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WOMEN'S RIGHTS ACROSS LEGAL TRADITIONS: A COMPARATIVE APPRAISAL

AUTHORED BY - BALJEET KAUR

ABSTRACT

India, a land that venerates goddesses, continues to grapple with widespread harassment, sexual abuse, and other atrocities against women. In response, the government has established a comprehensive legal framework aimed at protecting women's dignity, safety, and autonomy. Key provisions include the Equal Remuneration Act, 1976, which mandates equal pay for equal work and prohibits gender discrimination in recruitment and promotions. Article 21 of the Constitution and IPC Section 354A, which guarantee the right to dignity and protect against harassment, and the Sexual Harassment of Women at Workplace Act, 2013, along with the landmark *Vishakha guidelines*, which require organizations with ten or more employees to form Internal Complaints Committees to adjudicate workplace harassment. Protection from domestic violence is provided under Section 498A IPC and the Protection of Women from Domestic Violence Act, 2005, shielding women from physical, emotional, sexual, and economic abuse.

The Legal Services Authorities Act, 1987, and the Tele-Law programmer empower women with free legal aid and virtual legal assistance for issues like domestic violence, sexual harassment, and employment discrimination. Additional rights include protection from indecent representation under the 1986 Act, the criminalization of stalking under IPC Section 354D, the Zero FIR rule, enabling women to register complaints at any police station regardless of jurisdiction, the prohibition on night-time arrests without magistrate approval or presence of a female officer, and ensuring interrogations are held at home; and provisions for virtual complaint registrations, including the shoe-box portal for remote filing. Together, these rights form a robust legal safety net designed to protect women's self-development, dignity, and access to justice although their true effectiveness depends on awareness, enforcement, and cultural change.

KEY WORDS: Women rights, Society, right to dignity Right against work harassment, right to get free legal aid, right to zero FIR.

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I INTRODUCTION

"*Human rights are women's rights and women's rights are human rights, once and for all.***"**

Hillary Clinton

Swami Vivekananda, India's patriotic saint, emphasized that "there is no chance for the welfare of the world unless the condition of women is improved, and it is not possible for a bird to fly on only one wing".[1] Indeed, despite India revering goddesses, the nation still witnesses pervasive harassment, abuse, and atrocities against women. Historically, the status of Indian women has fluctuated dramatically, during the ancient Indo-Aryan era, practices such as female infanticide, child marriage, dowry, and the taboo against widow remarriage entrenched women's subordination. British colonial rule introduced significant reforms as Bharat Bentinck's Bengal Sati Regulation,[2] the Hindu Widows' Remarriage Act,[3] the Female Infanticide Prevention Act,[4] and the Age of Consent Act[5] systematically challenged such social evils. Post-independence, the Indian Constitution and a suite of statutes enshrine women's rights to equality, dignity, and freedom from discrimination. Today, women hold prominent positions from President and Prime Minister to state Chief Ministers and Lok Sabha Speaker reflecting radical social progress. However, deep-seated challenges such as sexual violence continue to threaten women's rights. Thus, raising awareness of women's constitutional and statutory rights is essential to truly protect their autonomy and transform India's vast female population into empowered human capital.

II CONSTITUTIONAL RIGHTS OF WOMEN

The Constitution of India explicitly safeguards women's rights through several provisions, Article 15(1), Prohibits discrimination on the basis of sex by the State. Article 15(3), Allows the State to make "special provisions" in favor of women enabling affirmative actions. Article 16(2), Ensures equality in public employment irrespective of sex, guaranteeing equal opportunity. Article 23(1), Bans trafficking of human beings and forced labor, protecting women from exploitation. Article 39(a), Obliges the State to secure an adequate livelihood for both men and women. Article 39(d), Mandates equal pay for equal work for men and women. Article 39(e), Protects women workers' health and strength, preventing economic duress from unsuitable jobs. Article 42, Requires the State to ensure humane working conditions and

[1] Swami Vivekananda, *available at:* https://libquotes.com/swami-vivekananda (last visited at 30 June, 2025).
[2] Bengal Sati Regulation, 1829 (Act 17 of 1829).
[3] Hindu Widows' Remarriage Act, 1856, (Act 15 of 1856).
[4] Female Infanticide Prevention Act, 1870 (Act 8 of 1870).
[5] Age of Consent Act, 1891 (Act 10 of 1891).

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maternity benefits. Article 51A (e), As a fundamental duty, citizens must renounce practices derogatory to women's dignity. Article 243-D (3) & (4) & 243-T (3) & (4), Reserve one-third of seats and chairperson positions for women in Panchayats and Municipalities, ensuring political representation. Together, these provisions establish formal guarantees of equality, employment rights, social welfare, political participation, and a duty to uphold women's dignity.[6]

III LEGAL RIGHTS UNDER STATUTES

a) Protection of Women from Domestic Violence Act, 2005 (PWDVA)

The Supreme Court has definitively reiterated that the Protection of Women from Domestic is a civil code that applies to every woman in India, regardless of her religion, social background, or personal law.[7] In a landmark ruling a bench of Justices *B.V. Nagarathna* and *N. Kotiswar* Singh held that, "The Act is a piece of civil code which is applicable to every woman in India irrespective of her religious affiliation and/or social background for a more effective protection of her rights guaranteed under the constitution".[8] This judgment arose from *S. Vijikumari* v. *Mowneshwarachari C,* where the Court also emphasized that modifications under Section 25(2) are prospective, based only on post-order changes, and cannot retroactively invalidate prior relief. The decision underscores that the PWDVA provides uniform protection to all women irrespective of religious or social distinctions and reinforces its role as a secular, gender-affirmative statute aimed at ensuring effective legal recourse against domestic violence.[9]

b) The Immoral Traffic (Prevention) Act, 1956

The ITPA, 1956 is the cornerstone legislation in India for combating the trafficking of women and girls for commercial sexual exploitation. Initially enacted as the Suppression of Immoral Traffic in Women and Girls Act, it was amended and renamed to broaden its scope. The Act criminalizes various activities including brothel keeping, living off the earnings of sex work, procuring or inducing women into prostitution, detaining persons in brothels, and soliciting in public.[10] It empowers special police officers to conduct searches without a warrant, allows magistrates to order rescues and run protective homes, and provides for rehabilitation and reintegration of victims. Over time, judicial interpretations have shaped its application.

[6] Sanjay Jain, "*Constitutional Law of India"* 564 (Eastern Book Company, 8th edn., 2023).
[7] Protection of Women from Domestic Violence Act, 2005 (Act 43 of 2005).
[8] *Women of India* v. *Union of India*, W.P.(C) 1156, 2021.
[9] *S. Vijikumari* v. *Mowneshwarachari C,* AIR 2024 (SC) 745.
[10] The Immoral Traffic (Prevention) Act, 1956 (Act 104 of 1956).

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In *Vishal Jeet* v. *Union of India,*[11] the Supreme Court emphasized that trafficking is a socio-economic issue requiring preventive and rehabilitative efforts beyond mere penal action. In *Krishnamurthy* v. *State Madras* the court clarified that even a single incident of brothel keeping constitutes an offence.[12] A notable update from the Allahabad High Court (March 2025) held that customers are not liable under ITPA unless directly involved in trafficking, procurement, or brothel management. In *Prajwala* v. *Union of India*, the Supreme Court reiterated the government's obligation to ensure proper investigation, monitoring of protective homes, and rehabilitation of survivors.[13] In *State of Maharashtra* v. *Mohammad Sajid Husain*, the court reversed anticipatory bail for an accused in a minor trafficking case, asserting the primacy of victim protection.[14] Furthermore, *Ashok Sharma v. State of Bihar* held that proceedings initiated by an officer not designated as a "Special Police Officer" under Section 13 were invalid.[15]

c) Indecent Representation of Women (Prohibition) Act, 1986

This Act prohibits any indecent representation of women through advertisements, publications, paintings, films, digital content, or any medium that is derogatory or denigrating to women. It empowers gazetted officers to search and seize such material (S 5–6). (Sections include bans on ads (S-3), publications (S-4), corporate liability (S7), and custody or bail provisions (S 8– 9).[16] In *S. Khushboo v. Kanniammal & Anr,* the Supreme Court quashed 23 frivolous criminal complaints under this Act, holding that vague moral outrage or commentary on premarital sex did not amount to indecent representation—reinforcing free speech protections.[17] *Aveek Sarkar v. State of West Bengal*, replaced the outdated Hicklin test with the modern community standards test. The Court acquitted nude portraits in licensed publications, emphasizing contextual intent over mere nudity.[18] In *Apoorva Arora v. State Govt. of NCT of Delhi,* the Supreme Court ruled that expletives and colloquial language in the OTT series *College Romance* were not indecent.[19] This landmark decision affirmed that ordinary slang or vulgarity is not punishable under the IRWA. In 2025, law enforcement has increasingly applied IRWA alongside provisions in the IT Act and the newer Bharatiya Nyaya Sanhita (BNS) to regulate online content reflecting

