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Gender-Based Violence Against Women in India: a Critical Legal Analysis of Existing Legislations and Access to Justice

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Abstract

Gender-based violence against women remains a serious social and legal challenge in India despite the existence of comprehensive legislative protections. This paper examines the relationship between gender-based violence, Indian law, and access to justice, with particular focus on the effectiveness of existing legislations. It analyses major legal provisions under the Bharatiya Nyaya Sanhita, 2023, Protection of Women from Domestic Violence Act, 2005, Dowry Prohibition Act, 1961, and Sexual Harassment of Women at Workplace Act, 2013. The study further explores the role of police, courts, legal aid institutions, and other justice-delivery mechanisms in protecting women from violence. It identifies challenges such as underreporting, social stigma, lack of legal awareness, procedural delays, and institutional barriers. The paper argues that effective protection requires not only strong laws but also efficient implementation, accessible remedies, gender-sensitive institutions, and greater legal awareness to ensure meaningful access to justice for women.

Keywords: Gender-Based Violence, Women, Indian Justice System, Gender and Law, Access to Justice, Women's Rights.

Introduction

Gender-based violence against women is a complex legal, social and human-rights concern. It affects the physical security, dignity, liberty, equality and participation of women in family, workplace and public life. Violence against women may occur in different forms and settings, including domestic violence, sexual violence, dowry-related harassment, workplace sexual harassment, stalking, trafficking, physical assault, psychological abuse and technology-facilitated violence. Although the forms and circumstances may differ, the issue is closely connected with unequal power relationships and barriers that may restrict women's ability to exercise their legal rights.

The Indian Constitution provides an important foundation for addressing gender inequality and violence. Article 14 guarantees equality before law and equal protection of laws, while Article 15 prohibits discrimination on specified grounds including sex. Article 15(3) permits the State to make special provisions for women and children. Article 21 protects life and personal liberty and has been interpreted through constitutional jurisprudence to encompass dignity and other aspects of personal autonomy.[1] These constitutional guarantees establish the normative basis for legislative and institutional measures directed towards women's protection.

The statutory framework has developed considerably over the decades. The Dowry Prohibition Act, 1961 addressed the practice of dowry; the Protection of Women from Domestic Violence Act, 2005 created a specialised framework for protection and relief within domestic relationships; and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 established mechanisms for

[1] Basu, D.D., Introduction to the Constitution of India, LexisNexis, Gurugram, 2022, discussion on Fundamental Rights and Directive Principles; Constitution of India, Articles 14, 15 and 21.

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preventing and redressing sexual harassment at workplaces. The criminal-law framework has also changed with the enactment of the Bharatiya Nyaya Sanhita, 2023, which replaced the Indian Penal Code, 1860 and contains provisions concerning rape and other offences against women.[2]

The existence of legislation, however, does not by itself establish that every woman can effectively obtain justice. Access to justice includes the ability to know one's rights, reach appropriate institutions, obtain legal assistance, participate meaningfully in proceedings and receive a timely and effective remedy. A woman may therefore have a statutory right but encounter practical obstacles in exercising it. Social stigma, economic dependence, family pressure, lack of awareness, institutional barriers, procedural complexity and delay may affect the actual accessibility of legal remedies.

The present research therefore examines gender-based violence through the combined perspectives of gender, law and access to justice. It focuses on the relationship between formal legal protection and its practical implementation and considers the role of courts, police, legal aid institutions and other mechanisms in making legal rights meaningful.

2. OBJECTIVES OF THE STUDY

The present study has the following objectives:

1. To examine the concept and major forms of gender-based violence against women in India.
2. To analyse the constitutional framework relating to women's equality, dignity and protection.
3. To examine major existing legislations dealing with gender-based violence.
4. To analyse the relevant provisions of the Bharatiya Nyaya Sanhita, 2023.
5. To examine the Protection of Women from Domestic Violence Act, 2005.
6. To analyse the Dowry Prohibition Act, 1961 and the Sexual Harassment of Women at Workplace Act, 2013.
7. To examine the role of the judiciary and other justice-delivery institutions.
8. To identify major barriers affecting women's access to justice.

