

Chapter-VII

Gender in the Shadows of Law: Rethinking Neutrality and Justice

By

Debangana Gupta & Raima Roy Chowdhury

Abstract

Gender often exists in the shadows of the legal system of our society, and deep-rooted biases and institutional silences conceal the real experiences of women and other marginalized genders. Despite fundamental promises of the constitution like equality, gendered realities remain obscured, which is mostly visible among the unofficial labor, workplace discrimination, and persistent salary unevenness. Women in different unofficial sectors continue to work without any proper recognition or legal protection; they are excluded from social security, benefits, and protective laws that mainly cater to the official workforce. Within formal workplaces, invisible hurdles such as unconscious bias, limited opportunities, and unequal pay continue to question whether the right to equality truly extends to all.

Although the laws related to protection of women and to eradicate the inequalities between gender, such as the Equal Remuneration Act, Maternity Benefit Act, and Sexual Harassment of Women at Workplace Act, were introduced to advance gender equity, their weak implementation and limited reach often sustain, rather than dismantle, existing inequalities. Therefore, the appearance of legal neutrality conceals long-standing patriarchal assumptions embedded in lawmaking and interpretation. This chapter aims to investigate ways of bringing the concepts of "sex" and "gender" together, despite the fundamental implications of the distinction for feminism. This will allow for the development of a single field of feminist research that includes the consideration of bodies in the analysis of the social and cultural, and that recognizes and interprets the unmistakable influence of the social, cultural, and economic environments in which those bodies exist.

This article explores how our social elements like gender, labor, and law intersect to create and continue these spaces of gaps. It argues that achieving genuine gender justice requires more than formal equality—it calls for an honest, inclusive, and meaningful recognition of women lived experiences within the egalitarian framework.

“This humanity is male and man defines woman not in himself, but as relative to him; she isn't regarded as an autonomous being.....She is defined and differentiated with reference to man and not he with reference to her; she is the incidental, the inessential as opposed to the essential. He is the subject; he is the Absolute-she is the other.”

-Simone de Beauvoir

The idea of gender neutrality in Indian law is complex and still developing. Recent court decisions and legislative talks show a movement toward more fair legal systems. Indian laws have often been grounded in patriarchal traditions. However, there is an increasing acknowledgment that laws need to align with modern feminist ideas and global standards of equality. The Indian legal system is based on the principles of equality, liberty, and justice as stated in the Constitution. It aims to create a system where everyone, regardless of gender, is treated fairly and with dignity.

Yet, the realities faced by women and marginalized genders starkly contrast with these constitutional ideals. Gender often operates in the background of the law, hidden behind claims of neutrality and objectivity. While the law presents itself as impartial, its application often reveals the entrenched patriarchal norms that influence Indian society.

Despite progress through landmark laws like the Equal Remuneration Act of 1976, the Maternity Benefit (Amendment) Act of 2017, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act of 2013, the protections these laws provide mainly reach the formal sector. Many women working in informal jobs, such as domestic workers, street vendors, agricultural laborers, and home-based workers, remain largely unprotected by law. Their lack of visibility in legal and policy discussions continues cycles of economic reliance, social exclusion, and neglect by the legal system. Even in formal workplaces, subtle but persistent gender biases result in pay gaps, fewer opportunities for advancement, and a lack of women in leadership positions. These conditions reveal the false notion of legal neutrality—a system that seems fair in theory but often upholds inequality in practice. While the judiciary is becoming more aware of gender issues, it still struggles with interpretations shaped by social conditioning and cultural stereotypes.

This paper aims to explore how the overlap of gender, labor, and law shapes the experiences of women in India. It argues that the fight for gender justice must go beyond just treating everyone the same. Instead, it should focus on real equality, recognizing and addressing the structural challenges

that women and other marginalized genders face. By rethinking ideas of neutrality and justice, this study hopes to reveal the unheard stories hidden in the overlooked areas of Indian law.

The push for gender-neutral laws in India involves critically examining current laws that often sustain gender-based discrimination, particularly in maintenance and personal laws. The goal is to build legal frameworks that focus on individual needs and abilities rather than outdated gender norms¹⁷². This change is evident in court rulings and legislative proposals that aim to secure equal rights and chances for all genders, moving away from rules that assume financial dependence based solely on gender¹⁷³.

