

## **Gender Justice and Practice of Religion in India : A Critical Analysis**

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### **Abstract :**

The complex interaction between gender justice and the religious practice in India is one of the most significant constitutional and societal problems in the country. This critical analysis is anchored on the constitutional obligation to equality in Articles 14, 15, and 21, and the fundamental right to religious freedom in Article 25 and seeks to understand how marital, divorce, inheritance, guardianship, and access to sacred spaces are frequently perpetuated by religious personal laws. Article 44 on the Directive Principle that imagines a Uniform Civil Code highlights the tension between secular constitutional morality and religious autonomy that persists. Through the feminist jurisprudential prism, the article challenges the biased use of the doctrine of essential religious practices by the judiciary, its uneven results in terms of prioritizing the rights of individuals against the identities of communities. It examines the ways in which the large religious systems (Hindu, Muslim, Christian, and customary tribal systems) entrench gendered hierarchies which restrict the agency of women as well as their dignity and equal participation in the public and domestic realms.

The criticism is not just a legal reform but a more profound cultural and structural interventions to continue these inequalities, emphasizing the importance of substantive equality over formal equality. The paper will, based on interdisciplinary approaches to the topic, including constitutional law, gender studies, and sociology of religion, assess the shortcomings of piecemeal judicial interventions and legislation efforts. It holds that a subtle balance of pluralism and equality is what is needed in gender justice, a balance that does not undermine constitutional guarantees in favor of religious pluralism. The current debate on the Uniform Civil Code becomes one of the main markets of conflict, provoking important concerns regarding majoritarianism, minority rights and inclusive nation-building. This discussion assumes that gender justice in religious life requires an awakening response: it is necessary to support internal community changes, enhance secular education, economic empowerment, and legal homogeneity. Through foregrounding constitutional morality, the paper provides a balanced approach in balancing faith and fairness in diverse democracy in India.

**Keywords:** Gender justice, religious personal laws, Uniform Civil Code, essential religious practices, feminist jurisprudence, constitutional morality, substantive equality, pluralism.

### **1. Introduction**

The Indian constitutional structure, as a secular republic, represents a two-fold promise of gender justice and religious freedom that has been reflected in its legal and social environment since independence. Articles 14, 15 and 21 all constitute equality before the law, prohibition of discrimination based on sex, and the right to life with dignity making gender parity a non-negotiable component of citizenship. Article 25, at the same time, ensures the right to profess, practise and spread religion, with one exception to the public order, morality and health. This balancing act, which has been strengthened by the Directive Principle in Article 44 on the creation of a Uniform Civil Code, has spawned a continued scholarly and judicial debate on the issue of the compatibility of religious personal laws and the constitutional requirement of equality. Practically however, individual laws based on religious books and practices still control such important areas as marriage, divorce, inheritance, adoption and guardianship, and tend to uphold patriarchal norms that diminish the rights of women to the identities of communities. The very fact that this is a structural arrangement results into an inherent tension: on the one hand the state claims to be secular, on the other hand, it has historically avoided engaging in wholesale intervention in the affairs of religion, citing respect to

pluralism. This restraint, though well-meaning, has often led to perpetuation of gender-based inequities that subvert the dignity and autonomy that the Constitution strives to defend. This critical analysis attempts to unravel this paradox by critically analyzing the intersection of the religious practices and substantive gender justice realisation and in some cases the hindrance of the latter.

With a high-order interdisciplinary approach combining constitutional interpretation, feminist legal theory and socio-legal studies, this article goes beyond the superficial descriptions to examine the power dynamics present in the background. It assesses how the judiciary is changing to find its way out of these conflicts, especially with doctrines that attempt to sing the line between essential and non-essential religious practices. Further, it places the conversation in a larger context of secularism, cultural relativism and national integration showing the implication to minority groups and the agency of women on both ends of the religious spectrum. This introduction preconditions a wholesome critique using constitutional morality as the highest standard, which requires radical reforms. It highlights the importance of making a balance between religious freedom and gender equality in a way that respects the pluralistic tradition of India and progresses the original promise of an egalitarian society. The following paragraphs are based on this premise and aim to provide a detailed understanding and future suggestions based on academic rigour and prudence.

