
A STUDY OF THE INDIAN JUDICIARY AND THE CONSTITUTIONAL PROTECTION OF WOMEN'S RIGHTS

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ABSTRACT

The paper is a overall study of Indian judiciary's vital role in safeguarding and advancing women's constitutional rights through the principle of judicial review, through which courts preserve fundamental rights to counter the actions of legislature and executive. It critically examines the breakthrough Supreme Court and High Court judgments such as Visakha and Shayara, which have significantly influenced legal interpretations related to gender equality, non-discrimination, and women's empowerment. These rulings have challenged entrenched patriarchal norms and spurred judicial actions which exceed traditional legislative rules to promote social justice for women. The study also explores provisions in the constitution such as Articles 14, 15, and 16, along with relevant statutes aimed at preventing discrimination, violence, and harassment against women. Using doctrinal research and case law analysis, the paper discusses the tension between judicial activism and judicial restraint, highlighting challenges such as procedural delays, inconsistent judicial reasoning, and societal biases that obstruct availability of rights and justice for women. Additionally, it investigates the growing importance of public interest litigation in enhancing women's legal protections. In the final paragraph this paper gives recommendations of judicial reforms, including strengthening judicial infrastructure, improving transparency and accountability, promoting gender sensitization, and fostering better collaboration between the judiciary, legislature, and civil society. These measures are essential to ensuring that judicial protection of women's constitutional rights becomes more consistent, accessible, and impactful in India's complex socio-legal landscape.

Keywords: Indian Judiciary, Women's Rights, The Constitution of India, Judicial Review, Gender Equality, Fundamental Rights.

Introduction

To examine the Indian judiciary and constitutional protection for women's rights it necessarily begins with recognition that India's democratic framework rests on the ideals of equality, justice, and dignity for all citizens. The Constitution of India which came into effect on 26 January 1950 and contained a comprehensive set of Fundamental Rights and Directive Principles of State Policy, which contains the principles for equality between genders and women empowerment. While the constitutional provisions lay a strong normative foundation in this regard, their translation into social and legal practice has called for constant interpretation and enforcement by courts and judiciary. The society in India has been traditionally inherent with patriarchy and folklore that kept women out of active participation in the sectors of social, economic, and political life for centuries. It is here that the judiciary- Supreme Court and various High Courts- becomes a transformative agent in bridging this gap between constitutional ideals and social realities. The judiciary, with its dynamic, often activist approach, has interpreted the constitutional provisions which make sure that women are not just equal before the law but empowered in practice. Judicial interventions have frequently been instrumental in bringing about changes in the scenario relating to gender-based violence, workplace discrimination, inequalities in personal law, and violations of reproductive and marital rights. A few landmark judgments are *Vishakha v.State of Rajasthan* (1997), this laid down various guidelines that would help stop sexual harassment at the workplace; *Shayara Bano v. Union of India* (2017), in this the instant triple talaq practice was held unconstitutional; and *Joseph Shine v. Union of India* (2018), wherein the apex court decriminalized adultery by recognizing women's autonomy and equality in marriage. The present study sets out to explore how the Indian judiciary, through its constitutional mandate and interpretive authority, has worked as both protector and promoter of women's rights in India, ensuring that justice is not only declared but delivered.

India's Constitution has a powerful foundation for social justice and gender parity, envisioning a society in which every individual—regardless of gender—enjoys equal rights, dignity, and opportunities. Yet, in practice, women across the country continue to encounter persistent discrimination, violence, and socio-economic barriers. The constitutional ideals such as equality and freedom often stand in sharp contrast to the realities faced by the women, more specifically from the marginalized section. Despite a progressive legal framework and numerous landmark judicial rulings aimed at advancing women's rights, the gap between legal promises and ground-level implementation remains wide. Many protective measures are poorly

enforced, while deep-rooted patriarchal beliefs and regressive social norms continue to limit women's autonomy and participation in public life.

