
INTERNATIONAL JOURNAL OF ADVANCED LEGAL RESEARCH

LEGAL FRAMEWORK FOR WOMEN'S RIGHTS IN INDIA

- Divyanshu Yadav¹ & Ms. Sonakshi Varshney

Constitutional provisions

The Constitution of India is the highest law safeguarding gender equality and women rights. It contains many of the basic rights, directive principles, and duties that together provide the legal basis for the realization of substantive equality. Although these provisions ensure formal legal recognition of gender rights, the degree of adherence varies widely, resulting in persistent gender inequality across numerous sectors. The legal recognition of women's rights, therefore, needs to be seen against the background of both constitutional intention and systemic structural factors that come in the way of enforcement.

The foundation of women's rights in India has been built upon the Fundamental Rights guaranteed by Part III of the Constitution. Article 14 both guarantee equality before law and equal protection of laws, describes the duty of the State to guarantee legal protection to all persons without discrimination. But legal equality is not enough to compensate for historical disadvantages and entrenched patriarchy. In recognition of this fact, Article 15(1) does not allow discrimination based on sex and if allows the exclusion of women from legislations or policies. In addition, Article 15(3) enables the state to make special provisions for women and children, thereby providing a constitutional basis for affirmative action policies.

It is notable that an affirmative action clause led to the court validating laws relating to the reservation of posts for women in government jobs, special protections for women at the workplace and welfare schemes for women's empowerment, among others.² The Maternity Benefit Act, 1961, for instance, which guarantees working women paid maternity leave, has been legally justified on the basis of Article 15(3) as a provision that permits state intervention on the behalf of gender justice. Articles 14 and 15 also provide the

¹ Student at Amity University

² S. S. Singh, "Public Interest Litigations and Gender Justice in India," *Turkish Online Journal of Qualitative Inquiry*, 2021. Available at: <https://www.tojq.net/index.php/journal/article/download/1123/487/1257>. Accessed: 18 March 2025.

constitutional basis for laws of prevention and prohibition, such as the Dowry Prohibition Act, 1961, and the Protection of Women from Domestic Violence Act, 2005, which focus on the prevention of discrimination and gender-based crimes.

The right to life and personal liberty under Article 21 has been widely interpreted by the Supreme Court to include access to all fundamental rights necessary for women's autonomy and dignity. In *Vishakha v. State of Rajasthan*, 1997,³ recognition was given to sexual harassment at workplace as a violation of Articles 14, 15 and 21 which made the Supreme Court necessitate formation of Vishakha Guidelines which in turn were the basis of enactment of POSH Act, 2013. In the same vein, in *Suchita Srivastava v. Chandigarh Administration*,⁴ the Court found that a woman's right to make reproductive choices is part of her personal liberty, and that bodily autonomy and consent are fundamental rights. Judicial interpretations notwithstanding, marital rape still remains non-criminalized, which represents a major governing paradox where women's bodily autonomy is only conditionally recognised.

Although formal legal protection is assured through Articles 14-16, Part IV of the Constitution lays down the Directive Principles of State Policy (DPSPs) that serve as guiding principles for substantive equality. Article 39, directs the state for equal pay for equal work and prohibits economic exploitation of women. Women still face gender-based pay inequities, particularly in the informal sector, where they are frequently underpaid or exploited in precarious working conditions. Article 42 requires the state to make provisions for securing just and humane conditions of work and maternity relief, in turn this has influenced legislation like The Equal Remuneration Act, 1976, and The Factories Act, 1948. These legal protections would imply that India has one of the highest female workforce participation rates, which should suggest that India has a high rate of effective policy implementation in terms of translating constitutional mandates into real labour protections. This lack of workforce participation would, however, implicate high policy inefficiency in the process.

Article 51A(e) under Fundamental Duties also places a moral responsibility on the citizens to renounce practices derogatory to the dignity of women. While not enforceable, this provision reflects the state's understanding of the role of society as a whole in ending

³Vishakha&Ors. v. State of Rajasthan, AIR 1997 SC 3011.

⁴Suchita Srivastava v. Chandigarh Administration, (2009) 9 SCC 1.

discrimination against women. But society continues to hold deeply patriarchal attitudes toward gender roles, domestic violence, and workplace harassment, which frustrate constitutional intent.

