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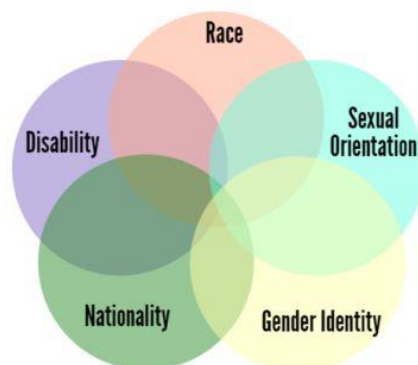
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WHEN LIVED REALITIES OVERFLOW JUDICIAL COMPARTMENTS

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“There is no such thing as a single-issue struggle because we do not live single-issue lives.”

-Kimberle Crenshaw

Individual is sum of various facets of overlapping identities, that reinforce each other creating layered exclusion, oppression and social disadvantage. However, the systems analyzing inequality rely upon compartmentalization, reducing identity to distinct categories. These compartments cannot contain fluid identities, thus lived realities overflow and are often overlooked by the law. Intersectionality arises precisely in this gap between lived experience and judicial compartments.

‘Intersectionality’ was coined by Kimberle Crenshaw. She defined intersectionality as *“a prism for seeing the way in which various forms of inequality often operate together and exacerbate each other.”*¹ We often try to contain inequality in various compartments named sex, race, religion etc. What’s ignored is a person’s personality is not created in compartments, and his experience is not just the total of its compartments. A real-life illustration is woman who is dalit experiences oppression distinct from those of a Dalit man or an upper-caste woman. She may face discrimination that is shaped by all parts of their identity - not just one.

¹ <https://www.unwomen.org/en/articles/explainer/intersectional-feminism-what-it-means-and-why-it-matters-right-now>

Intersectionality: Constitutional Framework and Judicial Evolution

On paper, intersectionality aligns with core constitutional values, as Articles 14 to 17 and 21 guarantees equality and protect against discrimination. Article 15(1) prohibits discrimination *on grounds only of religion, race, caste, sex, place of birth, or any of them*². To invoke Article 15(1), one must understand the true essence of ‘on grounds only of.’ Starting with a broad view as in *Daulat Singh*³, the judiciary seemed capable of seeing discrimination and overflow beyond compartments; however, it blinkered its vision, twisting ‘on grounds only of’ into a narrow cage. In *Mahadeb v. B.B. Sen*⁴, the Court said, a law must discriminate solely based on sex to fall under Article 15(1); if other factors contribute, it does not qualify as discrimination under this Article.

This became precedent and basis of other cases, such as *Anjali Roy*⁵, *Nergesh Meerza*⁶ and many others, and just like that, the law decided discrimination must be monogamous -strictly one reason at a time-while reality continues its messy, polygamous dance.

If the law counts axes of oppression one by one, can it ever hope to catch up with a world where injustices multiply in infinite intersections?

Intersectional Feminism

Kimberlé Crenshaw’s intersectionality shows that women’s oppression multiplies with intermingling of gender with race, class, caste, and sexuality. Intersectional feminism denies that females experience uniform discrimination but on various and distinct levels.

The Justice Verma Committee (2013) acknowledged that achieving gender equality cannot be done in isolation. It highlighted that “We must ensure that not only does a woman not suffer on account of gender, but also not suffer on account of caste or religion in addition.”⁷

Intersectional Feminism and Its Various Dimensions

Gender and Caste- In India, neither gender nor caste operates on fair or even playing field. When these two axes of power intersect, inequality does not merely add up- it multiplies. In a

²<https://www.legislative.gov.in/static/uploads/2025/08/cb1b190ea633a1746368ed1fac35fb30.pdf>

³*Punjab Province vs Daulat Singh*, AIR 1946 PC 66.

⁴*Mahadeb v. B.B. Sen*, A.I.R. 1951 Cal. 563

⁵ *Anjali Roy v. State of West Bengal*, A.I.R. 1952 Cal. 822

⁶*Air India v. Nergesh Meerza*, A.I.R. 1981 S.C. 1829

⁷<https://spuwac.in/pdf/jsvermacommittereport.pdf> (p.n 38)

study conducted by the International Dalit Solidarity Network among 500 Indian Dalit women, 54.8 percent were found to have been victims of physical assault; 46.8 percent were victims of sexual assault and harassment (with 23% being victims of rape), and 43% were victims of domestic violence⁸. Despite the increasing number of these crimes against Dalit women, only 2% resulted in the conviction of the wrongdoers, as opposed to a 25%⁹ conviction rate of rape cases of upper-caste women in India. The data screams institutional indifference, revealing how access to justice is inversely proportionate to social marginality. If such disparities persist, the question is not about judicial failure, but rather for whom does the promise of justice truly operate?

Gender and Religion- When the horrors of religion and gender collide, they do not merely add to inequality-they multiply it, producing injustices that appear infinite and self-perpetuating. When such sanctity enters the courtroom, the judiciary is compelled to negotiate between belief and constitutional morality-often uneasily. For instance, in the Shah Bano case¹⁰, the Supreme Court extended a divorced Muslim woman's right to maintenance. The judgment, though progressive, was neutralised by the Muslim Women (Protection of Rights on Divorce) Act, 1986. Constitutional scrutiny reappeared in Shayara Bano¹¹, which invalidated talaq-i-biddat as unconstitutional. The Court's approach to personal laws thus dwells between resolve and retreat, recognising injustice without fully confronting it. When justice negotiates with belief, who ultimately bears the cost? Are personal laws a shield for belief, or a silence imposed on gendered suffering?

