

Women's Rights in the Postcolonial Constitution: Gandhi's Moral Regeneration versus Ambedkar's Legal Intervention

Daksh¹ and Shubham²

¹Department of Political Science, Kurukshetra University, Kurukshetra, Haryana, India
Email: dakshdahiya360@gmail.com

²Department of Political Science, Kurukshetra University, Kurukshetra, Haryana, India
Email: shubhamjcrp77@gmail.com

Abstract

The expression of women rights in postcolonial India came in two different within intersection normative systems propounded by Mahatma Gandhi and B. R. Ambedkar. Gandhi model laid stress on moral revival based on satyagraha, moral self-reform and reconstitution of social relationship, whereas the model made by Ambedkar depended on constitutional-legal model whose emphasis was on rights and reform of the institutions and social democracy. This paper reviews the theoretical antagonism and potential intersection of these paradigms to know how the conceptualisation of gender equality was developed at the constitutional moment in India. The research uses qualitative textual approach and evaluates primary sources to study Mahatma Gandhi, Hind swaraj, Young India, Harijan, the constituent assembly debates, and some of the classic texts of Ambedkar, like, Annihilation of caste and Who were the shudras? The comparative study shows that the Gandhian ethics system acted as mobilisers of the feminine as a kind of moral power but stayed bound with its dependence on spiritualised conceptual notions of femininity, whereas the legal action of the Ambedkar entrenched enforceable clauses of equality into the constitutional system. According to my argument in the paper, the discussion of personal law reform, gender-based violence, and Democratic representation carried out nowadays still bears this two-fold heritage. A critical revaluation of their work provides the important understanding of postcolonial feminist ideas and the transforming concept of gender justice in India.

Keywords: Gandhian ethics, Ambedkarite constitutionalism, women's rights, postcolonial feminism, gender justice.

Introduction

The politics of feminist rights in India of the twentieth century were played out in a multivariate landscape comprising an array of colonial patriarchy, nationalist reform, and competing ideals of social change. The British rule integrated hierarchies into legal codification of individual laws, administrative paternalism, and orientalist appeals of Indian womanhood, which modelled women's nationality as indicators of cultural authenticity and not the subjects recognizing their own identities (Chakrabarty, 2000). At the same time, social reform movements in the nineteenth century, however, launched objections to the practice of child marriage, sati and other denials of access to education, but the reform movements tended to be paternalistic regarding the nature of femininity (Forbes, 1996). The question of women in the national period became a symbolic point where the clashing attempts of preservation of national culture and social emancipation clashed during the early days of nationalism.

It is in this climate that Mahatma Gandhi expressed an idea of uplifting the women based on moral regeneration. The speeches in the *Young India* and *Harijan* highlighted consistently, the indication of Gandhi on the concept of satyagraha, self-purification and the development of spiritual power as the driving force in the empowerment of women (Gandhi, 1921/1999). His redefinition of women into the figures of non-violence and moral strength brought forth that their natural ability to suffer gave them a special political agency (CWMG, Vol. 20). Although this framework made women participate in mass movements in new spaces, there were also chances of re-inscribing essentialised feminine ideals.

B. R. Ambedkar, in his turn, developed a structural and constitutionalist form of gender equality. Based on his caste, patriarchal and social democratic analysis, Ambedkar believed that the subordination of women was due to the fact that the social order and personal laws of Hinduism had institutionalised the issue of inequality. The Constituent Assembly Debates on equal rights, non-discrimination, and state responsibility caused by his interventions are a precursor of the subsequent liberation of women (Ambedkar, 1994, Vol. 3). Other writings like *Annihilation of Caste* (1936/2014) and *Who Were the Shudras?* (1946/2014) also show how structural hierarchies in society were the only way to achieve true emancipation and not through the good will of an individual (Zelliot, 2001).

This hypothetical opposition between the Gandhi focus over ethical self-transformation and the more geared Ambedkar focus over legal-Institutional reform shows a vexed gap in the current academia: both systems of analysis have been researched in isolation but their relative meaning to postcolonial constitutionalism and feminist theory is yet to be undertaken. The gap discussed in this paper is how these antagonistic means defined the explanation of the rights of women during the formation of the Indian constitution. By making comparative study of the primary writings and present feminist literature, the paper aims at enlightening the way moral and legal paradigms still shape the debate on gender justice in India today.