However, constitutional protections alone do not guarantee gender justice, and operationalizing these ideals has often proved to be elusive. A key problem stems from the disparity between constitutional guarantees and their enforcement.⁵ Judicial interpretations have often been inconsistent while Article 15(3) enables special provisions for women, for example. In *Madhu Kishwar v. State of Bihar*,⁶ the Supreme Court held that customary laws which discriminate against women in the matter of inheritance, could not be invalidated solely on the ground of constitutional guarantees. This reluctance of the judiciary to override patriarchal customs render constitutional safeguards in personal laws impotent.

Another big issue is that constitutional guarantee of gender equality notwithstanding, legal remedies available to women are rarely enforced. Article 14 guarantees equality before the law but survivors of sexual violence have often found it to be elusive because of long legal battles, insensitivity of the law enforcing agencies as well as the stigma in society. In cases like *Tukaram v. State of Maharashtra*⁷ (Mathura Rape Case), courts have held biases in favour of the accused in the guise of correcting “flawed reasoning” about a woman’s “implied consent”—a symptom of judicial bias that flies in the face of constitutional tenets.

Another issue is the state’s failure to address intersectional discrimination. Dalit, Adivasi and other marginalized women experience dual oppression due to gender and caste-based discrimination. Despite constitutional protection, this is undermined by weak law enforcement on the ground, including the slow judicial process in caste-based sexual violence cases like the ‘Hathras’ rape case.

Unlike many Western democracies, which have strengthened constitutional protections through institutional frameworks that supply accountability. In countries such as Sweden and Norway, constitutional equality provisions come with strong anti-discrimination watchdogs that monitor violations of gender rights and ensure compliance. India, by contrast, does not

⁵ K. Geethanjali et al., "Women's Rights and Gender Justice in India: A Review of Legal Protections and Gaps," *Frontiers in Health Informatics*, vol. 13, no. 3, pp. 7915-7924, 2024. Available at: <https://healthinformaticsjournal.com/index.php/IJMI/article/download/753/711/1212>. Accessed: 18 March 2025.

⁶ *Madhu Kishwar v. State of Bihar*, (1996) 5 SCC 125.

⁷ *Tukaram v. State of Maharashtra*, AIR 1979 SC 185.

have independent oversight agencies that have punitive powers and instead uses judicial activism as a substitute for state intervention.⁸

The constitutional architecture for women's rights in India is, thus, legally robust but institutionally weak. There would always have to be the reminder that the state fell short in such areas as law enforcement, the judiciary's efficient functioning and public awareness campaigns, which all conspired against the constitutional guarantees gaining ground in the community. Public Interest Litigations (PILs) and judicial activism have undeniably broadened legal protections for women, but sustainable gender justice will demand stronger legislative accountability, systemic reforms within the judiciary, and policy-driven interventions at the grassroots level.

Statutory laws governing women's rights

The Indian legal system has enacted several statutes to protect the rights of women in various walks of life. The laws in question seek to protect women from violence, safeguard their economic security, guarantee their workplace safety, and preserve their fundamental freedoms. These statutes demonstrate legislative will to deliver on gender justice; however, their application is patchy at best and legal loopholes circumvent them.

Criminal Laws and Gender-Based Violence Protection

With the enforcement of the Bharatiya Nyaya Sanhita (BNS), 2023 replacing the Indian Penal Code (IPC), the Indian legal system has hit a revolution.⁹ Nonetheless, the bulk of jurisprudence on women's rights remain derived from IPC, and the move to BNS is largely a rearrangements and renumbering of some provisions than any material shift in the interpretation of the law. So, it becomes important to study the law to understand any continuity and change that may have occurred to the provisions dealing with women, be it in enforcement or jurisprudence.

A hallmark provision under the criminal law was the definition of rape under Section 375 of the IPC. Under the BNS, the equivalent provision is Section 63, but the piece of legislation

⁸ S. Sharma, "Judicial Activism and Gender Justice in India," *International Journal of Law and Policy Review*, vol. 10, no. 2, pp. 123-145, 2024. Available at: <https://www.ijlpr.com/journal-article/judicial-activism-and-gender-justice-in-india>. Accessed: 18 March 2025.

