

WOMEN'S RIGHTS AND LEGAL EMPOWERMENT

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VOLUME 1, ISSUE 1 (JANUARY- JUNE 2025)

**ABSTRACT**

*Feminist Legal Theory is an approach that studies law by examining how it influences women's lives and everyday experiences. It argues that many traditional legal systems were largely shaped from a male viewpoint, which often ignores or minimizes women's needs, rights, and challenges. This perspective raises critical questions: Do existing laws ensure justice for everyone, or do they continue to favour men and reinforce gender inequalities?*

*The theory highlights that law is not just a neutral set of written rules, but also a social tool that distributes power, opportunities, and fairness. Areas such as employment rights, family law, property ownership, sexual harassment, and domestic violence show how women's realities are often overlooked or inadequately addressed. Feminist Legal Theory works to expose these gaps and calls for reforms that make the law more inclusive and responsive to women's lived situations.*

*Importantly, this approach is not limited to women alone. It also recognizes that strict gender roles negatively affect men by imposing narrow expectations. By questioning stereotypes and historical biases, Feminist Legal Theory pushes for genuine equality and fairness in the justice system.*

*Another significant aspect of this theory is its connection with social justice. It explores how inequality and power structures are embedded within legal systems and promotes reforms to reduce discrimination. By adopting a gender-sensitive lens, it aims to build a legal framework that safeguards the rights of all individuals, strengthens marginalized voices, and contributes to a more equitable society.*

**Keyword** – Feminist Legal Theory, Gender and Law, Women's Rights, Gender Equality, Social Justice.<sup>2</sup>

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## INTRODUCTION

Feminism can be defined as the belief and movement that men and women deserve equal rights, opportunities, and respect in every area of life. It is based on the idea that gender should not decide a person's value, freedom, or chances in society. In simple words, feminism is about creating fairness and justice so that every human being can live with dignity, regardless of gender.

Feminism is not just a slogan or a passing trend; it is a way of questioning the unfair systems that, for centuries, have shaped the roles of men and women unequally. At its core, feminism asks a very important question: Why should gender decide the worth or opportunities of a person? This simple yet powerful question challenges traditions, laws, and practices that have normalized inequality in society.

The essence of feminism lies in dignity and respect. For a long time in history, women were treated as secondary beings. They were valued mostly for household work or childbearing, their opinions were ignored, their access to education and property was limited, and their abilities were underestimated. Feminism rose as a voice against this injustice. It makes it clear that women are not incomplete versions of men, but full human beings with the same abilities, emotions, and rights. Feminism is not about competing with men or replacing them; rather, it is about reshaping society in a way that is fair, just, and humane for everyone.

Another important aspect of feminism is its effort to expose hidden forms of inequality in daily life. Gender bias is often not very visible, but it works silently. For example, wage gaps in workplaces, stereotypes in schools, domestic violence, and fewer women in leadership or politics are signs of patriarchy that continue to affect women deeply. By pointing out these injustices, feminism encourages society to unlearn its prejudices and adopt more equal practices.

Modern feminism has also introduced the idea of intersectionality. This means that not all women experience inequality in the same way. A woman who is poor, belongs to a marginalized caste or race, or is transgender may face multiple layers of discrimination. Intersectionality makes feminism broader, more inclusive, and more realistic, as it highlights the different struggles faced by different groups of women.

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<sup>2</sup> *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241 (India); *National Legal Services Authority v. Union of India*, (2014) 5 SCC 438 (India).

Family, in simple terms, is the basic social unit where individuals grow, learn values, and build their identity. Traditionally, families often reinforced gender roles. Women were expected to handle household duties, raise children, and sacrifice personal dreams, while men were seen as decision-makers and financial providers. Feminism questions these traditional patterns and asks: Why should family roles be divided strictly by gender?<sup>3</sup>

A fair family should be a space of love, equality, and shared responsibility. Both men and women should support each other, share household duties, and contribute equally to decision-making. In this way, feminism not only changes public life but also transforms private spaces like families into places of equality and respect.

