

WOMEN'S ACCESS TO JUSTICE IN INDIA

AUTHOR – HUMERA ALI SHAIKH, STUDENT AT M.K.E.S. COLLEGE OF LAW

BEST CITATION – HUMERA ALI SHAIKH, SAFETY OF WOMEN IN INDIA, *INDIAN JOURNAL OF LEGAL REVIEW (IJLR)*, 5 (3) OF 2025, PG. 01-03, APIS – 3920 – 0001 & ISSN – 2583-2344.

This article is published in the collaborated special issue of M.K.E.S. College of Law and the Institute of Legal Education (ILE), titled "Women's Rights and Legal Reforms" (ISBN: 978-81-968842-4-6).

INTRODUCTION

Women access to justice in India is an important issue that reflects gender inequality, social stigma and extensive social trends of patriarchal structures. Despite legal process, the reality for many women in India is that justice remains elusive due to many systemic obstacles. However, in the last few decades, there has been significant progress in legal reforms and awareness about women's rights has increased, although challenges persist.

HISTORICAL CONTEXT AND LEGAL FRAMEWORK:-

India's criminal framework, especially in recent decades, has undergone vast transformation to ensure the protection and advancement of women's rights. The Indian constitution, adopted in 1950's, guaranteed equality earlier that the law underneath Article 14 and prohibited discrimination on grounds of sex under Article 15.

Overtime, numerous laws were enacted to defend women from violence, discrimination, and exploitation, such as the dowry prohibition act (1961), the protection of women from domestic violence act (2005), and the sexual harassment of women at workplace (prevention, protection, and redressal) act (2013).

However, these legal provisions often continue to be beneath enforced or poorly carried out, leaving many women vulnerable to systemic violence and discrimination. The gap between the law on paper and its application in practice remains wide.

BARRIERS TO WOMEN'S ACCESS TO JUSTICE IN INDIA:-

Cultural and social norms :-Deeply ingrained patriarchal norms and traditional gender roles have a powerful influence on the way women are treated within the justice system. In many rural and urban areas, societal pressure prevents women from seeking legal redress, particularly in cases of sexual violence, domestic abuse, or marital disputes. Social stigma surrounding victims of sexual assault or marital violence often deters women from filing complaints, as they may be blamed for the crimes committed against them.

Insufficient and overburdened judicial system

:-India's judicial system is often criticized for being slow and inefficient. The backlog of cases is a persistent problem, and it can take years, or even decades, for a case to be resolved. For women seeking justice, particularly in cases of sexual violence or domestic abuse, this prolonged delay in legal proceedings can result in psychological distress and a sense of powerlessness. Additionally, many cases involving women are often dismissed or delayed due to bureaucratic red tape,

insufficient resources, or lack of training for police and legal personnel to deal with gender-sensitive issues.

Economic and Educational barriers :- Many women, particularly those from economically disadvantaged backgrounds, lack the resources to seek legal aid. Legal costs, the need for transportation to courts, and a general lack of access to lawyers are significant barriers. Women in rural areas face even greater challenges, as they may be unaware of their legal rights or unable to access legal services. This results in many women opting for informal or traditional dispute resolution mechanisms, which may not always be in their best interest.

Fear of retaliation and social stigma :- Victims of gender-based violence in India often fear retaliation from the perpetrators or their families. In cases of sexual assault or domestic violence, the perpetrator is frequently a family member or intimate partner, which adds another layer of complexity to the victim's decision to pursue legal action. Moreover, the social stigma attached to being a victim of such violence can cause further isolation and discourage women from seeking justice. This fear of retaliation and societal judgment has led to a culture of silence, particularly in rural and conservative areas.

LEGAL REFORMS AND PROGRESSIVE MEASURES:-

India has introduced several legal reforms in recent years aimed at strengthening women's access to justice. These reforms address gaps in existing laws and seek to create a more inclusive and responsive judicial framework.

¹NATIONAL COMMISSION FOR WOMEN (NCW) Act:-

The National Commission for Women (NCW) is an independent and statutory body, established in 1992 through the National Commission for Women Act, 1990. Its primary objective is to

advocate for and protect women's rights in India. The NCW plays a key role in reviewing various issues related to the well-being and rights of women, addressing challenges faced by them, and offering policy recommendations to the government to ensure the effective promotion and safeguarding of women's rights. The Commission also works to ensure legal reforms and social awareness, acting as a bridge between women and the government for better enforcement of laws and protections.

FUNCTIONS:-

As outlined in Section 10 of the National Commission for Women Act, 1990, the Commission is tasked with performing the following functions:

1. Investigate and examine all matters related to the safeguards provided for women under the Constitution and other relevant laws.
2. Present annual reports to the Central Government on the effectiveness of these safeguards.
3. Make recommendations in these reports for improving the implementation of these safeguards and enhancing the conditions of women at the Union or state level.
4. Review the existing provisions of the Constitution and other laws impacting women, suggesting amendments to address any gaps, inadequacies, or shortcomings in the legislation.
5. Address cases of violations of constitutional provisions and other laws related to women by bringing them to the attention of the appropriate authorities.
6. Examine complaints and take suo-motu action on issues concerning the deprivation of women's rights and the non-enforcement of laws designed to protect them.

¹ National commission for women act, "Vajiram & Ravi", Accessed on December 7, 2024. <https://vajiramandravi.com/quest-upsc-notes/national-commission-for-women/>

7. Carry out promotional and educational research.
8. Participate in and offer advice on the socio-economic development planning process for women.

NATIONAL COMMISSION FOR WOMEN POWERS:-

The Commission, in the course of its investigations, is empowered with the full authority of a civil court concerning the following matters:

1. Summoning and compelling the attendance of any individual from any part of India, and examining them under oath, ensuring that they cooperate with the investigative process.
2. Directing the discovery and production of any documents or materials that are deemed necessary for the investigation.
3. Accepting evidence provided on affidavits, allowing for the inclusion of statements and documents provided under oath.
4. Requisitioning public records or certified copies thereof from any court or governmental office, facilitating the collection of relevant information.
5. Issuing commissions for the examination of witnesses and documents, allowing for a formal and structured method of gathering testimony and evidence.

These powers enable the Commission to effectively carry out its mandate to protect and promote women's rights across India.

Moving Forward: SOLUTIONS AND STRATEGIES:-

While legal reforms have improved the protection of women's rights in India, there is still much work to be done to address systemic barriers:

1. **Strengthening Law Enforcement:** Police training on handling gender-based violence and sensitizing law enforcement personnel to the needs of women is essential to building trust in

the justice system. This includes ensuring swift action on complaints and preventing cases from being dismissed or delayed.

2. **Increasing Awareness and Education:**

Public awareness campaigns and education on women's rights, the legal options available, and the importance of gender-sensitive law enforcement can empower women to seek justice without fear of social retribution.

3. **Faster Justice Delivery:**

The backlog of cases in Indian courts must be addressed to ensure that women receive timely justice. Expanding the use of fast-track courts, enhancing the capacity of the judiciary, and simplifying legal procedures are essential.

4. **Support Systems for Victims:**

Expanding victim support services, including legal aid, counseling, and shelter services, is crucial in helping women navigate the legal process and cope with the emotional and psychological aftermath of violence.

CONCLUSION:-

Despite significant legal reforms and increased awareness of women's rights, accessing justice remains a formidable challenge for many women in India. Barriers such as cultural norms, slow judicial processes, and gender bias within law enforcement continue to impede women's access to justice. However, through continued legal reforms, greater social awareness, and stronger institutional support, India can take meaningful steps toward ensuring that women have equal access to justice and that gender-based violence is met with swift and just action.