

Beyond Identity: Legal Order, Social Constructs, and Tribal Women's Role in Governance in India through the Intersectionality Framework

Amit Kumar Singh*

INTRODUCTION

The legal order is decisive in shaping and regulating societal gender roles. As Galanter (1981) notes, "law is not an autonomous body of rules but part of a larger normative order," capable of either reinforcing entrenched norms or promoting social change (p. 3). Laws and regulations can legitimise or abolish discriminatory practices, and in India, the Constitution and several statutory enactments explicitly prohibit gender-based discrimination and seek to promote equality. However, social and cultural realities—such as dowry, child marriage, and female infanticide—often tell a different story. While these laws aim to dismantle traditional gender roles, their interaction with deeply embedded social and cultural behaviours frequently limits their effectiveness, particularly for women from diverse structural and social backgrounds.

In practice, the legal order creates a normative framework in which specific values—such as equality and representation—are enshrined as achievable goals, relying on the state's capacity to enact policies and programmes to realise them. The position of tribal women within this framework is especially significant in shaping governance processes and ensuring that development is inclusive.

The relationship between legal order and social constructs is complex and bidirectional. Patriarchy, through its cultural and social manifestations, constructs gendered identities, roles, and behaviours, which both influence and are influenced by the law. This interaction shapes women's status in society, but for tribal women, the dynamics are further complicated by the overlapping systems of oppression revealed through the lens of intersectionality. Crenshaw (1991) explains that intersectionality "captures how the particular location of women of colour at the intersection of race and gender makes our experience of discrimination different from the sum of racism and sexism" (p. 1244). For tribal women, these intersecting identities—rooted in gender, ethnicity, class, and geography—determine their relative position within broader power structures. Thus, the legal order can be a double-edged sword: while it espouses egalitarian principles of liberty and equality, it can simultaneously reinforce anti-egalitarian practices under the guise of custom, usage, law, and order, thereby shaping the identity and role of tribal women.

In a democratic governance system, every section of society must have a voice in decision-making processes, with equitable participation and representation across all levels. Nation-building requires that the concerns and interests of all citizens—especially marginalised groups—are addressed. However, substantive participation by tribal women is often obstructed by the combined effects of legal structures and social constructs, which perpetuate exclusion and inequality. Addressing these

* Ph.D. Scholar at the Centre for the Study of Law and Governance, Jawaharlal Nehru University, New Delhi.

Corresponding Author Email: amitsinghnu2021@gmail.com

barriers is critical to ensuring their meaningful representation in India's governance.

Ultimately, laws and their interpretations establish a social and legal order that legitimises or delegitimises specific actions and behaviours. However, this legal ordering does not automatically guarantee that intended benefits will materialise. As McCallum (2014) reminds us, "legal reform is only one part of the struggle for equality; without changes in the social and cultural context, the law's potential will remain unfulfilled" (p. 78). The socio-legal and economic landscape profoundly shapes gender relations: while legal frameworks create opportunities to challenge entrenched roles, persistent societal attitudes, cultural norms, and implementation gaps continue to hinder the realisation of genuine gender equality.

The significance of the intersectionality framework in examining the relative position of tribal women and their role- the concept of intersectionality, first articulated by legal scholar Kimberlé Crenshaw, emerged from her analysis of racial discrimination against Black women in the United States (Crenshaw, 1989, 1991). Crenshaw (1991) describes it as "a metaphor for understanding how multiple forms of inequality or disadvantage sometimes compound themselves and create obstacles that are often not understood among conventional ways of thinking" (p. 1244). Initially rooted in the discourse on race and gender, intersectionality has since been recognised across jurisdictions as a vital framework for understanding overlapping systems of oppression, informing both scholarship and policymaking to prevent and redress discrimination against women (Collins & Bilge, 2016). In the Indian context, this framework provides a powerful analytical lens for examining the socio-political and economic positioning of tribal women. Their lived realities are shaped by a complex interplay of gender, ethnicity, class, caste, and geographical marginality, leading to unique forms of exclusion that cannot be explained by a single axis of identity (Banerjee, 2021; Kabeer, 2016). As Kabeer (2016) notes, "social inequalities are rarely experienced in isolation but rather as a matrix of intersecting constraints and opportunities" (p. 45). This matrix manifests in tribal women's daily struggles, from systemic denial of land and forest rights to the pressures of cultural assimilation and the persistence of patriarchal norms within and outside tribal communities. The significance of adopting an intersectionality framework in governance lies in recognising that tribal women experience not merely additive discrimination but interwoven and mutually reinforcing forms of oppression (Crenshaw, 1989). Such recognition allows for the formulation of governance policies that are context-specific, equity-oriented, and inclusive. Smith (1999) argues that "the politics of recognition must extend beyond token inclusion to a transformation of the structures that reproduce inequality" (p. 112). Furthermore, intersectionality insists on centring the voices of the marginalised in both research and policymaking. Listening to the lived experiences of tribal women and acknowledging the diversity within tribal groups themselves generates a nuanced understanding of their challenges and aspirations. As Collins and Bilge (2016) highlight, "intersectionality is not just an analytic tool, it is also an ethic of engagement" (p. 24)- one that promotes coalition-building and solidarity among differently situated communities.

