

From Formal Equality to Substantive Justice: Addressing Legal Inequalities and Social Norms in Family Law

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Abstract

Gender inequality in family law remains a persistent issue despite the widespread adoption of formal guarantees of equality. This study examines how legal frameworks and social norms interact to reproduce gender-based disparities within family law, particularly in areas such as marriage, divorce, inheritance, and child custody. The primary objective is to analyze the gap between formal legal provisions and their practical implementation by highlighting structural, institutional, and cultural barriers to achieving substantive gender justice. Employing a qualitative doctrinal approach, the study analyzes international and domestic legal instruments through the lenses of feminist legal theory, patriarchy theory, social norms theory, and the capability approach. The findings indicate that although many jurisdictions have introduced gender-sensitive legal reforms, their effectiveness remains constrained by weak enforcement, deeply entrenched patriarchal norms, institutional limitations, and low levels of legal awareness. This article argues that advancing gender justice in family law requires a shift from formal equality to substantive equality, supported by integrated legal reforms, institutional strengthening, and the transformation of social norms. It contributes to scholarly discourse by proposing a multidimensional framework for operationalizing gender justice across diverse legal and cultural contexts.

[Ketidaksetaraan gender dalam hukum keluarga masih menjadi persoalan yang persisten meskipun berbagai jaminan kesetaraan formal telah diadopsi secara luas. Studi ini mengkaji bagaimana kerangka hukum dan norma sosial berinteraksi dalam mereproduksi ketimpangan berbasis gender dalam hukum keluarga, khususnya dalam aspek perkawinan, perceraian, warisan, dan hak asuh anak. Tujuan utama penelitian ini adalah untuk menganalisis kesenjangan antara ketentuan hukum formal dan implementasinya dalam praktik, dengan menyoroti

hambatan struktural, institusional, dan kultural dalam mewujudkan keadilan gender yang substantif. Studi ini menggunakan metode kualitatif dengan pendekatan doktrinal, dengan mengkaji instrumen hukum internasional dan domestik yang dianalisis menggunakan teori hukum feminis, patriarki, dan norma sosial dengan pendekatan kapabilitas. Hasil penelitian menunjukkan bahwa meskipun berbagai yurisdiksi telah mengadopsi reformasi hukum yang sensitif gender, efektivitasnya masih terhambat oleh lemahnya penegakan hukum, norma patriarki yang mengakar, keterbatasan institusional, serta rendahnya kesadaran hukum. Artikel ini berargumen bahwa pencapaian keadilan gender dalam hukum keluarga memerlukan pergeseran dari kesetaraan formal menuju kesetaraan substantif, yang didukung oleh reformasi hukum yang terintegrasi, penguatan kelembagaan, dan transformasi norma sosial. Studi ini berkontribusi dengan menawarkan kerangka multidimensional untuk mengoperasionalkan keadilan gender dalam berbagai konteks hukum dan budaya.]

Keywords: Gender Justice, Family Law, Legal Inequality, Social Norms, Patriarchy.

Introduction

Gender justice in family law has become a central concern within contemporary human rights discourse, particularly in societies where patriarchal norms continue to shape legal and social institutions (Al-Rabadi & Al-Rabadi, 2018; Mir-Hosseini et al., 2013; Özdemir, 2025). In both global and Muslim-majority contexts, family law governs fundamental aspects of personal life, including marriage, divorce, inheritance, child custody, and guardianship (Rhea, 2015; Stalford, 2008). Despite international commitments to equality, these legal frameworks often reflect and reinforce gendered power hierarchies. In many jurisdictions, the coexistence of state law with religious and customary norms further complicates the realization of gender justice, frequently privileging male authority and limiting women's rights within the family structure (Bond, 2011; Chala & Gemede, 2022; Naijr, 2023).

The significance of this issue is particularly evident in contexts characterized by legal pluralism, where socio-cultural interpretations profoundly influence the application of the law. In Muslim-majority societies, for example, family law is often deeply intertwined with religious doctrines, rendering reform efforts both legally complex and politically sensitive (Al-Sharmani, 2017; Wirastrri & Huis, 2024). Although international instruments such as the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) advocate for the eradication of gender-based discrimination (Nora, 2011), their implementation remains inconsistent (Maret, 2024). Consequently, a persistent gap exists between formal legal commitments and lived realities, with women continuing to face systemic disadvantages in areas such as inheritance rights, divorce proceedings, and child custody arrangements.

Existing scholarship on gender justice in family law can be broadly categorized into three major approaches. First, doctrinal and feminist legal scholarships argue that legal systems are inherently gendered and tend to reproduce structural inequalities. For example, several scholars conceptualize law as a mechanism that institutionalizes male dominance (Aristeus et al., 2025; Yaeger, 2020), a position further elaborated in contemporary socio-legal studies emphasizing that formal legal equality often obscures substantive inequality (Long, 2023; Machado et al., 2025; Small & Grant, 2005). Second, a growing body of interdisciplinary research highlights the role of socio-cultural norms in shaping legal outcomes, demonstrating that social norms, religious interpretations, and customary practices frequently mediate—or even override—formal legal provisions (Maravuakula & Mangubhai, 2024; Perumal, 2010; Ropiah & Syafi'i, 2026). Third, development-oriented and empirical scholarship underscores the importance of economic rights and institutional capacity, showing that women's access to property, inheritance, and legal remedies significantly affects their bargaining power and social status (Garnaik, 2025; Guessous, 2016; Souaiaia, 2019). Across these approaches, a consistent finding emerges: while legal reforms are necessary, they are insufficient in isolation, as entrenched patriarchal norms and weak institutional enforcement continue to constrain the realization of gender justice in family law systems.