Historically, patriarchal structures have deep roots in Indian society, which, despite the end of practices like Sati, continue to influence social norms and how laws are interpreted. The first wave of feminism in India, which began in the late 19th century, was closely tied to anti-colonial and social reform efforts. The second wave led to many laws designed to empower women, often based on their perceived reliance on men. However, scrutiny is growing over these mid-20th century laws, as they may reinforce gender stereotypes and discriminate against men, especially in a society where women's literacy and financial independence have advanced significantly.

Women in informal labor:

Women are significantly represented in the informal economy worldwide. They face many challenges due to the lack of labor protections and social benefits. This sector, sometimes called the grey economy, includes various activities like street vending, domestic work, subsistence farming, and gig work. The informal economy includes activities and jobs that do not have state regulation or protection. This leaves workers open to low pay, unsafe conditions, and a lack of social security benefits, such as pensions, health care, or paid sick leave. Women's overrepresentation in this sector is a global issue, especially in developing countries. It often connects to existing gender gaps in the formal labor market and the unequal burden of unpaid care work.

Scope and Demographics:

Globally over 2 billion people work in the informal economy, with women making up a large part, particularly in developing regions. For example, in South Asia, more than 80% of women in non-

¹⁷²Two Steps at a Time: India's Path to Recognizing and Criminalizing Marital Rape. [genderjusticecellnliu.wordpress.com]

¹⁷³ A CRITICAL ANALYSIS OF GENDER NEUTRAL LAWS IN INDIA: FOCUSING ON UPCOMING LEGISLATIONS OF SOCIETY BY - SANIA SIDDIQUE & MOHD AKASH. [www.ijlra.com]

agricultural jobs work informally; this figure is 74% in sub-Saharan Africa and 54% in Latin America and the Caribbean. An OECD/ILO report shows that about 92% of all employed women in low-income countries are in informal jobs, compared to 87% of men. This difference is also clear in cities like Hanoi and Ho Chi Minh City in Vietnam, where 40-50% of migrants are women who experience unstable incomes and a lack of social safety.

Challenges Faced by Women in the Informal Economy:

Women in the informal economy often earn lower wages, face precarious work arrangements, and endure unsafe conditions, including a greater risk of sexual harassment. The lack of social protections creates long-term issues, leading to fewer women receiving pensions and contributing to higher poverty rates among older women. Even in developed countries like France, Germany, Greece, and Italy, women's average pensions are more than 30% lower than men's. The informal nature of their work means they typically lack access to legal assistance, health care, and other public services. Research indicates that informal jobs are linked to worse health outcomes for female workers and their children, particularly regarding child nutrition and prenatal care. The “double burden of work,” where women manage both paid and unpaid household responsibilities, makes these challenges more difficult. For instance, mothers aged 25 to 44 participate in the labor force at lower rates and work fewer hours than childless women. Working mothers earn significantly less than fathers. The shortage of affordable childcare often drives women into informal work, which offers more flexibility to balance family duties.

Efforts Towards Empowerment and Formalization:

Organizations like WIEGO (Women in Informal Employment: Globalizing and Organizing) aim to support informal workers, especially women, by conducting research, gathering data, and pushing for policy changes. Their goal is to raise the visibility of informal workers, strengthen their collective voice, and influence policies to ensure equal economic opportunities, rights, and protections. Policy efforts to address the challenges facing informal workers include improving access to finance, skills training, property rights, and extending legal protections. Formalizing the informal economy can happen in different ways, such as registration, taxation, organization, legal frameworks, social protection, and business incentives.

Examples include India's National Street Vendors Act and local childcare centers run by waste pickers in Argentina. In El Salvador, rural women's cooperatives help women earn income, access public services, and gain legal assistance, with childcare options allowing them to work outside their homes. These efforts show the need to recognize the economic contributions of women in the informal sector and to implement comprehensive strategies to improve their working conditions and overall well-being. Women in the informal economy face major challenges due to the unregulated

nature of their jobs. There is a lack of legal protections, social benefits, and safe working conditions. This sector includes various occupations, from street vendors and domestic workers to subsistence farmers and home-based workers. Women are disproportionately involved in informal jobs, especially in developing economies. For instance, in South Asia, over 80% of women in non-agricultural positions work informally, and in sub-Saharan Africa, 74% are in the same situation ¹⁷⁴.

