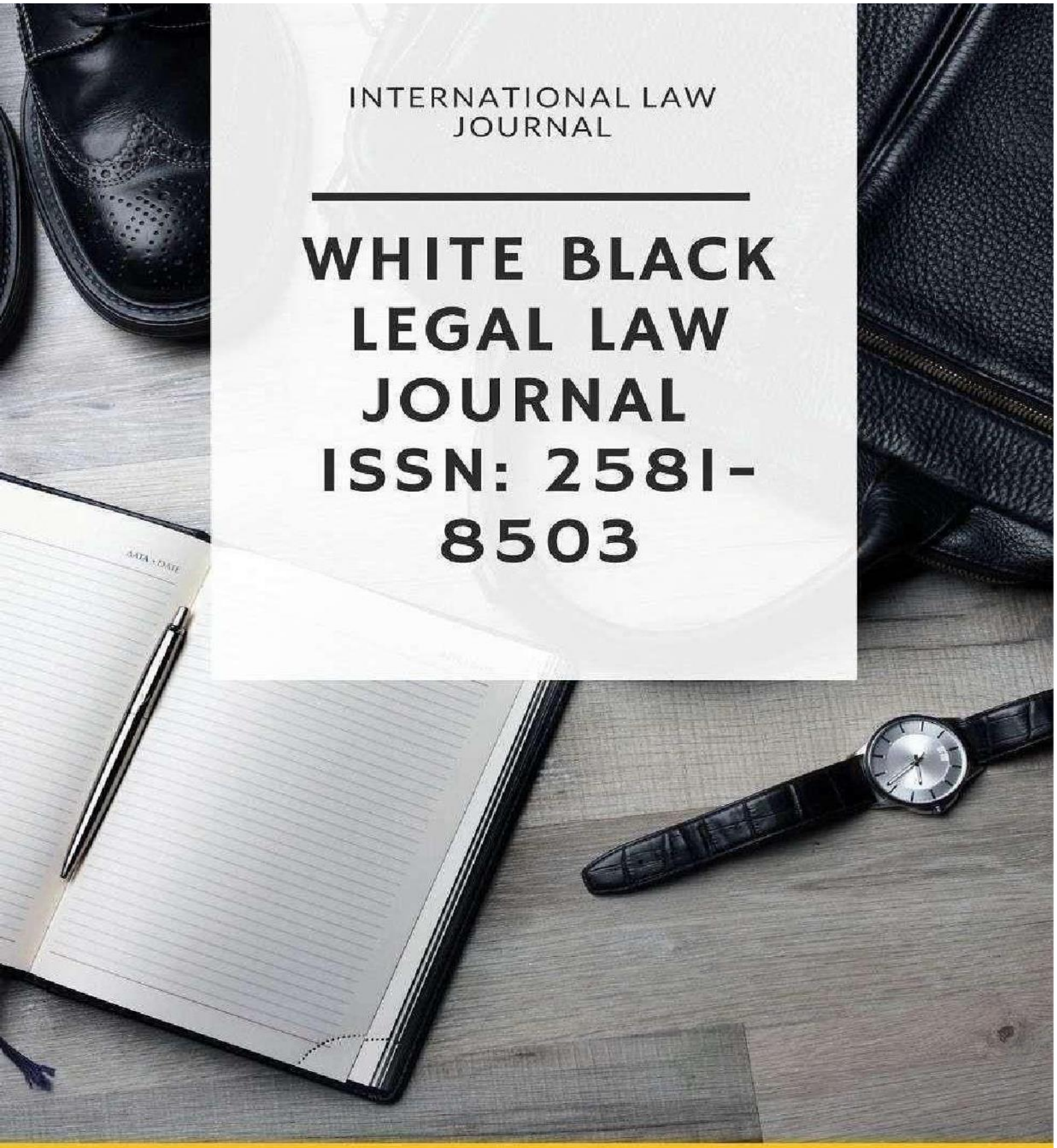


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A CRITICAL STUDY ON HUMAN RIGHTS APPROACH TO GENDER JUSTICE

AUTHORED BY - ARUN KISHORE R

ABSTRACT

The pursuit of gender justice is fundamentally a human rights concern because equality, dignity, liberty, participation and freedom from discrimination belong to every person. A human rights approach does not treat gender justice merely as a question of welfare, protection or social policy; it treats women and persons of diverse gender identities as rights-holders and States and institutions as duty-bearers. This approach requires attention not only to formal equality before law but also to substantive equality, access to justice, effective remedies and the removal of structural barriers that prevent individuals from enjoying rights on an equal basis. The international human rights framework provides a strong foundation for gender justice. The Universal Declaration of Human Rights affirms equality in dignity and rights and prohibits discrimination, while the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) requires States to pursue the elimination of discrimination against women and to ensure practical realization of equality. The Beijing Declaration and Platform for Action further placed women's human rights and gender equality at the centre of global policy. Contemporary human-rights approaches increasingly emphasize that justice requires transformation of discriminatory institutions, social norms and practices rather than merely extending identical legal rules to everyone. In India, the Constitution provides the principal normative foundation through the guarantees of equality, non-discrimination, life and personal liberty, freedom and constitutional remedies. Articles 14, 15, 16 and 21, read with the Directive Principles and fundamental duties, provide a framework for advancing gender equality. Judicial decisions have developed these guarantees in areas including sexual harassment, reproductive autonomy, workplace equality, privacy, dignity, marriage, property and protection against gender stereotypes. Statutory measures such as the Protection of Women from Domestic Violence Act, 2005, the Sexual Harassment of Women at Workplace Act, 2013, and laws addressing trafficking, child marriage and other forms of gender-based harm supplement the constitutional framework. The present study critically examines whether the human rights approach is capable of producing substantive gender

justice in India. It evaluates the principles of dignity, equality, non-discrimination, autonomy, participation, accountability and access to effective remedies. It also examines the gap between rights formally guaranteed and rights actually enjoyed, with particular attention to structural discrimination, violence, economic inequality, political under-representation, digital harms and intersectional disadvantage. The study argues that gender justice requires a shift from a purely protective model towards a rights-based, survivor-centred and transformative model in which institutions are accountable for preventing discrimination and ensuring meaningful access to justice.

