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# THE IMPACT OF MODERNITY ON GENDER IN THE WORKPLACE IN INDIA

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## ARTICLE INFO

**KEYWORDS:** Modernity, workplace gender equality, discrimination, case laws, legal frameworks, Women’s Participation.

## ABSTRACT

This research paper focuses on the impact of modernity on gender dynamics in the Indian workplace. It explores the increasing participation of women in the workforce, the evolving roles of men, the legal frameworks made to promote gender equality, recent trends, and the challenges of discrimination and exploitation. By analyzing the case laws and statistical data, this paper discusses the progress made to achieve true gender equality in the workplace. This study also explores the impact of technological advancements, the implications of corporate diversity initiatives, and the importance of intersectionality in comprehending gender dynamics. Ultimately, the paper advocates for comprehensive legal frameworks and corporate policies that address both women’s and men’s experiences in the workplace, aiming to create a more equitable and inclusive working environment. By focusing on the specific context of the Indian workplace, this study adds to the larger conversation on gender equality by concentrating on the particular setting of India and providing insights into the advantages and disadvantages of modernity in influencing gender relations in the workplace.

## INTRODUCTION

The newness of Modernity administered a beating on traditional concepts of gender roles in society, and India is no different. The transition of India from largely a rural agrarian economy to a rapidly modernizing industrialized and service economy over the past 20-25 years has completely changed the character of opportunities available for men and women, both for employment and entrepreneurship. Although modernity provided women with new opportunities and opened some spaces that men had held as a monopoly, modernity is also characterized by new challenges that are

associated with the need for equality, representation, and the elimination of female discrimination. Yes, it makes the workplace complex with this interplay of modernity and gender dynamics, but the current period must therefore be examined to see where gender equality has progressed as opposed to the barriers that still exist, to achieve equality. India has its roots in a patriarchal society, where men and women have been given defined roles. Men were responsible for the bread-winning work (in the public sphere), while women were responsible for the domestic sphere (home and care). Cultural norms, religious teachings, and legal frameworks further entrenched these roles, denying women access to education and economic independence. However,

the post-independence period brought social reforms, and the Constitution combined equality of opportunity with schemes for the upliftment of citizens who had been sidelined, irrespective of gender. Articles 14, 15, and 16 of the Indian Constitution lay the foundation regarding discrimination and equality between genders. Further, initiatives like the Hindu Code Bills and the Equal Remuneration Act 1976, while being more of a backdoor approach towards gender parity, have made administrative principles that aim to close the gender gap, but more importantly, establish an ideology of inclusion of genders in private and public sectors of India.<sup>1</sup> However, despite these developments, gender inequalities in the Indian workplace are still very much alive. Wage differences, restricted advancement options, and exploitation, especially for women working in the informal sector and women in rural areas, are terms that prevail even today. Despite the evidence suggesting the need for women in the workplace, the cultural expectations of prioritizing family over rest remain an obstacle, leading to women exiting the workforce or working part-time to help at home. Men, in contrast, are also pressured by norms to be the breadwinner, and this constrains their ability to contribute to domestic chores and care work. On the one hand, many women are urged to have careers, but the influence of domestic values creates an unwritten law that women cannot neglect their domestic duties; on the one hand, males are also asked not to take on domestic tasks, which keeps the unequal style between the sexes in the family as well as the workplace.

Modernity has given birth to globalization and technology development, thus the range of the corporate landscape has widened, and women are participating in every specific field from technology and engineering to business and finance. The phenomenon of remote work and flexible working arrangements (spurred by the COVID-19 pandemic) has also introduced another variable, enabling women to negotiate a work-home balance. Yet at the same time, modernity has produced new kinds of exploitation, for example, in the form of sexual harassment in the workplace as well as discrimination against women as leaders. With positive initiatives, for example, the POSH Act - the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act 2013, has been set up to protect women in the workplace. Implementation happens in fits and starts, with many institutions not fully deploying the requisite lines of complaints. This research paper will deal with the issue of working women in India and how advancement and modernity have played their roles in changing the scenario of gender dynamics in an Indian workplace for both genders. The research will seek answers to the following research questions through analysis of case laws, statistical data, and academic literature:

1. Give an account of the changing roles of men and women in the Indian workforce as induced by modernity.
2. Despite progress in gender equality, does discrimination and exploitation still exist?
3. To what extent do legal frameworks and corporate policies solve these problems?

## LITERATURE REVIEW

Studies show that modernization and globalization have expanded opportunities for women in India, particularly in education, STEM fields, and urban employment. However, persistent issues such as the gender pay gap, workplace harassment, and underrepresentation in leadership remain (WEF, 2023). Landmark cases like *Vishaka v. State of Rajasthan* (1997) and the POSH Act (2013) shaped legal protections but suffer from weak implementation. Research also highlights the digital gender divide, with women's limited internet access creating new barriers, while digital platforms simultaneously offer spaces for entrepreneurship and activism (#MeToo). Overall, literature emphasizes that modernity has advanced gender equality but continues to reproduce inequalities, especially for women in rural and informal sectors.

## METHODOLOGY

The study uses a qualitative and doctrinal approach, focusing on laws, policies, and case laws related to workplace gender equality in India.

**Primary Sources** - Constitutional provisions (Articles 14, 15, 16), statutes such as the Equal Remuneration Act, 1976, and POSH Act, 2013, along with landmark case laws (*Vishaka v. State of Rajasthan*, *Air India v. Nergesh Meerza*, *Medha Kotwal Lele v. Union of India*).

**Secondary Sources** - Academic articles, government reports, surveys, and statistical data from organizations like the World Economic Forum and IAMAI.

**Data Analysis** - The research combines case law analysis, policy review, and interpretation of statistical data to examine both progress and persisting

<sup>1</sup> Ngida. "Gender Equality in the Workplace: Promoting Diversity and Inclusion." LinkedIn, 22 July 2023, <https://www.linkedin.com/pulse/gender-equality-workplace-promoting-diversity-inclusion-ngida/>. Accessed 5, September, 2025.

## FINDINGS

### History of Gender Roles in India

The history of the role of women in India is shaped by decades of age-old social, religious, and cultural norms, resulting in complex dynamics of men's and women's relationships today. Men were generally portrayed as leaders and providers; the society at that time was a patriarchal one, whereas women were restricted to a domestic role, a trend that has carried on into modern-day India. However, these roles and their specific formulation have been modified through different historical epochs, mainly through economic and social evolution.

### Changes in Gender Relations Today

The economic liberalization of the 1990s and later modernization changed the fabric of Indian society. Globalization, the growth of new technology, and new educational priorities gave more and more men and women, especially in cities, a wider and wider range of options. Fields such as law, medicine, business, and technology were increasingly stacked with women, smashing gender stereotypes that boxed them into the house. But modernity came with its speed bumps. Women encountered

wage inequalities, workplace harassment, and other barriers to climbing the corporate ladder, particularly in the workplace. Social customs remained such that women were expected to juggle domestic and career duties, forming a kind of "double burden" that would impede their progress in the workplace. For all of the progress, or at least the encouragement, for men to pick up some of the domestic slack in recent years, culturally responsible men remain treated like this.

### Increased Participation of Women

Women have been entering various fields in India more and more over the past years, especially in the fields of education, the workplace, and as leaders due to legislative reforms, economic liberalization, and changing social attitudes. It has transformed the nature and the culture of labor in the country.

### Skill Development and Education

The growth of access to education has played a major role in opening opportunities for women. Government schemes such as Beti Bachao Beti Padhao<sup>3</sup> Scholarships and skill development initiatives have contributed to an increase in female literacy and the subsequent urge of girls to go for higher education, particularly in urban areas. An unprecedented number of young girls are now taking science, technology, engineering, and mathematics (STEM) courses, medicine, law, and other traditionally male-dominated subjects, giving them skills needed for the new economy. Such educational empowerment is important because it can lead to job opportunities.

In order to bring women into the mainstream of political leadership at the grassroots level, the Government has reserved at least 33% of the seats in Panchayati Raj Institutions (PRIs) for women through the 73rd amendment to the Constitution. Today, there are more than 14.50 lakh Elected Women Representatives (EWRs) in PRIs, which is approximately 46% of the total elected representatives. The government is providing training to the EWRs from time to time to build on their capacity with a view to empowering women to participate effectively in the governance processes.

### Labor Force Participation and Economic Growth

After the economic reforms in the 1990s, expanded employment opportunities attracted more women to work outside of their homes - particularly in urban areas. Women

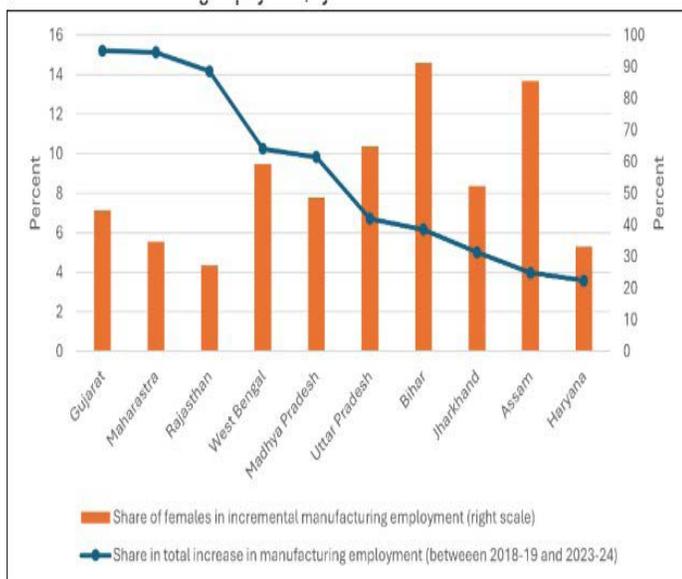


Figure 1. Aggregate increase in manufacturing employment and the share of females in incremental manufacturing employment, by state<sup>5</sup>

2 "Double Burden." Cambridge English Dictionary, <https://dictionary.cambridge.org/example/english/double-burden>. Accessed 2 Nov. 2024.

3 Beti Bachao Beti Padhao scheme, Ministry of Women & Child Development, Government of India, 2015.

have entered significant numbers in IT, banking, medicine, and education. Policies such as the Equal Remuneration Act of 1976, which established the principle of equal pay for equal work, along with corporate diversity programs, have also led to increased workforce participation and retention among women.

Figure 2. Increase in the proportion of female-owned manufacturing enterprises and female share in informal manufacturing employment, by state (2015-16 to 2022-23)

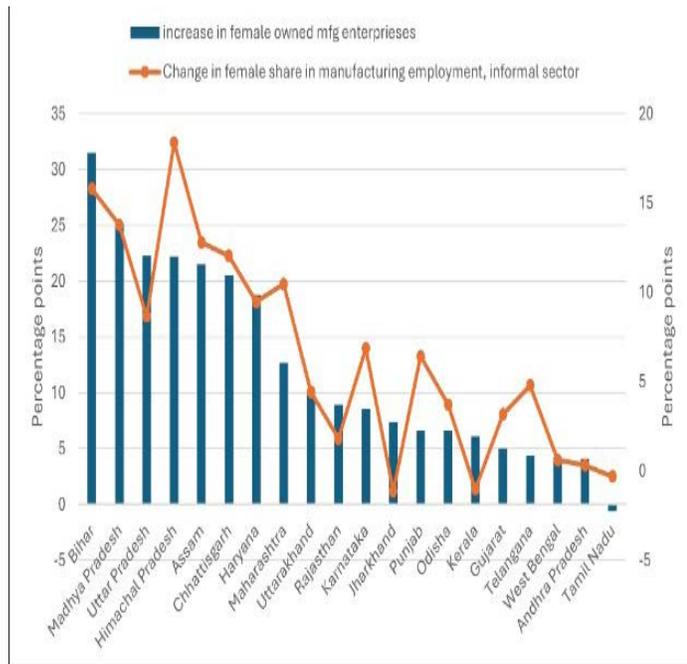


Figure 3. - Worker Population Ratio (WPR) is the percentage of persons employed among the persons in the population.<sup>6</sup>

**Statement 3: WPR (in per cent) according to usual status (ps+ss) and CWS estimated from PLFS (2021-22), PLFS (2022-23) and PLFS (2023-24)**

all-India						
category of persons	WPR during PLFS (2023-24) in		WPR during PLFS (2022-23) in		WPR during PLFS (2021-22) in	
	usual status (ps+ss)	CWS	usual status (ps+ss)	CWS	usual status (ps+ss)	CWS
(1)	(2)	(3)	(4)	(5)	(6)	(7)
<b>rural</b>						
male	56.3	54.3	54.0	52.0	54.7	52.1
female	34.8	28.4	30.0	24.4	26.6	20.7
person	45.6	41.4	42.3	38.6	40.8	36.6
<b>urban</b>						
male	56.4	55.0	55.6	54.2	55.0	53.4
female	20.7	19.0	18.7	17.4	17.3	15.7
person	38.9	37.3	37.7	36.3	36.6	35.0
<b>rural+urban</b>						
male	56.4	54.5	54.4	52.6	54.8	52.4
female	30.7	25.7	27.0	22.5	24.0	19.3
person	43.7	40.2	41.1	38.0	39.6	36.1

2023-24 refers to the period July 2023 – June 2024 and likewise for 2022-23 and 2021-22

While there have been positive strides, we still have a gender pay gap, are underrepresented in leadership roles, and experience workplace harassment - all of which create

roadblocks toward total equity. The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, is one of the efforts in addressing all these issues and making workplaces safe and conducive.