3. RESEARCH METHODOLOGY

The research adopts a doctrinal and socio-legal methodology. The doctrinal component is based on primary legal materials including constitutional provisions, statutes and judicial decisions. The principal statutes examined include the Bharatiya Nyaya Sanhita, 2023, Protection of Women from Domestic Violence Act, 2005, Dowry Prohibition Act, 1961 and Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

Secondary sources include books, scholarly writings, institutional publications and legal research material. The socio-legal dimension of the study examines the practical relationship between statutory rights and access to justice. The study is qualitative and analytical in nature and does not claim to constitute a statistical survey of all forms of violence against women.

4. UNDERSTANDING GENDER-BASED VIOLENCE AGAINST WOMEN

[2] Government of India, The Bharatiya Nyaya Sanhita, 2023, Act No. 45 of 2023, Ministry of Law and Justice, New Delhi, 2023.

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Gender-based violence may broadly be understood as violence directed against a person because of gender or violence that disproportionately affects persons in a gendered context. In relation to women, the concept encompasses physical, sexual, psychological, emotional and economic forms of abuse.

The Protection of Women from Domestic Violence Act, 2005 provides an important statutory illustration of the broader understanding of violence. Section 3 includes physical, sexual, verbal and emotional, and economic abuse within domestic violence. It also covers conduct connected with unlawful demands for dowry or other property and conduct causing or threatening physical or mental harm.[3]

The recognition of economic and emotional abuse is significant because violence within domestic relationships may not always involve visible physical injuries. Deprivation of financial resources, humiliation, repeated threats, controlling conduct and denial of basic necessities can also restrict a woman's autonomy and ability to seek assistance.

Sexual violence constitutes another major form of gender-based violence. The Bharatiya Nyaya Sanhita, 2023 defines rape in Section 63 and provides punishment under Section 64. The statutory framework also contains provisions concerning aggravated forms of rape and gang rape.[4] Workplace sexual harassment represents a further context in which gender inequality may manifest itself. The 2013 Act establishes institutional mechanisms for prevention and redressal and requires appropriate workplaces to establish Internal Committees.[5]

Thus, gender-based violence must be understood broadly. A legal system concerned with access to justice cannot limit its attention solely to physical assault; it must also recognise sexual, emotional, economic and institutional dimensions of violence.

5. CONSTITUTIONAL FRAMEWORK FOR WOMEN'S PROTECTION

The Constitution provides the basic legal foundation for gender justice in India. Article 14 guarantees equality before law and equal protection of laws. Article 15(1) prohibits discrimination on grounds including sex, while Article 15(3) expressly permits special provisions for women and children.[6]

Article 21 provides protection of life and personal liberty. Judicial interpretation has expanded the understanding of Article 21 to include dimensions of dignity, autonomy and personal security. These principles are particularly relevant in cases involving violence against women because violence can directly interfere with bodily integrity, dignity and personal liberty.

Article 39(a) directs the State towards securing adequate means of livelihood for men and women equally, while Article 39(d) refers to equal pay for equal work. Article 39(e) directs attention towards protection of the health and strength of workers, including women, and Article 42 concerns just and humane conditions of work and maternity relief.

Article 39A is also important from the perspective of access to justice. It directs the State to ensure that the operation of the legal system promotes justice on the basis of equal opportunity and to provide free legal aid

[3] Government of India, The Protection of Women from Domestic Violence Act, 2005, Act No. 43 of 2005, Section 3, Ministry of Law and Justice, New Delhi, 2005.
[4] Government of India, The Bharatiya Nyaya Sanhita, 2023, Sections 63–70, Ministry of Law and Justice, New Delhi, 2023.
[5] Government of India, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Sections 4, 9 and 11, Ministry of Law and Justice, New Delhi, 2013.
[6] Constitution of India, Articles 14, 15 and 15(3), Government of India, New Delhi.

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by suitable legislation or schemes so that opportunities for securing justice are not denied because of economic or other disabilities.[7]

Consequently, protection against gender-based violence must be understood within a constitutional structure that combines equality, dignity, liberty and access to justice.

6. BHARATIYA NYAYA SANHITA, 2023 AND OFFENCES AGAINST WOMEN

The Bharatiya Nyaya Sanhita, 2023 is the principal substantive criminal law applicable to offences falling within its scope. It replaced the Indian Penal Code, 1860 and contains a separate framework dealing with offences against women and children.

