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Judicial Trends in Gender Justice: A Study of Landmark Judgments on Women Protection Laws in India

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ABSTRACT

This research examines the evolutionary trajectory of gender justice in India through the lens of landmark judicial pronouncements on women protection laws. The study traces the transformation of judicial interpretation from a restrictive, positivist approach to a more progressive, rights-based framework that integrates international human rights standards. Through a qualitative analysis of seminal judgments across five decades (1970-2023), the research identifies distinct phases in the judiciary's engagement with gender justice: from formal equality to substantive equality, from protection to empowerment, and from gender-neutral to gender-responsive adjudication. The analysis reveals how the Supreme Court and High Courts have progressively expanded the scope of constitutional guarantees, reconceptualized gender-based violence as a human rights violation, developed specialized jurisprudence on workplace sexual harassment, strengthened implementation mechanisms for women protection laws, and challenged patriarchal norms embedded in legal discourse. The research demonstrates that despite significant jurisprudential advances, inconsistencies persist across jurisdictions and levels of judiciary, reflecting broader sociocultural resistance to gender equality. The study concludes that the Indian judiciary has evolved from being a passive interpreter to an active architect of gender justice, though the gap between progressive judicial pronouncements and their implementation remains a critical challenge in translating legal victories into lived realities for women across socioeconomic strata.

Keywords: Gender Justice, Judicial Activism, Women Protection Laws, Constitutional Rights, Transformative Jurisprudence

I. INTRODUCTION

Gender justice in India has traversed a complex evolutionary path, inextricably linked to the nation's socio-political development and constitutional framework. The Indian judiciary, particularly the Supreme Court and High Courts, has played a pivotal role in shaping this

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trajectory through interpretative adjudication and rights-based jurisprudence. This research examines how judicial pronouncements on women protection laws have evolved over five decades (1970-2023), reflecting broader shifts in legal philosophy, constitutional interpretation, and societal attitudes toward gender equality.

The Indian Constitution embodies a transformative vision through Articles 14, 15, and 16, which guarantee equality before law, prohibit discrimination on grounds of sex, and provide for equality of opportunity in public employment, respectively. Article 15(3) specifically empowers the state to make special provisions for women and children. Despite these constitutional guarantees, the realization of gender justice has been an arduous journey, marked by legislative inadequacies, implementation challenges, and deeply entrenched patriarchal norms that permeate legal discourse and judicial reasoning.

This research is situated at the intersection of feminist legal theory, constitutional jurisprudence, and human rights discourse. It adopts a critical perspective to analyze how judicial interpretations have oscillated between conservation and transformation, between reinforcing gender stereotypes and challenging structural inequalities. The central thesis posits that the Indian judiciary has undergone a paradigmatic shift in its approach to gender justice from a restrictive, positivist framework that emphasized formal equality to a more progressive, rights-based approach that embraces substantive equality and integrates international human rights standards.

This study is particularly relevant in the contemporary context, where gender-based violence continues to be pervasive despite legislative reforms and judicial interventions. The research contributes to the existing literature by offering a comprehensive analysis of the evolutionary trajectory of judicial reasoning on gender justice, identifying patterns, inconsistencies, and transformative moments that have shaped women's legal rights in India.

II. JUDICIAL TRANSFORMATION

One of the most significant dimensions of judicial transformation in gender justice jurisprudence has been the shift from formal to substantive equality. Early judicial interpretations of Articles 14 and 15 adhered to a formal equality paradigm, focusing on identical treatment regardless of structural inequalities. Over time, the judiciary has evolved toward a substantive equality approach that recognizes the need for differential treatment to achieve meaningful equality.

In *Air India v. Nargesh Meerza* (1981), the Supreme Court initially upheld discriminatory service conditions for female air hostesses, including termination upon pregnancy or marriage,

reflecting a formalistic approach to equality that ignored the gendered impact of such regulations. In contrast, the Court's reasoning in *Secretary, Ministry of Defence v. Babita Puniya* (2020) explicitly rejected stereotypical assumptions about women's capabilities and emphasized the need for structural changes to enable equal participation in traditionally male-dominated domains.