### Leaders and Entrepreneurs

Another positive development is the rise of women in leadership and entrepreneurial roles. Today, women are represented in top management positions such as political, corporate India boards, startups, civil services, etc. The Stand-Up India Scheme<sup>7</sup>, Mudra Yojana<sup>8</sup> and other such programs have given women the means to establish their businesses and be the economic drivers for themselves as well as become social change agents. Role models in the form of Kiran Mazumdar-Shaw (Biocon) and Falguni Nayar (Nykaa) are here motivating other women to take leadership and entrepreneurial opportunities.

Figure 4: World Economic Forum - Global Gender Gap Report 2025<sup>9</sup>



Access to finance	Indicator	Value	Graduates Attainment %	Female	Male	Parity
Equal rights	Vocational training	1.90	2.87	2.41		
Near-equal rights	PhD graduates	0.05	0.10	0.08		
Near-equal rights	Graduates from tertiary education	1.90	2.87	2.41		
Civil and political freedom	Indicator	Unit	Value			
Year women received right to vote	1937, 1950					
Number of female heads of state to date	4					
Seats held in upper house	16.67					
Indicator	Yes/No	Value				
Election list quotas for women, national	Yes					
Party membership quotas, voluntary	Yes					
Indicator	Equal rights	Value				
Reproductive autonomy						Restricted rights
Access to justice	Equal rights					
Freedom of movement	Equal rights					

<sup>9</sup>Scores are on a 0 to 1 scale, where 1 represents the optimal situation or "parity". Please see Appendix A and B for detailed methodology, definitions, sources and periods.   
<sup>6</sup>For all indicators, except the two health indicators, parity is benchmarked at 1. In the case of sex ratio at birth, the gender parity benchmark is set at 0.944 (see Klasen and Wink, 2003). In the case of healthy life expectancy the gender parity benchmark is set at 1.06, given women's longer life expectancy.

## Social Impacts<sup>10</sup>

With more women moving into positions of power, the world is slowly changing its attitude about gender roles. Even in case this modification is slow, men are sharing house responsibilities extra. Women are no longer playing a domestic role stereotype but rather they are part of every nation becoming a significant contributor to the economic wealth of any nation.

## Discrimination and Exploitation Based on Gender

Gender discrimination and exploitation against men and women still exist in India and it was exacerbated during COVID-19, however, there are many ways in which women experience this more adversely than men and in ways in which men experience these issues in places that are different from women. Those issues include workplace harassment and pay inequality but also include societal expectations and legal biases.

### A. Workplace Discrimination

One of the yardsticks for workplace discrimination in India is still the gender pay gap. Women earn approximately 19% less<sup>11</sup> than comparable men across the board and encounter difficulties in climbing the corporate ladder, “glass ceiling.” The Equal Remuneration Act 1976 mandates equal pay for equal work, but enforcement is sporadic, leading to a continued gender paygap.

### B. Sexual Harassment

Sexual harassment is pervasive and discourages women from joining the labor force. One study revealed that close to 40% of working<sup>12</sup> women report harassment, showing that the POSH Act(2013), passed to protect women, is simply not doing enough. These toxic workplaces often drive women away.

### Impact of Technology

The ‘digital divide’, which encompasses access to technology and the Internet between men and women, is more than their exclusion from the ability to use technology. While technology has increased access to opportunities and enhanced capabilities, it has also created opportunities and challenges, especially for women.

Issues such as cyber harassment, online abuse, and the proliferation of private and sensitive information result in social stigma and social psychological injury. As a response to recognizing these risks, legal provisions such as Section 66E of the Information Technology Act, 2000, which protects the right to privacy, and Institutions such as the Cyber Security Cell were established to help women.

Still, the reality of online violence suggests a more urgent need for enforcement, knowledge, and practice of digital literacy and awareness campaigns to make technology a means for gender equity rather than a source of vi

1		internet users; rural areas face deeper divides.	women (rural penetration far lower) - GSMA Mobile Gender Gap Report 2025.
2	Empowerment Through Tech	Digital platforms allow women entrepreneurs to access wider markets; rural women gain information & training.	Digital India initiatives + e-commerce platforms (Amazon Saheli, Mahila e-Haat) enable women's businesses.
3	Challenges - Online Violence	Cyber harassment, trolling, abuse, and non-consensual sharing of personal data cause stigma & psychological harm.	NCRB (2022): Cyber-crimes against women rose 28% year-on-year.
4	Legal Protections	Section 66E, IT Act 2000 penalizes violation of privacy; Cyber Security Cells issue guidelines.	Punishment: up to 3 years imprisonment / ₹2 lakh fine.
5	Social Movements & Expression	Social media helps break silence on harassment, promote reforms, and create solidarity.	#MeToo India (2018) → thousands of women shared workplace harassment stories.
6	Professional Growth	LinkedIn boosts visibility; Instagram & YouTube fuel freelance careers.	Influencer economy in India is ~₹1,300 crore women creators a major share.
7	Access to Legal Info	Mobile apps + online platforms increase awareness of gender rights, workplace protections, and legal remedies.	Apps like MySafetipin (safety maps) & Digital India services improve access.
8	Education & Distance Learning	Online learning expands opportunities, esp. for girls restricted by traditional norms.	During COVID-19, UNESCO reported more girls in India accessed online classes than ever before.

### Case Laws:

#### Visakha v. State of Rajasthan (1997)<sup>13</sup>

**Background:** Visakha v. State of Rajasthan arose from the horrific gangrape of Bhanwari Devi, a social worker employed by the Government of Rajasthan to stop child marriages. Her activism and the state's policies made some people in her village very unhappy. They brutally retaliated against Bhanwari Devi. The gruesome nature of Bhanwari Devi's case drew national attention to the failures of Indian law at the time to prevent and address acts of sexual harassment against women at work.

**The Decision:** Since there was no legal regime in place to address harassment specifically, the Supreme Court was challenged to determine: how do we define and approach workplace sexual harassment? The Court explained that the absence of the law demonstrated a clear lack of protection for gender equality and the dignity of women. To create a

4 Government of India, Government has adopted a multi-pronged approach for educational, social, economic and political empowerment of women, Press Information Bureau, 31 July 2024, Release ID: 2039864, available at: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=2039864>

5 Aggarwal, S.C. and Goldar, B., Feminisation of India's industrial workforce, Ideas for India, 22 January 2025, available at: <https://www.ideasforindia.in/topics/human-development/feminisation-of-india-s-industrial-workforce.html>

6 Government of India, Annual Report, Periodic Labour Force Survey (PLFS), 2023–24, Ministry of Statistics and Programme Implementation, October 2024, available at: [https://dge.gov.in/dge/sites/default/files/2024-10/Annual\\_Report\\_Periodic\\_Labour\\_Force\\_Survey\\_23\\_24.pdf](https://dge.gov.in/dge/sites/default/files/2024-10/Annual_Report_Periodic_Labour_Force_Survey_23_24.pdf).

set of guidelines to govern how sexual harassment should be treated in workplaces, the Court relied on constitutional guarantees (articles 14/equality, 15/non-discrimination, 19/freedom of expression, and 21/life and personal liberty) and created what came to be known as the “Vishaka Guidelines.” The Court relied on international obligations, particularly the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), to note that it constituted a violation of fundamental human rights to be subjected to harassment in the workplace. The guidelines established by the Court later became the basis for the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act).

## Key Principles Established:

**Sexual Harassment Definition** - Seen in its broadest interpretation - physical, verbal, or non-verbal sexual acts directly or indirectly.

**Employer Responsibility** - Organizations must ensure a safe working environment and ensure they proactively prevent and address harassment at the workplace.

## Implication:

This judgment was a landmark decision in India’s gender jurisprudence. It was responsible for the passage of the POSH Act, 2013, and also raised national awareness of workplace harassment. By recognizing that Sexual Harassment was a violation of women’s constitutional rights to equality, dignity, and working in a safe environment, the Court ushered in broader debates on gender justice. The judgment demonstrated the proactivity of the judiciary to fill in legislative voids. It indicated a shift in the workplace that could potentially transform policies across India.

## Air India v. Nergesh Meerza (1981):<sup>14</sup>

- Background: As part of the Indian Airlines Act,

7 Stand-Up India Scheme, Ministry of Finance, Government of India, 2016.

8 Mudra Yojana, Ministry of Micro, Small and Medium Enterprises, Government of India, 2015.

9 World Economic Forum, Global Gender Gap Report 2025, 11 June 2025, available at: [https://reports.weforum.org/docs/WEF\\_GGGR\\_2025.pdf](https://reports.weforum.org/docs/WEF_GGGR_2025.pdf)

10 Malhotra, R., Social Transformation and Gender Roles in India, 12 Journal of Social Development 141 (2022). 11 “Gender Pay Gap Still High: Women in India Earn 19% Less than Men: Report.” The Times of India, 7 Mar. 2019, <https://timesofindia.indiatimes.com/business/india-business/gender-pay-gap-still-high-women-in-india-earn-19-less-than-men-report/articleshow/68301331.cms>.

12 “Sexual Harassment Complaints at Companies See Sharp Rise.” The Economic Times, 9 Oct. 2023, <https://economictimes.indiatimes.com/jobs/hr-policies-trends/sexual-harassment-complaints-at-companies-see-sharp-rise/articleshow/112663032.cms>

13 Visakha v. State of Rajasthan, AIR 1997 SC 3011.

14 Air India v. Nergesh Meerza, AIR 1981 SC 1829.

15 Medha Kotwal Lele v. Union of India, AIR 2013 SC 93.

the denial of medical benefits to the female cabin crew members under the age of 45, as well as the clause that mandated the termination of employment during pregnancy, was one of the primary discriminations on which this case was based.

- Decision: Irretrievably discriminatory by the Supreme Court and unjustified as provisions that serve to constitutionally protect the services of women, strengthen the case, and certainly do not aim to target women or provide undue inequality.
- Impact: With this resolution, the gap that existed between India and the rest of the world about employment discrimination on account of gender was reduced, and the principle of workplace equality was made stronger.

## Medha Kotwal Lele v. Union of India (2013):<sup>15</sup>

- Background: Lawyer and activist Medha Kotwal Lele noted that many states and institutions were not putting the Visakha Guidelines into action, so she brought that to the attention of the Court.
- Decision: Widespread construct of the POSH Act to all levels of both Government as well as Private Organizations, with the responsible Supreme Court of India on the POSH Act establishing the President of POSH.
- Impact: Confirmed the assumption that the Government of India owes the Initiative to protect women against workplace discrimination, as well as the Protection and Positioning Act, under the legal framework, which is the interaction between the government and judiciary.