Gandhi's Concept of Women's Rights

Gandhi conceptualized women rights basing the notion on moral-spiritual concept of human dignity instead of rights based or institutional approach to human rights. Through the numerous articles he authored in *Indian Opinion*, *Young India*, *Harijan* and in the *Collected Works of Mahatma Gandhi* (CWMG), one finds an underlying concern with ethics as the means of self-transformation that can empower women. Women subordination meant not just a legal issue to Gandhi, but a vice manifested in the Indian society. Therefore, the re-establishment of individual ethic, society and national morality necessitated rejuvenation of women.

Gandhi (1909/1998) has created modern civilization in the book of *Hind swaraj* so as to corrupt self-restraint and spiritual harmony. Though the right of women is not fully developed in this text, the principles of conceptual basis worked in this part, which are truth (satya), non-violence (ahimsa), and self-purification, establish his arguments further on the gender matter. As time went by, Gandhi also included women emancipation to the moral power that they represented as the 1920s came in. In his article (*Young India*, March 1921), he said that women have a higher moral impetus, this qualifies them to be on the forefront of non-violent resistance (Gandhi, 1921/1999, p. 214). Instead he believed it was the patriarchal oppression of women

that gave them a special ability to possess endurance that merely enabled them to engage in satyagraha (CWMG, Vol. 20).

This was a gendered understanding of satyagraha and the expansion and restriction of the agency of women. By enhancing women through his moral leadership, Gandhi opened the doors to women in political activities like the Non-Cooperation Movement, the Civil Disobedience Movement and the Quit India Movement all mobilised their women on a scale that has never been witnessed before. However, Gandhi made heavy assumptions on framing that were essentialist in nature. In 1936, Harijan, he related chastity (brahmacharya) as the highest virtue among both the sexes but connected the authority over the morality of women with their chastity in particular (Gandhi, 1936/1999, p. 178). On the one hand, he criticized purdah and child marriage but, on the other hand, he supported the very notion that the dignity of women was in self-sacrifice and repression of sexuality (CWMG, Vol. 64).

Another more advanced aspect of his thinking was that Gandhi introduced spiritual equality. He constantly claimed that women were equal in soul-force to men, (CWMG, Vol. 41, p. 247) and that whatever difference was perceived was the result of social practice and not divine order. The fact that he was a supporter of widow remarriage, women education and abolition of dowry portrays a true character in regard to reform. He also criticized male privilege as violence in Indian Opinion (1908) and he believed that, to brush women as the weaker sex is a libel (CWMG, Vol. 8, p. 98). However, empowerment was still tied with domesticity. Gandhi dignified the idea of women taking up household labour as a place of national service and moral discipline and in particular the spinning wheel (charkha) which he described as a symbol of economic self-sufficiency as well as female virtue (Gandhi, 1925/1999, p. 312).

This model by Gandhi therefore swung both ways between progressive morality universalism and culture-based ideals of femininity. His scheme opened the possibilities to engage into politics, but did not destroy any structural patriarchy, but it was based on changing conscience of men and moral selfhood of women. The element of women rights as portrayed by Gandhi eventually is of a vision of social change resulting out of moral regeneration and not due to institutional restructuring.

Ambedkar's Feminist–Constitutional Vision

The structural analysis of caste, patriarchy, and institutionalised inequality was the basis of the approach of Dr. B. R. Ambedkar on women rights. In contrast to Gandhi though who stressed the ethical self-change, Ambedkar placed the oppression of women in a social-legal framework that specifically deprived women the freedom of choice. The uncompromising vision of feminist jurisprudence, expressed in Annihilation of Caste (1936/2014), Riddles in Hinduism (1954/2008), the debates of the Constituent Assembly, and speeches on the Hindu Code Bill, developed a position of anti-Brahmanical patriarchy creativity and the need to guarantee gender justice using institutional means.

