

# Socio-Legal Study of Struggle of Women in India

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**Abstract:** This article delves into the socio-legal dimensions of women's struggles in India, providing a comprehensive analysis of the historical, cultural, and legal challenges they face. It explores the evolution of women's rights within the framework of Indian society, scrutinizing the intersection of traditional practices and modern legal standards. The study highlights the impact of patriarchal norms on women's access to justice and their overall socio-economic status. Through a multidisciplinary approach, the research examines key legislations and judicial pronouncements aimed at protecting women's rights, including laws against domestic violence, sexual harassment, and gender discrimination. It also assesses the effectiveness of these legal instruments and the role of various stakeholders, such as government agencies, non-governmental organizations, and the judiciary, in addressing women's issues. Furthermore, the dissertation investigates the socio-economic barriers that hinder women's empowerment and the role of grassroots movements in advocating for gender equality. This includes examining the economic dependencies, educational disparities, and social stigmas that continue to marginalize women. The research also delves into the impact of landmark judicial decisions that have shaped the legal landscape for women's rights in India. It explores how these rulings have influenced societal attitudes and the practical challenges in their implementation. Additionally, the dissertation looks into the role of international human rights frameworks and how global conventions and treaties have been integrated into Indian law to advance gender equality. The study aims to contribute to the discourse on gender justice in India by identifying gaps in the current legal framework and suggesting comprehensive reforms. These reforms are not limited to legal changes but also encompass educational initiatives, economic policies, and community-based interventions that collectively aim to dismantle systemic barriers to gender equality. Ultimately, this dissertation underscores the necessity of a holistic approach that combines legal reforms with societal change to achieve true gender equality in India. It advocates for a paradigm shift that not only focuses on legislative advancements but also on the transformation of societal attitudes and practices that perpetuate gender disparities. The goal is to envision a society where women's rights are fully recognized and upheld, ensuring their empowerment and equal participation in all spheres of life.

**Keywords:** Women, Constitution, discrimination, Feminism, Article.

## INTRODUCTION

The socio-legal struggle of women in India is deeply embedded within historical, cultural, and legal frameworks that have evolved over centuries. Despite substantial progress in legislating for women's rights, patriarchal norms and socio-economic barriers continue to impede true gender equality. Historically, India's patriarchal society has dictated rigid roles for women, often relegating them to subordinate positions. Practices such as dowry, child marriage, and honor killings have persisted, perpetuating gender-based discrimination and violence. The Indian legal framework, particularly post-independence, has made significant strides in addressing these issues. The Constitution of India enshrines gender equality and prohibits discrimination based on sex. Key legislative measures have been introduced to protect women's rights and promote gender equality. These include the Hindu Marriage Act of 1955, the Dowry Prohibition Act of 1961, the Protection of Women from Domestic Violence Act of 2005, and the Sexual Harassment of Women at Workplace Act of 2013. These laws have provided a foundation for women's rights and empowerment. However, the effectiveness of these legal provisions is often undermined by deep-rooted patriarchal attitudes and socio-economic barriers. Economic dependencies, educational disparities, and social stigmas continue to limit women's opportunities for growth and development. Judicial interventions have played a pivotal role in reinforcing and expanding women's rights through landmark judgments. Cases such as *Vishaka v. State of Rajasthan* and *ShayaraBano v. UOI* have set important legal precedents in combating gender-based discrimination and violence.

This research paper delves into the complex interplay between traditional practices and modern legal standards. By examining key legislations and landmark judicial pronouncements, it underscores

the necessity of a holistic approach that combines legal reforms with societal change. Addressing the socio-economic and cultural barriers that hinder women's empowerment is essential for achieving true gender equality in India. Through a comprehensive analysis, this paper aims to highlight the ongoing challenges and propose effective strategies for promoting women's rights and equality.

#### Research Question

The primary research question addressed in this study is: "How have historical, cultural, and legal challenges influenced the struggle for women's rights in India, and what role do key legislations and judicial decisions play in shaping the current legal landscape for women's rights?"

#### OBJECTIVES

- To examine the evolution of women's rights within the framework of Indian society.
- To assess the impact of patriarchal norms on women's access to justice and socio-economic status.
- To evaluate key legislations and judicial pronouncements aimed at protecting women's rights.
- To investigate the socio-economic barriers that hinder women's empowerment.
- To explore the role of grassroots movements and international human rights frameworks in advocating for gender equality.

