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## LEGAL INTERVENTIONS IN GENDER INEQUALITY : FEMINIST PERSPECTIVES FROM INDIA


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**ABSTRACT**

One of the most comprehensive projects of social engineering through law of any post-colonial nation state in the world, the framework of laws governing gender equality in India has grown from fundamental rights under the Constitution to legislation designed to deal with issues such as domestic violence, matrimonial cruelty and reproductive freedom, gradually increasing the repertoire of language that the state is willing to dedicate to the recognition and enforcement of women's rights. The continued existence of gender based violence, the deep and enduring patriarchal framework and the huge disparity between what the law actually says and the experience it generates necessitates a more critical analysis of what it does, and what it does not do. I will argue that even when framed as responses to past wrongs, Indian gender laws have failed in significant ways through complicity with the patriarchal principles they were intended to destroy. I will demonstrate this through an analysis of four important laws *Hindu Succession Act of 1956 (amended 2005), Medical Termination of Pregnancy Act of 1971 (amended 2021), Section 498 A IPC, and the Protection of Women from Domestic Violence Act 2005,* important judicial decisions *Joseph Shine v. Union of India and Vishaka v. State of Rajasthan,* through the theoretical lenses of feminist legal theory, intersectionality and the substantive equality doctrine to show a recurring trend of laws as a locus for formal gains but substantial regressions within the existing patriarchy in all three areas: in patriarchal social norms, patriarchal institutional structures, and patriarchal enforcement cultures.

## INTRODUCTION

There's a special kind of brutality in a legal regime that makes grand promises of equality but systematically delivers considerably less. The Indian constitutional compact – conceived and written by men during the age of anti-colonial nationalism – laid down a bold agenda of gender equality. In terms of the structure of equality that Indian law offers us there are solemn pledges made in the text of *Article 14 (equality before law), Article 15 (no discrimination on the basis of sex), Article 21 (right to life and personal liberty) and Directive Principles* an encouraging nod toward equal pay for equal work, maternity relief and other working conditions worthy of human dignity. But on the ground the structure is riddled with dissonance. This paper proposes that the laws governing gender inequality fail to eradicate it primarily because they are channeled through and increasingly constructed from a patriarchal vision of the position of women, women's capabilities and woman's entitlements in society. The failure isn't incidental. It's structural. The law is neither a neutral machine, outside the fabric of social structure, but also of its creation. Indian law cannot undo, and cannot correct a hierarchy it merely acknowledges. When Parliament amends the Hindu Succession Act so as to give women coparcenary rights in property but courts and families fail to implement the reform; when the highest court de-criminalizes adultery but couches its rationale in terms of female vulnerability in relation to men's honor; when domestic violence laws come to function as strategic bargaining tools within the ongoing battles over matrimonial property but hardly provide effective relief, it becomes clear that we're not just dealing with an issue of enforcement but rather with the limitations of legal formalism and abstract equality in a system which must simultaneously deal with pervasive inequality. The significance of this question is far greater than purely academic. With almost 700 million women residing in India, and crimes against women under the Indian Penal Code rising by 4% in 2022 as against 2021 according to the National Crime Records Bureau, with more than 4.45 lakh cases reported-and the National Family Health Survey (NFHS-5) reporting that 29.3% of married women between the ages of 18-49 experienced violence by their spouses a number likely a significant under-representation given the widespread stigma against reporting gender-based violence in India -these figures, as alarming as they are, almost certainly represent a floor rather than a ceiling. Therefore, the disconnect between the promise and practice of law is

not an issue to be rectified with a better phrasing of the legislation but a real crisis demanding feminist reimagining of its capacity.

