



# INTERNATIONAL JOURNAL FOR LEGAL RESEARCH AND ANALYSIS

Open Access, Refereed Journal Multi Disciplinary  
Peer Reviewed Edition :

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ISSN

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# **WOMEN'S ACCESS TO JUSTICE: UNDERSTANDING THE BARRIERS FROM THE PERSPECTIVE OF DOMESTIC VIOLENCE VICTIMS**

AUTHORED BY - NEHA KUMARI<sup>1</sup>

## **ABSTRACT**

This abstract provides a legal perspective on the barriers confronting women in their pursuit of justice, with a specific focus on victims of domestic violence. Despite the existence of legal frameworks and support mechanisms, significant impediments persist in women's ability to effectively access justice. This study analyses the intricate array of barriers, encompassing financial constraints, fear of reprisal, limited legal literacy, societal marginalization, and inadequate support infrastructures. This research aims to illuminate the complex interplay of factors that hinder women's access to justice. Understanding these barriers is crucial for developing targeted interventions and policy reforms to create a more equitable and accessible legal system for all women.

*Keywords-* Access to Justice, Domestic violence, Legal frameworks etc.

## **INTRODUCTION**

Access to justice is a fundamental human right. Laws and the legal procedures are the tools through which access to justice can be achieved. The principle of Access to Justice entails first a robust judicial structure of rights enumerated and protected by specific laws and second a practical and open judicial/remedial scheme that is readily accessible to litigants.<sup>2</sup> Access to justice for women entails the affordable and easily accessible legal forum/mechanisms to seek justice. Crime against women is increasing day by day. The low reporting of the crimes against women, low rate of convictions, failed prosecutions and high rate of acquittals have encouraged the perpetrators to commit more crimes against women. There are plenty of special laws like The Dowry Prohibition Act, 1961, The Protection of Women from Domestic Violence Act, 2005, etc., constitutional mandates like article 14, 15, 16, 23, 39, 42 etc.; and international laws like

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<sup>2</sup> Kaifulla Ibrahim, F.M., J., Rule of Law & Access to Justice, 2014, Tamil Nadu State Judicial Academy.

Universal declaration of Human Rights, International Covenant on Civil and Political Rights, 1966, Convention on The Elimination of All Forms of Discrimination Against Women 1979 etc., for the protection of women against discrimination and violence. But it has been said that the patriarchal attitudes and values held by the three organs of the Indian State – namely, judiciary, executive and the legislature, prevented them from implementing the constitutional mandate of equality in its true spirit.<sup>3</sup> Thus, women require special procedures and protection especially dealing with the criminal justice system. As the United Nations Special Rapporteur on Violence against Women has noted about the situation in India, Constitutional and legislative provisions that have been enacted to protect women from discrimination have not proved to be an effective deterrent.”<sup>4</sup> Now a days domestic violence has become a major problem for the women who are facing violence outside the homes as well as inside the homes also. The perpetrators of domestic violence are generally known person, either their relatives or inmate partners which makes the life of domestic violence victims more vulnerable and pathetic. Despite of facing violence inside the homes, these women remain silent about it due to social stigma and the patriarchal mindset of the society where she believes that she will be blamed only for all the mistreatment done to them. This paper tries to understand the experiences of domestic violence victims and to find out the various barriers faced by the women when they approach to the criminal justice system. This paper also focuses on the legal provisions given under the various statutes as well as the roadblocks that still stand in the way of achieving justice.

## LITERATURE REVIEW

Gonsalves Lina, in her book titled, *‘Women and Law’* discusses the gender-based discrimination and oppression faced by the women in the Indian Criminal Justice System. She describes in her book that how the laws are made from the viewpoint of male perspective and how the legal agents like the police, public prosecutors, and the judges, who are the product of patriarchal society, are by and large biased against women.

Shalu Nigam, in her article titled, *‘Understanding Justice Delivery System from the Perspective*

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<sup>3</sup> Sarkar Lotika (1995) Women’s Movement and the Legal Process Occasional Paper No. 24 CWDS, New Delhi p. 1-2.

<sup>4</sup> Report of the Special Rapporteur on Violence against Women, its Causes and Consequences, Radhika Coomaraswamy, Addendum 1: International, regional, and national developments in the area of violence against women 1994-2003, UN Doc. E/CN.4/2003/75/Add.1, 27 February 2003.