I.DISPARITY TO PARITY: THE STRUGGLE FOR EQUAL PAY

The issue of wage disparity between men and women is both legal and a social challenge, leaving inequalities in the workforce. Despite commitments across the globe, women continue to earn less than men; thus, inequality is not only a social or cultural issue but also a legal and institutional one.

Definition and Scope of the Gender-Pay-Gap

The gender pay gap is the imbalance in median earnings between men and women. Two ways to quantify this gap are:

- i.Unadjusted Pay-Gap: overall wage differences without accounting for education, work experience, or occupation.

¹⁷⁴*Women in informal economy. [UN Women]*

4WIEGO. [WIEGO]

5The Invisible Workforce: Women in the Informal Economy. [LISEP]

6The consequences of informal employment on women's and children's health: a systematic review. [PMC]

7Expanding the Economic Potential of Women Informal Workers. [Harvard Kennedy School]

8What is the informal economy and how many people work in it? [World Economic Forum]

9How to economically empower informal women workers. [Gates Foundation]

10Dube, Shikha and Bairagi, Reenu. "Analyzing How Women Workers in Informal Sector Are Vulnerable to Exploitation and Their Legal Protection." IJLSSS 3(2) 54, pp. 625-638. [IJLSSS]

11What is the informal economy and how many people work in it? [World Economic Forum]

Constitution of India, 1950, Art 14.

Constitution of India, 1950, Art 15.

Constitution of India, 1950, Art 16.

Constitution of India, 1950, Art 15(3).

Constitution of India, 1950, Art 39(d).

ii. Adjusted Pay-Gap measures the portion of salary discrepancy connected solely to gender.

In India, pay inequalities are impacted by career segregation, challenges in women's work and careers due to caregiving responsibilities.

Importance of Addressing Pay Disparity

Legal and Constitutional Requirements: Articles 141, 152, and 163 of the Indian Constitution forbid discrimination based on sex⁴, and Article 39(d)⁵ mandates equitable wages for equitable work.

- Economic Progress: Narrowing pay gaps enhances the income of households and the magnitude of the national economy.
- Social Equity: Equitable pay empowers women and eradicates stereotypes.

Workplace Optimization: Equitable pay enables improved productivity, reduced attrition, and builds diverse backgrounds.

Evolution of Women's Participation in the Workforce

Historically, women's labor in society was neglected. The stereotype of males as "primary breadwinners" was boosted by the Industrial Revolution.

Women in colonial India earned barely any money working at home, in agriculture, and on plantations. Social restrictions hindered education and mobility into skilled professions. During the World Wars, women battled alongside men, working alongside men, demonstrating their equal competence. After independence, Indian women slowly gained public employment, though inequalities persisted.

Development of the Equal Pay Movement

Globally, the International Labour Organization (ILO) became the center for wage equality. The Equal Remuneration Convention (1951) established equal pay as a universal labour standard. Feminist movements in the 1960s and 1970s were ignited by disparities in Western countries. Article 39(d)⁷ of the Constitution expressly guaranteed equal payment, affirming it as a national commitment to achieve gender fairness.

Equal Pay vs. Pay Equity

Equal pay, as outlined in the Equal Remuneration Act, 1976,⁸ refers to the principle that men and women should receive the same wages for performing the same or substantially similar work,

whereas pay equity determines the value of work ¹⁷⁵. Women-oriented roles like nursing, teaching, or caregiving are undervalued compared to male-dominated professions.

Gender-Wage-Gap vs. Gender-Pay-Gap

The gender-wage gap is a narrower concept that creates boundaries between men and women doing the same work, whereas Gender-pay-gap gap is broader. It captures the overall differences in earnings across occupations, considering factors like part-time work, career interruptions, and undervaluation of women's work.

Factors of Gender-Pay-Gap

- Discrimination- Prejudices about women's abilities and commitment continue to shape pay practices.
- Occupational Segregation- Professions like teaching, caregiving, and administrative support are typically lower-paying, while high-paying sectors remain male-dominated.
- Glass Ceiling- The "glass ceiling" refers to invisible barriers that prevent women from advancing into leadership and decision-making roles.
- Motherhood Penalty and Caregiving Responsibilities - Career breaks due to childbirth, childcare, or eldercare disproportionately affect women's earnings.

