

JUDICIALISING GENDER JUSTICE: THE POLITICAL IMPACT OF RECENT SUPREME COURT INTERVENTIONS IN INDIA

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ABSTRACT

Gender justice has become a central concern in contemporary Indian politics, with the Supreme Court increasingly asserting its role in shaping its trajectory. Recent judicial decisions on reproductive autonomy, maintenance in live-in relationships, inheritance rights, sexual violence, and the context of the 2023 criminal law reforms mark a significant expansion of constitutional protections. These developments reflect a broader process of the judicialisation of gender justice, in which courts emerge as key institutions for equality and dignity, while comprehensive legislative reform is lacking. This paper examines the political implications of these interventions. It argues that while judicial decisions expand the normative scope of gender rights, their impact remains uneven due to institutional constraints, implementation gaps, and persistent social inequalities. The analysis shows that judicialisation is a compensatory mechanism rather than a transformative force, highlighting both the possibilities and limits of legal reform in advancing gender justice in India.

Keywords: gender justice; judicialisation; Supreme Court of India; constitutional politics; legal reform; India; socio-legal studies; institutionalism.

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I. Introduction

Gender justice has become a central theme in contemporary Indian politics. Debates over equality, dignity, and women's rights are frequently discussed in public discourse. Political actors, social movements, and courts often participate in these debates. The judiciary has become an especially important actor in this process.

In recent years, the Supreme Court of India has delivered several important decisions related to women's rights. These rulings address issues such as reproductive autonomy, inheritance, maintenance rights, sexual violence, and workplace dignity. Many of these decisions expand constitutional protections for women. They also reinterpret the meaning of equality and personal liberty.

These developments have increased attention to the role of courts in shaping gender justice. In many cases, legislative reform has been slow or incomplete. As a result, individuals and advocacy groups increasingly approach the courts to seek protection of rights. This process reflects a broader trend in democratic politics often described as the judicialisation of politics.

Judicialisation occurs when courts become important sites for resolving political and social conflicts. Constitutional courts play a significant role in interpreting rights and shaping public policy. In India, the Supreme Court has historically performed an active role in protecting fundamental rights. Over time, the Court has expanded the meaning of constitutional provisions such as Articles 14, 15, and 21.¹

Gender justice has become a key area where this judicial role is visible. Several landmark decisions have strengthened women's rights in areas such as sexual harassment, reproductive autonomy, and protection from violence. These judgments also influence public debate and policy discussions.

However, legal rulings alone cannot transform social realities. Institutional limitations and social inequalities often limit the impact of legal change. Implementation gaps remain a persistent challenge in the Indian legal system. Many women continue to face barriers in accessing justice and exercising their rights.

¹ See Upendra Baxi, *Taking Suffering Seriously: Social Action Litigation in the Supreme Court of India*, Third World Legal Studies, Vol. 4 (1985);

This paper studies the political significance of recent Supreme Court interventions on gender rights in India. The focus remains on the period roughly between 2017 and 2025. During this time, the Court delivered several decisions that expanded the scope of constitutional protection for women.

The paper argues that recent judicial decisions reflect the growing judicialisation of gender justice in India. Courts increasingly shape debates on equality, dignity, and personal liberty. At the same time, the transformative potential of these decisions remains uneven because of institutional and political constraints.

The paper proceeds in several stages. The next section discusses the idea of gender justice in Indian constitutional politics. It also explains the role of courts in rights protection. Later sections discuss recent Supreme Court decisions related to reproductive autonomy, inheritance rights, maintenance claims, and sexual violence jurisprudence. The paper also discusses the political and institutional limits of judicial reform. The conclusion reflects on the broader implications of these developments for gender justice in contemporary India.

Many studies discuss gender rights in India. Most focus on personal law reform, violence against women, or specific legal judgments. Some scholarship also discusses the role of courts in expanding constitutional rights.

However, recent Supreme Court interventions have received limited attention in political science literature. In the past decade, the Court has addressed several issues related to women's rights, including reproductive autonomy, inheritance equality, maintenance rights, and sexual violence jurisprudence. These developments reflect an important shift in the politics of gender justice in India.

Existing studies often analyse these decisions separately as legal developments. Less attention has been given to their broader political implications. In particular, there is limited discussion on how recent judicial decisions shape debates on gender justice in the absence of comprehensive legislative reform.