Despite these significant contributions, the existing literature remains analytically fragmented. Much doctrinal legal scholarship prioritizes formal legal reform without adequately accounting for the socio-cultural dynamics that influence legal implementation. Conversely, socio-legal and anthropological studies often emphasize cultural practices but lack integration with formal legal analysis and policy design. Consequently, relatively few studies systematically bridge legal frameworks, social norms, and institutional mechanisms within a unified analytical model. Addressing this gap, the present article advances an interdisciplinary framework that integrates feminist legal theory, social norms theory, and institutional analysis to examine how legal inequalities are reproduced and sustained in practice. The novelty of this study lies in its conceptualization of gender justice in family law as a multidimensional process requiring not only normative legal reform but also institutional strengthening and the transformation of social norms. Accordingly, this article aims to analyze the interaction between legal structures and gender norms in shaping family law outcomes, critically evaluate the effectiveness of existing international and domestic legal frameworks, and propose a comprehensive model for advancing substantive gender equality. It argues that achieving gender justice in family law necessitates a shift from formal equality to substantive equality, supported by coordinated legal, institutional, and socio-cultural interventions.

Research Methodology

This study employs a qualitative research design to examine gender justice in family law, with a particular focus on the interaction between legal inequalities and socio-cultural norms. Conducted over six months, the research utilizes a comparative case study approach encompassing diverse legal contexts across selected jurisdictions in Asia, Africa, and Europe. These jurisdictions represent a variety of legal traditions, including civil, customary, and religious legal systems, enabling a nuanced assessment of how different frameworks address gender justice and how cultural norms influence both legal interpretation and reform processes. The comparative design is justified by the need to capture the multidimensional nature of gender inequality, which is shaped not only by formal legal provisions but also by informal social practices.

The study employs both primary and secondary data sources. Primary sources include legal texts such as national family laws, judicial decisions, and international instruments, particularly the CEDAW. Additionally, semi-structured interviews were conducted with legal practitioners, policymakers, and human rights advocates to gain expert insights into the practical challenges of implementing gender-sensitive reforms. Secondary sources consist of academic literature, policy reports, and publications produced by international and regional human rights organizations. Furthermore, selected case law related to marriage, divorce, inheritance, and child custody was analyzed to assess how principles of gender justice are applied in practice.

To guide the analysis, this study employs an integrated theoretical framework that combines feminist legal theory, patriarchy theory, and social norms theory. Feminist legal theory critically examines how legal systems may perpetuate gender inequalities and underscores the need for transformative legal reform. Patriarchy theory provides a lens to understand the entrenched power relations that shape legal outcomes within family structures. Social norms theory is incorporated to analyze how societal expectations regarding gender roles influence the implementation and effectiveness of legal rules, even when formal equality provisions exist. This triangulated theoretical approach facilitates a comprehensive understanding of the complex interplay among law, culture, and power in advancing gender justice within family law.

Conceptual and Theoretical Framework

Gender Justice: Concept and Scope

Gender justice can be defined as the fair and equitable treatment of individuals regardless of gender across social, legal, economic, and political institutions. It emphasizes the elimination of institutionalized inequalities and discrimination against women and other marginalized gender groups that restrict their rights and opportunities. Importantly, gender justice extends beyond the concept of formal equality before the law by incorporating the principle of substantive equality, which takes into account historical disadvantages, structural power

relations, and social constraints that hinder individuals from exercising their rights on equal terms. As Sen (1999) argues, justice entails expanding individuals' capabilities and freedoms to enable meaningful participation in social and economic life. From this perspective, gender justice requires not only equal access to opportunities and resources but also equitable participation in decision-making processes. Accordingly, gender justice in law involves the elimination of discriminatory legislation and practices that perpetuate gender-based disparities.

Historically, patriarchal social structures have been embedded within legal systems, often granting men greater authority in matters related to property, marriage, and family decision-making. Feminist legal theorists argue that the law is not a neutral institution; rather, it reflects and perpetuates existing gender hierarchies because it is shaped within male-dominated social and political contexts (MacKinnon, 1989). Consequently, achieving gender justice requires not only legal reform but also broader societal transformation. Gender justice is inherently multidimensional and extends across various domains, including education, employment, health, and family relations. Within the family context, it is particularly critical, as family institutions play a central role in shaping social norms, power dynamics, and the distribution of resources. A gender-just legal system must therefore ensure equality in key areas such as marriage, divorce, inheritance, and child custody. Such legal protections are essential to guarantee non-discrimination and enable individuals to participate fully in both family and societal life (UN Women, 2020).