KEYWORDS

Human Rights, Gender Justice, Gender Equality, Substantive Equality, Dignity, Non-Discrimination, Women's Rights, Access to Justice, Intersectionality, Constitutional Law.

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3	Suchita Srivastava v. Chandigarh Administration	(2009) 9 SCC 1	Bodily autonomy, reproductive choice and dignity
4	National Legal Services Authority v. Union of India	(2014) 5 SCC 438	Gender identity, dignity, equality and recognition of transgender persons
5	Justice K.S. Puttaswamy (Retd.) v. Union of India	(2017) 10 SCC 1	Privacy, autonomy, dignity and personal choice
6	Joseph Shine v. Union of India	(2019) 3 SCC 39	Gender stereotypes, autonomy, equality and dignity
7	Babita Puniya v. Union of India	(2020) 7 SCC 469	Equal opportunity and rejection of gender stereotypes in the armed forces
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2	Protection of Women from Domestic Violence Act, 2005	—	Protection from domestic violence and access to civil remedies
3	Sexual Harassment of Women at Workplace Act, 2013	—	Safe and dignified workplace and institutional accountability
4	Hindu Succession (Amendment) Act, 2005	—	Equal coparcenary property rights for daughters
5	Dowry Prohibition Act, 1961	—	Prohibition of dowry-related practices
6	Juvenile Justice / child protection framework	—	Protection of children from exploitation and abuse
7	Universal Declaration of Human Rights, 1948	Arts. 1, 2, 7, 8, 21, 23	Universal dignity, equality, non-discrimination and remedy
8	CEDAW, 1979	Arts. 1–5 and related provisions	Elimination of discrimination and advancement of women
9	ICCPR, 1966	Arts. 2, 3, 7, 17, 25, 26	Equal enjoyment of civil and political rights
10	ICESCR, 1966	Arts. 2, 3, 6–13	Equality in economic, social and cultural rights
11	Beijing Declaration and Platform for Action, 1995	12 critical areas	Global policy framework for women's rights and equality
12	Sustainable Development Goals	SDG 5 and related goals	Gender equality, empowerment and inclusive development

CHAPTER – I INTRODUCTION

1.1 BACKGROUND OF THE STUDY

"Gender justice begins when equality is treated not as a promise, but as a lived human right."

Gender justice is concerned with the elimination of discrimination and the creation of conditions in which every person can enjoy rights, freedoms and opportunities without being disadvantaged because of gender. A human rights approach strengthens this idea by locating gender justice within the universal principles of dignity, equality, liberty, participation and accountability. It rejects the notion that discrimination against women is merely a social problem or a matter of benevolent protection. Instead, it recognizes women as autonomous rights-holders and identifies duties on States and institutions to respect, protect and fulfil rights. The human rights approach has particular importance because gender inequality is rarely produced by a single legal rule. It may arise from social norms, unequal distribution of economic resources, violence, exclusion from decision-making, discriminatory practices, gender stereotypes and barriers to justice. Formal equality can therefore coexist with unequal outcomes. Substantive equality requires the identification and removal of conditions that place a group at a disadvantage. International human rights law has progressively transformed the legal understanding of gender. The UDHR placed equal dignity and rights at the foundation of the post-war human rights order. CEDAW later addressed discrimination against women in a comprehensive manner and required States to take legislative and other measures to secure practical equality. The Beijing Platform for Action broadened the policy agenda by connecting gender equality with violence, health, education, economic participation, political power and human rights. Contemporary discussions of access to justice continue this trajectory by emphasizing that legal rights must be capable of being claimed and enforced. In India, the Constitution provides an especially important foundation for gender justice. Equality before law, prohibition of discrimination, equality of opportunity, freedoms and the right to life and personal liberty create a framework that can respond to both direct and structural discrimination. The Directive Principles further express commitments concerning livelihood, equal pay, health, maternity relief and social welfare. Judicial interpretation has developed the meaning of dignity and autonomy and has increasingly rejected legal reasoning based on assumptions of women's inferiority.

The present study critically examines this framework. It asks whether the human rights approach is capable of moving beyond formal guarantees towards substantive gender justice. It considers violence against women, workplace equality, domestic violence, economic rights,

political participation, reproductive autonomy, privacy, gender identity and intersectional disadvantage. It also evaluates implementation, because the practical value of a right depends on institutions, remedies and access to justice.

1.2 SIGNIFICANCE OF THE STUDY

The study is significant because it connects gender justice with the broader architecture of human rights. It emphasizes that the ultimate test of equality is not the existence of rights in written law but

the ability of individuals to enjoy those rights in real life. It therefore contributes to discussions on constitutionalism, feminist jurisprudence, access to justice and institutional accountability.

1.3 REVIEW OF LITERATURE

1. ***Universal Declaration of Human Rights (1948)***

   The UDHR establishes the foundational human-rights principles of equal dignity, non-discrimination, equality before law, liberty, security and effective remedy. Its rights-based language is important because gender justice can be understood as the practical realization of universal rights rather than as a special entitlement granted to one group.

2. ***Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)***

   CEDAW provides the most comprehensive international treaty framework specifically addressing discrimination against women. It requires States to pursue elimination of discrimination and to ensure practical realization of equality. It is central to the present study because it links legal equality with institutional and social transformation.