*of Women Litigants as Victims of Domestic Violence in India*<sup>5</sup> analysed the justice delivery mechanism from the perspectives of women litigants specifically within the context of Section 498-A Indian Penal Code. She empirically examined and explored the process of women's resistance to the male dominion within the sphere of family and law. Thus, her paper mainly focuses on such inconsistencies in the justice delivery systems, particularly in the context of domestic violence law. It looks at the issues with how the law is now written as well as the roadblocks that still stand in the way of achieving justice.<sup>6</sup>

R. Kaur and S. Garg, in his article titled '*Addressing domestic violence against women: An Unfinished Agenda*'<sup>7</sup> explained that women are negatively impacted by domestic violence in a variety of ways, which worsens their health and general well-being. Domestic violence has negative effects not only on women but also affects children and when they are exposed to domestic abuse, they run the danger of suffering negative health effects. Intimate partner violence causes havoc in families and has an impact on everyone's physical, emotional, and financial well-being. Domestic violence has an adverse impact on not just the families involved, but also the community and country.

## CONCEPT OF ACCESS TO JUSTICE

It is not easy to define Access to Justice in a definite word but it can be understood in the simple words, as an affordable, fair, satisfactory, and speedy solutions of any disputes by the courts or any other justice dispensing institutions who has power to decide the disputes. The term "access to justice" was originally defined as "*the system by which people may vindicate their rights and/or resolve their disputes under the general auspices of the state.*"<sup>8</sup> Access to justice is not limited to access to official courts, but rather includes a variety of legal institutions such as quasi-judicial institutions, administrative bodies, arbitration, and even tribal courts that apply local customary laws.<sup>9</sup> The term "access to justice" generally refers to the ability of an individual to

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<sup>5</sup> Shalu Nigam, "Understanding Justice Delivery System from the Perspective of Women Litigants as Victims of Domestic Violence in India" Centre for Women Development and Studies (2005) available at: <https://www.cwds.ac.in/wp-content/uploads/2016/09/UnderstandingJustice.pdf> (last visited on April, 14, 2023).

<sup>6</sup> *Supra* note 5.

<sup>7</sup> R. Kaur and S. Garg, "Addressing domestic violence against women: An unfinished agenda" 33(2) Indian Journal of Community Medicine 73-78 (2008).

<sup>8</sup> Maria Federica Moscati, The Role of Transitional Justice and Access to Justice in Conflict Resolution and Democratic Advancement 9 (2015), available at: [https://www.democraticprogress.org/wpcontent/uploads/2015/06/MOSCATI\\_TRANSITIONALJUSTICE-Proof.pdf](https://www.democraticprogress.org/wpcontent/uploads/2015/06/MOSCATI_TRANSITIONALJUSTICE-Proof.pdf) (last visited April 8, 2023).

<sup>9</sup> The Hague Inst. for Innovation of Law, Trend Report/Part 1: Towards Basic Justice Care for Everyone 5, 8, 17 (2012) [hereinafter Hiil]; The Comm'n on Legal Empowerment of the Poor & United Nations Dev. Program

bring his case before a court and have a judicial process.<sup>10</sup> It also means that the individual has a right to have his case adjudicated in a fair and just way.<sup>11</sup> Following are the four facets that constitute the essence of access to justice:

1. The state must provide an effective adjudicatory mechanism.
2. The mechanism so provided must be accessible in term of distance.
3. The process of adjudication must be speedy.
4. The litigants, access to the adjudicatory process must be affordable.

Thus, access to justice means to convert available right into right in action meaning thereby it is not enough that laws are made and rights and remedies are written in the statutes but it must be made effectively enforceable through effective actions taken by the various authorities and policy makers.

