
POWER WITHOUT ACCOUNTABILITY: GENDER-BASED AGGRESSION BY SOCIALLY, ECONOMICALLY AND POLITICALLY DOMINANT PERSONS IN INDIA

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ABSTRACT

Gender-based aggression is rarely a self-contained act; in the Indian context it is almost always mediated through a background relationship of power. This article argues that the decisive variable in a large share of gender violence cases is not simply the conduct of the accused but the leverage available to him through social standing, economic control or political connection, and that this leverage operates twice over first to enable the aggression, and second to obstruct its disclosure and prosecution. Drawing on constitutional doctrine, the Bharatiya Nyaya Sanhita 2023, the Bharatiya Nagarik Suraksha Sanhita 2023, special legislation such as the Protection of Women from Domestic Violence Act 2005 and the POSH Act 2013, and a body of Supreme Court jurisprudence stretching from *Tukaram* to *Vishaka* and beyond, the article develops a three-part taxonomy social, economic and political power through which such aggression is exercised, before turning to the structural gaps that continue to blunt legal protection: under-reporting, victim intimidation, institutional capture and the newer terrain of digital abuse. It concludes that formal equality before the law is necessary but insufficient, and that closing the gap between the constitutional promise of Articles 14, 15 and 21 and lived reality requires independent investigation, victim protection, economic empowerment and sustained institutional accountability.

Keywords: Leverage, Disclosure, Prosecution, Jurisprudence, Aggression, Intimidation, Institutional capture, Investigation, Accountability.

I. Introduction

Violence and discrimination directed at a person because of gender is, at its core, a problem of inequality rather than an isolated criminal episode. In India this problem takes on a distinctive shape when the person responsible for the aggression enjoys some independent source of power over the victim a position within the family or caste hierarchy, control over her livelihood or finances, or standing within the machinery of the state. It is this overlay of power that the present article is concerned with: not gender-based aggression as such, but gender-based aggression that is enabled, and subsequently shielded, by the aggressor's social, economic or political position.

The distinction matters because power changes the calculus available to a victim. A woman confronting a stranger's violence faces one set of obstacles; a woman confronting violence from someone on whom she depends for shelter, income, family standing or physical safety within an institution faces another set entirely, since the very people and systems she would ordinarily turn to for redress may be within the aggressor's sphere of influence. The Bharatiya Nyaya Sanhita, 2023 ("BNS"), which replaced the Indian Penal Code, 1860 with effect from 1 July 2024, situates most of the relevant offences rape, sexual harassment, stalking, voyeurism, dowry death and cruelty within a single chapter dealing with offences against women and children.¹ This article treats that chapter, together with constitutional guarantees and special statutes, as the backbone of the analysis, while organising the substantive discussion around the three forms of power identified above.

II. Gender-Based Aggression and the Problem of Power

Gender-based aggression is broader than physical assault. It includes any conduct physical, sexual, verbal, psychological, economic or institutional that targets a person because of gender or that draws on entrenched gender hierarchies for its force. A husband who controls household income, an employer who conditions professional advancement on sexual compliance, and a locally influential figure who threatens a complainant into silence are all, on this understanding, engaged in the same underlying wrong even though the outward conduct looks very different.

What unites these examples is asymmetry. Where one party holds substantially more social,

¹ The Bharatiya Nyaya Sanhita, 2023, Chapter V, consolidates offences against women and children, including ss. 63–99.

economic or political capital than the other, the weaker party's capacity to resist, to refuse, or simply to complain is correspondingly diminished. Analysing gender-based aggression therefore requires looking not only at the act itself but at the relationship of dependency in which it occurs a dependency that a purely act-centred reading of the criminal law can easily miss.

III. The Social Dimension: Family, Caste and Community Authority

Social power derives from status rather than office or wealth from position within the family, caste or community, from reputation, seniority or simply the weight of custom. It need not coincide with affluence: a household patriarch or a caste elder can wield considerable coercive authority while possessing no particular economic advantage. Where that authority is treated as unlimited, it becomes a vehicle for controlling a woman's choices about education, work, marriage, mobility and, ultimately, her own body.