3. ***Beijing Declaration and Platform for Action***

   The Beijing framework treats women's human rights and gender equality as integral to the broader human rights agenda and identifies critical areas including violence, education, health, the economy, political participation, institutional mechanisms, media and human rights.

4. ***UN Women and Access-to-Justice Literature***

   UN Women literature on justice for women emphasizes that laws alone do not guarantee justice. Barriers can arise from discriminatory rules, social norms, institutional failures, lack of legal literacy and weak enforcement.

5. ***Feminist Jurisprudence***

   Feminist jurisprudence critiques the assumption that formally neutral law always

produces equal outcomes. Liberal, radical, cultural, postmodern and intersectional approaches each contribute different insights into autonomy, patriarchy, lived experience, identity and structural disadvantage.

6. ***Indian Constitutional Jurisprudence***

   Indian constitutional cases have progressively linked equality with dignity, autonomy and substantive justice. Decisions concerning sexual harassment, privacy, reproductive choice, gender stereotypes, marriage, property and sexual orientation demonstrate the capacity of constitutional law to respond to changing understandings of equality.

7. ***Contemporary Human Rights and Gender Justice Scholarship***

   Recent scholarship increasingly emphasizes substantive equality, accountability, survivor-centred justice and institutional transformation. The present study builds on this work by bringing international human rights principles into direct conversation with India's constitutional and statutory framework.

1.4 RESEARCH GAP

Existing scholarship on gender justice is extensive, but it is often divided between separate discussions of women's rights, constitutional equality, feminist jurisprudence, violence against women, development policy and international human rights. There remains a need for a consolidated analysis that treats these fields as parts of a single rights-based framework. A human rights approach requires examination of both State obligations and the lived ability of individuals to claim and exercise rights.

A further gap lies in the distinction between formal and substantive equality. A rule may be facially neutral while reproducing historical disadvantage. Similarly, the existence of legislation does not by itself establish that justice is accessible. Reporting barriers, social stigma, economic dependence, institutional bias, delays, lack of legal awareness and inadequate support services may prevent rights from becoming effective in practice.

The study therefore focuses on the implementation dimension of gender justice. It connects international standards with the Indian constitutional and statutory framework and evaluates whether legal protection addresses structural inequality, gender-based violence, participation, economic security, bodily autonomy, digital harms and access to remedies. The study also adopts an intersectional approach because the experience of gender discrimination is not uniform.

1.5 OBJECTIVES OF THE STUDY

1. To examine the meaning, scope and development of gender justice from a human rights perspective.
2. To analyse the relationship between human dignity, equality, non-discrimination and gender justice.
3. To examine the international human rights framework relating to gender equality, particularly the UDHR, CEDAW, ICCPR, ICESCR and the Beijing Platform for Action.
4. To analyse the constitutional framework in India for protection and advancement of gender equality and equal citizenship.
5. To examine the role of the Indian judiciary in developing rights-based principles of dignity, autonomy, substantive equality and freedom from gender stereotypes.
6. To evaluate major Indian laws and institutional mechanisms addressing gender-based violence, workplace discrimination, domestic violence, trafficking and related forms of inequality.
7. To identify the gap between formal legal equality and substantive equality, including barriers to access to justice.
8. To examine gender justice through an intersectional human-rights lens, including the experiences of persons affected by caste, class, disability, age, sexuality, economic disadvantage and other overlapping inequalities.
9. To suggest legal, institutional and policy reforms for a more effective, accountable and inclusive human rights approach to gender justice.

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1.6 RESEARCH QUESTIONS

1. Whether a human rights approach provides a sufficiently comprehensive framework for achieving gender justice?
2. Whether formal constitutional equality in India has resulted in substantive equality in social, economic, political and personal spheres?
3. Whether international human rights standards, particularly CEDAW, have meaningfully influenced the understanding of gender justice in India?
4. Whether Indian constitutional jurisprudence adequately protects dignity, autonomy, bodily integrity and freedom from gender discrimination?
5. Whether existing legal and institutional mechanisms provide effective and accessible remedies for gender-based violence and discrimination?

6. How do structural and intersectional factors affect women's and gender-diverse persons' access to justice?
7. What legal, institutional and social reforms are necessary to strengthen a human rights-based model of gender justice?

1.7 RESEARCH METHODOLOGY

The present study adopts a doctrinal and analytical methodology. Primary materials include constitutional provisions, legislation, judicial decisions and international human rights instruments. Secondary materials include academic writings, reports and policy literature concerning gender equality, human rights and access to justice. The study uses a qualitative comparative approach. International human rights standards are first identified and then compared with the Indian constitutional and statutory framework. Judicial decisions are examined to understand how concepts such as dignity, substantive equality, autonomy and gender stereotypes have developed. The final analysis evaluates the gap between legal norms and effective implementation.

1.8 SCOPE AND LIMITATIONS

The study focuses primarily on India while using international human rights standards as the normative framework. It considers gender justice broadly, with particular attention to women and girls and with recognition of the rights of transgender and gender-diverse persons where relevant. The research is doctrinal and does not claim to provide a statistical measurement of all forms of gender inequality. The effectiveness of institutions is assessed through legal and policy analysis rather than a primary field survey. Accordingly, conclusions concerning lived experiences are based on available literature and judicial or institutional material.

1.9 SCHEME OF THE STUDY

The research, titled “A Critical Study on Human Rights Approach to Gender Justice,” is organised into seven chapters. It examines gender justice from a human rights perspective, beginning with the conceptual and international legal foundations and proceeding to the Indian constitutional and statutory framework, judicial developments, critical analysis, findings and recommendations.