This study seeks to explore how effectively the Indian judiciary has protected and promoted women's constitutional rights in real-world contexts. It aims to understand the extent to which landmark judicial decisions have influenced legislative reforms and transformed public attitudes toward gender equality. Also the paper tries to investigate the various barriers like structural, social and institutional that stops women from realizing the true spirit of the Constitution. The research thus positions itself at the intersection of law, gender, and justice—seeking to evaluate whether judicial interpretation has translated constitutional ideals into tangible change for women.

Existing scholarship reveals that women's rights and protection by judiciary in India have been discussed extensively by legal theorists, feminist scholars, and policy analysts. This literature provides helps to a great deal in deciding constitutional principles, judicial decisions, and socio-cultural realities interact in shaping women's access to justice. Scholars such as Granville Austin (1966) and Upendra Baxi (2002) describe the Indian Constitution as a "living document" that evolves through interpretation, especially by the higher judiciary. The provisions under Articles 14, 15, and 21 form the backbone of jurisprudence for gender equality, guaranteeing equality before law, prohibiting discrimination, and which ensures right to life and dignity. Article 15(3) further allows state to adopt special measures for women, emphasizing substantive equality—a fact that explains about justice to become a real thing in our society rather than just formal rights.

Several researchers, including Lotika Sarkar and Flavia Agnes, have emphasized the judiciary's transformative role in advancing women's rights, particularly in contexts where legislative reform has lagged behind social need. In the historic case of *Vishakha v. State of Rajasthan* (1997) which is often cited as a turning point because of the fact that the apex Court filled a legislative void by issuing guidelines on sexual harassment at workplaces. These directions finally helped in the passing of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act (2013), underscoring how judicial activism can serve as a catalyst for gender-sensitive lawmaking.

The judiciary has also intervened to challenge patriarchal practices embedded in personal and religious laws. In *Shayara Bano v. Union of India* (2017), the apex Court decided to completely

delete the practice of instant triple talaq, this proved the authority of constitutional morality over religious customs. Similarly, the *Indian Young Lawyers Association v. State of Kerala* (2018) judgment, more commonly known as the Sabarimala case, upheld women's right to enter the temple, thereby reinforcing the principle that gender-based exclusion violates fundamental rights.

However, while such decisions signify progress, their real-world impact remains uneven. Many women remain unaware of their legal rights, judicial processes are often slow and intimidating, and also the institutional processes for redressal are mostly inadequately funded.

As a result, many times hailed as monumental, laws like the Protection of Women from Domestic Violence Act (2005) and the Sexual Harassment Act (2013) often fail to achieve their intended reach, particularly in rural and semi-urban settings. The persistence of patriarchal norms within enforcement agencies and the judiciary itself further complicates access to justice.

Although a significant body of research discusses women's rights and constitutional protections, there remains a noticeable gap in evaluating how effectively judicial pronouncements translate into genuine empowerment. This study seeks to fill that gap by assessing not only the content of landmark judgments in India but also their implementation, reception, and broader influence on gender justice in the nation.

Following are the key objectives of this research:

- a) Study the growth and constitutional basis of judicial review in India.
- b) Analyse landmark judgments affecting women's rights and their interpretation by the judiciary.
- c) To understand the balance and correlation between judicial activism and judicial restraint with respect to women's rights
- d) To identify challenges in enforcement, accessibility to justice, and judicial overreach.
- e) To recommend reforms that can enhance the efficacy and reach of judicial protection of women's constitutional rights.

Research Methodology

(a) Research Design

The research follows a qualitative and analytical research design, giving importance to interpretation of constitutional and statutory provisions, judicial pronouncements, and secondary literature.

(b) Sources of Data

1. Primary Sources:

- a) The Constitution of India (particularly Articles 14, 15, 21, 39, and 51A).
- b) Landmark Supreme Court judgments (Vishakha, Shayara Bano, Sabarimala, Joseph Shine, etc.).
- c) Relevant legislations for example the Protection of Women from Domestic Violence Act, 2005 and the Criminal Law (Amendment) Act, 2013.