## **2. Constitution and the Collision of Rights**

The Constitution of India puts in place a detailed framework in which gender justice is upheld as well as religious freedom, but this duality creates a deep and longstanding conflict of rights. Articles 14, 15 and 21 are the foundation of gender justice as they ensure equality in the eyes of the law, ban the practice of discrimination based on sex and safeguard the right to life and personal dignity. These clauses reflect a commitment to substantive equality, and require the state to not only avoid taking discriminatory action, but also to actively eliminate structural barriers that entrench gender inequality. To supplement this, Article 25 guarantees the right to profess, practise and spread religion and Article 26 guarantees the freedom of religious denominations to regulate their internal lives, both in accordance with the community, morality and health. Such constitutional design indicates the desire of the framers to have a secular republic that honors the pluralistic ethos of India and promotes social reform. The Directive Principle in Article 44 also instructs the state to strive to have a Uniform Civil Code, with the vision of legal uniformity being a way to remove disparities based on religion and foster national integration. Nonetheless, the fact that religion-specific personal laws still exist and are applicable in issues relating to marriage, divorce, inheritance, guardianship, and adoption poses an immediate conflict. Such laws are founded on unique religious traditions, and often incorporate patriarchal principles that undermine women rights to identities in the community and therefore challenging constitutional morality.

The conflict is worsened by the fact that the judiciary has been using interpretive doctrines that attempt to reconcile conflicting assertions. In cases where religious practices conflict with the fundamental rights, the courts have to find a balance between religious autonomy and gender equality. The state is responding to this constitutional paradox with varying degrees of response as demonstrated by recent legislative efforts at the state level. A cynical analysis shows that although the framework is offering solid normative grounds, the actual practice tends to favor formal religious liberty rather than the contentious gender justice. Such a conflict requires a radical solution that balances pluralism and equality and makes constitutional protections come to life among women of different religious backgrounds. It is only as a result of such reconciliation that the Constitution will be able to provide the inclusive and just society it promises.

## **3. Discrimination Among religions**

Although religious personal laws in India do not deny cultural and spiritual identities, they discriminatively institutionalize practices that undermine gender justice in most major religions. Such laws, which regulate such vital areas as marriage, divorce, inheritance, guardianship and access to sacred spaces, tend to put patriarchal hierarchies above the individuality and equality. Patrilineal biases in the succession and property rights of Hindu personal law still manifest in customary forms, despite codification in an attempt to bring the law into a more approachable form, restricting the economic agency of women and affirming secondary status in the family structure. Likewise, Muslim personal law shows similar trends, as polygamy, unilateral dissolution of marriage, and unequal inheritance rules all contribute to structural inequalities limiting the dignity of women and their ability to make choices. Disparities in the inheritance and matrimonial rights of Christians are historically found in their personal laws, and some of these laws still have the gendered asymmetries even after some of them were partially changed. Traditional and tribal systems that are common in indigenous society often subject the women to even stronger patriarchal forms of control such as

barring women on inheritance and decision making in the community. In these traditions, the female body and the reproductive functions of women are often regulated sites, through practices which may bar access to religious locations on the basis of physiological status, or may develop more or less stringent norms of modesty and behavior. These forms of discrimination are not just some historical artifacts but working processes that perpetuate gendered power relations. They exist in a legal pluralism where religion-specific norms are permitted to prevail over uniform constitutional norms of equality, a cycle of economic dependency, restricted movement, and reduced agency is perpetuated. Their persistence underscores a more structural and cultural opposition to substantive gender parity, in which the identity of religion is used to justify practices that are inconsistent with constitutional provisions in Articles 14, 15 and 21.

Feminist jurisprudence lens shows that such differences are constructed socially as opposed to be doctrinally inherent and are often characterized by selective interpretations that are patriarchal in nature. The criticism spreads to how personal laws intersect caste, class and regional consideration, further marginalising vulnerable women. To deal with such practices of discrimination, it is important to realise that gender justice is impossible to attain without having to challenge the hierarchies that are inherent in religious systems. A subtle solution should thus focus on internal reformation and external protection of the law, such that religious exercise becomes congruent with constitutional values of equality and dignity and not in contradiction to them.