## **CONCLUSION**

The impact of modernity on gender in the Indian workplace has suffered both progress and barriers. In the past, the

rigid patriarchal structure of Indian society greatly impeded women's access to education, let alone acquiring positions of leadership, entrepreneurship, and even professional careers. The various skill development programs, along with anchor policies of the Indian constitution and even

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# India's Blueprint for Sustainable Growth

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### ARTICLE INFO

Keywords: analyses, infrastructure, equity, social, emission

### ABSTRACT

This article analyses India's strategy for attaining sustainable prosperity by 2047, in line with its aspiration to become a developed nation by the 100th anniversary of its independence. It addresses the challenges arising from swift urbanization, industrial growth, and increasing energy requirements, detailing how the Indian government has enacted measures such as the National Action Plan on Climate Change (NAPCC) to tackle these issues. The analysis underscores India's dedication to minimizing its ecological footprint while promoting economic advancement through clean energy initiatives, technological progress, and infrastructure enhancement. Notable programs like Make in India, Digital India, and Atmanirbhar Bharat are designed to boost domestic manufacturing and self-reliance while fostering sustainability. The vision of Viksit Bharat (Developed India) prioritizes human capital development, the adoption of renewable energy, and international partnerships to achieve net-zero emissions by 2070 and to derive 50% of energy from renewable sources by 2030. Furthermore, the document investigates the crucial contributions of green energy, digital innovation, and global collaborations in promoting sustainability. By implementing these cohesive strategies, India seeks to harmonize economic growth, environmental responsibility, and social equity, positioning itself as a frontrunner in sustainable development. This holistic approach aims to secure a resilient and sustainable future for India while supporting global environmental objectives.

### Introduction

Sustainability has emerged as a fundamental aspect of global economic progress. As one of the fastest-growing economies, India must navigate the complex task of sustaining economic development while mitigating environmental concerns. The pressures of rapid urbanization industrialization, and rising energy needs have significantly impacted the environment, necessitating a transition toward

sustainable practices.

To tackle these issues, the Indian government has implemented a range of policies and programs, including the National Action Plan on Climate Change (NAPCC), renewable energy initiatives, and urban sustainability projects. These measures strive to harmonize economic expansion with environmental stewardship. India's sustainability strategy is comprehensive, incorporating technological innovation, regulatory frameworks, and collaborative efforts between public and private sectors.

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India has also set ambitious sustainability goals for 2047, aligning with its vision of becoming a developed nation by its centenary of independence. These goals include achieving net-zero carbon emissions by 2070, ensuring 50% of its energy requirements come from renewable sources by 2030, and significantly improving air and water quality. Additionally, the country aims to promote circular economy models, enhance afforestation efforts, and drive green mobility solutions to create a more sustainable and resilient economy.

Beyond government initiatives, private sector participation and international cooperation are crucial in advancing sustainable growth. Investments in clean energy, sustainable infrastructure, and environmentally friendly technologies play a key role in this shift. By fostering innovation and adopting an integrated approach, India aspires to achieve lasting economic prosperity while addressing climate change and promoting social equity.

This paper delves into India's sustainable development strategies and identifies critical areas requiring continued focus to ensure a resilient and sustainable future.

## India's Roadmap to Sustainable Prosperity

India's pursuit of sustainable development is driven by a strategic blend of policy reforms, technological advancements, and targeted investments. The government has placed a strong emphasis on clean energy transitions, modernizing infrastructure, and fostering rural development as fundamental aspects of its growth strategy. Through key initiatives such as Make in India, Digital India, and Atmanirbhar Bharat (Self-Reliant India), the country is working to strengthen domestic manufacturing, expand digital infrastructure, and achieve self-sufficiency while minimizing its environmental impact.

Furthermore, India is committed to inclusive growth, ensuring that economic progress benefits all sections of society. Programs like Skill India and Start-up India promote entrepreneurship and job creation, supporting both economic prosperity and sustainability. Investments in high-speed rail, electric mobility, and smart city projects further highlight the nation's dedication to integrating sustainability into its development framework.

India's engagement in global sustainability efforts, including its leadership in the International Solar Alliance (ISA) and partnerships with international economies, underscores its commitment to addressing environmental challenges on a global scale. By harnessing innovations in green technology,

sustainable agriculture, and digital transformation, India is shaping a resilient and sustainable future while setting a benchmark for other developing nations.

## Vision of Viksit Bharat

Viksit Bharat, or Developed India, represents the nation's aspiration to achieve comprehensive and sustainable progress by 2047, coinciding with 100 years of independence. This vision focuses on fostering economic growth, ensuring social equity, advancing environmental sustainability, and driving technological innovation to establish India as a self-reliant and globally competitive economy.

A key component of Viksit Bharat is infrastructure advancement, including the development of smart cities, upgraded transportation networks, and the large-scale adoption of renewable energy. The government has set a target to derive 50% of its energy needs from renewable sources by 2030, aligning with its broader objective of achieving net-zero emissions by 2070. Strategic investments in green hydrogen, solar power, and sustainable urban development play a pivotal role in this framework.

Another crucial aspect is human capital development. Strengthening education, healthcare, and employment opportunities ensures inclusive and equitable growth. Programs such as Skill India and Digital India focus on equipping the workforce with digital and technological expertise, fostering innovation and entrepreneurship. By promoting research and development in artificial intelligence, biotechnology, and clean energy, India aims to position itself as a leader in cutting-edge technology.

Economic self-sufficiency is at the heart of the Viksit Bharat mission, reinforced by the Atmanirbhar Bharat initiative, which encourages domestic manufacturing, sustainable agriculture, and robust supply chains. This strategy enhances India's global trade competitiveness while reducing dependence on external resources, ensuring long-term economic stability.

Environmental sustainability is a cornerstone of this vision, with policies emphasizing afforestation, water conservation, and waste management. The government actively promotes a circular economy to reduce waste generation, enhance recycling efforts, and minimize environmental degradation.

India's commitment to international collaboration is another essential aspect of realizing the Viksit Bharat vision. By participating in global sustainability efforts such as the International Solar Alliance (ISA) and forging partnerships with global economies, India fosters knowledge exchange, facilitates technology transfer, and secures financial support

for sustainable development initiatives.

By seamlessly integrating economic advancement with social and environmental responsibility, Viksit Bharat aims to position India as a global economic powerhouse while ensuring long-term sustainability and prosperity for all its citizens.

## International Collaborations for Viksit Bharat

India recognizes the significance of international partnerships in realizing its vision for Viksit Bharat. Collaborating with global organizations, economies, and institutions enables access to advanced technologies, investment opportunities, and best practices in sustainability. A key initiative in this effort is the International Solar Alliance (ISA), co-founded by India, which unites over 100 countries in promoting solar energy adoption, reducing reliance on fossil fuels, and developing cost-effective solar technologies. Additionally, India has established strategic partnerships with developed nations such as the United States, Japan, and Germany to enhance cooperation in clean energy, electric mobility, and smart infrastructure. These bilateral agreements facilitate knowledge exchange, skill development, and financial assistance for green projects. Aligning its objectives with the United Nations Sustainable Development Goals (SDGs), India ensures its policies contribute to global sustainability targets in areas like climate action, renewable energy, and poverty alleviation. Furthermore, India actively engages in BRICS and G20 discussions, advocating for climate finance, sustainable infrastructure investment, and global trade policies that promote sustainability. Encouraging foreign direct investment (FDI) in green technology, India attracts global investors to sectors such as electric vehicles, green hydrogen, and the circular economy. Partnerships with multinational corporations further bolster India's capacity to develop and implement cutting-edge green innovations. Additionally, India collaborates with international financial institutions, including the World Bank and the International Monetary Fund (IMF), to secure funding for sustainable infrastructure projects, leveraging green bonds and climate finance initiatives to accelerate its transition to a low-carbon economy. Through these global alliances, India is strengthening its position as a leader in sustainable development, leveraging international expertise and financial support to drive inclusive and environmentally responsible growth.

## Green Energy Transition

India's transition to green energy by 2047 will serve as a fundamental element of its strategy for sustainable

development, coinciding with its aspiration to emerge as a developed nation by the centenary of its independence. As the country navigates the complexities of economic advancement, environmental sustainability, and social equity, the shift towards renewable energy will be crucial in fulfilling these aims.

By the year 2047, India's energy framework is expected to be largely based on renewable sources such as solar, wind, hydropower, and biomass, thereby significantly diminishing reliance on fossil fuels. This transformation will be driven by substantial investments in solar energy capacity and offshore wind projects, establishing India as a frontrunner in the global clean energy sector. The advancement of energy storage solutions, including batteries and green hydrogen, will provide a stable and dependable power supply, effectively managing the variability associated with renewable energy sources.

Moreover, the green energy transition will encourage the development of decentralized energy systems, especially in rural and isolated regions. By implementing solar microgrids and off-grid technologies, India can deliver affordable and reliable electricity to millions, enhancing energy accessibility while minimizing infrastructure expenses. The extensive adoption of electric vehicles (EVs) and the establishment of EV charging networks will contribute to a cleaner transportation framework, thereby alleviating urban pollution and lowering carbon emissions.

Indian industries will progressively adopt low-carbon and sustainable methodologies by leveraging green hydrogen, carbon capture technologies, and energy-efficient manufacturing practices. This shift will not only contribute to emission reductions but will also position India as a centre for clean technology innovation and green industrial production.

A significant component of this transition will be the creation of jobs, generating millions of new employment opportunities within the renewable energy sectors, including solar panel manufacturing, battery storage, electric vehicle infrastructure, and sustainable construction.

Moreover, India will continue to promote green finance through mechanisms like green bonds and sustainable investment, attracting global investments to fund its energy transformation.

By 2047, India's green energy transition will be integral to its sustainable growth model, balancing economic development with environmental stewardship and paving the way for a cleaner, more resilient future.

## Digital Transformation for Sustainability

Digital transformation is poised to serve as a crucial driver

of sustainable growth in India by the year 2047, harmonizing technological advancements with environmental, economic, and social goals. As India navigates the challenges of rapid urbanization, increasing energy demands, and the need for environmental conservation, digital technologies will play an essential role in developing sustainable solutions across multiple sectors.

A significant area of influence will be energy management. The transition to renewable energy sources in India will be bolstered by the implementation of smart grids and sophisticated metering systems, which will enhance energy efficiency and minimize waste. Technologies such as Artificial Intelligence (AI), the Internet of Things (IoT), and big data analytics will facilitate real-time monitoring of energy consumption, leading to improved energy distribution and storage, particularly for variable sources like solar and wind energy.

In the agricultural sector, precision farming techniques utilizing digital innovations such as drones, satellite imagery, and AI will enhance water management, reduce pesticide application, and boost crop productivity. This approach will foster sustainable agricultural practices by curtailing resource waste and bolstering food security, particularly in rural communities.

The transportation sector is set to experience a profound transformation with the integration of electric vehicles (EVs), supported by a robust digital infrastructure for charging stations and route optimization. This shift will decrease reliance on fossil fuels and diminish emissions, thereby contributing to cleaner urban air quality.

In the realm of urban planning, smart city technologies will facilitate effective waste management, promote water conservation, and encourage green building initiatives, all while enhancing the overall quality of life. Digital platforms will support sustainable urban mobility, alleviate traffic congestion, and integrate green spaces into city landscapes.

Finally, digital platforms for sustainability reporting and green finance will allow businesses to measure their environmental impact and attract investments in sustainable projects, boosting economic growth while maintaining environmental integrity.

By 2047, India's digital transformation will be essential to achieving inclusive, sustainable growth, driving innovation while ensuring environmental sustainability.

## Conclusion

India's strategy for achieving sustainable prosperity by 2047

presents a holistic and visionary framework to tackle the urgent issues arising from rapid economic expansion, environmental preservation, and social justice. By implementing a mix of policy reforms, technological advancements, and targeted investments, India aims to minimize its ecological footprint while promoting economic progress. Initiatives such as Make in India, Digital India, and Atmanirbhar Bharat are crucial in advancing self-sufficiency, transitioning to clean energy, and modernizing infrastructure. The Viksit Bharat vision is in harmony with international sustainability objectives, highlighting the importance of renewable energy adoption, green technologies, and global partnerships to achieve net-zero emissions by 2070 and fulfill renewable energy goals by 2030. The shift towards green energy and digital innovation will not only bolster economic development but also enhance job creation, foster cleaner urban environments, and promote sustainable industries. India's proactive engagement in global initiatives, like the International Solar Alliance, reinforces its leadership in sustainability, setting a standard for other countries. By merging economic advancement with environmental responsibility, India is on track to emerge as a global frontrunner in sustainable development, ensuring a thriving and resilient future for its populace while making significant strides in the global battle against climate change.