Feminism is also meaningful because it is not only about women but about humanity as a whole. When women are empowered, families, communities, and nations become stronger. On the other hand, when women are denied opportunities, the entire society suffers. Importantly, patriarchy does not only hurt women; it also limits men by forcing them into rigid roles. Men are often expected to suppress emotions, act dominant, and follow strict ideas of masculinity. Feminism offers liberation to men as well, because it believes in freedom from all kinds of unfair expectations.

Therefore, feminism should not be seen as a narrow ideology against men. It is a vision for justice, equality, and freedom. It aims to build a world where respect is not tied to gender, where opportunities are open to all, and where freedom belongs to every individual. To introduce feminism is to introduce a dream — a dream of a society where people are not judged by gender but by their humanity.

### **HISTORICAL BACKGROUND OF FEMINISM**

The origins of feminism can be traced back to early demands for women's rights in the 18th and 19th centuries. In many societies, women were considered legal dependents of men, with limited or no rights to own property, vote, or participate in public decision-making. Education for women was restricted, and their roles were largely confined to domestic responsibilities.

Early thinkers and activists began to question these limitations. Their arguments centred on the belief that women were equally capable of intellectual and moral reasoning as men and therefore

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<sup>3</sup> See generally *Feminism*, *Cambridge Dictionary*, <https://dictionary.cambridge.org/dictionary/english/feminism> (last visited Oct. 27, 2025); *Gender Bias*, *Oxford Reference*, <https://www.oxfordreference.com> (last visited Oct. 27, 2025).

deserved the same rights and opportunities. These early expressions of feminist thought were not always called “feminism,” but they laid the groundwork for future organized movements.

By the late 19th century, women in countries like the United States, the United Kingdom, and parts of Europe were actively campaigning for suffrage (the right to vote), improved labour conditions, and educational opportunities. These campaigns were often met with strong resistance, but they also marked the beginning of a more organized and visible feminist movement.<sup>4</sup>

In the early 20th century, the feminist movement became stronger and more organized. Women began to fight not only for voting rights but also for fair wages, better working conditions, and equal access to education. These demands slowly brought changes in laws and attitudes toward women in many countries.

Over time, feminism grew to include issues like protection from violence, equal opportunities in every field, and freedom to make personal choices. Today, the movement continues to work toward a society where men and women have the same rights, respect, and opportunities in all areas of life.

## LEX MENTE WAVES OF FEMINISM

### 1. First Wave (Late 19th Century – Early 20th Century)

Focus: Legal rights, especially women’s suffrage.

Achievements: The right to vote for women in many countries, property ownership rights, and access to education.

Case: *Minor v. Happersett* (1875) – Court denied women voting rights, sparking stronger suffrage campaigns.

Impact: Established the foundation for recognizing women as full citizens in law.

### 2. Second Wave (1960s – 1980s)

Focus: Social and cultural equality in addition to legal rights.

Key Issues: Workplace discrimination, reproductive rights, sexual harassment, and the portrayal of women in media.

Case: *Roe v. Wade* (1973) – Recognized women’s right to abortion, shaping reproductive freedom debates.

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<sup>4</sup> *Minor v. Happersett*, 88 U.S. (21 Wall.) 162 (1875); *Roe v. Wade*, 410 U.S. 113 (1973).

Impact: Led to significant legal reforms, including anti-discrimination laws and greater reproductive freedom.

Focus: Individual identity, intersectionality, and diversity within feminism.<sup>5</sup>

Issues: Recognition of the different experiences of women based on race, class, sexuality, and culture.

Case: Price Waterhouse v. Hopkins (1989) – Ruled that gender stereotyping is workplace discrimination.

Impact: Broadened the feminist movement to be more inclusive of marginalized voices and identities.