Section 63 deals with rape. Section 64 provides punishment for rape and specifies enhanced punishment in aggravated circumstances. Section 65 provides punishment for rape in specified circumstances involving younger victims, while Section 70 addresses gang rape. Section 69 addresses sexual intercourse by employing deceitful means or by making a promise to marry without intention of fulfilling the promise, where the conduct does not amount to rape.[8]

The statutory provisions demonstrate an attempt to maintain a comprehensive criminal-law response to sexual violence. At the same time, the effectiveness of criminal provisions depends upon implementation. Registration of information, investigation, collection and preservation of evidence, medical examination, prosecution and adjudication all form part of the justice process.

A criminal law framework must therefore be considered alongside procedural and institutional mechanisms. Punishment provisions cannot independently guarantee justice if victims face barriers at the reporting or investigation stages.

The transition from the IPC to the BNS also creates a continuing need for legal education and professional training. Police officers, advocates, judges, legal academics and citizens must understand the new statutory numbering and substantive provisions so that legal rights are communicated accurately and proceedings are conducted under the appropriate law.

7. PROTECTION OF WOMEN FROM DOMESTIC VIOLENCE ACT, 2005

The Protection of Women from Domestic Violence Act, 2005 was enacted to provide more effective protection of the rights of women guaranteed under the Constitution who are victims of violence occurring within the family.[9]

Section 3 provides a comprehensive statutory definition of domestic violence. It recognises physical abuse, sexual abuse, verbal and emotional abuse and economic abuse. The Act also recognises conduct connected with unlawful demands for dowry or other property and threats or harm associated with such conduct.[10]

[7] Constitution of India, Article 39A; Legal Services Authorities Act, 1987.
[8] Government of India, The Bharatiya Nyaya Sanhita, 2023, Sections 63–70, Ministry of Law and Justice, New Delhi, 2023.
[9] Government of India, The Protection of Women from Domestic Violence Act, 2005, Preamble and Section 1, Ministry of Law and Justice, New Delhi, 2005.
[10] Government of India, The Protection of Women from Domestic Violence Act, 2005, Section 3, Ministry of Law and Justice, New Delhi, 2005.

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The Act provides several forms of relief. Section 17 recognises the right of an aggrieved woman to reside in the shared household. Sections 18 to 23 provide mechanisms including protection orders, residence orders, monetary relief, custody orders, compensation orders and interim or ex parte orders.[11]

These provisions are significant from the perspective of access to justice because the Act is not confined to punishment. It provides protective and remedial measures intended to address the immediate circumstances of a woman facing domestic violence.

In *Satish Chander Ahuja v. Sneha Ahuja*, the Supreme Court examined the meaning of "shared household" and the statutory right of residence under the Domestic Violence Act. The Court's interpretation emphasised the statutory character of the residence right and rejected an unduly narrow approach based only upon ownership considerations.[12]

The Act therefore demonstrates how access to justice can involve remedies beyond imprisonment or monetary punishment. Protection, residence, financial assistance, custody and compensation may all be relevant to the circumstances of a survivor.

8. DOWRY PROHIBITION ACT, 1961

The Dowry Prohibition Act, 1961 is one of India's important legislations dealing with a form of gender-related social practice associated with marriage. Section 2 defines dowry in terms of property or valuable security given or agreed to be given in connection with marriage. Section 3 provides punishment for giving or taking dowry, subject to the statutory provisions.[13]

The legislation is significant because dowry-related demands may become associated with harassment, cruelty, economic exploitation and physical violence. The legal framework therefore operates alongside other criminal and protective provisions.

The continued relevance of the Act also illustrates the relationship between social practices and law. Criminalisation establishes a formal legal prohibition, but implementation depends upon awareness, reporting, investigation and institutional response.

Women experiencing dowry-related harassment may also face economic and familial pressures that discourage reporting. Therefore, legal remedies must be accompanied by accessible support systems and awareness concerning the rights available under law.

The enforcement of dowry legislation should consequently be viewed within the broader framework of access to justice. The objective is not simply to establish punishment after an offence but to create an environment in which women can safely report unlawful demands and obtain effective legal protection.