## LITERATURE REVIEW & THEORETICAL FRAMEWORK

### Feminist Legal Theory

Feminist legal theory begins with the realization that law, despite its claims to universality, has always been made by men, for men and about men. The category of the legal subject-rational, autonomous, owning property and capable of entering contracts-was drawn in opposition to women, deemed by male lawmakers as too emotional, dependent and domesticated to qualify for full legal personhood. According to Catherine Mackinnon, law doesn't just fail to see women, rather it constructs a reality where women's subjection is natural and therefore not something that law could, or should address. Within the Indian context, Flavia Agnes, Ratna Kapur, Brenda Cossman and other feminist scholars have shown how women's rights became subsumed in the nationalist discourse with women's citizenship rights conditional to their eligibility as wives and mothers rather than as individuals. The post-independence legislation, they have shown, continued the paradox of extending formal legal rights to women, whilst retaining the family structures wherein they were being systematically controlled. In Agnes' meticulous examination of matrimonial law reform, we can see that legislation which claimed to protect women could also be manipulated to control them when interpreted through male judges' understanding of marriage and the family. Liberal feminism which emerged with figures like Betty Friedan in the U.S. And shaped the Indian women's movement in the 1970s arguing for the dismantling of discriminatory legislation by demanding equal access for women to education, jobs and politics, thereby rectifying all formal impediments to gender equality. Such legal and institutional reform brought about the much-needed amendments to the succession laws and anti-dowry laws. The inherent limitations of this framework are also evident in its emphasis on formal equality which implicitly treats men's as the norm and women's deviations from it as problem, leading women to feel like they need to be "like men" something that radical feminists' critique has highlighted; and, in India, where this framework sometimes gets appropriated by patriarchal interests in the name of culture or tradition, it needs to be carefully resisted.

**Substantive equality**

There is no frank discussion of Indian gender law that does not begin with a contrast between formal and substantive equality. Formal equality requires cases to be treated alike; in this context, the same legal rules should apply to women and men. Substantive equality, however, inquires into whether, given unequal starting points, such treatment results in equal results. Sandra Fredman's significant conceptualization of substantive equality contains four components:redressing disadvantage; tackling stigma, stereotyping and prejudice; empowering marginalized individuals and groups giving them voice and participation ; and enacting structural change. Indian courts have not always been silent about the imperative of substantive equality. In Anuj Garg v. Hotel Association of India, for example, the Supreme Court declared legislation invalid based on sex-specific generalizations and stereotypes that assumed women's lack of capacity, asserting that the principle of equality compels scrutiny of the underlying circumstances that generate inequality, rather than mere granting of protective rules that perpetuate that inequality. Most recently, in Joseph Shine v. Union of India, the decriminalisation of adultery was justified explicitly on the grounds of substantive equality as part of the court's rejection of an Article that conceptualised women as property of their husbands. However, these instances of substantive argument are not part of a coherent project of systemic legal and institutional change.

**Intersectionality**

Kimberlé Crenshaw's theory of intersectionality posits that discrimination based on gender cannot be analyzed independently of other vectors of identity such as race, class, religion, sex and disability. While all these identities intersect in various configurations, in India they typically overlap in the form of caste, class and religion. A Dalit woman facing domestic violence is not simply facing 'gender discrimination'; she faces it along with the synergistic and inter-constitutive violence of caste, class and gender. Similarly a Muslim woman navigating the protection of matrimonial law does not just face norms based on gender; she is also navigating the contentious terrain of personal law reform in which protection of minority religious identity is traded against women's rights within these communities. This also explains how the standard remedies which feminist legal reform offers are better suited to middle class women of dominant castes and less useful for marginalized groups of women. Mary John and Janaki Nair have shown how even the major successes of the Indian women's

movement served a certain group of women more than the others. The subsequent analysis endeavors to maintain this intersectionality in mind.

## METHODOLOGY

This paper combines doctrinal legal analysis and a critical feminist analysis. Doctrinal analysis uses systematic analysis of legislative text, legislative history and the interpretation of texts by courts to elucidate the formal meaning and evolution of rules in the law. Critical feminist analysis seeks to move beyond simple doctrinal description of rules by interrogating assumptions which are embedded in law, legal practice and the legal system, and asking to what ends the rules and the practices they support are deployed, who is speaking and whose voice is suppressed. Primary sources will be the Constitution of South Africa and other statutory law and cases relevant to the study. These include four statutes and a small number of important and influential cases. Secondary sources will include feminist legal analysis, studies of the application of law to groups and communities, and empirical data concerning gender violence and women's experience of access to the courts and justice. The choices made in this selection of material is necessarily limited, but is intended to explore, rather than illustrate all patterns that have arisen within these statutes and cases'.

