative, as it filled a legislative vacuum until the enactment of the **Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act)**. It remains the constitutional foundation for workplace safety in India.

- Aureliano Fernandes v. State of Goa** (2023) — strict compliance with POSH Act

More than two decades after *Vishaka*, the Supreme Court in *Aureliano Fernandes* confronted widespread non-

compliance with the POSH Act, 2013. The Court observed that many workplaces had either not constituted Internal Complaints Committees (ICCs) or had done so only on paper.

Stressing that sexual harassment at the workplace strikes at the core of **Articles 14 and 21**, the Court issued strict directions to ensure effective implementation of the Act, including mandatory periodic audits, training, and accountability measures for institutions. This judgment reinforced that **mere existence of laws is insufficient without institutional compliance**, thereby strengthening workplace safety mechanisms.

- Laxmi v. Union of India** (2015) — acid sale regulations
This case arose from a public interest litigation filed by Laxmi, an acid attack survivor, seeking regulation of the open sale of acid in India. The Supreme Court recognized acid attacks as a grave form of gendered violence, violating women's rights to dignity, bodily integrity, and life under **Article 21**.

The Court directed the government to strictly regulate the retail sale of acid, mandate compensation for survivors, and ensure free medical treatment. These directions led to concrete regulatory frameworks and state-level rules controlling acid availability. The judgment stands as a milestone in recognizing **gender-based violence as a constitutional issue**, requiring preventive as well as remedial state action.

Bodily Autonomy & Personal Liberty

- Suchita Srivastava v. Chandigarh Administration** (2009) — reproductive choice as fundamental right

This case involved a woman with intellectual disabilities who became pregnant after sexual assault. The Chandigarh Administration sought to terminate her pregnancy without her consent. The Supreme Court held that **a woman's reproductive choice is a dimension of personal liberty under Article 21** and cannot be curtailed without compelling state interest. The Court stressed the principles of **bodily autonomy, privacy, and dignity**, ruling that the State has an obligation to respect women's reproductive rights. This judgment marked a foundational moment in recognizing reproductive choice as a constitutional guarantee.

- Joseph Shine v. Union of India** (2018) — decriminalization of adultery

In this case, the constitutional validity of **Section 497 IPC (adultery)** was challenged. The provision criminalized only the man involved in adultery with a married woman, treating the woman as a passive victim without agency. The Supreme Court unanimously struck down the law, holding it unconstitutional under **Articles 14, 15, and 21**. The Court emphasized that the provision was rooted in **patriarchal notions of control over women's sexuality** and violated women's dignity, autonomy, and equality. By decriminalizing adultery, the judgment reframed marriage as a partnership of equals, free from State interference in private morality.

- X v. Principal Secretary** (2022) — expanded abortion

rights to unmarried women

This case concerned the denial of abortion to an unmarried woman under the **Medical Termination of Pregnancy Act, 1971 (as amended in 2021)**. The Supreme Court held that the right to safe and legal abortion extends to **all women, irrespective of marital status**, and that the term “woman” under the Act includes **unmarried and single women**. Importantly, the Court recognized **decisional autonomy in reproductive matters** as integral to Article 21 and expanded the framework of equality under Article 14.

These cases collectively illustrate the judiciary’s expansive interpretation of constitutional rights to ensure **protection from violence and workplace safety**. While *Vishaka* established the principle that workplace harassment violates equality and dignity, *Aureliano Fernandes* reaffirmed the necessity of institutional compliance to give the law teeth. *Laxmi* expanded the discourse beyond workplaces to public spaces, recognizing the State’s duty to protect women from structural violence like acid attacks. Together, they reflect a jurisprudential commitment to safeguarding women’s rights to equality, dignity, and security under the Constitution.

Analysis & Implementation Challenges

- **Institutional gaps** — many workplaces fail to comply with POSH Act provisions.

Despite progressive judicial pronouncements such as *Vishaka* and *Aureliano Fernandes*, the reality of implementation remains weak. Many workplaces either do not establish Internal Complaints Committees (ICCs) under the POSH Act, 2013, or treat them as a formality without proper training or independence. This institutional deficit undermines the constitutional promise of safe and equal workplaces, showing a disconnect between **law on paper and law in practice**.

- **Cultural resistance** — deep-seated patriarchy impedes acceptance of progressive rulings.

Judicial advances in gender equality often confront resistance from entrenched patriarchal norms. Whether in inheritance rights (*Mary Roy*, *Vineeta Sharma*) or employment equality (*Babita Puniya*), social acceptance lags behind judicial directives. Deep-rooted cultural attitudes towards women’s roles in family, workplace, and society frequently dilute the transformative potential of landmark judgments, resulting in **slow and uneven social change**.

- **Legislative inertia** — enabling laws often lag behind judicial pronouncements.

Courts have repeatedly filled legal vacuums—e.g., issuing the *Vishaka Guidelines* in the absence of workplace safety legislation or recognizing reproductive autonomy in *Suchita Srivastava*. However, enabling legislation often follows belatedly, and sometimes only under judicial pressure. This inertia reflects a **reactive rather than proactive legislative approach**, which hampers the institutionalization of gender justice.

Conclusion: The Supreme Court has played a decisive role in dismantling formal and informal barriers to gender equality. However, without strong enforcement, sustained legislative support, and cultural transformation, judicial pronouncements risk remaining symbolic. The trajectory of Indian constitutional jurisprudence reveals that the Supreme Court has been at the forefront of advancing gender equality by interpreting Articles 14, 15, 16, and 21 in an expansive and purposive manner. From *Muthamma* and *Babita Puniya* in employment equality, to *Mary Roy* and *Vineeta Sharma* in property and inheritance rights, to *Vishaka* and *Aureliano Fernandes* in workplace safety, and finally to *Suchita Srivastava* and *X v. Principal Secretary* in reproductive autonomy, the judiciary has consistently sought to dismantle structural and cultural barriers that impede women’s full participation in society. These cases, while distinct in context, are united by their commitment to substantive equality, dignity, and autonomy as the core of constitutional protection.

Yet, the analysis also demonstrates that **judicial progress is only the first step**. Persistent institutional gaps, such as inadequate compliance with the POSH Act, cultural resistance rooted in patriarchy, and legislative inertia in enacting or updating enabling laws, continue to limit the transformative potential of these judgments. The result is often a disjunction between constitutional ideals and lived realities, where rights exist in theory but remain fragile in practice.

For gender equality to move beyond symbolic victories, three conditions are essential: **robust enforcement mechanisms, responsive legislative action, and deep cultural change** that normalizes equality as a social value rather than a judicial imposition. The role of the Court remains vital as a catalyst, but sustainable change depends on the synergy between judicial interpretation, legislative responsiveness, institutional accountability, and social transformation.

In this sense, the future of gender justice in India lies not merely in landmark pronouncements but in the continuous effort to translate them into everyday practices of equality, dignity, and freedom.

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