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## ARCHITECTURE OF THE STATUTORY FRAMEWORKS GOVERNING WOMEN'S RIGHTS

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### 3.1 Introduction to the framework

The legal system governing women's rights in India shows the dedication of the State to attain substantive equality and gender justice. Over the years, the legislature has passed several laws intended to shield women from social exclusion, violence, economic poverty and gender-based discrimination. These legislative efforts seek to fix historic inequities based in patriarchal social systems and seek to guarantee that women have equal status inside the family as well as in the society. Through several facets of law including family law, criminal law, labour law and property law, the legal system in India offers women protection. Legislation includes the Hindu Marriage Act of 1955, the Protection of Women from Domestic Violence Act of 2005, the Dowry Prohibition Act of 1961 and the Hindu Succession Act of 1956, depicting the legislative intent to ensure dignity, equality and protection for women. Similarly, criminal law clauses, formerly in the Indian Penal Code, 1973 and now in the Bharatiya Nyaya Sanhita, 2023, aim to discourage crimes like cruelty, sexual assault and harassment. The presence of progressive legislation, however, does not necessarily lead to social empowerment. Strong legal protections next to ongoing and persisting gender inequality, violence and discrimination creates a big paradox. This paradox begs big issues about the efficacy of legal protections and if law alone can change firmly ingrained social customs.

One facet of this paradox is the reality that many protective legislations exist inside the same patriarchal society structure they try to change. For instance, family laws usually try to defend women in marriage yet frequently question the fundamental gender expectations that lead to vulnerability. Similarly, maintenance laws offer financial assistance but occasionally strengthen the idea of women as dependents rather than as equal economic contributors. Property legislation provides equal inheritance rights, yet cultural norms often prevent women from claiming them. Criminal law safeguards also present another significant paradox. Public opinion often turns toward the topic of abuse of such laws, harsh rules that have been established to shield women from domestic violence and cruelty. This raises a difficult legal and social discussion in which worries about phony allegations

occasionally weaken the need for robust protection. As a result, actual victims may be doubted, so undermining the legislative protective aim.

Moreover, the difference between law in books and law in practice continues to be a major obstacle. Often, the efficacy of legal safeguards is diminished by operational problems like lack of knowledge, procedural delays, insufficient institutional support and social stigma. Hence, the contradiction concerns their accessibility, enforceability and social acceptability in addition to their existence. This chapter therefore critically reviews the legal framework controlling women's rights from three main angles.:

- Embedded patriarchal assumptions in marriage and family law

- Property and inheritance regulations, as well as the disparity between formal and actual equality
- Criminal laws and the dispute over actual protection versus purported abuse

This chapter aims to critically assess whether statutory safeguards have helped to raise the actual status of women or if they occasionally, unintentionally, duplicate the same inequalities they seek to erase, not only to describe this legislation. The chapter hopes to emphasize the structural and implementation issues that produce the paradox between legal protection and social reality by examination of these discrepancies. Understanding that legal reform is a required first step toward gender justice but it is not enough absent social transformation, institutional sensitivity and robust enforcement mechanisms is vital from this study.

### 3.2 Marriage and Family Laws.: Safeguarding Women Versus Strengthening Patriarchal Standards

As family is still the main social institution where gender roles are developed and reinforced, Indian statutory protection for women centres on marriage and family laws. Indian marriage rules aim at governing relationships, offering remedies against abuse and guaranteeing financial security for women. These regulations often work inside conventional social beliefs about gender roles, therefore producing a contradiction between legal defence and structural injustice. Laws like the Hindu Marriage Act, 1955; the Special Marriage Act, 1954; the Muslim Women (Protection of Rights on Marriage) Act, 2019 and protective legislation such as the Protection of Women from Domestic Violence Act, 2005 make up the legal framework controlling marriage. These rules offer solutions like divorce, court separation, maintenance, abuse protection and home rights.:

- Marital Laws Aiming at Protection

Laws on marriage try to protect women using several means, including offering reasons for

divorce including infidelity, desertion and cruelty, while appreciating domestic abuse as a legal wrong, giving economically dependent wives maintenance rights and giving residential rights to avoid homelessness following marital disagreements.

