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## Evolution of Women-Centric Laws in India: A Historical, Constitutional, and Ideological Analysis

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### Abstract

This research paper explores the multifaceted evolution of women-centric laws in India, tracing the trajectory from the colonial era to contemporary legislative milestones. It examines the transition of women's legal status from passive 'objects of protection' to proactive 'right-bearing citizens.' By analysing pivotal constitutional provisions (Articles 14, 15(3), and 21) and landmark judicial interventions such as the Vishaka and Vineeta Sharma cases, the study illustrates how Indian jurisprudence has shifted from protective to transformative justice. The paper further discusses recent legislative advancements, including the POSH Act (2013), Criminal Law Amendments (2013, 2018), and the Nari Shakti Vandan Adhiniyam (2023), while critically addressing the persistent gap between statutory frameworks and social reality.

**Keywords:** Women-Centric Laws, Constitutional Law, Gender Equality, Judicial Activism, POSH Act, Reproductive Rights, Political Empowerment.

### Introduction

#### The Jurisprudence of Gender Justice in India

The evolution of women-centric laws in India is not merely a chronological recording of statutes; it is a profound narrative of a civilization's struggle to reconcile its ancient ideals with the harsh realities of a persistent patriarchy. For centuries, the legal status of Indian women was defined by a paradoxical duality: a spiritual exaltation in Vedic scriptures as Shakti (power) or Ardhangini (the equal half), contrasted sharply with the restrictive socio-legal codes of the medieval and colonial eras. These codes, often justified through skewed interpretations of the Manusmriti, rendered women as "objects of protection" rather than "subjects of rights," perpetually dependent on male kinship—from father to husband to son.

The dawn of the Indian Republic in 1950 marked a radical rupture from this historical inertia. The framers of the Indian Constitution, led by the vision of Dr. B.R. Ambedkar, recognized that political independence would remain hollow without social and legal emancipation for women. They established a foundational framework that shifted the legal focus from "Protectionism"—where women were seen as weak entities needing

guardianship—to "Empowerment," where they are recognized as autonomous citizens with inherent agency

### The Constitutional Catalyst

At the heart of this evolution lie Articles 14, 15, and 21. While Article 14 guarantees formal equality before the law, it is Article 15(3) that serves as the engine for women-centric legislation. By authorizing "Positive Discrimination," the Constitution permits the State to bypass formal neutrality to create specific laws—such as the Maternity Benefit Act or the Protection of Women from Domestic Violence Act—to address systemic disadvantages. Furthermore, the judicial expansion of Article 21 (the Right to Life and Personal Liberty) has evolved to include the right to dignity, privacy, and reproductive autonomy, forming the bedrock of modern feminist jurisprudence in India.

### The Three Waves of Legal Evolution

- This article analyzes the development of these laws across three distinct historical and ideological waves:
- The Reformist Wave (1829–1947): Characterized by colonial interventions against overt physical violence, such as Sati and child marriage.
- The Structural Wave (1950–1980s): Focused on democratizing the "private sphere" through the Hindu Code Bill, addressing marriage, divorce, and inheritance.
- The Rights-Based Wave (1990s–Present): A period defined by judicial activism and specialized legislations addressing workplace safety (POSH), digital crimes (IT Act), and political representation (Nari Shakti Vandan Adhiniyam).

### Objectives of the Study

In the following chapters, this study explores the "Literature of Resistance"—the legal scholarship and judicial precedents that have challenged the status quo. It examines why, despite having one of the most progressive legal frameworks in the world, India continues to grapple with an "implementation gap." By reviewing the relevance of different literatures—from the constitutional structuralism of D.D. Basu to the feminist legal critiques of Indira Jaising—this article provides a holistic view of how law acts as both a mirror of social change and a catalyst for a more equitable future.

### Relevance of the Literature (Bridge Section)

A study of this nature relies on a multi-disciplinary approach. Legal texts provide the "Black Letter Law," while sociological literature provides the "Law in Action." Understanding the relevance of these diverse sources is crucial for any researcher:

- **Historical Literature:** Essential for understanding the origins of gender-based legal disabilities.
- **Judicial Precedents:** Critical for observing how the Supreme Court of India has often stepped in as a "Legislator of Last Resort" (as seen in the Vishaka case).
- **Contemporary Critical Scholarship:** Necessary to analyse the intersectionality of law with caste, class, and the digital divide.