This paper addresses this gap. It discusses recent Supreme Court interventions within the broader judicialisation of gender justice in contemporary India. It also highlights the institutional and political limits of judicial reform.

Rather than offering a purely doctrinal analysis of individual judgments, this paper adopts an institutional perspective to examine how judicial interventions collectively reshape the constitutional landscape of gender justice.

This paper departs from this approach by treating recent judicial interventions not as isolated doctrinal developments, but as part of a broader reconfiguration of state–society relations in gender politics.

This shift reflects not merely legal development but a reconfiguration of the institutional location of gender justice.

II. Literature Review: Courts, Gender Justice, and the Judicialisation of Politics

The expanding role of courts in democratic politics has received sustained scholarly attention across political science and legal studies. This development is commonly described as the judicialisation of politics, where courts increasingly influence public policy and resolve issues traditionally addressed by legislatures. Hirschl (2004) argues that constitutional courts become central actors when political elites transfer contentious issues into the judicial arena to manage conflict or avoid political costs. Similarly, Shapiro and Stone Sweet (2002) demonstrate how judicial institutions shape governance by interpreting rights and policies.

In the Indian context, the judiciary has long occupied a prominent position in constitutional politics. Baxi (1985) shows how the Supreme Court expanded access to justice through public interest litigation, enabling marginalised groups to directly approach the judiciary. This transformation repositioned the Court as an institution responsive to social concerns. Mehta (2007) argues that the judiciary often acts as a guardian of constitutional values, especially when legislative and executive institutions fail to address rights violations. At the same time, Bhuwania (2017) cautions that judicial expansion may generate institutional tensions and uneven policy outcomes, highlighting the limits of judicial intervention.

Gender justice constitutes a critical domain within this broader literature. Feminist legal scholarship has examined how law interacts with entrenched patriarchal structures and social hierarchies. Agnes (1999) emphasises that legal reform can strengthen women's rights, but its effectiveness depends on social context and institutional capacity. Menon (2004) and Kapur (2005) similarly critique purely rights-based approaches, arguing that formal legal recognition does not necessarily translate into substantive equality. These perspectives highlight the gap between constitutional guarantees and the lived experiences of gender inequality.

A substantial body of scholarship on gender justice in India focuses on personal law reform, family law disputes, and debates surrounding the Uniform Civil Code. Studies also analyse legal responses to violence against women, including rape law reform, domestic violence legislation, and workplace harassment. The Vishaka judgment and subsequent statutory developments are frequently cited as examples of the interaction between judicial intervention and legislative response.

However, much of this literature examines individual judgments or specific legal domains in isolation. Limited attention has been given to the cumulative political significance of recent Supreme Court interventions across multiple areas of gender justice. In the past decade, the Court has addressed issues such as reproductive autonomy, maintenance in non-traditional relationships, inheritance equality, and sexual violence jurisprudence. These developments indicate a broader pattern in which courts increasingly shape the trajectory of gender rights in the absence of comprehensive legislative reform.

This paper builds on existing scholarship by situating recent judicial interventions within the wider framework of judicialisation. It argues that contemporary gender jurisprudence in India reflects not only doctrinal expansion but also a shift in the institutional location of reform. At the same time, it recognises that judicial authority operates within structural limits, and that legal change must be understood in relation to political processes, social movements, and institutional constraints.

III. Methodology

This paper adopts a qualitative socio-legal approach combining doctrinal legal analysis with institutional analysis. It examines recent Supreme Court judgments on gender justice from 2017 to 2025, focusing on reproductive autonomy, inheritance rights, maintenance, and sexual violence jurisprudence. The analysis is based on primary legal sources, including judicial decisions and legislative developments, particularly the 2023 criminal law reforms, supplemented by secondary literature in political science and legal studies. Rather than conducting empirical fieldwork, the paper employs interpretive analysis to understand how judicial interventions reshape the institutional and political landscape of gender justice in India.

IV. Changing Gender Justice

Gender justice debates in India have gained renewed political visibility over the past decade. Several high-profile incidents of sexual violence have triggered widespread public protests and intensified demands for legal and institutional reform. These events brought issues of women's safety, dignity, and rights into the centre of public discourse.