## ANALYTICAL FRAMEWORK : TWO CASES & FOUR LANDMARK JUDGEMENTS

### The Hindu Succession Act, 1956 and the 2005 Amendment

The original Hindu Succession Act, 1956, was an important moment in the codification of Hindu personal law, for it removed from the statute books a confusing mosaic of texts and customs in favour of a singular legislative framework. However, it carried forward-and at some levels amplified-many of the characteristics of patriarchal property regulation. Crucially, it maintained the denial of coparcenary rights to daughters in the Mitakshara joint family, which constituted the majority of family property in rural and semi-urban areas: daughters inherited from their father's separate property as Class I heirs, but not ancestral property held in the form of an undivided coparcenary family. The Hindu Succession (Amendment) Act, 2005, aimed at rectifying this by granting daughters a coparcener right by birth, in equal measure with sons. The

amendment was widely lauded as a landmark achievement in Indian feminist legal reform and on paper, it was: "6(1) Notwithstanding anything contained in this Act, on and from the commencement of the Hindu Succession (Amendment) Act, 2005, in a Hindu Undivided Family, the daughter of a coparcener shall by birth become coparcener in her own right in the same manner as the son has, and shall have the same rights in respect of the coparcenary property as she would have had if she had been a son...". The decision of the Supreme Court in Vineeta Sharma v. Rakesh Sharma (2020), which upheld the retrospective application of the amendment enabling daughters of coparceners, whose death predated the amendment's implementation, to inherit coparcenary rights and settled considerable controversy among various High Courts, was a considerable step forward. However the discrepancy between doctrinal progress and social reality is monumental. It is widely and consistently found that few women actually lay claim to or exercise their coparcenary rights. The reasons are manifold and structurally important. Family pressure- psychological, economical and physical - customarily persuades daughters to surrender their claims for social acceptance and for continued family relations. Village panchayats which hold tremendous informal power over property matters in rural India overwhelmingly enforce customary principles which negate women's claims to property notwithstanding the statutes. Courts are dilatory, prohibitively expensive and the social capital, economic resources and legal literacy of rural women do not permit protracted litigation. As demonstrated by Premchowdhry's studies of land rights in Haryana, social costs incurred in claiming rights against male kin are so severe that for all intents and purposes the legal right becomes a dead letter. This rupture between law and practice is more than just poor implementation. It represents the structural entrapment of patriarchal property principles in the very structures-the family, community, and the judiciary-which must administer law. Feminist legal theory's key argument is that rights cannot simply be willed into being in an environment already predicated on inequality. Formal legal rights require an infrastructure of supporting institutions-legal aid, community sensitization, judicial sensitivity, and enforcement mechanisms-which the Indian state has largely failed to develop.Crucially, it is important to analyze the role of intersectionality. Land rights are compounded difficulties for Dalit and Adivasi women. Customary land tenure system prevalent in tribal areas works entirely outside of the legal framework and the relation between the special rights of the Fifth and Sixth schedules of the Indian Constitution pertaining to the tribal communities and women's legal rights to property remain deeply disputed. Caste based

disadvantages affect women by restricting their economic independence, diminishing their chances of getting legal services, increasing their susceptibility to social reprisal for claiming rights. Like most social welfare laws, the 2005 amendment benefits the women who have the wherewithal and capital to effectively utilize it.

