

**A GENDER-INCLUSIVE LEGAL APPROACH ON ENVIRONMENT
AND WOMEN IN RURAL INDIA: A NEXUS TO THE CONCEPT
OF POVERTY FEMINISATION**

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ABSTRACT

Social and economic disparities still continue despite worldwide recognition of the gender components of sustainable development. Women are the ones that suffer the most and they make up an enormous percentage of the world's impoverished people. The participation of women as major players in a sustainable economy and institutional structure will help in the transformation to a more equal and sustainable society. Environmental deterioration and displacement from their land, as well as changes in land use and agricultural, practises, have made the life of rural women considerably more difficult in India. This in turn makes them resourceless. The research critically analyses the current gender imbalances faced by the Indian rural women affected by environmental degradation, such as restricted recognition, privileges, and access to creative and productive programmes, all of which contribute to the feminisation of poverty. The research also examines and evaluates the vulnerability of impoverished rural women in India as a result of environmental deterioration. It examines the efficacy of India's "gender engaging approach," which aims to alleviate poverty, promote gender equality, and empower women in order to achieve the aspirations of the Rio Declaration, the Millennium Development Goals, and to protect their human rights, as outlined in the Constitution of India. This approach involves domestic policy and legislation, non-governmental organisations, and self-help organisations of women, with a focus on environmental recognition, ownership, and responsibility. The research will also highlight on how law fails to address the gender inequalities that exist among individuals who live and work in rural India.

Keywords: Women, Gender, Rural, Environment, Poverty feminization, India, Sustainable development

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INTRODUCTION

Deprivation among women and girls is still a major social justice and health concern that limits their independence and their economic potential across the world. This is especially true for women and girls in developing countries and civilizations with a strong patriarchal culture, like India¹. Gender bias becomes embedded in policy, social institutions, and the framework that creates society in countries substantially impacted by patriarchal values. Individuals and organisations in positions of power must utilise their knowledge and talents to solve this worldwide issue in order to prevent future gender discrimination of women and girls. The Global Gender Gap Report of 2021 backs up this assertion of disparity. According to the report, India ranks 122nd out of 138 nations in terms of gender disparity. Females in Bangladesh and Pakistan, which are neighbours, are rated at 116 and 112, respectively². Environmental deterioration and displacement from their land, as well as changes in land use and agricultural practises, have made the lives of rural women considerably more difficult in India. They have a higher chance of being “resourceless.” Basanti Bai, a poor and displaced woman from Madhya Pradesh’s Bargi Dam region, said, “We don’t own the land, and we don’t own the forest. If water isn’t ours, then what is ours? They are either in the hands of the government or in the hands of men. What will happen if all of these things are taken away from us?”³ Agricultural, industrial, and home activities occupy about 46% of the working hours for women in Pura, a village in Karnataka. These activities take up 37% of the time for men in that area. In western Uttar Pradesh, pregnant women work between 14 and 16 hours every day.⁴ Women are not only responsible for home chores, but also for agricultural productivity. They are in charge of sowing, weeding, ploughing, harvesting, processing, and storing the crops. In Himachal Pradesh, women perform 61% of the entire labour, while males contribute only 39%⁵. The key to conserving the environment and promoting sustainable development is to address gender equality. The empowerment of rural women through environmental

¹ Cassandra Lauren Melo, *The Feminization of Poverty: A Brief Analysis of Gender Issues and Poverty among Women and Girls*, THE CANADIAN JOURNAL OF CRITICAL NURSING DISCOURSE (Jan. 12, 2022, 10:00AM) https://www.researchgate.net/publication/334408603_The_Feminization_of_Poverty.

² World Economic Forum, *Global Gender Gap Report 2021*, INSIGHT REPORT MARCH 2021 (Jan. 12, 2022, 10:10AM) https://www3.weforum.org/docs/WEF_GGGR_2021.pdf

³ Gitanjali Nain Gil, *Feminisation of poverty: rural Indian women and the environment*, 63 NILQ.293, 291-397 (2012).

⁴ Anil Agarwal & Sunita Narain, *Towards Green Villages a strategy for environmentally sound and participatory rural development in India*, 25 IMPACT 15, 20-24 (2004).

⁵ *Id.* at 23.

awareness, environmental entitlements, and environmental responsibility can help them regenerate, grow, change, and better their political, economic, and social standing.

MEANING OF FEMINISATION OF POVERTY

Mahatma Gandhi was once asked, “What should we keep in mind the most while making plans for our country?” And here, his immediate reply was, “Think about the last man. Invariably the last man is a woman”⁶. The rural woman in India is unseen, impoverished, oppressed, and discriminated.