The 2012 Delhi gang rape case and subsequent nationwide protests marked a turning point, intensifying demands for legal reform and institutional accountability.

Public mobilisation has played a significant role in shaping the political base of gender justice. Women's groups, civil society organisations, and advocacy networks have actively engaged with questions of violence, discrimination, and legal reform. These actors have used both street protests and strategic litigation to press for institutional accountability. As a result, gender justice has increasingly become a matter of political concern rather than a purely social issue.

Media coverage has further amplified these debates. Judicial decisions concerning women's rights often receive significant public attention, contributing to wider discussions on equality and constitutional protections. This visibility places pressure on political institutions to respond, even when legislative action remains slow or fragmented.

At the same time, political responses to gender justice remain uneven. While governments have introduced legal reforms and policy initiatives, implementation remains constrained by institutional and administrative factors. Differences across states in policing, legal access, and welfare provisions shape how gender-related policies are experienced in practice. These variations highlight the importance of federal dynamics in understanding gender justice outcomes.

The interaction between public mobilisation, media visibility, and institutional response has created a context in which courts are frequently approached to address unresolved issues. In the absence of comprehensive legislative reform, litigants increasingly rely on judicial forums to secure recognition of rights. This pattern reflects a broader shift in the political location of gender justice, where courts become key arenas for advancing claims that remain contested within the political process.

These developments also reveal the selective responsiveness of political institutions, where reform often follows crisis rather than sustained commitment.

V. Constitutional Foundations of Gender Justice

The constitutional framework of India provides an important foundation for gender justice. The Constitution includes several provisions that promote equality and protect fundamental rights.

Article 14 guarantees equality before the law. This principle requires the state to treat individuals equally and avoid arbitrary discrimination. Article 15 further strengthens this commitment by prohibiting discrimination based on religion, race, caste, sex, or place of birth.

At the same time, Article 15(3) allows the state to introduce special measures for women and children. This provision recognises that formal equality alone may not be sufficient to address historical disadvantages. Protective legislation can therefore promote substantive equality.

Article 21 has become particularly important in gender rights jurisprudence. The Supreme Court has interpreted this provision broadly. The right to life includes dignity, bodily autonomy, and personal liberty. These interpretations allow courts to address new issues related to gender justice.

Over the past few decades, the Court has used these constitutional principles to expand protections for women. Judicial decisions have recognised sexual harassment as a violation of fundamental rights. Courts have also strengthened protections against sexual violence and discrimination.

These developments reflect a broader shift in constitutional interpretation. Courts increasingly emphasise dignity, autonomy, and equality. These principles guide recent decisions related to reproductive rights, inheritance rights, and marital relationships.

However, constitutional principles alone cannot guarantee social transformation. Legal rights must be supported by effective institutions and public awareness. Without these conditions, judicial decisions may have limited practical impact.

These provisions provide the doctrinal basis for the Court's expansion of gender rights, often compensating for legislative inaction.

VI. Sexual Violence Jurisprudence and the Protection of Dignity

Recent Supreme Court decisions illustrate both the potential and the limits of constitutional reform. The following sections discuss several important judgments that strengthen women's rights in contemporary India.

Sexual violence remains one of the most serious gender justice concerns in India. Legal reform in this area has evolved gradually through legislation and judicial interpretation. Courts have played an important role in strengthening protections for victims.

One important development concerns the rejection of the “two-finger test” in rape investigations. For many years, medical professionals used this procedure during examinations of rape survivors. The test attempted to determine whether the survivor was “habituated to sexual intercourse.” This method was widely criticised by activists and legal scholars. It lacked a scientific basis and reinforced harmful stereotypes about women’s sexuality. (Supreme Court of India, 2022)

This shift reflects a move from evidentiary suspicion of survivors toward a rights-based framework centred on dignity and bodily autonomy.

The Supreme Court declared that this practice violates the dignity and privacy of survivors. The Court emphasised that a woman’s sexual history has no relevance to the question of consent. The judgment also directed medical professionals to avoid such methods in forensic examinations.

This decision marked an important step in recognising the rights and dignity of survivors. It also highlighted the need to reform investigative practices within the criminal justice system. Courts acknowledged that insensitive procedures could discourage survivors from reporting crimes.