Gender justice is especially crucial within family and legal institutions, as these structures fundamentally shape everyday life and social organization. Family law governs intimate relationships and defines the rights and responsibilities of family members. When legal systems fail to ensure gender equality, they reinforce unequal power dynamics that disproportionately disadvantage women and other marginalized groups. Fineman (2004) observes that traditional family law frameworks have often privileged patriarchal authority, positioning men as heads of households while limiting women's legal autonomy. Therefore, advancing gender justice within family institutions is essential for achieving equity in areas such as property rights, child custody, and marital decision-making. Legal equality within the family also contributes to broader social equality by promoting individual autonomy and enabling full participation in economic and social life. Moreover, gender-sensitive family legislation can reduce vulnerability to domestic violence, economic dependency, and social exclusion. Accordingly, incorporating gender justice principles into family law is indispensable for developing inclusive and equitable legal systems.

Family Law and Gender Relations

Family law encompasses the body of legal rules and principles governing relationships among family members. It addresses a wide range of personal and domestic matters, including marriage, divorce, adoption, inheritance,

guardianship, and child custody. As noted by the United Nations (2019), family law plays a crucial role in safeguarding individual rights and promoting social stability by clearly defining the rights and responsibilities within family units. However, family law varies significantly across jurisdictions, reflecting differences in cultural practices, religious traditions, and legal systems. In many contexts, family law is shaped by a combination of statutory, customary, and religious norms, which influence how legal rules are interpreted and applied in areas such as marriage, inheritance, and parental authority. These variations often result in divergent constructions of gender roles and responsibilities, meaning that family law can either promote gender equality or reinforce existing hierarchies depending on its structure and implementation.

Family law plays a central role in regulating key aspects of family life, including marriage, divorce, inheritance, and guardianship. Marriage laws establish the legal framework for forming marital unions and define the rights and obligations of spouses, encompassing property ownership, financial responsibilities, and decision-making authority. Historically, many legal systems have granted men greater control over family resources and decision-making, reflecting entrenched patriarchal norms (Okin, 1989). Divorce laws govern the dissolution of marriage and address issues such as alimony, property division, and child custody. Gender inequality may arise when these laws place women at an economic or social disadvantage, particularly where limited access to the labor market undermines their financial security following divorce. Similarly, inheritance laws play a critical role in determining the distribution of wealth and property within families. In many societies, discriminatory inheritance practices have restricted women's access to economic resources, thereby reinforcing structural inequality. Child custody and guardianship laws also shape gender relations, as courts often rely on traditional assumptions that portray women as primary caregivers and men as economic providers. While such assumptions may reflect certain social realities, they can also perpetuate rigid gender roles and limit shared parenting arrangements. These dynamics underscore the need for comprehensive reform of family law to promote more equitable and balanced family relationships.

Theoretical Perspectives on Gender Inequality

Feminist legal theory provides a critical analytical framework for understanding how legal systems perpetuate gender inequality. Feminist scholars argue that these systems have historically been shaped by male perspectives, thereby privileging male experiences and interests. MacKinnon (1989) contends that the law often reflects and reinforces existing power relations, perpetuating gender hierarchies unless actively reformed. From this perspective, feminist legal theory calls for a critical examination of legal doctrines, judicial practices, and institutional structures to ensure that legal systems promote substantive, rather than merely formal, equality.

Patriarchy refers to a social system in which men hold primary power and authority within political, economic, and familial institutions. In patriarchal systems, gender roles are typically structured so that men occupy dominant positions, while women are assigned subordinate roles. These power relations are deeply embedded in cultural norms, traditions, and legal frameworks. Walby (1990) conceptualizes patriarchy as a system sustained through multiple social institutions, including the family, the labor market, and the state. In the context of family law, patriarchal norms often influence legal interpretation and contribute to the persistence of gender inequality.

Social norms theory explores how collective beliefs and shared expectations influence individual behavior and institutional practices. Social norms play a crucial role in defining acceptable gender roles within families and societies. Bicchieri (2017) explains that norms are maintained when individuals conform to shared expectations and believe that others will do the same. Even when legal reforms promote gender equality, deeply entrenched social norms can limit their effectiveness by shaping how laws are interpreted and applied in practice. Therefore, addressing gender inequality requires not only legal reform but also broader efforts to transform societal perceptions of gender roles and family responsibilities.

Legal Framework for Gender Justice in Family Law ***International Legal Instruments***

International human rights instruments play a pivotal role in advancing gender justice within family law. Among these, the CEDAW is widely recognized as the most comprehensive global treaty addressing gender discrimination. Adopted by the United Nations in 1979, CEDAW obliges state parties to take all appropriate measures to eliminate discrimination against women in all spheres of life, including family relations, legal systems, education, employment, and political participation (United Nations, 1979). The Convention establishes a global normative framework that compels governments to reform discriminatory legislation and ensure equal rights for women in both public and private spheres. It is particularly significant in the context of family law, as it explicitly addresses issues such as marriage, divorce, parental rights, and property relations. Article 16 of the Convention requires states to ensure equality between men and women in all matters relating to marriage and family relations, including equal rights to enter into marriage, equal responsibilities within marriage, and equal rights upon its dissolution. It further guarantees equal parental rights and responsibilities, irrespective of marital status, as well as equal rights to property ownership and inheritance. Through these provisions, CEDAW establishes international legal standards for gender equality in family law and encourages states to harmonize domestic legislation with international human rights norms.