- The Dowry Prohibition Act, 1961

These rules show how the State is trying to turn marriage from a personal institution into one subject to legal control to avoid abuse. Marriage has traditionally been regarded by Indian society not just as a contract but as a sacramental and lasting institution wherein women are expected to adapt and maintain family harmony. This societal expectation presents real impediments even when legislative remedies are present. Women sometimes hold back from seeking legal solutions or divorce because of social stigma connected with divorce, financial reliance on spouses, worrying about the future of the children, stress from natal and married families and lack of alternative housing possibilities. Therefore, even if the law offers remedies, social circumstances limit their actual application. The law seeks to defend women without quite disrupting the patriarchal framework within which these rules work, hence producing the paradox. Although divorce laws abound, societal pressure forbids their application. Though domestic violence statutes see abuse, family systems sometimes normalize it as a private issue and law views only physical abuse, with an extremely narrow scope of mental abuse, as domestic violence. Formally, there is legal empowerment; yet, practically social disempowerment persists.

- Restoration of Conjugal Rights

Providing restitution of conjugal rights under the Hindu Marriage Act, 1955 is among the most contentious examples of this conundrum. Under this clause, a spouse seeks the court order the other spouse to start or resume cohabitation. The Act's objective is to keep the marriage intact, prevent unauthorized separation and is an advocate for

reconciliation. Critics contend, however, that this Act could hinder personal freedom, reduce body autonomy and strengthen marital oversight of women. It regards marriage preservation as more vital than personal dignity. This begs a major constitutional argument on the balance between individual autonomy and marital rights.

- Law on Domestic Violence Within Family Framework

By acknowledging emotional, verbal and economic abuse in addition to physical violence, The Protection of Women from Domestic Violence Act, 2005 broadened protection. The Act is progressive because it acknowledges relationships in which someone lives in, gives residency permissions, permits protection orders and provides maintenance. Yet, enforcement issues remain as a result of not enough trained protection officers, delays in court orders, social stress to be willing to compromise and women's lack of knowledge. Hence, bad execution mechanisms cause even progressive legislation occasionally to fall short.

Despite progressive developments, a significant paradox remains between legal provisions and their practical implementation. Within marriage, many women continue to face violence in various forms such as physical abuse, marital rape (still a contested issue in the Indian law), emotional and economic abuse and coercive control. While remedies such as protection orders, maintenance under the Protection of Women from Domestic Violence Act, 2005 and relief through family courts exist, access to these remedies is often blocked by social stigma, economic dependency, fear of family breakdown and lack of awareness. Cultural norms that prioritize the sanctity of marriage and emphasise it to be a women's job to protect it under all circumstances, discourage women from seeking legal recourse, even in cases of serious abuse, perpetuating silence and vulnerability. Judicial pronouncements have sought to

bridge these gaps by interpreting marriage laws in ways that uphold dignity, autonomy and equality. Courts have expanded the definition of cruelty to include mental and emotional abuse, recognizing broader grounds for relief, yet enforcement challenges persist. Lengthy litigation, procedural complexities and delays in family courts often reduce the effectiveness of legal remedies, while societal acceptance of progressive interpretations remains uneven across communities and regions.

Family laws also intersect with issues such as child custody, guardianship and maintenance, where women frequently face disadvantages due to economic disparities and social biases. Although statutes emphasize child welfare and equal responsibility, outcomes often reflect traditional assumptions about gender roles, reinforcing male authority and financial control. In essence, marriage and family laws in India embody both progress and limitation. They provide a framework for protecting women and promoting equality within families, but their effectiveness is constrained by patriarchal norms and gaps in enforcement. This creates a continuing paradox that the law formally recognizes women's some rights within marriage, yet lived experiences remain shaped by inequality and vulnerability. Strengthening enforcement mechanisms, expanding legal awareness and fostering societal change are essential to ensure that the promise of these laws translate into real protection and empowerment.