2. Secondary Sources:

- 1 Books, scholarly articles, reports of the Law Commission and government documents.
- 2 Journals such as Indian Journal of Gender Studies and Supreme Court Cases (SCC) reports.

(c) Method of Analysis

The research adopts a comprehensive case law analysis method to examine judicial reasoning in depth, focusing on how courts interpret constitutional principles and apply them to issues of gender equality. This particular method of analysis not only analyzes the logic and consistency of judicial decisions but also evaluates their broader social and legal impact on women's rights and empowerment. Furthermore, the study employs a comparative framework to trace the evolution of gender jurisprudence in India, highlighting the shift in judicial perspectives before and after landmark rulings. By analysing these transformations, the research seeks to understand how progressive judgments have contributed to strengthening legal protections, promoting

gender justice, and influencing societal attitudes toward equality and women's participation in public and private spheres.

Analysis and Discussion

1. Constitutional Framework for Women's Rights

Although the Constitution of India does not contain a chapter dedicated exclusively to women, it contains a powerful network of provisions that collectively ensure their protection and empowerment.

Article 14&15 in the centre of this framework are Articles 14 and 15, that gives guarantee of equality before the law and prohibit discrimination on the grounds of sex. These articles serve as the foundation for judicial scrutiny of gender-based inequalities. Any law, policy, or action—whether by the State or a private entity—that treats women unfairly can be challenged under these fundamental rights.

Importantly, Article 15(3) allows the State to take special measures in favor of women and children. Far from being an exception to equality, this clause recognizes that real or substantive equality sometimes requires affirmative action—through reservations, welfare programs, or targeted legal protections.

Article 21 This protects the right to life and personal liberty which have been widely interpreted by the Supreme Court to mean various heads like the right to dignity, bodily integrity, and sexual autonomy. The interpretations have become crucial in advancing women's rights in cases related to violence, privacy, and reproductive choice.

The Directive Principles of State Policy Particularly Article 39 It directs the State to promote justice in the social and economic area and also to make equal pay for equal work. Though not enforceable in court, these principles guide governance and policymaking toward achieving gender justice.

Together, these constitutional provisions create a robust foundation that empowers the judiciary to strike down discriminatory practices and to extend constitutional protections into new areas of women's rights through progressive interpretation.

2. The Judiciary as driver of Gender Justice: Landmark Interventions

The role played by Indian judiciary has been transformative in turning the Constitution's promises of equality into lived realities for women. Through its innovative use of constitutional interpretation and public interest litigation, the courts have often interfered to protect women's rights where legislation was lacking or ineffective. Several landmark cases illustrate this vital judicial activism.

2.1. Vishakha v. State of Rajasthan (1997): Addressing Workplace Sexual Harassment

In the Vishakha case, the apex Court gave recognition to the sexual harassment at the workplace which violates a woman's fundamental rights to equality, freedom, and dignity. In the absence of any specific law at the time, the Court issued the famous Vishakha Guidelines, which required employers to create mechanisms to prevent and address such harassment. These guidelines became binding on all workplaces and later on led to the enactment of the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. The judgment is widely regarded as a pioneering example of judicial innovation filling a legislative void.

2.2. Shayara Bano v. Union of India (2017): The End of Instant Triple Talaq

The case of Shayara Bano marked a historic landmark in the struggle for the demand of Muslim women's rights. The practice of talaq-e-biddat (instant triple talaq) was struck down by the apex court holding it unconstitutional since it violated Articles 14, 15, and 21. Supreme Court declared the practice as arbitrary and not an essential part of Islamic faith which is protected under Article 25 of the Constitution. This judgment reaffirmed that personal laws of various religions cannot supercede the fundamental doctrines of equality and justice as found in the Constitution.