## INTERNATIONAL INSTRUMENTS TO PROTECT THE RIGHTS OF WOMEN

Article 2(1) of the **International Covenant on Economic, Social and Cultural Rights**<sup>12</sup>, provides that “Each State Party to the present Covenant undertakes to take steps, individually and through international assistance and cooperation, especially economic and technical to the maximum of its available resources with a view to achieving progressively the full realization in the present Covenant by all appropriate means including particularly the adoption of legislative measures.”<sup>13</sup> Article 2 para 3 of the **International Covenant on Civil and Political Rights** (ICCPR) tell us that it should be the duty of member states to ensure the enforcement of the rights of an individual by the competent authority by providing effective remedy in the cases of violation of the rights of any individuals. Again, Article 14 of the International Covenant on Civil and Political Rights<sup>14</sup>, provides that “All persons shall be equal before the courts and tribunals. In the

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[UNDP], 2 Making the Law Work for Everyone 25–27, 42–53 (2008) [hereinafter Comm’n on Legal Empowerment]; UNDP, Programming for Justice: Access for All 60–100 (2005) [hereinafter UNDP 2005].

<sup>10</sup> Francesco Francioni, The Rights of Access to Justice under Customary International Law, in ACCESS TO JUSTICE AS A HUMAN RIGHT 1, 8 (Francesco Francioni ed., 2007) (arguing that there is no customary international norm granting individuals universal standing before international institutions).

<sup>11</sup> *Ibid.*

<sup>12</sup> The International Covenant on Economic Social and Cultural Rights was adopted by the United Nations General Assembly on 16th December 1966, it entered into force on 3rd January 1976. See Brownlie, Ian (ed.), Basic Documents on Human Rights, Third Edition, Clarendon Press, Oxford, 1998, p. 114.

<sup>13</sup> Dias Kadwani Ayesha & Welch Gita (eds.), Justice for the Poor, Perspectives on Accelerating Access, Oxford University Press, New Delhi, 2009, p. 24.

<sup>14</sup> Adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of 16 December 1966, available at: [http://www.unhcr.ch/html/menu3/b/a\\_ccpr.htm](http://www.unhcr.ch/html/menu3/b/a_ccpr.htm) (last visited on April 4, 2023).

determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent, and impartial tribunal established by law.” Access to justice is a fundamental human right guaranteed by several international and national treaties. One of the most essential obligations imposed on state parties is to not discriminate against women and to uphold the ideal of equality. The **United Nations Committee on the Elimination of Discrimination Against Women** has identified six aspects of access to justice that should be considered when dealing with violence against women.<sup>15</sup> They are justiciability, availability, accessibility, accountability, good quality and remedies for the victims.<sup>16</sup> The United Nations' **Universal Declaration of Human Rights**, adopted in 1948, is the most essential international accord for combatting violence against women, as it declares equal rights for men and women, including the right to personal protection. Article 1 of United Nations Declaration (UN, 1993) defines violence against women as, violence against women includes any act of gender-based violence that results in, or is likely to result in, physical, sexual or psychological harm or suffering to women, including threats of such acts, coercion, or arbitrary deprivation of liberty, whether occurring in public or in private life.<sup>17</sup> The **United Nations Convention on the Elimination of All forms of Discrimination Against Women (CEDAW)** was held in 1979 and it includes violence against women in its ambit. The United Nations Committee on Convention on Elimination of All Forms of Discrimination Against Women in its General Recommendation No. XII (1989) has recommended that state parties should act to protect women against violence of any kind including violence inside the family. Increasing cases of domestic violence against women made the state government to make special laws for the protection of women. India has ratified the CEDAW in 1993 and in conformity of this India has enacted **Protection of Women from Domestic Violence Act** in 2005.

## CONSTITUTIONAL PROVISIONS

The Indian Constitution not only ensures equality of women but also allows state to make provisions specially for the protection of women and take measures regarding prohibition of discrimination against women. The constitution of India has mandated several provisions under the headings of Preamble, Fundamental Rights, Fundamental Duties and Directive Principles of State Policies regarding the protection of the rights of women. India has also ratified several

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<sup>15</sup> See General Recommendation No. 33 of the UN Committee on the Elimination of Discrimination Against Women issued on the 23rd July 2015, CEDAW/C/GC/33. <sup>18</sup> See General Recommendation No. 33 of the UN Committee on the Elimination of Discrimination Against Women issued on the 23rd July 2015, CEDAW/C/GC/33.

<sup>16</sup> *Ibid.*

<sup>17</sup> World Health Organization [WHO].

