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A STUDY ON INTERSECTIONALITY: CASTE AND GENDER DISCRIMINATION IN INDIA

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TABLE OF CASES

S. No.	Name of the Case	Year
1	State of Karnataka v. Appa Balu Ingale	1995
2	Indra Sawhney v. Union of India	1992
3	Vishaka v. State of Rajasthan	1997
4	Safai Karamchari Andolan v. Union of India	2014
5	Navtej Singh Johar v. Union of India	2018
6	Patricia Mukhim v. State of Meghalaya	2021

CHAPTER I – INTRODUCTION

1.1 Background of the Study

Indian society is shaped by several social identities and structures, including caste, gender, class, religion, disability and place of residence. These identities do not operate separately in everyday life. They often interact and influence the opportunities, treatment and rights available to individuals. Intersectionality is a framework for understanding how different forms of disadvantage overlap and create experiences that cannot be fully explained by looking at caste or gender alone.

In India, caste has historically influenced access to land, education, occupation, public spaces and social status. Gender inequality has also limited women's autonomy, property rights, education, employment and participation in public life. Women belonging to Scheduled Castes and other marginalised caste groups may experience both caste-based exclusion and gender-based discrimination. Their experiences may be shaped by poverty, social stigma, unequal power relations and barriers to justice.

The term intersectionality was developed by legal scholar Kimberlé Crenshaw to explain how

overlapping systems of discrimination can produce distinctive disadvantages. In the Indian context, the idea helps examine how caste and patriarchy operate together. The present study examines this combined impact within India's social, constitutional and legal framework.

1.2 Significance of the Study

The study is significant because caste and gender discrimination continue to affect access to education, employment, public services, political participation and justice. Examining these issues separately may overlook the distinct position of women who experience both forms of exclusion.

The study is also important from a constitutional perspective. Articles 14, 15, 17 and 21 provide a foundation for equality, non-discrimination, abolition of untouchability and dignified life. Special legislation and affirmative action policies also seek to address historical disadvantage.

1.3 Review of Literature

Kimberlé Crenshaw's writings on intersectionality explain how overlapping systems of discrimination may be missed when legal analysis focuses on only one category. B.R. Ambedkar's writings on caste and social hierarchy provide an important basis for examining caste and gender in India.

Uma Chakravarti's work on gender and caste examines the connection between Brahmanical patriarchy, caste reproduction and control over women's social roles. Sharmila Rege's scholarship highlights Dalit women's standpoint and the importance of recognising their experiences within feminist analysis.

Reports and recommendations of national commissions provide institutional perspectives on discrimination, violence, representation and access to remedies. The present study brings these strands together through constitutional and statutory analysis.

1.4 Research Gap

Existing studies have discussed caste discrimination, gender inequality, Dalit women's experiences, violence against women and affirmative action. However, there remains a need to examine these issues together through a structured legal study of intersectionality. A single-category approach can obscure the distinctive barriers faced by women situated at the intersection of caste and gender.

There is also a need to examine whether constitutional protections and special legislation are implemented in ways that recognise overlapping disadvantage. This study addresses these

issues by analysing legal provisions, judicial decisions and practical institutional challenges.

1.5 Research Objectives

1. To understand intersectionality in the context of caste and gender discrimination in India.
2. To examine the social, economic, educational, political and legal effects of intersecting inequalities.
3. To analyse constitutional provisions and statutory protections relevant to caste-marginalised women.
4. To study selected judicial decisions concerning equality, caste discrimination, gender justice and access to remedies.
5. To suggest legal, institutional and social measures that promote substantive equality.

1.6 Research Questions

1. What is intersectionality, and how does it explain caste and gender discrimination in India?
2. How do caste and patriarchy affect the opportunities of marginalised women?
3. To what extent do constitutional provisions and legislation provide effective protection?
4. What practical barriers affect access to justice?
5. What measures can improve legal protection and institutional accountability?

1.7 Research Methodology

This study adopts a doctrinal and analytical research methodology. It examines constitutional provisions, legislation, judicial decisions, books, research articles, reports and reliable online legal resources. It does not claim to rely on original field surveys, questionnaires or personal interviews.