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## The State of Juvenile Delinquency in India: Present & Future By- Kshipra Mahadik

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### ARTICLE INFO

### ABSTRACT

#### Introduction

Juvenile delinquents are not born criminals but have succumbed as a result of being victims of neglect-parental or societal. Every citizen owes a duty to the child. Juveniles are prosecuted in Juvenile Justice Boards with less stringent restrictions unlike the normal discourse of legal procedure. The focus is on juvenile delinquency and to reduce its occurrence in the country. This article is aimed at presenting how precedents established in such cases impact the re-integration of the juveniles back in the society.

Juvenile justice is a legal system designed to address transgressions committed by youths, those under the age of 18. It aims to offer assistance and rehabilitation to young offenders in place of punishment.

The juvenile justice system is distinct from the adult criminal justice system. They are designed to provide more all-encompassing support, including education, counselling, and family support, to help young people get past the situations that led to their criminal behavior. How are they treated during the procedure and handled in questioning? Are efforts being made to bring them back into society? Is it as normal as it seems? Do they live amongst us or what if they don't reach that stage at all. Is there any need for further reformation and how emerging shifts in socio-economic landscape and the ever evolving technology impact this process? This article tries to elucidate the same.

### Juvenile Delinquency

The acts governing this particular set of delinquents range from less serious to heinous. Either they are fully sane to understand the nature of the crime or are under the influence of substances or peer pressure at maximum. Crimes usually

committed by adults are also purported by youth, either in vengeance or for ulterior motives. Sometimes they are falsely implicated as seen in the rise of fake cases across the country. Juvenile justice is the umbrella term that encapsulates within it- juvenile delinquency, neglected children in need for care and protection, protection of children's rights, etc. The goal of

juvenile justice is to uphold and advance the human rights of minors who have been accused of crimes or who have been neglected by their parents (as is the case of children in need for care and protection). Instead, it emphasizes rehabilitation above adult criminal

justice. The Indian Constitution guarantees special attention to children, including the right to equality, protection of life, and protection against exploitation.

Three key presumptions form the foundation of the Indian juvenile justice system:

- Rather than being prosecuted in court, juvenile criminals should get the best available rehabilitative treatment.
- Instead of facing legal consequences, people should be allowed to turn their ways.
- When a child is in legal trouble, their trial should focus on non-penal treatment through community-based social control organizations like Special Homes and Observation Homes.<sup>3</sup>

## Reasons

The debate of nature versus nurture is ever prevalent in this discourse, whether commission of crimes by juveniles is due to their surroundings or a pre-disposed tendency that leads to such outcome. Humans are made up of habits, there is no goodness or badness inherent, but the surroundings that make us. To illustrate, smoking does not make someone a bad person per se, but the repeated action or habit of it does, to be negligent and reckless is. To commit crimes and acts that affect the conscience or life of a person or society is. Habits, actions picked up by children should be looked after by their respective guardians or teachers at educational institutions and identified early on. The environment in which children are raised, the state of the economy, lack of education, literacy, and parental care may all be contributing factors to the rising rate. The delinquents might be in conflict with law, but do they know the laws themselves? Some are accompanied by their parents or guardians, as they walk in with fear apparent on their faces, not knowing what to do or say.

## Role of juvenile justice boards and the society as a whole

The juvenile justice board deals with a wide range of cases pertaining to children in conflict with law, or those who need care and protection. What is pertinent to note is that mostly

those who come along with their guardians are uneducated, more so like their parents who accompany them. But illiteracy is not the only determining factor. Is mental health taken into consideration? The dire circumstances that families might be suffering, what they might be going through in their house, their surroundings, the atmosphere of neglect, pessimism, not just the social angle but the inherent stigma towards these neglected children. Not to say that people from well-to-do families are different. What happens within the four walls of the house, stays in it. It should be made part of the evaluation by the counsellors attached to the board, more so for the judges to realise this social aspect.

While the concept of counselling has a long way to go, there is need for more than talking to the child or guiding them. To engage should be a priority, through interaction constantly by those trained to deal with such things, to integrate these children back into the society. To make them realise what they have done to have caused agony to the victim.

Mental health services should be adequately deployed to address it at the institutional level. Services like counselling, mental health surveys, therapy should be available at each stage of the proceedings. Competent personnel to handle the subtlety and grievances of both parties should be familiar to the parties themselves. Counsellors, psychologists specialised in dealing with children must be trained adequately to grasp the problem effectively.

Similarly at the judicial level, competent legal aid counsels appointed by the State should make sure that the juveniles understand what they are being tried for and the further implications of their respective cases. Counsels should deal with the guardians effectively to make them aware of the gravity and consequences of the legal procedure without instilling fear or intimidating the families by using jargon only they are privileged to know .

Expedient disposal of cases from a legal perspective might face challenges of the traditional legal system being lax, passing frequent adjournments to fulfill documentary formalities, inability of producing crucial documents and presence of parties, hampers and stretches the cases that favours noone, certainly not the society. Being quick with disposal of cases does not imply haste, it requires prudence and the commitment to consider all factors in play.

## The Indian scenario

The Juvenile Justice Acts of 2000, 1986, and 2015 are in place to address and safeguard rights of juveniles. In recent decades, the rate among teenagers under the age of sixteen

has increased. The most concerning thing is that kids these days, especially those between the ages of 5 and 7, are exploited as instruments to commit crimes since they are not cerebral and are easily manipulated at that age.<sup>4</sup> A total of 30,555 crimes were committed by minors last year in the country; Delhi ranks 6th on the list with more than 2,340 cases against minors, as per NCRB data<sup>5</sup>. The need for law enforcement agencies, institutions involved in integrating juveniles back into the society, must introspect and work in consonance with statutes in place. The procedural aspect should be streamlined to meet ends of justice and for the parties to avail justice. Frequent adjournments should be disregarded, unless it is imminent for further inquiry.

## Re- Integration in the society

While education plays a crucial role in enabling a youth to flourish in future endeavours, it is pertinent to note that everyone is different, not everyone chooses to study, willingly or otherwise. Some want to work, learn while on the job and hence look for occupations rather than studying. In an ever increasingly globalised world, education plays an important role, but vocational training can be imbibed alternatively, where youth is engaged in meaningful work, that ultimately benefits the society.

Quality of education and learning methods must meet the requirements of today's changing times. Vocational training can be provided to those who don't want to pursue future studies and want to fend for their families.

Early assessment and observation of behavioural aspects by peers and guardians at home and educational institutions is essential to identify erratic behaviour or prolonged detachment from the routine activities.

Use of technology should be monitored by guardians.

Followup reports can be produced to make sure proper resettlement was ensured after conviction.

Former Juvenile delinquents can interact with those currently in observation homes to instill a sense of responsibility in the juveniles.

Keeping juveniles in constant touch with family members to avoid isolation and loneliness can be undertaken at all levels.

## Emerging Challenges

With the rise of technology, the medium of interaction has surpassed meeting physically. It neglects the possibility of children being vulnerable to crimes online, those committed by the juveniles themselves. This aspect of growing interface and presence of children online can be detrimental and give

rise to online offences. Involvement of juveniles on online platforms, committing crimes under the IT Act, 2000 or BNS, must be stopped in the first place by strict rules as to who can access these platforms. If so there must be certain guidelines and user friendly manuals that children can access.

Most importantly it is to identify whether the victim is actually the victim, or their family is trying to manipulate the facts of the case for their own reasons and biases. By wrongfully apprehending or falsely accusing youngsters for cases of rape, elopement, causing grievous hurt goes a long way in deciding thei

## Conclusion

The questioning should go beyond asking whether the juvenile requires a government appointed lawyer or engages a private one (as was observed by the author). How does that matter when the goal is to dispose of the case along with a proper remedy which favours both the victim and the juvenile. Some are aware of what they have done, while others are clueless, some afraid, ashamed, if such feelings are suppressed the guilt may worsen which might manifest as a menace in the society. Such cases must be handled with extreme care, striking a balance between incorporation of these youngsters back into the society and to provide relief to the victim. Youth is the future of the development of the country, and the future cannot seem bleak due to our inability to bring down the statistics. The stringent implications should be made aware of and early intervention through regular assessments and basic observation of daily dwellings should be taken care of. To realise the true conditions of what a youth goes through, paying a visit to the juvenile justice board gives you a peek into an alternate dimension where one finds the ever so common children that pass you on the streets daily. The innocence commonly associated with children, suddenly disappears.

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# Same-Sex Marriage in India: A Journey towards Equality and Inclusion in the Global Context

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### ARTICLE INFO

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### ABSTRACT

The constitution bench of the Hon'ble Supreme Court of India (hereinafter referred to as the "Supreme Court") headed by then Hon'ble Chief Justice D.Y. Chandrachud has decided the question of same-sex marriage in India, since it was a matter of seminal importance.<sup>1</sup> It was contended by the petitioners that the right to marry is a fundamental right enshrined under the Constitution of India (hereinafter referred to as the "Constitution") and denying the people of same sex the right to marry is a violation of their fundamental rights.

The constitutional bench unanimously held that Supreme Court could not recognize LGBTQIA+ persons right to marry, as there is no fundamental right to marry, which can be extended to the LGBTQIA+ community as per the provisions contained in Special Marriage Act or other legislations.

This article will discuss the contentions of petitioners and government in the case and whether the Supreme Court was an appropriate body for such major changes in the laws relating to marriage, also the global trends and the status of same-sex marriage in some nations.

## Background of LGBTQ+ Rights in India

Section 377 of the Indian Penal Code criminalized consensual same-sex relations and was challenged by the Naz Foundation Trust in the Delhi High Court. In 2009, the court ruled that it violated fundamental rights. However, the Supreme Court reversed this decision in 2013. Several curative petitions were filed, and a fresh writ petition was submitted by five individuals from the LGBTQ community. The Supreme Court formed a Constitution Bench in 2018 and on September 6th, 2018, partially struck down Section 377, decriminalizing same-sex relations between consenting adults. The court unanimously found that Section 377

violated fundamental rights, including Articles 14, 15, 19, and 21 of the Constitution.<sup>2</sup>

If same-sex marriage is recognized in India, it will contribute to the upliftment of the LGBTQ+ community in the country and enhance the acceptance of the community in society at the ground level. However, the demand of recognising same-sex marriage is not undisputed. It has been strongly opposed by the Indian Government. The contention of the government is that only heterosexual marriages are legal and the recognition of homosexual marriages will need a legislative change which will require parliamentary legislation.

## Analysis of Legislation Governing Marriages in India.

What is to be noted here is that as of now India doesn't recognise the registration of same-sex marriage, but at the same time, live-in relationships are not prohibited for same-sex couples. Similarly, there are no adverse/barbaric actions taken against couples of same-sexes to engage in a ceremony of marriage or profess love like in other regressive nations.<sup>3</sup> There have been cases in India where same-sex couples have followed the common customs and have tied knots. The problem here is that these marriages are not valid in the eyes of law since they cannot be registered. It also means that the rights and obligations of the partners in a valid marriage cannot be enforced if there is no validity of same-sex marriage in the law of the land.

Largely, marriages in India are governed by the Hindu Marriage Act, Special Marriage Act, etc.

The preamble of the Hindu Marriage Act 1955 states, "*An act to amend and codify the law relating to marriage among Hindus.*" Section 5 of the Hindu Marriage Act 1955 provides for conditions of a valid Hindu Marriage. It starts with, "*A marriage may be solemnized between two Hindus....*".