**The Medical Termination of Pregnancy Act, 1971 (as amended 2021)**

The MTP Act is actually one of the earliest attempts to liberalize abortion law in the world, predating the US Supreme Court's decision in Roe v. Wade by two years. Enacted in 1971, the Act permits abortion up to 20 weeks with the opinion of one registered medical practitioner (up to 12 weeks) or two registered medical practitioners (between 12 and 20 weeks), and on grounds such as risk to life or health, risk of abnormal foetus, or pregnancy from rape, contraception failure. The amendment in 2021 extended the time limit for certain categories of women - victims of rape, incest and sexual abuse, minors and disabled persons - to 24 weeks, and established Medical Boards which could approve abortion in cases of serious foetal anomalies beyond 24 weeks. It also substituted 'any woman' for 'married woman' on the grounds of contraception failure, thus albeit tentatively recognizing reproductive rights for unmarried women. However, the feminist credentials of the MTP Act are not as clear as this bold move might initially suggest. At its core, the Act defines abortion as a matter for the judgment of registered medical practitioners, and not for women's decision-making. The statute provides for physicians to determine if abortion is permissible and does not guarantee a woman's right to an abortion even in early pregnancy; the pregnant woman must satisfy a medical gatekeeper that her situation warrants termination. By deferring the power to terminate a pregnancy to physicians, the Act subordinates women's autonomy over reproduction to medical expertise and entrenches the paternalistic decision-making that feminist scholars have identified and critiqued as the norm in numerous contexts.The practical impact is stark. In X v. Principal Secretary, Health and Family Welfare Department, the Supreme Court ruled in 2022 that an unmarried woman had the right to a safe and legal abortion up to twenty-four weeks; it rejected a reading of the Act that would have granted that right only to married women. The decision importantly invoked the right to privacy, as part of reproductive autonomy under Article 21-the right to life and personal liberty-a major step for jurisprudence. But the Court also recognized that it is the failures in implementation rather than ambiguity in text that pose serious challenges for reproductive

access. The problem with implementation is structural. The approved facilities and trained practitioners to make the MTP Act operable are severely lacking in rural India. A study published in The Lancet reveals that approximately two-thirds of all abortions performed in India occur outside health facilities and a large proportion of these are unsafe; the causes are those that we have seen already: physical distance from facilities, cost, social stigma, and provider attitudes that compel doctors to add extra conditions such as spousal or parental consent where these are not provided for in the statute itself. The disjunction between the progressive text of the statute and the reality of attempting to access an abortion in India is therefore not primarily a textual problem; it is a problem of political will, resources, and persistent moralizing judgment against female sexuality. Intersectionality magnifies this failure. Adivasi and Dalit women residing in remote rural parts of India face immense barriers to accessing services; Muslim women negotiating community pressure and a confluence of personal law and reproductive decision-making have their unique challenges. Adolescent girls, whose contraceptive failure is expressly addressed in the Act, are refused by service providers on the grounds of not having their parents' permission-the requirement is not statutory. The most reliable predictors of whether a woman will access safe, legal abortion in India are her class and geography.

**Section 498A of the Indian Penal Code: Matrimonial Cruelty**

Section 498A was added to the Indian Penal Code in 1983, after years of activism by women's movements in response to a string of sensational dowry death cases which horrified India and exposed the deficiencies of the law to protect women. It makes the cruelty by a husband or his relative towards a woman, non-bailable and cognizable offence. The term "cruelty" covers both physical assault and the protracted harassment aimed at coercing the woman or her parents into paying dowry demands. From the very beginning of its introduction, Section 498A was controversial. Conservatives perceived it as an anti-family provision, likely to be misused by "vindictive" wives. Concerns about false implication, particularly during matrimonial breakdown, soon became the prevailing discourse in judicial and media debates about the Section; the focus of the provision shifted from protecting women from serious violence and oppression to protecting husbands and in-laws from harassment by the woman and her family. Judicial opinion on Section 498A arguably reached its lowest ebb with the Supreme Court's decision in Rajesh Sharma v. State of Uttar Pradesh (2017) whereby the Court, seeking to control

its misuse, ordered that all complaints under the Section must first be presented before Family Welfare Committees comprised of para-legal volunteers before the police can make arrests. Women's rights groups and the National Commission for Women protested vociferously, contending that such a direction weakened a provision intended to shield women from serious violence and stigmatised genuine victims. The Supreme Court later modified the direction in Social Action Forum for Manav Adhikar v. Union of India (2018), but the entire episode demonstrated the ease with which legal progress made by feminist movements can be partially undone by judicial interpretations framed by patriarchal attitudes toward women's credibility and inclination for false implication. The structural dynamic that the Section 498A dispute brings out is important. It shows that the provision relies on police acceptance of complaints, prosecution commitment to further such cases, and the receptiveness of courts to women's testimony. All these are likely to be undermined by institutional cultures of mistrust in complainants, views of domestic relations as private matters, and affected by the social groups (caste, community, class) whose versions are given credence. This is illustrated by persistently low conviction rates under 498A-around 15-20% of cases taken to trial-a figure that reflects the systemic nature of investigative, prosecutorial and judicial problems, not its overuse.