[11] *Vishal Jeet v. Union of India*, AIR1990 (3) SCC 318.
[12] *Krishnamurthy* v. *State Madras*, AIR (1967) 567.
[13] *Prajwala* v. *Union of India*, W.P. (C) No. 56/2004.
[14] *State of Maharashtra & Anr*. v. *Mohammad Sajid Husain & Ors*, AIR 2008 (1) SCC 213.
[15] A*shok Sharma* v. *State of Bihar & Ors.*, Crl. M.P. No. 89, 2012.
[16] Indecent Representation of Women (Prohibition) Act, 1986 (Act 60 of 1986).
[17] *S. Khushboo* v. *Kanniammal & Anr*, AIR 2010 (5) SCC 600.
[18] *Aveek Sarkar* v. *State of West Bengal,* AIR 2014 (4) SCC 257.
[19] *Apoorva Arora* v. *State (Govt. of NCT of Delhi,* AIR 2024 SC 223,

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deeper regulatory engagement with digital platforms. Together, these rulings demonstrate that while the Act remains vital for curbing exploitative portrayals of women, judicial interpretation now protects artistic and expressive freedom, using contextual analysis and community standards to strike a balance between dignity and expression.

d) Commission of Sati (Prevention) Act, 1987

The Commission of Sati (Prevention) Act, 1987 is a targeted statute aimed at curbing both the act of sati the immolation of widows, regardless of whether voluntary and its glorification in any form. Under Section 2, "sati" is defined to include the burning or burying alive of a widow with her deceased husband, while "glorification" encompasses activities such as ceremonies, processions, temple-building, formation of trusts, public worship, or financial collections that venerate the act. The Act establishes a robust framework for punitive and preventive actions section 3 imposes up to 1 year's imprisonment, fine, or both for any attempt to commit sati. Section 4 punishes anyone who abets sati either directly or indirectly with life imprisonment or the death penalty, along with a fine. Section 5 bars any form of glorification of sati, carrying a penalty of 1–7 years' incarceration and a fine ranging from ₹5,000 to ₹30,000. Under Section 6, District Magistrates or Collectors are empowered to issue preventive orders, banning imminent sati rituals or glorification ceremonies. Violations attract the same penalties as Section 5. Together, these provisions create a comprehensive shield criminalizing not only sati itself but also its social endorsement and providing authorities with the legal tools to proactively prevent such incidents and prosecute offenders effectively.[20]

The Supreme Court's decision in *State of Rajasthan* v. *Hat Singh & Ors.*[21] upheld the constitutional validity of the Commission of Sati (Prevention) Act, 1987, affirming that Sections 5 (glorification) and 6 (preventive orders) serve distinct legal functions. The Court ruled that imposing a preventive order under Section 6 does *not* preclude subsequent prosecution under Section 5 for the glorification of sati reasoning that each offence has unique elements and that prosecuting both does not violate the principle of double jeopardy.

Despite these clear legal frameworks, the *Roop Kanwar sati case*[22] India's last documented sati example has seen significant implementation challenges. After her death in 1987, 11

[20] Commission of Sati (Prevention) Act, 1987 (Act 3 of 1987.
[21] *State of Rajasthan* v. *Hat Singh & Ors*, AIR 2003, 2 SCC 152.
[22] *Roop Kanwar Sati Case*, AIR 1987 WLN(UC) 716.

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individuals were acquitted of glorification charges in 2004 due to insufficient evidence. In October 2024, a Jaipur special court further acquitted the final eight accused, again citing inadequate proof of both the sati ritual and its glorification. These acquittals provoked strong reactions from women's rights groups, who argue that such outcomes undermine the Act and demanded that the Rajasthan government swiftly file appeals within the statutory 90-day window.

e) Dowry Prohibition Act, 1961

The Dowry Prohibition Act, 1961 prohibits "the giving or taking of dowry" at any time be it before, during, or after the marriage if it is "in connection with the marriage". Section 2 defines dowry as "any property or valuable security given or agreed to be given at or before or any time after the marriage". In the *Appa Saheb & Anr*. v. *State of Maharashtra* the Supreme Court held that what distinguishes dowry is the "inextricable nexus" of the gift with the marriage.[23] If the transfer lacks a marriage-related purpose, it does not qualify as dowry. For instance, the Court clarified that gifts for meeting domestic expenses or agricultural purchases don't count. Further, in *Satvir Singh* v. *State of Punjab*[24] the Supreme Court emphasized that dowry extends to any valuable transfer post-marriage, as long as there's a link to the marriage making even later gifts subject to scrutiny under the Act. Together, these provisions and rulings make two critical points clear, Timing is not restrictive dowry can be pre-, at-, or post-marriage, Connection matters only transfers linked to marriage can be penalised. Thus, the Act's core purpose is to deter all marriage-related financial inducements, cementing the view that dowry isn't just a pre-wedding phenomenon but a continuing social menace that the law must address.[25]

f) Maternity Benefit Act, 1961

The Maternity Benefit Act, 1961 mandates that women employed in factories, mines, plantations, or establishments with at least ten employees are entitled to paid maternity leave, job protection, safe working conditions, and other crucial benefits. Under section 4, employers must not engage a woman during the six weeks immediately following delivery, miscarriage, or termination of pregnancy. They must also allow her to refuse any *arduous work* or extended standing in the last month before delivery and during the first six weeks after childbirth. Section 5, as amended in 2017, guarantees up to 26 weeks' paid leave (eight weeks pre-birth, the

[23] *Appa Saheb & Anr*. v. *State of Maharashtra*, AIR 2007 SC 763.
[24] *Satvir Singh* v. *State of Punjab*, AIR (2001) 8 SCC 633.
[25] Dowry Prohibition Act, 1961 (Act 28 of 1961).

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remainder post-birth), with a reduced entitlement of 12 weeks for women with two or more surviving children provided they've worked at least 80 days in the previous 12 months. Sections 9 and 10 allow leave for miscarriage (six weeks) and tubectomy (two weeks) and further provide for additional leave if health complications arise. Section 11 grants two paid nursing breaks daily until the child turns 15 months, and Section 11A (2017) mandates crèche facilities in establishments with 50 or more employees. Crucially, Section 12 prohibits firing or penalising women for pregnancy or taking maternity leave, ensuring benefits endure even if employment terminates. Lastly, Section 27 contains a non-obstante clause, ensuring the Act overrides any conflicting policies.

In the landmark case *Municipal Corporation of Delhi* v. *Female Workers* (*Muster Roll),* the supreme court extended these protections to daily-wage and contract workers, ruling that they are equally entitled to maternity leave and related benefits, as their job duties and vulnerability mirrored those of regular employees.[26] Earlier, in *Air India* v. *Nergesh Meerza*, the Court struck down discriminatory regulations that mandated termination of female cabin crew upon pregnancy or first childbirth, holding that such policies violated Articles 14 and 15 of the Constitution and reinforced unacceptable gender stereotypes.[27] *K. Umadevi* v. *Government of Tamil Nadu,* the supreme court clarified that maternity leave is a fundamental reproductive right under Articles 14 and 21.[28] It ruled that, the 2017 amendment only restricts duration, not eligibility even women with more than two children qualify, albeit for a shorter leave (12 weeks vs. 26). It overturned a Madras High Court decision denying leave for a third child based on state population-control policy. The SC held, "No institution could deprive a woman of her right to maternity leave." And emphasized that maternity leave is integral to dignity, health, and privacy.[29]

g) Medical Termination of Pregnancy (MTP) Act, 1971

The Medical Termination of Pregnancy (MTP) Act, 1971 offers a legal exception to the Indian Penal Code, allowing registered medical practitioners (RMPs) to terminate pregnancies under defined medical and humanitarian conditions. Under the original Act, one RMP's opinion sufficed up to 12 weeks of gestation, while two RMPs were required for procedures between 12 and 20 weeks. The 2021 Amendment modernized these limits: now, a single RMP's opinion

[26] *Municipal Corporation of Delhi* v. *Female Workers* (*Muster Roll) (2000) 3 SCC 224.*
[27] *Air India* v. *Nergesh Meerza (1981) 4 SCC 335,*
[28] *K. Umadevi* v. *Government of Tamil Nadu,* AIR 2025 SC 781
[29] Maternity Benefit Act, 1961 (Act 53 of 1961).