International Legal Framework

- The International Labour Organization (ILO) has been at the forefront of setting global standards for wage equality.
- The Equal Remuneration Convention, 1951, ensures equal pay for equal work.
- The Discrimination (Employment and Occupation) Convention, 1958, prohibits employment discrimination and reinforces that access to work, conditions of employment, and pay should not be affected by gender discrimination.
- CEDAW (1979), often referred to as the "women's bill of rights," states that Article 11 specifically addresses equal pay for work of equal value, setting an international benchmark.

¹²International Labour Organization, *Equal Remuneration Convention (No. 100)*, 1951.

¹³Constitution of India, 1950, Art 39(d).

¹⁴The Equal Remuneration Act (Act 25 of 1976), s 4

International Labour Organization, *Discrimination (Employment and Occupation) Convention (No. 111)*, 1958.

- Universal Declaration of Human Rights (UDHR, 1948) – This was the first global declaration under which Article 23(1) guarantees everyone the right to work and to freely choose employment.¹¹ Article 23(2) affirms the right to equal pay for equal work without discrimination.
- International Covenant on Economic, Social and Cultural Rights (ICESCR, 1966)- Article 7 ensures fair wages and equal remuneration for work without distinction of sex, alongside safe and healthy working conditions.
- The Sustainable Development Goals (SDGs, 2015–2030) reinforce wage equality. SDG 5 focuses on gender equality and explicitly calls for the elimination of wage disparities, while SDG 8 encourages equal pay for equal work.

Constitutional Provisions in INDIA :Article 14¹⁵ guarantees equality before the law and equal protection under the law. Article 15¹⁶ forbids discrimination on grounds of religion, race, caste, sex, or place of birth. Article 15(3)¹⁷ allows the state to make special provisions for women and children. Article 16¹⁸ ensures equal opportunity in public employment and prohibits gender-based discrimination in appointments, promotions, or pay. Article 39(d)¹⁹ instructs the state to ensure equal pay for equal work for both men and women. Article 42²⁰ emphasizes humane working conditions, including maternity benefits, indirectly supporting women’s participation in the workforce.

Equal Remuneration Act, 1976, and Code on Wages, 2019

The Equal Remuneration Act, 1976²¹ (ERA) was India’s first comprehensive statute addressing pay discrimination to prohibit gender-based differences in wages¹⁷⁶.

In 2019, the ERA was incorporated into the Code on Wages, which consolidated several labour laws, including the Minimum Wages Act and Payment of Wages Act. The Code retained the principle of equal remuneration for equal work, expanded its applicability across formal and informal sectors.²²

¹⁵United Nations, *Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW)*, 1979, Art 11.

¹⁶United Nations, *Universal Declaration of Human Rights*, 1948, Art 23(1).

¹⁷United Nations, *Universal Declaration of Human Rights*, 1948, Art 23(2).

¹⁸United Nations, *International Covenant on Economic, Social and Cultural Rights*, 1966, Art 7.

¹⁹United Nations, *Sustainable Development Goals (2015–2030)*, Goals 5 and 8.

²⁰*Ibid.*

²¹*Ibid.*

Government Initiatives and Policies

- i. Labour Codes: The Code on Wages, along with other labour codes, consolidates wage laws and strengthens mechanisms for enforcement, ensuring compliance with equal pay norms.
- ii. Gender Equality Programs: Schemes like Beti Bachao Beti Padhao, Pradhan Mantri Mudra Yojana, and the Support to Training and Employment Programme for Women (STEP) enhance women's economic participation.
- iii. Data Collection Initiatives: Surveys like the Periodic Labour Force Survey (PLFS) gather gender-disaggregated data on employment and wages
- iv. National Policy for Women (2016): Focuses on economic empowerment, equitable access to resources, and improved participation in the labour market.

Indian Case References:

- *Randhir Singh v Union of India*: Affirmed that equal pay for equal work is an essential part of Articles 14 and 16, establishing a constitutional foundation for wage equality.
- *Air India Statutory Corporation v Nergesh Meerza*: Addressed pay disparities in allowances and benefits, emphasizing that equality extends beyond base salary.
- Ministry of Women and Child Development, National Policy for Women 2016 (Government of India).
- *Randhir Singh v Union of India* (1982).
- *Secretary, State of Karnataka v Umadevi*: Highlighted that temporary or contract workers performing similar duties as permanent staff are entitled to comparable remuneration.
- *Mohini v Union of India*: Clarified that job evaluation must focus on the value of work rather than societal stereotypes, ensuring a fair assessment of compensation

Contemporary Issues and Challenges

- Gender Pay Disparity in Organized vs. Unorganized Sectors - In organized public and private sectors, the wage structures are relatively standardized, and legal safeguards like the Equal Remuneration Act and corporate policies are often applied.
- Lack of Pay Transparency - Pay transparency is essential not only for monitoring compliance but also for empowering women to negotiate fair wages and assert their legal rights.
- Intersectional Discrimination- Women from marginalized communities face multiple layers of disadvantage. Intersectionality affects access to education, training, professional networks, and high-paying jobs, further widening wage gaps.