9. SEXUAL HARASSMENT OF WOMEN AT WORKPLACE ACT, 2013

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 represents an important statutory mechanism for protecting women from sexual harassment at workplaces. The Act

[11] Government of India, The Protection of Women from Domestic Violence Act, 2005, Sections 17–23, Ministry of Law and Justice, New Delhi, 2005.
[12] Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414.
[13] Government of India, The Dowry Prohibition Act, 1961, Sections 2 and 3, Ministry of Law and Justice, New Delhi, 1961.

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provides for prevention, prohibition and redressal of complaints and establishes Internal Committees and Local Committees.[14]

The Act emerged from constitutional jurisprudence developed in *Vishaka v. State of Rajasthan*. In that case, the Supreme Court formulated guidelines concerning sexual harassment at the workplace in the absence of comprehensive legislation specifically governing the field.[15] The decision connected workplace sexual harassment with constitutional guarantees including equality and the right to work with dignity.

Under the 2013 Act, Section 4 deals with the constitution of the Internal Committee, Section 9 concerns complaints of sexual harassment, and Section 11 provides for inquiry into complaints.[16] Confidentiality is addressed through statutory provisions restricting publication or communication of the contents of complaints and proceedings.

The institutional mechanism is important because workplace harassment may involve a power imbalance between the complainant and the person against whom the complaint is made. An effective internal mechanism can provide a specialised route for addressing complaints without requiring every matter to begin as a conventional criminal prosecution.

However, institutional mechanisms must operate according to statutory requirements and principles of procedural fairness. Awareness of the complaint process, proper constitution of committees, confidentiality and timely inquiry are essential to meaningful access to justice.

10. JUDICIAL APPROACH TO GENDER-BASED VIOLENCE

The Indian judiciary has played a significant role in developing legal principles concerning women's dignity, equality and protection.

The decision in *Vishaka v. State of Rajasthan* is particularly significant because the Supreme Court addressed workplace sexual harassment through constitutional principles before Parliament enacted the 2013 legislation.[17] The Court recognised that sexual harassment at the workplace can interfere with women's fundamental rights and laid down guidelines intended to protect women.

In *Apparel Export Promotion Council v. A.K. Chopra*, the Supreme Court considered sexual harassment in the workplace and emphasised the importance of protecting women's dignity and ensuring a workplace environment consistent with constitutional values.[18] In *Medha Kotwal Lele v. Union of India*, the Supreme Court considered the implementation of the *Vishaka* framework and emphasised the need for effective implementation of safeguards against workplace sexual harassment.[19] The domestic-violence jurisprudence also demonstrates the role of judicial interpretation in ensuring that statutory remedies are not unduly restricted. The decision in *Satish Chander Ahuja v. Sneha Ahuja* provides an important example concerning the statutory concept of shared household and women's residence rights.[20] Judicial decisions therefore

[14] Government of India, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Sections 4, 6, 9 and 11, Ministry of Law and Justice, New Delhi, 2013.
[15] Vishaka v. State of Rajasthan, (1997) 6 SCC 241.
[16] Government of India, The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Sections 4, 9 and 11, Ministry of Law and Justice, New Delhi, 2013.
[17] Vishaka v. State of Rajasthan, (1997) 6 SCC 241.
[18] Apparel Export Promotion Council v. A.K. Chopra, (1999) 1 SCC 759.
[19] Medha Kotwal Lele v. Union of India, (2013) 1 SCC 297.
[20] Satish Chander Ahuja v. Sneha Ahuja, (2021) 1 SCC 414.

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contribute to access to justice not only through individual remedies but also through interpretation of legislation and constitutional principles.

11. ACCESS TO JUSTICE FOR WOMEN

Access to justice is a broader concept than access to courts. It includes awareness of rights, physical accessibility of institutions, affordability, availability of legal representation, procedural fairness, timely adjudication and effective implementation of remedies. For women facing violence, the first institutional contact may be the police, legal services authority, protection officer, workplace committee, medical institution or another support institution. The response received at this stage can influence the subsequent legal process. Legal awareness is therefore an important component of justice. A right that is unknown to its holder may be difficult to exercise. Women must be informed about the remedies available under domestic violence legislation, criminal law, workplace law and legal aid mechanisms. Economic accessibility is another important concern. The Legal Services Authorities Act, 1987 provides a statutory framework for free legal services. Section 12 specifically includes women among persons entitled to legal services.[21] NALSA also states that women are eligible to seek free legal aid irrespective of their income or financial status under Section 12(c).[22]

NALSA further provides access through Legal Services Authorities at national, state, district and taluka levels, and provides a national legal-aid helpline.[23] The existence of these mechanisms demonstrates that access to justice includes institutional assistance outside conventional courtroom proceedings.