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is sufficient up to 20 weeks, and two RMPs' opinions are necessary for abortions between 20 and 24 weeks but only for designated special categories such as survivors of sexual violence, minors, widows/divorcees, women with disabilities or mental illness, cases involving fetal anomalies, or humanitarian emergencies. Pregnancies beyond 24 weeks may only be terminated when substantial fetal abnormalities are present, and such cases require approval from a state-level Medical Board.

The Amendment also broadened access by removing the marital-status requirement, now enabling any woman or her partner (including unmarried women) to seek termination due to contraceptive failure. It extended the window for medical (drug-based) abortion from 7 to 9 weeks, and it mandated confidentiality prohibiting RMPs from revealing a woman's identity without proper legal authority. Lastly, RMPs can now refer complex cases beyond 24 weeks to a Medical Board for timely review and decision-making. Together, these reforms ensure the Act balances women's autonomy and reproductive health with necessary safeguards, reflecting significant progress in legal, ethical, and healthcare standards.

In *Suchita Srivastava* v. *Chandigarh Administration*, supreme court upheld that reproductive autonomy is part of the constitutional right to life and personal liberty under Article 21, and a woman's consent is essential for any abortion.[30] In *X* v. *Principal Secretary, UOI*, landmark decision expanding the right to unmarried women by interpreting "any woman or her partner" under Sec 3(2).[31] The Court allowed an unmarried petitioner to seek abortion beyond 20 weeks, enforcing equality under Articles 14 and 21. In A *(Mother of X*) v. *State of Maharashtra* (2024),[32] reinforced that RMPs and medical boards cannot be prosecuted for acting in good faith. It emphasized the importance of their role and affirmed that the primary focus must remain on women's health and reproductive autonomy.[33]

h) Pre-Conception and Pre-Natal Diagnostic Techniques (PCPNDT) Act, 1994

The (PCPNDT) Act, 1994 is a comprehensive law enacted to curb female foeticide and prevent sex-selective abortions, strictly banning gender-based selection both before and after conception and tightly regulating prenatal diagnostic procedures. Under Sections 3A, 4, and 22, no medical professional, clinic, or lab is allowed to perform or assist in sex selection or reveal

[30] *Suchita Srivastava* v. *Chandigarh Administration*, AIR 2010 SC 235.
[31] *X* v. *Principal Secretary, UOI*, AIR (2022) 9 SCC 1321
[32] *(Mother of X*) v. *State of Maharashtra*, AIR 2024 SC 371
[33] Medical Termination of Pregnancy (MTP) Act, 1971 (Act 34 of 1971).

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fetal gender through any means. Clinics must be formally registered (Sections 3–4) to offer diagnostic services, which are permitted solely for assessing genetic or congenital abnormalities, and all ultrasound equipment and VSIOD machines are banned from unregistered outlets under Section 3B.

Any breach whether direct involvement in sex selection, improper equipment uses, advertising such services, or failing to maintain the required Form F records carries up to 3 years in prison and ₹10,000 fine, escalating to 5 years and ₹50,000 for repeat violations. Notably, even clerical mistakes, such as incomplete or incorrect records, are treated as offences under Section 23, with the Supreme Court upholding their validity to support rigorous enforcement. To oversee compliance, the Act establishes Central and State Supervisory Boards and empowers Appropriate Authorities to conduct registrations, inspections, equipment seizures, and prosecutions. Recent enforcement efforts in Tamil Nadu further highlight its impact, a June 2025 workshop in Madurai emphasized training radiologists and gynecologists to reinforce legal compliance especially in southern districts with skewed sex ratios while unannounced inspections in Gujarat led to the seizure of ultrasound equipment, reflecting active legal oversight.

In *Ravinder Kumar* v. *State of Haryana*, in this landmark case, the Supreme Court held that searches and seizures under Section 30(1) of the PCPNDT Act must be authorized by the complete Appropriate Authority, and not by a single member such as the Chairman or Civil Surgeon acting alone. The Court ruled that unilateral decisions violated procedural fairness and due process, and as a result, FIRs based on such illegal authorizations were quashed. This judgment emphasizes the importance of collective decision-making by the statutory authority and protects clinics from arbitrary or improperly sanctioned inspections, reinforcing the procedural safeguards built into the PCPNDT framework.[34] In *Federation of Obstetrics & Gynaecological Societies of India (FOGSI)* v. *Union of India*, The Supreme Court in this case upheld the constitutionality of Sections 23(1) and 23(2) of the PCPNDT Act. It ruled that even minor lapses in maintaining Form F records such as incomplete details or clerical errors are not trivial and can amount to criminal offences. The Court reasoned that accurate record-keeping is fundamental to the Act's enforcement, stating that such documents serve as a "springboard for female foeticide."[35]

[34] *Ravinder Kumar* v. *State of Haryana*, AIR 2024 INSC 684
[35] *Federation of Obstetrics & Gynecological Societies of India (FOGSI)* v. *Union of India*, AIR 2019 SC 2214;

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This judgment effectively made it clear that any non-compliance in documentation would be viewed seriously, reinforcing the stringent standards imposed on clinics and medical professionals. In *Bombay High Court on Record-Keeping Errors*, contrary to the Supreme Court's FOGSI ruling, the Bombay High Court adopted a more nuanced view, stating that minor procedural lapses or unintentional omissions in record-keeping should not be treated as criminal offences. The High Court offered relief to medical practitioners who demonstrated no malicious intent, thereby supporting a more balanced enforcement approach. This judgment opened the door to discretionary leniency where compliance failures were clearly not willful. *Dr. Smt. Mahananda B. Patil* v. *State* (Karnataka High Court) [36]This case reaffirmed the necessity of procedural fairness before penal action under the PCPNDT Act. The Karnataka High Court ruled that clinics must be given proper show-cause notices and an opportunity to be heard before authorities take action against them for alleged violations. The judgment emphasized that principles of natural justice must be observed, even when dealing with record-keeping defaults or alleged violations under a strict law like the PCPNDT Act. *Dr. Nitin Bankatlal Mandhane* v. *State of Maharashtra,* in this case, the Bombay High Court held that clinics facing prosecution under the PCPNDT Act for technical deficiencies such as lack of form display or missing documents should be allowed to seek early discharge from the case if the violations appear non-malicious or were made in good faith. The Court's observation provided a layer of protection for healthcare professionals, encouraging compliance without instilling disproportionate fear of prosecution.[37]

i) Equal Remuneration Act, 1976

The (ERA), 1976 was enacted to ensure that men and women workers receive equal pay for equal work and are treated fairly in terms of wages, recruitment, training, transfers, and promotions. The Act specifically prohibits discrimination on the grounds of sex, particularly in matters related to employment and service conditions. With the introduction of the Code on Wages, 2019, the ERA has now been subsumed under a broader legislative framework that consolidates various labor laws, including the Minimum Wages Act and Payment of Wages Act. This transition has reinforced and modernized the principle of gender-neutral remuneration, and extended its applicability to a wider range of employment sectors, including unorganized labor and gig economy workers.[38]

[36] *Dr. Smt. Mahananda B. Patil* v. *State* of Karnataka, W.P, 201906/2018.
[37] *Dr. Nitin Bankatlal Mandhane* v. *State of Maharashtra*, W.P, 1342/2017.
[38] Equal Remuneration Act, 1976 (25 Act of 1976).

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The Code on Wages, 2019 integrates the core anti-discrimination principles of the ERA, ensuring that equal pay for equal work becomes a universal labor standard. It mandates timely wage disbursement and establishes a consistent wage floor across different sectors and regions. Furthermore, Section 5 of the original ERA, which was amended in 1987, continues to provide robust protection against gender-based discrimination in promotions, transfers, and training opportunities safeguarding women from systemic workplace bias throughout the employment cycle.

In terms of compliance and enforcement, the recent reforms have empowered labor inspectors and regulatory authorities to conduct regular pay audits and monitor adherence to gender equality norms more stringently. Employers are now expected to maintain gender-neutral service conditions and address any disparities proactively. Additionally, the Wage Fixing Authorities established under Section 6 of the ERA continue to function under the new code, handling wage-related grievances and ensuring uniform application of wage standards across establishments. These ongoing reforms affirm India's commitment to fair labor practices and the elimination of gender-based wage discrimination in both formal and informal sectors. *Randhir Singh* v. *Union of India,* The Supreme Court held that the doctrine of "equal pay for equal work" is not merely aspirational it is a constitutional goal rooted in Articles 14 and 16, and enforceable under Article 32. The Court clarified that any unreasonable classification in pay structures violates the right to equality.[39] *M/s Mackinnon Mackenzie & Co. Ltd.* v. *Audrey D'Costa,* in a case involving female stenographers receiving lower pay, the Supreme Court emphasized a broad interpretation of "same work or work of similar nature." The Court held that gender-based benchmarks or historical practices cannot justify unequal pay.[40] *State of Punjab & Ors.* v. *Jagjit Singh & Others,* The Supreme Court held that temporary or casual workers, performing similar duties as regular employees, are entitled to equal pay.