2.3. Indian Young Lawyers Association v. State of Kerala (2018): The Sabarimala Verdict

The Sabarimala case led the Court examining the long-standing tradition that prohibited women aged between 10 to 50 years from entering the temple at Sabarimala in Kerala. Court stated that such exception violated women's constitutional rights like that of equality and freedom of religion. It reasoned that discriminatory practices could not be justified in the name of faith if they undermined the principles of gender equality. The decision ignited widespread debate

across India, highlighting the ongoing tension between cultural traditions and the constitutional mandate for equality.

Through these and many other rulings, the judiciary has acted not merely as an interpreter of the Constitution but as a catalyst for social transformation. By expanding the meaning of equality, dignity, and liberty, the courts have shaped a more inclusive and gender-just legal landscape in India.

3. Criminal Law Reform after the Nirbhaya Case — Criminal Law (Amendment) Act, 2013

The horrific Delhi gang-rape of 2012, widely known as the Nirbhaya case, shook the conscience of the nation and sparked an unprecedented public outcry. It exposed deep flaws in the criminal justice system's handling of sexual offences and led to urgent demands for reform. This finally led to the Criminal Law (Amendment) Act, 2013 enactment, marking a major step forward in India's approach to protecting women's rights and bodily integrity. The amendment broadened the definitions of sexual offences, introduced new crimes such as stalking, voyeurism, and acid attacks, and imposed harsher punishments for rape and other sexual assaults. Importantly, it also emphasized victim-sensitive procedures, ensuring that survivors' dignity and privacy are better protected during investigation and trial.

Although the Act represents legislative progress, the judiciary played a very important role in shaping its implementation. Courts across India have interpreted these provisions to increase the protection of women, particularly in decisions related to evidence, bail, and sentencing. This collaboration between law and judicial interpretation reflects a growing commitment to justice and gender sensitivity inside the criminal justice system.

4. Statutory Protection: Protection of Women from Domestic Violence Act, 2005 (DV Act)

The Protection of Women from Domestic Violence Act, 2005, more publicly known as the DV Act, represents another key milestone in India's legal framework for women's protection. Recognizing that violence within the home is as damaging as violence in public spaces, the Act provides comprehensive civil remedies such as protection orders, residence rights, and monetary relief for women facing abuse. Courts have interpreted the Act with compassion and inclusivity which expanded its scope from physical harm to also cover emotional, verbal,

sexual, and economic abuse. One of the most significant judicial contributions has been affirming a woman's right to reside in her matrimonial home, even when property ownership is disputed. This interpretation underscores the Act's purpose — to provide safety, dignity, and stability to women within their domestic relationships.

Therefore, together these two laws i.e. Criminal Law (Amendment) Act, 2013 and the DV Act demonstrate how law and judicial interpretation work hand in hand to transform constitutional ideals of equality and protection into lived realities for women in India.

5. Interaction among the Judicial System and the Legislature

The relationship between the judicial system and the legislature in India is both dynamic and interdependent. Judicial decisions often serve as catalysts for new laws or amendments. For instance, the *Vishakha v. State of Rajasthan* case (1997) laid down landmark guidelines to prevent sexual harassment at workplaces—guidelines that later evolved into the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013. Similarly, the *Shayara Bano* judgment (2017), which removed the practice of instant triple talaq, paved the way for the Muslim Women (Protection of Rights on Marriage) Act, 2019. This interaction, however, is not without friction. While the judiciary's proactive stance—often termed judicial activism—has been praised for protecting rights and promoting justice when legislative action lagged, it also has a flip side with various issues like allegedly stepping into the domain of policy-making, which traditionally belongs to the legislature. But still it is countered that such interference becomes necessary in a democracy like India, where the courts act as the ultimate guardians of the Constitution and moral conscience of the nation. Judicial engagement thus explains that laws do not merely exist but also align with the various principles of justice, equality, and dignity enshrined in the Constitution.