12. ROLE OF POLICE IN PROVIDING ACCESS TO JUSTICE

Police institutions occupy a central position in the criminal justice process. In cases involving gender-based violence, the police may receive complaints, record information, investigate allegations, collect evidence and provide assistance concerning immediate safety. The effectiveness of the criminal justice process can therefore be influenced by the manner in which complaints are received and investigated. Women may be reluctant to approach police authorities because of fear, stigma, family pressure or uncertainty about the procedure. Professional training is therefore important. Police officers require knowledge of the applicable criminal law, procedural requirements, evidence collection and interaction with survivors. The justice system should also ensure that women are informed about available legal assistance. Where appropriate, police institutions should facilitate access to relevant support mechanisms rather than treating a complaint solely as a criminal-investigation matter.

The institutional objective should be to ensure that a woman approaching the police is able to understand the available legal process and does not face unnecessary barriers in initiating lawful proceedings.

13. ROLE OF LEGAL SERVICES AUTHORITIES

Legal aid is an essential component of access to justice. Article 39A establishes the constitutional principle of equal justice and free legal aid, while the Legal Services Authorities Act, 1987 provides the statutory framework.

[21] Government of India, The Legal Services Authorities Act, 1987, Section 12, Ministry of Law and Justice, New Delhi, 1987.
[22] National Legal Services Authority, "Legal Aid – Frequently Asked Questions," National Legal Services Authority, New Delhi. NALSA specifically identifies women as eligible for free legal aid under Section 12(c).
[23] National Legal Services Authority, "Assistance for Women," National Legal Services Authority, New Delhi.

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Women are expressly included within the categories eligible for free legal services under Section 12(c).[24] This is particularly important because economic dependence can prevent women from obtaining private legal representation.

The National Legal Services Authority provides legal aid, legal advice, awareness programmes and assistance through the network of State, District and Taluka Legal Services Authorities.[25] Legal Services Authorities may also assist in drafting documents, representation in proceedings and other legal services.[26]

Legal aid should therefore be understood not merely as the appointment of a lawyer but as a broader mechanism through which women can understand and exercise their rights. Legal literacy programmes can also play a preventive role. If women are aware of available remedies before violence escalates, they may be able to seek assistance at an earlier stage.

14. MAJOR BARRIERS TO ACCESS TO JUSTICE

Access to justice for women facing gender-based violence is affected by a combination of legal, social, economic, institutional and procedural barriers. Although Indian law provides several remedies and protective mechanisms, the practical ability of women to use these remedies may be influenced by their social circumstances, awareness of law, financial position and confidence in justice institutions. Therefore, the effectiveness of legal protection cannot be measured only by the existence of legislation; it must also be assessed in terms of whether women are able to approach the relevant institutions and obtain appropriate remedies within a reasonable period.

14.1 Lack of Legal Awareness

Lack of awareness regarding legal rights is one of the important barriers to access to justice. Women may not always be aware of the remedies available under the Protection of Women from Domestic Violence Act, 2005, the Bharatiya Nyaya Sanhita, 2023, the Sexual Harassment of Women at Workplace Act, 2013 or the Legal Services Authorities Act, 1987. In situations involving domestic or sexual violence, lack of information may result in delayed reporting or dependence upon family members for deciding whether legal action should be initiated. Legal literacy is therefore important because a statutory right becomes meaningful only when the person concerned knows about the right and the procedure through which it can be exercised.[27]

14.2 Social Stigma and Fear of Social Consequences

Social stigma remains an important factor affecting women's willingness to report violence. In cases involving sexual violence, domestic abuse or harassment, women may fear criticism, loss of family relationships, damage to social reputation or pressure from relatives. The fear of being blamed for the violence or being questioned about personal conduct may discourage survivors from approaching police or courts. In domestic relationships, the situation can become particularly difficult because the woman may have emotional, social and economic connections with the person against whom the complaint is made. Consequently, social attitudes may operate as an informal barrier even when formal legal remedies are available.