International Instruments for the protection of women from violence and discrimination committed against women. Article 14<sup>18</sup> of the Constitution provides for the equality before law and equal protection of law. Article 15(1)<sup>19</sup> provides for the non-discrimination principle prohibiting discrimination based on religion, race, caste, sex, place of birth or any of them. Article 15(3)<sup>20</sup> provides that state shall made any special provision in favour of women and children. Article 16<sup>21</sup> provides for the equality of opportunity in appointment or employment to any office under the state. Article 21<sup>22</sup> provides for the protection of life and personal liberty.

Article 39(a)<sup>23</sup> provides for the adequate means of livelihood to the men and women equally. Article 39(d)<sup>24</sup> provides for equal pay for equal work. Article 39A<sup>25</sup> provides for equal justice and free legal aid. Article 42<sup>26</sup> provides for the just and human conditions of work and maternity relief. Article 46<sup>27</sup> provides for the promotion of educational and economic interests of scheduled castes, scheduled tribes, and other weaker sections of the society. Article 47<sup>28</sup> provides for the level of nutrition and standard of living of citizens. Article 51A(e)<sup>29</sup> provides for the renunciation of derogatory practices against women.

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<sup>18</sup> The State shall not deny to any person equality before the law or the equal protection of the laws within the territory of India.

<sup>19</sup> Prohibition of discrimination on grounds of religion, race, caste, sex or place of birth. — (1) The State shall not discriminate against any citizen on grounds only of religion, race, caste, sex, place of birth or any of them.

<sup>20</sup> Nothing in this article shall prevent the State from making any special provision for women and children.

<sup>21</sup> Equality of opportunity in matters of public employment.

<sup>22</sup> Article 21. No person shall be deprived of his life or personal liberty except according to procedure established by law, nor shall any person be denied equality before the law or the equal protection of the laws within the territory of India.

<sup>23</sup> Article 39- Certain principles of policy to be followed by the State—The State shall direct its policy towards securing— (a) that the citizens, men, and women equally, have the right to an adequate means of livelihood.

<sup>24</sup> Article 39(d)-The State shall direct its policy towards securing—(d) that there is equal pay for equal work for both men and women.

<sup>25</sup> Equal justice and free legal aid. —The State shall secure that the operation of the legal system promotes justice, on a basis of equal opportunity, and shall provide free legal aid, by suitable legislation or schemes or in any other way, to ensure that opportunities for securing justice are not denied to any citizen by reason of economic or other disabilities.

<sup>26</sup> Provision for just and humane conditions of work and maternity relief. —The State shall make provision for securing just and humane conditions of work and for maternity relief.

<sup>27</sup> Article 46 Promotion of educational and economic interests of Scheduled Castes, Scheduled Tribes and other weaker sections. —The State shall promote with special care the educational and economic interests of the weaker sections of the people, and, in particular, of the Scheduled Castes and the Scheduled Tribes, and shall protect them from social injustice and all forms of exploitation.

<sup>28</sup> Article 47- Duty of the State to raise the level of nutrition and the standard of living and to improve public health. —The State shall regard the raising of the level of nutrition and the standard of living of its people and the improvement of public health as among its primary duties and, in particular, the State shall endeavour to bring about prohibition of the consumption except for medicinal purposes of intoxicating drinks and of drugs which are injurious to health.

<sup>29</sup> Article 51A. Fundamental duties. —It shall be the duty of every citizen of India—(e) to promote harmony and the spirit of common brotherhood amongst all the people of India transcending religious, linguistic and regional or sectional diversities; to renounce practices derogatory to the dignity of women.

## ROLE OF JUDICIARY PROVIDING ACCESS TO JUSTICE TO WOMEN

**Air India v. Nergesh Meerza**<sup>30</sup> Indian Airlines has implemented a legislation mentioning the condition that air hostesses are not permitted to marry during their first four years of employment, that if they become pregnant, they will be fired, and that they will leave at the age of 35 unless the managing director extends their contract at his discretion. The court held that this legislation is violative of Article 14 of the constitution.

### **Shah Bano Begum v. Ahmad Khan**<sup>31</sup>

In this case Supreme Court held that S. 125 of the CRPC, 1973 will apply to all spouses, regardless of religion, and the husband will be compelled to assist his divorced wife. Court said husband is liable to maintain his wife even after the completion of Iddat period.