The process through which deep-rooted and diverse cultural, social, and structural issues generate and intensify poverty among women and girls is referred to as feminization of poverty. Due to gender prejudice and discrimination, women and girls over the world are limited in their choices and opportunities in ways that their male counterparts are not. Due to gender inequalities, girls and women are abused, marginalised, and socially excluded. Examining the existing social and cultural norms is a part of this process. Women and girls are frequently denied opportunities and choices as a result of prevalent cultural norms that maintain their low status in society. This is especially true when cultural norms deny the existence of gender inequality, or the injustice of such disparities⁷. In patriarchal countries, girls and women are frequently required to conform to rigid gender-related behaviours and customs, and their options and opportunities are limited in ways that males are not. Women and girls are undervalued, which fosters a number of damaging yet prevalent attitudes and practises that can have long-term consequences for them.

One of the most important reasons for the cause of feminization of poverty in India is that environmental deterioration has put impoverished rural women in India at high risk. It examines the efficacy of India’s “gender engaging approach,” which aims to alleviate poverty, promote gender equality, and empower women in order to achieve the aspirations of the Rio Declaration, the Millennium Development Goals, and to protect their human rights as outlined in the Constitution of India. This strategy combines domestic policies and regulations, non-governmental organisations (NGOs), and self-help groups for women, with a focus on environmental recognition, rights, and sustainability.

⁶ Anil, *Supra* note 6, at 18.

⁷ Naila Kabeer, *Gender, poverty, and inequality: a brief history of feminist contributions in the field of international development* 23 G&D 189, 195-198 (2015).

The majority of the world's poor are women, and the proportion of poverty among women is increasing in comparison to males throughout time. Growing poverty among women is connected to the 'feminisation' of family headship. The emphasis in this concept was on income and material poverty. Poverty is defined not only by a lack of income, but also by the denial of choices and restrictions on choices that are necessary for a reasonable level of living. The government, social scientists, lawmakers, and feminists of all political backgrounds are all concerned about the "feminisation of poverty." Poverty impacts elderly women as much as young and adult women with children⁸.

CAUSES FOR FEMINISATION OF POVERTY

Most discussions of the feminization of poverty are viewed through the lens of a group of women. The method by which the statistics for poverty are compiled encourages this pattern. The rise in female-headed families is attributed to the changes in mortality and marriage rates, divorce and separation rates, and out-of-wedlock births. The lifespans of women lead to an increase in the number of women over 65 years living alone, with a large proportion of these women being impoverished. Younger women become heads of homes as a result of childbearing outside of marriage, separation, divorce, or the desire to live alone while working and postpone marriage until they are ready. Poverty of women is the consequence of ideological and social barriers unique to them, in addition to the various structural causes and a lack of effective welfare measures. Despite its social, economic, and psychological significance, the responsibilities of women are undervalued and time-consuming, preventing them from fully participating in the work force. The sex-segregated structure of employment limits the economic and educational options for women. When women become single mothers, the negative effects of this position become more apparent. The dual status of women as unpaid domestic labour and underpaid labour in the workplace has resulted in the feminization of poverty. Rising divorce and single parenthood rates have accelerated the pace, but the nature of poverty of women is determined by the sexism and racism engrained in an unequal economy like India⁹.

Another important cause for poverty feminization is the preference for the male child. Long-standing son preference and gender discrimination appear in a number of ways in communities

⁸ Martha E. Gimenez, *The Feminization of Poverty: Myth or Reality?*, LIBRARY.FES.DE (Jan. 12, 2022, 10:30AM) <https://library.fes.de/libalt/journals/swetsfulltext/10590671.pdf>.

⁹ *Id.*

where patriarchal values dominate culture and behaviour. Sex-selective abortion, unequal distribution of household resources and medical treatment, neglecting of girl infants, and female infanticide are the few examples.

WOMEN AND THE ENVIRONMENT: ITS INTERDEPENDENCE

The environment and rural women are intricately connected with each other, and it is important to recognize and promote this relationship. This connection, whether consciously or unconsciously, indicates an emotional and social link. The ecological and developmental sensitivity of women, as well as their responsibilities as producers, managers, income producers, and educators, must be recognized and honoured. They serve as repository for traditional skills and knowledge. Women have traditionally been in charge of many conservation initiatives, such as conserving the soil, forests, water, and advocating rehabilitation of land that has been destroyed by inadequate husbandry.