14.3 Economic Dependence

[24] Government of India, The Legal Services Authorities Act, 1987, Section 12(c), Ministry of Law and Justice, New Delhi, 1987.
[25] National Legal Services Authority, Legal Aid, National Legal Services Authority, New Delhi.
[26] Madhya Pradesh State Legal Services Authority, Legal Aid, Madhya Pradesh State Legal Services Authority, Jabalpur.
[27] Agnes, Flavia, Law and Gender Inequality: The Politics of Women's Rights in India, Oxford University Press, New Delhi, 1999.

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Economic dependence can substantially affect access to justice. A woman who depends upon her husband or family for financial support may find it difficult to leave an abusive household or sustain legal proceedings. Litigation may involve expenses relating to transportation, documentation, legal representation and repeated appearances before institutions. Although legal-aid mechanisms are available to eligible persons and women are specifically recognised under Section 12(c) of the Legal Services Authorities Act, 1987, awareness and accessibility of such services remain important.[28] Economic empowerment and accessible legal assistance are therefore closely connected with women's ability to exercise legal rights.

14.4 Family and Community Pressure

Women may also face pressure from family members or community groups to withdraw complaints or resolve disputes privately. Such pressure may arise from concerns relating to family honour, marriage, children, economic dependence or social reputation. In some circumstances, the survivor may be encouraged to compromise even where legal remedies are available. Such circumstances demonstrate that access to justice is not merely a question of whether a woman can physically approach a court; it also concerns whether she can exercise her legal rights freely and without coercion.

14.5 Procedural Delay

Delay in investigation and adjudication can affect the effectiveness of legal remedies. Gender-based violence cases may involve repeated institutional appearances, collection of evidence, medical procedures, investigation and judicial proceedings. Prolonged proceedings may impose financial and emotional burdens upon survivors. In cases involving continuing domestic violence, delay in obtaining appropriate protective or monetary relief may have particularly serious practical consequences. Timely justice must therefore be considered an important component of meaningful access to justice.

14.6 Institutional Barriers

The attitude and functioning of justice institutions can influence a woman's experience of the legal process. Police stations, courts, medical institutions, legal services authorities and workplace committees perform different functions in the justice process. Lack of coordination, inadequate infrastructure, insufficient personnel or inadequate understanding of gender-sensitive procedures may create difficulties for survivors. Continuous training of police officers, judicial personnel, prosecutors, medical professionals and institutional committee members can help improve the quality of institutional responses.

14.7 Fear of Retaliation and Further Violence

A woman may hesitate to report violence because of fear that the accused or other family members may retaliate. This concern may be particularly significant where the alleged perpetrator is a spouse, family member, employer or another person exercising social or economic influence. Protection mechanisms are therefore important to ensure that approaching a justice institution does not expose the survivor to additional risks. Protective orders and other remedies available under specialised legislation can play an important role in such circumstances.[29]

14.8 Geographical and Physical Accessibility

[28] Government of India, The Legal Services Authorities Act, 1987, Section 12(c), Ministry of Law and Justice, New Delhi, 1987.
[29] Government of India, The Protection of Women from Domestic Violence Act, 2005, Sections 18–23, Ministry of Law and Justice, New Delhi, 2005.

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Physical distance from police stations, courts, legal-aid institutions, shelters and medical facilities may create additional difficulties, particularly for women living in rural or remote areas. Transportation expenses and the need to make repeated visits can increase the practical burden of litigation. Access-to-justice policies should therefore consider geographical accessibility and provide decentralised legal services, awareness programmes and appropriate support mechanisms.

14.9 Lack of Effective Legal Assistance

Legal procedures can be difficult for persons without legal knowledge. Women who do not have access to professional assistance may find it difficult to understand the appropriate forum, documentation requirements, procedural stages and available remedies. The constitutional principle under Article 39A and the Legal Services Authorities Act, 1987 recognise the importance of legal aid in preventing economic or other disabilities from obstructing justice.[30] Strengthening awareness and availability of free legal services can therefore reduce this barrier.

14.10 Technology-Related Barriers

The increasing use of digital platforms has created new forms of gender-based violence as well as new methods of accessing legal information. Women may face cyberstalking, online threats, impersonation, non-consensual dissemination of private material and other technology-facilitated abuse. At the same time, women with limited digital literacy or inadequate access to technology may find it difficult to use online complaint systems and digital legal resources. Therefore, technological solutions must be accompanied by accessible offline mechanisms and adequate digital-literacy support.