### **Vishakha v. State of Rajasthan**<sup>32</sup>

Supreme court held that sexual harassment at workplace is the violation of article 14,19 and article 21 of the constitution and it is against the principle of gender equality. Supreme court recommended to bring domestic law on the sexual harassment at workplace. In conformity of this judgment the parliament has enacted The Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013.

**Sarla Mudgal v. Union of India**<sup>33</sup>, Supreme Court held that a Hindu husband converting to Islam and marrying again will be guilty of bigamy.

**Joseph Shine v. Union of India**<sup>34</sup>, Supreme Court in this case struck down the 158 years old law on adultery. It held that section 497 of the Indian Penal Code is the Violative of Article 14, 15 and 21 of the Constitution. It also stated that women are not the property of husband whose consent will exonerate the crime of adultery. Women has right to privacy and her sexual autonomy.

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<sup>30</sup> AIR 1981 SC 1829.

<sup>31</sup> AIR 1985 SC 945.

<sup>32</sup> AIR 1997 SC 3011.

<sup>33</sup> AIR 1995 SC 1531.

<sup>34</sup> AIR 2018 SC 4898.

**Vineeta Sharma v. Rakesh Sharma**<sup>35</sup>, Supreme Court held that daughter is coparcener by birth. It is immaterial whether her father was alive or not. Further court has upheld and re-established the retrospective application of 2005's amendment of section 6 of Hindu Succession Act. The list of cases upholding the rights of women are enumerable and exhaustive. Time to time Indian courts have tried to protect the personal life and dignity of women and to prevent crimes against the women.

## CURRENT SCENARIO OF DOMESTIC VIOLENCE

*“How vast is the number of men, in any great country, who are a little higher than brutes... This never prevents them from being able, through the laws of marriage, to obtain a victim... The vilest malefactor has some wretched woman tied to him against whom he can commit any atrocity except killing her and even that he can do without too much danger of legal penalty.”* -

John Stuart Mill, *The Subjection of Women* (1869)

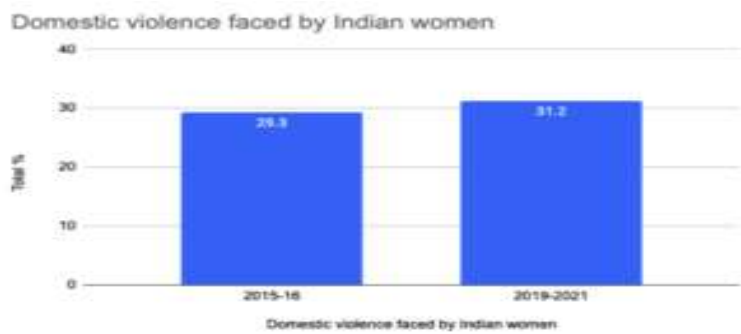
Violence against women is on the rise. The number of offences against women increased from 56.5% in 2020 to 64.5% in 2021, according to the NCRB study.<sup>36</sup> The majority of these cases (31.8%) include cruelty done by a husband or a member of his family, followed by rape, kidnapping and abduction, and attack on women with the goal of insulting their modesty. Violence against women is very common in all the societies of world. It is universal and becomes a serious concern in all the societies. Violence against women includes physical assault, sexual violence, domestic violence etc. Domestic violence is more common among the victims. Domestic violence is also known as domestic abuse or spousal violence or intimate partner violence (IPV). Domestic violence includes physical abuse, verbal abuse, emotional abuse, sexual abuse, demand for dowry or any other abuse which cause harms to the women. Physical abuse means doing any physical act like slapping, kicking, pushing, beating etc.; verbal abuse means yelling at women, using inappropriate words which demean the dignity of women etc.; emotional abuse means taunting her, saying bad words about her parents etc.; sexual abuse means forcing women to have sex with them without her consent; demand for dowry also cause mental agony and cruelty to the women. Domestic violence against women is the most common of these crimes in India. Domestic abuse was reported by 29% of Indian women (aged 18 to 49) in the National Family Health Survey-5 report. Similarly, 44.4% of women in Karnataka reported domestic