### **Relevance of the Study in Contemporary Times**

The study of these literatures is of paramount relevance for several reasons:

- **Bridging the Implementation Gap:** Literature consistently highlights that while India has "Hyper-Legislation" (too many laws), it suffers from "Sub-Implementation." This study is relevant for policymakers to identify why laws like the Dowry Prohibition Act often fail at the grassroots level.
- **Understanding Judicial Activism:** By studying the evolution from the Mathura Rape Case (which led to 1983 reforms) to the Vishaka judgment, we understand that in India, the Judiciary often acts as the 'First Responder' to gender injustice when the Legislature remains silent.
- **Intersectionality in Law:** Current literature is exploring how law interacts with Caste, Class, and Religion. The relevance of this article lies in its attempt to look at women not as a monolithic group, but as individuals whose legal needs vary based on their socio-economic location.

### **Philosophical Background and the Constitutional Resolve for Justice**

The evolution of the status of women in Indian legal history is a journey from being treated as an 'Object' to a 'Citizen' and ultimately emerging as an 'Empowered Entity.' In ancient times, while Rigvedic society accorded women spiritual and social equality as 'Ardhangini' (the equal half), the 'Smriti-based' laws of the post-Vedic and medieval periods reduced them to 'objects of protection.' The famous verse from the Manusmriti—"Pita rakshati kaumare, bharta rakshati yauvane..."—was misinterpreted until the colonial era, effectively making women legally dependent on men throughout their lives.

When the Constitution of India came into force in 1950, it challenged thousands of years of social inertia in a single stroke. While Article 14 guaranteed equality before the law, the visionary framers realized that mere 'formal equality' was insufficient for women who had been marginalized for centuries. Consequently, the principle of 'Positive Discrimination' was introduced via Article 15(3). This article provides the State with the 'legal weapon' to create special welfare laws for women without being deemed discriminatory against men.<sup>2</sup> This philosophy paves the way for a transition from 'Protective Justice' to 'Transformative Justice.'

### **Legal Interventions of the Colonial Era (1829-1947)**

The foundation of women-centric laws in India lies in the reforms of the colonial era, brought about by the pressure of missionaries and Indian social reformers such as Raja Rammohan Roy, Ishwar Chandra Vidyasagar, and Jyotiba Phule.

- **Sati Prohibition Act (1829):** This was modern India's first 'Right to Life' law for women. It not only declared Sati illegal but also provided for the death penalty for those abetting it.<sup>1</sup> This marked the first formal state intervention against violence perpetrated in the name of religion.
- **Hindu Widows' Remarriage Act (1856):** This law abolished the doctrine of the 'social death' of widows. It granted widows the right to remarry and accorded legal recognition to their children. However, a lingering discrepancy was that a widow lost rights to her deceased husband's property upon remarriage—a flaw rectified in later legislations.

- **Child Marriage Restraint Act (Sarda Act, 1929):** Resulting from the efforts of Harbilas Sarda, this law fixed the minimum age of marriage for girls at 14 years. Although weak in penalizing offenders, it was the first time the state recognized the body and health of the 'girl child' as a matter of public concern.

#### **The Hindu Code Bill and the Democratization of Family Laws**

Post-independence, the greatest ideological battle in the Indian Parliament took place over the 'Hindu Code Bill.' Dr. B.R. Ambedkar believed that political freedom would remain meaningless until women achieved equality within family laws.

- **Hindu Marriage Act (1955):** This act abolished the centuries-old practice of polygamy. It established marriage not just as a 'sacrament' but also as a 'contract,' wherein women gained the legal right to seek divorce on grounds such as 'cruelty' or 'desertion.'
- **Hindu Succession Act (1956) and the Historic 2005 Amendment:** While the 1956 Act gave women the right to hold property, it did not recognize them as 'Coparceners.' The amendment passed on September 9, 2005, is a 'watershed moment' in Indian legal history. By amending Section 6, it granted daughters equal birthrights in ancestral property, on par with sons.<sup>3</sup> The Supreme Court, in *Vineeta Sharma v. Rakesh Sharma* (2020), clarified that this right is retrospective, regardless of whether the father passed away before 2005.

#### **Safety at the Workplace and the Jurisprudence of 'Vishaka'**

As women joined the workforce in large numbers following liberalization, sexual harassment at the workplace emerged as a significant challenge.