Even though in the above two provisions, the act is merely talking about 'Hindus' and not the gender of the Hindus but the pith and substance of the act is talking about heterosexual marriage only. As in section 5 only clause (iii) is talking about the age of the bridegroom and the bride. The remaining provisions too such as Sections 9, 13, 17, 19, 24, 25, etc are using the terms 'Husband' and 'Wife'. Even though one can argue that the preamble of the act is talking about marriage between two Hindus only irrespective of their gender, the remaining provisions are talking about Heterosexual Hindus. It will not be wrong to say that, if two Hindus of the same sex want to marry each other and solemnize and register their marriage according to the Hindu Marriage Act, it will require a legislative amendment in the act to recognise such a marriage.

Now, let's consider the provisions of the Special Marriage Act, 1954 which could be one of the ideal legislations for same-sex couples to opt for registering and solemnizing their marriage, since it is available for interfaith couples. Section 4, of the Act provides for the conditions relating to the solemnization of marriage which starts with, "*a marriage between any two persons...*". Like, Hindu Marriage Act, this act too is using terms like, "husband" and "wife" signifying in pith and substance that this act too is talking about heterosexual marriages. Again, if same-sex couples want

to get married and solemnize their marriage as per Special Marriage Act, it will require a legislative amendment in the act and parliamentary legislation would be required.

## What Else Would Require a Legislative Change?

Marriage is not only a legal tag of a couple in almost every part of the world; a valid marriage comes with certain rights and obligations between the spouses independently and as a couple too. A few examples of the same would be, the right to adoption, inheritance, succession, maintenance, etc. In India, these rights and obligations are also governed by specific legislations. Again, these legislations are dealing with heterosexual couples and to be more inclusive, these legislations too will have to undergo parliamentary amendments.

It is to be noted here that requiring parliamentary legislation does not mean that same-sex couples should not have a right to marry and register their marriage. The right to choose a partner is surely covered under the purview of Article 19(1) (a) and Article 21 of the Constitution. Denying someone their basic rights just because it will require a parliamentary legislation is arbitrary.

But the question is: Is the Supreme Court an appropriate body to reach out for?

The Supreme Court, independent and strong since its inception has always been the protector of the basic dignity of an individual and has been protecting the rights of people with the help of the Constitution and especially with its role as an active judiciary.

There have been classic examples where the judiciary has actively protected the rights of the classes of people. One of the famous examples is the Vishakha guidelines, which were followed till the Sexual Harassment of Women at Work Place (Prevention, Prohibition and Redressal) Act was passed in the year 2013.

Before moving ahead, let's discuss the phrase "Judicial Overreach" which is used to describe situations where Judicial Activism becomes excessive and goes beyond its intended boundaries. It refers to instances where the judiciary begins to interfere with the normal functioning of the legislative or executive branches of the government. Put simply, it is when the courts overstep their authority and start encroaching on the responsibilities of other branches of government.

Is it always correct, for the judiciary to formulate law? This argument is question-worthy. I understand that the quickest, most reliable, and most effective way for the petitioners to make same-sex marriage legal in India is to knock on the doors of our Supreme Court. But should the judiciary delve

1 Supriyo @ Supriya Chakraborty vs Union Of India, W.P. (C) 1011/2022

2 Navtej Singh Johar v UOI WP (CrL) 76/2016;

3 <https://www.equaldex.com/region/qatar> (accessed on 4th September 2025)

4 576 U.S. 644 (2015)

5 <https://www.hrc.org/our-work/stories/the-journey-to-marriage-equality-in-the-united-states> (accessed on 4th September 2025)

6 Marriage (Same Sex Couples) Act 2013

into the area of parliament and make laws?

We'll take this argument further in the conclusion. Meanwhile, let's look at some global trends regarding the legalization of same-sex marriages.

So far, around 34 countries have recognised same-sex marriages as legal. Although not all rights and obligations which come with marriage are covered, at least the legal status of two individuals of the same sex as a married couple has been recognised in these nations. Let's discuss a few examples and see what all have been covered when it comes to recognising same-sex marriage.

## USA

In 2015, a ground-breaking Supreme Court decision in *Obergefell v. Hodges*<sup>4</sup> legalized same-sex marriage across the entire United States. This ruling affirmed the fundamental right of same-sex couples to marry and declared any state-level bans on same-sex marriage unconstitutional. Since then, LGBTQ+ families have been able to access the same legal recognition and benefits as heterosexual couples, including social security, healthcare, and adoption rights.<sup>5</sup> Despite this progress, ongoing debates and legal battles remain over discrimination against LGBTQ+ individuals in areas such as employment, housing, and public accommodations.

## United Kingdom

Marriage between same-sex partners is lawful throughout the United Kingdom. The legalization of same-sex marriage occurred at different times across the country. Specifically, it has been acknowledged and conducted in England and Wales since March 2014<sup>6</sup>, civil partnerships have been recognized, and while they provide many of the same privileges and advantages as marriage, not all are included.<sup>7</sup> However, the Church of England Bishops have stated that holy matrimony is only between a man and a woman.<sup>8</sup> Even though there is a legislation allowing same-sex marriages, the Church in England is not backing same-sex marriages, although there is no stopping in blessing the couple.

## Hong Kong

The rights of same-sex couples in Hong Kong are not fully recognized, as the city does not allow same-sex marriage or civil unions. However, in 2021, the Hong Kong government recognized same-sex marriages entered overseas for the purpose of granting dependent visas. Same-sex couples in Hong Kong may also apply for joint bank accounts and leases, as well as inheritance rights, but they do not have the same legal protections and benefits as heterosexual married couples. Discrimination against LGBTQ+ individuals is also still prevalent in Hong Kong, despite recent progress towards equality.<sup>9</sup> However, recently a bill for recognizing the same-sex marriage has been rejected by the Unicameral legislative Council by a vote of 71-14 citing reasons that it threatened the family values.<sup>10</sup>

## Japan

Same-sex marriage in Japan is not recognized under the National law, however there is a notable progress in this domain. As per Section 24 of their Constitution, marriage is between "both sexes", which excludes same-sex couples. But, the municipalities, covering around 92 percent of Japan's population had adopted partnership systems. There are instances where the children of same-sex couples have also been recognised and also in some cases resident certificates have also been issued to the same sex-couples. On the judicial front, courts around the Japan have delivered rulings which declared the ban on the same-sex marriage as unconstitutional. However, the decision of the Supreme Court of Japan or legislative reform regarding the question of same-sex marriage is still awaited.<sup>11</sup>

## Taiwan

Taiwan became the first country in Asia to legalize same-sex marriage on May 24, 2019. However, joint adoption is not included in Taiwanese same-sex marriage legislation if the child is not biologically related to the couple, although there

<sup>7</sup> <https://www.citizensadvice.org.uk/family/living-together-marriage-and-civil-partnership/registering-a-civil-partnership/> (accessed on 8th September 2025)

<sup>8</sup> <https://www.bbc.com/news/uk-64313367> (accessed on 9th September 2025)

<sup>9</sup> <https://www.mondaq.com/hongkong/family-law/1193678/what-are-your-rights-as-a-same-sex-couple-in-hong-kong> (accessed on 10 September 2025)

<sup>10</sup> <https://www.theguardian.com/world/2025/sep/11/hong-kong-same-sex-couples-rights-bill-rejected> (accessed on 12th September 2025)

<sup>11</sup> <https://thediplomat.com/2025/08/court-rulings-and-public-opinion-on-same-sex-marriage-in-japan/> (accessed on 12th September 2025)

<sup>12</sup> <https://edition.cnn.com/2022/07/01/asia/taiwan-lgbtq-adoption-gay-marriage-intl-hnk/index.html> (accessed on 11th September 2025)

was one approved case by a local court in 2022<sup>12</sup>. This further tells us that even though it was Asia's first nation to legalize same-sex marriage, the LGBTQ+ community does not enjoy each and all rights and obligations attached to a marriage and some inequality still exists between the heterosexual couples and homosexual couples.

## Conclusion

In the article, we discussed the current status of same-sex marriage in India as well as analysed the legislations governing marriages in India. We also took into account the global trends in the matter. In conclusion, we can say that legalizing same-sex marriages comes with a host of other aspects too, including inheritance, succession, adoption, maintenance, etc. The judgement in this case by the Supreme Court marks a defining moment in the current discourse on

personal liberty, right to life, equality and other legislative reforms in India. Although the Supreme Court recognized the rights and dignity of persons belonging to LGBTQIA+ community, it emphasized that judiciary is not an appropriate forum to alter the marriage laws and this is the domain of the legislature. This standing of the Supreme Court balances the constitutional interpretation of our fundamental rights with the idea of democracy. Also, the global trends portray a growing inclination towards the recognition of the same-sex marriage, with several nations recognizing the marriage equality through judicial decisions or legislative reforms. Ultimately, it is the burden of Parliament now, after the Supreme Court's decision, to ensure that there is a need to come up with certain legislative reforms and see whether the country is ready for the idea of marriage equality and recognizing same-sex marriage considering the ideals of equality, liberty and justice.

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## Enhancing Accountability Mechanisms in NGT: Constitutional and Legislative Reforms

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### ARTICLE INFO

Keywords: protect, natural, disputes, ensure, gaps, imposed

### ABSTRACT

The National Green Tribunal (NGT) was established as a specialized body to address environmental disputes and ensure the effective enforcement of environmental laws in India. However, challenges related to accountability and execution have often impeded its ability to function optimally. This paper examines the accountability mechanisms of the NGT within the framework of India's constitutional provisions and statutory mandates. It highlights the gaps in its current regulatory and enforcement structures that hinder effective environmental governance. The study explores relevant constitutional principles, such as the directive under Article 48A to protect and improve the environment and the fundamental duty under Article 51A(g) to safeguard natural resources. Additionally, it critically evaluates the NGT's quasi-judicial status and the limitations imposed by legislative ambiguities and inadequate administrative support. The paper proposes constitutional and legislative reforms, including amendments to enhance the NGT's powers for monitoring compliance, increasing transparency and ensuring judicial review of its decisions. By strengthening accountability mechanisms, the NGT can emerge as a more robust institution capable of upholding environmental justice and addressing pressing ecological concerns.

### Introduction

Environmental protection has become a critical concern in the modern era, as ecological degradation threatens not only the well-being of humanity but also the planet's sustainability. India, with its diverse and vulnerable ecosystems, has faced increasing environmental challenges due to rapid industrialization, urbanization, and population growth. Recognizing the need for specialized and timely resolution of environmental disputes, the National Green Tribunal (NGT) was established under the National Green Tribunal Act, 2010. The NGT aims to provide a focused platform

for adjudicating environmental matters and enforcing laws designed to protect natural resources.

While the NGT has made significant contributions to environmental jurisprudence, its functioning has been constrained by certain structural and procedural challenges. Issues related to enforcement of its orders, lack of sufficient administrative support, and unclear accountability mechanisms have raised concerns about its effectiveness in delivering environmental justice. Furthermore, the NGT's quasi-judicial status and its limited powers under existing legislative frameworks often result in its directives being disregarded or delayed, undermining its credibility and

impact.

This paper explores the accountability mechanisms within the NGT through a constitutional and legislative lens, focusing on provisions like Article 48A, which mandates the state to protect and improve the environment, and Article 51A(g), which enshrines the duty of citizens to safeguard natural resources. By identifying gaps in the current framework and analyzing the legislative and constitutional limitations, the study aims to propose reforms that can enhance the NGT's authority, transparency, and enforcement capabilities. Strengthening these mechanisms will not only bolster the tribunal's effectiveness but also contribute to achieving the broader goal of sustainable development in India.

## Literature Review

The National Green Tribunal (NGT) has been a cornerstone of India's environmental justice system since its establishment under the National Green Tribunal Act, 2010<sup>1</sup>. Scholars and policymakers have extensively discussed its role, powers, and limitations in ensuring environmental protection. This literature review synthesizes existing research on the NGT's accountability mechanisms, identifying gaps and opportunities for constitutional and legislative reforms.

### 1. NGT's Role and Jurisdiction

Numerous studies emphasize the NGT's unique role as a quasi-judicial body with the mandate to address environmental disputes swiftly. As highlighted by Singh (2020)<sup>2</sup>, the NGT's adherence to principles such as sustainable development, the polluter pays principle, and the precautionary principle reflects its alignment with constitutional values enshrined under Articles 21 and 48A. However, Shrivastava (2018) notes that while the NGT is empowered to impose penalties and issue binding directives, its decisions are frequently challenged in higher courts, leading to delays in enforcement and undermining its authority.