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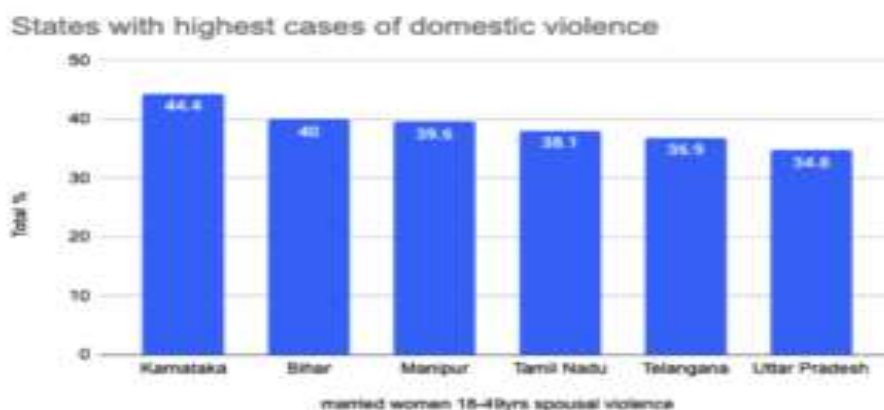
<sup>35</sup> 2020 9 SCC 1.

<sup>36</sup> Available at: <https://journalsofindia.com/ncrbs-report-on-crime-against-women/> (last visited on March 27, 2023).

violence, 40% in Bihar, 39.6% in Manipur, 38% in Tamil Nadu, and 36.9% in Telangana.<sup>37</sup> Yet, according to NFHS-5 data, 70% of women who experienced physical assault in the main states chose not to tell anybody. Few persons, even among those who asked help, were unable to contact the proper authorities.<sup>38</sup>



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This chart shows that the domestic violence against women have increased continuously and it is one of the most significant issues in India. Violence against women not only violates their human rights but also violates their fundamental rights guaranteed under the Constitution of India. Therefore, we can understand at this point that the it is the need of hour to give proper attention to the issue of domestic violence against women and to deal with the cases of domestic violence more diligently.

<sup>37</sup> Sakshita Khosla, “List of states with most & least domestic violence against women released” inshorts, May 8, 2022, available at: <https://inshorts.com/en/news/list-of-states-with-most-least-domestic-violence-againstwomen-released-1652004873638> (last visited on April 22, 2023).

<sup>38</sup> *Ibid.*

<sup>39</sup> NFHS Survey 2019-2021.

<sup>40</sup> *Ibid.*

## BARRIERS IN ACCESS TO JUSTICE

Let us try to understand what happens when a woman suffers domestic violence. Our Parliament has enacted Protection of Women from Domestic Violence Act, 2005 with an aim to provide protection to the women with lots of provisions which basically put in the Act for the betterment of the victims of domestic violence and the prevention of occurrence of domestic violence. But as the NFHS report shows that though many women suffer domestic violence in their domestic households, still 70% of the women remain silent of domestic violence and did not take legal assistance from the legal system. This situation poses a serious question for a legal discourse as to analyse why women are not reporting the cases of domestic violence to the police. We need to understand their psychology behind keeping their mouth shut and not reporting the domestic violence. We need to find out the various challenges which women face while approaching the judicial system. Following are some barriers which a woman face while accessing justice in a criminal justice system: -

- **Non-registration of FIR or Complaint:** The first and foremost barrier in the access to justice is the reporting of the FIR or Complaint. Many of the women do not want to go to police station because they believe that women belonging to good family never go the police station. So due to societal norms and values women restrain herself from approaching to the police. Secondly, even if they anyhow manage to approach to the police station police officers are not taking their cases seriously, without acting diligently they sometimes refuse to register their complaints saying that domestic violence is a private issue you must solve it in your homes. This reluctant behaviour of police officers discouraged the victims of domestic violence from approaching to the police station. Here we need to understand that if a victim will not approach to the police station and not file complaint to the police then how could she avail access to justice. Without the filing and registration of complaints all the other rights provided under the criminal justice system will be futile. Thus, it is very necessary to provide gender sensitisation trainings to the police officers so that they become more sensitive towards the crimes related to women and act diligently on the cases of violence against women.
- **Lack of awareness among women:** It is one of the major roadblocks in the path of access to justice. In many of the cases women are not aware of their rights and the corresponding remedies for their violation. Due to lack of information about the laws and their rights, they do not know how to avail those rights and remedies. In many of the domestic violence cases especially in the rural areas where women are not much educated does not know

