



Indian Judiciary and Women in India

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ABSTRACT

The promotion of gender equality and women's empowerment is the third of the eight universal improvement goals for 2015 that were adopted at the United Nations Millennium Summit. These goals are known as the Millennium Development Goals (MDGs). In a nation like India, these objectives are still far from being acknowledged. As a matter of fact, women in India frequently do not have access to their fundamental rights, including the right to dignity, let alone gender equality. One of the most important concerns of the twenty-first century is the empowerment of women. However, in reality, women's empowerment is still a pipe dream; we see women being oppressed by a number of social evils on a daily basis. Women's empowerment is a crucial tool for enhancing women's ability to possess resources and make deliberate, well-informed life decisions. When women, who have historically been marginalised in society, are trying to raise their social and political status, their empowerment is especially crucial. Empowerment is the first step in shielding children from all types of cruelty and abuse. The study is built upon the secondary sources. Despite the government's numerous initiatives, the poll indicates that Indian women are substantially less zealous and have a significantly lower status than men. It has been discovered that women still recognise the existence of unjust gender standards in society. Given this, the current study looks at how the Indian judiciary protects women's rights. It focusses particularly on the issues and challenges related to women's empowerment, the Supreme Court's responsibility in safeguarding victims of crime, and the Court's role in interpreting international instruments for women's empowerment. A few problems that Indian women face are attempted to be addressed in the article, including female feticide, being denied the ability to inherit, having to pay a dowry, selling and trafficking of women, etc. The purpose of this study is to promote strategies for women's empowerment that are comparable to those for men.

Keywords: Crime against Women, Women Empowerment, Socio-economic status, Challenges

INTRODUCTION

A huge backlog of cases involving crimes against women related to dowries has recently overtaken the Indian judiciary, raising serious concerns about women's human rights and having disastrous results. Therefore, in response to the alarming increase in domestic violence cases and the upsetting conditions faced by women who are tortured and harassed by their in-laws or their parents' home, the Indian judiciary has adopted a very strict stance in these cases, rendering firm decisions against the guilty parties and delivering justice to the victim. This is due to the fact that women are treated with greater respect and dignity in our country, and domestic abuse against women is taken very seriously. In the case of *Chandra Prakash Kewal Chand Jain v. State of Maharashtra*¹, the Supreme Court expressed its sentiments as follows: "Unfortunately, there is a decline in the regard for womanhood in our nation. The current global standard of decency and morality in public life is also present in our country. Therefore, if the judiciary rigorously prosecutes individuals who violate societal norms, decency, and morality in public life can be safeguarded and promoted.

Regarding domestic abuse against women, the Indian court, led by the Supreme Court of India, has shown a commendable example of judicial activism. Adultery, rape, dowry-related deaths, and physical or psychological abuse of the wife are all examples of domestic violence. In the **Ram Narayan Gupta v. Ramaswami Gupta case**, the Supreme Court made the important conclusion that acts of domestic violence are often committed in rages driven by sexual jealousy. Women's mistreatment and repeated abuse reveal a deep and intense dislike for social sentiments. The Indian judiciary and legislature have worked to improve women's standing ever since our independence. The judiciary construed the diverse legal provisions intended to safeguard women in a manner that maximized the advantages for our female population. The Indian Constitution ensures equality for all women in India through Article 14. The aforementioned provisions safeguard the dignity of women under Article 51(A)(e), prohibit state discrimination as outlined in Article 15.1, ensure equality of opportunity and pay for equal work as stipulated in Article 16, and provide maternity relief and provisions for securing humane working conditions and maternity leave for women as outlined in Article 42.

OBJECTIVE OF RESEARCH:

1. To investigate how the Indian judiciary contributes to the defense of women's rights.
2. To highlight the Supreme Court's role in interpreting international agreements pertaining to women's empowerment

METHODOLOGY:

This paper's main focus is on analysis and description. The function of the Indian courts in defending women's rights is examined in this essay. In particular, it highlights the Supreme Court's role in safeguarding victims of crime, its need to interpret international treaties pertaining to women's empowerment, and the problems and difficulties surrounding women's empowerment. A few of the restricted barriers that Indian women face are discussed in the article, such as female feticide, the denial of inheritance rights, dowries, and the trafficking and selling of females. This paper's goal is to promote strategies for giving women the same level of empowerment as men.