### 2. Constitutional Provisions Supporting Environmental Protection

The Indian Constitution lays a strong foundation for environmental governance. Articles 48A and 51A(g) are critical in framing the state's and citizens' duties to protect the

<sup>1</sup> The National Green Tribunal (NGT) was established under the National Green Tribunal Act, 2010, as a specialized body to address environmental disputes and ensure expeditious justice in environmental matters.

<sup>2</sup> Singh, A. (2020). Environmental jurisprudence in India: A focus on sustainable development. *Journal of Environmental Law and Policy*, 15(3),

environment. According to Pandey (2019)<sup>3</sup>, these provisions are integral to understanding the constitutional basis of the NGT's authority. However, Chaturvedi (2021) critiques the lack of explicit constitutional recognition of the NGT as a fundamental barrier to its accountability and effectiveness. This lacuna often limits the tribunal's ability to enforce its orders and maintain credibility as an institution.<sup>1</sup>

### 3. Challenges in Execution and Enforcement

The effectiveness of the NGT has been a topic of considerable debate. Verma (2017) argues that while the tribunal has delivered several landmark judgments, its enforcement mechanisms remain weak due to inadequate administrative and financial support. Furthermore, Kohli (2019)<sup>4</sup> identifies a lack of coordination between the NGT and other governmental agencies as a critical issue, often leading to non-compliance with its orders. Critics also highlight the absence of a clear monitoring framework to ensure accountability from industries and state authorities.

### 4. Judicial Oversight and Accountability

Several scholars have examined the NGT's position within India's judicial framework. Sharma (2020) asserts that the tribunal operates effectively as a specialized body, but its quasi-judicial status creates ambiguity in its accountability mechanisms. The frequent judicial review of NGT orders by the High Courts and the Supreme Court has been both a strength and a limitation, as noted by Gupta (2018). While judicial oversight ensures checks and balances, it often delays the resolution of environmental cases, diluting the tribunal's intended purpose of expeditious justice.

### 5. Legislative Gaps and Reform Proposals

The legislative framework governing the NGT has been criticized for its ambiguities and limitations. According to Rao (2019), the NGT Act lacks specific provisions for stringent enforcement and monitoring of its orders, leaving room for non-compliance. Additionally, Das (2020) suggests that the absence of a robust mechanism to hold public authorities and private entities accountable undermines the NGT's effectiveness. Proposals for reform include amending the NGT Act to grant it contempt powers, increasing its financial independence, and creating a dedicated enforcement wing.

<sup>3</sup>Pandey, R. (2019). Constitutional provisions and environmental governance in India. *Environmental Law Review*, 12(4), 78–90.

Supports the discussion of Articles 48A and 51A(g) and their importance to the NGT's authority.

<sup>4</sup>Kohli, M. (2019). Lack of administrative support and coordination as barriers to NGT enforcement. *Environmental Studies Quarterly*, 14(2), 20–34.

## 6. International Perspectives on Environmental Tribunals

Comparative studies have drawn attention to the effectiveness of environmental tribunals in other countries. For example, Thompson (2019) highlights the success of the New Zealand Environment Court in ensuring compliance through well-defined statutory powers and enforcement mechanisms. Similarly, Smith (2020) praises Australia's Land and Environment Court for its integration of administrative and judicial functions, offering valuable lessons for India. These studies underscore the need for India to strengthen the NGT's accountability mechanisms by adopting best practices from global counterparts.

## 7. Public Participation and Transparency

Public participation and transparency are crucial for the success of any environmental governance mechanism. As highlighted by Mishra (2018), the NGT has made significant progress in promoting participatory justice by allowing individuals and groups to file cases without the burden of locus standi. However, scholars like Jain (2020) argue that the tribunal's lack of regular reporting on compliance and enforcement hinders public trust and accountability.

## Research Gaps

While the existing literature provides valuable insights into the NGT's strengths and weaknesses, certain areas remain underexplored. These include the need for a constitutional amendment explicitly recognizing the NGT, the establishment of a dedicated compliance-monitoring framework, and strategies to integrate international best practices into India's environmental governance system.

## Proposed Methodology

This research adopts a doctrinal methodology to explore the accountability mechanisms of the National Green Tribunal (NGT) within the framework of India's constitutional and legislative provisions. The study also incorporates a comparative and analytical approach to identify gaps in the existing system and propose viable reforms. The methodology involves the following steps:

### 1. Research Design

The research is qualitative and analytical, focusing on the interpretation of constitutional provisions, legislative frameworks, and judicial precedents related to the NGT. It also aims to evaluate the tribunal's effectiveness and

accountability mechanisms by examining secondary data sources such as books, journal articles, reports, and case laws.

## 2. Sources of Data

### (a) Primary Sources

- Statutory Frameworks: Analysis of the National Green Tribunal Act, 2010<sup>5</sup>, and other relevant environmental laws.
- Constitutional Provisions: Articles 21, 48A, 51A(g), and Article 253.
- Judicial Precedents: Examination of landmark judgments delivered by the NGT, the Supreme Court, and High Courts.

### (b) Secondary Sources

- Scholarly articles and books focusing on environmental law, constitutional law, and administrative justice.
- Government reports and publications on the functioning of the NGT.
- International studies on environmental tribunals to draw comparative insights.

## 3. Research Objectives

The study focuses on achieving the following objectives:

- To critically analyze the constitutional and legislative framework governing the NGT.
- To identify the gaps in existing accountability mechanisms and enforcement procedures.
- To explore global best practices in environmental tribunals and their applicability to India.
- To propose constitutional and legislative reforms to enhance the NGT's authority and effectiveness.

## 4. Data Analysis

The data collected from primary and secondary sources will be systematically analyzed to identify patterns, gaps, and trends. Case law analysis will be employed to evaluate how courts have interpreted and applied constitutional principles in matters involving the NGT. A comparative analysis will also be conducted to benchmark the NGT against similar institutions in other jurisdictions.

<sup>5</sup>National Green Tribunal Act, 2010 (India).

## 5. Comparative Approach

To strengthen the recommendations, the study will include a comparative analysis of environmental tribunals from other countries, such as:

- **Australia:** The Land and Environment Court and its integrated approach to environmental governance.
- **New Zealand:** The Environment Court's effectiveness in enforcing compliance.
- **South Africa:** The Green Scorpions' model for enforcing environmental laws.

## 6. Proposed Reforms

Based on the findings, the study will propose reforms to:

- Enhance the NGT's legislative mandate for monitoring and compliance.
- Introduce constitutional recognition of the NGT to strengthen its quasi-judicial authority.
- Improve coordination between the NGT and other state authorities for better enforcement of its orders.
- Develop a dedicated compliance and enforcement mechanism to ensure accountability.

## 7. Limitations

The study is limited to doctrinal research and does not include empirical data. While the comparative analysis provides insights, its applicability to India may require contextual adaptations that are beyond the scope of this paper.

## Comparative Results

The comparative analysis reveals significant differences and similarities between India's National Green Tribunal (NGT) and environmental tribunals in other countries. These findings provide valuable insights into how India can strengthen its accountability mechanisms and ensure more effective enforcement of environmental laws.

### 1. Institutional Design and Structure

- **India (NGT):** The NGT is a quasi-judicial body established under the National Green Tribunal Act, 2010. It specializes in environmental disputes and adopts principles like sustainable development, the polluter pays principle, and the precautionary principle. However, its quasi-judicial status often leads to ambiguities in the enforcement of its decisions, as it lacks comprehensive mechanisms to ensure compliance.

- **Australia (Land and Environment Court):** Australia's Land and Environment Court is a fully judicial body with the authority to hear appeals, enforce compliance, and impose penalties. Its integration of administrative and judicial functions enhances its ability to oversee enforcement. The Court's independence from executive interference ensures greater accountability and transparency.
- **New Zealand (Environment Court):** The Environment Court in New Zealand has a clearly defined statutory role, with powers to adjudicate disputes and monitor compliance. Unlike the NGT, it has mechanisms to oversee the implementation of its decisions and a strong framework for public participation, which enhances transparency.
- **South Africa (Green Scorpions):** South Africa's Green Scorpions, although not a tribunal, operate as a specialized enforcement agency with quasi-judicial powers. Their model emphasizes enforcement through inspections, investigations, and direct accountability mechanisms, ensuring robust compliance with environmental laws.

### 2. Enforcement Mechanisms

- **India (NGT):** The NGT often struggles with enforcing its orders due to the lack of a dedicated compliance-monitoring framework. Its reliance on other governmental agencies for execution dilutes its effectiveness.
- **Australia:** The Land and Environment Court has the authority to directly enforce its decisions<sup>6</sup>, including contempt proceedings and monetary penalties. This centralized approach ensures quicker and more reliable compliance.
- **New Zealand:** The Environment Court emphasizes implementation through regular monitoring reports and follow-up hearings. Such practices ensure that orders are not merely declaratory but are acted upon in a timely manner.

**South Africa:** The Green Scorpions focus on immediate enforcement by conducting inspections and initiating prosecutions when violations occur. Their hands-on approach minimizes delays and ensures swift accountability<sup>7</sup>.

<sup>6</sup> Smith, L. (2020). Transparency and accountability in environmental governance: A case study of Australia's Land and Environment Court. *Journal of Environmental Policy Studies*, 18(4), 50–68.

<sup>7</sup>South African Environmental Management Act, 2004.

### 3. Constitutional Backing

- **India (NGT):** While the NGT is rooted in India's commitment to protect the environment under Articles 48A and 51A(g) of the Constitution, it lacks explicit constitutional recognition. This limits its ability to assert its authority when challenged by other institutions or entities.
- **Australia and New Zealand:** Both countries integrate environmental tribunals into their broader judicial system, ensuring strong statutory and constitutional backing. This alignment enhances the legitimacy and enforceability of their decisions.
- **South Africa:** Environmental governance is explicitly enshrined in South Africa's Constitution, which recognizes the right to a healthy environment. This constitutional guarantee reinforces the authority of enforcement bodies like the Green Scorpions.

### 4. Public Participation and Transparency

- **India (NGT):** The NGT has made significant strides in promoting public participation by allowing individuals and groups to approach the tribunal without the burden of *locus standi*<sup>8</sup>. However, limited reporting and follow-up mechanisms hinder public trust in its accountability.
- **Australia and New Zealand:** Both countries emphasize transparency through public hearings, accessible judgments, and mandatory compliance reporting. Public participation is institutionalized, ensuring broader community engagement in environmental governance.
- **South Africa:** The Green Scorpions involve communities in monitoring environmental compliance, fostering a sense of collective responsibility. This participatory approach enhances accountability and ensures grassroots-level oversight.

### 5. International Best Practices and Lessons for India

- **Strengthened Enforcement Powers:** Like the Australian Land and Environment Court, the NGT could benefit from contempt powers and a dedicated

compliance division to ensure timely execution of its decisions.

- **Monitoring and Follow-Up Mechanisms:** New Zealand's model of regular monitoring and follow-up hearings could be adapted to enhance the NGT's oversight capabilities.
- **Constitutional Recognition:** South Africa's constitutional framework offers a model for explicitly embedding environmental justice within India's constitutional provisions, which could bolster the NGT's authority.
- **Integrated Approach:** Adopting an integrated approach like Australia's, where judicial and administrative functions are combined, could streamline the NGT's operations and improve its accountability mechanisms.

### Summary of Findings

The comparative analysis underscores the need for India to address gaps in the NGT's structure, enforcement powers, and constitutional recognition. International models demonstrate that robust enforcement mechanisms, explicit constitutional backing, and public participation are critical for the effective functioning of environmental tribunals. By incorporating these best practices, India can strengthen the NGT's accountability mechanisms and ensure more effective environmental governance.

### Conclusion

The National Green Tribunal (NGT) was established to provide a specialized forum for addressing environmental disputes and ensuring effective enforcement of environmental laws. However, its ability to fulfill this mandate has been hindered by gaps in accountability mechanisms, enforcement capabilities, and constitutional backing. Through a comparative analysis of environmental tribunals in Australia, New Zealand, and South Africa, this study highlights key reforms that could significantly enhance the NGT's effectiveness.