⁹ "Bharatiya Nyaya Sanhita 2023: All You Need to Know", India Today, Dec. 12, 2023. Available at: <https://www.indiatoday.in/law/story/bharatiya-nyaya-sanhita-criminal-law-reform-2023-india-explained-2476934-2023-12-12>. Accessed: 18 March 2025.

does not touch the controversial exception for marital rape. This means that for decades of debate, judicial recommendations and international human rights obligations the law in India continues to retain protection in the definition of rape for non-consensual sexual intercourse between a husband and wife. The courts have held that Article 21 of the Constitution subsumes the right to bodily autonomy (see *Suchita Srivastava v. Chandigarh Administration*), but as far as the issue at hand is concerned, the matter is still left unresolved. Indeed, when it comes to issues of significant public concern, the judiciary has frequently appealed for legislative action, as evidenced in cases like *Independent Thought v. Union of India* that ultimately heralded greater scrutiny on the marital rape exception, even if it has not translated into legislative reform.¹⁰

By the same token, punishing punishments for rape is governed under Section 376 IPC (currently Section 64 BNS), which prescribes severe penalties, including life and the death penalty in aggravated cases. The law had already been made stringent in 2013 following the Nirbhaya case, and the transition to BNS keeps those provisions. Nevertheless, challenges in enforcement are still considerable, with low rates of conviction, long judicial processes and victim intimidation persisting to hamper justice.

The second important provision is Section 354 IPC (now Section 67 BNS), which makes it a punishable offence to assault or make criminal force to a woman intending to outrage her modesty. BNS has also retained Subsections 354A (Sexual harassment), 354B (Assault with intent to disrobe), 354C (Voyeurism), and 354D (Stalking) substantially unchanged. In cases such as, the judiciary has construed modesty broadly enough to provide cover to women from a *State of Punjab v. Major Singh* range of offences. Yet, despite its advantages, evidential fragmentation, victims' reticence to complain to law enforcement agencies and law enforcement agency inertia in the face of crime have undermined its utility.

The most controversial among these pertaining to women sharing sections of section 498A IPC, now section 85 BNS. Enacted in 1983, it made cruelty by a husband or his relatives a crime, particularly in instances of dowry harassment and domestic violence. Over the years, allegations of misuse have led to judicial interventions curtailing automatic arrests and requiring pre-registration of cases inquiry, as was done in the judgment of *Rajesh Sharma v. State of U.P.*¹¹ With some refinements, the BNS retains this provision, leaving the overall

¹⁰ D. Mishra, "Criminalization of Marital Rape: A Comparative Legal Analysis" (Yale Journal of Law and Gender, 2020). Available at: <https://ylpr.yale.edu/criminalization-marital-rape-india> . Accessed: 18 March 2025.

¹¹ *State of Uttar Pradesh v. Rajesh Sharma*, (2017) 8 SCC 746.

legal framework untouched, while courts continue to strike the right balance between the protection of women and potential misuse of the law.

Section 509 IPC (now Section 93 BNS) penalizes words, gestures or acts of character intended to insult the modesty of a woman and is mainly directed against street harassment, verbal abuse and eve-teasing. As reiterated in *P. Venkatesh v. State of Andhra Pradesh*, courts have consistently held that sexual harassment need not be accompanied by any physical contact for it to attract punishment.¹² But enforcement is spotty, especially in rural areas, where social stigma and the fear of prosecution often deter a woman from filing a complaint.

The Indecent Representation of Women (Prohibition) Act, 1986, continues to be in force alongside these provisions, but its implementation is poor in the digital space, where abuse, deepfake pornography, and cyber harassment have become common and in need of greater prosecution.¹³

Thus, it was proved that the Interpretation of IPC to BNS scenario is more of a formal change of text of law leaving the spirit of the law untouched. This is why the jurisprudence developed on the basis of IPC provisions continues to hold good and be applicable, while challenges including weak law enforcement, patriarchal outlook of law enforcement agencies and judicial process delays still quickly erode the value of these laws

Personal Laws and Their Impact on Women's Rights

In India, marriage, divorce, inheritance and maintenance are subject to personal laws depending on religious identity. Personal laws vary across Hindu, Muslim, Christian, & Parsi communities, and unlike criminal laws, which apply to all citizens uniformly, women's legal standing is largely a function of her religion. Though these laws have been amended successively in a bid to modernize and equalize as much as possible, each amendment has been followed by judicial reforms, and despite all these efforts, there remain significant disparities and gender biases in the laws that still deny women legal equality in matters relating to family.

The framework for Hindu personal law, established subsequently through The Hindu Marriage Act, 1955, The Hindu Succession Act, 1956 and The Hindu Adoption and

¹² P. Venkatesh v. State of Andhra Pradesh, (2015) SCC OnLineHyd 223.

