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## Indian Law and the Rise of Feminism in India

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### Abstract

Indian legislative system has tried to provide a strong platform for feminism but it is a story of women questioning silence, challenging injustice and seeking dignity at workplaces, within family and society at large. Indian law has walked alongside this journey at its own pace—sometimes slowly, sometimes progressively and sometimes reluctantly. Despite legal reforms, many women still face inequality due to the gap between the formal legal rights granted and the reality of their socioeconomic and cultural situations. This article explores the present relationship between Indian law and the rise of feminism. An attempt has been made to see feminism from the eyes of constitutional values, legislation and judicial. The discussion lights the relation of legal analysis with social context so as to make it suitable for academic study as well as thoughtful reflection.

**Keywords:** Constitution, Judiciary, Feminism, Gender Equality.

### Introduction

Indian Constitution has provided base for gender equality and institutional inertia. Feminism and our legal system are entwined in a complex, entangled ongoing dance. Indian constitutional and legislative architecture is robust and forward-looking but in reality often lags. Progress has been real but uneven and far from complete as rooted in everyday experiences of Indian women fighting within homes, streets, offices and courts. Laws can perpetuate or exacerbate gender-based power differentials, even when laws appear neutral on their face.

Today, in India feminism isn't just not in papers but is a social mission with legal foot. The judiciary has played a crucial feminist role. For example, in Vishaka case, the Supreme Court proactively filled a legislative void. There's growing recognition of intersectional discrimination: caste, religion, class, and gender all overlap. Feminism must contend with complex social hierarchies.

Indian law is significantly influenced by Our Constitution that provides that feminism is powered by provisions for equality to protect women from discrimination,

violence and economic inequality. Major legal developments include the Protection of Women from Domestic Violence Act (2005) and the Sexual Harassment of Women at Work (Prevention, Prohibition, and Redressal) Act (2013). There is a gap between the formal legal rights of women and their substantive equality due to societal inequalities which has led to ongoing feminist efforts to challenge discriminatory laws and practice. Indian law plays a crucial role as laws today recognize women as rights-bearing individuals, patriarchal attitudes continue to influence enforcement and interpretation. Understanding this tension is essential to understanding the present scenario of feminism in Indian law.

Indian society has witnessed reform movements that questioned the suffering of women from times immemorial. Reformers like Raja Ram Mohan Roy, Ishwar Chandra Vidyasagar, Savitribai Phule challenged evil practices such as sati, child marriage and denial of education which were not only social issues but deeply personal tragedies. The reformers planted the idea that women's suffering was neither natural nor inevitable—it was created by society and therefore could be changed.

### **Constitutional Foundations: The Promise of Equality**

When the Constitution of India was adopted, it carried a powerful promise that all citizens, regardless of caste, creed, gender would be equal before the law. Articles 14, 15, and 16 form the backbone of this promise. As we all know, The Indian Constitution has fine provisions for equality, such as Article 14 (equality before the law) and Article 15(3) (allowing the state to make special provisions for women and children). Constitutional protections continue to serve as a base for legal activism. They rejected discrimination and instructed the State to take special steps for the upliftment of women who have been historically disadvantaged. Over time, courts have given deeper meaning to the right to life under Article 21. Feminist interpretations have helped expand this right to include dignity, privacy, bodily autonomy, and reproductive choice. These interpretations recognize women not merely as dependents or caregivers, but as individuals capable of making decisions about their own lives. Constitutional protections form the legal backbone of feminist jurisprudence in India. It reflects a “protective discrimination” strategy which includes formal equality complemented by positive measures to correct historical disadvantages. At the heart of India's legal framework lies our Constitution which enshrines powerful guarantees for gender justice.

Judicial system have used Articles 14 and 15 to strike down discriminatory practices and to interpret new protections for women.

Article 14 ensures that every person has “equality before the law” and equal protection under the law.

Article 15 prohibits discrimination on a number of grounds, including sex. Crucially, Article 15(3) allows the state to make “special provisions” for women and children — enabling affirmative action.

Article 16 guarantees equal opportunity in public employment, opening the doors of state jobs to women on equal footing.