Another area of judicial attention concerns marital rape and the protection of minors. The Supreme Court ruled that sexual intercourse with a minor wife between the ages of fifteen and eighteen constitutes rape. The decision aligned the law with the Protection of Children from Sexual Offences Act (POCSO). (Supreme Court of India, 2017).

The ruling emphasised that the rights of children cannot be compromised by marital status. The judgment also reflected the constitutional commitment to protect bodily integrity and dignity. This decision strengthened the legal framework against child sexual abuse.

Judicial interventions in sexual violence cases often see wider public debates. High-profile incidents of violence against women have triggered demands for stronger legal protection. Civil society organisations and women’s groups frequently campaign for reforms to laws and procedures.

Despite these legal developments, survivors still face significant barriers. Reporting crimes can involve social stigma and emotional trauma. Police procedures, delays in investigation, and lengthy trials also discourage many victims from seeking justice.

Therefore, legal reforms alone cannot eliminate sexual violence. Effective implementation requires improvements in police training, forensic procedures, and victim support systems. Institutional reform remains a key challenge.

VII. Protection of Stridhan and Economic Security

Economic independence represents an important dimension of gender justice. Property ownership and financial security influence women's autonomy within households and society. Legal recognition of women's property rights, therefore, plays a critical role in achieving equality.

The concept of stridhan forms an important element of this discussion. Stridhan refers to property that legally belongs to a woman. It includes gifts, jewellery, and other assets received during marriage or from relatives.

In several cases, disputes arise when families attempt to control or withhold such property. Women may face pressure from spouses or relatives who claim authority over these assets. Courts have therefore clarified the legal status of stridhan.

The Supreme Court affirmed that stridhan remains the exclusive property of the woman. No other individual has the right to control or misuse it. Denial of access to such property can constitute a criminal offence. (Pratibha Rani v. Suraj Kumar, 1985)

This clarification strengthens women's economic rights. It also provides legal remedies in cases where property is wrongfully withheld. Financial independence can reduce vulnerability within marital relationships.

Property rights also influence broader patterns of gender inequality. Women with independent assets often possess greater bargaining power. They may have greater capacity to make decisions about employment, education, and family life.

However, social realities sometimes limit the practical impact of legal rights. Many women hesitate to pursue legal claims against family members. Cultural expectations often discourage open conflict within households.

Access to legal institutions also remains uneven across different regions. Women in rural areas may face difficulties in obtaining legal advice or pursuing litigation. These factors highlight the gap between legal rights and lived experience.

Nevertheless, judicial clarification of property rights represents an important step toward economic equality.

VIII. Criminal Law Reform and Gender Justice

Recent years have also witnessed major legislative changes in the criminal justice system. The criminal law reforms of 2023 introduced new legal frameworks intended to modernise criminal law. These reforms replaced colonial-era statutes with new legislation.

The Bharatiya Nyaya Sanhita (BNS) replaced the Indian Penal Code. The Bharatiya Nagarik Suraksha Sanhita replaced the Criminal Procedure Code. The Bharatiya Sakshya Adhinyam replaced the Indian Evidence Act. Together, these laws constitute the new criminal justice system in India.

These reforms include several provisions relevant to gender justice. Offences against women appear in dedicated sections of the law. Provisions addressing sexual harassment, stalking, voyeurism, and assault remain important components of the legal framework. (Government of India, 2023)

The reforms also emphasise faster investigation and stronger victim protection. Digital reporting mechanisms and improved procedural rules aim to increase efficiency. These changes aim to strengthen the criminal justice system's responsiveness.

However, debates continue regarding the effectiveness of these reforms. Some scholars argue that legal restructuring alone cannot resolve deep institutional challenges. Delays in investigation, overcrowded courts, and limited resources remain persistent problems.

Gender justice depends not only on the existence of legal provisions but also on their implementation. Police training, forensic infrastructure, and victim support services all influence the success of criminal law reform.

Judicial interpretation continues to play an important role even after legislative changes. Courts clarify the meaning of legal provisions and address gaps in the law. This interaction between legislative reform and judicial interpretation shapes the evolution of gender rights.

Recent developments, therefore, highlight the complex relationship between courts, legislation, and social change. Legal reform can strengthen protections, but lasting transformation requires broader institutional capacity.