Many countries have undertaken reforms to align their family laws with international standards. These reforms include measures addressing child

marriage, divorce rights, and inheritance laws. However, their implementation is often constrained by cultural traditions, religious norms, and institutional limitations. Scholars have noted that while international conventions establish important legal benchmarks, their effectiveness ultimately depends on the capacity and political will of national governments to incorporate these principles into domestic legal frameworks and ensure their practical enforcement (Merry, 2006). In this context, international monitoring mechanisms play a critical role in promoting accountability. The CEDAW Committee periodically reviews state reports to assess progress in eliminating gender discrimination and issues recommendations to address legal and institutional shortcomings. Such accountability mechanisms are essential for strengthening compliance and advancing gender justice at both national and global levels.

Domestic Legal Frameworks

In Bangladesh, family law is characterized by a pluralistic legal system in which religious personal laws operate alongside statutory frameworks. The regulation of marriage, divorce, maintenance, inheritance, and guardianship varies according to religious affiliation. Muslims are primarily governed by the Muslim Family Laws Ordinance of 1961, the Dissolution of Muslim Marriages Act of 1939, and classical Islamic legal principles, while Hindus are largely governed by uncodified personal laws. This fragmented legal structure has significant implications for gender justice, often resulting in unequal rights and protections for women across different communities. Under the Muslim Family Laws Ordinance of 1961, reforms were introduced to enhance women's rights, including mandatory arbitration procedures for divorce (Section 7) and restrictions on polygamy (Section 6), which require prior approval from an arbitration council. However, in practice, these provisions are frequently circumvented, particularly in rural areas, where informal divorces—such as oral talaq—occur without adherence to legal procedures.

Furthermore, although the Dissolution of Muslim Marriages Act, 1939, provides women with grounds for judicial divorce—including cruelty, desertion, and failure to provide maintenance—the evidentiary burden remains high, limiting its practical accessibility. Regarding maintenance, the Family Courts Act, 2023, establishes specialized courts with jurisdiction over disputes involving maintenance, dower, and child custody. Despite this institutional framework, enforcement remains weak, and women often face procedural delays and financial constraints when pursuing legal claims. Additionally, maintenance rights for divorced Muslim women are generally limited to the *'iddah* (waiting period), highlighting a significant gap in ensuring long-term economic security.

Inheritance laws in Bangladesh, which are primarily based on Islamic legal principles, allocate fixed shares to women that are typically half the shares of their male counterparts in comparable familial relationships. While these arrangements are often justified within a religious framework, they raise

significant concerns from a gender equality perspective, particularly when evaluated against international standards such as the CEDAW. Bangladesh has ratified the CEDAW; it has done so with reservations—especially regarding family law—thereby limiting the full implementation of gender-equal rights.

For non-Muslim communities, the lack of comprehensive legal codification further exacerbates gender disparities. Hindu women in Bangladesh, for example, have historically been denied statutory rights to divorce, although recent legislative developments have begun to address this gap. Nonetheless, significant challenges remain, including unequal inheritance rights and limited access to effective legal remedies. Similarly, guardianship laws—shaped by the Guardians and Wards Act of 1890—often prioritize paternal authority, with mothers typically recognized as custodians rather than natural guardians, thereby reinforcing gendered assumptions about parental roles. These legal and institutional shortcomings demonstrate that, despite incremental reforms, Bangladesh's family law system continues to reflect deeply entrenched patriarchal norms within both formal and informal legal frameworks. Weak enforcement, limited legal awareness, socio-cultural resistance, and procedural barriers further widen the gap between legal rights and their practical realization. Consequently, achieving gender justice in Bangladesh requires not only legislative reform but also effective implementation, judicial sensitivity, and broader socio-cultural transformation.

Family law systems in countries such as Saudi Arabia and Iran are significantly influenced by Islamic legal principles, resulting in gender relations that differ markedly from those in secular systems like those in Sweden or Canada, where gender equality is more actively promoted through legal reforms. More broadly, family law varies considerably across jurisdictions due to differences in legal traditions, cultural practices, and religious influences. In many societies, civil, customary, and religious legal systems coexist within pluralistic frameworks that shape family law (Menski, 2006). While such systems may enhance cultural legitimacy, they often include provisions that disadvantage women, particularly in matters of marriage, inheritance, and divorce. Nevertheless, many countries have undertaken legal reforms to promote gender equality and align domestic laws with international human rights standards. For example, reforms in Kenya and South Africa have sought to strengthen women's rights in marriage, inheritance, and child custody. However, the implementation of these reforms remains uneven, often hindered by weak enforcement mechanisms, cultural resistance, and deeply entrenched gender norms.

The role of the state in reforming family law is therefore critical; however, its effectiveness depends on the extent to which international human rights standards—such as those articulated in the CEDAW—are meaningfully integrated into national legal systems while taking into account local cultural and legal contexts. Nevertheless, legal reform alone is insufficient to eliminate gender

inequality, particularly in contexts where enforcement mechanisms are weak and patriarchal social norms persist (Basu, 2019). Accordingly, strengthening family law systems requires not only substantive legal reform but also effective implementation strategies, institutional capacity building, and sustained efforts to transform discriminatory social norms.