**The Protection of Women from Domestic Violence Act, 2005**

The Protection of Women from Domestic Violence Act 2005 was a pioneering piece of legislation which introduced for the first time a civil law remedy against domestic violence. Its definition of domestic violence is broad and covers a wide range of acts including physical, sexual, verbal, economic and emotional abuse and harassment on account of dowry. The Act provides a series of civil remedies that are obtainable from Magistrates' courts: protection orders, residence orders, monetary relief and custody orders. The Act provides for the appointment of Protection Officers to support victims. Doctrinally, the PWDVA provides a nuanced response to the shortcomings of a criminal justice approach to domestic violence. The Act recognizes that women are often reluctant to report instances of domestic violence to the criminal justice system, due to economic dependence on their abusive partners, social shame or the risk of harm to their children. Hence the provisions for a series of civil remedies are designed to give women a choice and make immediate practical support available to those women who do not want a criminal conviction. Perhaps most significantly the Act acknowledges that economic violence constitutes

a form of control over women that had been heretofore invisible in the law. However in practice the law has not been uniformly or adequately enforced. In all states protection officers are chronically underfunded, and the numbers are few; and the ones in place are often untrained and lack support systems. NGOs and Government departments who are charged with delivering support services such as shelter and legal assistance are chronically under-funded and sparsely available, especially in rural areas. Jaising and Sakhrani's research on implementation of PWDVA in Maharashtra illustrates vividly how stark is the disjunction between the sophisticated and intricate institution building in the Act and the funding available for the operation of these institutions. Judicial interpretations have also impacted the functioning of the Act. While some courts have interpreted the Act in a liberal manner and provided expeditious redress and considered the practical difficulties experienced by victims in approaching courts and presenting their cases in a technical or otherwise unacceptable manner, others have invoked technicalities and stringent evidentiary demands and displayed palpable incredulity towards victims' claims. While upholding the conservative notions of domestic relationships in preference to the rights of women in Indra Sarma v. V.K.V. Sarma (2013), where it stated that the PWDVA will not cover relations "in the nature of marriage", unless "it is shown by the complainant that in the nature of marriage the parties have resided together and held out to the world as if they were the married couple", the Supreme Court has been criticized for not taking cognisance of the real issues faced by victims of violence. Another salient issue is the intersectional nature of domestic violence. Extensive research has shown that Dalits, tribal women, and women in economically marginal families have a compounded experience of vulnerability to domestic violence and higher access barriers to remedies. Caste has been used to deny claims of domestic violence, to punish and to retaliate: women, in the event that their claims have not been acknowledged by higher-caste police and judicial officials, are retaliated against, and may experience additional discrimination because complaints of domestic violence are seen as a cause for bringing "disgrace" upon the family by community pressure; the predominantly individualistic and rights-based framework of the PWDVA is ill-equipped to handle such structural dimensions of vulnerability.