THE POSITION OF THE JUDICIARY IN CONCEDED WOMEN EQUAL STATUS.

Usually, the legislature enacts laws, the executive branch carries them out, and the court interprets them. But in recent years, the judiciary has acquired a new function or trait. But the law has evolved into an active participant rather than a passive observer or interpreter. In the end, women have profited from this shift in function, despite the fact that it has generated many discussions. The new law has significantly contributed to women's empowerment by establishing a number of laws and principles that are beneficial to women. The judiciary currently acts as the guardian of constitutional affirmation and complies with international conventions and treaties when the legislative and judicial arms of government are unable to carry out their separate duties in enacting and enforcing laws.

The Supreme Court stated in the seminal case **Randhir Singh v. Union of India** that while the principle of equal employment does not constitute a fundamental right, it is undeniably a constitutional objective. According to Article 39 (d) of the Constitution, "equal pay for equal work is guaranteed to men and women." In a similar vein, the court ruled in *Grihakalyan V. Union of India*⁴ that a classification that denies equal pay for equal labor constitutes an irrational classification as defined in Article 14. The Court ruled in *Air India v. Nargesh Meerza*⁵ that a pregnancy-based termination of service was capricious and arbitrary, and thus in violation of Article 14.

The context of **Vishakha V. State of Rajasthan**, in pursuit of gender equality, the petitioner, a nongovernmental organization (NGO) affiliated with the State of Rajasthan, Vishaka, initiated a writ petition to obtain the recognition of the fundamental rights of working women as enshrined in Article 21 of the Indian constitution. The petition was promptly filed in response to the 1992 gang rape of a saathin from Rajasthan, who was employed in women's development programs as a social worker. As a retaliatory action, the assault occurred after the Saathin intervened to avert a child marriage. A seminal ruling was rendered by the Supreme Court of India concerning sexual harassment directed at women.

The Honorable Court determined in the *Noor Saba Khatoun v. Mohd. Quasim*'s case is that we have chosen to live in a secular republic, where secularism legally signifies that the state has no obligation of allegiance to any specific religion and that no state religion exists.

In the case of **Deelip Singh v. State of Bihar**, the Honorable Court determined that a man's promise to marry a woman to make her believe that they are married would qualify as "without her consent" under clause (ii) of section 375 of the Indian Penal Code, provided that it could be proven that the man never intended to marry the woman from the outset and that the promise was merely a hoax. In a scenario where a prosecutrix made a deliberate decision to engage in a sexual demonstration after being captivated by the accuser's promise to marry her, and subsequently renounced that promise as truth to lure her into the sexual act, Clause (ii) of section 375 of the Indian Penal Code applies. It has already been established and is not attractive. In the given scenario, if a man enters into a matrimonial agreement with a woman, the accused would be held accountable for violation of the promise to marry. As compensation for this breach of promise, the accused would be subject to civil law damages. An individual is not automatically liable for rape based on a false vow to wed if the pro secured is at least 16 years old and implicitly consented to the act or demonstration.

Madhukar Narayan Mardikar vs State of Maharashtra, The Honorable Maharashtra High Court notes that it would be highly precarious to base the reputation and professional standing of a government official on the unverified testimony of Banubi, who openly admits to having extramarital affairs, given that she is an immoral woman. She was candid in disclosing the negative aspects of her existence. Even an effortlessly virtuous woman has the right to privacy, and no one may arbitrarily pry into it. Likewise, it is impermissible for any individual to violate her at their discretion. If an endeavor is made to infringe upon her person against her will, she has the right to defend herself. She possesses an equivalent entitlement to legal protection. Consequently, because she embodies uncomplicated virtue and integrity, her evidence cannot be dismissed.