Primary sources include the Constitution of India; the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989; the Protection of Civil Rights Act, 1955; the Protection of Women from Domestic Violence Act, 2005; the Sexual Harassment of Women at Workplace Act, 2013; and selected judicial decisions.

Secondary sources include books on caste, gender, feminist jurisprudence and constitutional law; research articles; academic journals; government and commission reports; legal commentaries; and reliable online resources. These materials are analysed qualitatively.

1.8 Limitations of the Study

1. The study is doctrinal and does not include original field surveys or interviews.
2. It mainly focuses on the Indian constitutional and legal framework.
3. International materials are considered for conceptual and comparative purposes.
4. Experiences vary across regions, communities and social settings.
5. The study relies on publicly available legal materials, scholarship and reports.
6. It focuses primarily on caste and gender and does not examine every form of inequality in equal detail.

1.9 Scheme of the Study

Chapter I introduces the study and explains its objectives, research questions, methodology and limitations. Chapter II explains intersectionality and its social dimensions. Chapter III examines constitutional provisions, legislation, affirmative action and judicial decisions. Chapter IV discusses constitutional rights and practical barriers. Chapter V evaluates the framework, presents findings and makes recommendations.

CHAPTER II – CONCEPT AND DIMENSIONS OF INTERSECTIONALITY

Intersectionality provides a framework for understanding how social identities and systems of power interact. In India, caste and gender are connected to social status, economic opportunity, family structures and access to public institutions.

2.1 Meaning and Nature of Intersectionality

Intersectionality refers to the interaction of multiple social identities and systems of disadvantage. Caste, gender, class, religion, disability and location may overlap and shape a person's opportunities and treatment.

The concept is associated with Kimberlé Crenshaw's legal scholarship, which showed how discrimination law can overlook people whose experiences do not fit neatly into a single category. In India, the experience of a Dalit woman may differ from that of a Dalit man or a woman from a socially dominant caste. This is not simply an addition of disadvantages; it may be a distinct experience created by their interaction.

Intersectionality asks who is included in legal protection, whose experiences shape policy, and whether remedies address the barriers faced by different groups. It recognises that marginalised

people are not a uniform group.

2.2 Historical Development of Intersectionality in India

Indian social reformers and anti-caste thinkers examined the links between caste, gender and social power before the term intersectionality became widely used. Jyotirao Phule and Savitribai Phule challenged caste hierarchy and unequal access to education, including the exclusion of girls and oppressed communities.

B.R. Ambedkar examined caste as a system of graded inequality and wrote about marriage, family and women's position within caste society. Periyar and other reformers also criticised caste hierarchy and patriarchal practices.

Dalit women's activism and scholarship have highlighted that mainstream feminist analysis can overlook caste, while anti-caste discussions may not always fully address gender. Intersectionality helps bring these experiences into a shared analysis.

2.3 Caste and Gender as Intersecting Structures

Caste and gender operate through customs, family expectations, labour arrangements and access to resources. Caste hierarchy can influence social status and access to land, education and public spaces, while patriarchal norms can limit women's decision-making power.

Control over marriage and relationships has historically played a role in maintaining caste boundaries. Women may face scrutiny, threats or violence when they challenge expected social roles or form relationships across caste lines. Legal and social responses must recognise personal autonomy and the specific context of harm.

An intersectional approach avoids assuming that all women experience discrimination in the same way. It asks whether law and policy recognise the different circumstances of women from marginalised caste groups.

2.4 Social and Economic Discrimination

Social discrimination can include exclusion from community activities, denial of access to common resources, caste-based insults, segregation and unequal treatment by local institutions. Women may experience these practices in households, workplaces, educational institutions and public spaces.

Economic inequality is connected with caste and gender. Women from marginalised caste groups may be concentrated in insecure or poorly paid work and may have limited access to land, credit, training and stable employment. Unpaid care work can further restrict their

opportunities.

Effective measures require not only legal prohibitions but also access to education, employment, social security, housing and public services.