¹³ A. Sinha, "Cyber Harassment and Legal Remedies for Women in India", *Journal of Cyber Law*, vol. 14, 2022. Available at: <https://www.cyberlawjournal.in/harassment-women-legal-gap> . Accessed: 18 March 2025.

Maintenance Act, 1956, brought in the first reforms giving women rights in property, maintenance and divorce. Equally consequential was the landmark 2005 Hindu Succession (Amendment) Act, which provided daughters with equal rights in coparcenary property, overriding traditional rules prescribed by Mitakshara law, which previously limited rights of inheritance to male heirs. The Supreme Court in *Vineeta Sharma v. Rakesh Sharma* (2020)¹⁴ also clarified that daughters are born with coparcenary rights, regardless of whether their father was alive at the time of the 2005 amendment. But challenges with enforcement persist: Many women don't know their rights, and patriarchal family dynamics often dissuade women from pursuing legal claims.

There is no substantive change to Hindu personal laws under the BNS because family law continues to be governed separately. However, improvements in enforcement mechanisms for maintenance and domestic violence cases may witness procedural changes that could hasten claims under Section 85 BNS (earlier Section 498A IPC).

Muslim personal law derives mainly from Shariat (Islamic jurisprudence) and is governed in India by The Muslim Personal Law (Shariat) Application Act, 1937. Muslim women historically received only half the share received by men in property. Although the Quran defines directives on inheritance rights, importantly, social and judicial interpretations have tended to preclude women from acquiring property. A significant legal reform in this regard was the enactment of the Abolition of Triple Talaq (Talaq-e-Biddat) Act, 2019, which was preceded by the Supreme Court judgment in *ShayaraBano v. Union of India* (2017) that declared the practice of instant triple talaq to violate the right to equality and the right to life under the Constitution — one of the most discriminatory tenets of the Muslim divorce law.¹⁵ Yet this bigger problem of gender equity in Islamic family law —especially addressing unilateral male divorce (Talaq-e-Ahsan and Talaq-e-Hasan); polygamy; and inheritance rights —existed and continues.

Parsi and Christian personal laws, the situation was even worse with gender bias on personal laws especially in matters of divorce and inheritance.¹⁶ Until 2001, Christian women in India had to show their husbands were not only guilty of adultery but also cruelty or desertion to

¹⁴*Vineeta Sharma v. Rakesh Sharma*, (2020) 9 SCC 1.

¹⁵*ShayaraBano v. Union of India*, (2017) 9 SCC 1.

¹⁶ J. Sinha, *Women and Personal Laws: A Study of Religious Legal Frameworks in India* (Cambridge University Press, 2020). Available at: <https://www.cambridge.org/core/books/women-and-personal-laws-in-india/> (last visited on Mar. 18, 2025).

get a divorce, an above-and-beyond standard not applicable to men. This imbalance was corrected in an amendment in 2019 to make divorce grounds equal. Women also received increased legal protections, under The Parsi Marriage and Divorce Act, 1936, although community restrictions on interfaith marriage remain controversial.

The debate on Universal Civil Code (UCC) continues to highlight the unjust treatment of women across personal laws. A united family code, proponents say, would allow women equal rights irrespective of their communities of faith, while opponents warn about interference with religious freedom and preserving cultural identity. Legislative enactment of a uniform civil code (UCC) has been repeatedly recommended by the Supreme Court in various rulings, including in *John Vallamattom v. Union of India* (2003) which recommended that Parliament pass one but such laws continue to be controversial and politically contentious.¹⁷

To a great extent, the inequitable nature of personal laws continues as a site of grave gender inequality against communally discriminatory -reads when compared to Hindu women - personal laws of Muslim, Christian, and Parsi women especially regarding marriage, divorce, maintenance, and inheritance. Despite such reforms, the implementation has been weak, and stronger enforcement mechanisms, increased legal awareness, and a wider movement for gender-neutral family laws are imperative to transform constitutional guarantees into the reality of women's legal entitlements in India.¹⁸

Special Legislations for Women's Rights

Although criminal and personal jurisprudence governs women's rights in a specific context, special legislations have come up from time to time to provide extra protection in terms of workplace safety, domestic violence, dowry harassment, child protection, etc. These laws have been important for extending legal protection beyond the purview of penal laws and for dealing with the adversities unique to women's lived realities. Yet, their impact is still constrained by enforcement problems, procedural red tape, and social resistance.