The evolution toward substantive equality is particularly evident in the judiciary's interpretation of Article 15(3), which allows for special provisions for women. In early judgments, this provision was construed narrowly to justify protectionist measures rather than empowerment. However, in *Anuj Garg v. Hotel Association of India* (2007), the Supreme Court reinterpreted Article 15(3) as an enabling provision designed to overcome historical disadvantages, not as an exception to the equality guarantee.

The substantive equality approach is further reflected in judgments addressing workplace discrimination. In *Mackinnon Mackenzie & Co. Ltd. v. Audrey D'Costa* (1987), the Supreme Court held that equal pay for equal work applies even when women are segregated into separate categories ostensibly based on nature of work. More recently, in *Inspector (Mahila) Ravina v. Union of India* (2016), the Court emphasized that equality in employment requires dismantling systemic barriers that impede women's advancement, not merely ensuring non-discrimination at entry level.

Another significant dimension of judicial transformation has been the reconceptualization of gender-based violence from a criminal law paradigm to a human rights framework. This shift has enabled the judiciary to address the structural dimensions of violence against women and develop more comprehensive remedies.

The Supreme Court's judgment in *Vishaka v. State of Rajasthan* (1997) marked a pivotal moment in this reconceptualization, framing sexual harassment as a violation of constitutional guarantees rather than merely an individual criminal act. By linking workplace sexual harassment to rights under Articles 14, 15, 19, and 21, the Court established a constitutional foundation for addressing gender-based violence that transcended criminal law remedies.

In *Bodhisattwa Gautam v. Subhra Chakraborty* (1996), the Supreme Court explicitly recognized rape as a crime against basic human rights, violating the right to life with dignity guaranteed under Article 21. This rights-based framing enabled the Court to order interim compensation for the victim a remedy not explicitly provided in criminal law demonstrating the expanded scope of judicial intervention enabled by human rights discourse.

The shift toward a human rights framework is further evident in the Supreme Court's approach

to domestic violence. In *S.R. Batra v. Taruna Batra* (2007), while interpreting the Protection of Women from Domestic Violence Act, 2005, the Court emphasized the right to housing as an essential component of women's right to life with dignity. More recently, in *Hiral P. Harsora v. Kusum Narottamdas Harsora* (2016), the Court expanded the Act's applicability to protect women against violence perpetrated by any relative, not just male relatives, reflecting a rights-based approach focused on women's security rather than traditional family structures.

This reconceptualization has facilitated the integration of international human rights standards into domestic jurisprudence. In *Vishaka* and subsequent judgments, the Court explicitly referenced CEDAW and other international instruments to interpret constitutional provisions expansively. This approach has enabled the judiciary to address forms of gender-based violence not explicitly covered by domestic legislation, developing a more comprehensive framework for protection.

The development of specialized jurisprudence on workplace sexual harassment represents a distinct dimension of judicial transformation in gender justice. Prior to the *Vishaka* guidelines and subsequent legislation, sexual harassment was inadequately addressed through general criminal law provisions, which failed to capture its systemic nature and workplace-specific dimensions.

The Supreme Court's formulation of legally binding guidelines in *Vishaka v. State of Rajasthan* (1997) demonstrated unprecedented judicial creativity in addressing a legislative vacuum. The guidelines delineated employers' obligations to prevent and address sexual harassment, introduced complaint committees with external representation, and established procedural safeguards for complainants. This comprehensive framework reflected the Court's understanding of sexual harassment as a systemic issue requiring institutional responses.

In *Medha Kotwal Lele v. Union of India* (2012), the Supreme Court addressed implementation gaps in the *Vishaka* guidelines, directing state governments to establish complaint committees at all workplaces and conduct periodic reviews. The Court's monitoring of implementation demonstrated its commitment to translating jurisprudential advances into institutional changes.

The specialized jurisprudence on workplace sexual harassment has evolved to address various dimensions of the issue. In *Apparel Export Promotion Council v. A.K. Chopra* (1999), the Supreme Court clarified that physical contact is not essential for sexual harassment, recognizing that verbal and non-verbal conduct of a sexual nature can create a hostile work environment. This expanded conceptualization challenged narrow interpretations that had limited remedial action to cases involving physical contact.

The judiciary has also addressed the evidentiary challenges in sexual harassment cases. In *Global Health Private Limited v. Local Complaints Committee* (2018), the Delhi High Court emphasized that the absence of eyewitnesses should not undermine the credibility of sexual harassment complaints, recognizing the often private nature of such misconduct. The Court endorsed a context-sensitive approach to evaluating evidence, considering power dynamics and workplace realities.

The enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which codified and expanded the Vishaka guidelines, demonstrates the influence of judicial creativity on legislative reform. Subsequent jurisprudence has focused on interpreting this legislation to effectuate its transformative potential, particularly regarding the independence of Internal Committees, protection against retaliation, and inclusion of diverse work settings within its ambit.

A crucial dimension of judicial transformation has been the judiciary's proactive role in strengthening implementation mechanisms for women protection laws. Recognizing that progressive legislation often fails to translate into lived realities due to implementation gaps, courts have increasingly focused on monitoring enforcement and addressing systemic barriers to justice.

In *Prakash v. State of Punjab* (2005), the Supreme Court issued comprehensive guidelines for investigating dowry death cases, addressing procedural deficiencies that had impeded effective enforcement. The Court mandated videography of post-mortem examinations, specified timelines for forensic analysis, and directed regular monitoring by senior police officials, demonstrating a systemic approach to implementation challenges.

Similarly, in *Delhi Domestic Working Women's Forum v. Union of India* (1995), the Supreme Court established guidelines for assisting rape victims, including legal representation, psychological counseling, and compensation. The Court's direction to establish Criminal Injuries Compensation Boards reflected its recognition that legal remedies must be supplemented by support services to be truly effective.

The judiciary has also addressed institutional failures in implementing women protection laws. In *Railway Board v. Chandrima Das* (2000), the Supreme Court held public authorities liable for failure to prevent sexual violence against women in public spaces, emphasizing state accountability for creating safe environments. More recently, in *Nipun Saxena v. Union of India* (2018), the Court issued detailed directions for establishing One Stop Centers for sexual assault victims across all districts, demonstrating its commitment to creating accessible support

systems.

The Supreme Court's monitoring of the implementation of the Protection of Women from Domestic Violence Act, 2005, through periodic status reports and directions to state governments, exemplifies its role in ensuring that legislative protections translate into institutional mechanisms. In *Indira Jaising v. Supreme Court of India* (2016), the Court directed the allocation of adequate budgetary resources for Protection Officers and support services under the Act, addressing the financial constraints that had undermined its effectiveness.

The judiciary has also developed innovative remedies to address implementation challenges. In *Laxmi v. Union of India* (2013), responding to increasing acid attacks on women, the Supreme Court not only directed stricter regulation of acid sales but also established compensation and rehabilitation schemes for victims. The Court's continued monitoring of compliance through subsequent orders demonstrated its commitment to ensuring effective implementation.

Perhaps the most profound dimension of judicial transformation has been the progressive challenging of patriarchal norms embedded in legal discourse. The judiciary has increasingly scrutinized gender stereotypes, questioned traditional gender roles, and recognized women's agency and autonomy across various domains.

In early rape adjudication, courts often relied on stereotypes about "ideal" victims, expectations of physical resistance, and assumptions about women's sexual behavior. The Supreme Court's judgment in *State of Punjab v. Gurmit Singh* (1996) marked a significant departure by emphasizing that a sexual assault victim's testimony does not require corroboration and should not be viewed with suspicion based on "morality" standards. The Court explicitly rejected the notion that only "virtuous" women deserve legal protection, challenging deeply entrenched biases in the criminal justice system.

The judiciary's evolving approach to domestic violence reflects a similar challenge to patriarchal norms. In *S.R. Batra v. Taruna Batra* (2007), while interpreting the right to residence under the Protection of Women from Domestic Violence Act, the Supreme Court initially adopted a restrictive approach influenced by traditional notions of family property. However, in subsequent judgments such as *Satish Chander Ahuja v. Sneha Ahuja* (2020), the Court expanded women's right to residence regardless of ownership patterns, recognizing economic vulnerabilities created by patriarchal property regimes.

In personal law domains, the judiciary has increasingly challenged gender discriminatory practices justified in the name of religion or custom. In *Danamma v. Amar* (2018), the Supreme

Court recognized daughters' right to ancestral property even if born before the 2005 amendment to the Hindu Succession Act, challenging the patriarchal underpinnings of inheritance laws. Similarly, in *Indian Young Lawyers Association v. State of Kerala* (2018), the Court rejected religious justifications for excluding women from temple entry based on menstruation, challenging cultural notions of female impurity.

