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WOMEN’S RIGHT AND LEGAL PROTECTION FRAMEWORK

Jahnvi Singh

1) INTRODUCTION

In a society that proudly chants “Nari tu Narayani hai”, the lived reality of many women continues to echo injustice, insecurity, and systemic discrimination. Women constitute nearly half of India’s population, yet their struggle for substantive equality, dignity, and legal protection remains ongoing. Across homes, workplaces, public spaces, and institutions. Women seek not preferential treatment, but the recognition and effective enforcement of equal rights guaranteed by law.

India’s commitment to gender justice is rooted not only in its constitutional framework but also in its obligations under international commitments, notably the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW), 1979, which India signed in 1980 and ratified it on July, 1993. CEDAW encourages India to remove discriminatory laws and enact measures ensuring equality across civil, political, economic, and social spheres. It emphasizes substantive equality achieving real fairness rather than just formal equal treatment, addressing power imbalances in society and families. These commitments have shaped a comprehensive legal framework that safeguards women against violence, discrimination, and exploitation, addressing issues such as domestic violence, sexual harassment, workplace safety, and access to justice. Judicial interpretation has strengthened this framework by recognizing dignity, autonomy, and equality as fundamental rights under Article 21, ensuring that protection and empowerment are at the core of women’s legal entitlements.

This legal evolution owes much to freedom fighters like Bhikaiji Cama, Kamaladevi Chattopadhyay, and Rajkumari Amrit Kaur, who championed women’s human rights during the independence struggle advocating suffrage, equal property rights, and anti-discrimination reforms that directly influenced Articles 14-16 (equality) and 39 (equal pay) in the Constitution, laying the foundation for transformative laws like the Hindu Code Bills and modern protections under Bharatiya Nyaya Sanhita

2) CONSTITUTIONAL FOUNDATIONS OF GENDER JUSTICE

The Indian Constitution lays the bedrock for women's rights through its framework of Fundamental Rights, Directive Principles of State Policy, and Fundamental Duties. Article 14 guarantees equality before law and equal protection of laws, while Article 15 prohibits discrimination on grounds of sex. Article 16 reinforces this principle by ensuring equal opportunity in matters of public employment.

Significantly, Article 15(3) empowers the State to make special provisions for women, recognising that formal equality alone cannot dismantle structural disadvantage. This provision forms the constitutional basis for affirmative action and women-centric welfare legislation. Article 21, interpreted expansively by the judiciary, has emerged as a powerful tool safeguarding dignity, bodily autonomy, reproductive choice, and freedom from violence.

The Directive Principles further reinforce gender justice. Articles 39(a) and 39(d) mandate equal livelihood opportunities and equal pay for equal work, while Article 42 directs the State to ensure humane working conditions and maternity relief. Political empowerment was advanced through the 73rd and 74th Constitutional Amendments (1992–93), reserving one third of seats for women in Panchayati Raj Institutions and Urban Local Bodies an intervention that reshaped grassroots leadership.

Additionally, Article 51A(e) imposes a fundamental duty upon citizens to renounce practices derogatory to women's dignity, underscoring that gender justice is not solely a State responsibility but a societal obligation. Judicial interpretation of these provisions has transformed abstract constitutional ideals into enforceable rights, catalysing the enactment of specialised protective laws.

3) INSTITUTIONAL EVOLUTION: ROLE OF THE NATIONAL COMMISSION FOR WOMEN (NCW)

The National Commission for Women (NCW) was officially established on 31 January 1992 under the NCW Act, 1990, building on decades of advocacy and research aimed at understanding and improving the status of women in India. Its roots can be traced to the 1974 Committee on the Status of Women in India (CSWI), which highlighted declining sex ratios, economic marginalisation, and entrenched social inequality. Following this, the National Perspective Plan for Women (1981) outlined strategic goals for women's empowerment, laying the groundwork for institutional intervention.