Chapter I– Introduction presents the background and significance of the study, review of literature, research gap, objectives, research questions, research methodology, scope and limitations, and scheme of the study. It establishes the foundation for examining gender justice

through a human rights approach.

Chapter II– Human Rights Foundations of Gender Justice explains the meaning and scope of gender justice, human dignity, equality, non-discrimination and substantive equality. It also examines autonomy, bodily integrity, privacy, participation, representation, access to justice, effective remedies, and the responsibility and accountability of the State in protecting gender rights.

Chapter III – International Legal Framework examines the international human rights instruments relevant to gender justice, including the Universal Declaration of Human Rights (UDHR), the International Covenant on Civil and Political Rights (ICCPR), the International Covenant on Economic, Social and Cultural Rights (ICESCR), and the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW). It further analyses CEDAW General Recommendations, State obligations, the Beijing Declaration and Platform for Action, the Sustainable Development Goals, and the key principles of a human rights-based approach.

Chapter IV– Indian Constitutional and Statutory Framework analyses the constitutional foundations of gender justice in India, particularly the Preamble and Articles 14, 15, 16 and 21 of the Constitution. It also examines the Directive Principles of State Policy, Fundamental Duties, the Protection of Women from Domestic Violence Act, 2005, the Sexual Harassment of Women at Workplace Act, 2013, laws relating to trafficking and exploitation, family and property rights, economic rights, and institutional mechanisms for protecting gender justice.

Chapter V – Judicial Development of Gender Justice critically examines landmark judicial decisions, including Vishaka v. State of Rajasthan, NALSA v. Union of India, Suchita Srivastava v. Chandigarh Administration, Justice K.S. Puttaswamy v. Union of India, Joseph Shine v. Union of India, Anuj Garg v. Hotel Association of India, Babita Puniya v. Union of India, and Vineeta Sharma v. Rakesh Sharma. It evaluates the contribution of the judiciary to gender equality, individual autonomy, dignity, non-discrimination and property rights, along with the limitations of judicial intervention.

Chapter VI – Critical Human Rights Analysis critically evaluates the relationship between human rights and gender justice by examining formal and substantive equality, gender-based violence, intersectionality, multiple discrimination, economic and digital dimensions of gender justice, and barriers to accessing justice. It also analyses gender stereotypes, social norms, structural inequalities, institutional accountability, the implementation of remedies, and the strengths and challenges of adopting a human rights-based approach.

Chapter VII – Findings, Suggestions and Conclusion presents the major findings of the study

and evaluates the extent to which the research objectives and hypothesis have been addressed. It summarises the findings relating to human rights and gender justice, answers the research questions, and offers suggestions and recommendations for strengthening legal protection, institutional accountability and effective implementation. The chapter concludes by identifying areas for future research.

CHAPTER – II

HUMAN RIGHTS FOUNDATIONS OF GENDER JUSTICE

2.1 MEANING AND SCOPE OF GENDER JUSTICE

Gender justice refers to a condition in which persons are able to enjoy rights and opportunities without discrimination arising from gender, sex or gendered social expectations. It includes equality in law and practice, freedom from violence and exploitation, equal participation in decision-making, economic security, bodily autonomy, access to education and health, and effective access to justice. The concept is wider than gender equality understood as identical treatment. Justice may require corrective measures, reasonable accommodation or special provisions where historical or structural disadvantage exists. A human rights approach therefore examines whether a legal rule and its implementation reduce disadvantage and expand meaningful freedom. Gender justice also includes the recognition that gender interacts with other forms of inequality. Caste, class, disability, age, sexuality, migration status, rural location and economic dependence can influence both exposure to harm and access to remedies. Intersectionality is consequently not an optional addition but an important method of assessing whether rights are genuinely accessible.

2.2 HUMAN DIGNITY AND EQUALITY

Human dignity is the normative foundation of the human rights system. Equality is meaningful because every person possesses equal worth. The UDHR expresses this connection by placing equal dignity and rights at the beginning of the Declaration. A gender justice approach therefore rejects practices that reduce women to subordinate, dependent or stereotyped roles. In Indian constitutional law, dignity has become an important dimension of Article 21 and is also connected with Articles 14 and 15. Dignity requires more than physical survival. It includes the ability to make personal choices, participate in society, develop one's personality and live without degrading treatment.

2.3 NON-DISCRIMINATION

Non-discrimination requires that persons are not denied rights because of sex or gender. It also requires scrutiny of apparently neutral rules that have discriminatory effects. A human rights approach therefore examines both direct discrimination and indirect or structural discrimination. CEDAW defines discrimination against women broadly and requires States to eliminate discriminatory laws, practices and institutions. This approach is important because gender inequality can be maintained through customs and social practices even after explicitly discriminatory laws have been removed.

2.4 SUBSTANTIVE EQUALITY

Formal equality asks whether the same rule applies to everyone. Substantive equality asks whether people are actually able to enjoy rights on an equal basis. UN Women literature identifies substantive equality as involving the redress of disadvantage, countering stigma and violence, transforming institutions and enabling participation and inclusion. In gender justice, substantive equality may justify measures designed to overcome historical disadvantage. Constitutional provisions permitting special measures for women and children reflect this understanding. The objective is not preferential treatment for its own sake but the creation of conditions in which equal citizenship becomes meaningful.

2.5 AUTONOMY, BODILY INTEGRITY AND PRIVACY

Autonomy is the ability to make decisions concerning one's body, identity and personal life. Bodily integrity protects individuals against unwanted physical interference. Privacy protects a sphere of personal life in which choices and identity can develop without arbitrary interference. These principles are particularly important in reproductive decisions, marriage, sexuality, health, digital identity and protection from violence. A human rights approach insists that women are decision-makers rather than objects of protection or instruments of family or social interests.