The most radical input of Ambedkar is his theorisation of the caste as a gendered system. In the book Annihilation of Caste, he argues in Favor of the existence of caste that is determined by the rigid control of sexuality and marriage, which makes women the portals of caste (Ambedkar, 1936/2014, p. 42). The forbidding of endogenous marriage, i.e. prohibition of

marrying into other caste groups, demands that they control the mobility, labour and reproductive control of women. This observation, which was subsequently reinforced by feminist researchers, including Uma Chakravarti (1993) is indicative of the fact that caste and patriarchy are mutually supporting systems that ensure societal hierarchies. Ambedkar (1954/2008) in *Riddles in Hinduism* also reveals how the traditions of the scriptures hierarchised the dominant role of males and made inequality divine, generating a moral order essentially unsuitable within the contemporary system of democratic ideals.

Ambedkar was aware of structural inequality and this was the indication of how he intervened during the Constituent Assembly Debates. He was as Chairman of the Drafting Committee, the argument in support of political democracy without social democracy, which is a lifestyle based on liberty, equality, and fraternity (Ambedkar, 1994, Vol. 13). In the case of women, it was seen that constitutional rights needed to be enforced to be universal and be in a position to override discriminative customs. The ban on discrimination and ground on sex in Article 15 and equality before the law in Article 14 was indicative of the belief held by Ambedkar, that justice meant destroying the bases of social inequality rather than redressing the individual moral compass of the people.

The climax of his feminist jurisprudence came with regards to Hindu Code Bill debates (1948/1951) of Ambedkar. He foresaw the Bill as a tool of changing the Hindu society by giving women their right to property, divorce, and inheritance, which was driven away by patriarchal personal acts before. Ambedkar in his speech (1949) maintained that with no such changes, there could not be any real equality between males and females (Ambedkar, 1995, Vol. 14, p. 571). Appealing evidence of how firmly held patriarchal interests remained was the bare opposition that he met with, in Parliament, as well as in parts of Congress. Ambedkar later resigned as a cabinet member in protest and this marked his view that gender justice should be an undoing objective of democratic rule.

These interventions enabled Ambedkar to define a feminist-constitutionalist vision, which was aimed at redistribution of power, destruction of caste-based patriarchy, and integration of equality of women into state law. His obsession that democracy is an associated mode of living (Ambedkar, 1994) is that there should be institutional assurances that shield women against social domination. That means Ambedkar model is a groundbreaking initiative, where legal rights, social democracy and structural reform collaboratively strive to achieve substantial gender equality.

Philosophical Contrast: Moral Regeneration vs. Legal Intervention

Gandhi and Ambedkar are at cross roads in women rights, which is indicative of a more philosophical conflict between moral transformation and legal-institutional reform. This framework of Gandhi is founded on an ethics of self-purification and it made use of Satya, ahimsa and self-development of personal virtue. He also insisted several times, in the *Young India*, that social change has to begin in the conversion of the heart (Gandhi, 1926/1999, p. 312). This ethics of obligation put moral individuals and most importantly men, under responsibility to abscond domination and placed women in the role of physical standpoints of the spirit. Since Gandhi envisaged politics as involving the continuation of ethics, as opined by

Akeel Bilgrami (2011), he gave the benefits of the doubt to self-restraint instead of being subjected to an institution. To Gandhi, law was subordinate and it could control behaviour but not change character (CWMG, Vol. 64).

This is the premise that was rejected by Ambedkar. His constitutionalism that focused on rights placed justice on the systems of authority as opposed to individual integrity. Instead of caste and patriarchy requiring people to be morally corrupt to reproduce themselves, in *Annihilation of Caste* he asserts that this process has to be enforced through coercion of society (Ambedkar, 1936/2014, p. 42). In this regard, emancipation requires institutional assurances, i.e. equality before the law, civil liberties and defence against social tyranny. Ambedkar (1994, Vol. 13) made this argument in the Constituent Assembly Debates in which he reasoned that democracy should be supported by the law since those hierarchies which have been pervading society cannot be dissolved by appeal to conscience. Judith Brown (1991) states that at the same time Gandhi believed in the changing influence of satyagraha, Ambedkar perceived the weaknesses of the ethical persuasions in societies where a significant amount of structural violence existed.