#### **4. Fourth Wave (2010s – Present)**

Key Issues: Online harassment, gender-based violence, workplace equity, body positivity, and breaking taboos around mental health.

Case: Weinstein Trials (2017–2020) – Exposed sexual harassment.

Impact: Has mobilized millions through social media campaigns.

### **CONCEPT OF FEMINIST LEGAL THEORIES**

Feminist legal theory is a way of studying and understanding law through the perspective of gender equality. It focuses on how laws, which are usually considered fair and neutral, have actually been shaped in a society where men had more power and control. Because of this, many legal rules and systems do not reflect the real experiences of women. The theory tries to show these gaps and biases in law and aims to make legal systems more equal and just for everyone.

The main idea behind feminist legal theory is that law has often supported inequality, whether directly or indirectly. In history, women were not given the same legal rights as men in areas such as property, marriage, work, or education. For example, in many countries, women could not own or inherit property on the same basis as men. Even within family law, women were often treated as dependents rather than as equal partners. In the workplace, issues like unequal pay and lack of protection against harassment highlighted how women's needs were ignored. Feminist legal theory tries to challenge such unfair practices and suggests reforms that can give women equal dignity and rights.

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<sup>5</sup> See generally Reva B. Siegel, *Constitutional Culture, Social Movement Conflict and Constitutional Change: The Case of the Right to Abortion*, 94 *Calif. L. Rev.* 1323 (2006); Estelle B. Freedman, *No Turning Back: The History of Feminism and the Future of Women* (Ballantine Books 2002).

One important feature of this theory is that it is not one single approach. Instead, it has many branches, each with its own way of understanding the relationship between gender and law. Liberal feminism argues that women should have equal opportunities under the existing legal system. It focuses on reforms such as giving equal access to education, jobs, and property.<sup>6</sup>

Radical feminism, on the other hand, goes deeper and argues that the whole structure of law itself is created in a male-centred way, so only small reforms are not enough. Marxist or socialist feminism connects the problem of women's inequality to larger issues of class and economic power, showing how women are doubly disadvantaged by both gender and economic structures. Intersectional feminism brings another important perspective. It says that women's experiences are not the same everywhere — they are shaped by the intersections of gender, race, class, caste, sexuality, and other identities.

Women are not a single group, and their experiences of inequality differ depending on caste, class, race, religion, or sexuality. For example, a poor woman or a woman from a marginalized caste may face more legal and social barriers than an upper-class woman.

Feminist legal theory also points out that the law has often treated men's experiences as the “normal” or “standard” experience, while women's experiences are seen as different or secondary. For example, in criminal law, issues such as domestic violence or sexual harassment were not taken seriously for a long time because they were not part of the male experience. By bringing these issues into the legal system, feminist legal theory has expanded the idea of what justice means.

Another important contribution of feminist legal theory is that it asks us to rethink the meaning of justice itself. Justice cannot simply mean applying the same rules to everyone if those rules were made without considering women's lives. Real justice requires that the law be sensitive to gendered experiences and address structural inequalities.

### **CHALLENGES AND LIMITATIONS OF FEMINIST LEGAL THEORY**

Feminist legal theory has played an important role in questioning how laws affect women and whether justice is truly equal. It has given new ways of thinking about family, work, rights, and social roles. But like any theory, it is not free from challenges and limitations. Understanding

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<sup>6</sup> See generally Prudence Chamberlain, *The Feminist Fourth Wave: Affective Temporality* (Palgrave Macmillan 2017); Rebecca Walker, *Becoming the Third Wave*, *Ms. Mag.*, Jan.–Feb. 1992, at 39.



these difficulties is important because it shows where feminist legal theory needs to grow and how it can become more effective.