Recognising these interconnected struggles strengthens advocacy efforts, enabling transformative change rather than piecemeal reform. Applying this perspective to governance in India illuminates the multiple, layered barriers faced by tribal women, including structural inequities, institutional bias, and socio-cultural

marginalisation. It also opens the possibility of crafting policies that move beyond generic empowerment strategies toward interventions that dismantle systemic inequalities, promote meaningful participation, and secure the rights, justice, equality, and representation that underpin a democratic and inclusive society (Crenshaw, 1991; Collins & Bilge, 2016).

Thus, applying the intersectional lens to understand the role of tribal women reveals the causes and reasons behind underrepresentation and participation as well as multilayered deprivation and exploitation of the tribal women because, as women as a gender, and tribal women as treated in the popular perception, they lack the agency and capability to participate effectively in the governance structures. The intersectionality framework reveals how overlapping identities of the tribal women create an “intersection” through which they are deprived of many things essential for exercising their agency and capability to exercise power and make a difference. The intersectionality questions the commonsensical generalisation that women, including tribal women, will be treated as ‘women’ as a class, while the contradiction within a ‘class’ is not well appreciated. This framework questions that despite the constitutional recognition of fundamental rights of women as a special class, the constitutional principles and the socio-cultural practices are at loggerheads. Both are repelling each other, and the constitutional ideals and social practices stand far apart. Indeed, the tribal women are women in a biological sense. However, overlapping identities (a social and political construct and a legal construct) limit their agency and exercise of their agency. Such identities might be tribal women, rustic, backwards, illiterate, poor, deprived, marginalised, underrepresented, socially backwards, non-Hindu. These variables decide their agency of expression. The overlapping identities of the tribal women, which are limiting their exercise of agency, give us a lens to see the socio-economic and cultural reasons behind the deprivation of tribal women from the governance framework.

To bring changes in the structure of social, cultural, political, and economic relations, which are relations of power, the intersectionality framework critically examines the overlapping identities of tribal women as the causes behind their standing at the intersection of all corresponding identities. This intersection identification is essential to understanding why they are deprived of exercising their agency to participate in the governance framework. All kinds of capital, whether political, social, cultural, or economic, are essential to exercise agency power. If the tribal women are deprived of these capitals, they cannot effectively participate in governance. Hence, the intersectionality framework proposes to look at the causes of tribal women’s backwardness and underrepresentation in its broadest sense and suggest measures to address them. According to this framework, unless and until policymakers and the social forces recognise the limiting force of intersection, the effective role of the tribal women in governance will be nuanced (Kabeer, 2016).

The Legal, social, and cultural construct of tribal women- The social and cultural construction of women in India is shaped by a complex interplay of historical, religious, cultural, and societal forces. While the diversity of India’s communities prevents any single narrative, specific broad social constructs have long influenced the roles and expectations placed upon women. Concepts such as honour and chastity have historically carried deep cultural weight, with women’s modesty often tied to notions of “family honour.” As Kandiyoti (1988) notes, “control over women’s sexuality has been one of

