WOMEN'S RIGHTS AND LEGAL PROTECTION IN INDIA

Riya Machal*

INTRODUCTION

The discourse surrounding women's rights in India is complicated by a mixture of traditional cultural norms and progressive legislative practices. While the Indian Constitution itself recognises gender equality, the daily reality for most women is one of prejudice and safety concerns. India has a plethora of laws targeting women's empowerment and security that distinguish it from other countries in the region. This article will examine India's constitutional rights, relevant legal acts, and additional protections for women.

HISTORICAL AND SOCIAL BACKGROUND

The background story of women's legal rights in India encompasses socio-political and legislative milestones:

The Colonial and Pre-Independent Era: Women's lives were previously guided by the dominant dharmaśāstra laws. Sati, child marriage, and denial of property inheritance were some of the brutal traditions that led to the foundation of social reformation movements by influential reformers, including Raja Ram Mohan Roy and Ishwar Chandra Vidyasagar. Some of the first pieces of progressive legislation, such as the Abolition of Sati (1829) and the Hindu Widows' Remarriage Act (1856), were introduced.

Constitutional Recognition (1950): When the Indian Constitution was adopted, its framers recognised that social reforms were required for achieving equality. They drafted provisions outlawing discrimination and guaranteeing women equal opportunities. This principle has been repeatedly emphasised by Dr. B.R. Ambedkar, who was one of the primary architects of the Constitution.

*BA LLB, FIRST YEAR, BHAGAT PHOOL SINGH MAHILA VISHWAVIDYALAYA, KHANPUR KALAN, SONIPAT.

Onward Progression and Modernisation: For the first few decades after independence, Indian laws mostly emphasised social protection or the codification of existing personal laws. However, since the 1990s, there has been an explosion of progressive women's rights legislation, much of it fueled by social activist groups and high-profile public law cases involving sexual harassment and assault.

Currently, despite being one of the most progressive countries in terms of legal rights, India has to confront the complicated legacy of its social and cultural history.

THE LEGAL ARCHITECTURE AND THE IMPLEMENTATION GAP

India has developed a multi-faceted legal framework that aims to guarantee women equal opportunity in public life. At present, Indian laws are among the most progressive in terms of women's rights, although implementation remains a serious issue.

Safety and Protection Against Violence: India's recent legal reforms emphasise the introduction of harsh punishments for gender-based violence. The main areas of women's safety and protection are represented by measures targeting domestic and familial relationships, which is reflected in the Protection of Women from Domestic Violence Act, 2005. Notably, this piece of legislation departed from traditional approaches by including not only physical but also moral harassment.

Other legal acts involve several provisions targeting stalking, voyeurism, acid throwing, and the use of technology for tracking illegal or unethical purposes. Of late, India has shown a proclivity towards introducing highly punitive measures against those found guilty of gender-based violence, such as the Bharatiya Nyaya Sanhita (BNS), 2023. Under the new law, Zero FIRs have been introduced, which imply that a complainant may file a First Information Report (FIR) at any police station, regardless of jurisdiction

Economic Empowerment and Workplace Equality: A woman's financial independence is the cornerstone of her empowerment. India has a set of progressive legal acts and policies aimed at ensuring women's financial independence and workplace equality. The Prevention of Sexual Harassment of Women at Workplace Act (POSH), 2013, has been a truly revolutionary law that recognises the sexual harassment victim as the true complainant and not the accused.

Under the POSH Act, companies with more than ten employees must establish an Internal Complaints Committee (ICC). Other progressive measures include the Maternity Benefit (Amendment) Act, 2017, which provides twenty-six weeks of fully paid maternity leave. In theory, these laws guarantee women's rights in the workplace. However, in practice, India has a severe implementation problem, as the majority of Indian women work in the unorganised sector. The Maternity Benefit Act only covers the formal sector employees, which constitutes fewer than ten per cent of female workers. Thus, although Indian laws guarantee theoretical equality, their implementation remains highly problematic, especially regarding the unorganised labour sector.

Personal Laws, Property, and Inheritance: In the pre-modern era, personal laws were mostly guided by religious doctrines, which often resulted in women's rights being restricted in domains of marriage, divorce, adoption, and inheritance. Progressive recent amendments to personal laws, such as the Hindu Succession Act of 2005, have equalised the property rights of men and women. Moreover, other personal laws have undergone significant amendments, such as the Muslim Women Protection of Rights on Marriage Act, 2019, which decriminalised the Triple Talaq. In general, India has successfully equalised the daughters' and sons' rights to ancestral property, which is granted by virtue of birth. These legal steps have dismantled many of the obstacles to women's property ownership and management.

The Critical Challenge: Enforcement and Social Mindsets –

India's laws are truly progressive, but the problem of implementation remains an issue of significant concern. Below are key examples of India's legal rights landscape with regard to women's rights, juxtaposed with current social realities.