PROTECTION OF CRIME VICTIMS BY THE JUDICIARY

In favor of the protection of women, the Supreme Court established liberal judicial trends by rendering favorable decisions not only in constitutional issues but also in cases involving customary laws; this is illustrated by the *Shah Bano Case*⁶, in which the apex Court overturned personal law and brought Muslim women under the jurisdiction of Section 125 Cr.p.c. Similarly, the Supreme Court ruled in the *Shamim Ara Case* that triple talaq is invalid. The judiciary's interpretations in this regard introduce fresh aspects to the notion of women's liberty and create opportunities for the advancement and personal growth of women. The Supreme Court ruled in the case of *State Of Maharashtra And Another v. Madhukar Narayan Mardikar*⁷ that a woman, regardless of her easy virtue, has the right to privacy and that no one may intrude upon it at will. Consequently, her testimony cannot be thrown out solely on the basis that she possesses easy virtue; in doing so, the Court reclassifies her as "a free human being with an independent will" and dispels the conventional notion that ladies of simple virtue lack individuality. The Indian judiciary demonstrates praiseworthy endeavors by consistently adapting legal interpretations to the evolving societal requirements. This was exemplified in the *Githa Hariharan V. Reserve Bank of India case*⁸, wherein it interpreted

Section 6(a) of the Hindu Minority and Guardianship Act, 1956, and Section 19(b) of the Guardians and Wards Act, 1890 to establish equivalent guardianship status for the father and mother of a minor.

In the **Cehat and Ors. v. Union of India** case, the Supreme Court of India issued helpful guidelines and supervised the Prenatal Diagnostic Techniques Act's implementation. This petition made gender choice and sex-selective abortion a major issue, which led to a number of government and non-governmental organisations taking action to address this issue.

In *R. Ruppayee v. Raja Gounde*¹⁰, a case involving gift-related property, the Supreme Court ruled that a father may bequeath to his daughter ancestral immovable property within reasonable boundaries.

Regarding the widow's claim to property, the Supreme Court ruled in the *Kalawatibai V. Soiryabai* case that a female Hindu who owned the property as of the effective date of the Hindu Succession Act of 1956 could only acquire absolute ownership if she were a limited owner. The legislature did not intend to grant the benefit of estate enlargement to every female Hindu, regardless of her status as a limited proprietor.

The highest legal authority in India has interpreted several fundamental human rights of women under the rights guaranteed in Part III of the Constitution. These fundamental liberties have existed long before the American Bill of Liberties. Over a series of cases, the Supreme Judicial Branch has established extraordinary benchmarks for defining the relationship between women's human rights and their sexual orientation. In the case of *Rupan Deal Bajaj v. K.P.S. Gill*, the Supreme Court of India upheld the dignity of women. The A.P. High Court, in *T. Saritha v. Thnkata Subbaiah*, highlighted how this case overturned Section 9 of the Hindu Marriage Act, 1955 and violated the right to security and human nobility guaranteed in Article 21 of our Constitution. The case established the standard of reasonableness in wedding matters.

The Honourable Punjab and Haryana Court ruled in *Ranghubans Saudagor Singh v. State of Punjab* that while discrimination based solely on sex is prohibited by the Constitution, the constitutional bar cannot be drawn when a variety of other factors and consideration from a reasonable connection with the object of classification are taken into account in addition to the peculiarities of sex.

The case of *Air India v. Nargesh Mirza* highlights the invalidity and arbitrary nature of the service rules established by Indian Airlines and Air India. These rules mandated that Air Hostesses retire from service at the earlier of 35 years of age or upon marriage, or if they married within four years of confirmation or upon their first pregnancy, whichever occurred first.

It was noted in the case of *Lalitha Sundari v. R. Kethar Nathan* that the female descendants of the trustees were required to fill two positions on the Education Committee of a family trust. The appointing authority, the scheme court, appointed two male members and noted that the female candidates who participated in the interview lacked practical experience and were male descendants as well

INTERPRETATION OF INTERNATIONAL INSTRUMENTS FOR WOMEN'S RIGHTS: THE ROLE OF THE SUPREME COURT

The Supreme Court has consistently applied the international standard of gender justice when it did not find national law to conflict with its provisions. The formation of the National Human Rights Commission, the National Commission for Women, and the Human Rights Act followed a consideration of instruments of international law. Indeed, each of these commissions operates by the constraints imposed by the Constitution. Furthermore, these recommendations are duly considered during the formulation and execution of legislation about the status of women in Indian society. India accords international human rights organizations with the respect they merit. These organizations are authorized to travel to any location within India. Under this expansive framework of national and international law, Indian women are afforded complete legal protection. The report of the His Lordship Justice J S Verma Committee revealed that the underlying factors contributing to offenses against women were deficiencies on the parts of the Government and Police. The report cited, among other things, the necessity to reassess the Anti-Fraud Savings and Passport Act (AFSPA) in conflict zones (such as Manipur), the most severe penalty for rape being life imprisonment rather than the death penalty, and the evident ambiguity surrounding the control of the Delhi Police. On April 3, 2013, the Criminal Law (Amendment) Act, of 2013 went into effect. The modifications enacted in the Act concerning offenses including acid assaults, sexual harassment, voyeurism, stalking, human trafficking, and rape, in contrast with the Ordinance.