One of the most landmark pieces of legislation in India is The Protection of Women from Domestic Violence Act, 2005 (PWDVA), which was enacted to provide civil remedies in cases of domestic abuse. While Section 498A IPC (now Section 85 BNS) was initially

¹⁷ John Vallamattom v. Union of India, (2003) 6 SCC 611.

¹⁸ S. Gupta, "Gender and Access to Justice: Barriers Faced by Marginalized Women", *Indian Human Rights Review*, 2023. Available at: <https://www.ihrreview.org/articles/gender-barriers-justice>. Accessed: 18 March 2025.

designed to prevent cruelty by a husband or his relatives and prosecute such acts of cruelty, the PWDVA is notable as it allows a woman to seek protection orders, right to reside, monetary relief and custody of children, without the need for a criminal trial. This was a significant step in broadening the fact of domestic violence to include psychological, economic and verbal abuse as well as physical abuse. This understanding of the Act was reinforced to include women in live-in relationships in *Indra Sarma v. V.K.V. Sarma (2013)*¹⁹ stating that women residing in such relationships can also seek protection under this Act. Overall however, low awareness, delays in the judiciary and the reluctance of law enforcement agencies to implement orders issued under the law have frustrated its application. The PWDVA is not repealed but simply supplemented and, thus, the enforcement mechanism established under the BNS is ultimately dependent on the judicial and administrative efficiency in dealing with the issues of domestic violence.

The Dowry Prohibition Act, 1961: Another important act which is meant to contain the dowry and dowry-related tortures. Section 498A IPC (now Section 85 BNS) relates to the offence of cruelty that occurs in the context of dowry, while the Dowry Prohibition Act, on the other hand, seeks to criminalize the giving and receiving of dowry. Though the law has been in place for more than sixty years, cases of dowry death in India number in the thousands each year. Judicial interventions like *State of Punjab v. Iqbal Singh (1991)* upheld strict interpretations of dowry-related crimes but enforcement is weak, particularly in rural areas, where social norms override legal deterrence.²⁰ BNS doesn't do anything significant to provisions relating to dowry and thus has not been able to address the issue of challenges and their implementation.

Among the many laws that have been debated in the discussion of women's rights in recent years, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (also known as the 'POSH Act') has led to much contention and commentary since it was promulgated under the aegis of the Vishakha Guidelines issued by the Supreme Court in the case of *Vishakha v. State of Rajasthan (1997)*. The Act also requires the constitution of Internal Complaints Committees (ICCs) in workplaces to investigate complaints of sexual harassment, providing a structured mechanism for redress. But, according to reports, compliance among private and public sector employers has been poor, with many workplaces either not setting up ICCs or not conducting proper inquiries.

¹⁹ *Indra Sarma v. V.K.V. Sarma*, (2013) 15 SCC 755.

²⁰ *State of Punjab v. Iqbal Singh*, 1991 SCC (3) 1.

The Supreme Court in *Medha Kotwal Lele v. Union of India* (2013), had ordered stricter accountability in implementing the POSH Act, but its enforcement is mainly left to the employers, with no proactive state enforcement.²¹

The Protection of Children from Sexual Offences Act, 2012 (POCSO Act) provides a robust legal framework for the protection of children against sexual abuse and exploitation, particularly for girls. Unlike previous laws which required the proof of physical resistance, the POCSO Act presumes consent in favour of the minor, creating a burden on the accused to prove otherwise. In *Independent Thought v. Union of India* (2017),²² the Supreme Court found that sexual intercourse with a minor wife (under the age of 18) amounts to rape, even if married, but only partially addressed the marital rape exemption. Nevertheless, what dilutes its deterrent effect are delays in the POCSO trials, low conviction rates and the challenges involved in child testimony procedures. The BNS has these protections, yet procedural reforms are far from adequate, and are therefore, to no avail, incapable of solving problems such as congested courts and diverse judicial interpretations.²³

Moreover, The Maternity Benefit Act, 1961 as amended in 2017, provides for 26 weeks of paid maternity leave for working women, which financially secures women during their pregnancy.²⁴ Nonetheless, research shows that a lot of private sector employees are reluctant to recruit or keep on female employees because of long parental leave responsibilities and, as a result, women in the employment sector suffer indirect discrimination. The BNS does not infringe on maternity rights, but stronger policy measures are required to eliminate gender bias in the workplace.