These differences are eminent in the gender politics. Gandhi interpreted women agency as a moralised femininity which stressed purity, non-violence sacrifice, and power. Sharmila Rege (2006) criticises such idealisation in that it strengthens cultural preconceptions which constrain the freedom of women. Uma Chakravarti (1993) goes on to indicate how the patriarchal frameworks governing women in their labour and sexuality were left unshaken by the romanticisation of tools of female morality that Gandhi made. Even though Gandhi practiced such aspects like dowry and purdah, his paradigm eventually led women to empower themselves in the interior, but not exterior, of domestic ways.

The thought of Ambedkar is in a very sharp contrast. He idealised the independence of women in an unbreakable union with structural change, rights of property, marriage regulations, legacy and equality of citizenship. Radical feminist jurisprudence that takes legal equality as a precondition of social democracy are expressed by his speeches on the Hindu Code Bill (Ambedkar, 1995, Vol. 14, p. 571). Anupama Rao (2009) and Eleanor Zelliot (2001) emphasise the way in which the convergence of caste with gender was helped in by the critique of the Brahmanical patriarchy by Ambedkar, in a more materialist perspective on the issue of women being oppressed than the universalism of the spiritualism of Gandhi.

The difference between the two philosophies is therefore quite apparent: Gandhi was more concerned about moral regeneration so that social harmony would come as a result of ethical regeneration, and Ambedkar encouraged legal intervention as the only plausible way of eradicating systemic inequality. Gandhi appealed to conscience and Ambedkar to rights. Gandhi glorified duty; Autonomy was the precursor of Ambedkar. Their contrasting systems combined shed light on the conflicting directions in which postcolonial India tried to conceive the idea of gender justice.

Constitutional Debates and the Women's Question

The intellectual as well as political conflict between the Gandhian ethics of moral change and the legal-institutional change adhered to by Ambedkar shaped considerably the shaping of the women rights in the constitutional moment in India. Even though Gandhi has not been directly

involved in the Constituent Assembly, his influence was omnipresent through Congress leadership and rest of the nationalistic spirit. These conflicting visions had to be compromised as Ambedkar, as Chair of the Drafting Committee, tried to develop a substantive policy on gender equality.

The interventions that Ambedkar brought in during the Constituent Assembly Debates show that he had a firm belief in entrenching the rights of women in enforced constitutional frameworks. His argument in the speech given on 25 November 1949 was that political democracy had to be based on social democracy, in the form of liberty, equality, and fraternity and needed constitutional assurances to destabilize patriarchal and caste-based domination (Ambedkar, 1994, Vol. 13). Article 14 and 15 which assured equality under the law and barred discrimination on the basis of sex were influenced directly based on this dedication. Ambedkar also made sure that Article 15(3) gave the state the power to come up with special measures that apply to women based on his assumption that formal equality was not enough to counter the structural inequality.

This was the opposite of the attitude of Gandhi towards the rights of women as defined in his speech Harijan and Young India that focused more on the moral obligation of men and the moral power of women instead of the legal rights of women. Even, Gandhi stated the fact that reform cannot be by law, it should start in the hearts of men (Gandhi, 1938/1999, p. 212). It is an attitude, which affected some members of the Assembly who were apprehensive about writing into law gender reforms that shook traditional social systems. Another element that fostered the likely inclination towards interventions that were viewed as too radical or disruptive was the writings of Gandhi that even promoted the idea of women playing such a significant role in the moral regeneration of the nation.

These tensions were most evident when it came to the cogitations of the issues of the Directive Principles of State Policy (DPSPs). Although they were used as instruments to the substantive social change, which Ambedkar tried to bring forth, such as gender equality, they were not justiciable, which was an attempt to be suspected of Gandhian legalism. Consequently, the inclusion of Articles 39 and 42 on maternity relief, equal pay and public health ineffective provisions reflected the tradeoff involved between structural reformism and moral persuasion of the Gandhian and Ambedkar schools of thought.