2.5 Political Exclusion and Representation

Political participation includes voting, contesting elections, holding public office and taking part in community decision-making. Reservations have expanded opportunities for Scheduled Castes and women, but formal representation does not always guarantee independent participation.

Women elected to reserved positions may face pressure from dominant community members or male relatives. Intimidation, limited resources and unequal access to information can undermine their authority.

Leadership training, transparent decision-making, protection from intimidation and access to information can strengthen substantive political participation.

2.6 Education, Employment and Access to Resources

Caste and gender discrimination can affect enrolment, retention, classroom participation and access to safe educational facilities. Students may face stigma, bullying or financial barriers, while girls may have additional care responsibilities and transport difficulties.

In employment, discrimination may arise in recruitment, wages, promotion and workplace treatment. Precarious employment may make reporting unsafe. Laws are important, but implementation and accessible complaint mechanisms are equally necessary.

Access to resources includes land, housing, sanitation, healthcare, digital technology and welfare schemes. Intersectional policy design should identify practical barriers and ensure public services are accessible.

2.7 Violence, Dignity and Social Justice

Violence against women from marginalised caste groups may be used to enforce social hierarchy or intimidate a community. Each incident must be assessed on its facts, but an intersectional perspective highlights the importance of examining caste-related motive and gendered harm.

Survivors may face fear of retaliation, pressure to compromise, economic dependence or distrust of institutions. Respectful procedures, protection measures, legal assistance and sensitive investigation are essential.

Social justice requires more than formal equality. It requires conditions in which individuals can exercise rights without humiliation or exclusion.

CHAPTER III – LEGAL FRAMEWORK AND JUDICIAL APPROACH

The Indian legal framework contains constitutional guarantees, special legislation and judicial principles relevant to caste and gender discrimination.

3.1 Constitutional Framework

Article 14 guarantees equality before the law and equal protection of the laws. Article 15 prohibits discrimination by the State on specified grounds, including caste and sex, and permits special provisions in constitutionally authorised circumstances. Article 16 concerns equality of opportunity in public employment and permits reservation measures under specified conditions.

Article 17 abolishes untouchability. Article 21 protects life and personal liberty and has been interpreted to include dignity and other essential interests. Article 46 directs the State to promote the educational and economic interests of weaker sections, particularly Scheduled Castes and Scheduled Tribes, and protect them from social injustice and exploitation.

These provisions must be read together. Intersectionality helps examine whether legal measures address the combined effect of caste and gender disadvantage.

3.2 Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989

The Act seeks to prevent atrocities against members of Scheduled Castes and Scheduled Tribes, provides for special courts and includes measures concerning victims and witnesses. It responds to specified forms of caste-based violence, humiliation, intimidation and exclusion.

For women from Scheduled Castes and Scheduled Tribes, the Act may apply where the facts satisfy the statutory ingredients. An intersectional approach highlights gendered harm and the need for survivor-sensitive investigation while respecting statutory requirements.

Effectiveness depends on proper registration and investigation, protection of victims and witnesses, timely trials, legal assistance and accountability where officials fail to perform their duties.

3.3 Protection of Civil Rights Act, 1955

The Protection of Civil Rights Act, 1955 gives effect to the constitutional abolition of

untouchability. It penalises specified practices arising from the enforcement of disabilities associated with untouchability.

Women may experience caste-based exclusion in community spaces, educational settings, workplaces and public facilities. The applicable remedy depends on the conduct and statutory requirements.

Effective implementation requires public awareness, accessible complaint procedures and action by authorities.

3.4 Legal Protection Against Gender-Based Violence

The Protection of Women from Domestic Violence Act, 2005 provides civil remedies in cases within its scope. The Sexual Harassment of Women at Workplace Act, 2013 establishes a framework for preventing and redressing workplace sexual harassment. Criminal laws address specified forms of sexual violence, stalking, intimidation and other offences.

An intersectional approach asks whether women from marginalised caste groups can safely access remedies and whether complaint bodies respond to caste-related vulnerability. Multiple identities should not become a reason to deny protection or credibility.