### 1. Diversity of Women's Experiences

One of the biggest challenges is that women do not form a single group with the same problems. A middle-class woman in a developed country may face issues of workplace discrimination, while a woman in a rural area of a developing country may be struggling for basic education or safety. Laws that work for one group may not fully help another. Feminist legal theory sometimes finds it hard to include all these diverse voices, especially those of poor women, minority women, or women facing caste and class barriers.<sup>7</sup>

### 2. Cultural and Social Resistance

Another limitation is the resistance from cultural and traditional systems. In many societies, family laws, religious practices, and social customs are deeply rooted. Efforts to change these through feminist perspectives are often seen as attacks on culture. For example, reforms related to marriage, divorce, or inheritance often meet strong opposition. This makes it difficult to balance respect for culture with the need for gender justice.

### 3. Overemphasis on Western Models

Feminist legal theory has been criticized for being too influenced by Western ideas of equality and rights. While these ideas are valuable, they do not always match the realities of the Global South. Sometimes, solutions designed for Western societies are suggested in other contexts, but they do not work because social, religious, and economic conditions are different. This shows the limitation of applying a single model everywhere.

### 4. Gap Between Law and Practice

Even when laws are changed under feminist influence, the ground reality does not always improve. Many women still face violence, discrimination, and unequal treatment despite having legal rights. This gap between what the law says and what happens in practice is a major challenge. Lack of awareness, weak enforcement, and social stigma often reduce the impact of legal reforms.

### 5. Internal Divisions

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<sup>7</sup> *Lata Singh v. State of Uttar Pradesh*, (2006) 5 SCC 475 (India); *Air India v. Nergesh Meerza*, (1981) 4 SCC 335 (India).

Within feminist legal theory itself, there are many strands—liberal, radical, cultural, socialist, and intersectional. While this diversity enriches the debate, it also creates division. Sometimes the focus shifts more to academic discussions than to practical solutions. This makes it harder to present a united vision for legal reforms.

#### 6. Slow Change in Mindsets

Finally, one of the greatest limitations is that laws alone cannot change society. Feminist legal theory may push for legal reforms, but if social attitudes remain the same, progress is slow. Issues like domestic violence or workplace harassment require not only strong laws but also a change in how people think about gender roles. Without this shift in mindset, legal changes may not achieve their full purpose.<sup>8</sup>

### LEGISLATIVE FRAMEWORK FOR FEMINISM

Feminism is about equality and fairness for all genders. To make this happen in real life, countries create laws and rules that protect women's rights and stop discrimination. These laws help turn feminist ideas into real action.

#### 1. Constitutional Framework

Many countries include equality in their constitutions. In India, for example:

Article 14 says everyone is equal before the law.

Article 15 stops discrimination based on gender.

Article 16 guarantees equal job opportunities for all.

These constitutional rights form the foundation of feminism in law. They make sure women have the same legal rights as men and provide a base for other laws that protect women in everyday life.

#### 2. Crime Laws

There are specific laws to protect women from violence and harassment. Some important examples in India include:

Protection of Women from Domestic Violence Act, 2005: Protects women from abuse and violence at home.

Sexual Harassment of Women at Workplace Act, 2013: Ensures women are safe at work.

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<sup>8</sup> *Mary Roy v. State of Kerala*, (1986) 1 SCC 209 (India); *Mohd. Ahmed Khan v. Shah Bano Begum*, (1985) 2 SCC 556 (India).



Indian Penal Code sections (e.g., Section 354, 375): Protect women from assault, harassment, and sexual crimes.

These laws help enforce feminist principles by protecting women's safety and dignity. They make it clear that crimes against women are serious and will be punished.

### **Other Laws Supporting Feminism**

Besides crime laws, feminism is supported by laws that encourage education, employment, and equality. For example:

Right to Education Act, 2009 ensures girls can attend school.

Maternity Benefit Act, 1961 helps working women during pregnancy.