The argument was boiled down in the Hindu Code Bill controversy of 1948-1951. Ambedkar was an activist and he promoted the Bill as fundamental in setting up women right to property, inheritance and divorce. In 1949, he said in his address that equality between men and women was a mere figment without radical changes in the Hindu personal law (Ambedkar, 1995, Vol. 14, p. 571). Nevertheless, large parts of Congress leadership, influenced by Gandhian ideals of gradual and moral change were opposed to these changes and said the world was not ready to undergo such a wholesale intervention. The watering down and postponement of the Bill eventually caused Ambedkar to resign as a cabinet member thus the disappointment over why the state was unwilling to move towards structural gender justice.

The constitutional embodiment of the rights of women was therefore realized as a compromise between the Gandhian moral reform and the constitutionalism of Ambedkar. The paradigm of

Ambedkar dominated the frameworks in the Fundamental Rights although the influence of Gandhian manifests were there in DPSPs and in political objections to the Hindu Code Bill. The outcome was a constitutional structure which acknowledged gender equality but put the implementation of equality in the future legislative and social reform.

Contemporary Relevance

The intellectual tension between Gandhi's moral regeneration and Ambedkar's legal-institutional reform remains deeply embedded in contemporary debates on gender justice in India. Feminist scholars argue that questions surrounding personal laws, bodily autonomy, and the intersection of caste and gender continue to reflect the unresolved philosophical divide between ethical persuasion and structural transformation. Gandhi's emphasis on self-restraint, domestic virtue, and moral reform still shapes public discourse, particularly in debates on women's sexuality, family roles, and community-based reform initiatives. As Nivedita Menon (2004) observes, Gandhian-inflected narratives often frame women's empowerment through social harmony and moral responsibility rather than through rights claims, revealing the persistence of ethical paradigms in shaping gender norms.

Ambedkar's framework, by contrast, provides critical resources for contemporary feminist struggles seeking to challenge structural inequalities embedded in caste and patriarchy. Modern debates on personal law reform—such as the demand for a uniform civil code, the abolition of triple talaq, or the recognition of marital rape—draw heavily on Ambedkar's insistence that gender justice requires dismantling religiously sanctioned hierarchies. Scholars like Sharmila Rege (2006) and Anupama Rao (2009) argue that Ambedkar's critique of Brahmanical patriarchy and his commitment to legal equality offer a more transformative lens for understanding women's subordination. These scholars highlight how caste continues to regulate women's labour, mobility, and sexuality, demonstrating the enduring relevance of Ambedkar's structural analysis.

The concept of constitutional morality, articulated by Ambedkar in the Constituent Assembly, has gained renewed significance in contemporary jurisprudence. Recent Supreme Court judgments—such as *Navtej Johar* (decriminalising same-sex relations) and *Sabarimala* (challenging gender exclusion)—explicitly invoke constitutional morality to prioritise individual rights over traditional customs. This judicial turn reflects Ambedkar's vision of a rights-based constitutional culture capable of overriding discriminatory social norms. It also contrasts with Gandhian approaches that emphasise gradual moral change rather than confrontational legal intervention.

At the same time, Gandhi's contributions remain important for feminist movements that utilise non-violent mobilisation, community solidarity, and ethical persuasion. Movements such as the anti-liquor campaigns in Andhra Pradesh and mass protests against gender-based violence often draw on Gandhian techniques of non-violent protest and moral appeal. Yet, as Uma Chakravarti (2018) reminds us, ethical mobilisation alone cannot dismantle entrenched systems of oppression unless it is combined with legal safeguards and material redistribution.

The contemporary landscape thus reveals the dual legacies of Gandhi and Ambedkar. Gandhi's moral vocabulary continues to animate grassroots movements and public discourse, while

Ambedkar's constitutionalism informs legal reforms, intersectional feminist scholarship, and rights-based activism. Engaging these frameworks together provides a richer understanding of gender justice in India—one that recognises both the power of ethical transformation and the necessity of structural change.