The judgment stressed the policy imperative under Article 39(d), directing parity across all employment types.[41] *State of Nagaland* v. *Amos Seb & Ors,* In a landmark decision, the Supreme Court ruled that RMSA teachers in Nagaland, who were performing the same duties as their regular counterparts but receiving lower consolidated pay, must be paid equally. The Court held that such differential treatment violated the principles of equal pay for equal work and

[39] *Randhir Singh* v. *Union of India*, AIR 1982 (1) SCC 618.
[40] *M/s Mackinnon Mackenzie & Co. Ltd.* v. *Audrey D'Costa*, AIR 1987 (2) SCC 469.
[41] *State of Punjab & Ors.* v. *Jagjit Singh & Others*, AIR 1993 (1) SCC 280,

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breached Articles 14 and 16 of the Constitution. This upholds the ERA's core mandate, emphasizing that remuneration should be determined by the nature of work, not by employment status or contract terms.[42]

j) Dissolution of Muslim Marriages Act, 1939

Prior to this Act, Muslim women in India faced significant challenges in seeking divorce, as personal laws were interpreted differently across various schools of Islamic jurisprudence. The Act was influenced by the Maliki school, which provided broader grounds for divorce, and aimed to alleviate the hardships faced by women under the Hanafi school. Additionally, the Act addressed the misconception that a Muslim woman's marriage would automatically dissolve upon renouncing Islam, clarifying that such renunciation does not by itself dissolve the marriage.

The Dissolution of Muslim Marriages Act, 1939 is a landmark statute that significantly reformed Muslim personal law in India by granting Muslim women the statutory right to seek divorce through the courts. Prior to the enactment of this legislation, Muslim women faced considerable challenges in dissolving a marriage unless the husband-initiated divorce or consented to it. The Act was introduced to codify and clarify the limited and often ambiguous grounds available under traditional Islamic jurisprudence, thereby safeguarding women's legal and personal dignity.

Under Section 2 of the Act, a Muslim wife is entitled to seek a decree for dissolution of her marriage on several clearly defined grounds. These include the absence of the husband for a period of four years, failure to provide maintenance for two years, or if the husband is sentenced to imprisonment for seven years or more. A wife may also seek divorce if her husband has failed to perform marital obligations for three years, or if he is impotent from the time of marriage and continues to be so. The Act further allows dissolution if the husband suffers from insanity or a severe venereal disease for at least two years.[43]

Importantly, the Act recognizes cruelty as a valid ground, which may include habitual physical assault, forcing the wife into an immoral life, obstructing her religious practices, or treating her unequally among co-wives. Another notable provision is that if the marriage occurred before

[42] *State of Nagaland* v. *Amos Seb & Ors*, AIR 2025 (19524) SC 1223.
[43] Dissolution of Muslim Marriages Act, 1939 (Act 8 of 1939).

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the wife reached the age of 15, she may repudiate the marriage before turning 18, provided the marriage has not been consummated. These provisions collectively ensure that a Muslim woman is not left without recourse in cases of abandonment, abuse, or neglect, and promote a more equitable framework within personal law by allowing her to exercise agency over her marital status through legal means. In the landmark case of *Shayara Bano* v. *Union of India*, the Supreme Court of India declared the practice of "triple talaq" (instant divorce) unconstitutional. This judgment led to the enactment of the Muslim Women (Protection of Rights on Marriage) Act, 2019, which criminalized the practice.[44] *Mohd Abdul Samad* v. *State of Telangana & Anr*, The SC affirmed that divorced Muslim women are eligible for maintenance under Section 125 CrPC, irrespective of the Muslim Women (Protection of Rights on Divorce) Act, 1986. It clarified that divorce via court decree or triple talaq invalidated by law does not bar access to equitable maintenance. This decision marked a landmark shift, ensuring divorced Muslim women maintain access to a secular safety net, effectively harmonizing personal law with human rights principles.[45]

k) Muslim Women (Protection of Rights on Divorce) Act, 1986

The Muslim Women (Protection of Rights on Divorce) Act, 1986 was enacted by the Indian Parliament in response to the Supreme Court's landmark judgment in *Mohd. Ahmed Khan v. Shah Bano Begum*,[46] which held that divorced Muslim women were entitled to claim maintenance under Section 125 of the Criminal Procedure Code (CrPC)[47] a secular provision ensuring maintenance for wives, regardless of religion. The Shah Bano verdict triggered widespread political and religious debate, prompting the government to pass the 1986 Act to reaffirm certain personal law principles while attempting to preserve justice for divorced Muslim women.

The 1986 Act applies to Muslim women who have been divorced by or have themselves obtained divorce from their husbands. Section 3(1)(a) provides that a divorced Muslim woman shall be entitled to a "reasonable and fair provision and maintenance" from her former husband, but this must be made within the Iddat period a waiting period (approximately 3 months) after divorce. Section 4 offers a safeguard: if the woman is unable to maintain herself after the iddat period and lacks support from her family, the Magistrate may direct her relatives or the Waqf

[44] *Shayara Bano* v. *Union of India & Ors,* AIR 2017 SC 4609).
[45] *Mohd Abdul Samad* v. *State of Telangana & Anr*, AIR 2024(7) SCR 1237.
[46] *Mohd. Ahmed Khan* v. *Shah Bano Begum*, AIR 1985 SC 945.
[47] The Bharatiya Nagarik Suraksha Sanhita, 2023 (Act 46 of 2023) s, 144.

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Board to provide maintenance. Under Section 5, the Act allows a divorced Muslim woman and her former husband to mutually agree to be governed by Section 125 CrPC, thus enabling access to secular remedies. However, the presence of a non-obstante clause in Section 3 initially led to confusion about whether the 1986 Act entirely excluded CrPC remedies. This issue was addressed through progressive judicial interpretation.

In *Danial Latifi v. Union of India*,[48] the Supreme Court gave the Act a liberal and constitutional interpretation, holding that a husband's responsibility is not limited to the iddat period alone. Instead, provision and maintenance must be made during the iddat but must be sufficient to sustain the woman for her entire future unless she remarries. The Court upheld the Act's constitutionality under Articles 14, 15, and 21, stating that it does not contravene fundamental rights if interpreted in this extended manner. This became a pivotal moment in aligning Muslim personal law with gender justice.

In *Shabana Bano v. Imran Khan*,[49] the Court further clarified that a divorced Muslim woman is entitled to file a claim under Section 125 CrPC even beyond the iddat period, and without needing her husband's consent, reaffirming the secular nature of maintenance law. In a 2023 judgment, the Allahabad High Court reiterated that maintenance under the 1986 Act is not limited to iddat and can continue until the woman remarries, upholding the rationale in *Danial Latifi*. Most recently, in *Mohd Abdul Samad* v. *State of Telangana*,[50] the Supreme Court decisively ruled that the Muslim Women (Protection of Rights on Divorce) Act, 1986, does not override Section 125 CrPC, and that both remedies exist in parallel, enabling a divorced Muslim woman to choose the forum for maintenance.

While the 1986 Act has not been formally amended since its inception, its interpretation has evolved through judicial pronouncements to ensure that it complies with the fundamental rights guaranteed by the Constitution. Additionally, the Muslim Women (Protection of Rights on Marriage) Act, 2019, though separate, complements the protective framework by criminalizing instant triple talaq (talaq-e-biddat), thus strengthening the position of Muslim women within matrimonial law.