#### HYPOTHESIS

The hypothesis of this research is that while significant legal advancements have been made to protect women's rights in India, the persistence of patriarchal norms and socio-economic barriers continue to impede true gender equality. Furthermore, it is hypothesized that a holistic approach, combining legal reforms with societal change, is essential for achieving gender justice in India.

#### Historical Context and Evolution of Women's Rights

The struggle for women's rights in India has a rich history marked by gradual yet significant advancements. During ancient times, women in India enjoyed a relatively high status, with

considerable freedoms and rights. However, over time, particularly during the medieval period, women's status declined significantly due to socio-political changes and the entrenchment of patriarchal norms. The British colonial period introduced significant legal reforms aimed at improving women's rights, which were further developed in the post-independence era.

#### Impact of Patriarchal Norms

Patriarchal norms in India manifest in various forms, deeply influencing women's access to justice and their socio-economic status. These norms are perpetuated through practices such as domestic violence, gender discrimination, and limited access to education and employment opportunities. Despite the existence of legal protections, societal attitudes often undermine women's rights, creating substantial barriers to their full participation in society.

#### Key Legislations

Several key legislations have been enacted to protect women's rights in India. Notable among them are:

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

The Protection of Women from Domestic Violence Act, 2005, is a landmark piece of legislation aimed at addressing the widespread issue of domestic violence. This Act defines domestic violence broadly to include physical, emotional, sexual, and economic abuse. The Act provides for the protection of women from domestic violence, ensuring their safety and well-being. It includes provisions for:

- Protection Orders: These orders can be issued by a magistrate to prevent further violence and ensure the safety of the victim.
- Residence Orders: These orders allow the victim to remain in the shared household or secure alternative accommodation.
- Monetary Relief: The Act provides for financial compensation for expenses incurred and loss of earnings due to domestic violence.
- Custody Orders: The court can grant custody of children to the victim to protect their welfare.
- Counseling and Support Services: The Act mandates the provision of counseling and support services to victims of domestic violence.

The effectiveness of this Act has been significant in providing legal recourse to victims of domestic violence and ensuring their protection. However, challenges remain in its implementation, with societal attitudes and lack of awareness often hindering its full potential.

*The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013*

The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, is a crucial legislation aimed at preventing and addressing sexual harassment in the workplace. The Act defines sexual harassment broadly, including any unwelcome act or behavior of a sexual nature.

Key provisions of the Act include:

- **Internal Complaints Committee (ICC):** Every employer is required to constitute an ICC to address complaints of sexual harassment.
- **Redressal Mechanism:** The Act provides a detailed procedure for filing and addressing complaints of sexual harassment, ensuring timely resolution and confidentiality.
- **Employer's Obligations:** Employers are mandated to take preventive measures, create awareness, and provide a safe working environment for women.
- **Penalties:** The Act prescribes penalties for employers who fail to comply with its provisions, including fines and cancellation of business licenses.

This Act is a significant step towards creating a safer and more equitable working environment for women. However, its implementation is often hindered by lack of awareness, reluctance to report incidents, and inadequate support systems.

*The Dowry Prohibition Act, 1961*

The Dowry Prohibition Act, 1961, aims to eliminate the practice of giving or receiving dowry, which has long been a source of exploitation and violence against women in India. The Act prohibits the practice of dowry and penalizes those who engage in it. Key provisions include:

- **Definition of Dowry:** The Act defines dowry as any property or valuable security given or agreed to be given directly or indirectly as a consideration for the marriage.

- **Penalties:** The Act prescribes stringent penalties, including imprisonment and fines, for those who give or receive dowry.
- **Prohibition of Dowry Demand:** It is illegal to demand dowry before, during, or after the marriage.
- **Protection for Victims:** The Act provides legal protection and support for victims of dowry harassment.

Despite its stringent provisions, the practice of dowry remains prevalent in many parts of India, highlighting the need for stronger enforcement and societal change.