## LANDMARK CASES : JUDICIAL REIMAGINATION & ITS LIMITS

### Vishaka v. State of Rajasthan (1997)

The incident that gave rise to the Vishaka case was a heinous gang-rape of Bhanwari Devi, a social activist from Rajasthan, who was attacked by four men when she intervened to stop a child marriage. The way in which the crime and the State failed to respond – the police refused to register the complaint and the district court acquitted the perpetrators – exposed how class and caste can enable gender based violence. The women's rights organizations filed a public interest litigation petition in the Supreme Court since ordinary legal channels could not address this injustice. The Supreme Court, filling in for missing legislation in domestic law governing sexual harassment at the workplace, read into domestic law international conventions to which India is a signatory, including the CEDAW, and laid down detailed, mandatory guidelines for sexual harassment prevention and redressal at the workplace. These guidelines are, without a doubt, a seminal contribution from a legal perspective-they mandated formation of Internal Complaints Committees, established grievance mechanisms and procedures, proactive preventative measures, and awareness building activities. The Supreme Court's use of interpretive creativity to fill this void was acclaimed by feminists. However, Vishaka also proved the limitations of judicial intervention as a method of feminist legal reform-the guidelines, for instance, were not even applicable outside formal workplace settings, which excluded a huge number of working women who are involved in agriculture, domestic work and the informal sector. As well, compliance and application at formal workplaces were extremely uneven, with several employers formally complying but substantively lacking accountability measures. The 2013 legislation, while transforming the guidelines into domestic law, has also seen similar challenges in implementation. It also questions the gender politics of the case itself. For Bhanwari Devi - the Dalit woman on the edges of institutional life - the case did not result in justice; the acquittals of her attackers stood. This, then, is what the Supreme Court ruling offered a class of working women who were, perhaps, already relatively privileged, and the woman whose pain had prompted the court to act remained without remedy. This is not to fault the Vishaka judgment, but it highlights how feminist legal gains are spread unevenly; educated, dominant-caste, salaried working women benefited relatively more than other working women, especially working women of subordinate castes.

**Joseph Shine v. Union of India (2018)**

In Joseph Shine, a five-judge constitutional bench unanimously declared Section 497 of the Indian Penal Code-the adultery provision-to be unconstitutional. The provision criminalized consensual sex between a married woman and a man not her husband, but only on the basis of the wife's husband's complaint. A woman could not be punished; she was treated as the passive recipient of the male property claims and not as a moral agent in her own right. Joseph Shine marks an unusual occurrence in Supreme Court jurisprudence in its reliance on substantive feminist reasoning. In the opinion for the Court, Chief Justice Dipak Misra explained that Section 497 was founded on the "archaic and patriarchal principle that a woman is the property of her husband." In a remarkably strong concurrence, Justice D.Y. Chandrachud articulated the origin of the section to be coverture, and held it inconsistent with the constitutional dignity and autonomy of a woman. Feminists widely celebrated the judgment for its constitutional validation of female agency, but also caused contemplation. It has not abolished adultery as a ground for divorce, nor as a mitigating factor in matrimonial cases, though many have noted that the actual harms sustained by women due to a husband's infidelity is generally more severe than any resulting social stigma in the event of criminal conviction. The case leaves completely unaddressed the fundamental question of whether and how a society steeped in a patriarchy of female sexuality will respond to the decriminalization of adultery; will women be able to exert sexual autonomy or will the absence of criminal penalties lead to more insidious social or familial repercussions that are equal, if not superior, to formal criminal punishment? Joseph Shine is thus an important judgment but it is predominantly symbolic and doctrinal; achieving the reality of female sexual autonomy would entail a structural shift rather than only the removal of criminal sanctions. The social, familial and economic relations that constitute the patriarchal basis of control over female sexuality need to be overcome through transformation of patriarchal social norms and family structures, rather than just elimination of criminal laws.

## DISCUSSION : THE LAW PRACTICE GAP& DISCUSSIONS

### The Enforcement Failure

The most important revelation of this study is not that Indian gender law is lacking in terms of substantive content – although that is true. The most important revelation of this study is that the gulf between the law's formal promises and the actual experience of gender inequality are

replicated at every level of the legal system through institutional failures. Police forces are still male-dominated, hierarchical, and culturally incapable of taking female victim accounts of domestic and sexual violence seriously. Evidence from several studies confirms high rates of secondary victimisation disbelief, victim-blaming, intrusive questioning, and victim pressure to retract which act as a barrier to recourse. The judiciary has issued a number of landmark rulings that have made advancements in gender equality, but it continues to be a male domain, where assumptions about acceptable roles and appropriate responses shape the judicial interpretation of legal texts and reliability findings that guide outcomes in individual cases. The legal aid system is under-funded to the point where it is largely inaccessible for those women who are most vulnerable to gender-based violence. These institutional failures are not accidental; they are produced by deep rooted patriarchal cultures in institutions that continue to recruit, train, and reward employees according to their traditional structures, thereby perpetuating those cultures. Increasing numbers of female appointments to the bench and the police forces, which is a crucial, though not the only, necessary step, are still in their early stages of becoming systemic, and more generally, institutions themselves require internal reform. These institutions need training that recognizes the validity and gravity of experiences of gender-based violence, accountability mechanisms that assign costs for ignoring victims, and organizational cultures that give women's security actual value, rather than regarding it as a bureaucratically mandated box.