[48] *Danial Latifi* v. *Union of India*, AIR 2001 SC 3958.
[49] *Shabana Bano* v. *Imran Khan*, AIR *2010 (1) SCC 666*;
[50] *Mohd Abdul Samad* v. *State of Telangana*, AIR SLP (Crl.) 1614 of 2024**,**

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In the 1986 Act though originally perceived as regressive has, through landmark judgments, been reinterpreted to uphold the dignity and financial security of divorced Muslim women. They now have dual avenues: to seek maintenance either under personal law (via Magistrate under the 1986 Act) or through secular law (Section 125 CrPC), ensuring a more gender-just legal framework in tune with constitutional values.[51]

l) The Family Courts Act, 1984

The Family Courts Act, 1984 was enacted with the primary aim of establishing Family Courts for the speedy and amicable settlement of family disputes. The law emphasizes a non-adversarial approach, encouraging conciliation, counseling, and peaceful resolution of issues related to marriage, divorce, maintenance, guardianship, custody, and adoption. To promote this objective, the Act empowers State Governments to establish Family Courts (under Section 3) and defines the courts' jurisdiction (under Section 7) over a wide array of matrimonial and familial matters. The Act mandates that Family Courts prioritize reconciliation (Section 9), and allows them to deviate from strict civil procedure rules (Section 10), thereby ensuring flexible and people- centric dispute resolution. Moreover, under Section 14, Family Courts may admit evidence even if it is technically inadmissible under the Indian Evidence Act, enhancing the accessibility of justice. Appeals from Family Court decisions lie directly to the High Court under Section 19.

Although the original Act has seen few amendments, the Family Courts (Amendment) Act, 2023 is a significant update. It conferred retrospective legal status on Family Courts already functioning in Himachal Pradesh and Nagaland, resolving legal uncertainties around their establishment. This amendment came in the wake of judicial recommendations, particularly from the Supreme Court's decision in *Rajnesh* v. *Neha,*[52] which emphasized the urgent need to improve Family Court infrastructure and efficiency across states.

The *Rajnesh v. Neha* judgment, although not a formal amendment to the statute, introduced transformative judicial guidelines including uniform formats for maintenance claims, standard timelines for case resolution, and structured disclosure of assets and income by both parties. These directions have significantly improved how maintenance and family disputes are processed in courts. In addition to statutory and judicial developments, administrative reforms

[51] Muslim Women (Protection of Rights on Divorce) Act, 1986 (Act 25 of 1986).
[52] *Rajnesh* v. *Neha*, AIR (2021) 2 SCC 324,

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have contributed to the modernization of Family Courts. Several High Courts have introduced digital filing systems, enabled virtual hearings, and encouraged the appointment of women judges and counselors to make the courts more empathetic and inclusive. The Family Courts Act, 1984 remains a cornerstone in the Indian family law system, balancing formal adjudication with informal resolution mechanisms. While the 2023 Amendment addressed retrospective legal gaps, judicial activism and policy reforms continue to shape its evolution, ensuring that Family Courts remain responsive to the changing dynamics of Indian families and gender justice.[53]

m) The Bharatiya Nagarik Suraksha Sanhita, 2023

The Code of Criminal Procedure, 1973 (CrPC) has long served as a foundational legal instrument in India for protecting the rights of women in criminal proceedings. With the enactment of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which replaces the CrPC and comes into effect from 1 July 2025, several key gender-sensitive safeguards have been preserved and strengthened. One of the most important protections under both CrPC and BNSS is the right of maintenance. Under Section 125 of CrPC and now Section 144 of BNSS, a man is legally obliged to maintain his wife, including a divorced wife who is unable to maintain herself. This ensures financial security and addresses the vulnerability of women post-divorce.

Arrest-related protections have also been retained with enhanced clarity. Under Section 46(4) of CrPC and now Section 35(4) of BNSS, no woman can be arrested after sunset and before sunrise unless with prior permission of a Magistrate, ensuring her physical safety and procedural fairness. Similarly, only female police officers are allowed to conduct searches or medical examinations of women, a principle maintained from CrPC Sections 51(2) and 53(2) into BNSS Sections 43(2) and 45(2). Furthermore, searches of women must be carried out by other women with strict regard for decency, as enshrined in Section 100(3) of CrPC and Section 71(3) of BNSS.

While CrPC did not explicitly mention separate lock-up facilities for women, such provisions are now indirectly addressed under BNSS through references to the Model Police Act and related policies, which emphasize separate custody spaces monitored by female staff. In the context of sexual offences, BNSS mandates that rape victims be examined preferably by female

[53] The Family Courts Act, 1984, (Act 66 of 1984).

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doctors (Section 184, previously Section 164A CrPC), and that their statements be recorded by female Magistrates, with provision for video conferencing (Section 183(5), earlier Section 164(5A) CrPC). Privacy in such cases is also protected through in-camera trial mandates under Section 374(2) of BNSS (earlier Section 327(2) CrPC). Moreover, the BNSS maintains provisions for the compounding of matrimonial offences, allowing women to withdraw certain complaints such as cruelty under Section 498A IPC, in the interest of reconciliation. This was earlier covered under Section 320 of CrPC and now under Section 360 of BNSS.

In addition to these retained safeguards, BNSS introduces new protections for women. It mandates digital recording of statements in sexual offence cases (Section 183), ensures timely registration of FIRs (including Zero FIRs), and provides strong procedural rights to victims such as access to legal aid, right to information, and witness protection. The BNSS, 2023, while replacing the CrPC, reaffirms and modernizes the legal framework to protect the rights of women in the criminal justice system. It incorporates digital procedures and reinforces sensitivity towards the dignity and safety of women, ensuring that safeguards such as protection from wrongful arrest, fair investigation, and rights to maintenance and privacy are not only preserved but enhanced.

With the enactment of the Bharatiya Nagarik Suraksha Sanhita (BNSS), 2023, which replaces the Code of Criminal Procedure (CrPC), India's criminal procedural law has been modernized while continuing to uphold key gender-sensitive protections. The Supreme Court, through landmark rulings, has ensured that foundational rights available to women under the CrPC remain fully applicable under the BNSS.

In the 2024 judgment of *Mohd Abdul Samad* v. *State of Telangana*,[54] the Supreme Court reaffirmed that Muslim women continue to enjoy the right to maintenance under the secular framework of Section 125 of the CrPC, now codified as Section 144 of BNSS. The Court emphasized that this provision remains religion-neutral and constitutionally protected, allowing women—especially those divorced and unable to maintain themselves—to claim support from their former husbands. Earlier landmark rulings like *Shah Bano*, *Danial Latifi*, and *Shabana Bano* thus retain their authority under the new legal code, ensuring continuity and clarity in maintenance law.

[54] *Mohd Abdul Samad* v. *State of Telangana*, AIR 2024 SC 790,

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The BNSS also upholds vital safeguards concerning arrest procedures for women. Under Section 35(4), it reiterates that no woman shall be arrested after sunset and before sunrise without prior written permission from a Magistrate. This protective clause, which mirrors Section 46(4) of the CrPC, remains a critical safeguard against abuse of power and police overreach. Additionally, Section 35(7) introduces heightened procedural protection for vulnerable persons, including elderly women, by requiring higher-level approvals before arresting them for minor offences.

In the 2025 decision of *Satender Kumar Antil* v. *CBI*,[55] the Supreme Court clarified procedural standards under BNSS, ruling that electronic service of arrest notices (under Section 35) is not valid. The Court stressed that such notices must be served using traditional, verifiable methods not via WhatsApp or email thus safeguarding due process and protecting individual liberty, especially crucial in cases involving vulnerable groups like women. Furthermore, the BNSS includes progressive procedural reforms aimed at enhancing victim protection and support. The law mandates digital recording of statements, especially in sexual offence cases, and guarantees victims the right to information, legal aid, and witness protection. These features mark a shift toward a victim-centric criminal justice system, aligning with contemporary needs and international best practices.

In summary, the BNSS, 2023 preserves and strengthens gender-specific protections previously embedded in the CrPC. Through its retention of key safeguards such as maintenance rights, protection against arbitrary arrest, and privacy in sensitive cases combined with modern procedural tools like digitization and victim empowerment measures, the law ensures that the rights and dignity of women remain central to India's reformed criminal justice system. Supreme Court rulings play a pivotal role in reinforcing these protections, confirming that the transition from CrPC to BNSS does not dilute, but rather evolves, the legal framework supporting women's rights.

n) The Bharatiya Sakshya Adhiniyam, 2023,

The Bharatiya Sakshya Adhiniyam, 2023, which replaces the Indian Evidence Act of 1872, carries forward and strengthens several provisions designed to protect women's rights within judicial proceedings. It incorporates gender-sensitive safeguards that promote fair treatment,

[55] *Satender Kumar Antil* v. *Central Bureau of Investigation*, AIR 2025 SC 156,

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privacy, and dignity for women, especially in cases involving sexual violence, domestic abuse, and dowry-related crimes. Notably, Section 132 introduces a presumption against consent in rape cases where if the victim states in court that she did not consent, the court shall presume absence of consent, effectively shifting the burden of proof onto the accused. This protects the credibility of a rape survivor's testimony and is aligned with provisions under the Bhartiya Nyaya Sanhita concerning sexual offences.