*The Hindu Succession Act, 1956*

The Hindu Succession Act, 1956, is a significant legislation aimed at providing equal inheritance rights to women in Hindu families. The Act ensures that daughters have the same rights as sons in inheriting ancestral property. Key provisions include:

- **Equal Inheritance Rights:** Daughters have the same rights as sons to inherit ancestral property.
- **Coparcenary Rights:** Daughters are recognized as coparceners, meaning they have a birthright to ancestral property.
- **Rights of Widows and Mothers:** The Act also grants inheritance rights to widows and mothers, ensuring their financial security.

The Hindu Succession Act has played a crucial role in empowering women by recognizing their equal rights to inherit property. However, traditional attitudes and practices often undermine its implementation.

**Judicial Pronouncements**

The judiciary has played a pivotal role in advancing women's rights in India through landmark decisions that have shaped the legal landscape. Some notable cases include:

*Vishaka v. State of Rajasthan (1997)*

The Vishaka case is a landmark judgment in the history of women's rights in India. It arose from a brutal gang-rape of Bhanwari Devi, a social worker in Rajasthan, who was targeted for her efforts to prevent child marriages. The Supreme Court of India, in its judgment, laid down guidelines for

preventing sexual harassment at the workplace, known as the Vishaka Guidelines. These guidelines served as the basis for the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

The Vishaka Guidelines included:

- **Definition of Sexual Harassment:** Broadly defined to include any unwelcome physical, verbal, or non-verbal conduct of a sexual nature.
- **Preventive Measures:** Employers were required to take proactive measures to prevent sexual harassment, including sensitization and awareness programs.
- **Redressal Mechanism:** Establishment of Complaints Committees to address grievances related to sexual harassment.
- **Confidentiality and Protection:** Ensuring confidentiality of the complainant and protection against retaliation.

The Vishaka judgment was a significant step towards creating a safer working environment for women and laid the groundwork for subsequent legislation.

#### *Lata Singh v. State of Uttar Pradesh (2006)*

In the Lata Singh case, the Supreme Court of India dealt with the issue of honor crimes and the right of women to marry anyone of their choice. Lata Singh had married outside her caste, which led to threats and violence from her family members. The Court held that an adult woman has the right to marry anyone she chooses and live independently.

The judgment emphasized:

- **Individual Autonomy:** Recognizing the right of adult women to make personal choices, including marriage.
- **Protection from Violence:** Directing state authorities to ensure protection and take action against those who engage in honor crimes.
- **Condemnation of Caste-Based Discrimination:** The judgment condemned caste-based discrimination and violence, emphasizing the need for societal change.

The Lata Singh judgment reinforced the right of women to personal autonomy and freedom, challenging societal norms that restrict their choices.

#### *ShayaraBano v. Union of India (2017)*

The ShayaraBano case, also known as the Triple Talaq case, was a landmark judgment in which the Supreme Court of India declared the practice of instant triple talaq (talaq-e-biddat) as unconstitutional. ShayaraBano challenged the practice after her husband unilaterally divorced her by uttering "talaq" thrice in one sitting.

The Court's judgment included:

- **Unconstitutionality of Triple Talaq:** Declaring that the practice violated the fundamental rights of Muslim women under the Constitution.
- **Gender Justice:** Emphasizing the need for gender justice and equality in personal laws.
- **Legislative Action:** Directing the government to legislate against the practice, leading to the enactment of The Muslim Women (Protection of Rights on Marriage) Act, 2019.

The ShayaraBano judgment was a significant step towards ensuring gender justice for Muslim women and eliminating discriminatory practices.

#### *Mary Roy v. State of Kerala (1986)*

In the Mary Roy case, the Supreme Court of India addressed the issue of discriminatory inheritance laws applicable to Syrian Christian women in Kerala. Mary Roy challenged the Travancore Christian Succession Act, which discriminated against women in matters of inheritance.

The Court's judgment included:

- **Equal Inheritance Rights:** Striking down the discriminatory provisions and ensuring equal inheritance rights for Syrian Christian women.
- **Uniformity in Personal Laws:** Emphasizing the need for uniformity in personal laws to ensure gender justice.
- **Legal Precedent:** Setting a precedent for challenging discriminatory practices in personal laws.

The Mary Roy judgment was instrumental in advancing gender equality in inheritance rights and challenging discriminatory customs.