Legal awareness, trained personnel, confidentiality where required and timely remedies are important for ensuring effective protection.

3.5 Reservation, Equality and Affirmative Action

Reservation and affirmative action are constitutional mechanisms intended to address historical exclusion and unequal representation. Provisions relating to education, public employment and political representation seek to improve access for disadvantaged groups.

Intersectionality asks whether women within beneficiary groups can access these opportunities equally. Representation of Scheduled Castes does not automatically mean that women within those communities enjoy equal access to leadership, education or employment.

Transparent implementation, outreach, support services and meaningful participation of affected communities can strengthen affirmative action.

3.6 Important Judicial Decisions

Judicial decisions explain the operation of constitutional guarantees and statutory protections. The following cases are relevant to equality, caste discrimination, gender justice and protection of vulnerable groups, although not every case directly uses the term intersectionality.

3.6.1 State of Karnataka v. Appa Balu Ingale (1995)

The Supreme Court considered the practice of preventing members of a Scheduled Caste community from drawing water from a public borewell. The case highlighted Article 17 and the need to address untouchability through effective enforcement and social change.

3.6.2 Indra Sawhney v. Union of India (1992)

This leading decision concerned reservation in public employment under Article 16(4). The Supreme Court examined the constitutional basis and limits of reservation for socially and educationally backward classes. It remains important to the legal framework of affirmative action.

3.6.3 Vishaka v. State of Rajasthan (1997)

The Supreme Court addressed sexual harassment at the workplace and laid down guidelines to protect working women before specific legislation was enacted. The judgment connected workplace safety with equality, dignity and the right to work.

3.6.4 Safai Karamchari Andolan v. Union of India (2014)

The case concerned manual scavenging and the implementation of laws intended to prohibit the practice and provide rehabilitation. The Court issued directions relating to identification, compensation and rehabilitation, making the case relevant to caste-based occupational exclusion and gendered labour burdens.

3.6.5 Navtej Singh Johar v. Union of India (2018)

The Supreme Court considered the criminalisation of consensual same-sex relations between adults. The judgment emphasised dignity, autonomy, equality and constitutional morality. Its broader principles contribute to discussions of stigma and exclusion.

3.6.6 Patricia Mukhim v. State of Meghalaya (2021)

The case concerned online expression and criminal proceedings relating to comments about violence against members of a tribal community. The Supreme Court addressed the legal threshold for criminal action in the context of speech. Its relevance must be understood in light of the facts and precise holding.

3.7 Judicial Approach to Caste, Gender and Equality

The judicial approach draws on constitutional equality, dignity and social justice. Cases concerning untouchability, workplace safety, affirmative action and occupational exploitation demonstrate different ways in which courts respond to structural inequality.

An intersectional approach asks whether a remedy addresses the full context of the affected person. A complaint may involve caste-based humiliation, gender-based violence, economic coercion or exclusion from public services at the same time.

Intersectionality does not replace the legal elements of an offence or constitutional test. It helps explain context, identify barriers and assess whether institutions offer meaningful protection.

CHAPTER IV – CONSTITUTIONAL RIGHTS AND PRACTICAL CHALLENGES

4.1 Intersectionality and Article 14

Article 14 guarantees equality before the law and equal protection of the laws. Equal treatment in form may not always produce equal access where individuals face different historical and structural barriers.

Women from marginalised caste groups may experience discrimination in public services, policing, education, employment and local administration. Article 14 supports scrutiny of arbitrary or unequal treatment and encourages remedies responsive to affected people.

4.2 Article 15 and Prohibition of Discrimination

Article 15 prohibits State discrimination on specified grounds, including caste and sex, and permits constitutionally authorised special provisions. These provisions reflect the idea that equality may require action to address disadvantage.

An intersectional approach examines whether policies reach women facing overlapping barriers. Gender-focused measures may fail to address caste-specific exclusion if they treat women as a single undifferentiated category.

4.3 Article 17 and Abolition of Untouchability

Article 17 abolishes untouchability and rejects caste practices that deny equal status and access to public life. Legislation penalises specified practices associated with untouchability and atrocities against Scheduled Castes and Scheduled Tribes.