Over the years, the NCW has evolved both in scope and approach, responding to emerging challenges in women's rights. Key milestones include:

- 1992–1995: Early focus on legal awareness, protection of rights, and family justice, including initiatives like Parivarik Mahila Lok Adalats for amicable dispute resolution, and reviews of the Dowry Prohibition Act and domestic violence laws.
- 2000–2006: Expansion into workplace harassment, trafficking, and cybercrime, reflecting contemporary threats to women's safety. The Commission played a critical role in monitoring high-profile cases and advocating for fast-track courts.

- 2012–2014: Following the Nirbhaya incident, the NCW intensified its interventions, monitoring cases, recommending procedural reforms, and promoting gender sensitisation of police and judicial officers.
- 2019–2022: Focus on awareness campaigns, female political participation, and digital initiatives, including the launch of online complaint portals for easier access to justice.
- 2023–2025: NCW embraced digital governance and collaborative interventions, including the Sakhi One Stop Centres, which integrate legal, medical, and counselling support, working alongside NGOs, police, and judicial authorities to ensure comprehensive protection for women.

Throughout its evolution, the NCW has functioned as both a watchdog and an advocate, bridging the gap between legal frameworks and women’s lived experiences. From legal literacy and dispute resolution to digital-era monitoring and policy reform, the Commission remains central to ensuring that women’s rights are protected, enforced, and expanded in India.

4) LANDMARK JUDICIAL INTERVENTIONS

Indian courts have played a pivotal role in expanding and enforcing women’s rights, using purposive interpretation to fill gaps in legislation and challenge discriminatory practices. Through landmark rulings, the judiciary has strengthened women’s constitutional entitlements, from workplace equality and inheritance rights to reproductive autonomy, personal law reforms, and protection against harassment and violence. These judgments underscore that women’s rights are fundamental and enforceable, not optional privileges.

5) KEY JUDGMENTS CHRONOLOGICALLY

- 1979: *C.B. Muthamma v. Union of India* – Struck down rules requiring women IFS officers to seek permission to marry or face termination, advancing equality in public employment.
- 1981: *Air India v. Nargesh Meerza* – Invalidated the dismissal of air hostesses due to marriage or pregnancy, upholding maternity rights and workplace protections.
- 1986: *Mary Roy v. State of Kerala* – Granted Syrian Christian women equal inheritance under the Indian Succession Act, overriding discriminatory customary law.
- 1997: *Vishakha v. State of Rajasthan* – Established binding guidelines against workplace sexual harassment, filling legislative gaps until the POSH Act, 2013.
- 2006: *Lata Singh v. State of UP* – Protected women’s right to choose inter-caste marriages, criminalizing honour killings and family interference.
- 2009: *Suchita Srivastava v. Chandigarh Administration* – Affirmed reproductive autonomy for mentally challenged women under the MTP Act, balancing rights and protection.

- 2017: Shayara Bano v. Union of India – Declared triple talaq unconstitutional under Article 14, promoting equality in Muslim personal law.
- 2018: Joseph Shine v. Union of India – Struck down Section 497 IPC on adultery as violating equality and privacy, recognizing women’s sexual agency.
- 2020: Union of India v. Lt. Col. Nitisha – Granted women Short Service Commission officers permanent commissions and command roles in the Army.
- 2022: X v. Principal Secretary – Expanded access to medical termination of pregnancy for a minor rape survivor beyond 24 weeks, emphasizing privacy and autonomy.

6) COMPREHENSIVE LEGAL FRAMEWORK FOR WOMEN’S PROTECTION

To safeguard women from pervasive violence, systemic discrimination, and exploitation, India has built a multi-layered legal arsenal that combines criminal, civil, and welfare measures, ensuring protection, justice, and empowerment.

- **PROTECTION AGAINST VIOLENCE**

The Protection of Women from Domestic Violence Act, 2005 (PWDVA) recognizes domestic violence as a civil wrong with criminal consequences, providing protection orders, residence rights, custody relief, and monetary compensation, extending protection beyond married women to those in live-in relationships.

The Bharatiya Nyaya Sanhita, 2023, effective from July 2024, consolidates and modernizes offences related to sexual violence. Chapter V covers rape, gang rape, stalking, voyeurism, and sexual harassment, with enhanced penalties including death for rape of minors, reflecting evolving definitions of consent and sexual autonomy.