Overall, these barriers demonstrate that the existence of protective legislation is only one part of the justice process. Meaningful access to justice requires legal awareness, economic support, accessible institutions, timely procedures, effective legal aid, protection from retaliation and gender-sensitive institutional practices. The challenge for the Indian justice system is therefore to ensure that the rights provided by legislation are translated into remedies that women can practically and safely access.

15. GENDER, LAW AND ACCESS TO JUSTICE: A SOCIO-LEGAL ANALYSIS

The relationship between gender and law cannot be understood solely by counting the number of statutes enacted. A meaningful analysis requires examination of how legal norms operate within social structures.

Formal equality under Article 14 does not necessarily remove practical barriers. Women may have the same formal right to approach a court, but their ability to exercise that right may differ according to economic circumstances, geographical location, social position and access to information.

The specialised nature of several Indian statutes reflects an attempt to respond to these differences. The Domestic Violence Act provides remedies specifically designed for women experiencing violence within domestic relationships. The Workplace Sexual Harassment Act creates institutional mechanisms suited to workplace complaints. Legal aid legislation recognises women as a category entitled to free legal services.

These provisions indicate that access to justice requires more than identical treatment. It requires institutional arrangements capable of addressing the specific circumstances in which women experience violence.

[30] Constitution of India, Article 39A; Government of India, The Legal Services Authorities Act, 1987, Ministry of Law and Justice, New Delhi, 1987.

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At the same time, specialised laws must be effectively implemented. A statute may create a right, but institutions must provide the practical mechanism through which that right can be exercised. Therefore, legal awareness, trained personnel, accessible procedures and effective remedies are essential components of gender justice.

16. TECHNOLOGY AND EMERGING FORMS OF GENDER VIOLENCE

The digital environment has created both opportunities and challenges for women's access to justice. Digital platforms may facilitate access to legal information and complaint mechanisms, but they may also become spaces for harassment and abuse.

Technology-facilitated gender violence may include online threats, cyberstalking, impersonation, publication of private information and non-consensual sharing of intimate material. The speed and scale of digital communication can increase the reach of harmful material.

From the perspective of investigation, electronic evidence may be important. Messages, emails, social-media records and other electronic material can potentially assist investigation, subject to the applicable evidentiary and procedural requirements. The justice system therefore requires adequate technological capacity. Police and investigative agencies need training in digital evidence preservation and cyber investigation. Women also need information regarding appropriate reporting channels and preservation of relevant evidence. Technology should consequently be integrated into access-to-justice strategies while ensuring privacy, security and accessibility.

17. INTERSECTIONAL DIMENSIONS OF ACCESS TO JUSTICE

Women do not experience violence in identical social circumstances. Economic status, rural or urban location, education, disability, social marginalisation and access to institutional support can influence the ability to seek legal remedies. A woman living in a remote area may have greater difficulty reaching a police station, court, lawyer, shelter or specialised support service. Similarly, women with limited digital literacy may not benefit equally from online legal resources. Economic inequality may further affect the ability to participate in lengthy legal proceedings. Although legal aid can reduce financial barriers, awareness of legal aid remains essential. Therefore, access to justice should be designed around practical accessibility. Legal institutions must be geographically accessible, procedures should be understandable, legal information should be available in appropriate languages, and assistance should be available to women who require support in navigating the system.

18. CHALLENGES IN IMPLEMENTATION OF EXISTING LEGISLATIONS

The principal challenge is the gap between legal norms and implementation. India has enacted multiple laws addressing different dimensions of violence, but their effectiveness depends on institutional capacity.

A second challenge is coordination. A survivor may require assistance from police, medical institutions, legal aid authorities, courts, counsellors and shelter services. Lack of coordination can increase the burden on the survivor.

A third challenge is awareness. Women must know where to complain, what relief is available and how to obtain legal assistance.

A fourth challenge is timely resolution. Delayed proceedings may undermine confidence in the justice system and impose additional burdens on survivors.

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A fifth challenge is the need for continuous professional training. The enactment of the BNS, 2023 further demonstrates the importance of updated legal knowledge among justice-system personnel.