Suggestions

- **Strengthening Enforcement Mechanisms** – Strengthening enforcement requires regular audits, strict penalties for non-compliance, and accessible platforms for women to report wage discrimination.
- **Introduction of Mandatory Pay Transparency and Audit Systems**- Transparency is crucial for addressing hidden wage disparities. Organizations should conduct internal audits to identify, rectify wage gaps.
- **Gender-Sensitive Corporate and HR Policies** - Workplace policies play a critical role in promoting wage equality and supporting women’s career growth. Implementing structured, merit-based processes to eliminate subjective gender biases, introducing remote work, and childcare support to accommodate caregiving responsibilities.
- **Equal pay is a non-negotiable principle**- where of justice, equity, and human dignity. While India has made significant progress through constitutional provisions, legislation, judicial interpretation, and policy initiatives, closing the gender pay gap remains an ongoing challenge. By reinforcing legal frameworks, promoting transparency, empowering women in leadership, and fostering collaboration among all stakeholders, India can move closer to a labor market that truly reflects the principles of equality, fairness, and inclusive growth.

II. The Jurisprudence of invisible labour

In our daily lives, we come across various types of workers who work in order to make a living. Away from the spotlight, there are many people whose contributions towards our society remain unnoticed or negligible. This partiality in calculating the valuation of a work in our high-class society is considered “Workplace Invisibility.”

- **Understanding workplace invisibility**

“Workplace Invisibility” primarily refers to the shifting of the limelight of a worker, either by taking away the credit or by not remunerating the amount of work contributed by the worker. In other words, it mainly refers to home-based workers, domestic workers, and unpaid care workers, whose work goes unrecognized and undercounted in national statistics, lacks formal contracts and social protection, and often goes uncompensated or underpaid. This phenomenon is deeply linked to the gendered nature of the economy, with women disproportionately affected by performing unpaid domestic and care work, which limits their participation in formal employment and further entrenches their invisibility¹⁷⁷.

²³*Air India Statutory Corporation v Nergesh Meerza (1981).*

²⁴*Secretary, State of Karnataka v Umadevi (2006).*

- **Determinants of workplace invisibility**

The major causes of workplace invisibility can be broadly categorised into reasons affecting the Informal Workforce (systemic neglect) and reasons affecting Formal Employees (unrecognised labour and bias).¹⁷⁸

Here are the key reasons for workforce invisibility:

Systemic and Legal Reasons

This category is classified into two sub-categories as follows:

- **Lack of Formal Recognition and Legal Protection:** This includes statistical neglect, absence of labour law coverage, and complex supply chains. Workers, especially women workers, are often denied their rights due to no knowledge of their legal rights as well as the complexity of the ratio of men and women in a workplace.
- **Perception of Work as 'Unskilled' or 'Support':** Housekeeping, cleanliness, parenting, sex work, and farming are frequently culturally undermined. Because of their pathetic social condition, the workers eventually become unknown and receive minimal or no compensation or respect.²

→ **Cultural and Gendered Reasons**

This refers to Invisible Labour or Office Housework, tasks essential for the organization's smooth functioning, but are disproportionately assigned to and performed by specific demographic groups (predominantly women) and are not rewarded. Further, this is classified into the following:

- Gendered Norms and Expectations, which means that Societal Conditioning Women are culturally expected to be "nurturing," "communal," and "accommodating." In the workplace, this translates into an expectation to volunteer for tasks related to emotional
- care, team morale, and administration. This includes the Fear of Backlash and Double Burden.
- Organisations define "valuable work" based on metrics that lead to revenue or high-profile outcomes. Tasks like mentoring, serving on low-profile committees, and improving office culture are essential, but they are generally not included in performance reviews, bonus calculations, or promotion criteria. They are seen as "extra" or "support" rather than "core leadership work."