**The Intersectionality Imperative**

To restrict a feminist legal theory to solely the domain of gender will be to continue the same caste-, class- and religion- blindness that has already been an issue in mainstream Indian and other feminism and needs to be avoided. Legal reform recommendations need to be sensitive to the differential accessibility of legal remedies to women based on their social positionality. This involves supporting legal aid to Dalit and tribal women, to support the creation of culturally appropriate service provision systems, to tackle the caste dynamics which cause impunity to violence against marginalised women and to confront all personal law frameworks – across religions – where gender rights are secondary to religious belonging.

**Reform Recommendations**

From the preceding arguments, a number of avenues for reform can be identified. In terms of property law, the disjunction between a right in law and access to the right in practice necessitates efforts at increased legal literacy among women, legal aid at the community level, and efforts to diminish the informal pressures that often make women abandon inheritance rights. With regard to abortion, intervention needs to be targeted at improving infrastructure in rural and remote areas, at capacity building of health care providers, and at strict enforcement of existing provisions under the MTP Act to remove the non-legal imposition of the requirement of consent. Criminal law interventions against domestic violence and matrimonial cruelty must be approached through sustained commitment to police training, Protection Officers and legal aid, with accountability mechanisms built into institutions for failures. Fundamentally, the issue must be recognised that progressive law demands progressive implementation. India has the capability to draft transformative gender legislation. What it is yet to demonstrate is the capacity to construct institutions that make the progressive law a tangible reality for the marginalized woman.

## CONCLUSION

Gender inequality is not caused by law nor solved by law, but by customs. The social structures of patriarchy were in existence long before law we know today and continues to exist despite law. Even when there is a formal change in law, it doesn't make significant changes to power arrangements. It doesn't mean law is without significance. Legal rights are important because they create resources for contestation, validate claims to dignity and autonomy and provide platforms from which social movements. The women's movement in India has achieved important legal victories in succession law, reproductive rights, protection against domestic violence, and against workplace harassment which benefit huge numbers of women.
Without doubt, the central insight of feminist legal theory remains vital: formal legal equality is not substantive equality. When laws extend formal rights to women but the institutional and social structures through which patriarchal control is exercised remain unaffected, then those structures will capture it and turn it against intended beneficiaries. The equal distribution of family property has not been achieved by the coparcenary provisions by the Hindu Succession Act because family, community and judicial institutions through which property is actually

distributed have not been changed. A lack of health infrastructure and professional attitudes to implement the MTP Act have rendered it ineffective in ensuring reproductive autonomy. Because of the patriarchal assumptions still working in police, prosecutorial, and judicial institutions, despite Section 498A a matrimonial cruelty is not at an end. The PWDVA has failed to eliminate domestic violence due to inadequate funding of the protection officer system and civil society infrastructure to make it real. In the next few decades, the challenge that the Indian feminist jurisprudence faces is to go beyond the politics of legal reform which merely aims to secure better statutory text, towards the much tougher politics of institutional transformation. There is a need to pay attention to intersectionality to how caste, class, religion and geography compound gender disadvantage, and who actually benefits from formally progressive law. The dull infrastructure of justice pays dividends: legal aid, trained protection officers, accessible courts and culturally appropriate service delivery. It takes an ongoing theoretical indulgence in substantive equality. Specifically, a willingness to ask, of every legal reform, not simply whether it treats women formally the same as men. Rather, whether it actually improves the conditions of women's lives, especially the lives of the most disadvantaged. India has, over seven decades, built an impressive edifice of gender-equality law. The task now is to make that edifice inhabitable.

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