A. Autonomy versus Family Authority

The clearest judicial affirmation that adult autonomy prevails over family or community disapproval came in the Hadiya case, where the Kerala High Court had annulled the marriage of a woman who had converted and married a man of her choosing, placing her instead under her father's custody. The Supreme Court restored the marriage, holding that the choice of a spouse is an inseparable part of individual liberty and cannot be displaced by parental or judicial paternalism.² A comparable principle underlies the Court's treatment of inter-caste unions, where family members had initiated proceedings against an adult woman's husband and his relatives after she married outside her family's wishes; the Court condemned the harassment and directed that the couple be protected rather than punished for an autonomous choice.³

B. Honour-Based Control

Where the pressure to conform is exerted not by an individual but by a caste panchayat or community collective, the Court has been equally emphatic that consenting adults retain a constitutional right to choose their partners, and that caste or community bodies have no authority to sit in judgment over that choice. The Court went further and directed the States to

² Shafin Jahan v. Asokan K.M., (2018) 16 SCC 368.

³ Lata Singh v. State of U.P., (2006) 5 SCC 475.

put in place preventive, remedial and punitive mechanisms specifically targeted at honourbased violence.⁴ Caste hierarchy can compound gender vulnerability still further, since women from historically marginalised communities may face discrimination on both axes simultaneously; the constitutional prohibition on untouchability and the special protections available under the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 exist precisely because caste-based social power has, historically, operated with near impunity.⁵

C. Domestic Violence and Dowry-Linked Cruelty

Within the household, social power most commonly manifests as domestic violence, an area addressed comprehensively by the Protection of Women from Domestic Violence Act, 2005, which defines the conduct broadly enough to capture physical, sexual, verbal, emotional and economic abuse and provides for protection orders, residence orders and monetary relief.⁶ For some years the Act's protective reach was artificially narrowed by a definition of "respondent" confined to adult males, even though domestic abuse is frequently perpetrated jointly with, or exclusively by, female in-laws. The Supreme Court struck down that restriction as unconstitutional, thereby extending the Act's protection to complaints implicating female relatives as well.⁷ Dowry-linked harassment remains a related and persistent problem: demands continuing after marriage, and the cruelty or violence that follows their non-fulfilment, are addressed both by the Dowry Prohibition Act, 1961 and by the dowry-death and cruelty provisions now found in the BNS. The Supreme Court has repeatedly clarified the statutory ingredients required before the presumption attaching to dowry deaths can be invoked, underscoring that the presumption is a tool of proof rather than a substitute for establishing the underlying facts.⁸

IV. The Economic Dimension: Employment, Property and Financial Control

Economic power is the capacity to control money, employment, property or business opportunity, and it becomes an instrument of gender-based aggression whenever those levers are used to extract compliance or to punish refusal. Its most familiar site is the workplace, where a superior's control over pay, posting and promotion can make rejecting unwanted

⁴ Shakti Vahini v. Union of India, (2018) 7 SCC 192.

⁵ State of Karnataka v. Appa Balu Ingale, 1995 Supp (4) SCC 469.

⁶ Protection of Women from Domestic Violence Act, 2005, s. 3 and Chapter IV.

⁷ Hiral P. Harsora v. Kusum Narottamdas Harsora, (2016) 10 SCC 165.

⁸ Satbir Singh v. State of Haryana, (2021) 6 SCC 1.

conduct professionally costly.

A. Workplace Sexual Harassment

The foundational case here concerns a grassroots worker in Rajasthan who, in the course of resisting child marriage in her village, was subjected to a brutal assault; in the absence of any dedicated legislation on workplace harassment at the time, the Supreme Court invoked international human-rights instruments to fashion binding guidelines, holding that harassment at work offends the constitutional guarantees of equality and dignity.⁹ Those guidelines were eventually codified in the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, whose preamble expressly ties workplace protection to Articles 14, 15 and 21 and which mandates Internal Committees and structured inquiry procedures.¹⁰ The Court had, even before *Vishaka*, upheld disciplinary action against a senior official for inappropriate conduct toward a subordinate, treating such conduct as incompatible with a woman's constitutionally guaranteed dignity at work.¹¹ The BNS supplements this civil framework with a dedicated criminal provision covering unwelcome physical contact, demands for sexual favours, non-consensual exposure to pornography and sexually coloured remarks, with penalties calibrated to the gravity of the specific conduct.¹²

B. Authority Relationships and Custodial Power

A related but distinct offence addresses sexual exploitation by a person occupying a position of authority or a fiduciary relationship an employer, a custodial officer, or someone in an analogous position of institutional trust.¹³ The starkest illustration of what happens when custodial authority is abused remains the case of a young tribal girl allegedly assaulted by police personnel inside a police station; the acquittal that followed provoked widespread public criticism and became the direct catalyst for legislative reform strengthening the law on custodial sexual violence.¹⁴

⁹ *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241.