^{25V} *Mohini v Union of India* (2010).

²⁵What Does Work- from- Home mean for Women, available at: <https://scroll.in/magazine/854568/the-stories-of-the-37-4-million-invisible-and-underpaid-home-based-workers-in-india> (last visited on October 04, 2025)

→ **Managerial and Organisational Reasons**

These factors mainly determine the work process and marginality of an organisation, which is sub-categorized as follows:

- **Lack of Structured Recognition and Feedback:** When recognition relies on spontaneous praise or subjective memory, highly visible, self-promoting employees benefit, while introverts fade into the background. Alongside, managers may unconsciously favour employees who are similar to them (affinity bias) or those who communicate loudly and frequently (extroversion bias), overlooking equally valuable contributions from quieter or different-style workers.
- **Distance Bias (Remote Work):** In hybrid or remote environments, employees who are not physically present in the office can suffer from Proximity Bias. Decision-makers may unconsciously allocate better projects or developmental opportunities to those they see face-to-face, causing remote workers' efforts to go unseen and unrewarded¹⁷⁹.
- **Lack of Inclusion for Marginalised Groups:** Employees from marginalised groups (e.g., those based on race, caste, religion, or sexual orientation) are often asked to lead Diversity, Equity, and Inclusion (DEI) initiatives without any formal adjustment to their workload or compensation. This emotional and strategic work is both invisible (unpaid) and taxing.
- **Concealment of Invisible Conditions:** The workers with undetectable persistent illnesses frequently choose to suppress their illnesses for the fear of discrimination, being perceived as unfit, or missing an advancement opportunity in their job.

→ **WOMEN: WORKPLACE INVISIBLE OR NOT?**

Women represent a critical and highly visible component of workplace invisibility, often performing essential tasks in both the formal and informal sectors that are systematically undervalued, unrecorded, and unrewarded due to deeply ingrained gender roles and biases.⁴

In India, most of the women in the workplace are considered to contribute negligible or nothing to the organisation. At the same time, we shall consider that women are a vital part of society, without

²⁶Why Women Stay Out of the Spotlight at Work, available at: <https://hbr.org/2018/08/why-women-stay-out-of-the-spotlight-at-work> (last visited on October 04, 2025).

Invisible Work, Visible Workers, available at: <https://www.cambridge.org/core/books/beyond-the-algorithm/invisible-work-visible-workers> (last visited on October 05, 2025). available at: <https://www.ceo-review.com/5-ways-management-invisibility-impedes-workforce-productivity> (last visited on October 05, 2025).

whom society cannot run smoothly. For instance, housewives are considered to be a part of society, but as a family, we sometimes fail to appreciate their contribution. Similarly, as a society, we consider brothels as an untouchable part of a civilized society; the workers working there are refrained from socio-enhancing activities which will enlighten them, but we fail to consider the amount of revenue generated by them per annum. In India, the brothel business alone generates about Rupees sixty-six Thousand Crores of revenue per annum.⁵ This means that the sex-trading generates almost 15 to 20 percent of the total Gross Domestic Product of the country, yet the workers involved are not considered to be a part of our civilized society. Similarly, the industry of domestic help generates an informal revenue of Rupees 1.3 Trillion per year, which is unfortunately shaded under the invisibility umbrella.

These jobs or works, which are considered not so vital for society's development, generate a huge amount of revenue that needs to be addressed in the limelight.

→ **METHODS TO ERADICATE WORKPLACE INVISIBILITY**

To combat professional invisibility, people should develop a strong sense of self, share their accomplishments with the world, build connections with influential people, and look for opportunities to become well-known. Organizations can fight this by fostering a friendly environment, educating staff about implicit discrimination, implementing balanced recognition programs, and providing collaboration.

Organizations should train managers and staff to actively listen to all team members while also educating them about unconscious biases that cause some individuals to be neglected.

- **Remarks**

While self-advocacy is important, sustainable change depends on organizational leadership dismantling unconscious bias and fostering an inclusive culture where all contributions are seen, heard, and valued. Dealing with workplace invisibility requires both individual agency and collective responsibility. Employees must advocate for themselves, but organizations must create the supportive, equitable conditions that make it possible. By recognizing and valuing the full spectrum of work executed by all employees, an organization does more than just address a single issue; it builds a more engaged, innovative, and resilient workforce over the long term.