According to a research conducted in one of the hilly districts of Himachal Pradesh, women prefer a mixed forest that can provide their needs for fuel, fodder, and fruit. This also preserved the area's biological richness¹⁰. Women may make decisions that help the environment by using their local knowledge and abilities in natural resource management. The capacity of women to work together for a successful action is, nonetheless, a strength of women as managers. Sustainability and empowerment are promoted through integrating plurality and variety based on individual and community experiences. Despite inequalities in caste, class, education and language, environmental initiatives like the Stri Mukti Sangarsh and the Chipko Movement illustrates the willingness of rural women to work together for a common cause. In the Chamoli district of Uttar Pradesh, the well-known Chipko Movement began in 1974. Village women were actively involved in the campaign, which used Gandhian protest strategies to conserve the Himalayan forests. Women gathered and embraced trees to protect them from cutting, thus securing long-term forest and environmental benefits¹¹. Likewise, women from Bajeena village in Almora district (Uttarakhand) used their local knowledge and abilities to recover exhausted underground water supplies that had been reduced due to forest

¹⁰ HP Forest Department, *HP Forest Sector Policy & Strategy 2005*, HPFOREST (Jan. 14, 2022, 10:30AM) <https://hpforest.nic.in/files/policy.pdf>.

¹¹ In Depth, DOWNTOEARTH (Jan. 14, 2022, 11:00 AM) <https://www.downtoearth.org.in/indepth/chipko-an-unfinished-mission-30885>.

cover loss. As a result, people began planting trees and constructing water-harvesting structures¹².

TOWARDS A LEGAL FRAMEWORK - THE RIGHT TO ENVIRONMENT

International Framework

Gender is not only about “having more women than men”, but also about contextualising and incorporating them into policy and developmental programmes. It considers the socio-cultural interaction of the sexes, as well as its influence and its distinguishing impacts. Previously, Indian policymakers were not at all concerned with the various contributions made by women. But today, women and men must be treated equally in terms of production and involvement in all types of activities. Such improvement would help in the achievement of the Millennium Development Goal of poverty and hunger reduction.

Taking gender equality effectively in areas of environmental conservation and sustainable development in the international context was unknown till the 1980s. The voices of women were not heard or recognized and the international community’s attention was mainly drawn to concerns like disarmament, migration, and technology transfer¹³. The role of women as active and equal participants in advancing sustainable development was first recognised at the Nairobi Forward Looking Strategies in 1985, with the goal of improving awareness of environmental issues among individual woman as well as men by way of managing their environment and by preserving the productive assets¹⁴.

Many international instruments and rulings have recognised environment and development as an interrelated issue since the 1990s, whereas women and growth have been given distinct and equal standing. Agenda 21, for example, promotes worldwide action by women in the pursuit of sustainable and equitable development. The achievement of Agenda 21 depends on the

¹² Ria Gupta, *How a women’s group in Uttarakhand saved their village from forest fires*, MONEY CONTROL (JAN. 14, 2022, 10:30AM), <https://www.moneycontrol.com/news/trends/features/how-a-womens-group-in-uttarakhand-saved-their-village-from-forest-fires-7220211.html>.

¹³ K A Patel, *Women and Sustainable Development: An International Dimension* (India: Ashish Publishing House (1995)

¹⁴ United Nations, *Report Of The World Conference To Review And Appraise The Achievements Of The United Nations Decade For Women: Equality, Development And Peace*, UN ORG (JAN. 15, 2022, 10:30AM) <https://www.un.org/womenwatch/confer/nfls/Nairobi1985report.txt>

active participation of women decision-makers, technical advisors, planners, managers, and workers in the environmental and development spheres¹⁵.

The Convention on Biological Diversity, 1992 provides for the essential role that “women play in the conservation and sustainable use of biological diversity, and reaffirms the necessity for full involvement of women at all levels of policy formulation and implementation for the biological diversity”¹⁶.

National Framework

The Constitution of India adheres to a democratic social order, which encourages the rights and reasonable desires of women. Equality is a foundation of Indian democracy, and Article 14 of the Constitution of India ensures the right to equality¹⁷. This was rightly observed in the case of **Indra Sawhney v India AIR 1993 SC 477**. Again, Article 15 of the Constitution of India prohibits discrimination on the basis of sex¹⁸. It applies to all government actions, with the exception that the “substantive equality clause” allows the government to establish additional provisions for women and children. This makes it possible to address concerns of socio-economic disadvantages faced by women.