Furthermore, Section 26 deals with presumption as to dowry death, allowing courts to presume culpability if a woman dies under suspicious circumstances within seven years of marriage and was subject to harassment for dowry. Similarly, Section 25 provides for a presumption of abetment of suicide in cases where a married woman commits suicide within seven years of marriage and had suffered cruelty—thereby reinforcing accountability of husbands and in-laws in such tragic cases. One of the most significant evidentiary reforms is Section 138, which bars questioning a rape victim's character or past sexual history during cross-examination. This helps protect the victim's dignity and prevents re-victimization during trial.

These provisions together ensure that the judicial process is more humane and respectful towards women, while also making it easier to secure convictions in cases of sexual violence, dowry death, and domestic abuse. Though BSA is fundamentally a procedural and evidentiary law, these inclusions mark an important step toward gender-just legal reforms and align Indian criminal procedure with constitutional values of equality and dignity for women.

The Supreme Court in *Kamesh Panjiyar* v. *State of Bihar*,[56] upheld a conviction under Section 304B IPC (now Section 80 of the Bharatiya Nyaya Sanhita) by invoking the presumption originally found in Section 113B of the old Evidence Act, now mirrored in Section 118 of the BSA. The Court held that where harassment for dowry is proven and death occurs within seven years of marriage, the court must presume it to be a case of dowry death, even without direct evidence. In contrast, in *Baijnath* v. *State of Madhya Pradesh*,[57] the Court clarified that while the presumption under Section 118 BSA is powerful, it is not automatic in every case. There must be substantive proof of cruelty or harassment for dowry "soon before the death" to trigger the presumption. This ruling emphasized the importance of objective scrutiny and factual

[56] *Kamesh Panjiyar* v. *State of Bihar,* AIR (2005) 2 SCC 388.
[57] *Baijnath* v. *State of Madhya Pradesh,* AIR (2016) 1 SCC 660.

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foundation before presuming guilt.[58]

A recent decision in *Ram Pyarey* v. *State of Uttar Pradesh*[59], reaffirmed the mandatory nature of the presumption under Section 118 BSA. The Supreme Court categorically stated that once the conditions of a woman's death within seven years of marriage and evidence of dowry harassment are satisfied, courts must presume the death to be dowry-related. The defense then bears the burden of disproving the presumption. Additionally, Section 117 BSA, which continues the legal lineage of Section 113A of the old Act, enables courts to presume abetment of suicide by a husband or his relatives if a married woman dies by suicide under similar conditions. While this presumption is discretionary, it remains a potent legal tool in addressing psychological and domestic abuse that leads to self-harm. These judicial interpretations and codified presumptions demonstrate the BSA's commitment to gender justice. The structured, clearer language of Sections 117 and 118 provides a robust evidentiary framework that empowers courts to hold perpetrators accountable while protecting women from domestic violence and dowry-related crimes.

o) The Bharatiya Nyaya Sanhita, 2023

The Bharatiya Nyaya Sanhita, 2023 (BNS), which replaces the Indian Penal Code, 1860, incorporates several significant provisions aimed at protecting and upholding women's rights in the criminal justice framework. These provisions address key issues such as sexual violence, harassment, dowry-related deaths, and domestic cruelty, reflecting a more victim-centric and gender-sensitive approach. Section 63 of the BNS defines and punishes rape, and crucially, includes recognition of marital rape in the case of minor wives. Sections 64 to 70 detail aggravated forms of rape, including custodial rape and gang rape, offering stringent punishment for offenders in positions of authority. Section 71 criminalizes sexual intercourse by deceit, impersonation, or false promise of marriage, thereby expanding the scope of protection beyond the traditional understanding of rape.

Other protective measures include Section 74 on voyeurism, and Section 75 addressing stalking, both of which reflect modern concerns around privacy and digital harassment. Sexual harassment is addressed under Section 76, ensuring penalties for unwelcome physical or verbal conduct. Section 77 deals with dowry death, presuming culpability when a woman dies under

[58] The Bharatiya Sakshya Adhiniyam, 2023, (Act 47 of 2023).
[59] *Ram Pyarey* v. *State of Uttar Pradesh*, AIR 2025 SC 71

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suspicious circumstances within seven years of marriage. Sections 85 and 86 continue the IPC legacy in punishing assault with intent to outrage modesty and disrobing, respectively, while Section 87 ensures additional safeguards for minor victims, aligning with POCSO protections. Crucially, Section 124 continues the recognition of cruelty by husband or relatives, a key provision in domestic violence cases. In sum, while the BNS preserves many foundational elements of the IPC, it brings greater clarity, technological relevance, and procedural alignment to women-centric offences. However, controversial gaps remain, such as the continued exemption of marital rape for adult wives, prompting ongoing advocacy for reform. Nonetheless, the BNS represents a significant stride forward in reinforcing a robust and modern legal framework for women's safety, dignity, and justice.[60]

The Bharatiya Nyaya Sanhita, 2023 (BNS) has already become the focus of landmark judicial scrutiny on the issue of women's rights, particularly concerning the marital rape exception and sections addressing cruelty against women. In *All India Democratic Women's Association* v. *Union of India*[61], the Supreme Court issued a notice on a PIL challenging Exception 2 to Section 63, which shields marital rape by an adult wife from prosecution. The bench headed by Chief Justice D.Y. Chandrachud observed that this exception may infringe Articles 14, 15, 19(1)(a), and 21 of the Constitution, asserting that it effectively nullifies consent within marriage and subordinates a woman's autonomy to the institution of marriage. The Court has scheduled further hearings to scrutinize whether such exceptions can remain compatible with constitutional equality and bodily integrity protections.

In a separate landmark development, the Supreme Court has raised concerns about the misuse of sections 85 and 86 BNS, which correspond to the IPC's section on cruelty toward women. In *Achin Gupta* v. *State of Haryana*,[62] a two-judge bench noted how Section 86, defining cruelty, mirrors 498A IPC and that vague or exaggerated complaints could lead to unwarranted arrests. The Court requested the Centre to consider legislative reform to curb misuse indicating trust that women's protection must be balanced against misapplication.

These cases reflect early but crucial judicial intervention aimed at ensuring that the BNS's gender-sensitive provisions genuinely empower women without facilitating injustice. They

[60] The Bharatiya Nyaya Sanhita, 2023, (Act 45 of 2023).
[61] *All India Democratic Women's Association* v. *Union of India*, AIR W.P.(C) 326/2024.
[62] *Achin Gupta* v. *State of Haryana*, AIR 2024 SCR (6) 129.

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signal an era where the Court is proactively refining the new penal code to align with constitutional principles urgently reassessing marital rape immunity and reining in potential misconduct under cruelty provisions.

p) The Indian Christian Marriage Act, 1872

The Indian Christian Marriage Act, 1872 is a colonial-era statute that governs the solemnization of marriages among persons professing the Christian faith in India. Though largely procedural in nature, it lays down detailed rules on how marriages are to be conducted, registered, and validated within the Christian community. Over time, its provisions have been interpreted and supplemented by judicial rulings and related statutes like the Indian Divorce Act, 1869, which governs divorce and matrimonial reliefs for Christians. While the 1872 Act itself hasn't seen significant textual amendments in recent years, key judgments and the interplay with constitutional rights have modernized its application.[63]

Under the Act, Sections 4 to 9 deal with conditions for a valid Christian marriage, such as the age of the parties (minimum 18 for the bride and 21 for the groom), monogamy, and free consent. The marriage must be solemnized by a licensed Minister of Religion, Marriage Registrar, or a clergy member of a recognized Church, and must be registered per Sections 27–37. While the Act itself does not contain divorce provisions, issues of nullity, judicial separation, and divorce are addressed under the Indian Divorce Act, 1869, which has been significantly amended especially by the 2001 Amendment, allowing Christian women to seek divorce on grounds of cruelty, adultery, or conversion, thereby bringing greater gender parity.

In *Mary Sonia Zachariah* v. *Union of India*,[64] the Kerala High Court emphasized that procedural requirements under the 1872 Act must not infringe upon the fundamental rights of Christian couples, especially those marrying across denominations. In *Anil Kumar* v. *Union of India*,[65] the court held that the registration requirement under Section 60 is directory, not mandatory, if the marriage is otherwise validly solemnized, particularly protecting inter-denominational Christian marriages from being declared void due to technical lapses.