Women may experience caste-based exclusion in community spaces, education, workplaces and public facilities. Effective enforcement requires awareness, accessible reporting, accountability and action against unlawful practices.

4.4 Article 21, Dignity and Bodily Autonomy

Article 21 protects life and personal liberty and has been connected by judicial interpretation with dignity, privacy and bodily autonomy. Caste-based humiliation and gender-based violence can interfere with these interests.

Respect for dignity requires authorities to respond to complaints without degrading treatment. Protection, medical support, legal assistance and fair investigation may be necessary depending on the facts and applicable law.

4.5 Underreporting and Social Barriers

Discrimination and violence may go unreported because of fear of retaliation, economic dependence, social stigma, family pressure, lack of legal awareness or concern that authorities will not act. Women may also fear losing employment, housing or community support.

Community legal awareness, confidential and accessible reporting, support services and prompt action can reduce barriers. The absence of a complaint should not be treated as proof that discrimination does not occur.

4.6 Access to Justice and Institutional Bias

Access to justice includes the ability to approach authorities, receive a fair hearing, obtain legal assistance and secure an effective remedy. Travel costs, documentation, lost wages and language barriers may make this difficult.

Institutional bias can affect how complaints are received and investigated. Training, independent oversight, reasoned decisions, accessible legal services and accountability are important.

4.7 Education, Employment and Economic Inequality

Education and employment are essential to independence and social mobility. Discrimination may affect admission, classroom treatment, retention, recruitment, wages, promotion and safe working conditions.

Economic insecurity can limit the ability to challenge discrimination. Scholarships, safe transport, skills training, fair recruitment, equal-pay enforcement and social security can improve access to opportunity.

4.8 Political Participation and Representation

Reservations have expanded representation in elected bodies and public institutions, but structural barriers may continue after election or appointment. Intimidation, lack of resources and unequal access to information can limit independent decision-making.

Meaningful representation requires the ability to speak, participate in decisions and access resources without threats or discrimination. Capacity-building and transparent procedures can

help.

CHAPTER V – CRITICAL ANALYSIS, FINDINGS AND SUGGESTIONS

1.1 Effectiveness of the Existing Legal Framework

India has a broad constitutional and statutory framework addressing equality, caste-based exclusion, violence against women and access to public opportunities. Articles 14, 15, 17 and 21 establish important protections, while special legislation addresses specified forms of caste-related wrongdoing and gender-based harm.

Effectiveness depends on implementation. Delayed investigations, inadequate awareness, social pressure, weak support services and difficulties accessing legal assistance can reduce the practical value of legal rights. Intersectional evaluation asks whether institutions recognise the combined effects of caste and gender and provide accessible remedies.

1.2 Gaps in Law and Implementation

A major challenge is the gap between formal protection and enforcement. People may not know which law applies, where to complain or what assistance is available. Multiple connected harms can require coordination between agencies.

Data that records only one category may fail to reveal whether particular groups face distinct barriers. Any data collection must respect privacy and dignity while supporting evidence-based policy.

Institutional prejudice, delays, limited resources and insufficient victim support require administrative reform, training, monitoring and accountability.

1.3 Adequacy of Protection for Dalit and Marginalised Women

Protection should be assessed by whether women can report discrimination safely, whether complaints are taken seriously and whether timely remedies are available. Social pressure, threats, loss of livelihood or humiliating treatment can weaken legal protection.

Support should include accessible legal aid, information in local languages, counselling, shelter where required, and coordination between relevant authorities. Women should not have to navigate multiple procedures without assistance.

Education, employment, housing, healthcare and social security can reduce dependence and improve the ability to exercise rights. Policies should involve affected communities and

recognise differences within them.

1.4 Role of Institutions and Civil Society

Police, courts, local administration, schools, universities, employers and welfare agencies all influence the effectiveness of legal protection. Each institution should understand its duties and ensure that complaints are handled fairly, promptly and respectfully.