Gender Equality in Family Rights

Family law defines the legal rights and responsibilities of spouses and parents within familial relationships. In contemporary legal systems, both men and women are generally granted equal rights in matters such as marriage, divorce, property ownership, and child custody. These equal legal rights enable both spouses to participate in decision-making processes and access legal remedies in cases of conflict or separation. In recent decades, many legal systems have increasingly recognized women's rights to initiate divorce, claim maintenance, and retain custody of children when it serves the best interests of the child.

Similarly, legal provisions regarding property ownership and inheritance have gradually evolved to promote women's economic rights. The World Bank (2023) highlights that reforms granting women equal rights to property and inheritance play a crucial role in enhancing their economic empowerment and social status. Despite these advances, formal legal equality does not always translate into substantive equality in practice. In many contexts, women remain unable to fully exercise their legal rights due to social pressures and institutional barriers. For example, women may be discouraged from leaving abusive relationships because of societal expectations or may lack the financial resources necessary to pursue legal action. Consequently, achieving gender justice requires not only the formal recognition of equal rights but also the development of institutional support systems that facilitate access to justice and ensure the effective protection of rights within family relationships.

Gender Inequality in Family Law

Despite global commitments to gender equality, discrimination in marriage and divorce remains a persistent challenge in many jurisdictions. Legal frameworks governing marriage often allocate unequal decision-making authority, property rights, and financial responsibilities between spouses. In some legal systems, men retain unilateral rights to initiate divorce or exercise greater control over marital property, while women face more restrictive legal conditions when seeking divorce (Okin, 1989). These disparities can have profound social and economic consequences for women. Divorce proceedings frequently result in financial instability, reduced access to family assets, and, in some cases, homelessness. Women's economic vulnerability is often exacerbated by their disproportionate engagement in unpaid domestic labor, which is insufficiently recognized in legal processes related to asset division and compensation. Accordingly, ensuring

gender equality in marriage and divorce laws is essential to safeguarding women's rights and fostering more equitable family relationships.

Inheritance laws play a critical role in determining the distribution of wealth and property within families. Historically, many societies have maintained inheritance systems that favor male heirs over female heirs, reflecting entrenched patriarchal norms related to lineage and property ownership. Such practices significantly restrict women's financial autonomy and access to economic resources. Empirical research demonstrates that women's access to land and property is closely linked to enhanced economic security and social empowerment (Agarwal, 1994). While legal reforms promoting equal inheritance rights are essential for advancing gender justice, their implementation remains limited in many contexts. Customary laws and prevailing social norms continue to prioritize male inheritance, thereby perpetuating structural inequalities despite formal legal guarantees.

Gender inequality in family law is also influenced by legal frameworks governing guardianship and child custody. Traditionally, many legal systems have designated fathers as the primary legal guardians, reflecting patriarchal assumptions about authority and family leadership. Although contemporary legal systems increasingly prioritize the best interests of the child, gender biases continue to affect judicial decisions in custody disputes. Courts may rely on entrenched stereotypes that portray mothers as primary caregivers and fathers as financial providers. While these assumptions may reflect certain social realities, they also reinforce rigid gender roles and limit the recognition of shared parental responsibilities. Therefore, adopting gender-neutral legal standards in guardianship and custody determinations is essential to promoting fairness and ensuring balanced parental involvement in children's lives.

Social Norms and Gender Inequality in Family Law

Social norms play a crucial role in shaping gender relations within societies and influencing the effectiveness of legal systems. Although legal frameworks may establish formal equality between men and women, social norms often continue to shape everyday practices and institutional decision-making. These norms define acceptable gender roles, behaviors, and expectations, thereby affecting family structures, access to resources, and the interpretation of legal rights. As Bicchieri (2017) has noted, gender inequality persists not only because of discriminatory laws but also due to deeply embedded cultural beliefs and traditions that reinforce unequal power relations within families. Therefore, understanding the interaction between social norms and legal systems is essential for analyzing the persistence of gender inequality in family law.

Patriarchal Norms and Gender Relations in Families

Gender roles within family systems are profoundly influenced by cultural and social norms. In many societies, family institutions are organized around

patriarchal principles, which prioritize male authority and leadership. Patriarchy, as a social system, positions men in dominant roles across political, economic, and familial spheres, while women are often relegated to subordinate positions. Walby (1990) explains that patriarchy is maintained through interconnected social institutions—including the family, labor market, and legal system—that collectively reinforce gender hierarchies.

Within patriarchal family structures, traditional gender roles typically designate men as breadwinners and decision-makers, while women are expected to serve as caregivers and homemakers. These expectations influence the allocation of resources and responsibilities within households. For example, women's unpaid domestic labor—such as childcare and household management—is often undervalued despite its critical contribution to family well-being and broader social stability. Consequently, women frequently experience limited access to economic resources and diminished decision-making power within family institutions (Okin, 1989).

Patriarchal traditions also influence other key aspects of family life, including marriage arrangements, inheritance practices, and control over children. In some cultural contexts, lineage and property are passed down through male descendants, reinforcing gender disparities in access to land and financial resources. These practices create structural barriers that limit women's economic independence and social mobility. Moreover, gender norms often impose expectations of obedience, modesty, and domesticity on women, further perpetuating unequal power dynamics. The persistence of patriarchal values within family systems demonstrates that legal reform alone is insufficient to achieve gender equality. Even when laws formally guarantee equal rights, social expectations often discourage women from exercising those rights. Therefore, addressing gender inequality requires broader social transformation aimed at challenging entrenched gender hierarchies and promoting more equitable relationships within families.