the principal means by which patriarchy has maintained its hold,” and in India, deviations from prescribed norms frequently lead to stigma, harassment, or violence. However, the construct of womanhood in India is far from monolithic. Contemporary gender discourse increasingly challenges stereotypes, advocates for equality, and expands opportunities. Within this broader context, tribal women occupy a particularly distinct position-shaped by the intersection of gender, tribal identity, and socio-economic marginalisation. Historically, women’s roles in India have been defined by patriarchal cultural and religious norms, often codified through personal laws and reinforced by constitutional provisions recognising community-specific customs (Constitution of India, 1950). These roles have generally cast women as caregivers, homemakers, and nurturers, with personal aspirations frequently subordinated to familial obligations. While women can be viewed as a social “class,” the composition of that class is deeply influenced by factors such as caste, ethnicity, and geographical location. For tribal women, these dynamics have developed along a separate historical trajectory but are increasingly pressured into conformity with mainstream gender expectations. The lived realities of tribal women differ sharply from those of upper-caste or urban middle-class women. However, they remain bound within the broader questions of gender inequality in India. Their distinct cultural, political, and economic contexts-ranging from matrilineal traditions in some tribes to exposure to patriarchal legal systems-shape their unique vulnerabilities. As McCallum (2014) observes, the intersectional location of tribal women “amplifies the effects of disadvantage, creating compounded barriers to equality.” These overlapping identities influence opportunities and reinforce oppression, situating tribal women within a structural hierarchy of privilege and marginalisation. While some tribal societies operate under matriarchal or matrilineal frameworks, the dominant influence of patriarchal law and governance systems often overrides these traditions, shaping the political and social positioning of tribal communities. This reflects what Crenshaw (1991) describes as “structural intersectionality”—where social systems interact to produce compounded forms of inequality. From an intersectional perspective, the deprivation experienced by tribal women is not merely about unequal outcomes but also constrained capabilities—in Sen’s (1999, 2009, 2013) terms, they value the freedom to lead lives. Limited access to education, employment, and decision-making spaces constrains their agency and perpetuates economic and political marginalisation. This deprivation is reinforced by everyday discrimination in interactions with legal, bureaucratic, and cultural institutions, making tribal women more vulnerable to systemic exclusion than many other groups. Empirical studies and anecdotal evidence suggest that tribal women are more likely to face discrimination in accessing both education and employment—particularly in rural contexts—due to their compounded identities. Although comprehensive data is scarce, parallels can be drawn with patterns observed elsewhere, such as the underrepresentation of Black women in leadership positions in the United States, illustrating the persistence of structural bias across societies (Smith, 1999; Collins & Bilge, 2016). Addressing these challenges demands policy frameworks that acknowledge the unique intersectional location of tribal women, re-examining social practices and legal orders that sustain inequality. Kabeer (2016) argues, “social justice requires that we dismantle the structures that reproduce inequality, not merely compensate for its effects.” Recognising intersectionality as a guiding principle in governance can provide the exceptional protection needed to empower tribal women as full and equal participants in India’s democratic and developmental processes.

Development, environmental discourse, and the crucial role of tribal women in India-Development-"itself a contestable idea, and defined differently by different people owing to their point of view" (Sen, 1999, p. 3)-and environmental discourse in India increasingly recognise the pivotal role of tribal women in sustainable development and ecological conservation. As Vandana Shiva (1988) observes, "Women in subsistence economies, producing and reproducing wealth in partnership with nature, have been experts in their own right in holistic and ecological knowledge." However, this recognition is not always liberating; at times, it reinforces traditional gender roles rather than dismantling them. Tribal women's deep knowledge of local ecosystems, conventional agricultural practices, and natural resource management techniques contributes to biodiversity conservation, sustainable agriculture, and the preservation of cultural practices that align with environmental sustainability. These traditional knowledge systems, recognised in international and municipal intellectual property law regimes, are critical to environmental governance frameworks. However, when tribal communities-particularly women-oppose unsustainable, extractive models of development, or articulate development through their cultural lens, they are often branded as "anti-development" and "non-progressive." This reflects what Escobar (1995) terms "the development discourse," where dominant narratives marginalise alternative visions of progress. "Development" and "progress" are, in many respects, "abstract ideas," and resolving these tensions requires a reappraisal of tribal women's role in governance. As Wollstonecraft (1792) famously argued, "I do not wish [women] to have power over men; but over themselves." This sentiment resonates with the need to enable tribal women to participate substantively in governance through education, healthcare, technology, and scientific engagement. The Fourth Industrial Revolution, grounded in science and technology, presents both an opportunity and a challenge: it can protect the cultural identity of tribal women while expanding their economic participation and capacity to manage environmental resources through technological innovation. Tribal communities, with women often at the forefront, have historically played a crucial role in forest stewardship, biodiversity conservation, and sustainable livelihoods. Activities such as non-timber forest product collection, herbal medicine preparation, and sacred grove preservation are not mere cultural relics but active strategies for ecosystem conservation. Their expertise in organic farming, seed preservation, and traditional crop cultivation ensures food security while conserving agrobiodiversity. These roles extend into decision-making on water management, forest conservation, and sustainable livelihoods, ensuring that governance reflects community perspectives and gender-specific needs (Agarwal, 2018). As climate change exacerbates water scarcity and erratic rainfall, tribal women's resilience and adaptive practices have become vital. "The knowledge systems and lived experiences of tribal women are increasingly acknowledged as valuable resources for climate change adaptation strategies" (UN Women, 2022, p. 14). By improving access to education, vocational training, and governance roles, initiatives can strengthen their agency, enabling them to contribute meaningfully to sustainable development, environmental stewardship, and climate resilience (Kothari & Bajpai, 2021). Furthermore, tribal women's activism-rooted in the intersection of gender, indigeneity, and ecological justice-highlights their central role in environmental justice struggles. From resisting deforestation to fighting displacement, their mobilisation exemplifies Crenshaw's (1989) insight that "intersectionality is a lens through which you can see where power comes and collides, where it interlocks and