Laws for equal pay and property rights make sure women can participate fully in social and economic life.<sup>9</sup>

### **3. Impact of Feminist Legal Theory on Law and Society**

The issue of violence against women is another area where feminist legal theory has had a deep impact. For a long time, crimes like domestic violence, marital rape, and sexual harassment were not taken seriously by law. Feminist thinkers pointed out that ignoring these issues meant ignoring the everyday suffering of women. Their continuous efforts pushed lawmakers to recognize these crimes and frame specific laws to protect women. For example, many countries now have special acts and guidelines to deal with domestic violence and workplace harassment. This has not only given legal remedies to victims but has also encouraged society to see such acts as crimes rather than “private matters.”

Feminist legal theory has also influenced how society looks at justice and equality in general. By challenging the idea that law is always neutral, it opened the way for a more inclusive understanding of human rights. It reminded lawmakers and judges that different groups in society experience law differently. This idea later inspired other movements as well, such as those for LGBTQ+ rights, disability rights, and minority rights. In this way, feminist legal theory has expanded the meaning of justice beyond gender and has shown that fairness requires listening to all voices.

On a social level, the theory has changed attitudes and created more awareness about gender roles. While law brings formal changes, society also needs to accept these changes for them to be effective. Feminist thought has encouraged debates in schools, workplaces, media, and politics

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<sup>9</sup> *India Const.* arts. 14, 15, 16.

about the role of women. It has challenged stereotypes that women are weak or dependent and has promoted the idea that they are equal contributors to society. Though challenges still remain, especially in traditional and conservative settings, the progress made so far shows how law and society can evolve together.

In simple words, the impact of feminist legal theory is twofold: it has made laws fairer, and it has changed the way people think about equality. By bringing women's voices into the legal system, it has not only helped women but also made society more just and balanced. It teaches us that justice is not only about rules written on paper but also about how those rules reflect the lived realities of all people.<sup>10</sup>

### CONCLUSION

Feminist Legal Theory is not only about the legal rights of women, but also about rethinking the entire structure of law through the lens of human dignity, equality, and justice. It challenges the traditional view that law is neutral, objective, and universal, by showing how many legal systems have historically reflected male perspectives while ignoring the lived realities of women. This theory expands our understanding of rights by emphasizing that justice cannot be achieved if laws continue to ignore gendered experiences and social inequalities. It inspires continuous reform so that the law becomes a true instrument of equality, protecting the dignity and freedom of every individual. One half of humanity remains unheard, undervalued, or excluded from the processes that create and enforce laws.

One of the most significant contributions of feminist legal thought is its insistence on connecting law with lived experience. It reminds us that laws are not merely abstract rules but frameworks that directly affect people's everyday lives. By bringing forward issues such as domestic violence, workplace discrimination, reproductive rights, and social inequality, feminist legal scholars demonstrate how law must evolve to reflect human needs in a holistic way. This perspective transforms the law from being an instrument of authority into a tool of empowerment and social change. At its core, feminist legal theory is a call for human understanding. It is not limited to gender but extends to all forms of marginalization and exclusion. The theory advocates for a society in which legal systems protect not only the rights of individuals but also the dignity of their existence as human beings. It highlights that true human rights are not just legal

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<sup>10</sup> See Catharine A. MacKinnon, *Toward a Feminist Theory of the State* (Harvard Univ. Press 1989); Kimberlé Crenshaw, Mapping the Margins: Intersectionality, Identity Politics, and Violence Against Women of Color, 43 *Stan. L. Rev.* 1241 (1991).

entitlements written on paper, but values that shape human relationships, institutions, and collective progress. Therefore, the conclusion is clear: feminist legal theory is not a narrow agenda but a universal pursuit of justice. It provides us with a framework to rebuild law as more inclusive, responsive, and humane. In doing so, it strengthens the foundations of human rights and ensures that justice is not confined to courtrooms but is practiced in every sphere of life.<sup>11</sup>



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<sup>11</sup> *Joseph Shine v. Union of India*, (2018) 2 SCC 189 (India); *Independent Thought v. Union of India*, (2017) 10 SCC 800 (India).