Beyond just Fundamental Rights, the Directive Principles (non-justiciable but influential) also play lead role in promoting gender justice. Article 39 directs equal pay for equal work, and Article 42 mandates maternity relief and humane working conditions. The Directive Principles remind the State that equality is not only about formal rights but also about social and economic conditions. Equal pay, humane working conditions and maternity relief reflect an understanding of women’s lived realities.

### **Feminism and the Law in India: A Living Struggle**

Indian courts have often acted as spaces where women’s voices find recognition. By questioning stereotypes and expanding the meaning of equality, judges have helped transform abstract rights into lived protections. Judicial sensitivity to dignity, choice, and privacy has strengthened feminist legal thought.

### **The Law Institute**

Legislation has enacted feminist inspired Laws to protect women which include the Dowry Prohibition Act, the Maternity Benefit Act and the Equal Remuneration Act.

Feminist jurisprudence has led to important judicial changes, such as the decriminalization of adultery and the nullification of Section 497 of the Indian Penal Code (which criminalized a man's adultery but not a woman's) for being discriminatory. Over the decades, the Indian legislature has passed several landmark laws that illustrate how feminism has shaped and been shaped by, legal change.

- **Protection from Domestic Violence:** Landmark laws like the Protection of Women from Domestic Violence Act (2005) directly address issues of gender-based violence and workplace harassment. The feminist model is grounded in the principle that intimate partner violence is the result of male oppression of women within a patriarchal system in which men are the primary perpetrators of violence and women the primary victims (Dobash & Dobash, 1979; Walker, 1979). The Protection of Women from Domestic Violence Act, 2005 is a landmark civil law. Unlike many older laws, it defines “domestic violence” broadly as not just physical abuse but emotional, verbal, economic and even psychological abuse also counts. This law acknowledges that violence often happens in the home behind closed doors and within four walls and that protection must go beyond criminal punishment to include civil remedies (like protection orders).

- **Sexual Harassment at the Workplace:** The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 was born out of the Supreme Court's Vishaka judgment (1997), which laid down guidelines in the absence of legislation.

Vishaka (a PIL filed after Bhanwari Devi's brutal gang rape) interpreted Articles 14, 19(1)(g), and 21 (right to life, dignity) to mandate workplace protections. This case deeply resonates with feminist jurisprudence. Feminist approaches advocate for a shift from a purely punitive model to a more restorative justice model that focuses to create healthier work environments. They also call for collective action, strong union support and a fundamental shift in societal and organizational mindsets to achieve true gender equality in the workplace.

Despite legal frameworks and increased awareness (driven partly by movements like MeToo), significant challenges remain. Underreporting of majority of sexual harassment cases due to fear of adverse consequences or a failed inquiry process.

- **Economic Rights and Equal Pay:** The Equal Remuneration Act ensures that women receive the same pay as men for similar work, preventing wage discrimination. The **Equal Remuneration Act, 1976** (now integrated into the Code on Wages, 2019) mandates equal pay for same or similar work and prohibits discrimination in recruitment.
- The **Maternity Benefit (Amendment) Act, 2017** increased paid maternity leave to 26 weeks and mandates crèche facilities in large workplaces. Laws relating to reproductive health increasingly reflect the idea that decisions about motherhood belong to women themselves. Courts have emphasized that forced choices violate dignity and personal liberty.

According to a 2023 ILO report, the gender pay gap in India stands at 27%. Another report in 2024 noted that for every 100 rupees earned by men, women only earned around 40 rupees. A recent 2025 report suggests a narrowing of the gap in median salaries for formal sector jobs, though this may mask underlying complexities in the wider workforce.

- **Property Inheritance:** The Hindu Succession Act of 1956 was amended in 2005 to grant daughters equal rights as coparceners in joint family property. The amendment to Hindu succession laws granting daughters equal inheritance rights was more than a legal reform as it challenged centuries of economic exclusion. Ownership and control over property remain central to women's independence.
- **Political Representation:** A major constitutional development is the One Hundred and Sixth Amendment (2023), which reserves 33% of seats in the

Lok Sabha and state assemblies for women. This promises a structural shift to have more women representation in political power but its effectiveness still depends on its implementation, social acceptance and sustained political will. The Legal System's Feminist reveal blind spots despite laws which reveals deep gaps.