- **DOWRY AND MARITAL CRUELTY**

The Dowry Prohibition Act, 1961 criminalises dowry demands and acceptance, while Section 85 of the BNS (formerly IPC 498A) penalises cruelty by husbands or relatives. Judicial interpretation ensures protection is not dependent on marital status or cohabitation.

- **CHILD AND ADOLESCENT PROTECTION**

The POCSO Act, 2012, amended in 2019 and 2025, punishes sexual offences against minors, mandates child-friendly procedures and special courts, and addresses online sexual exploitation.

- **INDECENT REPRESENTATION OF WOMEN**

The Indecent Representation of Women (Prohibition) Act, 1986 (IRWA) bans depictions of women in derogatory or sexually exploitative ways in media, advertisements, and public performances, preventing objectification and social normalization of gender-based degradation.

- **TRAFFICKING AND EXPLOITATION**

Human trafficking for sexual exploitation, forced labor, or domestic servitude is addressed under the Immoral Traffic (Prevention) Act, 1956 (ITPA) and relevant provisions of the Indian Penal Code. India's anti-trafficking measures are guided by its obligations under the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, 2000 (Palermo Protocol), which establishes standards to prevent trafficking, protect victims, and prosecute offenders. These laws, combined with national statutes, reflect a comprehensive effort to combat modern slavery and exploitation, reinforcing both legal protection and international commitment to safeguard women and children.

- **PERSONAL LAW REFORM**

The Muslim Women (Protection of Rights on Marriage) Act, 2019 criminalizes instant triple talaq, ensuring maintenance and subsistence allowances, following the Supreme Court's Shayara Bano judgment (2017).

- **WORKPLACE AND ECONOMIC**

Women's rights extend to professional spaces through the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013 (POSH Act), which mandates Internal Complaints Committees (ICC), time-bound inquiries, and protection against retaliation. The Act is based on the Vishakha Guidelines (1997), a Supreme Court ruling that first established workplace standards to prevent sexual harassment.

Economic protections include the Maternity Benefit (Amendment) Act, 2017, granting 26 weeks paid leave and crèche facilities, and the Equal Remuneration Act, 1976, ensuring equal pay for equal work. Together, these measures safeguard dignity, safety, and economic equality, enabling women to participate securely in the workplace

- **INTEGRATION AND RESPONSIVENESS**

These statutes are interconnected: POSH draws from the Vishaka guidelines, POCSO informs criminal law, IRWA protects against exploitation in media, and anti-trafficking laws address modern slavery. Together, they create a holistic legal framework that operationalizes both constitutional rights and international commitments, protecting women from violence, discrimination, exploitation, and trafficking

7) BHARATIYA NYAYA SANHITA (BNS), 2023: STRENGTHENING LEGAL PROTECTION FOR WOMEN

Chapter V of the Bharatiya Nyaya Sanhita (BNS), 2023, titled “Of Offences Relating to Marriage” and extending through “Of Offences Against Women and Children” (Sections 69–143), consolidates and modernizes offences against women, replacing relevant provisions of the Indian Penal Code (IPC) while introducing enhanced punishments and victim-centric measures. Unlike the Code of Criminal Procedure (CrPC), 1973, which primarily regulates procedural aspects such as investigation, trials, and special protections for women (e.g., FIR registration under Sections 154, 173(3), 357C; in-camera trials; and medical relief), BNS Chapter V substantively defines punishable acts, including:

- Rape and aggravated sexual offences (Sections 63–70) with penalties ranging from 10 years to life imprisonment or death, plus fines for victim rehabilitation. Gang rape of minors under 18 (Section 70(2)) or under 12 (Section 70(1)), and rape by persons in positions of trust (police, public servants, armed forces, or institutional staff) carry life imprisonment or death.
- Assault to outrage modesty (Section 74: 1–5 years), disrobing (Section 76: 3–7 years), voyeurism (Section 77), stalking (Section 78), and sexual harassment (Section 75).
- Domestic violence and cruelty by husband/relatives (Section 85, replacing IPC 498A), kidnapping/abduction for marriage or illicit intercourse (Sections 137–139), and exploitation of trafficked persons (Section 143).