6. Case Studies: How Judicial Reasoning Shapes Outcomes

This section briefly analyses how judicial reasoning in selected cases produced real-world outcomes.

Vishakha — From Guidelines to Statute: The *Vishakha* decision employed constitutional values (Articles 14 and 21) to interpret the state's duty to protect women at workplaces. The Court's guidelines required employers to prevent harassment and provide redressal. The

political effect was cumulative: judicial pressure plus advocacy culminated in the 2013 Sexual Harassment Act, which institutionalized many Vishakha principles. This demonstrates an iterative model: judicial innovation → social pressure → legislative codification.

Shayara Bano — Equality over Custom: In Shayara Bano, the majority bench tested whether the practise of instant triple talaq was an essential religious practice that requires protection under Article 25. The practice was scrutinized on the parameter of rationality and equality and the Court prioritized constitutional morality over superfluous religious autonomy. The decision led to immediate legal consequences (invalidating the practice) and various legislative actions to criminalize certain forms of talaq in coming years. This illustrates the Court's role in reconciling individual rights, gender equality, and religious freedom.

Sabarimala — Limits of Essentiality Doctrine: The Sabarimala judgment applied the “essential religious practice” test to conclude that exclusion of women was not essential and hence could be struck down. This decision highlighted the apex Court's firm willingness to apply equality standards even when they cross paths with deep rooted religious sentiments. However, the societal backlash and political contestation that followed underscore the gender inequality in the society.

Assessing Effectiveness: Achievements and Limitations

Achievements

Doctrinal Expansion: The judiciary in India have had a transformative role in widening the meaning of equality and justice for women. Through various landmark judgments, courts have interpreted constitutional guarantees in diverse contexts—ranging from workplace harassment to personal laws and religious practices. Decisions such as Vishakha v. State of Rajasthan and Shayara Bano v. Union of India demonstrate how judicial interpretation has gone beyond what's written in the Constitution to expand its practical reach. These rulings not only brought about immediate legal changes but also spurred significant legislative reforms, reinforcing women's constitutional protections.

Institutional Frameworks: Judicial interventions have also contributed in building institutional mechanisms that empower women to seek justice. The creation of Internal Complaints Committees under the Sexual Harassment of Women at Workplace (Prevention,

Prohibition and Redressal) Act, 2013, originated from the Supreme Court's Vishakha Guidelines. Similarly, judicial sensitivity toward survivors of sexual and domestic violence has led to stronger procedural safeguards and victim-centric approaches in law enforcement. These developments represent concrete progress from courtroom pronouncements to systemic institutional change.

Social Visibility and Discourse: Landmark gender-related judgments have not only changed laws but also shifted public attitudes. High-profile cases have brought issues of gender justice into mainstream discourse, sparking nationwide debates, media attention, and activism. Judicial recognition of women's rights has, in many cases, influenced social awareness and encouraged policy initiatives. The courtroom thus becomes a catalyst for broader societal transformation, bridging the gap between constitutional ideals and lived realities.

Limitations and Persistent Gaps

Implementation Deficits: Despite progressive judgments and robust legislation, enforcement remains a major challenge. Legal protections often fail to reach women in rural or marginalized communities due to limited awareness, social stigma, police apathy, and procedural delays. For instance, while the Domestic Violence Act guarantees protection, residence rights, and monetary relief, many survivors struggle to obtain timely and effective remedies. Recent state-level initiatives, such as the appointment of protection officers, acknowledge these shortcomings but highlight the continuing gap between law and practice.

Judicial Backlogs and Access to Justice: The promise of legal protection is often undermined by systemic inefficiencies within the judicial system itself. Overburdened courts, prolonged trials, and complex procedures dilute the impact of judicial successes. Many women, particularly those with less financial means or legal literacy, find it difficult to remain in the legal system. As a result, constitutional remedies remain largely theoretical for those most in need of them.