### 3.3 Inheritance and Property Laws.: Formal Equality Versus Substantive Inequality

Property ownership is generally considered as a critical element in determining women's economic independence, social position and bargaining power inside the household; hence, Indian law has tried to remove historical gender discrimination through statutory changes such as the Hindu Succession Act, 1956 and its progressive amendment via the Hindu Succession (Amendment) Act, 2005

which gave daughters equal coparcenary rights by birth similar to males, including rights to inheritance, division and property management. This reform, which the Supreme Court further reinforced in the case of Vineeta Sharma<sup>789</sup>, marked a great stride toward formal gender equality. It made clear that daughters have equal coparcenary rights regardless of whether the father was alive at the time of the amendment, therefore upholding the constitutional vision of equality.<sup>790</sup> However, women's property rights are still underappreciated because of strong patriarchal values and social customs that discourage women from claiming their legal entitlements even in view of these forward-looking legal and judicial developments.<sup>791</sup> Many women either stay unaware of their inheritance rights or consciously surrender their shares under emotional pressure, cultural expectations, worry of damaging family ties or financial incapacity to participate in legal conflicts, which proves that legal entitlement does not necessarily equal real ownership or control over property.<sup>792</sup>

This highlights a major contradiction in the legal system, that though the law guarantees formal equality by giving equal rights on paper, practical equality remains evasive as societal realities keep limiting the use of those rights. Feminist legal academics have hence maintained that property reforms must go beyond symbolic equality and address structural obstacles like lack of knowledge, social conditioning and institutional access since economic empowerment cannot be realized just by legislative declaration without guaranteeing real accessibility and societal approval. Therefore, the disparity between legal rights and social realities reveals that even while India has made significant strides in eliminating formal discrimination in property legislation, patriarchal attitudes continue to restrict the transformational influence of these

changes, therefore supporting the core contradiction of women's protection rules; solid legal protections are in place but their actual advantages are unequally realized.

Despite progressive legal provisions, a paradox persists between the law and its implementation. In practice, many women are still denied their rightful share in property due to entrenched patriarchal norms, lack of awareness, social pressure and reluctance to assert claims against family members. Cultural expectations often discourage women from seeking inheritance, as doing so may be seen as disrupting family harmony or "taking away" from the entitled male heirs. In rural and semi-urban areas, limited access to legal assistance and awareness further compounds the problem, leading to widespread informal exclusion of women from inheritance. Judicial intervention has been crucial in "Law" (2000) strengthening women's property rights, with courts consistently affirming that statutory entitlements cannot be overridden by discriminatory customary practices. Progressive interpretations have reinforced equality and sought to dismantle patriarchal barriers. Yet enforcement remains a challenge. Legal recognition does not always translate into actual possession or control, as women often face resistance, delays in partition or lack of cooperation from male relatives. These obstacles undermine the practical realization of rights.

Thus, while inheritance and property laws represent a significant step toward gender justice, they also highlight the broader paradox of law in action. Strong legal rights alone are insufficient without effective enforcement, social awareness and cultural change. Ensuring that women can not only inherit property but also exercise control over it is essential for achieving genuine economic empowerment and reducing vulnerability to

<sup>789</sup> Vineeta Sharma v/s Rakesh Sharma, (2020) 9 SCC 1

<sup>790</sup> Law Commission of India, Report No. 174, "Property Rights of Women: Proposed Reforms under the Hindu

<sup>791</sup> Feminist Bina Agarwal, "Gender and Command over Property: A Critical Gap in Economic Analysis" (1994)

<sup>792</sup> World Development 1455

<sup>792</sup> National Family Health Survey (NFHS-5)

violence and dependency. In this sense, inheritance rights are more than legal entitlements, they are a cornerstone of substantive equality and a pathway to transforming the socio-economic position of women in India.

