Gender and the Law

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**Part 1 Terms**

1. Access to justice
2. Indian Act
3. Formal Equality
4. Gender Binary
5. Hyde v. Hyde

## Formal Equality

It is a form of equality applied to men and women in a formal way that includes men and women are equal in all rules and regulations.

When: formal equality if applied to all perspectives such as social, political and financial areas of communities.

Where: it implies that privilege is provided equally to all spheres of life.

What: formal equality is a subject that state men and women are equal in all means and it improves the way of living and discourages discrimination among men and women (Feminism, social movements, shifting notions of equality, topic 3, slide 21).

How: formal equality applies to all disciplines including social and communal life.

## Analysis

Formal equality is significantly important for the implications of justice in communities. It implies the idea of equality among males and females that emphasis on recognition of rights of women equal to men (Feminism, social movements, shifting notions of equality, topic 3, slide 21). The idea implies the significance of equality as gender discrimination is a root cause for decision-making issues in societies (Feminism, social movements, shifting notions of equality, topic 3, slide 21). To reduce discrimination from communities, formal equality has to be established and maintained in communities.

## Indian Act

When: Indian act was established in the year 1876.

Where: Canada was founded but the laws of the government were followed by aboriginal affairs (Gender, law, colonialism Slide 18, topic 4).

What: the Act was meant to regulate affairs particularly land, social, education, wills and administration (Gender, law, colonialism Slide 18, topic 4).

How: the Act was to control and regulate aboriginal affairs however, it controls all aspects of living (Gender, law, colonialism Slide 18, topic 4). It mainly defines who and who is not identified as Indian.

**Analysis**

The act was meant to provide and establish laws that regulate community-related affairs for example, who will be recognized as Indian (Gender, law, colonialism Slide 18, topic 4). Establishment of an act has regulated various laws and provided insight to regulate communities. The Act was observed to be the provision of equity and equality in communities particularly gender biases (Gender, law, colonialism Slide 18, topic 4). Aboriginal communities suffer more often gender discrimination as compared to other communities.

## Access to justice

When: it is a justice system applies to different people and with different things.

Where: justice is for all and broadly it covers all systematic rules applicable to all people (What is access to justice, Constance Backhouse).

What: it is access to appear before the court and to rule out all kind of barriers present in the societies and communities (What is access to justice, Constance Backhouse).

How: it describes principles and laws that apply to people to discourage racial and gender discrimination with all other rules (What is access to justice, Constance Backhouse).

## Analysis

Access to justice in Canada represents the rules and regulations that discourage barriers that hinder the way to access justice by the people (What is access to justice, Constance Backhouse). Access to justice includes all rules for all kind of people, such as immigrants, aboriginals and men and women in the societies (What is access to justice, Constance Backhouse). Justice should be reached to all communities and all kind of people ("Information Archivée Dans Le Web | Information Archived On The Web"). The message access to justice represents that all people have equal rights to access justice as a right (The Charter, Equality Rights and Women: Equivocation and celebration).

## Gender Binary

When: it is a classification of gender into two forms. One form is completely different from the other form. For example, masculine and feminine.

Where: gender binary is applied to social systems and cultural system in the societies and communities (heteronormativity and law).

What: it is a form of definition to a specific gender. It describes a model in which males are different from females, for example, behaviours, traits and emotions (heteronormativity and law).

How: it represents the system of two genders which describes that males are a group of individuals having specific traits such as genital system and social and cultural beliefs are also varied among males and females (Lahey, 2010).

## Analysis

Even though males and female are different from each other, though they have different genital system and individuality (Gender, Race, and the Regulation of Native identity in Canada and the United States, an overview). Racial discrimination is based on gender biases. Males have some fundamental rights over females such as they married to women and the name of the women automatically changed in documents according to their partner's family name (essay reading). Transgender people rights should be assessed and appraised legally and medically (heteronormativity and law).

## Hyde v Hyde

When: it was a case held on 20 March 1866.

Where: the case was a landmark case held at English Law court of probate and divorce.

How: it was held for probate and divorce and defined a common marriage definition.

What: John Hyde was a married man and his wife was Lavinia. He left his wife because of her extramarital relationship and he also left the Church as he was ordinated to the priesthood (heteronormativity and law). His wife married in Utah territory that became the reason for the suit.