Overview In summary, the special legislations focusing on gender-specific issues are important, although these remain ineffective because of weak enforcement, social stigma and lack of awareness. The absence of meaningful amendment of these laws in the BNS does not address the potential implementation gap, and hence judicial and administrative efficiency would remain crucial to transform these legal protections into real-world security for women.

Issues with Implementation and Legal Loopholes

²¹ *Medha Kotwal Lele v. Union of India*, (2013) 1 SCC 297.

²² *Independent Thought v. Union of India*, (2017) 10 SCC 800.

²³ National Law School of India University, “*Study on the Working of Special Courts under the POCSO Act, 2012*” (Centre for Child and the Law, 2022). Available at: <https://www.nls.ac.in/resources/research/cccl/pocso-special-courts-report.pdf> (last visited on Mar. 18, 2025).

²⁴ N. Bhardwaj, “*Women in the Indian Workforce: Legal and Economic Barriers*”, *Economic and Political Weekly*, 2022. Available at: <https://www.epw.in/journal/2022/34/women-workforce> . Accessed: 18 March 2025.

A decade later, these progressive laws still exist; however, poor implementation, legal loopholes and systemic gender bias continue to deny access to justice for women. Society tells her not to seek justice. So these complaints, when victims file them — and most do — don't even get registered with law enforcement. Inconsistent judicial rulings on gender-related cases alongside procedural delays finally make legal protections weaker. Further, women belonging to marginalized communities, such as Dalits, Adivasis, and those from economically weaker sections face multiple layers of struggles in seeking justice due to caste-based discrimination, financial challenges, and lack of legal awareness.

While the statutory framework for women's rights in India exhibits legislative intent to mitigate gender-based discrimination and violence, the practical application of such laws is severely curbed by lack of enforcement, judicial bottlenecks and resistance in societal norms. To address the importance of protecting and empowering women, Law and policy answer deserves a multi-pronged approach and requires a mixed response, including; legal reforms, institutional strengthening as well as gender-sensitive legal training. The following section discusses how judicial pronouncement has influenced the development of gender jurisprudence in India, critically undertaking an analysis of landmark judgments that have made significant contributions to the cause of gender justice.

Challenges in legal implementation

Yet in practice, there are comprehensive statutory protections for women in India and laws protecting their rights, but their enforcement is deeply flawed. This gap between legislation and implementation too is usually blamed on institutional inefficiencies, lack of awareness and socio-cultural resistance. Although legal structures like the Protection of Women from Domestic Violence Act (PWDVA), the Dowry Prohibition Act, and the POSH Act were created to combat gender-related inequities, their implementation continues to be selective, uneven, and insufficient.

A major problem in legal implementation is that law enforcement agencies are reluctant or unable to take decisive action on women's complaints. In domestic violence and sexual harassment cases, police officers on the ground frequently discourage victims from filing formal complaints by citing family honor, social stigma or difficulties in procedures. Indeed, one of the most pernicious aspects of the laws is that many victims are coerced into compromise settlements, which directly negates the protective purpose of these laws in the first place. The data from the National Crime Records Bureau (NCRB) regularly indicates

poor conviction rates for crimes against women, which is symptomatic of the clumsiness in the wheels of justice as well as systemic biases entrenched in police forces across the country.

Judicial delays only compound the problem, depriving victims of justice for years, often decades. “In the past decade alone, we have seen cases upon cases of sexual violence and dowry harassment, followed by workplace scenarios, and such backlogs keep piling, which in turn leads to secondary victimization for the survivors through endurance of the cases over decades. Although fast-track courts were instituted for rape and gender-based violence cases, they have not delivered results as expected as a result of delays in procedures, human resources at the judicial level being inadequate and lack of infrastructural support. Even after the intervention of fast-track courts, the case of Nirbhaya (2012) reached final execution more than seven years later, in itself highlighting how inefficiently the mechanism operates.”²⁵

One of the factors involved in this issue is that laws are not applied consistently across different social and economic classes. Caste-based discrimination, poverty, and illiteracy act as hurdles for women from marginalised communities like Dalits, Adivasis, and economically weaker sections seeking justice. This intersectionality is especially critical for marginalized women who face immense difficulty in gaining access to police support, legal aid, or social welfare benefits which makes them far more susceptible to abuse and exploitation.