Gender and Language- Language embodies symbolic and functional spirit; it not only equips us in communication but also determines whose voices will be recognised, making linguistic diversity central to questions of justice. The same is supported: about 35% of access to justice challenges arise directly from English language barriers, whereas 20% from restricted use of regional languages in the High Court. This consolidation disproportionately affects groups located at social margins- poor litigants, women, Dalit, adivasi, rural population- whose relationship with law is already constrained due to unfamiliar, formal and elite language. This discrimination becomes a double bind, specifically for women facing intersectional vulnerabilities. As the legal harms such as domestic violence, sexual assault are narrated in

⁸<https://idsn.org/key-issues/dalit-women/dalit-women-in-india/>

⁹<https://idsn.org/key-issues/dalit-women/>

¹⁰ Mohd. Ahmed Khan v. Shah Bano Begum & Ors., A.I.R. 1985 S.C. 945

¹¹ Shayara Bano v. Union of India, A.I.R. 2017 SC 9

local tongues, yet adjudicated in English. Can justice truly be equal when it speaks in a language the litigants cannot understand?

Gender and Place of Birth- Women face discrimination due to their gender, which further intensifies and multiplies when it intersects with the horizon of place of birth. States like Uttar Pradesh, Delhi, Haryana, Punjab, and Rajasthan, as exposed by data, reports higher number of crimes against women, however, this increase in number is not counterbalanced by judicial accountability. Low conviction rates (U.P. - 19.93%, Delhi- 3.10%)¹² and high acquittals in these states unveil judicial defects, ranging from delayed trials, victim intimidation during cross-examination, and insistence upon perfect evidence.

Northeast Indians are often given labels such as “chinky”, “chini”, “Nepali”, “Chinese”, “momo” etc. Anjel Chakma's incident, where racialised slurs escalated into physical violence, highlights its edge. Women from India's Northeastern states have faced racialized harassment incidents of verbal abuse, spitting, forced eviction, and social exclusion across regions of Delhi, Mumbai, and Ahmedabad, as stated by RRAG (Rights and Risks Analysis Group)¹³. The founder of North East Support Centre and Helpline stated: “When it comes to racial abuse, both males and females are faced with it; however, women are more prone. Of all the calls and lawsuits I've obtained, about 60% come from ladies.”¹⁴

If justice repeatedly fails women based on where they are born or live, Can it continue to adorn itself with *neutral* label?

Gender and Sexuality- Gender and sexual orientation can both be sources of oppression, and when these two rivers meet, it can cause a flood of injustice. In Navtej Singh Johar¹⁵, the apex court, acknowledging the intersectional nature of discrimination, decriminalized consensual same-sex relations. However, it appears this judicial sensitivity has limits, as became evident in Supriyo¹⁶, where non-recognition of same-sex marriages was challenged, the apex court hesitated to translate recognition into enforceable rights. It is valid to state that the judiciary cannot legislate; however, it can always recognize, vocalize constitutional silences, and direct legislature toward equality -yet the distance between acknowledgment and actual justice

¹²<http://www.mha.gov.in/MHA1/Par2017/pdfs/par2025-pdfs/LS11022025/1251.pdf> (Annexure 1)

¹³ Rupkatha Journal, Vol. 14, No. 4, p.n.7.2022 :<https://rupkatha.com/V14/n4/v14n432.pdf>

¹⁴ Rupkatha Journal, Vol. 14, No. 4, p.n.7.2022 :<https://rupkatha.com/V14/n4/v14n432.pdf>

¹⁵ Navtej Singh Johar & Ors. v. Union of India, A.I.R. 2018 S.C. 4321

¹⁶ Supriyo @ Supriya Chakraborty v. Union of India, 2023 SCC OnLine SC 1348

remains wide. When rights are recognized but never realized, does constitutional morality remain in books or transform into performance?

Gender and Occupation- Gender and occupation intersect to expose various vulnerabilities within professional spaces. We have heard multiple stories before that reveal themselves in different tragedies: from the Nirbhaya Case to the Kolkata incident, where medical students or young healthcare professionals, specifically women, are victims of violence. Reportedly, more than 200 cases of such violence have been officially registered across the country in the past three years without a single conviction; meanwhile, countless more from rural areas remain unreported¹⁷. Despite these frequent assaults, judicial accountability remains elusive, resulting in its failure. Which raises questions about how many more headlines must repeat before judicial acknowledgement turns into action?

Recent Development- The concept of intersectionality has been implemented in the Indian judiciary since the 1990s; however, the term received judicial recognition in 2021 through the Patan Jamal Vali case¹⁸, where the Supreme Court acknowledged the phrase intersectional oppression. It regarded the intersectional identity and the underlying social factor that coincide to cause double disadvantage. This case was a positive step towards understanding intersectionality and intersectional feminism.

Conclusion- Intersectionality highlights how gendered discrimination is amplified by caste, religion, language, place, sexuality, and occupation, realities often treated in isolation by law. While the Constitution promises equality, judicial engagement has been inconsistent. Recent recognition of intersectionality is welcome but limited without enforcement. Until courts consistently apply it, feminist justice remains aspirational.

¹⁷https://journals.lww.com/joim/fulltext/2025/01000/when_healers_become_targets_the_rising_violence.1.aspx

¹⁸ Patan Jamal Vali v. State of Andhra Pradesh, A.I.R. 2021 S.C. 2190 (India).