## Analysis

The suit represented and highlighted the incident of same-sex marriages. The suit and phraseology have greater influence on laws, legislation and acts. Amendments in the marriage acts were made taking information from the suit (heteronormativity and law). Laws and regulations for married life and same-sex marriages along with the concept of polygamy was evaluated with the help of suit (heteronormativity and law). Polygamy and marriage to more than one individual has been analysed critically among communities that is no polygamy and no open relationships (heteronormativity and law).

**Part 2**

**The Canadian Bill of Rights (1960) included protection from discrimination based on sex. Was this a milestone for women’s rights in Canada?**

 The Canadian parliament stated that the state of Canada has established upon the laws that confess the authority of Divinity, self-esteem and value of the human beings (Canadian Bill of Rights). The law has particularly established rules for women and protection from discrimination (The Charter, Equality Rights and Women: Equivocation and celebration) (Chipeur). It also stated that the men and institutions will remain free upon respect of ethical and spiritual principles and the legislature (Canadian Bill of Rights). Women have fought for their rights in Canada (Canadian Bill of Rights). With the establishment of laws and regulation, they have upheld their rules and gender equality among communities (The Charter, Equality Rights and Women: Equivocation and celebration).

In a bill of rights, the parliament has declared the desire of preserving these laws and the human rights and fundamental freedom is derived from there laws (Canadian Bill of Rights). The bill has revealed the admiration of parliament for its constitutional power and guaranteed the security of freedom of women and human rights in Canada (Canadian Bill of Rights). Declaration and recognition of freedom and rights of women were essentially covered by the bill. It has been declared and recognized that in Canada there will be no discrimination based on race, colour, religion, sex, gender or national origin (Canadian Bill of Rights). Canadian bill of rights has been announced freedom and liberty for all. The sacrifices and the struggles by the women societies have been provided them an edge to establish their rights in the communities.

People have some human rights and fundamental freedoms. It includes the right of a person to liberty, security and life and the right shall not be deprived thereof except due process of law (Canadian Bill of Rights). The right of the person to equality before the law and protection of the law (Canadian Bill of Rights). The right of a person to Religious freedom, the right of freedom of speech and the right of freedom of assembly and association and lastly the freedom of the media (Canadian Bill of Rights). These laws and freedom principles are applied equally to men and women in societies and communities.

Each Law of Canada shall, except it is particularly affirmed by an Act of the Parliament of Canada, operate notwithstanding the Canadian Bill of Rights (Canadian Bill of Rights). The bill has mentioned specifically the women's rights in section 18 and section 28 (Canadian Bill of Rights). Section 18 states that women have equal rights in terms of gender equality and without discrimination (The Charter, Equality Rights and Women: Equivocation and celebration). They have equal rights based on race, age, mental or physical disability (Canadian Bill of Rights). The law is construed and applied as not to abrogate, abridge or infringe but to approve the retraction, condensation or contravention of any of the rights or freedoms herein documented and declared (The Charter, Equality Rights and Women: Equivocation and celebration).

 Section 28 of the bill declares and guarantee that all rights presented in the act are applied equally to men and women (Canadian Bill of Rights). The law has significantly highlighted the importance of equality among communities (Canadian Bill of Rights). These equal rights have established a link that women have equal rights in all aspects of life sexual orientation, marital status and social status (Canadian Bill of Rights). The bill has significantly provided an edge to the women in the communities of Canada (The Charter, Equality Rights and Women: Equivocation and celebration). Sections of the bill have been established for all the people living in the communities including men, women and transgender population (The Charter, Equality Rights and Women: Equivocation and celebration). Racial and gender discrimination have been discouraged significantly in the Canadian bill of rights.

The laws and regulations have been designed by the regulation of justice among communities (The Charter, Equality Rights and Women: Equivocation and celebration). The sections and laws of the Canadian Bill of Rights have provided the provisions of the states which include discouraging discrimination and injustice from communities (The Charter, Equality Rights and Women: Equivocation and celebration). Therefore, the law has highlighted the prominence of equality among communities (Canadian Bill of Rights). These equal rights have established a link that women have equal rights in all aspects of life sexual orientation, marital status and social status and it was a milestone for the rights of the females in Canada.

**References**

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