The Influence of Social Norms on Legal Enforcement

The interpretation and enforcement of law are profoundly influenced by prevailing social norms. Legal systems operate within broader social contexts, meaning that judges, lawyers, and law enforcement officials may be shaped by dominant cultural beliefs about gender roles. Consequently, family law may be applied in ways that reflect societal expectations rather than strictly adhering to principles of gender equality. Merry (2006) highlights how international human rights norms are often adapted to local contexts through processes influenced by cultural traditions, resulting in varying interpretations and outcomes. For example, legal reforms aimed at promoting equality in marriage or divorce may face resistance from communities that view such changes as threats to traditional family structures. In these contexts, individuals may be reluctant to pursue formal legal remedies, even when such options are legally available.

Access to legal institutions is also influenced by cultural beliefs and social expectations. Women seeking legal redress in cases of divorce, domestic violence, or property disputes may encounter stigma, social pressure, or familial resistance. In some societies, legal intervention in family matters is discouraged, with disputes expected to be resolved privately. These norms can deter women from pursuing legal protection and perpetuate unequal power dynamics within households. Furthermore, legal authorities may interpret laws through the lens of prevailing social norms. For example, judges may prioritize family cohesion over individual rights in cases involving divorce or domestic violence. While such approaches may aim to preserve social stability, they can undermine victim protection and perpetuate gender inequality. Therefore, achieving gender justice requires not only legal reform but also institutional training and awareness programs to promote gender-sensitive legal interpretation and enforcement.

Gender Stereotypes in Legal Practice

Gender stereotypes are widely held assumptions about the roles and characteristics of men and women. These stereotypes influence perceptions within legal institutions and can affect judicial decision-making, legal interpretation, and policy implementation. Typically, men are portrayed as rational, authoritative, and economically responsible, while women are characterized as emotional, nurturing, and dependent. Such assumptions may influence how legal professionals evaluate cases related to family law.

Butler (1990) argues that gender roles are socially constructed and maintained through repeated social practices and institutional norms. In legal contexts, these constructions can influence decisions regarding child custody, guardianship, and marital responsibilities. For example, courts may assume that mothers are inherently better suited to caregiving roles, leading to custody decisions that reinforce traditional family structures. While such assumptions may reflect certain social realities, they can also perpetuate stereotypes that limit the recognition of shared parental responsibilities.

Gender stereotypes also influence the perception of women who seek legal redress. Women who challenge traditional gender roles—for example, by initiating divorce or asserting property rights—may face social criticism or skepticism regarding their motives. Such attitudes can affect legal outcomes by shaping the evaluation of evidence and testimony. Research indicates that gender bias within legal systems can lead to unequal treatment and limited access to justice (MacKinnon, 1989).

Addressing gender stereotypes in legal practice requires not only institutional reform but also broader cultural change. Training programs for legal professionals can raise awareness of implicit biases and encourage more gender-sensitive decision-making. Additionally, public education campaigns can challenge traditional stereotypes and promote more equitable perceptions of

gender roles. By transforming both institutional practices and societal attitudes, legal systems can become more effective in advancing gender justice and equality.

Empirical Evidence of Gender Inequality in Family Law

Case studies and empirical research provide valuable insights into how gender inequality manifests in practice within family law systems. Although legislation may formally guarantee equality between men and women, real-world experiences often reveal persistent disparities in the application and enforcement of legal norms. The analysis of judicial decisions and case law highlights the complex interplay among law, custom, and institutional practices. Such empirical evidence underscores how structural inequalities embedded in family law affect women's rights, children's welfare, and the overall stability of family structures (Agarwal, 1994).

Structural Gender Inequality in Family Law

Family law often reflects and perpetuates gender inequality, particularly in areas such as marriage rights, divorce procedures, inheritance, and guardianship. In many societies, women face structural discrimination in accessing legal rights related to property ownership and marital dissolution. Empirical studies indicate that women frequently encounter both legal and social barriers when seeking justice in family disputes. For example, research by the World Bank (2023) demonstrates that in several jurisdictions, women remain less legally empowered than men regarding property ownership, inheritance, and employment opportunities.

A prominent example of gender inequality is evident in inheritance and property ownership laws. In many conservative societies, male heirs receive a larger share of family assets than female heirs, reflecting longstanding cultural norms related to lineage and property transmission. Such unequal inheritance systems significantly restrict women's access to economic resources and undermine their financial autonomy. Agarwal (1994) demonstrates that women's ownership of land and property is closely linked to improved economic security, enhanced bargaining power within households, and higher social status. Another critical area is divorce and marital rights. Women—particularly those who have spent years engaged in unpaid domestic labor—often face severe economic hardship following divorce due to the unequal distribution of marital property. These legal and economic inequalities illustrate how gender injustice in family law directly affects individuals' ability to achieve financial stability and independence.

Law in Practice: Courts and Lived Experiences

Judicial decisions and lived experiences further underscore the challenges of achieving gender justice within family law systems. Courts play a central role in interpreting legal provisions and adjudicating disputes related to divorce, child

custody, and property division. However, judicial rulings often reflect prevailing social norms and cultural expectations regarding gender roles. For instance, judges frequently assume that mothers are the primary caregivers when determining child custody arrangements. While such assumptions may sometimes benefit women, they can also reinforce traditional gender roles and limit the recognition of shared parenting responsibilities. As Okin (1989) argues, legal systems tend to mirror existing social hierarchies, which influence how family disputes are interpreted and resolved.