For poverty reduction, sustainable development, and female empowerment, access to land and agricultural support services is essential. Women have been subjected to positions of servitude and subjection as a result of limited access to property ownership as a result of historical, cultural, customary, and personal regulations. In the Indian culture, land ownership is related to male lineage. Despite the Hindu Succession Act of 1956, which gives women the right of inheritance, cultural pressures and household taboos force women to abandon their legal rights, particularly in property disputes. According to the statistics of Food and Agriculture Organization, just 9.21% of Indian women farmers own land¹⁹. As a result of this, limited access to land ownership reduces their interest to maintain soil, thereby affecting food production to a great extent.

¹⁵ United Nations, *Report of the United Nations Conference on Environment and Development*, UN ORG. (JAN. 15, 2022, 10:30AM) <https://www.un.org/esa/dsd/agenda21/Agenda%2021.pdf>

¹⁶ United Nations, *Preamble, UN Convention on Biological Diversity 1992*, CBD (JAN. 15, 2022, 10:30AM) <https://www.cbd.int/doc/legal/cbd-en.pdf>

¹⁷ Internal Complaints Committee, *Equal Rights*, IITR (JAN. 15, 2022, 10:30AM) <https://iitr.ac.in/internalcomplaintscommittee/annexure.pdf>

¹⁸ *Id.* at Article 15

¹⁹ Maryellen Kennedy Duckett, *Empowering female farmers to feed the world*, NATIONAL GEOGRAPHIC (JAN. 15, 2022, 10:30AM) <https://www.nationalgeographic.com/culture/article/partner-content-empowering-female-farmers>

Gender related inequities are worsened by unequal job options in development programmes. Women empowerment and income generation are the two main goals of eco-development efforts. However, the participation rates are low. Today, pay gap still remains a major concern in many sectors. Protective legislation, such as the Equal Remuneration Act of 1976, and the Minimum Wages Act of 1948, has been found to be ineffective. In fact, Articles 39, 42, and 43 of the Constitution of India, which promises economic equality, remain unfulfilled. However, these requirements reflect a country's commitment to the notion of social justice through rights such as a sufficient means of subsistence, equitable pay, and a reasonable quality of life. The Equal Pay Act not only covers equal pay for equal labour, but it also prevents employers from revising and fixing pay scales to avoid wage discrimination. This was highly reflected in the Mackinnon Mackenzie case²⁰.

The Unorganised Workers Social Security Act 2008, which offers social security and welfare payments through several government systems, was established by Parliament to address this issue and provide social security. Earning a monthly wage as determined by the Central or State government is a requirement for application the Act. This clearly indicates that unpaid women labourers and women who rely on natural resources such as forests for their livelihood are overlooked in the legal system and are left without any remedy. Infact, this “invisible work” undertaken by rural women is certainly “invisible” and thus the authorities are unaware of it.

PARTICIPATION OF WOMEN IN GOVERNANCE AND IN DECISION MAKING PROCESSES

The participation of women in the governance and in various decision-making processes has a great significance towards their empowerment. In this regard, the 73rd and 74th constitutional amendments to the Constitution of India provides for the formation of a strong, functional, and democratic local authorities (Panchayats) in both rural and urban regions²¹. Without sufficient representation of the poorer sections of society, economic progress and the achievement of social justice measures may be impossible. Its primary goal was to empower the most disadvantaged members of the society, who had previously been prevented from participating

²⁰ Mackinnon Mackenzie and Co. Ltd. v Andrey D Costa, (1987) AIR SC 1281 (India).

²¹ Nitisha, *73rd Amendment of the Constitution of India, 1992 – Summary*, YOUR LIBRARY ARTICLE (JAN. 15, 2022, 10:30AM) <https://www.yourarticlelibrary.com/constitution/73rd-amendment-of-the-constitution-of-india-1992-summary/4668>.

in local self-government for a variety of historical reasons, thus leaving the constitutional goal of ensuring social justice unfulfilled²².

One issue that demands special attention is the inclusion of gender into conservation policies. Greater harmonisation and synergy between policy frameworks and legal measures are required. For example, there is still a gap between policy and regulation in the areas of forestry and biological diversity. The Forest (Conservation) Act 1980, as revised in 1988, is an example of the legislation's inability to create change in the position of women. The amendment failed to meet the goal set in the National Forest Policy of 1988. The policy emphasised environmental protection and forest conservation through forming a large-scale movement of people that included women²³. The Biological Diversity Act of 2002 is another example of legislative failure in terms of gender equality. It was regarded as a progressive legislation, but it fails to expressly incorporate women as participants in local biodiversity protection and management, as well as the traditional knowledge that goes with it. The Act includes no provision for this, despite the fact that it expressly states the need of a participatory approach that includes women. Traditional medicine practitioners, such as the vaidyas and hakims, have traditionally been men. On the other hand, the contribution of women who practise traditional medicine is always underestimated as a result of their absence from the legislation. The inability to accept the capacities and capabilities of women as local biodiversity managers is also a violation of their environmental rights.