2.6 PARTICIPATION AND REPRESENTATION

Human rights are not fully realized if affected groups are excluded from decision-making. Political participation, representation in institutions and meaningful participation in policy-making are therefore dimensions of gender justice. Participation also includes access to education, employment and leadership. The objective is not simply numerical presence but the ability to influence decisions and challenge institutional practices that reproduce inequality.

2.7 ACCESS TO JUSTICE AND EFFECTIVE REMEDIES

The right to an effective remedy is central to human rights. For gender justice, access to justice requires more than the formal existence of courts or complaint mechanisms. It includes legal awareness, affordable assistance, safe reporting, fair procedures, timely decisions, protection from retaliation and meaningful enforcement. Women may face practical barriers arising from economic dependence, social stigma, family pressure, institutional insensitivity and lack of information. A human rights approach therefore evaluates the complete justice pathway — from reporting to investigation, adjudication, remedy and rehabilitation.

2.8 STATE RESPONSIBILITY AND ACCOUNTABILITY

States have obligations to respect, protect and fulfil human rights. Respect requires authorities to avoid discriminatory conduct; protection requires regulation of private actors and prevention of abuse; fulfilment requires positive measures to make rights effective.

CHAPTER – III INTERNATIONAL LEGAL FRAMEWORK

3.1 UNIVERSAL DECLARATION OF HUMAN RIGHTS

The UDHR recognizes that all human beings are born free and equal in dignity and rights and prohibits distinctions including sex. It also recognizes equality before law and the right to an effective remedy. These provisions establish a universal foundation for gender justice. The significance of the UDHR lies in its universal language. Women's rights are not treated as separate from human rights; rather, discrimination against women is understood as a failure to realize universal rights.

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3.2 ICCPR AND ICESCR

The International Covenant on Civil and Political Rights requires equal enjoyment of civil and political rights by men and women and protects rights including life, liberty, privacy, expression, association and participation. The International Covenant on Economic, Social and Cultural Rights similarly requires equality in the enjoyment of economic, social and cultural rights. Gender justice therefore includes both civil and political equality and socio-economic equality. A woman cannot fully enjoy formal liberty where poverty, lack of education, inadequate health services or economic exclusion prevents meaningful exercise of rights.

3.3 CEDAW

CEDAW is the principal international treaty addressing discrimination against women. Article 1 defines discrimination broadly, while Article 2 requires States to pursue elimination of discrimination and establish legal protection on an equal basis. Article 3 requires measures for the full development and advancement of women. CEDAW is significant because it recognizes that discrimination can be produced by laws, institutions, customs and practices. Its approach therefore moves beyond the prohibition of individual discriminatory acts towards structural transformation.

3.4 CEDAW GENERAL RECOMMENDATIONS AND STATE DUTIES

CEDAW interpretation has progressively emphasized violence against women, equality in public and private life, access to justice, political participation, health and the elimination of stereotypes. The human rights model requires States to exercise due diligence and to ensure that private conduct causing rights violations does not remain outside effective legal protection. The duty to eliminate stereotypes is particularly important because social assumptions about women's roles can influence legislation, policing, courts, workplaces and families. Gender justice requires institutions to examine the assumptions built into their decision-making.

3.5 BEIJING DECLARATION AND PLATFORM FOR ACTION

The Beijing Platform for Action identifies twelve critical areas of concern, including poverty, education, health, violence, armed conflict, the economy, power and decision-making, institutional mechanisms, human rights, media, environment and the girl child. This broad agenda demonstrates that gender justice cannot be reduced to criminal law. The Beijing framework also reinforces the idea that women's human rights are an integral part of universal human rights. It therefore supports a comprehensive approach combining legal reform, institutional change and social transformation.

3.6 SUSTAINABLE DEVELOPMENT GOALS AND GENDER JUSTICE

SDG 5 focuses on achieving gender equality and empowering all women and girls. Gender justice also intersects with SDGs concerning poverty, education, health, decent work, reduced inequalities, peace and access to justice. The SDG framework is useful because it recognizes that gender equality requires coordinated action across sectors. Legal rights, economic opportunities, public services and participation must reinforce one another.

3.7 HUMAN RIGHTS-BASED APPROACH: KEY PRINCIPLES

The human rights-based approach can be summarized through several principles: universality and inalienability of rights; indivisibility and interdependence; equality and non-discrimination; participation and inclusion; accountability and access to remedy. Applied together, these principles create a framework for evaluating whether gender justice is actually being achieved. The approach is particularly valuable for identifying implementation failures. It shifts attention from charitable protection to enforceable rights and from passive beneficiaries to active rights-holders.

CHAPTER – IV

INDIAN CONSTITUTIONAL AND STATUTORY FRAMEWORK

4.1 CONSTITUTIONAL PREAMBLE AND EQUALITY

The Constitution begins with commitments to justice, liberty, equality and fraternity. These values provide the normative setting for gender justice. Constitutional equality is not limited to formal non-discrimination; the State may adopt special measures to advance women and children where necessary. Fundamental rights, Directive Principles and fundamental duties together create a constitutional environment in which gender justice can be understood as a continuing obligation of governance.

4.1.1 ARTICLE 14 – EQUALITY BEFORE LAW

Article 14 guarantees equality before law and equal protection of laws. Its importance lies in preventing arbitrary discrimination while permitting reasonable classification consistent with constitutional objectives. Gender justice requires Article 14 to be applied with attention to substantive impact. A classification based on stereotypes or assumptions of women's inferiority may be constitutionally suspect.