Cultural Resistance and Backlash: Judicial interventions in areas of social and religious sensitivity sometimes have to face public and political resistance. The Sabarimala judgment, for example, led to intense controversy, showcasing the tension between constitutional morality and traditional beliefs. Such backlash can slow or even reverse the implementation of

progressive decisions, forcing courts to find ways for a delicate balance between upholding equality and respecting cultural pluralism.

Limitations in Personal Law Reform: While the judiciary has removed various discriminatory practices, comprehensive reform of personal laws remains largely within the jurisdiction of legislature. Courts have shown restraint in reshaping laws governing marriage, divorce, and inheritance, recognizing the complexities of religious autonomy. The Triple Talaq verdict exemplifies this approach—it abolished a specific practice but left broader reforms to the political and legislative spheres. Consequently, personal law reform continues to evolve gradually, reflecting the interplay between judicial initiative and legislative responsibility.

Critical Challenges and Areas for Reform

Based on the present set of jurisdiction and implementation experience, the following challenges need attention:

- a) **Access to Justice:** Strengthen legal aid, creation of fast-track special courts for gender crimes, and ensure enforcement of protection orders. Court delays and procedural burdens reduce the remedial efficacy of constitutional rights.
- b) **Police and Investigative Reform:** Sensitize and train police on gender-sensitive investigation and victim support; make police stations accessible for women complainants; enforce accountability for negligence in investigation.
- c) **Implementation Machinery:** Fully staff and **empower** Protection Officers, ensure functional internal complaints committees (ICCs) in workplaces, and provide funds for shelters and medical/legal support.
- d) **Harmonization of Personal Laws and Gender Equality:** Encourage legislative engagement to update personal laws in gender-equal ways, while ensuring reforms are participatory and respectful of pluralism. Judgments like Shayara Bano can catalyze legislative work but cannot substitute for comprehensive reform.
- e) **Public Awareness and Social Change:** Legal remedies must be complemented by education, community engagement, and economic empowerment programs that change social norms underpinning gender discrimination.

Recommendations

To reinforce constitutional protection for women, the judiciary, executive and legislature should act in complementary ways

Judicial: Continue principled constitutional adjudication that centers equality and dignity, while providing clear, implementable relief and institutional directions to ensure enforceability. Enhance judicial infrastructure and case management for faster resolution. Develop clear judicial guidelines to standardize rights interpretation. Strengthen accountability and transparency in judicial appointments and functioning. Promote gender sensitization and training programs for judiciary and police.

Legislative: Address gaps highlighted by the judiciary through prompt, consultative legislation (e.g., clearer enforcement provisions, funding for implementation, harmonization of laws for survivor protection).

Executive: Invest in capacity building—train police and magistrates, recruit Protection Officers and social workers, ensure functioning of ICCs and fast-track mechanisms.

Civil Society & Academia: Support legal literacy campaigns, offer paralegal assistance in underserved areas, and conduct impact assessments of judicial and legislative reforms.

Monitoring and Data: Create robust data collection on gender crimes, enforcement of protection orders, and the performance of judicial remedies to inform policy and allocate resources.

Conclusion

The Indian judicial system with the Supreme court at the top and all other courts including high courts and subordinate courts functions as the protector and guardian of the rights of the citizens including the constitutional rights. It has been a pivotal force in advancing women's constitutional rights—expanding doctrinal protections, innovating remedies in the absence of legislation, and catalyzing statutory reforms. Landmark judgments like *Vishakha*, *Shayara Bano*, and *Sabarimala* demonstrate the Court's ability to interpret provisions under Articles 14, 15 and 21 in various ways that promote substantive gender equality. Judicial activism has expanded the ambit of protections and increased access to justice despite socio legal challenges. Yet judicial remedies are not a panacea. Effective protection requires statutory clarity, administrative will, institutional capacity, and social transformation. The challenge ahead is to

translate judicial victories into lived equality for women across India's diverse social landscape—a task that requires sustained collaboration between courts, legislatures, executive agencies, and society at large.

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