Explicit constitutional recognition of the NGT, akin to South Africa's approach, would strengthen its authority and ensure its decisions carry greater weight. Legislative amendments granting the tribunal enhanced enforcement powers, including contempt powers and a dedicated compliance-monitoring framework, could streamline execution processes and minimize delays. Additionally, adopting best

<sup>8</sup>Mishra, K. (2018). Promoting participatory justice in environmental law: The NGT's achievements and challenges. *Indian Environmental Law Journal*, 9(2), 72–90. Cites the NGT's efforts to promote public participation in environmental justice

practices from global models, such as integrated judicial and administrative functions and periodic compliance reviews, would bolster the NGT's accountability.

Finally, fostering greater public participation and transparency through accessible reporting and follow-up mechanisms can build trust and encourage collective responsibility in protecting the environment. By addressing these gaps and adopting a more robust institutional framework, the NGT can emerge as a more effective body in safeguarding India's environmental and constitutional values, ultimately contributing to the broader goal of sustainable development.

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## The Philosophy of Law: A Bhartiya and Comparative Jurisprudential Inquiry

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### ABSTRACT

Jurisprudence constitutes the pivotal part of legal studies. It enlightens us on what law is, why it exists, its evolution, and its practical implications. This research article is entirely devoted to Bhartiya and Comparative Jurisprudential Inquiry. It demonstrates how both Indian (Bhartiya) and Western legal systems 'developed their own legal thoughts. It is in ancient India that the idea of Dharma developed, which is the idea of Dharma. Dharma meant doing what is right, both legally and ethically. Dharma was law as observed in the Vedas and Manusmriti. Western thinkers like Austin and Hart were more inclined on a rational definition of law as commands and rules.

This article examines issues such as the origins of law (customs, morality, legislation and judicial decisions), the legal system of India, the practice of law in ancient villages, and contemporary court operations. It also discusses schools of thought like natural law, legal positivism, and the historical and sociological perspectives of law. Most importantly, it demonstrates that law is not merely the domain of courts and punishment; it is also about justice, fairness, and resolver of societal issues. It helps students appreciate the interplay between ancient ideas and contemporary systems which shape the law we observe today.

### Introduction: What is Jurisprudence and Why is it Important?

Legal education's backbone lies within jurisprudence. It concerns itself with the philosophy and theory of law, emphasizing not only the written law but the principles that inform each legal system and the concept of justice. It raises questions such as: What is law? Why obey? What makes law just or unjust? Such questions are beyond academic and shape policies, courts, and justice in society.

Political thought in India has always been aligned to some values such as Dharma (righteous duty), Ritam (cosmic

order), and Nyaya (justice) which summarize legal thinking. Such principles gave a legal and spiritual standard for the conduct of people and the organization of society.<sup>1</sup>

Dharma is not simply law in ancient Indian jurisprudence; it serves as a moral compass anchoring an individual's obligations to family, society, and state.

Unlike ancient Indian jurisprudence, Western legal thought developed in a more analytical and secular manner. For example, John Austin defined law as a command

<sup>1</sup> P.V. Kane, History of Dharmasastra (Bhandarkar Oriental Research Institute, Vol. 3, 1973).

fromasovereign which requires obedience under penalty,<sup>2</sup> and H.L.A. Hart defined law as a collection of primary and secondary rules which a society follows.<sup>3</sup> Each society has its distinct approach shaped by the prevailing definition of authority, justice, and law.

This research article motivates learners to examine both Bhartiya and Western viewpoints. It seeks to foster intellectual reflection on the development of legal systems and the interplay of culture and history on law and the role of theory in solving contemporary issues, such as digital rights, environmental concerns, and gender issues. Jurisprudence is not only a subject but a tool to construct a fair society. It enables future legal practitioners, judges, and scholars to understand the law as a dynamic entity, not a fixed set of rules, and as a vital instrument for nurture a society's development, progress, and challenges.

## Law in Ancient India: Dharma, Ritam, and Community Justice

The roots of law in ancient India were highly ethical and religious in nature. There was no perception of law as a set of rules issued by a governing body. Rather, law was based on Dharma (righteous duty), Ritam (universal order), and Satya (truth). Dharma included a variety of duties, whether personal, social, and spiritual, and served as the guiding factor behind all human behavior. Ritam, a concept from the Vedas, described a much older idea of the cosmic rhythm or natural law which governed the world. These ideas were ingrained in daily life as well as in religious customs, which made law inseparable from morality and religion.

Just like Shrutis, Vedas served as both religious and legal sources alongside Smritis such as Manusmriti and Yajnavalkya Smriti.<sup>4</sup> The Dharmashastra documented legal matters and also provided policies on governance, control of property, family matters, rituals, and even contained civil and criminal laws. The laws were constructed to maintain social balance and order prevailing within the community for the sake of spiritual reasons, rather than just for punishment.

Community-based practices were common. Conflicts within the community were addressed and resolved through local governing and resolving bodies such as, sanitis and kulas (village assemblies), panchayats (board of five), and panchayats (board of five). The systems were participatory, meaning, along with community members, respected and older members were included to help mediate the issues

<sup>2</sup> John Austin, *The Province of Jurisprudence Determined* (Hackett Pub. Co. 1998).

<sup>3</sup>H.L.A. Hart, *The Concept of Law* (2d ed. Clarendon Press 1994).

<sup>4</sup> M. Rama Jois, *Ancient Indian Law* (Universal Law Publishing 2015).

through consensus.<sup>5</sup> The systems were participatory, meaning, along with community members, older and respected members helped mediate the issues through consensus. The prevailing aim was to restore balance and order even though the offender was at fault. The way of resolving issues was restorative and can be viewed as the Lok Adalat.<sup>6</sup>

Women, sages, and kings participated in the interpretation of Dharma. A king was thought of as the defender of Dharma, and his authority was based on the fairness of his rule. A ruler going off the path of Dharma was removable, which reflects democratic notions of accountability.<sup>7</sup>

Traces of these systems still exist. Customary laws still exist as per Article 13 of the Indian Constitution, provided they do not clash with fundamental rights. The spirit of Dharma also lives on in cornerstone judicial decisions which uphold the value of justice and fairness.

In the landmark case of *Bhim Singh v. State of J&K*<sup>8</sup>, the Supreme Court stressed personal liberty and due process, which in the context of ancient India, reflects the value placed on individual dignity and moral governance as highlighted by Indian civilization.

## Why Do We Need Law? Understanding Its Purpose

The law serves to maintain order, sustain rights, and promote justice in society. In the absence of law, chaos would prevail with no guarantee of safety, freedom, or fairness. In jurisprudence, the reason for law enforcement are deep questions such as the existence of laws, how they intend to serve the society, and what ideals do they uphold.

In the Indian perspective, law is associated with the concept of Dharma<sup>9</sup>—a moral and ethical obligation, which binds both the individual as well as the society. In the ancient times, People adhered to Dharma not out of the dread of punishment, but as a duty and a social obligation. Modern law, though not codified and institutionalized, has the same objective of ensuring peace, justice, and societal equilibrium. Laws serve multiple purposes like maintaining Public Order where law create boundaries and define acceptable behaviour like in the case of criminal laws which punishes the wrongful act of theft, assault, and murder, protecting Rights like Articles 14, 19, and 21 of the Indian Constitution provides

<sup>5</sup> Anindita Sarkar & Ishita Chatterjee, *The Tradition and Significance of Mediation in India*, 12 *Eur. Chem. Bull.* (2023).

<sup>6</sup>Ganesh S., *Vedic Concept of Dharma*, *Purva Mimamsa*, Vol. 12 (2021).

<sup>7</sup> *Supra*

<sup>8</sup> *Bhim Singh v. State of J&K*, AIR 1986 SC 494.

<sup>9</sup> Werner Menski, "Hindu Law: Beyond Tradition and Modernity," 2 *Oxford U. Commw. L.J.* 147 (2002).

fundamental rights of equality, freedom of speech, and life and liberty which defends personal dignity, dispute Resolution are present to resolve disputes among individuals, corporations, or the government, ensuring justice is administered without bias and law is a reforming instrument. Society can be transformed through legal abolition of untouchability, child marriage, or the implementation of reservation policies for social justice.

Legal systems adapt to changing sociocultural dynamics where acceptability standards constantly shift courtesy societal norms and an illustrative example would be the colonial laws that inhibited same-sex relationships. These laws were steeped in archaic moral beliefs. Jurisprudence seeks to overturn such laws and motivates us to think about legal standards in the context of contemporary norms.

The Supreme Court of India, in the case of Navtej Singh Johar v. Union of India,<sup>10</sup> overturned Section 377 of IPC and legalized same-sex relationships. The Court said that law has to abide by constitution's morality and also has to provide for personal autonomy and dignity.<sup>11</sup>

As expounded by philosophers such as Roscoe Pound<sup>12</sup>, law is there to manage the relations of interests, be it individual, social, or public so, likewise, there is an equal consideration in the Indian legal tradition to society as there is to individual rights. Laws do not simply exist to punish, but also enable an environment in which justice, respect, and equality flourish. To summarize, it is pertinent to state that law maintains the societal values we hold dear. It seeks to guide moral standards and steers the community to ensure that justice is not an aspiration, but an everyday experience for everyone.

## India's Legal System: Blending the Old and New

India's legal system is a blend of ancient legal philosophy with modern constitutional systems and this character is a result of centuries of historical evolution, socio-cultural diversity, colonial legacies, and post-independence constitutionalism. Grasping Indian law today requires a recognition of how ancient influences coexist with modern systems.

Traditionally, Indian society adhered to a vast system of customary laws and ethical obligations termed as Dharma.<sup>13</sup> Governance at the local level took place through community

10 Navtej Singh Johar v. Union of India, (2018) 10 SCC 1.

11 Shreya Atrey, "India's Hybrid Constitutionalism: Balancing Tradition with Equality," 5 J. Indian L. & Soc'y 31 (2014).

12 Roscoe Pound, *An Introduction to the Philosophy of Law* (MPP House Press).

13 Ganesh S., *Vedic Concept of Dharma*, Purva Mimamsa, Vol. 12 (2021).

structures such as the Panchayats and village councils, which maintained order and adjudicated conflicts. These councils applied principles deriving from Dharmashastras and customary law. Justice was not enforced, but rather achieved through coordinated social pressure, consensus, and reconciliation. The king was viewed as the guardian of Dharma and his legitimacy depended on delivering justice.<sup>14</sup> The British common law system, alongside statutory law, was established during the colonial period, alongside the advent of a centralized court system. British colonial rule implemented a systematic legal framework with the issuance of the Indian Penal Code in 1860, the Indian Evidence Act in 1872, and the Code of Civil and Criminal Procedure. Although these legal instruments added a degree of clarity and uniformity, they also disregarded indigenous legal traditions. In the post-independence period, the Indian Constitution integrated the Western framework of legal-rational thinking with Indian socio-legal traditions and restored the balance.

The Constitution of India serves as the country's supreme legal document, having been adopted in 1950. In addition to enshrining the rule of law, it grants the citizens equality before the law in Article 14 and the protection of life and personal liberty in Article 21. The framework of the Constitution also distinctly allocates authority to the Legislature, Executive, and Judiciary, ensuring a system of checks and balances. Furthermore, the Constitution accommodates the plural character of Indian society by granting recognition to personal laws and customs under its directive principles and various constitutional provisions.

Traditional law continues to be significant, particularly regarding personal matters such as marriage, inheritance, and adoption. Article 13 of the Constitution ensures such customs are accepted as valid only if they do not violate fundamental rights. Panchayati Raj Institutions, which were revived under the 73<sup>rd</sup> Constitutional Amendment (Article 243) of the Constitution, are contemporary versions of the ancient village assemblies. They foster participatory governance and decentralized forms of conflict resolution, representing a fragment of a broader tradition of justice.<sup>15,16</sup> The legal profession and the judiciary are governed by the provisions of statutes such as the Advocates Act of 1961.<sup>17</sup> Article 39A of the Constitution grants legal aid to the citizens which sustains the Constitution obligation on the State to ensure access to justice. District courts and their higher counterparts, the High Courts and the Supreme Court, have

14 Devana Bhatta, *Smritichandrika*, trans. T. Krishnaswami Iyer (Law Book Seller, 1933).

15 Friedrich Karl von Savigny, *System of the Modern Roman Law* (Hard Press, 2019).

16 Anindita Sarkar & Ishita Chatterjee, *The Tradition and Significance of Mediation in India*, 12 Eur. Chem. Bull. (2023).