Furthermore, in *Mrs. Priya Emmanuel* v. *State of Tamil Nadu*,[66] the Madras High Court ruled

[63] The Indian Christian Marriage Act, 1872 (Act 15 of 1872).
[64] *Mary Sonia Zachariah* v. *Union of India*, AIR 1995 SC 1236.
[65] In *Anil Kumar* v. *Union of India*, AIR 2013 (12) SCC 372.
[66] *Mrs. Priya Emmanuel* v. *State of Tamil Nadu*, AIR 2022 (7) SCC 497.

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that marriage under the 1872 Act could not be invalidated solely due to delayed registration, stating that substantive compliance with consent, age, and solemnization suffices, aligning with Article 21's guarantee of personal liberty. While, the Indian Christian Marriage Act, 1872 remains procedurally rooted in 19th-century norms, its interpretation by modern Indian courts has ensured that the law remains constitutionally compliant, gender-sensitive, and protective of Christian women's rights. The Act continues to regulate marriages within the Christian community while coexisting with evolving family law principles under the broader constitutional framework of equality and justice.[67]

q) Legal Services Authorities Act, 1987

The Legal Services Authorities Act, 1987 stands as a foundational legislation for promoting social justice in India, particularly by ensuring free and competent legal aid to marginalized and vulnerable sections of society, including women. Enacted to give effect to the mandate under Article 39A of the Constitution, the Act guarantees that no woman shall be denied access to justice due to financial or other socio-economic barriers. Specifically, Section 12(c) of the Act provides that any woman or child is entitled to free legal services, irrespective of income level or economic status. This statutory provision applies to a wide range of legal needs whether civil, criminal, matrimonial, or constitutional and encompasses not just court representation but also legal counseling, mediation, and access to Lok Adalats.[68]

Over the years, the Act has been reinforced through amendments like the Legal Services Authorities (Amendment) Act, 1994, as well as through administrative and policy expansions. These have extended the umbrella of legal aid to victims of domestic violence, women in custody, trafficking survivors, and those involved in dowry-related disputes. Institutions such as Lok Adalats and family counseling centers, established under the Act, have played an instrumental role in resolving women's legal issues in a non-confrontational and time-bound manner.

The judiciary has significantly contributed to strengthening these protections. In *Hussainara Khatoon* v. *State of Bihar*[69] the Supreme Court emphasized legal aid as a fundamental right under Article 21, particularly for women and children. This principle was reaffirmed in *Khatri*

[67] The Indian Christian Marriage Act, 1872 (Act 15 of 1872).
[68] Legal Services Authorities Act, 1987 (Act 39 of 1987).
[69] Hussainara Khatoon v. State of Bihar, AIR 1979 SC 1360.

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(II) v. *State of Bihar,*[70] where the Court clarified that legal aid is a constitutional obligation, not a state charity. Similarly, in *Delhi Domestic Working Women's Forum* v. *Union of India*[71], the Court ordered immediate legal aid and psychological support for rape victims, directing legal services authorities to respond proactively. In *Suk Das* v. *Union Territory of Arunachal Pradesh*[72], the Court held that a trial is vitiated if legal aid is not provided to an accused woman unable to defend herself. Thus, the Legal Services Authorities Act, through Section 12(c) and judicial interpretation, has become a cornerstone of gender justice, recognizing women's unique vulnerabilities and establishing mechanisms to assist them in navigating the legal system. The Act today functions not only as a tool for legal redress but also as an empowerment mechanism for women across India.

r) Hindu Marriage Act, 1955

The Hindu Marriage Act continues to apply to Hindus, Buddhists, Jains, and Sikhs, and fortifies conditions for valid marriage mandating monogamy, legal age (21 for men, 18 for women), consent, and mental capacity under Section 5. Section 13 now enshrines gender-neutral grounds for divorce cruelty, desertion two years), adultery (interpreted progressively), mental disorder, conversion, renunciation, and presumption of death. Subsection 13(1A) empowers either spouse to seek divorce following judicial separation or prolonged non-cohabitation, while Section 13B, introduced in 1976, allows for mutual consent divorce, an essential recourse for women in failed marriages. Sections 24 and 25 ensure interim and permanent maintenance or alimony to financially weaker spouses often women post-divorce.

Judicial interpretations have further bolstered women's rights. In *Naveen Kohli* v. *Neelu Kohli,*[73] the Supreme Court broadened the definition of mental cruelty to protect distressed wives. *Joseph Shine* v. *Union of India,*[74] struck down the criminality of adultery, reinforcing its status as a civil ground for divorce and promoting marital equality. The *Sarla Mudgal* judgment[75] prevented Hindu husbands from converting to Islam merely to remarry, safeguarding wives from abandonment. Andhra Pradesh High Court, in *T. Sareetha* v. *T. Venkata Subbaiah*[76] affirmed that forced marital cohabitation violates bodily autonomy and

[70] *Khatri (II)* v. *State of Bihar*, AIR 1981 SC 928.
[71] *Delhi Domestic Working Women's Forum* v. *Union of India* (1995) 1 SCC 14.
[72] *Suk Das* v. *Union Territory of Arunachal Pradesh*, AIR 1986 SC 99.
[73] *Naveen Kohli* v. *Neelu Kohli*, AIR 2006 SC 1675.
[74] *Joseph Shine* v. *Union of India***,** AIR 2018 SC 4898**.**
[75] Smt. Sarla Mudgal & Ors. v. Union of India & Ors.**,** AIR 1995 SC 1531.
[76] *T. Sareetha* v. *T. Venkata Subbaiah*, AIR 1983 AP 356**,**

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privacy, limiting restitution rights under Section 9.

Recent decisions strengthen these protections further. In June 2025, the Chhattisgarh High Court ruled that unfounded allegations of adultery or assault on a wife's character, including dowry harassment and abuse, constitute mental cruelty, justifying separation under Section 13. However, separate Chhattisgarh ruling (May 2025) clarified that a divorced wife found to be living in adultery cannot claim maintenance under Section 125 CrPc. In a February 2025 Supreme Court clarification, it was confirmed that Section 25 applies even when marriages are declared void, allowing either spouse to seek permanent alimony after any decree.

Collectively, these statutory reforms and judicial decisions demonstrate robust legal progress toward gender equality in marriage and divorce, ensuring that women have recourse to meaningful remedies be it divorce, maintenance, or protection from abuse under the Hindu Marriage Act.[77]

s) The Hindu Succession Act, 1956

Originally enacted in 1956, the Hindu Succession Act granted women absolute ownership over self-acquired property but excluded daughters from coparcenary rights in ancestral property, which were reserved for sons. The Hindu Succession (Amendment) Act, 2005, effective from 9 September 2005, amended key sections (4, 6, 23, 24, 30) to grant daughters the same coparcenary rights by birth as sons, eliminated discriminatory restrictions on daughters and widows, and aligned their liabilities with those of sons. *In Prakash & Ors.* v. *Phulavati & Ors,*[78] the Supreme Court held that the amendment was not retroactive, meaning daughters could claim coparcenary only if both they and their father were alive on 9 September 2005, and that partitions effected via registered deeds or decrees before 20 December 2004 remained valid. A subsequent Division Bench in *Danammaa (Suman Surpur)* v. *Amar & Ors*[79]. granted coparcenary rights to a daughter whose father died in 2001, creating judicial inconsistency. Finally, the three-Judge Bench in V*ineeta Sharm*a v. *Rakesh Sharma,*[80] resolved the conflict, holding that Section 6 is retroactive, conferring coparcenary rights from birth, irrespective of whether the father died before the amendment provided no final partition occurred before December 2004. The Court clarified that "coparcenary by birth" is the operative concept, and

[77] Hindu Marriage Act, 1955 (Act 25 of 1955).
[78] *Prakash & Ors.* v. *Phulavati & Ors,* AIR 2016 SC 769**.**
[79] *Danammaa (Suman Surpur)* v. *Amar & Ors,* AIR 2018 SC 721.
[80] Vineeta Sharma v. Rakesh Sharma & Ors., AIR 2020 SC 3717.