about the domestic violence and the Domestic Violence Act. They do not know what exactly constitutes domestic violence. They are habitual of beating, kicking, verbal abuse in their day-to-day life but they do not know that these things which are happening to them in their domestic household in their day-to-day life is a crime and it is the violation of their human rights and fundamental rights to have dignified life. Ignorance of law results into the low reporting of the cases which ultimately favours the perpetrators. Thus, we need to understand at this juncture that only making laws on the paper is not enough. For making the actual implementation of these laws the spreading the information about the Domestic Violence Act is equally important. It should be the duty of the state that it must create awareness about the 18 domestic violence door to door through the help of various agencies like NGOs, self-help groups, legal clinic, village camps etc. dissemination of information related to the rights of women will inform the women about their rights and available remedies and empower them to avail the benefits of criminal justice system. More women will know about the Act, more women will they to seek the assistance of police and courts.

- **Social and cultural barriers:** The societal norms and cultures which are prevalent in the society also restrain the women from seeking justice. Many a times a woman do not go to police station because of their family dignity and honour. If they approach to the police violence will come into the knowledge of people and people will out castes them. Thus, in fear of being outcastes from the society women do not report to the police. Secondly, the socialization of women in family also become a barrier in their access to justice. Generally, a woman since her childhood are taught to be dutiful and obedient. It is put in the mind of women that their in-laws' homes are their real homes and her husband is the whole world. Thus, when the domestic violence starts in the homes, she bears all those violence just to keep their marriage alive and to protect their family honour. Generally, women become the continuous victims of domestic violence as she believes that one day her husband will change and stop abusing her. This faith on her husband makes them more vulnerable. As the domestic violence being the private affairs between the partners, women feel ashamed of explaining and reporting this to police.
- **Financial barrier:** The financial dependency of women on their husband makes them to bear more violence. She never dares to leave her husband and complaint against him because she is economically dependent on him. If she leaves her husband then how will she survive, where will she go, how would she manage her livelihood all these issues make them to rethink before reporting to the police. The high fees of court process,

travelling expenses to the court acts as a barrier in the path of access to justice. Some other factors which act as barriers in the access to justice are fear of further abuse by husband and in-laws, fear of breakdown of marital relationship, she will be blamed only, long delays in the court proceedings, they do not have faith on the judiciary, she believes that she will be blamed only etc. Another factor is societal conditioning; women raised in traditional, conservative households are discouraged from working. They are often trained to be dutiful daughters, sisters, and, eventually, wives, depriving women of agency.<sup>41</sup> There are numerous causes for domestic abuse underreporting, and the number of women who choose to remain in abusive marriages is not surprising. The more one experiences violence in a relationship, the more it gets psychologically normalised and accepted. Conservative societal norms, victim blaming, shame, and fear of criticism are all factors that make a woman hesitate before speaking up. Women are also afraid of approaching the police because they believe that if their partners are imprisoned, they would be subjected to additional abuse once released, and that they will be tormented by their in-laws or others in the meanwhile.<sup>42</sup> It is especially difficult for financially dependent married women with children to escape their abusive husbands. These include a lack of a robust support structure, fear of societal judgement, and an inability to provide for the child. As a result, many women remain in physically and emotionally abusive marriages for the sake of their children.

## CONCLUSION AND SUGGESTIONS

- The objective of access to justice should be to make individual's rights more fruitful and real. All the rights can only be achieved when the access to justice have been provided to the individuals. The Substantive Justice can achieve through the development of legal literacy and legal awareness about the rights and remedies available to the women in order to make them utilize their right to access to justice more effectively in the Criminal Justice System.
- To provide gender sensitisation trainings to the police officers, advocates and judges so that they become more sensitive towards the crimes related to women and act diligently on the cases of violence against women.
- To create legal awareness among women about their rights and available remedies.

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<sup>41</sup> Available at: <https://www.womensweb.in/2022/05/nfhs-5-domestic-violence-latest-figures-show-not-much-haschanged-may22wk4sr/> (last visited on April 18, 2023).

<sup>42</sup> *Supra* note 41.

- To make women more economically independent.
- Government should provide adequate facilities to the victims of domestic violence.
- It is not enough that laws are made and rights and remedies are written in the statutes but it must be made effectively enforceable through effective actions taken by the various authorities and policy makers.