The recent criminal law reforms under the Bharatiya Nyaya Sanhita (BNS), Bharatiya Nagarik Suraksha Sanhita (BNSS), and Bharatiya Sakshya Adhinyam (BSA) introduce procedural and structural changes that have implications for gender justice. While the substantive offences relating to sexual violence largely retain earlier legal frameworks, the reforms place greater emphasis on the digitalisation of investigation and victim-centric processes. Provisions relating to electronic evidence, time-bound investigation, and streamlined trial procedures aim to improve responsiveness in cases involving violence against women. However, these changes remain largely procedural and do not fundamentally alter the underlying legal definitions or address longstanding debates such as marital rape or structural barriers to reporting. This reinforces the argument that legal reform in India often prioritises administrative efficiency over substantive transformation, thereby continuing the reliance on judicial interpretation to expand the scope of gender justice.

IX. Judicialisation of Gender Justice in Contemporary India

The developments discussed in earlier sections show a clear pattern. Courts increasingly play an active role in shaping gender rights in India. This pattern reflects a broader process often described as the judicialisation of politics.

Judicialisation in this context reflects both an institutional vacuum and political avoidance, in which courts intervene in domains marked by legislative hesitation.

Judicialisation occurs when courts become important arenas for resolving social and political conflicts. In such situations, constitutional interpretation influences public policy and political debate. The judiciary, therefore, participates in issues that were once addressed mainly by legislatures.

In India, this process has evolved over several decades. The Supreme Court gradually expanded the interpretation of fundamental rights. Public interest litigation also made the judiciary more accessible to individuals and civil society groups.

Gender justice has become an important area within this broader trend. Courts often respond to petitions filed by activists, lawyers, and advocacy organisations. These actors seek judicial intervention when legislative reform appears slow or uncertain.

Recent decisions concerning reproductive autonomy, maintenance rights, inheritance equality, and sexual violence illustrate this process clearly. The judiciary has articulated constitutional principles that strengthen the protection of women's rights.

Judicial decisions also influence political discourse. Media coverage of landmark judgments often stimulates public discussion. Political parties, advocacy groups, and legal scholars debate the implications of these rulings.

In some cases, judicial rulings also prompt legislative responses. The Vishaka guidelines eventually led to the enactment of the Sexual Harassment of Women at Workplace Act in 2013. Similar interactions between courts and legislatures appear in other areas of law.

The recent criminal law reforms also illustrate this interaction. Legislative changes occurred in a context shaped by earlier judicial developments and public debates about gender justice. Legal institutions, therefore, function within a volatile political environment.

However, the judicialisation of gender justice does not imply that courts alone determine the direction of reform. Judicial decisions interact with broader political forces. Civil society organisations, women's movements, and public opinion all influence the trajectory of legal change.

X. Role of Social Movements and Civil Society

Social movements have played an important role in shaping debates on gender justice in India. Women's organisations and advocacy groups frequently mobilise around issues of violence, discrimination, and legal reform.

These groups often bring cases before the courts. Strategic litigation has become a key tool for advancing women's rights. Lawyers and activists collaborate to challenge discriminatory practices and demand institutional reform.

Public campaigns also influence the environment in which courts operate. Major incidents of violence against women have triggered widespread protests and demands for stronger legal protection. These movements create pressure for both judicial and legislative action.

The interaction between courts and civil society, therefore, remains significant. Judicial rulings often respond to broader social concerns. At the same time, court decisions provide legal resources for activists' campaigns.

Gender justice reforms in India thus emerge from a complex interaction between legal institutions and social movements.

XI. Institutional Bottlenecks and Implementation Challenges

Despite significant legal developments, institutional constraints continue to limit the impact of gender justice reforms. Legal rights often face obstacles during implementation.

One major challenge concerns the criminal justice system's capacity. Police departments frequently face personnel and resource shortages. Investigations of gender-based crimes may therefore experience delays. Courts also encounter heavy caseloads. Judicial proceedings often extend over several years. These delays can discourage survivors from pursuing legal remedies.

Access to legal services remains uneven across different regions. Women in rural areas may have limited access to lawyers, courts, and support services. Economic barriers also influence the ability to seek justice.