BNS aligns with CrPC safeguards for timely justice, classifying these as non-bailable cognizable offences triable by Sessions Courts, and integrates victim compensation mechanisms. These reforms ensure stringent deterrence, procedural efficiency, and continuity of women’s rights jurisprudence, reflecting judicial trends from landmark cases like *Vishakha v. State of Rajasthan* (1997) and *X v. Principal Secretary* (2022).

8) VICTIM COMPENSATION AND REHABILITATION UNDER BNSS

India’s victim compensation framework under Section 396 of the Bharatiya Nagarik Suraksha Sanhita (BNSS) (earlier Section 357A CrPC) marks a shift from offender-centric punishment to victim-centric and restorative justice. Recognising that criminal trials are often prolonged and conviction rates remain low, the law prioritises rehabilitation, dignity, and immediate support for victims of sexual and violent offences, particularly women and vulnerable groups.

KEY FEATURES:

- Statutory Mandate: Compensation is a legal right, not dependent on conviction.
- Nature of Relief: Covers medical treatment, loss of income, counselling, and family support; interim relief is mandatory, with final awards within 60 days.

- Institutional Mechanism: Implemented through State and District Legal Services Authorities.
- Specialised Schemes: Includes NALSA's Compensation Scheme for Women Victims (2018), the Central Victim Compensation Fund, and the Nirbhaya Fund.
- Judicial Backing: Recognised by courts as part of the right to life and dignity under Article 21.

9) IMPLEMENTATION GAPS IN WOMEN'S PROTECTION LAWS

Despite the enactment of progressive legal regimes such as the protections under the Bharatiya Nyaya Sanhita and the Sexual Harassment of Women at Workplace Act, the promise of gender justice in India remains gravely under realized. Empirical indicators reveal a stark disjunction between law and reality. World Bank data indicates that Indian women enjoy only 74.4 per cent of men's legal rights, placing India at 126th position globally, with fewer than 40 per cent of legal implementation mechanisms effectively operational. This structural deficit is mirrored in criminal justice outcomes: although reported crimes against women increased by 4 per cent in 2024 according to National Crime Records Bureau data, conviction rates for offences such as rape and domestic violence stagnate between 27 and 30 per cent, largely due to deficient investigations, evidentiary failures, and witness hostility.

Socio economic participation further exposes institutional inertia. Female workforce participation remains confined between 23 and 37 per cent, constrained by over 110 state-specific labour regulations (as identified in recent policy analyses), while women continue to occupy a mere 13.8 per cent of parliamentary representation, notwithstanding the constitutional promise of reservation enacted in 2023. Internationally, India's compliance under the Convention on the Elimination of All Forms of Discrimination against Women remains weak in enforcement, compounded by over one million pending cases in family courts. Collectively, these indicators underscore a persistent chasm between legislative aspiration and substantive justice for women.

10) CONCLUSION

The legal framework governing women's rights and protection in India reflects a conscious constitutional and legislative commitment to gender justice. Through constitutional guarantees, international obligations, specialised statutes, and progressive judicial interpretation, the law has evolved to recognise women as autonomous rights-bearing individuals entitled to equality, dignity, and protection. Reforms in criminal law, workplace safeguards, personal law, and victim compensation demonstrate a shift from symbolic recognition to rights-based protection.

However, the persistence of enforcement gaps reveals that legal progress alone is insufficient to secure substantive justice. Statistical realities relating to low conviction rates, limited workforce participation, and weak institutional implementation highlight the continuing distance between legislative intent and lived experience. International assessments and

domestic data together underscore the need for stronger institutional accountability and effective delivery of rights.

As the Supreme Court has aptly observed, “Justice for women must transcend punishment of perpetrators; true reparation lies in restoring victims’ dignity through compensation that heals wounds inflicted by crime.” This vision affirms that women’s rights are not acts of benevolence, but constitutional imperatives demanding consistent enforcement and societal commitment.

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