Women's Protective Laws in India: A Critical Legal Analysis:

India has a strong legal framework that seeks to protect women and promote gender equality. This development reflects centuries of changing social dynamics. Despite significant progress, challenges remain in ensuring fairness and equality for women. The legal framework for women in India

includes various acts that tackle issues like domestic violence, workplace harassment, property rights, and equal pay. Key laws include the Protection of Women from Domestic Violence Act, 2005 (DVA), the Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act, 2013 (SHW Act), the Dowry Prohibition Act, 1961, the Maternity Benefit Act, 1961, and the Equal Remuneration Act, 1976 (ERA). The Indian Constitution, particularly Article 21, guarantees the right to life and dignity for all citizens, including women.

The DVA, 2005, gives legal options for those facing domestic abuse. It offers protection orders, residence orders, and monetary relief. The SHW Act, 2013, establishes guidelines for dealing with sexual harassment at work. It requires companies to set up internal committees and a policy for preventing sexual harassment. This act broadly defines sexual harassment and provides protection beyond just employee-employer relationships. The ERA, 1976, guarantees equal pay for equal work and bans gender-based discrimination in recruitment and promotion¹⁸⁰.

The Maternity Benefit Act, 1961, allows maternity leave, which was extended to a maximum of 26 weeks by a 2017 amendment. The Dowry Prohibition Act, 1961, makes the giving and receiving of dowry illegal, protecting women from related demands and harassment. Additionally, the Hindu Succession Act, 1956, revised in 2005, gives daughters equal rights to ancestral property. Other protective measures include the Right to Free Legal Aid under the Legal Services Authorities Act, 1987, and the Right to Self-Defence under Section 100 of the Indian Penal Code (IPC).

The National Commission for Women Act, 1990, created the National Commission for Women (NCW) to support and promote women's rights. Despite these legal efforts, implementation challenges persist. Problems like lack of awareness, societal norms, and weak enforcement hinder

27Prostitution in India Statistics, available at: <https://zipdo.co/prostitution-in-india-statistics> (last visited on October 04, 2025).

28The Indian Domestic Helper Market: Comprehensive Analysis, available at: <https://ezyhelpers.com/blog/market> (last visited on October 04, 2025).

29How to End the Unfairness of Invisible Work, Mitra Kalita, available at: <https://time.com/charte/6317237/how-to-end-the-unfairness-of-invisible-work> (last visited on October 04, 2025).

30Laws for Women in India: An Overview. [LexisNexis India]

31Employment Law Overview India: Anti-Discrimination Laws. [LEGlobal]

32Protection Laws for Women: Effective Country Analysis. [iPleaders Blog]

the full realization of these rights. There are also concerns about the misuse of some laws aimed at helping women, such as Section 498A of the IPC, which can wrongfully implicate innocent people. This situation highlights the need for reforms to ensure these laws are applied fairly while keeping their protective purpose.

Additionally, practices like Female Genital Mutilation (FGM), which are not specifically addressed by current laws, are being challenged in courts for violating women's rights to privacy, bodily autonomy, dignity, and equality under Article 21 of the Constitution. The Supreme Court is currently looking at the constitutionality of 'khatna,' a form of FGM¹⁸¹. Effective enforcement of these laws requires solid legislation, greater awareness among women, a supportive law enforcement system, and community involvement to connect victims to the justice system.

III. Conclusion:

In exploring gender at the margins, it's clear that inequality stems not just from overt discrimination but from deep-rooted structures that favor certain identities. The marginalization of women and gender minorities shows how social, cultural, and legal systems still function through exclusionary norms that appear neutral. Recognizing gender at the margins means acknowledging the silent struggles that happen in workplaces, homes, courts, and public life, where power is unevenly shared and justice is often slow. Achieving true equality requires more than protective laws or symbolic actions; it needs a change in mindsets and institutions to focus on the real experiences of those historically pushed aside. Only by listening to voices at the margins can we turn the promise of justice and equality from an abstract concept into a real and inclusive experience.

----- **** -----

³³Misuse of Legal Protection by Women. [Academia.edu]

³⁴Examining the Constitutionality of Female Genital Mutilation in India. [IJLLR Journal]

³⁵Misuse Of Women-Centric Laws In India: An Analysis. [IJLLR Journal]