Dimension: The Legal Ideal: The On-the-Ground Reality:

Reporting Crimes: Women have a right to speedy trials and protective police custody. Social disapproval, victim-blaming, and police apathy lead to underreporting of crimes.

Workplace Protections: POSH Act compliance and 26 weeks of paid maternity leave; ICC mismanagement and avoidance of hiring women of marriageable age by small firms.

Judicial Delays: Fast-Track Special Courts for sexual assault offences. A large backlog of cases leads to excruciating trial lengths.

India's laws are truly progressive, but the problem of implementation remains an issue of significant concern.

EVIDENCE AND LANDMARK EXAMPLES SUPPORTING THE MAIN DISCUSSION

To support the main discussion points of the article, below are the landmark cases and laws in India concerning the rights of women.

Evidence for Safety & Protection Against Violence –

Vishaka Precedent: Before the Vishaka guidelines were introduced in 2013, the Supreme Court took it upon itself to interpret the applicability of constitutional rights to sexual harassment. After a social worker was gang-raped, the Court held that a woman's fundamental rights under Articles 14 and 21 of the Indian Constitution are violated by such acts.

Abolishing Paternalistic Practices: In State of Jharkhand v. Shailendra Kumar Rai (2022), the Supreme Court of India decided to abolish the infamous "two-finger test" for determining whether a woman has been raped. The Court held that this practice was a "relic of patriarchal notion", thus showing its willingness to uproot discriminatory traditions.

Dignity Within Marriage: In Indira v. Dhanaseelan (2025), the Madurai Bench of the Madras High Court ruled that a man cannot expect to have complete control of his wife. According to the Court, any kind of deprivation of a woman's autonomy within marriage is unlawful.

Evidence for Workplace Equality & Economic Rights –

Breaking Career Barriers: In the Secretary, Ministry of Defence v. Babita Puniya (2020), the Supreme Court of India held that physiological differences of women are not a hindrance to becoming an officer in the Indian Army. The Court recognised that women officers have the right to Permanent Commissions and command jobs.

Combating Gender-Based Job Denial: In Sumitra v. Indian Oil Corporation (2026), the Supreme Court penalised a government-owned organisation for not appointing a woman because she would not be able to handle LPG cylinders. The Court expressed disapproval of such reasoning, calling it an "affront to womanhood", and ordered the respondent to pay a sum of ₹12 lakh as compensation.

Institutional Structural Reform: In early 2026, the Supreme Court of India ruled that menstrual health and hygiene are essential components of a woman's right to life and education under Article 21. The Court further mandated that gender-segregated toilets and free-of-cost sanitary napkins be provided in all educational institutions.

Evidence for Property & Inheritance Rights –

Absolute Equality in Ancestral Wealth: With the 2005 amendment of the Hindu Succession Act, women's rights to ancestral property had become equal to men's. However, there was still controversy regarding whether daughters who were born before the amendment came into force had any rights to ancestral property. In Vineeta Sharma v. Rakesh Sharma (2020), the Supreme Court of India resolved this controversy by stating that a daughter has coparcenary rights by birth, regardless of her date of birth.

Overriding Customary Bias: In Madhu Kishwar v. State of Bihar, the Court held that a woman's exclusion from property inheritance on the ground of customary laws goes against the grain of her fundamental rights under Article 14 of the Indian Constitution.

Statistical Realities: The Implementation Gap –

Below are the statistical realities that support the points made in the "On-the-Ground Reality" of the essay:

Most Indian women are unorganised sector workers: According to the National Sample Survey Office (NSSO), the majority of Indian women work in the unorganised sector, which implies that the laws that apply to the formal corporate sector do not automatically extend to them. As such, laws such as the Maternity Benefit Act, 2017, which state that women are entitled to 26 weeks of fully paid maternity leave, do not apply to the majority of Indian women.

Judicial Backlog: According to the National Judicial Data Grid (NJDC), there is a huge backlog of cases in India's judicial system, which implies that even when women do exercise their legal rights, such as filing a complaint under the Domestic Violence Act, they may have to wait for extended periods of time before obtaining redressal

Analysis: Evaluating India's Socio-Legal Landscape for Women –

The analysis of women's rights in India shows that it has one of the most progressive legal frameworks in the world, which contains a variety of measures targeting women's equality and protection. However, such laws often fail to achieve their intended objective due to poor implementation, social biases, and other factors.

The Judicial Paradigm Shift: From Protectionism to Rights-Based Autonomy

The evolution of India's laws regarding women's rights shows that the country has successfully transitioned from the philosophy of protective discrimination to one of autonomy and rights.

Dismantling Patriarchal Precedents: India's progressive Supreme Court has shown its willingness to reinterpret existing patriarchal laws and remove discriminative elements from them. For example, the Court has invalidated the "two-finger test" and has interpreted the Hindu Succession Act in favour of women's rights. Such jurisprudence shows that the Indian judiciary is willing to accept women as autonomous agents in society.