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that notional partitions do not affect the daughter's underlying rights, though partitions by registered deed or court decree before 20 December 2004 remain unaffected.[81]

t) The Minimum Wages Act, 1948,

The Minimum Wages Act, 1948, mandates that minimum rates of wages fixed by appropriate governments must be applied equally to all workers irrespective of gender, and the newer Code on Wages, 2019 has explicitly retained and strengthened this mandate, Section 3 prohibits any discrimination on the ground of "gender" (beyond just male/female) in wages for the same or similar work, recruitment, or employment conditions. Judicially, the Supreme Court in *Mackinnon Mackenzie & Co. Ltd* v. *Audrey D'Costa,*[82] affirmed that women stenographers were entitled to equal pay as their male counterparts when duties were substantially the same, and earlier in *Randhir Singh* v. *Union of India,*[83] affirmed "equal pay for equal work" as a constitutional imperative under Articles 14 and 39(d). Thus, under the unified Code, any attempt to set differential minimum wages based on gender is not only legally impermissible but also clearly justiciable, with robust statutory and judicial backing.[84]

u) The Mines Act, 1952

Under current law, the Mines Act, 1952, originally barred women from working in mines underground and above ground between 7 PM and 6 AM (Sec 46), while the Factories Act, 1948 similarly prohibited women from night work between 7 PM and 6 AM (formerly Sec 66(1)(b)). However, a 2000 judgment in *Vasantha R. v. Union of India*[85] (Madras HC) struck down the blanket ban in the Factories Act as unconstitutional under Articles 14, 15, and 16, holding that women should not be denied night work when equally competent and willing. Building on this, several states (e.g Andhra Pradesh, Maharashtra, Haryana) have since issued notifications permitting women to work night shifts in factories subject to conditions such as written consent, employer- provided transport, safe facilities, and compliance with POSH norms. In the context of mining, a landmark 2019 Central Government notification under Sec 83 lifted restrictions for women in above-ground mines between 7 PM–6 AM (and limited below-ground roles during 6 AM–7 PM), provided they work in groups of at least three, with written consent and adequate safety measures per SOPs. Thus, while the Acts still impose

[81] The Hindu Succession Act, 1956 (Act 30 of 1965).
[82] *Mackinnon Mackenzie & Co. Ltd* v. *Audrey D'Costa,* AIR 1987 SCC (2) 469.
[83] *Randhir Singh* v. *Union of India,* AIR (1982) 1 SCC 618.
[84] The Minimum Wages Act, 1948, (Act 11 of 1948).
[85] *Vasantha R.* v. *Union of India,* W.P. No. 7059 of 1994.

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protective limits, judicial intervention and subsequent legislative updates now allow women to work night shifts in both mines and factories so long as safety, consent, and welfare measures are firmly observed.[86]

v) Employees' State Insurance Act (1948) & Plantation Labour Act (1951)

Both Acts include specific provisions medical care, maternity benefits, restrooms, creches, safe housing, and welfare committees designed to support women workers in insured and plantation sectors.[87] Courts have upheld these as enforceable rights, e.g., ensuring creche facilities in factories under the Factory Rules of the ESI Act.[88]

w) Bonded Labour System (Abolition) Act (1976)

Prohibits any form of bonded labor based on gender. Courts interpreting the law have emphasized that women bonded laborers enjoy equal protection to prevent exploitation though landmark case citations are limited.[89]

x) Legal Practitioners (Women) Act (1923)

Granted women the right to practice law. The judiciary upheld this in *Dulloo* v. *Patna High Court Bar Association* (1962), reinforcing gender equality in professional access.[90] no woman shall, by reason only of her sex, be disqualified from being admitted or enrolled as a legal practitioner or from practising as such". It applied throughout British India (excluding certain Part B States until the 1956 Adaptation) and effectively overrode any statutory provisions, High Court letters patent, rules, or orders that barred women from legal practice. This landmark statute directly addressed the denial of women's legal rights evident in cases like *Regina Guha's* and *Sudhanshubala Hazra's* both of which had held that "person" in the profession meant only men and barred qualified women from enrollment. The 1923 Act's significance persisted after repeal its substance was later subsumed by the Advocates Act, 1961 (Section 50 schedule), which recognized the equal rights of women in the legal profession across India.

[86] The Mines Act, 1952 (Act 35 of 1952).
[87] The Plantation Labour Act, 1951 **(**Act 69 of 1951).
[88] Employees' State Insurance Act, 1948 (Act 34 of 1948).
[89] Bonded Labour System (Abolition) Act, 1976 (Act 19 of 1976).
[90] Legal Practitioners (Women) Act, 1923 (Act 23 of 1923).

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Y) Sexual Harassment of Women at Workplace Act (2013)

Enacted following *Vishakha* v. *State of Rajasthan*[91], which created binding guidelines for preventing workplace sexual harassment. The Supreme Court in *Apparel Export Promotion Council* v. *A.K. Chopra*,[92] held that non-physical conduct still qualifies as harassment. The 2013 POSH Act institutionalizes these principles mandating internal committees, time-bound inquiries, employer responsibilities, discretion for written consent and confidentiality. Post-enactment, *Medha Kotwal Lele* v. *Union of India*,[93] upheld the Act's constitutionality and called for stricter enforcement. And in *Ruchika Singh Chhabra* v. *Air France*,[94] the Delhi HC emphasized ICC formation as per the law.

The Hindu Succession (Amendment) Act, granted daughters coparcenary rights from birth, placing them on equal footing with sons, and the Supreme Court's ruling in *Vineeta Sharma* v. *Rakesh Sharma*, clarified that these rights apply retrospectively, even if the father passed away before 2005. Furthermore, under *Lalita Kumari* v. *UP*, the Court mandated that any information about a cognizable offence must result in immediate FIR registration enabling the Zero FIR mechanism that ensures victims can file FIRs at any station, regardless of jurisdiction, to secure prompt justice. These model legal frameworks alongside protections like equal pay, workplace dignity, anti-domestic violence measures, free legal aid, safeguards against improper arrests, digital complaint mechanisms, prohibitions on indecent depictions and stalking collectively fortify women's rights in India, striving toward both substantive equality and accessible justice.

VI CHALLENGES TO WOMEN RIGHTS IN INDIA

a) *Educational Disparities*

As of the PLFS 2023 to 24, India's overall literacy is 80.9%, yet a 12.6-percentage-point gender gap persists (87.2% for men vs. 74.6% for women), with rural areas and states like Bihar, MP, and Rajasthan showing stark imbalance. These disparities hinder women's access to higher education and professional training key drivers of socio-economic mobility.

b) *Poverty and Economic Exploitation*

Women's low literacy and limited job skills often relegate them to poorly paid, insecure roles

[91] *Vishakha* v. *State of Rajasthan*, AIR 1997, 3011
[92] *Apparel Export Promotion Council* v. *A.K. Chopra*, AIR 1999 SC 625.
[93] *Medha Kotwal Lele* v. *Union of India,* AIR (2012) 3 SCC 224.
[94] *Ruchika Singh Chhabra* v. *Air France,* AIR LPA 237/2018.

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such as domestic work perpetuating income inequality and dependency. Female labor-force participation remains low (41.7%), and women earn only about 73% of men's wages, compounded by a heavy burden of unpaid care work (289 minutes/day)

c) *Sexual Abuse and Harassment*

Prevalent "eve-teasing" and sexual crimes frequently go unreported due to social stigma, slow legal processes, and weak prosecution systems. Only about 27% of rape cases end in convictions, underscoring deep systemic flaws.

d) *Maternal Health & Safety*

Though Madhya Pradesh has reduced its Maternal Mortality Ratio (MMR) from 173 to 159, it remains notably above the national average of 88, exposing insufficient prenatal, institutional, and emergency obstetric services, especially in rural and underprivileged areas.

e) *Professional Discrimination*

Hiring, promotions, workplace policies, and leadership roles often still favor men. Women remain underrepresented in top positions from corporate boards to academic administration.

f) *Household Inequality*

Traditional gender roles persist, with women shouldering three times more unpaid domestic and care work than men. This labor split limits educational and economic opportunities, reinforcing systemic gender bias. Despite robust legal frameworks from PoSH, Domestic Violence Act, Equal Remuneration Act, to Zero FIR and free legal aid the real-world impact is undermined by poor enforcement, lack of awareness, bureaucratic delays, and enduring patriarchal norms.

V CONCLUSION

In conclusion, echoing Nehru's timeless insight, *"When women move forward, the family moves, the village moves, and the nation moves"* it's clear that empowering women is crucial to shaping a more just and prosperous India. While landmark laws such as the Hindu Succession (Amendment) Act 2005 and Vineeta Sharma judgment have secured daughters' inheritance rights, and frameworks like POSH, domestic violence protections, Zero FIR, and virtual complaint mechanisms exist, true progress hinges on awareness, enforcement, and

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cultural transformation.

As highlighted by recent calls to make India safer for women not just through “safe zones” but via equal respect in public spaces and systemic police reform the path forward demands a shift from symbolic protections to genuine inclusion. Empowering women through equal rights, legal literacy, and safe environments doesn't just elevate individual lives; it strengthens families, revitalizes communities, and builds a democracy that lives up to its ideals.