Civil society organisations, legal services authorities, women's groups and Dalit rights organisations can provide legal literacy, referrals, documentation support and public education. Their work is important where people are isolated or lack confidence in formal institutions. Cooperation should preserve confidentiality, independence and the choice of the affected person.

1.5 Comparative and International Perspective

International human rights principles support equality, non-discrimination, dignity and access to justice. The Universal Declaration of Human Rights recognises equality and equal protection. The Convention on the Elimination of All Forms of Discrimination against Women requires measures to eliminate discrimination against women, while the International Convention on the Elimination of All Forms of Racial Discrimination addresses racial discrimination.

International discussions of intersectionality encourage policymakers to examine how multiple grounds of discrimination interact. Foreign laws cannot simply be transplanted without considering India's constitutional structure and social conditions.

Useful lessons include accessible complaint mechanisms, appropriate data, institutional training, victim support and participation by affected communities.

1.6 Major Findings

1. Caste and gender may interact to create distinctive experiences that cannot always be explained by either category alone.
2. The Constitution provides a foundation through equality, non-discrimination, abolition of untouchability, dignity and affirmative action.
3. Special legislation addresses specified forms of caste-based discrimination and gender-based violence, but effectiveness depends on enforcement and access to remedies.
4. Social stigma, economic dependence, fear of retaliation and lack of awareness can discourage reporting.

5. Institutional bias, delays, limited resources and weak coordination may reduce practical protection.
6. Education, employment, political representation and public services should be examined through an intersectional perspective.
7. Meaningful participation of affected women is necessary for designing and evaluating policies.

1.7 Suggestions and Recommendations

1. Strengthen legal awareness programmes in schools, colleges, workplaces and communities using accessible languages.
2. Ensure police stations, legal services authorities and commissions provide respectful, timely and accessible assistance.
3. Train police, prosecutors, judges, administrators, teachers and workplace committees on caste discrimination, gender justice and constitutional duties.
4. Monitor enforcement, address avoidable delays and hold officials accountable where duties are not performed according to law.
5. Expand access to legal services, counselling, shelter, rehabilitation and support where appropriate.
6. Improve scholarships, safe transport, retention support, skills development and fair employment practices.
7. Ensure elected representatives and women in public institutions can participate without intimidation.
8. Use responsible data practices that reveal overlapping disadvantage while protecting privacy.
9. Consult Dalit women and other marginalised groups in designing, implementing and evaluating policies.
10. Support further research to identify regional differences, barriers and the effects of reforms.

1.8 Conclusion

Intersectionality provides a useful framework for understanding caste and gender discrimination in India. It recognises that social identities and systems of power interact, and that the experiences of marginalised women may not be fully understood by considering caste or gender separately. Caste hierarchy, patriarchal norms, economic insecurity and institutional

practices can influence access to education, employment, public services, political participation and justice.

The Constitution establishes a strong foundation for equality and social justice. Articles 14 and 15 protect equality and prohibit specified forms of discrimination; Article 17 abolishes untouchability; and Article 21 protects life and personal liberty, including dignity. Affirmative-action provisions and special legislation seek to address historical exclusion and specified forms of caste-based and gender-based harm.

Formal legal protection alone cannot guarantee substantive equality. Underreporting, fear of retaliation, social pressure, economic dependence, lack of awareness, institutional bias and delays can limit the practical impact of the law. A person facing intersecting forms of discrimination may have to navigate multiple procedures and institutions while dealing with unequal access to resources.

An intersectional approach helps authorities identify the full context of discrimination and evaluate whether remedies are effective. It does not replace legal standards; it helps explain how they operate in real situations and where implementation may fail. Policies should consider differences within groups and avoid assuming that all members experience the same barriers.

Improved legal literacy, trained officials, effective legal aid, timely investigation, stronger implementation, fair access to education and employment, and meaningful political representation are important steps towards substantive equality. Affected communities should participate in developing and evaluating policies.

In conclusion, caste and gender discrimination must be addressed as connected social and legal concerns. A fair society requires not only equal rights on paper but also the conditions necessary to exercise those rights without fear, humiliation or exclusion.

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