intersects.” Recognising and amplifying these roles is essential to advancing a more inclusive and equitable model of development in India—one that values traditional knowledge, dismantles systemic barriers, and positions tribal women as central actors in ecological governance.

What is to be done (Conclusion)—The empowerment of tribal women in India is not an act of benevolence; it is a democratic, moral, and constitutional imperative. As Dr. B.R. Ambedkar rightly observed, *“I measure the progress of a community by the degree of progress which women have achieved.”* Tribal women stand at the crossroads of multiple forms of oppression—gender, ethnicity, class, and geography—yet they also hold invaluable knowledge, resilience, and cultural wisdom essential for sustainable governance.

Recognising their right to power means dismantling legal and social structures that confine them to symbolic roles and granting them the agency to shape their futures. Ensuring their rights requires going beyond written guarantees, building capabilities, and creating enabling environments where these rights can be meaningfully exercised. Securing their liberty demands freedom from external oppression and internalised societal norms restricting choice. Guaranteeing their representation ensures that decision-making is no longer a monologue of the privileged but a dialogue that reflects the voices of those historically silenced.

As Bell Hooks reminds us, *“Feminism is for everybody.”* By applying an intersectional lens to the struggles of tribal women, we address their specific challenges and strengthen the fabric of Indian democracy itself. Proper governance is inclusive governance, and no system that sidelines tribal women can claim to be either just or effective.

Empowering tribal women is, therefore, not a peripheral concern—it is central to achieving gender equality, social justice, environmental stewardship, and democratic deepening. Ignoring their agency is to impoverish our collective future; recognising it is to enact a transformation that benefits every citizen. In the words of Mahasweta Devi, *“The tribal people are the most democratic people of India. They will decide for themselves, given the opportunity.”* It is time we gave them that opportunity—in full measure, without condition, and delay.

Recommendations—Drawing from the preceding discussion and conclusions, the following recommendations are advanced to strengthen the role of tribal women in governance and ensure their substantive empowerment:

1. Institutionalise Legal Pluralism as a Tool for Inclusion

Legal pluralism—the coexistence and recognition of multiple legal systems within a society—must be institutionalised as a deliberate strategy for enabling genuine representation of tribal women and communities (Galanter, 2002). By formally accommodating tribal customary laws alongside state law, governance structures can become more inclusive, culturally sensitive, and responsive to indigenous realities.

2. Enforce Constitutional Recognition of Customary Laws

The Constitution of India already acknowledges the legitimacy of tribal customary practices, but this recognition often remains under-enforced. Effective implementation mechanisms are essential to ensure that tribal communities—particularly women—derive tangible benefits from constitutional provisions. These laws are not mere cultural artefacts but living institutions that carry indigenous communities’ identity,

autonomy, and resilience.

3. Strengthen Autonomy and Self-Governance

Self-governance is not only a constitutional right but a socio-political necessity for safeguarding the cultural, economic, and environmental well-being of tribal populations (Xaxa, 2005; Baviskar, 2019). Policy frameworks must devolve absolute decision-making authority to tribal institutions in key areas such as land management, inheritance rights, family relations, and dispute resolution. This autonomy should empower communities-especially women-to adapt to socio-economic change without losing their distinct identities (Sharma, 2020).