4.1.2 ARTICLE 15 – PROHIBITION OF DISCRIMINATION

Article 15 prohibits discrimination on specified grounds including sex and permits special provisions for women and children. This structure reflects the distinction between discriminatory preference and legitimate measures designed to remedy disadvantage. Article 15 is therefore a central constitutional basis for affirmative measures and for challenging practices that deny equal citizenship.

4.1.3 ARTICLE 16 – EQUALITY OF OPPORTUNITY

Article 16 guarantees equality of opportunity in public employment and prohibits discrimination on specified grounds including sex. Employment equality is an important component of economic independence and public participation. Judicial decisions have

increasingly examined whether workplace rules rely upon assumptions about women's family responsibilities, physical capacity or social roles.

4.1.4 ARTICLE 21 – LIFE, LIBERTY AND DIGNITY

Article 21 has been interpreted broadly to protect dignity, privacy, autonomy and decisional freedom. These principles are crucial to gender justice because violence and discrimination can impair not only physical security but also the ability to make personal choices. Reproductive autonomy, privacy, bodily integrity and freedom from degrading treatment demonstrate how Article 21 can operate alongside equality guarantees.

4.1.5 DIRECTIVE PRINCIPLES AND FUNDAMENTAL DUTIES

Directive Principles address social and economic justice, equal livelihood, equal pay, health, maternity relief and humane conditions of work. Fundamental duties include a constitutional expectation to renounce practices derogatory to the dignity of women. Although Directive Principles and fundamental duties operate differently from enforceable fundamental rights, they provide important interpretive and policy guidance for gender justice.

4.2 PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

The Act recognizes multiple forms of domestic violence and provides civil remedies and protective mechanisms. Its significance lies in treating violence within domestic relationships as a rights and safety concern rather than a purely private family matter. A human rights evaluation asks whether survivors can access protection quickly, whether institutions respond sensitively and whether remedies address immediate safety and longer-term recovery.

4.3 SEXUAL HARASSMENT OF WOMEN AT WORKPLACE ACT, 2013

The statute provides a framework for prevention, prohibition and redressal of sexual harassment at workplaces. It reflects the constitutional principle that women are entitled to a safe and dignified working environment. The effectiveness of the framework depends upon functioning Internal Committees, awareness, confidentiality, fair procedure, protection against retaliation and accountability for non-compliance.

4.4 LAWS RELATING TO TRAFFICKING AND EXPLOITATION

Gender justice also requires protection against trafficking, forced labour, sexual exploitation and other forms of coercion. The human rights approach places the dignity and agency of affected persons at the centre of prevention, investigation, prosecution, rehabilitation and reintegration. Protection should not become paternalistic control. Measures must respect

autonomy while addressing coercion and vulnerability.

4.5 FAMILY, PROPERTY AND ECONOMIC RIGHTS

Property and economic rights are important because economic dependence can limit autonomy and access to justice. Reforms recognizing daughters' equal coparcenary rights demonstrate the movement from traditional assumptions towards equal property status.Gender justice also requires equal opportunity in employment, fair wages, social security, education and access to financial resources. Economic rights strengthen the capacity to exercise civil and political rights.

4.6 INSTITUTIONAL MECHANISMS

Institutional mechanisms include courts, legal services authorities, commissions for women, police, workplace complaint committees and other administrative bodies. Their effectiveness is measured by accessibility, independence, responsiveness, gender sensitivity and accountability.

CHAPTER – V

JUDICIAL DEVELOPMENT OF GENDER JUSTICE

5.1 *VISHAKA v. STATE OF RAJASTHAN*

Vishaka is a landmark decision in the development of gender justice in India. The Supreme Court recognized sexual harassment at the workplace as a violation of fundamental rights and framed guidelines in the absence of specific legislation. The case demonstrates how constitutional rights can respond to forms of gender-based harm where statutory law is incomplete. It also illustrates the relationship between dignity, equality, work and personal security.

5.2 *NALSA v. UNION OF INDIA*

NALSA recognized the constitutional rights of transgender persons and affirmed dignity, equality, autonomy and the right to self-identify gender. Its significance for gender justice is that human rights cannot be confined to a binary understanding of gender. The decision supports an inclusive approach in which gender identity is treated as an aspect of personhood and constitutional protection.

5.3 *SUCHITA SRIVASTAVA v. CHANDIGARH ADMINISTRATION*

The Court emphasized reproductive choice and decisional autonomy. The case is significant because it recognizes that reproductive decisions involve personal liberty and bodily autonomy rather than being matters to be controlled solely through paternalistic decision-making. A human rights approach to gender justice requires respect for informed personal choices, subject to legitimate constitutional limitations.

5.4 *JUSTICE K.S. PUTTASWAMY v. UNION OF INDIA*

The privacy judgment recognized privacy as a fundamental right and connected privacy with dignity, autonomy and individual choice. Its principles are relevant to gender justice because control over personal information, identity, body and intimate decisions is central to equality. Privacy also protects individuals from forms of social and State intrusion that can disproportionately affect women and gender minorities.

5.5 *JOSEPH SHINE v. UNION OF INDIA*

Joseph Shine rejected a criminal-law provision based on patriarchal assumptions concerning marriage and women's sexuality. The judgment emphasized autonomy, dignity and equal status. The decision illustrates how constitutional equality requires courts to examine the gender stereotypes embedded in law rather than accepting them as natural or inevitable.

5.6 *ANUJ GARG v. HOTEL ASSOCIATION OF INDIA*

Anuj Garg is important for its treatment of protective discrimination and gender stereotypes. A law presented as protecting women may still be unconstitutional if it restricts women's opportunities based on assumptions about vulnerability. The case supports a shift from paternalistic protection towards empowerment and substantive equality.