Moreover, the judiciary has often reflected a patriarchal mindset in its interpretation of gender laws, thereby propounding stereotypical notions of women and their role in society. In some instances, courts have been more concerned about maintaining the bond of marriage than protecting the rights of domestic violence and marital rape victims. The continued exception of marital rape from the ambit of sexual assault in India, even after years of international commitments made by India for upholding human rights, is but a manifestation of how inaction from the legislature and incredulity from the judiciary have managed to hold the arena of gender justice hostage.²⁶

²⁵ Reuters, “India Cuts Target for Fast-Track Sex Crime Courts as States Fall Short”, <https://www.reuters.com/world/india/india-cuts-target-fast-track-sex-crime-courts-states-fall-short-2024-09-27> (last visited on Mar. 18, 2025).

²⁶ Stanford King Center on Global Development, “Separate and Unequal: A Brief on Caste, Gender and Legal Access in India”, https://kingcenter.stanford.edu/sites/g/files/sbiybj16611/files/media/file/su-kcgsd_brief-separateandunequal_r6_web.pdf (last visited on Mar. 18, 2025).

The other big hurdle is workplace protections. Under the POSH Act 2013, every organization is required to form an Internal Complaints Committee (ICC) to address sexual harassment issues. But many companies in the private sector and government offices do not even form these committees or willfully turn a blind eye to complaints. Women working in informal sectors such as domestic work, agriculture, and small-scale industries are completely excluded from the Act's scope and have no legal recourse against harassment at their workplace.

The offense relating to dowry was made cognizable by Section 498A IPC read along with the Dowry Prohibition Act, 1961 providing safety to newlyweds from harassment and domestic violence; a step that was met with stiff resistance from reactionary social forces and political planks who continuously make efforts to dilute its provision. There have been discussions about the abuse of anti-dowry laws, but actual data shows underreporting to be a greater problem than misuse. The media narrative surrounding false cases — even amongst liberal groups — has eclipsed the real problem of dowry violence, and the legal discourse has shifted from protecting women to preventing the law from being misused against men. This narrative change has eroded protections for genuine victims under laws such as India's Dowry Prohibition Act, and courts are increasingly hesitant to grant dowry harassment victims relief.

But laws that drive economic empowerment, like the Maternity Benefit Act and the Equal Remuneration Act, have some of the weakest enforcement mechanisms. Many private sector institutions do not follow the law and, especially in the unorganized sector, if an employee gets pregnant, it may end her job instead of her being accommodated in the workplace. Women's empowerment rates have also stagnated, mainly because of limited prosecution of labor laws and workplace harassment.

These challenges are further compounded by the issue of legal literacy and awareness. A large number of rural and semi-urban women do not know of their legal rights which prohibits their ability to get justice or get themselves protected by law. Government programmes like Beti Bachao Beti Padhao have prioritised awareness generation in education and health, but legal education for women, especially how to protect themselves against violence or how to claim their inheritance or safely report harassment at their workplace, has received little interest.

The absence of gender-sensitive training mechanisms in the law enforcement and judicial systems remain the primary reasons for the ineffective implementation of protective laws. girlfriend and confidence of reports Many police officers, judges and legal professionals have not yet received gender sensitization training, making any investigation and trial hostile to the victim. For example, rape survivors' testimonies often face moral scrutiny: victims are often accused of "bringing their rape upon themselves" through the type of clothes they wore, the lifestyle they led, or the previous relationships they had. Such biases among judges and law enforcement discourage women from reporting gender-based crimes.²⁷

While many initiatives espousing women's rights abound in Indian legal, political, and cultural frameworks, they often fall prey to inefficiencies, systemic barriers, and social resistance that erase the application of these laws for women in the real world. Only the resolutions of gender in justice are not enough; it needs great structural reform in law enforcement, judicial efficiency, to know about the laws and social attitudes towards women's *sui juris*. The subsequent chapter discusses the impact of judicial intervention in the wake of these challenges, and how landmark judgments have resulted in the evolution of gender jurisprudence in India.

²⁷ Human Rights Watch, "No #MeToo for Women Like Us: Poor Enforcement of India's Sexual Harassment Law", <https://www.hrw.org/report/2020/10/14/no-metoo-women-us/poor-enforcement-indias-sexual-harassment-law> (last visited on Mar. 18, 2025).