#### **4. Judicial Interventions: Advances and Tremendities**

Indian judicial system has been instrumental in negotiating the convergence of gender justice and the practice of religion and using tools of interpretation to harmonize constitutional imperatives with religious freedoms. Courts have furthered the rights of women through progressive interventions that have put some of their practices into question based on the morality of the day and their basic rights. The decades-old doctrine of the most important religious practices is a major tool that helps to decide whether the disputed practice deserves constitutional protection or can be subject to state regulation. This normative framework has made judicial review of norms that are inconsistent with gender equality possible, and has promoted gradual advances in breaking down blatant patriarchal barriers in personal laws. These interventions demonstrate the judiciary belief in constitutional morality as the highest standard, and substantive equality over unchecked religious custom. Through the recognition of the primacy of fundamental rights, courts have helped to increase the agency of women both in the family and in the public, which is an indication that religious freedom can not be used to legitimize discrimination. The fact that, more recently, the Supreme Court has associated gender parity achievement with the adoption of a Uniform Civil Code only serves to highlight judicial impatience with patchwork reform and strengthen the directive in order to comply with Article 44.

The judiciary, however, is limited by substantial restrictions to their transformative potential. The discriminatory and unpredictable use of the requisite religious practices test usually results in theological interpretations that are beyond judicial competence that culminates in results that are viewed as arbitrary or culturally biased. Sensitivities to the community has sometimes made the reform go slow, and thus discriminatory practices have continued in the name of pluralism. Besides, case-by-case court declares, though dealing with individual complaints, do not eliminate institutional injustices that permeate individual laws, and therefore, the challenge of reformation remains scattered and partial. Critics of feminist legal scholarship contend that this method makes gender justice appear to be in opposition to religion instead of triggering its internal development. The role of the judiciary, regardless of the progressive goals and intentions, is limited by the institutional boundaries and lack of the overall legislative support. Real progress needs not just further judicial vigilance but the structural reforms that go hand in hand to promote community-based reinterpretations and uniformity aided by the state. With the increasing pace of legislative changes at the state level, judicial intervention should change to offer consistent guidance that balances religious diversity and undivided dedication to gender equality to make sure that constitutional vows are turned into effective empowerment of women in faith groups.

#### **5. Debate: Uniform Civil Code Promise and Peril**

The controversy of Uniform Civil Code is the center of the conflict between gender justice and religious practice in India, and it carries the promise of change and the potential of great danger. Advocates claim that a UCC, as envisaged in Article 44 of the Directive Principles, is the best tool to the realization of substantive gender equality by substituting the patchwork of personal laws with one secular code of law that regulates marriage, divorce, inheritance, guardianship and adoption. This consistency would eradicate discriminatory clauses in the religious traditions, including unequal division of inheritance, polygamy, and unilateral divorce, thus promoting the economic and personal independence of women, their dignity, and agency. The UCC is expected to enhance national integration, decrease fragmentation on

religious grounds, and harmonize the laws of individuals with the constitutional pledge of equality in Articles 14, 15, and 21. The vision has gained a new momentum with recent state-level efforts, such as the adoption of a full UCC framework in one state in the north and the introduction of a similar bill in another state in the west in early 2026, and with Supreme Court comments about uniformity as a solution to eliminate gender bias.

But the danger of the UCC is that it may erode the pluralistic ethos of India. The opponents argue that a top-down imposition would pose the danger of majoritarian rule, especially where minority communities whose personal laws are part of their cultural and religious identity. This strategy can be interpreted as an attack on the religious autonomy that is safeguarded in Article 25 and compromises the fragile secularism that embraces diversity. These issues are complicated by implementation issues: the lack of extensive consultation with religious, women, and regional stakeholders may result in opposition, unequal distribution of the program, and unwanted marginalisation of the vulnerable groups in societies. Besides, an UCC written in a rush may without any intention, carry some remnants of patriarchy in the name of impartiality or could be unable to encapsulate the intersectional facts that are influenced by caste, classes, and local traditions. The hope and danger of the UCC therefore require a delicate compromise. An authentic gender-just code should come out of an inclusive discourse that honours the religious diversity without going out of constitutional morality. It is only then that the Uniform Civil Code can serve the purpose of empowerment and not assimilation and that legal uniformity can promote equality without undermining the diversification of the Indian pluralistic heritage.