5.7 BABITA PUNIYA AND GENDER STEREOTYPES

The decision concerning permanent commissions for women officers in the armed forces rejected arguments based on stereotypical assumptions about women's domestic roles and physical or social suitability. The case demonstrates that equality analysis must question institutional practices that treat women as a uniform category with predetermined roles.

5.8 VINEETA SHARMA AND PROPERTY EQUALITY

Vineeta Sharma affirmed the equal coparcenary status of daughters under the amended Hindu

Succession framework. The decision is significant because property rights directly affect economic autonomy and bargaining power. Substantive gender justice requires recognition that equal legal status must translate into actual control over economic resources.

5.9 JUDICIAL CONTRIBUTION AND LIMITS

Judicial decisions have expanded the meaning of dignity, equality and autonomy and have addressed areas where legislation was inadequate. However, courts cannot alone eliminate structural inequality. Implementation requires legislation, administration, social services, education and institutional reform. Judicially declared rights may remain ineffective when procedures are inaccessible, institutions are under-resourced or social norms discourage reporting. The judicial contribution is therefore essential but not sufficient.

CHAPTER – VI

CRITICAL HUMAN RIGHTS ANALYSIS

6.1 FORMAL EQUALITY VERSUS SUBSTANTIVE EQUALITY

The strongest contribution of a human rights approach is its ability to expose the limits of formal equality. A rule that treats everyone identically may reproduce inequality where starting conditions are unequal. Substantive equality requires attention to outcomes, barriers and structural disadvantage. At the same time, substantive equality must not become a justification for unnecessary paternalism. Measures should expand agency and participation rather than reinforce the idea that women require permanent protection.

6.2 GENDER-BASED VIOLENCE AS A HUMAN RIGHTS VIOLATION

Violence against women affects rights to life, bodily integrity, dignity, liberty, health, privacy and equality. It can occur in homes, workplaces, public spaces, institutions and digital environments. A human rights approach requires prevention, protection, investigation, prosecution, support and remedy. Justice must also address secondary victimization. Survivors may face disbelief, stigma, pressure to withdraw complaints or insensitive treatment by institutions. A rights-based system must prevent such additional harm.

6.3 INTERSECTIONALITY AND MULTIPLE DISCRIMINATION

Gender does not operate independently of caste, class, disability, age, sexuality, migration status, rural location or economic position. The same legal remedy may therefore have different practical value for different people. An intersectional human rights approach asks who is most

likely to be excluded from protection and whether institutional design accommodates diverse needs. This is particularly important for persons with disabilities, economically vulnerable women, marginalized communities and gender minorities.

6.4 ECONOMIC AND DIGITAL DIMENSIONS OF GENDER JUSTICE

Economic independence is closely connected with autonomy. Unequal access to employment, property, finance, education and social protection can restrict a person's ability to leave abusive situations or pursue legal remedies. Digital spaces create additional opportunities and risks. Online harassment, image-based abuse, doxxing, cyberstalking and discriminatory algorithms can affect dignity and participation. Gender justice must therefore extend to digital rights and technology governance.

6.5 ACCESS TO JUSTICE AND INSTITUTIONAL BARRIERS

Legal rights have limited value when justice systems are difficult to access. Common barriers include lack of awareness, cost, distance, procedural complexity, delays, fear of retaliation and distrust of institutions. Human rights-based justice requires user-centred procedures, legal aid, trained personnel, confidentiality, survivor support and accountability for delay or misconduct. Accessibility should be evaluated from the perspective of the person seeking relief.

6.6 STEREOTYPES, SOCIAL NORMS AND STRUCTURAL INEQUALITY

Gender stereotypes can influence legislation and institutional decisions. Assumptions that women are naturally dependent, emotionally weak, primarily responsible for care or unsuitable for certain work can limit equality even when rules appear neutral. Transformative gender justice therefore requires legal education, institutional training and public communication that challenge stereotypes. Law should not reproduce social hierarchies under the language of protection.

6.7 ACCOUNTABILITY, REMEDIES AND IMPLEMENTATION

Accountability means that institutions must be answerable for the performance of human rights duties. This requires complaint mechanisms, monitoring, transparent procedures and effective remedies. Remedies should be appropriate to the harm. They may include protection orders, compensation, reinstatement, disciplinary action, criminal prosecution, rehabilitation, counselling, legal aid or institutional reform. The objective is not only punishment but restoration of rights and prevention of recurrence.

6.8 HUMAN RIGHTS APPROACH: STRENGTHS AND CHALLENGES

Strengths include universality, dignity-based reasoning, enforceable rights, accountability, attention to discrimination and the possibility of linking domestic law with international standards. The approach also supports participation and intersectional analysis. Challenges include the gap between international commitments and domestic implementation, limited institutional capacity, social resistance, delays and the difficulty of translating broad principles into specific policies. Human rights language can also become symbolic if institutions do not provide effective remedies.

6.9 IDENTIFICATION OF LEGAL AND INSTITUTIONAL GAPS

Important gaps may arise from fragmented laws, inconsistent implementation, lack of awareness, inadequate data, weak coordination and insufficient support services. Gender justice also requires continuous review because social and technological conditions change. The central gap is therefore not necessarily the absence of every legal protection, but the distance between normative commitment and lived reality. A critical human rights approach must evaluate that distance and recommend institutional changes.

CHAPTER – VII

FINDINGS, SUGGESTIONS AND CONCLUSION

1.1 MAJOR FINDINGS OF THE STUDY

1. The human rights framework provides a strong normative foundation for gender justice because dignity, equality and non-discrimination are universal principles.
2. Gender justice cannot be achieved through formal equality alone; substantive equality requires attention to historical and structural disadvantage.
3. CEDAW and related international standards require States to move beyond non-discrimination towards practical realization of equality.
4. The Indian Constitution provides powerful tools through Articles 14, 15, 16 and 21, supported by Directive Principles and other constitutional provisions.
5. Indian courts have expanded gender justice through decisions addressing workplace harassment, gender identity, reproductive autonomy, privacy, marriage, property and gender stereotypes.
6. Statutory protection is important but effectiveness depends on institutional implementation, awareness, accessibility, timely remedies and accountability.
7. Gender-based violence is a human rights issue because it can impair dignity, equality,

bodily integrity, liberty, privacy and participation.