19. SUGGESTIONS AND RECOMMENDATIONS

First, systematic legal-awareness programmes should be strengthened at community, educational and workplace levels. Women should be informed about domestic violence remedies, criminal-law protections, workplace complaint mechanisms and free legal aid.

Second, police officers, prosecutors, judicial personnel, medical professionals and other institutional actors should receive regular gender-sensitive legal training.

Third, Legal Services Authorities should increase awareness concerning the availability of free legal assistance to women.

Fourth, mechanisms for timely investigation and adjudication should be strengthened while preserving due process and fair-trial requirements.

Fifth, coordination between police, legal aid institutions, courts, protection officers, medical institutions and shelter services should be improved.

Sixth, workplace institutions should ensure effective implementation of the 2013 Act. Internal Committees should be properly constituted, trained and capable of handling complaints confidentially and fairly.

Seventh, specialised capacity should be developed for dealing with technology-facilitated gender violence and electronic evidence.

Eighth, legal information should be made available in accessible language and through multiple channels, including community programmes and digital platforms.

Ninth, legal protection should be accompanied by economic and social support. Women facing violence may require shelter, counselling, medical assistance and financial support in addition to legal remedies.

Finally, implementation of women's protection laws should be periodically reviewed through reliable institutional data and independent evaluation so that practical gaps can be identified.

20. FINDINGS OF THE STUDY

The study identifies several important findings. First, India's constitutional framework provides a strong foundation for gender equality, dignity and access to justice. Second, Parliament has enacted specialised laws addressing domestic violence, dowry and workplace sexual harassment, while the BNS provides the contemporary criminal-law framework for serious offences against women.

Third, the judicial system has contributed to the development and interpretation of women's rights, particularly through cases concerning workplace sexual harassment and domestic violence.

Fourth, access to justice remains a multidimensional issue. Formal legal rights are insufficient if women lack awareness, financial resources, institutional support or timely remedies.

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Fifth, legal aid has an important role in reducing financial barriers. Women are expressly included among the categories eligible for legal services under Section 12 of the Legal Services Authorities Act, 1987.[31]

Sixth, implementation requires coordination between legislation and institutions. Police, judiciary, legal aid authorities, workplace committees and support services must operate as interconnected components of the justice system.

21. CONCLUSION

Gender-based violence against women represents a serious challenge to equality, dignity, bodily autonomy and access to justice. India's constitutional framework establishes principles of equality and protection, while statutory developments have created specific mechanisms for addressing different forms of violence.

The Bharatiya Nyaya Sanhita, 2023 provides the current substantive criminal-law framework for offences including rape and aggravated sexual offences. The Protection of Women from Domestic Violence Act, 2005 recognises multiple forms of domestic abuse and provides protective and remedial measures. The Dowry Prohibition Act, 1961 prohibits dowry-related practices, while the Sexual Harassment of Women at Workplace Act, 2013 creates institutional mechanisms for preventing and redressing workplace sexual harassment.[32]

The legal framework therefore contains multiple avenues through which women can seek protection and remedies. However, access to justice requires more than statutory enactment. Women must be able to understand their rights, approach institutions, obtain legal assistance, participate in proceedings and receive effective remedies within a reasonable time.

The constitutional objective of equal justice requires attention to practical barriers such as social stigma, economic dependence, lack of awareness, institutional difficulties and procedural delay. Legal aid, gender-sensitive institutional training, accessible procedures, technological capacity and inter-institutional coordination are therefore important components of an effective justice system.

The relationship between gender, law and access to justice ultimately requires a shift from a purely formal understanding of legal protection towards an implementation-oriented approach. Strong legislation provides the foundation, but meaningful justice depends upon institutions that are accessible, responsive, legally competent and capable of delivering effective remedies. Strengthening these dimensions can contribute to translating constitutional guarantees and statutory protections into practical safeguards for women facing gender-based violence.

[31] Government of India, The Legal Services Authorities Act, 1987, Section 12(c), Ministry of Law and Justice, New Delhi, 1987; National Legal Services Authority, Legal Aid.
[32] Government of India, The Bharatiya Nyaya Sanhita, 2023; The Protection of Women from Domestic Violence Act, 2005; The Dowry Prohibition Act, 1961; The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, Government of India.

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