In general, rape is regarded as a grave sexual offense comparable in gravity to civil assault. The legal rights of women encompass their human and social liberties. An early declaration advocating for women's rights was known as the Declaration of Sentiments. Concerns commonly associated with notions of women's rights encompass, but are not limited to the following: the right to bodily autonomy and integrity; the right to vote (suffrage); the right to hold public office; the right to employment; the right to equitable or equivalent compensation; the right to property ownership; the right to education; the right to enlist in the military or serve in the armed forces; the right to enter into lawful contracts; and the right to conjugal, parental, and religious liberties.

The Constitution of India declares the judiciary to be independent. A division of powers exists between the executive and judicial branches. The judiciary, responsible for determining the legality of executive actions and the constitutional significance of laws, ought to maintain a distinct existence. Lord Bryce stated that the efficacy and independence of a government's judicial system is the only true metric of its excellence. The Indian constitution comprises numerous provisions that aim to safeguard the independence of the judiciary. In 2006, India reported over 19,000 rapes, 7500 dowry-related fatalities, 32,000 homicides, and 36,500 incidents of molestation committed against women and female children. The statistics, homicide rates, rapes, violence that impedes economic development, and threats to humanity are all well-known. Instead of counting offenses, a reductionist mindset is required. No one can claim to be safeguarding the area or its inhabitants while firearms and language remain unrestricted. "Culprits are our people" does not grant any side the right to perpetrate crimes against innocent women and girl children, regardless of whether they are dressed in uniform or civilian attire. These elements

were emboldened by the fact that their heinous crimes against women were being disregarded. New data from the National Crime Records Bureau indicates that approximately two lakh incidents of violence have been documented. It is widely acknowledged that corrupt and discriminatory social attitudes, in addition to simple greed and prejudice, permeate the mindset of authorities, particularly the police. This is frequently the case when grave complaints remain uninvestigated or undergo inadequate investigations. A reduction in crimes against women is possible only through the implementation of free, fair, and prompt investigations, as well as an enhancement in the conviction rate for diverse forms of violence against women. The press must play a crucial role in combating any attempt at concealment in this area.

CONCLUSION

High courts and the Supreme Court of India interpret constitutional provisions in a way that benefits women and girls. The judiciary is called upon to protect the rights of women and female children when laws, regulations, or orders made by the government or any other agency are harmful to them. Fortunately, it is likewise committed to advancing the welfare of women and girls, even though it is the last option. It's time to acknowledge that society is facing a common peril and that a coordinated response is desperately needed to overcome this obstacle. The growing concern and strong sense of urgency surrounding the violence and criminality that disproportionately afflict women calls for a declaration of community responsibility.

In contrast to the prior prevalent opinion, women from all social classes are reporting or disclosing crimes like rape and assault without feeling abandoned by their families or society. Because society is changing and isn't addressing urgent issues like class division or societal mindset, government involvement is required. In a number of noteworthy cases, such as *M.C. Mehta vs. State of Tamil Nadu* (1991), *Goodrocks Group Ltd. vs. Centre of West Bengal* (18), *Lakshmi Kant Pandey vs. Union of India*, *Sheela Barse vs. Union of India*, and *Unni Krishnana J.P vs. Union of India* (2011), the Supreme Court of India placed a strong emphasis on children's rights. The Indian government is required to carry out realistic measures for the wellbeing of women and children. Child Labour Welfare, Child Welfare and the Right to Education, Adoption of Children, Sexual Exploitation of Children, and Rehabilitation of Child Prostitutes are issues that require our attention. The Indian Judiciary's proactive attitude on these concerns serves as a significant contribution towards safeguarding the rights of women.

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