8. Intersectional disadvantage means that a single model of protection may not serve all women and gender-diverse persons equally.
9. Economic independence, education, health, digital safety and political participation are integral components of gender justice.
10. The most significant challenge is the implementation gap between formal rights and lived equality.

1.2 FINDINGS RELATING TO HUMAN RIGHTS

The study finds that dignity should be treated as a central principle connecting equality, autonomy and freedom from degrading treatment. A rights-based approach also requires effective remedies and participation. Human rights are interdependent. Gender equality cannot be isolated from economic, social, cultural, civil and political rights. Restrictions in one sphere may undermine rights in another.

1.3 FINDINGS RELATING TO GENDER JUSTICE

Gender justice requires both protection from harm and empowerment to participate. A purely protective model can reproduce stereotypes if it limits women's choices in the name of safety. Justice must be survivor-centred, accessible and sensitive to social context. Institutions should be evaluated by outcomes and not merely by the existence of formal procedures.

1.4 EVALUATION OF HYPOTHESIS

The study supports the Alternative Hypothesis (H). The legal and human rights framework provides 1 substantial protection in principle, but the existence of constitutional guarantees and legislation does not by itself ensure substantive gender justice. Structural inequality, stereotypes, institutional barriers, unequal access to resources and weaknesses in implementation can prevent effective enjoyment of rights.

1.5 ANSWERS TO THE RESEARCH QUESTIONS

1. Yes. A human rights approach provides a comprehensive normative framework because it connects gender justice with dignity, equality, non-discrimination, participation and remedies.
2. Formal constitutional equality is necessary but not sufficient. Substantive equality requires corrective and transformative measures where social structures produce

disadvantage.

3. International standards, especially CEDAW, provide an important normative influence and reinforce the obligation to eliminate discrimination in law and practice.
4. Indian constitutional jurisprudence has significantly strengthened protection of dignity, autonomy and equality, but implementation remains crucial.
5. Legal mechanisms provide important remedies, but accessibility, awareness, institutional sensitivity, delay and enforcement affect their effectiveness.
6. Intersectional factors can substantially influence vulnerability and access to justice; therefore gender policy must be responsive to diverse circumstances.
7. Reforms should strengthen implementation, legal aid, institutional accountability, gender-sensitive training, data systems, survivor support, digital safety and participation of affected communities.

1.6 SUGGESTIONS AND RECOMMENDATIONS

1. Adopt a comprehensive human rights-based gender justice policy across constitutional, criminal, civil, labour, health, education and digital governance domains.
2. Strengthen implementation of existing laws through monitoring, independent review and clear institutional accountability.
3. Ensure accessible, affordable and timely legal aid and support services for survivors of gender-based discrimination and violence.
4. Provide mandatory gender-sensitivity and human-rights training for police, judges, prosecutors, public officials, workplace committees and frontline service providers.
5. Improve protection against retaliation and secondary victimization in complaint and justice processes.
6. Use gender-responsive budgeting and measurable indicators to assess whether policies actually reduce disadvantage.
7. Collect reliable, disaggregated data while protecting privacy, particularly concerning violence, access to justice and intersectional disadvantage.
8. Promote women's economic independence through equal opportunity, property rights, financial inclusion, education, decent work and social protection.
9. Ensure meaningful participation of women and gender-diverse persons in decision-making institutions and policy design.
10. Strengthen digital gender justice through privacy protection, accessible reporting mechanisms, rapid response to online abuse and accountability of relevant

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intermediaries.

11. Apply an intersectional lens to legislation and public services so that marginalized groups are not excluded by one-size-fits-all models.
12. Treat international human rights standards as interpretive and policy resources while ensuring that domestic remedies remain effective and accessible.

1.7 CONCLUSION

Gender justice is ultimately a question of equal human worth. A legal system cannot be considered fully just merely because it declares that women and men are equal. The deeper question is whether individuals can live with dignity, exercise autonomy, participate in society, access resources and obtain effective protection when their rights are violated. The human rights approach provides a powerful framework for answering that question. It transforms gender justice from a policy preference into a matter of rights, duties and accountability. International instruments such as the UDHR and CEDAW establish universal standards, while the Beijing framework demonstrates the need for action across multiple areas of life. In India, constitutional guarantees and judicial development provide substantial tools for addressing discrimination and protecting dignity. Nevertheless, the study demonstrates that law alone cannot eliminate gender inequality. Substantive justice requires institutional transformation, economic empowerment, social change, effective remedies and meaningful participation. Gender stereotypes must be challenged, justice systems must become more accessible, and the voices of affected persons must inform legal and policy decisions. A critical human rights approach therefore requires continuous evaluation of the distance between legal promise and lived reality. The objective is not simply to protect women from harm but to create conditions in which all persons, regardless of gender identity or social position, can exercise equal citizenship and live free from discrimination, violence and structural exclusion.

1.8 SCOPE FOR FUTURE RESEARCH

Future research may use empirical field studies to measure access to justice across different regions and social groups. Comparative research can examine how other jurisdictions translate CEDAW and substantive equality into domestic remedies. Further studies may also examine gender justice in artificial intelligence, algorithmic discrimination, digital violence, climate justice, political representation, unpaid care work and the rights of transgender and gender-diverse persons.

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