Lived experiences further highlight the impact of social stigma and institutional barriers on women seeking legal protection. Women pursuing divorce or property claims often face pressure from family members or community leaders to resolve disputes outside formal legal channels. In some cases, women lack the financial resources or legal knowledge necessary to initiate legal proceedings. These barriers can prevent individuals from exercising their legal rights, even when such rights are formally recognized. Moreover, empirical studies indicate that survivors of domestic violence frequently encounter significant obstacles in accessing justice, as legal processes may be time-consuming, costly, and emotionally distressing. As Merry (2006) notes, legal reforms alone are insufficient without supportive institutional frameworks, accessible legal services, and enabling social environments.

Impact on Women, Children, and Family Structures

Gender inequality in family law has far-reaching consequences for women, children, and family structures more broadly. When legal systems fail to guarantee equal rights, women are more likely to experience economic vulnerability, social marginalization, and diminished decision-making power within households. Limited access to property rights and financial resources restricts women's ability to achieve economic independence and long-term stability. Gender inequality also affects children, as unequal custody arrangements, economic insecurity following divorce, and unresolved family disputes can negatively impact their well-being and development. Research indicates that children benefit most when legal systems prioritize their best interests and support cooperative parenting arrangements rather than reinforcing rigid gender roles (UNICEF, 2021).

Furthermore, gender inequality influences broader family dynamics and social relationships. Legal systems that reinforce patriarchal authority contribute to unequal power relations within households, which can lead to domestic conflict, limited participation of women in decision-making, and reduced opportunities for social and economic advancement. Addressing these challenges requires comprehensive reforms that promote both legal equality and social transformation. Policies that ensure equal property rights, expand access to legal services, and encourage gender-sensitive judicial practices can foster more

equitable family relationships. By addressing these structural imbalances, legal systems can help create stable, inclusive, and supportive family environments.

Structural Barriers to Gender Justice in Family Law

Despite notable progress in advancing gender equality, significant challenges continue to hinder the realization of gender justice within family law systems. One of the primary obstacles is the persistent gap between formal legal equality and lived social realities. Legal reforms alone cannot guarantee gender justice without corresponding improvements in institutional capacity, social attitudes, and public awareness. Scholars emphasize that gender inequality is sustained by interconnected structural, cultural, and institutional barriers that undermine the effectiveness of legal protections (Bicchieri, 2017).

First, legal loopholes and discriminatory provisions continue to pose significant obstacles. In many jurisdictions, family law still includes provisions—either explicit or implicit—that reinforce male dominance in areas such as marriage, divorce, and inheritance. These inconsistencies often stem from the coexistence of modern statutory law with customary or religious norms. International human rights instruments, including the CEDAW, call for the elimination of all forms of discrimination against women in family and social life (United Nations, 1979). However, the implementation of these standards remains uneven. Legal gaps persist in areas such as divorce and inheritance, where procedural barriers may restrict women's access to justice. Patriarchal traditions continue to influence legal frameworks, often favoring male heirs in the distribution of property. Such discriminatory practices perpetuate economic inequality and limit women's access to family resources (MacKinnon, 1989). Therefore, comprehensive legal reform is essential to eliminate structural discrimination in family law.

Second, weak enforcement of laws significantly undermines gender equality initiatives. Even when progressive legal frameworks exist, ineffective implementation can negate their intended impact. Factors such as institutional instability, corruption, limited administrative capacity, and insufficient training in gender-sensitive legal interpretation contribute to weak enforcement. Fineman (2004) emphasizes the importance of institutional support mechanisms in addressing structural vulnerability and ensuring meaningful legal protection. In many developing countries, limited judicial resources and costly legal procedures further restrict access to justice. Consequently, victims of domestic violence and individuals involved in property disputes often face prolonged delays and limited remedies. Strengthening judicial independence, improving legal infrastructure, and providing gender-sensitivity training for legal professionals are essential steps toward enhancing enforcement.

Third, social resistance to gender equality presents a significant barrier to reform. Cultural norms and patriarchal values continue to shape perceptions of gender roles within families, often privileging male authority and reinforcing

traditional divisions of labor. As Walby (1990) observes, patriarchy is embedded across multiple social institutions, including the family, labor market, and legal system. Social stigma may discourage women from exercising their legal rights, particularly in cases involving divorce or property claims. Such resistance diminishes the effectiveness of legal reforms and limits women's access to justice. Addressing these challenges requires long-term efforts to transform social attitudes through education and cultural change.

Fourth, limited legal awareness and literacy further impede the realization of gender justice. Many individuals—particularly those in rural and marginalized communities—lack sufficient knowledge of their legal rights within family law systems. Without this awareness, women may be unable to access available legal remedies or effectively assert their rights. International organizations, including the World Bank (2023), emphasize the importance of legal empowerment through education, access to information, and community-based outreach initiatives. Legal literacy programs, public awareness campaigns, and the involvement of civil society organizations play a crucial role in enhancing access to justice. Collaborative efforts among governments, NGOs, and community actors are therefore essential to promote gender equality and strengthen the implementation of family law protections.