Expanding the Definition of Violence: The interpretation of violence towards women has been broadened to include not only physical but also moral harassment. This approach has allowed India's courts to intervene in situations when a woman's autonomy is infringed, even when no physical violence is observed.

The Socio-Economic Dichotomy: Formal Progress vs. Informal Neglect –

The above-listed laws and legal precedents create the appearance of rapid progress in women's rights. However, in practice, most Indian women do not have access to these rights due to socio-economic factors

The Formal Sector Triumph: Women in the formal corporate sector have equal rights as men regarding career advancement and maternity leave. The Vishaka guidelines and the POSH Act provide them with tools to report and seek redressal for sexual harassment.

The Informal Sector Blindspot: Since over 90% of Indian women are employed in the unorganised sector, they are subject to different labour laws that do not cover harassment and discrimination against women. This means that women who are employed as housemaids or

farm labourers do not have access to the same legal protections as their formal sector counterparts. In effect, India's progressive laws only apply to a minority of Indian women.n

Institutional Resistance and the "Culture Vs. Law" Conflict –

India's laws regarding women's rights and gender-based violence are largely progressive; however, their implementation suffers from serious issues due to institutional friction and cultural unacceptance.

Police and Local Redressal Friction: Although the law prohibits gender-based discrimination and violence, the police force in India is historically used to deal with domestic disputes and usually tries to avoid involvement in crimes of gender-based violence. This means that when a woman tries to register a First Information Report (FIR) against her abuser, she will often be asked to withdraw the complaint and "compromise the situation."

The Judicial Bottleneck: India has introduced fast-track courts to try cases of gender-based violence; however, India's judiciary is notorious for delays and adjournments. This means that even if the police were to take action in a particular case, it would still take a very long time for the defendant to stand trial.

Summary of the Analytical Synthesis: India's laws regarding gender-based violence and women's rights in general are largely progressive and are effective in theoretical and jurisdictional contexts. However, in practice, these laws are rendered ineffective due to the lack of institutional capacity and cultural inflexibility. The Indian government should focus on ensuring the proper functioning of laws designed to protect Indian women from gender-based violence.

SUGGESTIONS AND SOLUTIONS: BRIDGING THE GAP BETWEEN LAW AND REALITY

Below are a number of suggestions and solutions that may help India bridge the gap between theoretical and practical justice regarding women's rights.

Institutional & Structural Reforms –

Sensitisation of Law Enforcement: Police personnel should receive mandatory training on gender-based violence, after which they should be accountable for ensuring harassment-free

workplaces for women. The police force should be instructed to avoid mediation in cases of gender-based violence and harassment**.**

Expanding Digital and Safe Reporting: To minimise the social stigma of reporting gender-based violence, the Government of India should invest in expanding digital reporting options and One-Stop Crisis Centres, where women may seek help**.**

Clearing Judicial Backlogs: Fast-Track Special Courts (FTSCs) should be strictly monitored to ensure that they do not create new backlogs in the justice system. To prevent this, more women judges should be appointed at the trial court level, and FTSCs should be digitised**.**

Economic Inclusivity for the Unorganised Sector –

Formalising Informal Labour Protections: Women working in the unorganised sector should receive the same protections as their counterparts in the formal sector. This may be accomplished by setting up Local Committees (LCs) in charge of processing harassment claims from casual labourers, such as housemaids.

State-Subsidised Maternity Benefits: To prevent employers in the informal sector from avoiding hiring women of marriageable age, India may introduce a shared maternity benefit model, whereby the state will subsidise maternity benefits for a period of 26 weeks.

Shifting Societal Mindsets & Creating Awareness –

Legal Literacy Campaigns: Many Indian women are unaware of their rights, which limits their ability to access legal redressal. To address this issue, the National Commission for Women (NCW) and independent activists should organise legal literacy campaigns.

School Curriculum Integration: Gender equality, consent, and constitutional rights should be taught in schools to ensure that gender equality is not perceived as an issue of the privileged elites.

CONCLUSION: THE PATH FORWARD FOR GENDER JUSTICE

The trajectory of women's rights in India shows that legislative interventions are effective in promoting gender equality and protecting women from gender-based violence. India's constitutional framework, modernised penal code, and progressive workplace laws such as the POSH Act provide the theoretical basis and juridical tools for advancing the status of women.

As such, these laws have been successfully utilised by Indian women to obtain redressal and exercise their constitutional rights. However, there remains an implementation problem, which is currently hindering the practical application of these laws. Future reforms should focus on ensuring that laws related to women's rights are properly enforced, especially in the unorganised sector. Moreover, institutional accountability and cultural awareness are also essential in bridging the gap between theoretical and practical justice.