4. Integrate Customary Dispute Resolution with Formal Legal Systems

Recognising tribal women's access to justice means legitimising and integrating culturally grounded dispute resolution mechanisms into the broader legal order. Such integration fosters trust, accessibility, and participation, enabling tribal women to seek remedies without alienating their cultural contexts.

5. Eliminate Discrimination within Customary Laws

While respecting cultural diversity, policymakers must ensure that neither legal pluralism nor social constructs perpetuates gender-based discrimination. The legal order should act as a transformative force-upholding constitutional commitments to gender equality and social justice-while fostering self-determination within tribal societies. Customary practices must evolve in harmony with the 21st-century vision of inclusive governance.

In essence, legal pluralism and social constructs should not be seen as static frameworks but as dynamic instruments of empowerment. When aligned with constitutional mandates, they can transform governance into a truly inclusive, participatory, and gender-just enterprise for India's tribal women.

REFERENCES

1. Agarwal, B. (2018). Gender equality, food security and the environment: Policy and practice. *Environmental Science & Policy*, 86, 1–9. <https://doi.org/10.1016/j.envsci.2018.05.014>.
2. Banerjee, S. (2021). *Tribal women and development: A critical analysis of policy and practice in India*. Routledge.
3. Baviskar, A. (2019). *Tribal communities and the politics of self-governance in India*. Oxford University Press.
4. Berger, M. T., & Guidroz, K. (2010). *The intersectional approach: Transforming the academy through race, class and gender*. University of North Carolina Press. https://www.jstor.org/stable/10.5149/9780807895566_berger
5. Collins, P. H., & Bilge, S. (2016). *Intersectionality*. Polity Press.
6. Crenshaw, K. (1989). Demarginalizing the intersection of race and sex: A Black feminist critique of antidiscrimination doctrine, feminist theory and antiracist politics. *University of Chicago Legal Forum*, 1989(1), 139–167.

7. Crenshaw, K. (1991). Mapping the margins: Intersectionality, identity politics, and violence against women of colour. *Stanford Law Review*, 43(6), 1241–1299. <https://doi.org/10.2307/1229039>
8. Galanter, M. (1981). Justice in many rooms: Courts, private ordering, and indigenous law. *The Journal of Legal Pluralism and Unofficial Law*, 13(19), 1–47. <https://doi.org/10.1080/07329113.1981.10756257>
9. Galanter, M., & Dhawan, R. (1989). *Law and society in modern India*. Oxford University Press.
10. Kabeer, N. (2016). Gender equality, economic growth, and women's agency: The “endless variety” and “monotonous similarity” of patriarchal constraints. *Feminist Economics*, 22(1), 295–321. <https://doi.org/10.1080/13545701.2015.1090009>
11. Kothari, A., & Bajpai, S. (2021). Indigenous women and climate resilience: Pathways to sustainability. *Journal of Environmental Policy and Planning*, 23(6), 789–805. <https://doi.org/10.1080/1523908X.2021.1901350>
12. McCallum, M. J. L. (2014). *Indigenous women, work and history: 1940–1980*. University of Manitoba Press.
13. McCallum, M. (2014). *Gender equality and the law: Socio-legal perspectives*. Cambridge University Press.
14. Roy, E. L. (1990). Juristique et anthropologie. *Journal of Legal Pluralism and Unofficial Law*. <https://doi.org/10.1080/07329113.1990.10756415>
15. Sen, A. (1999). *Development as freedom*. Anchor Books.
16. Sen, A. (2009). *The idea of justice*. Allen Lane.
17. Sen, A. (2013). *An uncertain glory: India and its contradictions*. Penguin India.
18. Sharma, R. (2020). Women's rights and customary law: The case of tribal governance in India. *Indian Journal of Gender Studies*, 27(2), 241–261. <https://doi.org/10.1177/0971521520923145>
19. Smith, L. T. (1999). *Decolonising methodologies: Research and indigenous peoples*. Zed Books.
20. UN Women. (2022). *Gender equality and climate change*. <https://www.unwomen.org/en/digital-library/publications/2022/03/gender-equality-and-climate-change>
21. Wollstonecraft, M. (2023). *A vindication of the rights of woman*. Maven Books.
22. Xaxa, V. (2005). Politics of language, religion and identity: Tribes in India. *Economic and Political Weekly*, 40(13), 1363–1370.