### 3.4 Criminal Laws Protection.: Misuse Debate versus Actual Protection

By criminalizing actions including domestic abuse, cruelty, sexual harassment, dowry death and sexual assault, primarily via clauses found in the Indian Penal Code, 1860, the Protection of Women from Domestic Violence Act, 2005 and the Dowry Prohibition Act, 1961, which seek to discourage gender-based violence and offer legal redress to victims, criminal law is central to the protection of women's rights in India. Among these, Section 498A of the IPC, which criminalises cruelty by the husband or his relatives, is one of the most important legal weapons against domestic violence. But this clause has also sparked much controversy over its claimed misuse; anxieties exist that false or exaggerated complaints may cause harassment of the accused and needless arrests.<sup>793</sup> Acknowledging these issues, the Supreme Court in the case of Arnesh Kumar<sup>794</sup> provided rules to avoid automatic arrests, stressing the necessity of procedural safeguards while preserving the protective purpose of the law.

This scenario highlights a fundamental conflict in criminal law safeguards.: while strict rules are required to combat the prevalent problem of violence against women, the narrative of abuse sometimes draws attention away from real victims and might cause uncertainty in enforcement agencies. Many women avoid legal action out of fear of retaliation, social stigma, economic dependency and lack of institutional support; therefore, empirical research and crime statistics frequently show that underreporting of offenses against women continues to be a far more serious issue than

false reporting. Consequently, the discussion on misuse must be framed inside the more general context of access to justice rather than as a justification for lowering protective legislation.

Moreover, the effectiveness of criminal law safeguards is made more difficult by implementation issues including insensitive policing, investigation delays, evidentiary problems and low conviction rates, showing that strict laws alone do not ensure good protection. Feminist legal viewpoints contend that this conflict between protection and abuse exposes a more fundamental institutional problem in which women's allegations are frequently examined more closely than other offenses, therefore aggravating gender prejudice inside the judicial system. As a result, the criminal law system exposes a persistent contradiction.: the State must balance the need to stop legal provisions from being used improperly while also guaranteeing that such worries do not reduce the protection accessible to actual victims, therefore highlighting that successful women's protection calls not only strong laws but also delicate enforcement, procedural fairness and society trust in the justice system.

The debate around criminal laws for women's protection in India often revolves around the tension between "protection versus misuse," highlighting the gap between legal safeguards and lived realities. On one hand, India has developed a comprehensive body of laws covering domestic violence, sexual offences, dowry-related cruelty, acid attacks, trafficking and workplace harassment that reflects a strong legislative commitment to women's dignity and security. Grounded in constitutional values of equality and liberty, these laws empower victims to seek justice and hold offenders accountable. Judicial interpretations have further strengthened these protections by

<sup>793</sup> Law Commission of India, Report No. 243, "Section 498A IPC – Need for a Balance" (2012)

<sup>794</sup> Arnesh Kumar v/s State of Bihar, (2014) 8 SCC 273

emphasizing consent, bodily autonomy and gender-sensitive approaches.

Removing adultery, unnatural sexual crimes and continuing non-recognition of marital rape together lowers a woman's position inside marriage by robbing her of her legal defences against exploitation and autonomy. The conversation focused on male independence and equality when adultery was decriminalized but neglected to acknowledge the structural injustice women face, wherein cheating usually means financial and emotional exploitation. Likewise, the denial to criminalize marital rape reinforces the patriarchal idea that a wife's consent is invalid under marriage, thereby denying her physical autonomy and respect. Men are virtually allowed to cheat on their wives and even rape them without repercussions in India's marital system as adultery has been decriminalized and marital rape remains outside the scope of criminal law. This legal vacuum confirms patriarchal supremacy, depriving women control over their bodies and lives, while yet bolstering the idea that marriage subsumes consent. The consequence is a system where women are enslaved, deprived of agency and left with no significant legal remedy against infidelity or sexual violence within marriage.