Conclusion

The conflicting theories that are expressed by Gandhi and Ambedkar have become the lines of thought that chart the institutional and philosophical parameters of women rights in India. This focus on moral regeneration, spiritual equality and non-violent agency, which Gandhi gave, pre-empted the ethical aspects of social reform but was limited in its dependence on culturally constructed ideals of femininity. Instead, Ambedkar developed a structural criticism of caste and patriarchy in which the equality of women is rooted in the constitutional rights, law protection, and the movement of social democracy. It is these divergent styles that influenced the development of Fundamental Rights, the ambivalence of the Directive Principles, and the political struggles over the Hindu Code Bill - and the reality of the strong tension between moral persuasion and the rule of law at the moment of constitution making.

To the modern feminist scholarship, this discussion highlights the necessity to consider the issue of ethical standards along with structural disparities. The Gandhian reflections about ethical action and communal mobilisation are still relevant to community based movements whereas the views of Ambedkarite regarding the power relations in intersections and the process of accomplishing transformational reforms of the law are important. The combination of the moral consciousness and constitutional morality is a synthesis that provides a more holistic depiction of the process of the development of gender justice in India. The dialogue between Gandhi and Ambedkar, that has been long-standing therefore, offers fertile soil, into the re-experiencing of feminist politics of the postcolonial democracy.

Reference:

1. Ambedkar, B. R. (1936/2014). *Annihilation of caste* (S. Anand, Ed.). Navayana.
2. Ambedkar, B. R. (1954/2008). *Riddles in Hinduism*. Navayana.
3. Ambedkar, B. R. (1994). *Dr. Babasaheb Ambedkar: Writings and speeches* (Vol. 3). Government of Maharashtra.
4. Ambedkar, B. R. (1994). *Dr. Babasaheb Ambedkar: Writings and speeches* (Vol. 13). Government of Maharashtra.
5. Ambedkar, B. R. (1995). *Dr. Babasaheb Ambedkar: Writings and speeches* (Vol. 14). Government of Maharashtra.
6. Ambedkar, B. R. (1994–1995). *Dr. Babasaheb Ambedkar: Writings and speeches* (Vols. 1, 13, 14). Government of Maharashtra.
7. Bilgrami, A. (2011). *Gandhi's integrity: The philosophy behind the politics*. Columbia University Press.
8. Brown, J. M. (1991). *Gandhi: Prisoner of hope*. Yale University Press.

9. Chakrabarty, D. (2000). *Provincializing Europe: Postcolonial thought and historical difference*. Princeton University Press.
10. Chakravarti, U. (1993). Conceptualising Brahmanical patriarchy in early India: Gender, caste, class and state. *Economic and Political Weekly*, 28(14), 579–585.
11. Chakravarti, U. (2018). *Gendering caste: Through a feminist lens* (2nd ed.). Sage.
12. Forbes, G. (1996). *Women in modern India*. Cambridge University Press.
13. Gandhi, M. K. (1909/1998). *Hind Swaraj and other writings* (A. J. Parel, Ed.). Cambridge University Press.
14. Gandhi, M. K. (1921/1999). Young India. In *The Collected Works of Mahatma Gandhi* (Vol. 19). Publications Division, Government of India.
15. Gandhi, M. K. (1925/1999). Young India. In *The Collected Works of Mahatma Gandhi* (Vol. 31). Publications Division, Government of India.
16. Gandhi, M. K. (1936/1999). Harijan. In *The Collected Works of Mahatma Gandhi* (Vol. 64). Publications Division, Government of India.
17. Gandhi, M. K. (1938/1999). Harijan. In *The Collected Works of Mahatma Gandhi* (Vol. 67). Publications Division, Government of India.
18. Government of India. (1958–1994). *The Collected Works of Mahatma Gandhi* (100 vols.). Publications Division.
19. Menon, N. (2004). *Recovering subversion: Feminist politics beyond the law*. Permanent Black.
20. Rao, A. (2009). *The caste question: Dalits and the politics of modern India*. University of California Press.
21. Rege, S. (2006). *Writing caste/writing gender: Narrating Dalit women's testimonios*. Zubaan.
22. Zelliott, E. (2001). *Ambedkar's world: The making of Babasaheb and the Dalit movement*. Navayana.