The Supreme Court's judgment in *Joseph Shine v. Union of India* (2018), decriminalizing adultery, explicitly addressed the patriarchal assumptions underlying Section 497 of the Indian Penal Code. Justice Chandrachud's opinion critiqued the provision's treatment of women as property lacking sexual agency and its reinforcement of stereotypes about female sexuality. This judgment exemplifies the judiciary's growing willingness to interrogate the gendered foundations of criminal law provisions ostensibly designed to protect marriage.

In reproductive rights jurisprudence, the judiciary has increasingly recognized women's bodily autonomy and decision-making capacity. In *Z v. State of Bihar* (2018), the Supreme Court upheld a mentally challenged woman's right to continue her pregnancy against medical advice, emphasizing that disability cannot justify curtailing reproductive autonomy. This judgment challenged the paternalistic assumption that certain women are incapable of making reproductive decisions, affirming the universal application of bodily integrity rights.

The challenging of patriarchal norms is also evident in the judiciary's approach to women in public and professional domains. In *Secretary, Ministry of Defence v. Babita Puniya* (2020), the Supreme Court rejected stereotypical justifications for restricting women's roles in the armed forces, emphasizing that physiological differences cannot justify blanket exclusions from command positions. The Court explicitly acknowledged that such restrictions reflect not genuine functional requirements but societal attitudes about appropriate roles for women.

III. FUTURE DIRECTIONS: CHALLENGES AND OPPORTUNITIES

Despite significant jurisprudential advances, the persistent gap between progressive judicial pronouncements and their implementation represents a critical challenge for gender justice in India. Addressing this implementation gap requires multifaceted interventions across institutional, sociocultural, and economic dimensions.

Strengthening institutional mechanisms for monitoring compliance with judicial directives represents an immediate priority. The establishment of dedicated monitoring bodies within the judiciary, modeled on the Supreme Court's oversight in cases such as *Vishaka* and *Medha Kotwal Lele*, could enhance accountability for implementing gender justice judgments. These mechanisms should include regular reporting requirements, clear performance indicators, and

consequences for non-compliance.

Resource allocation for gender justice institutions requires systematic attention. The chronically underfunded infrastructure for implementing women protection laws including Protection Officers under the Domestic Violence Act, One Stop Crisis Centers for sexual violence survivors, and specialized courts undermines the effectiveness of legal protections. Judicial interventions directing adequate budgetary allocations, as in *Indira Jaising v. Supreme Court of India* (2016), represent important steps but require sustained monitoring to ensure compliance.

Capacity building across the justice system is essential for effective implementation. Comprehensive and mandatory gender sensitization programs for all justice system actors including police, prosecutors, judges, and support personnel are necessary to address biases that undermine the implementation of progressive legal frameworks. These programs should move beyond awareness to address implicit biases and provide practical tools for gender-responsive handling of cases involving gender-based violence and discrimination.

Civil society engagement can enhance implementation through shadow monitoring, providing support services, and bridging gaps between formal legal systems and communities. Judicial recognition of civil society organizations as legitimate stakeholders in implementation processes, as in the Vishaka guidelines' inclusion of NGO representatives in complaint committees, can institutionalize this complementary role.

Technological innovations offer opportunities for enhancing implementation monitoring, increasing access to justice, and strengthening accountability. Digital platforms tracking case progression, anonymized data on judicial outcomes in gender-based violence cases, and accessible information on legal protections can address informational barriers that impede effective implementation.

IV. CONCLUSION

The evolutionary trajectory of gender justice jurisprudence in India represents a remarkable transformation in legal reasoning, constitutional interpretation, and judicial approaches to women's rights. Over five decades, the judiciary has progressed from a restrictive, positivist approach emphasizing formal equality and protection to a more progressive, rights-based framework embracing substantive equality and empowerment.

In conclusion, the Indian judiciary has evolved from being a passive interpreter to an active architect of gender justice, developing a progressive jurisprudence that has expanded women's rights and challenged patriarchal norms. However, translating these jurisprudential advances

into tangible improvements in women's lives requires continued judicial innovation, institutional strengthening, and societal transformation. The judiciary's role as a catalyst for gender justice remains crucial but must be complemented by broader institutional and sociocultural changes to bridge the gap between legal victories and lived realities.

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