17 Nirmalendu Dutt-Majumdar, *Advocates Act and Professional Ethics* (Eastern Law House, 1975).

their given modern statutes and constitutional law to apply, though they sometimes turn to tradition for guidance.

In *Indira Nehru Gandhi v. Raj Narain*,<sup>18</sup> the Supreme Court emphasized the importance of the Constitution's supremacy and the separation of powers. It cautioned against the centralization of power and emphasized that the spirit of Indian democracy is balanced governance founded on justice.

To sum up, the Indian legal system is a constantly evolving conversation of stasis and transformation. It juxtaposes ancient concepts of Dharma with contemporary values of constitutional morality, the dignity of the individual, and democracy. This blend enables the law of India to adapt and develop while remaining grounded in the ethos of its civilization.

## Where Do Laws Come From? Sources of Law Explained Simply

The historical development of law is a critical issue of reflection in jurisprudence. In a more simple approach, laws are a by product of the norms, values and practice of any society, and hence, does not arise from thin air. Societies have different sources of law derived from their unique historical cultural development. In the case of India, both ancient and modern sources of law are present and coexisting, which reflects the hybrid Indian legal tradition.

With respect to India, the core sources of law can be highlighted like the case of the dowry, which is prohibited under the Dowry Prohibition Act, 1961<sup>19</sup>, the society's sense of right and wrong also bestows permission for a myriad of laws to come forth. As a case study, laws governing dowry, and laws for the protection of children, animals, and the environment also have moral basis. In ancient India, morality was inherent in the Dharma which, as described, was perceived as a natural guide to behavior.<sup>20</sup> Customs refer to long-standing practices followed by communities which, over time, acquire legal recognition. In India, personal laws pertaining to marriage, divorce, and succession often stem from community customs.<sup>21</sup> Under Article 13 of the Constitution, customs remain valid sources of law as long as they do not clash with fundamental rights. The Dharmashastras, for instance, advocated for customary practices and gave considerable weight to local customs

18 *Indira Nehru Gandhi v. Raj Narain*, 1975 Supp SCC 1.

19 D.P. Singh, *Morality in Law* (Eastern Book Company, 2012).

20 Nandini Bhattacharya, *Custom, Law and the British Empire in Northeast India* (Select colonial readings, 2019).

21 B.N. Sampath, "Custom as a Source of Law: An Indian Perspective," 3 *Indian J.L. & Just.* 112 (2012).

as long as they were not morally or ethically wrong. This pertains to laws passed by the appropriate governing body, for instance, the Parliament or the state legislative assemblies. Indian Penal Code (IPC), Criminal Procedure Code (CrPC), and the Right to Information Act, 2005 are notable examples. Legislations create the most palpable and organized foundation of law in contemporary society for the purpose of providing distinct and uniform laws that can be applied to diverse regions and populations. The Supreme Court and High Courts in India frequently set legal precedents through their decisions, which are binding on lower courts pursuant to the doctrine of *stare decisis*. Landmark decisions such as *Kesavananda Bharati v. State of Kerala*<sup>22</sup> further justify the grant of fundamental doctrines like the "basic structure doctrine" of the Constitution, which bars amendment of the Constitution by the Parliament in a manner which destroys its essential features.

The decisions of sages and ancient rulers also used to constitute precedents. The *Smritis* sanctioned the settling of disputes by local elders, and such adjudications were made in good faith.

These sources of law illustrate how the Indian legal system can be both dynamic and rooted. Law grounded on morals reflects the shifting tides of social ethics. Legislation provides order and structure. Judicial precedents enable interpretive breadth.

This system of sources of law enables the legal system to respond to social change while retaining a sense of historical continuity and ethical depth.

The Supreme Court ruling in *Kesavananda Bharati v. State of Kerala*<sup>23</sup> states that though Parliament can exercise wide powers to amend the Constitution, it cannot change the basic structure of the Constitution. This ruling emphasizes the importance of judicial precedent and constitutional morality as vital sources of Indian law.

## Natural law and dharma: East meets West

The importance of Natural Law and its legal theory is widely appreciated in the East and the West. It is considered a belief in a universal order that must exist in any human law. In most Western countries, the idea of Natural Law is anchored to divine reasons or to human rationalism. Indian Jurisprudence based it in the wider notion of Dharma, the spiritual and moral order of the universe.

In ancient Indian civilization, Dharma was not merely a religious concept. It was a code of conduct that governed

22 *Kesavananda Bharati v. State of Kerala*, AIR 1973 SC 1461.

23 *Supra*

personal, social, legal, and spiritual life. It incorporated both rights and responsibilities, maintaining a balance within the cosmos. Similar to the Western concept of Natural Law, Dharma was seen as immutable and universal, to which even monarchs had to submit. The underlying presumption was that to be valid, a law had to be compliant with Dharma. A ruler who transgressed Dharma lost his moral legitimacy to rule.

Western scholars, for example, Thomas Aquinas<sup>24</sup>, Natural Law comes from the reason of God and serves as the basis of all law. For Aquinas, laws that are unjust, that is, not grounded on some higher moral level, do not deserve to be called laws. In the same way, Indian legal thought held that laws which transgressed Dharma were considered adharmic and unjust.

Auguste Comte, in contrast to other thinkers, added a sociological aspect to Natural Law by suggesting that laws develop through evolutionary historical phases in tandem with societal advancement.<sup>25</sup> This reflects a significant portion of India's legal history; law in India evolved from Dharma-based unwritten laws to today's statutes which are codified and constantly influenced by societal change.<sup>26</sup>

The Manusmriti for instance, posited that the customary practices (achara) of good and noble people forms a part of Dharma which combines historical elements and reasoned ethics. The dynamism of this understanding of Dharma has some resemblance to the concept that Natural Law, while evolving, can always stem from core human values.

In *Maneka Gandhi v. Union of India*,<sup>27</sup> the Supreme Court of India expanded the scope of Article 21 of the Constitution. The Court held that any law which deprives a person of personal liberty has to be justified, fair, and reasonable, not arbitrary. This principle upholds both Natural Law and Dharma by emphasizing balance and justice over rigid compliance with rules.

Both Natural Law and Dharma claim that legal systems and frameworks must be anchored to moral principles. While the West predominantly approached Natural Law through a religious lens or a rationalist perspective, India's Dharma blended spirituality, civic responsibilities, and cosmic equilibrium.<sup>28</sup> Nonetheless, the fundamental takeaway is the same: justice must be upheld, and power does not bestow legitimacy; only right action does.

Laws do not remain static; they develop alongside society.

24 Thomas Aquinas, *On Being and Essence* (Hackett Publishing, 2012).

25 Auguste Comte, *The Positive Philosophy* (Cambridge Univ. Press 1974).

26 Raman Mittal & Seema Singh, *Law and Spirituality – Reconnecting the Bond* (Kitabwale, 2024).

27 *Maneka Gandhi v. Union of India*, AIR 1978

28 Tahir Mahmood, *Personal Law in Islamic Countries: History, Text and Comparative Analysis* (Academy of Law and Religion 2002).

What is deemed valuable, believed, and even technology can dictate the legal frameworks that regulate people's lives. This idea sits at the core of the historical and sociological schools of jurisprudence, which claim that law is an organism, a living entity that is shaped by the culture of the people it is meant to serve.

A prominent Influencer of the historical school, Friedrich Karl von Savigny, argued that law develops naturally alongside Volkgeist, or the spirit of the people. He believed that law should not be imposed through an artificial system but should be an organic product of the community's culture, language, and shared experiences. One can witness this in India through the widespread acceptance and adaptation of customary laws and practices that have formulated personal laws among different religions and regions.

Roscoe Pound belongs to the sociological school and he conceptualized law as a form of "social engineering."<sup>29</sup> To him, the legal system was a means of balancing social conflicts and systematically resolving social problems. In India, this concept finds expression through the judiciary's functions and public interest litigation.

PILs epitomize the flexibility of the Indian legal system to respond to social challenges. They empower individuals or groups to seek judicial intervention for the safeguarding of public interest, whether or not they are personally affected. The judiciary has dealt with a range of issues such as environmental pollution, the exploitation of bonded labourers, the safety of women, and the preservation of heritage through PILs.

In *MC Mehta v. Union of India*,<sup>30</sup> the Supreme Court addressed environmental concerns through the lens of the right to life provided in Article 21 of the Constitution. The Court has commanded certain industries to curb pollution around the Taj Mahal, as well as to relocate dangerously polluting factories. This was one of the few cases where the judicial system sought to respond to the environmental crisis. Such decisions reflect the existence of constructive innovation in any given society. This is one of the key aspects of environmental law; the judicial system is not just responding, but rather, proactively seeking to address the need for change and devising the necessary tools to achieve it. Indian Courts have in fact been proactive in creating such legal mechanisms as the principles of "polluter pays" as well as the precautionary principle.<sup>31</sup>

## Ancient Texts and Legal Wisdom

The Vedas, Smritis, and Dharmashastras are some of the

29 Roscoe Pound, *An Introduction to the Philosophy of Law* (Yale Univ. Press 1922).

30 *MC Mehta v. Union of India*, AIR 1987 SC 1086.

31 *Vellore Citizens Welfare Forum v. Union of India*, (1996) 5 SCC 647.

ancient Indian wisdom texts that offer guidance on legal matters. These texts assimilated law into a moral and spiritual philosophy, rather than considering it a rigid, separate entity. Law, in this context, was an integral part of life, concentrated on duties (Dharma), moral conduct, and social harmony.<sup>32</sup>

The Manusmriti and Yajnavalkya Smriti described the social responsibilities, property rights, and criminal acts, along with the mechanisms of resolving disputes. These texts also underscored personal ethics and defined public virtue, advocating for justice (Nyaya), truth (Satya), and the collective good (Lokan-sangraha).<sup>33</sup> Constructive punishment was sought, and law as a social science aimed to achieve harmony, balance, and cosmic equilibrium through self-improvement.

Leaders and local community figures were tasked with applying Dharma in ways that fit local practices and evolving situations. Even today, numerous customary laws and personal statutes in India stem from these ancient ideas, disregarding, of course, the contravention of constitutional norms.

In *Shayara Bano v. Union of India*,<sup>34</sup> the Supreme Court ruled the practice of triple talaq unconstitutional. In upholding religious freedoms, the Court also pointed out that customs should respect principles of human equality and dignity,

32        *Id.*

33        Ganesh S., *Vedic Concept of Dharma*, *Purva Mimamsa*, Vol. 12 (2021).

34        *Shayara Bano v. Union of India*, (2017) 9 SCC 1.

which are at the core of ancient legal literature.

## Conclusion

Learning about jurisprudence teaches us that law is not merely a set of legal rules, but a manifestation of the collective moral values of a society. It equips us with understanding on the legal order, the workings of the justice system, and the guarding of fundamental values such as equality, justice, fairness, and liberty. Jurisprudence is a bridge that connects history to the present. India's legal saga is a manifestation of its unity in ideas and the endeavor to achieve justice for all: Dharma to human rights, local governance structures to the Supreme Court.<sup>35</sup>

Jurisprudence provides instruments for legal diagnosis and correction. It prompts us to identify and resolve obsolete matters, seeks to restate the law dynamically, and helps us face new issues such as AI, cybercrimes, climate issues, and gender issues. Outdated ethics must be balanced and evolving on one hand with constant shifts on the other.

Jurisprudence builds balance and strength while examining both *Bhartiya* and Western traditions. It enables the learners and practitioners of law to develop a legal order which is technically right and ethically, and socially inclusive.

35        Upendra Baxi, "The Colonialist Heritage," 5 *Soc. Action* 34 (1977).