A PARTICIPATORY APPROACH TO ENVIRONMENTAL MANAGEMENT

In India, environmental responsibility is more of a transitional step towards sustainability connected to values of community development, land ethics, and government help. Environmental management is not a choice for impoverished rural women. It is a need for poverty reduction and emancipation. Environmental conservation promotes sustainability by embracing constant improvement through partnerships, market incentives, voluntary programmes, and through cooperative working. Non-Governmental Organisations (NGOs) and civil rights activists, are gradually realising that successful execution of any environmental policy depends on collaborative partnerships between government agencies and public

²² Bihari Lal Rada v Anil Jain (2009) 4 SCC 1(India)

²³ Ministry of Environment and Forests, Government of India, No 3-1 /86-FP, 7 December 1988.

engagement. The goal of partnership programmes is to use such NGOs for participation and awareness development of women in the rural areas. Also, organizing mahila mandals and sanghas (village-level organisations for women) and initiating the development of Self Help Groups (SHGs) can be effective in reducing rural poverty and empowering women. SHGs are considered as empowerment organisations for women that enhance their access to microcredit, bank relations, economic resources, etc., as well as handles various other concerns such as domestic violence, dowry system, etc.

CONCLUSION, SUGGESTIONS AND RECOMMENDATIONS

From the above discussions it is clear that although in theory, India's legal system is promising and encouraging, but its efficiency in practise is very limited. Discrimination is evident when it comes to environmental challenges, particularly when it comes to rural women and agriculture, land and resource access, wages, and governance. Although India is a party to the above discussed international instruments, establishing and preserving environmental rights at the national level still remains a matter of concern. Gender mainstreaming is mentioned in the National Agricultural Policy, 2000²⁴. It takes structural, functional, and institutional steps to empower women by increasing their access to inputs, technology, and other agricultural resources, as well as encouraging them to participate in farming operations. The Supreme Court of India inserted a provision that the statute only applies in organised sectors where work is carried out under the supervision and instructions of appropriate authorities. Discrimination exists in the unorganised sector. Women are the ones that suffer the most.

While it is evident that "he" also includes "she" in general Indian law, this overlooks the fact that in a strongly orthodox patriarchal culture, the meaning of the legal "he" strongly promotes patriarchal rule in its social interpretation and implementation, thus worsening the concept of gender equality.

When "skill" is used as the method for evaluating wages, it becomes a complicated issue, especially in the agricultural sector. Within patriarchal societies, rural women have little opportunities to acquire the skill sets that would enable them to compete with men. The absence of unpaid labour is a problem in the Minimum Wages Act of 1948 in terms of gender equality. In India, males are thought to be the primary workers. Depending on the employment circumstances, the border between skilled and unskilled, or paid and unpaid, is quite narrow.

²⁴ Kiran Yadav, *National Agricultural Policy*, AGROPEDIA (JAN. 15, 2022, 10:30AM) <http://agropedia.iitk.ac.in/content/national-agricultural-policy>.

Defining activities further complicates the problem, putting women in a more insecure and vulnerable position in an ever-changing environment. The Minimum Wages Act, 1948 has thus failed to address the larger concerns that affect women and as a result, the Act only has a little influence on the economic status of rural women.

India's economy has increased since 1990 as a result of internal economic liberalisation and globalisation reforms, enabling it to become the world's third biggest economy by 2030. The rich are getting wealthier, and there is a growing middle class, but the poor, particularly those who live and work in rural India, remain shockingly impoverished. Using their knowledge and skills, rural women in India contribute significantly to the use and management of environmental resources, ultimately strengthening India's rural economy. Poor rural women are impeded by illiteracy or by lack of education, which leads to their exclusion from community resource management responsibilities. This in-turn acts as a hindrance in their governance and decision-making process. This in fact leads to poverty feminization in India. No doubt, India has several regulations, policies and legislative frameworks which directly or indirectly throws light to the issue of poverty feminization. But, from the above discussions we can reach to a conclusion that these regulations, policies and legislative frameworks are very fragmented in nature. Thus, it is the need of the hour to have a strict sui-generis comprehensive law in India which directly concerns the problem of poverty feminization of the rural women. Article 14 of the Constitution of India should be observed in a stricter sense. These will in fact, help towards building a nation where gender discrimination will not exist at all, and will definitely help in the prosperity of the nation.