- **Vishaka v. State of Rajasthan (1997):** Following the gang rape of Bhanwari Devi, the Supreme Court noted the absence of specific laws to prevent sexual harassment at work. Exercising 'Judicial Activism,' the court issued the 'Vishaka Guidelines.'<sup>4</sup> This was the first time in Indian legal history that international treaties (CEDAW) were directly integrated into Indian law.
- **POSH Act (2013):** After nearly a decade and a half, Parliament enacted the 'Sexual Harassment of Women at Workplace (Prevention, Prohibition, and Redressal) Act.' Under Section 4, the formation of an Internal Complaints Committee (ICC) is mandatory in every institution with more than 10 employees. This law defines 'sexual harassment' not just as physical acts but also as a 'Hostile Work Environment.'

#### **State Entry into the Private Sphere: Domestic Violence and Dowry**

For a long time, violence within the home was kept outside the purview of the law under the guise of the "sanctity of private life."

- **Dowry Prohibition Act (1961) and IPC 498A:** To prevent deaths caused by the dowry system, Section 498A was added to the Indian Penal Code in 1983.<sup>5</sup> It is a cognizable and non-bailable offense. While debates regarding its misuse continue, this law remains the primary shield for thousands of women in rural India.
- **Protection of Women from Domestic Violence Act (2005):** This law is 'revolutionary' as it is not limited to marital relationships; it includes 'live-in relationships' and the

concept of a 'shared household.' Its greatest strengths are 'Protection Orders' and 'Residence Orders,' which grant the victim the right to reside in the same house where the violence occurred.

### **The Nirbhaya Case and the Overhaul of the Criminal Justice System**

The events of December 16, 2012, shook the collective conscience of Indian society. This led to the formation of the Justice Verma Committee, which recommended fundamental changes in criminal laws.<sup>6</sup>

- **Criminal Law (Amendment) Act, 2013:** This significantly broadened the definition of 'rape.' For the first time, 'Stalking' (Section 354D), 'Voyeurism' (Section 354C), and 'Sexual Harassment' (Section 354A) were recognized as specific offenses.
- **2018 Amendment:** Aligning with the POCSO Act, a provision for a 'minimum of 20 years imprisonment' or the 'death penalty' was introduced for the rape of girls under the age of 12.

### **Reproductive Rights and Bodily Autonomy**

A woman's right to make decisions regarding her own body is the most fundamental aspect of her human rights.

- **MTP Act (1971) and 2021 Amendment:** In India, abortion was historically viewed as a 'medical necessity' rather than a 'right.' The 2021 amendment increased the gestational limit for abortion from 20 to 24 weeks.<sup>7</sup> Most importantly, the Supreme Court, in *X v. Health and Family Welfare Department* (2022), clarified that 'unmarried women' have the same right to abortion as married women, as reproductive autonomy is an integral part of Article 21.

### **Political Empowerment and Legislative Representation**

Without representation, laws are merely pieces of paper.

- **73rd and 74th Constitutional Amendments (1992):** These amendments ensured 1/3 (now 50% in many states) reservation for women in local governance. This has fostered a new generation of women leaders in rural India, despite the culture of 'Pradhan-Pati' (husband of the elected representative).<sup>9</sup>
- **Nari Shakti Vandan Adhiniyam (2023):** After a 33-year wait, Parliament passed the law granting 33% reservation for women in the Lok Sabha and State Assemblies.<sup>8</sup> This legislation is set to permanently alter patriarchal political structures

### **The Digital Age: Cyber Safety for Women**

In the era of the internet, the nature of violence against women has transformed.

- **IT Act, 2000 (2008 Amendment):** Sections 66E (Violation of Privacy) and 67A (Publication of sexually explicit material) serve as the primary weapons against digital violence.<sup>9</sup> A strict legal framework now exists to curb offenses like cyber-stalking and 'revenge porn.'

### **Conclusion**

The conclusion of this detailed analysis is that the development of women-centric laws in India has evolved from 'Protective' to 'Empowerment.' Laws are no longer a matter of 'Charity' (Daya); they are now 'Rights' (Adhikar).<sup>10</sup> However, the challenge of implementation

remains. Patriarchal mindsets, police insensitivity, and judicial delays continue to be obstacles on the path to justice. Real change will come not just from the 'Gazette' but from 'Social Consciousness.' The study of women-centric laws in India is not merely a chronological recording of statutes but an exploration of the evolving legal consciousness. A comprehensive review of literature reveals that the discourse has shifted from "Protectionism" in the early 20th century to "Agency and Autonomy" in the 21st century.

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