The dilution of "unnatural sexual offences" further weakens recourse against coercive sexual activities inside marriage. Adding to this is the narrow judicial interpretation of "cruelty," which is usually limited to physical assault, whereas mental, emotional and economic abuse such as financial deprivation, coercive control, or psychological manipulation are hardly recognized. This legal blind spot strengthens the patriarchal hierarchy in which Indian women frequently have no acknowledged right over their own bodies whether they opt to do domestic chores, seek a professional job, or weigh in on household decisions. Together, these omissions contribute to a marital structure whereby women stay subordinate, therefore upsetting constitutional guarantees of equality, dignity and

independence. On the other hand, the "misuse" narrative has gained prominence in public discourse, with claims that certain provisions are sometimes invoked falsely or vindictively. While safeguards against false implication are necessary, this concern is often overstated, overshadowing the reality that many genuine victims struggle to access justice. In practice, underreporting remains a far greater problem than misuse, driven by stigma, economic dependency, lack of awareness and fear of secondary victimization. The result is a criminal justice system where the majority of crimes against women remain hidden and the protective intent of the law is undermined.

Even when cases are reported, systemic inefficiencies, delays in investigation and trial, poor evidence collection, case manipulation, procedural hurdles and insensitive handling, often weaken the law's effectiveness. This reinforces the paradox that strong legal provisions exist, but their enforcement is inconsistent, leaving victims vulnerable. At a broader level, the protection versus misuse debate reflects entrenched patriarchal attitudes and scepticism toward victims, which can discourage reporting and perpetuate silence around gender-based violence. Overemphasis on misuse risks creating a chilling effect, undermining the very purpose of protective laws. Therefore, while concerns about misuse must be addressed through fair procedures, safeguards for the accused and thorough investigations, greater emphasis must be placed on strengthening enforcement, improving institutional sensitivity and ensuring timely justice. Criminal law should not be reduced to a binary of protection versus misuse. Its true purpose lies in delivering effective, accessible protection to women, while balancing the rights of all parties. Only through such a nuanced and integrated approach can the justice system move closer to fulfilling its constitutional promise of equality and dignity.

### 3.5 Conclusion.: The Statutory Paradox in Women's Protection Laws

Through progressive changes in marriage laws, property rights and criminal protections, the statutory framework for women's protection in India shows a strong legal commitment toward gender justice. Laws about marriage try to shield women from abuse and financial hardship; property rules aim to guarantee equal inheritance and financial empowerment; criminal laws seek to discourage violence and offer remedies against gender-based crimes. But a thorough examination shows that these legislative safeguards often work inside the same patriarchal societal system they aim to change, therefore constraining their transformational capacity.

Lack of awareness, societal stigma, economic dependence, institutional delays and cultural expectations often prevent women from fully exercising their legal rights, thus creating a gap between legal entitlement and social reality.<sup>795</sup> Moreover, discussions on abuse of protective laws occasionally drown out the real requirement for strong legal protections, therefore generating tension between fairness and procedural justice.<sup>796</sup> This shows that although legal changes are necessary to create official equality, they cannot by themselves provide actual equality unless they are supported by social change, successful enforcement, gender-sensitive institutions and legal knowledge among women. Therefore, the paradox of women's protection laws in India lies not in the absence of legal safeguards but in the limitations of their practical realization, highlighting the need for a holistic approach that combines legal reform with social transformation to truly improve the status of women.

<sup>795</sup> National Crime Records Bureau, "Crime in India – Statistics"

<sup>796</sup> Ratna Kapur, "The Tragedy of Victimization Rhetoric: Resurrecting the 'Native' Subject in International/PostColonial Feminist Legal Politics" (2002) 15 Harv/s Hum. Rts. J. 1



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