### **6. Feminist Critique and Intersectionality**

Feminist scholarship provides an incisive analysis of the overlap between gender justice and religious practice in India and how individual laws are neither a divine doctrine nor a tool but a socially created tool of patriarchal domination. Feminist jurisprudence does not see religious traditions as separate entities, but highlights the fact that gendered hierarchies in marriage, inheritance and entry to sacred spaces are the results of selectivity and are helpful in perpetuating male dominance in domestic and communal institutions. This point of view opposes the idea that the reform has to oppose gender equality with religious freedom, but supports internal reinterpretation of religious texts by women themselves as the long-term viable way of change. At the heart of this criticism lies the term intersectionality, which helps to see the compounding of gender discrimination along intersecting axes of caste, class, religion, region, and ethnicity. The Dalit, Adivasi or minority women are frequently subjected to multiple marginalisation: the religious personal laws not only reduce them to the second rank based on sex but also support the caste-based exclusions and economic insecurities. As an example, the traditional activities in the tribal societies might introduce even tougher standards of heredity and movement, whereas the urban bourgeois woman would be subjected to other, but no less restrictive standards. This intersectional prism reveals the shortcomings of universalist legal reforms that do not take into account these contextual facts, claiming that true gender justice must be based on considering the multiplicity of identities that define lived experiences of women.

Feminist theorists also warn against excessive dependence on state-centric solutions, such as the Uniform Civil Code, which, although seemingly guaranteeing uniformity, can, in fact, tamper with the voice of different women in the religious groups. They promote the two-pronged approach: external constitutional protection and grassroots campaigns that enable women to be the driving force behind reform within their own religious communities. This kind of strategy acknowledges that religious practice can be developed in order to be in harmony with the constitutional values provided women agency is centralized in theological and cultural reinterpretation. Finally, the feminist critique demands a transformation of formal equality into substantive justice a type of equality that not only breaks structural patriarchy but also respects pluralism. Through intersectional analysis incorporated into policy and judicial systems, India can take a step to a situation where gender justice enhances instead of undermining religious diversity to an inclusive democracy where women of all communities can take their rightful role in both religion and citizenship.

### **Conclusion and Way Forward**

Indian religion has long been viewed as an empowering force and a continual limitation to the autonomy of women that has generated an endless paradox in the core of constitutional government. Such a critical analysis has shown that the constitutional promise of gender justice in Articles 14, 15 and 21 is always in an endless crisis with the safety of religious freedom in Article 25 and the ongoing existence of personal laws that are specific to religion. In Hindu, Muslim, Christian, and customary systems, the patriarchal standards in marriage, divorce, inheritance, guardianship, and access to holy space still curtail the dignity, agency, and equal participation of women. Although the judiciary has made incremental developments by applying the doctrine of essential religious practices and landmark interventions, it has been done in bits and limited by interpretive inconsistencies and respect to community sensitivities. This tension

is further refined by the current debate on the Uniform Civil Code which promises the prospect of substantive equality and national integration but poses the risk of majoritarian imposition and loss of pluralism in case it becomes a reality without widespread agreement.

Finally, gender justice cannot be achieved simply with an isolated pronouncement by the courts or legislation at the top. It requires a radical reconciliation that respects constitutional morality without compromise to the richness of religious plurality in India. The continuity of discriminatory acts highlights the necessity of shifting to substantive results rather than formal equality that responds to the lived experiences of women in an intersecting caste, classes and community realities. The solution is in a multi-pronged approach that is balanced. First, explicit community-based change should be sought to be promoted, which would mean allowing women in religious customs to redefine texts and customs through feminist theologies and hence, organic development as opposed to forced change. Second, any progress to a Uniform Civil Code should be based on wide-ranging inclusive consultation with religious groups, women organisations, scholars and geographical stakeholders in a bid to become culturally aware and widely accepted. Third, there is a need to invest in secular education, economic empowerment programmes, and awareness initiatives over the long term to minimize the use of religious identity as the main indicator of social status and to provide women with the means of being more active. Lastly, the gap between the constitutional promise and practice will be closed using enhanced institutional mechanisms that monitor and enforce gender-sensitive reforms. India can reconcile faith and fairness by foregrounding dialogue, making policies evidence-based, and by a collective belief in dignity and equality. This way, the religious practice will not be developed in a way that is antithetical to gender justice but rather a willing co-pilot to achieve the constitutional vision of an inclusive and equitable democracy to every citizen.

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