¹⁰ Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013, ss. 4, 6 and 9.

¹¹ *Apparel Export Promotion Council v. A.K. Chopra*, (1999) 1 SCC 759.

¹² *Bharatiya Nyaya Sanhita*, 2023, s. 75.

¹³ *Bharatiya Nyaya Sanhita*, 2023, s. 68.

¹⁴ *Tukaram v. State of Maharashtra*, (1979) 2 SCC 143.

C. Economic Abuse and Property Rights

Economic power also operates inside the home, through control of a spouse's earnings, denial of access to household funds, or interference with her property. The Domestic Violence Act treats such conduct as a recognised form of abuse and provides monetary relief as a remedy in its own right. On the question of inherited property, the historic exclusion of daughters from equal coparcenary rights was substantially remedied by the 2005 amendment to the Hindu Succession Act, and the Supreme Court subsequently clarified that a daughter's right to be treated as a coparcener by birth does not depend on her father having been alive on the date the amendment came into force.¹⁵ Wage disparity and unequal access to employment compound this vulnerability, since a woman without independent income has correspondingly less freedom to exit an abusive household or workplace.

V. The Political Dimension: Public Office and Institutional Impunity

Political power, in this context, is influence derived from elected office, administrative position or strong political connection influence capable of reaching into the very institutions, police, prosecutors and courts, that a victim would otherwise rely on for protection. The danger is not that political status itself is criminal but that it can be, and has been, used to delay registration of complaints, to blunt investigation, or to intimidate a complainant into withdrawing.

The point that high office confers no immunity from prosecution was settled in the case of an IAS officer who was allegedly subjected to humiliating physical conduct by the Director General of Police of Punjab at a social gathering; the Supreme Court refused to quash the criminal proceedings merely because the accused occupied a position of considerable institutional authority, treating the case as a paradigm instance of aggression enabled by both social prestige and political-administrative power.¹⁶ The Court's willingness to let the ordinary criminal process run its course, undiminished by the accused's rank, is precisely the principle that later cases invoking political influence would need to overcome.

Custodial vulnerability recurs here as well: concerns over the treatment of women detained by the police prompted the Supreme Court to issue protective directions concerning conditions of custody, placing an affirmative obligation on state authorities to safeguard those within their

¹⁵ Vineeta Sharma v. Rakesh Sharma, (2020) 9 SCC 1.

¹⁶ Rupan Deol Bajaj v. K.P.S. Gill, (1995) 6 SCC 194.

physical control.¹⁷ Beyond individual complaints, women who enter political life in their own right often encounter a distinctive register of aggression sexualised abuse, character attacks and online intimidation designed less to answer their positions than to drive them out of public life altogether a pattern that implicates equal political participation under Articles 325 and 326 as much as it does personal dignity.

VI. The Constitutional Framework

No single constitutional clause is addressed to "gender-based aggression" by name; the protection instead emerges from the interaction of several fundamental rights, directive principles and a fundamental duty, developed considerably by judicial interpretation over time.

A. Equality and Non-Discrimination

Article 14's guarantee of equality before the law means, in this context, that neither social prestige, wealth nor political connection can place an accused person beyond the reach of ordinary legal process, and that investigating authorities may not extend an accused preferential treatment on that basis. The Supreme Court's move from formal to substantive equality is well illustrated by its invalidation of a colonial-era provision restricting women's employment in establishments serving liquor, ostensibly for their own protection; the Court held that protective legislation resting on gender stereotype is itself a form of discrimination.¹⁸ Article 15(1) reinforces this by directly prohibiting sex-based discrimination, a principle central to the Court's decision striking down the erstwhile offence of adultery, which had treated a wife's sexual agency as effectively subordinate to her husband's, on the footing that this rested on an outdated assumption about women's autonomy incompatible with Articles 14, 15 and 21.¹⁹ Article 15(3), by contrast, permits rather than prohibits special provision for women, and the Court has upheld affirmative measures such as employment preference on this basis, provided they advance substantive equality rather than reinforce paternalistic stereotype.²⁰

B. Employment, Livelihood and Bodily Autonomy

Article 16's guarantee of equal opportunity in public employment underpinned the Court's

¹⁷ *Sheela Barse v. State of Maharashtra*, (1983) 2 SCC 96.

¹⁸ *Anuj Garg v. Hotel Association of India*, (2008) 3 SCC 1.

¹⁹ *Joseph Shine v. Union of India*, (2019) 3 SCC 39.