#### Socio-Economic Barriers

Women's empowerment in India is significantly impeded by various socio-economic barriers that

perpetuate patriarchal norms and restrict women's opportunities for growth and development. One of the primary barriers is economic dependency. Many women in India are financially dependent on male family members, limiting their ability to make independent decisions and pursue personal or professional goals. This economic dependency is often rooted in limited access to employment opportunities and discriminatory practices in the workplace, such as wage gaps and unequal job roles. Women's participation in the workforce remains low, and those who do work frequently encounter glass ceilings and occupational segregation, further exacerbating economic disparities.

Educational disparities are another critical barrier to women's empowerment in India. While there have been improvements in female literacy rates, significant gaps persist, particularly in rural areas and among marginalized communities. Girls often face societal and familial pressures to prioritize household duties over education, leading to higher dropout rates. Early marriages and childbearing further interrupt their educational pursuits. The lack of education limits women's knowledge, skills, and confidence, reducing their ability to participate fully in economic, social, and political spheres. Ensuring equal access to quality education for girls is vital for breaking this cycle and empowering women to achieve their full potential.

Social stigmas and cultural norms deeply entrenched in Indian society also play a significant role in hindering women's empowerment. These stigmas manifest in various forms, including restrictive gender roles, honor-based violence, and societal expectations regarding women's behavior and responsibilities. Women who challenge these norms often face backlash and discrimination, deterring many from seeking independence or leadership roles. For instance, the stigma attached to women working outside the home or pursuing non-traditional careers can discourage them from entering the workforce or advancing professionally.

#### Role of Grassroots Movements

Grassroots movements have been instrumental in advocating for women's rights and gender equality in India. These movements, often led by women, have raised awareness about various issues, mobilized communities, and pressured the government to enact and implement progressive

legislations. Examples include the Chipko Movement, which highlighted women's role in environmental conservation, and the Gulabi Gang, which combats domestic violence and corruption.

#### International Human Rights Frameworks

International human rights frameworks, particularly the Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW), have significantly influenced Indian laws and policies aimed at promoting gender equality. Adopted by the United Nations in 1979, CEDAW serves as a comprehensive international treaty that defines discrimination against women and sets an agenda for national action to end such discrimination. By ratifying CEDAW in 1993, India committed to eliminating all forms of discrimination against women and ensuring equality between men and women. This commitment has driven numerous legislative reforms, such as the Protection of Women from Domestic Violence Act, 2005, and the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, which align with CEDAW's principles. These laws address critical issues like domestic violence and workplace harassment, reflecting the Convention's influence in shaping a legal framework that promotes women's safety and equality.

#### CONCLUSION

The struggle for women's rights in India is ongoing, with significant progress made through legal reforms and judicial pronouncements. However, patriarchal norms and socio-economic barriers continue to impede true gender equality. A holistic approach that combines legal reforms with societal change is essential for achieving gender justice in India. This includes not only legislative advancements but also educational initiatives, economic policies, and community-based interventions that collectively aim to dismantle systemic barriers to gender equality. By envisioning a society where women's rights are fully recognized and upheld, we can ensure their empowerment and equal participation in all spheres of life.

#### Recommendations for Comprehensive Reforms

To address the gaps in the current legal framework and advance gender equality in India, the following recommendations are proposed:

- **Strengthening Legal Protections:** Existing laws should be strengthened to provide better protection for women, and new legislations should be introduced to address emerging issues related to women's rights.
- **Promoting Education and Awareness:** Educational initiatives should be undertaken to raise awareness about women's rights and the importance of gender equality. This includes integrating gender studies into school curricula and conducting awareness campaigns.
- **Economic Empowerment:** Policies should be implemented to promote women's economic empowerment, including access to credit, employment opportunities, and skill development programs.
- **Community-Based Interventions:** Community-based interventions should be encouraged to address socio-cultural barriers and promote gender equality at the grassroots level.
- **Enhancing Access to Justice:** Measures should be taken to enhance women's access to justice, including setting up special courts for gender-related cases and providing legal aid to women in need.
- **Monitoring and Evaluation:** A robust monitoring and evaluation framework should be established to assess the effectiveness of laws and policies aimed at protecting women's rights and promoting gender equality.

By adopting these comprehensive reforms, India can make significant strides towards achieving true gender equality and ensuring the rights and dignity of women are fully upheld.

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#### NOTES

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