Cultural attitudes and social norms present additional challenges. In some communities, women face strong pressure to avoid legal disputes. Fear of stigma and social isolation may discourage victims from reporting crimes. These constraints highlight the limits of legal reform. Judicial decisions and legislative changes create important legal protections. However, their practical impact depends on effective institutions and social acceptance.

XII. Policy Debates

Gender justice debates in India also interact with broader questions of state-centred relations. Some reforms involve cooperation between national and state governments.

Policies related to labour rights, workplace safety, and social welfare often fall within the jurisdiction of both levels of government. State governments, therefore, play an important role in implementing gender-related reforms.

Debates concerning the Uniform Civil Code (UCC) illustrate the political complexity of gender justice reforms. Some advocates argue that a common civil code would strengthen equality in matters of marriage, inheritance, and property rights. Others express concern that such reforms

could undermine cultural diversity and minority rights. Recent judicial pronouncements on reproductive autonomy also intersect with emerging debates on menstrual rights and bodily integrity. The Supreme Court has increasingly recognised reproductive choice as part of personal liberty under Article 21, emphasising dignity, autonomy, and privacy (Supreme Court of India, 2009; 2022). This constitutional framing extends beyond abortion rights to broader questions of bodily governance, including menstrual health, workplace accommodations, and access to sanitation. Although the Court has not directly adjudicated menstrual leave as a fundamental right, ongoing policy debates reflect an attempt to translate constitutional principles into everyday gendered experiences.

Policy discussions on menstrual leave and workplace equality highlight tensions between protective legislation and labour-market concerns. Some policymakers worry that mandatory leave provisions could affect women's employment opportunities. This paper does not engage in detail with debates surrounding personal laws or the Uniform Civil Code, which constitute a distinct and extensive domain of gender justice scholarship. Instead, it focuses on recent constitutional and criminal law developments shaped through judicial intervention.

These debates demonstrate that gender justice remains deeply embedded in political contestation. Legal reforms interact with electoral politics, ideological disagreements, and competing policy priorities.

XIII. Limits of Judicial Reform

The developments discussed in this paper reveal both the strengths and limitations of judicial intervention. Courts can strengthen constitutional protections and challenge discriminatory practices. Judicial rulings also influence public debate and legal doctrine.

However, courts cannot alone transform complex social structures. Legal reform must be accompanied by effective implementation and social change. Without institutional capacity, judicial decisions may remain symbolic rather than transformative.

The judiciary also operates within constitutional limits. Courts cannot easily design comprehensive policy frameworks. Legislatures and administrative agencies remain responsible for many aspects of governance. Therefore, gender justice reforms require cooperation among multiple institutions. Courts, legislatures, executive agencies, and civil society organisations all play important roles. These constraints underscore the gap between constitutional promise and socio-legal reality.

XIV. Conclusion

Recent developments in gender rights jurisprudence in India have clearly expanded the Supreme Court's role in shaping questions of equality, dignity, and personal liberty. Through decisions on reproductive autonomy, inheritance, maintenance in non-traditional relationships, and sexual violence, the Court has extended constitutional protections into areas where legislative reform has remained limited or uneven. These cases show how courts increasingly function as key sites for articulating and institutionalising gender justice.

However, this expansion should be understood as compensatory rather than transformative. Judicial decisions often emerge in response to legislative inaction or political hesitation, but they do not substitute for comprehensive policy reform. The implementation of rights continues to depend on administrative capacity, institutional coordination, and social acceptance. As a result, the impact of judicial interventions remains uneven across regions and social groups.

The analysis suggests that gender justice evolves through interaction between courts, civil society, and political institutions. Judicial rulings shape public discourse and provide normative frameworks, but their effectiveness depends on sustained engagement beyond the courtroom. Social movements, advocacy networks, and state agencies play a crucial role in translating legal principles into lived realities.

The judicialisation of gender justice in India, therefore, reflects both opportunity and constraint. Courts can expand the scope of rights and challenge discriminatory practices, but they cannot independently reshape social hierarchies. Lasting change requires coordinated action across institutions and continued political commitment to gender equality.

The persistence of judicialisation thus raises a deeper institutional question: whether courts can sustain their legitimacy as agents of reform in the absence of corresponding political transformation and institutional alignment.

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