### **Persistent Challenges**

Despite progressive laws, today also, many women struggle to access justice. Police apathy, social stigma, long court processes and lack of awareness remain major barriers. In digital spaces, new forms of harassment have emerged, testing the limits of existing legal frameworks. Feminism today calls for prevention, education and social change. The need is that law must work along with families, offices and institutions to create environment of respect and equality for everyone.

- **Low Conviction Rates in Violence Cases:** Even we have law for conviction on paper, enforcement is a major problem. For example, a study from Bengaluru revealed that between 2017–2022, only 24 out of 2,202 cases under IPC Section 498A (cruelty by husband or relatives) resulted in convictions which is roughly 1%. This indicates towards weak legal structures and also missing systemic inertia, social stigma and perhaps evidentiary challenges in prosecuting gender-based violence.
- **Gaps in Protection from Marital Rapes:** A critical debate remains around Exception 2 to Section 375 of the IPC, which exempts non-consensual sex by a husband (if his wife is not a minor) from being considered rape. Many feminist activists argue this violates a woman's autonomy, consent, and dignity yet, treats marriage as consent. The lack of a legal framework for marital rape continues to be a glaring omission in Indian criminal law.
- **Misuse of Protective Laws:** This is a complex issue. Men feels that their legal rights are deferred and laws meant to protect women are occasionally misused leading to false accusations. However, this is a matter of debate over how protections can be both effective and fair. The challenge for feminist jurisprudence is to defend the need for protection while ensuring due process.
- **Underrepresentation in Judiciary:** Despite gains, the representation of women in the higher judiciary remains low. Many argue that without more women judges, legal interpretations risk lacking gender-sensitive perspectives.
- **Cultural and Structural Barriers:** Societal change lags behind legal reform: many women, especially in marginalized communities, continue to face discrimination in real life—on access to property, inheritance, employment, and political power. Laws alone do not dismantle patriarchal norms

- **Evolving Legal Needs:** New challenges such as revenge pornography, online harassment and digital consent are emerging. Studies show that many young people in India are not even aware of the concept of revenge porn and current cyber laws may be inadequate.
- **Digital realities:** With the advancement of technology, digital crime has taken a new face. To save oneself from deep fake material and AI generated social image is now one of the biggest task.

### Looking Ahead: What Needs to be Done

- **Strengthening Enforcement:** More resources, faster courts, gender-sensitive training for police and judiciary.
- **Legal Reform:** Especially around marital rape, digital abuse, and other emerging issues.
- **Representation:** more women representation in politics, judiciary, law enforcement and leadership roles.
- **Community-Level Change:** Legal literacy awareness programs, feminist education and grassroots activism to change deep-rooted patriarchal norms.
- **Inclusive Feminism:** Address intersections of caste, religion and class so that legal protections reach the most marginalized women.

### Conclusion

Feminism in India is not just a legal battle. It is deeply personal for millions of women, across caste, religion, class, and geography. The law provides tools, but social norms, education, and activism shape whether those tools are wielded effectively. For a woman in a rural village, the Protection from Domestic Violence Act might mean a place to flee, a way to claim respect, dignity, or financial security. For a working professional, the Sexual Harassment Act can transform a culture at work, giving her a mechanism to speak out and force change. For young girls, political reservation could mean seeing more women leaders, deciding to run for office someday themselves.

Yet, the journey is long and tiring. Real empowerment demands only stronger laws along with better implementation, sensitized institutions and societal transformation. Feminism in India means holding space for contradictions which includes celebrating legal progress, acknowledging misuse and persistently pushing for deeper change. The present scenario of Indian law and feminism is one of cautious hope. Laws have evolved, courts have spoken, and women's voices are louder than before. Yet, true equality cannot be achieved through legislation alone. Feminism reminds us that law must remain connected to human experience. Only when legal principles reflect everyday realities can the constitutional promise of dignity and justice become truly meaningful.

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