Towards Substantive Gender Justice: Policy and Institutional Strategies

Advancing gender justice in family law requires comprehensive structural and socio-legal policy interventions. Although many jurisdictions have adopted legal provisions promoting gender equality, their implementation remains inadequate (Maret, 2024). Therefore, policy reforms must aim to create an inclusive legal environment where individuals can exercise their rights free from discrimination (Choudhry, 2024; Sydorenko et al., 2025). The development of gender-sensitive legal policies should be grounded in international human rights standards, particularly the CEDAW (United Nations, 1979).

First, legal reform is essential for reducing gender inequality within family law systems. Governments should systematically review existing laws to identify and eliminate discriminatory provisions related to marriage, divorce, inheritance, and property rights. Family law frameworks must ensure equal legal status for men and women in all aspects of family relations. As MacKinnon (1989) argues, achieving gender justice requires moving beyond formal equality toward a critical examination of the structural power relations embedded in legal systems. Accordingly, legal reforms should incorporate the principle of substantive equality to ensure that women and marginalized gender groups receive meaningful and effective protection under the law. Inheritance laws should be reformed to eliminate gender-based discrimination in property allocation. Equal inheritance rights are essential for promoting women's economic empowerment and long-term social security. Similarly, divorce

legislation must ensure equitable financial settlements that recognize unpaid domestic labor and caregiving contributions. Gender-neutral standards should also be established in child custody and guardianship laws to ensure that judicial decisions prioritize the best interests of the child rather than entrenched gender stereotypes. This can be achieved by adopting clear legal criteria designed to minimize bias and promote fairness in family law adjudication.

Second, strengthening the implementation of laws is crucial to achieving substantive gender justice. The effectiveness of gender equality legislation is often undermined by weak institutional capacity, administrative inefficiencies, and corruption. Enhancing enforcement requires investment in judicial infrastructure, institutional capacity building, and professional development. Fineman (2004) emphasizes the importance of institutional support mechanisms in addressing structural vulnerabilities and ensuring effective legal protection. Expanding access to legal services—particularly for women and children—is essential, including the establishment of specialized family courts. Additionally, judges, lawyers, and law enforcement personnel should receive regular training in gender-sensitive legal interpretation to reduce implicit bias and improve the quality of judicial decision-making. Legal aid services must also be strengthened to support low-income individuals seeking justice. Furthermore, robust monitoring and accountability mechanisms are necessary to evaluate institutional performance, including the collection of gender-disaggregated data to inform policy reform.

Third, awareness and education programs are essential for addressing the socio-cultural dimensions of gender inequality. Social attitudes and cultural beliefs significantly influence the effectiveness of legal reforms, making public education a critical component of gender justice strategies. Educational institutions should incorporate principles of gender equality into their curricula to cultivate equitable social attitudes from an early age. Bicchieri (2017) emphasizes that sustainable social change requires transforming collective norms. Accordingly, community-based education programs should be implemented to raise awareness of legal rights related to marriage, inheritance, and protection from domestic violence. Public awareness campaigns—utilizing media platforms, community organizations, and digital communication channels—can further promote gender equality. Legal literacy initiatives, particularly those targeting rural and marginalized populations, are vital for enhancing access to justice and empowering women to assert their rights effectively.

Fourth, collaboration among governments, NGOs, and civil society is essential for advancing gender justice in family law. Governments play a central role in formulating, implementing, and monitoring gender equality policies and must ensure coordination across relevant ministries and institutions. NGOs and civil society organizations contribute by providing legal aid, advocacy, and

community-based education programs. International development institutions, such as the World Bank (2023), emphasize that partnerships between the state and civil society are critical for enhancing women's legal empowerment. Civil society actors also play a key role in monitoring policy implementation and holding institutions accountable. Community-based organizations are particularly important in bridging the gap between formal legal systems and local cultural practices. Ultimately, sustainable gender justice can only be achieved through coordinated, multi-stakeholder efforts that integrate legal reform, institutional strengthening, and social transformation.

Conclusion

This study critically examines how patriarchal social structures continue to influence gender-biased outcomes within family law systems and how legal frameworks often reflect and perpetuate these inequalities. It contributes to scholarly discourse by proposing a multidimensional framework that integrates legal reform with institutional strengthening and socio-cultural transformation. The study challenges the adequacy of formal equality as a standalone objective and instead advocates for a shift toward substantive equality, which ensures not only the recognition of rights but also their effective realization. By situating international legal standards—particularly the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW)—within domestic legal and socio-cultural contexts, this research underscores the importance of harmonizing global norms with local realities.

The implications of this study extend to policymakers, legal practitioners, and human rights advocates, highlighting the need for coordinated, context-sensitive strategies to promote gender justice within family law systems. Despite these contributions, the study has certain limitations, including its reliance on qualitative and comparative approaches, which may not fully capture jurisdiction-specific complexities or empirical variations. Future research should address these limitations by incorporating quantitative methods or country-specific analyses to more accurately assess the effectiveness of reform initiatives. Additionally, further investigation into grassroots movements, community-based legal empowerment, and the role of international monitoring mechanisms would provide deeper insights into overcoming resistance to gender equality and enhancing accountability in the implementation of family law reforms.

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