²⁰ *Government of Andhra Pradesh v. P.B. Vijayakumar*, (1995) 4 SCC 520.

direction that women officers in the armed forces be considered for Permanent Commission on equal terms, rejecting assumptions about domestic responsibility or physical capacity as a basis for restricting career advancement.²¹ Article 19(1)(g)'s freedom to pursue an occupation is undermined wherever workplace harassment makes that freedom illusory in practice even where it exists on paper. Article 21, read as encompassing a right to live with dignity rather than mere physical survival, is perhaps the broadest textual anchor of all: it protects bodily autonomy and personal choice against both state and private interference, a principle reflected once again in the restoration of an adult woman's marital choice against her family's objection.²² Article 23's prohibition on forced labour and trafficking, meanwhile, has been read broadly enough to capture economic coercion falling short of physical compulsion, which is directly relevant wherever poverty and gender disadvantage combine to enable exploitation.²³

C. Directive Principles and the Duty to Renounce Derogatory Practice

Although not directly enforceable, the directive principles supply the policy foundation for the statutory framework discussed above: Article 39(a) directs the state toward securing an equal right to livelihood for men and women, Article 39(d) toward equal pay for equal work a principle the Court has read into Articles 14 and 16 despite its directive-principle location²⁴ and Articles 39(e) and 42 direct attention to humane working conditions and maternity protection respectively. Article 51A(e), a fundamental duty rather than a right, obliges every citizen to renounce practices derogatory to women's dignity, a provision that speaks directly to the social forms of aggression discussed in Part III: custom and tradition cannot be invoked to legitimise conduct that demeans women merely because the practice is of long standing.

VII. The Criminal Law Response: BNS and BNSS

The BNS does not create a distinct offence labelled "aggression by a powerful person"; rather, the relevant conduct is prosecuted under the ordinary offence it falls within, with the accused's social, economic or political standing relevant chiefly to how the case is investigated and tried rather than to the definition of the offence itself.

²¹ Secretary, Ministry of Defence v. Babita Puniya, (2020) 7 SCC 469.

²² Shafin Jahan v. Asokan K.M., (2018) 16 SCC 368.

²³ People's Union for Democratic Rights v. Union of India, (1982) 3 SCC 235.

²⁴ Randhir Singh v. Union of India, (1982) 1 SCC 618.

Rape is defined in section 63,²⁵ and the Court's guidance that a survivor's testimony be assessed on its own merits, without a presumption of corroboration and free from stereotypical assumptions about how a victim ought to behave, remains the governing standard for its application.²⁶ Section 74 addresses assault or criminal force intended to outrage a woman's modesty and, following the decision in the Rupan Deol Bajaj matter discussed above, cannot be dismissed as trivial merely because the accused occupies a position of social standing; it carries a mandatory minimum sentence of one year, extendable to five.²⁷ Section 76 addresses the more serious offence of assault with intent to disrobe, carrying a minimum of three years' imprisonment,²⁸ while section 77 criminalises voyeurism a provision of growing relevance where technological or institutional access is used to invade a woman's privacy and the resulting material weaponised against her.²⁹ Section 78 addresses stalking, including its digital forms, and section 79 addresses words, gestures or acts intended to insult a woman's modesty, a concept the Court has tied to the dignity and sexual integrity of the victim rather than to any fixed catalogue of conduct.³⁰

Sections 80, 85 and 86 address dowry death and cruelty by a husband or his relatives, with the Court repeatedly stressing that the statutory presumption attaching to dowry death requires the underlying ingredients to be independently established before it can operate,³¹ a discipline it applied equally under the predecessor cruelty provision of the former Penal Code.³² Finally, section 351's criminal intimidation offence captures the mechanism through which powerful offenders most often suppress complaints in the first place not necessarily through further physical violence, but through threats to reputation, employment or safety credible enough to deter reporting altogether.³³

Procedurally, the Bharatiya Nagarik Suraksha Sanhita, 2023 ("BNSS") governs how these offences are investigated and tried. Its provisions on recording information in cognizable cases³⁴, the corresponding duty to investigate,³⁵ the general procedure for investigation,³⁶

²⁵ Bharatiya Nyaya Sanhita, 2023, s. 63.

²⁶ State of Punjab v. Gurmit Singh, (1996) 2 SCC 384.

²⁷ Bharatiya Nyaya Sanhita, 2023, s. 74.

²⁸ Bharatiya Nyaya Sanhita, 2023, s. 76.

²⁹ Bharatiya Nyaya Sanhita, 2023, s. 77.

³⁰ Ramkripal v. State of Madhya Pradesh, (2007) 11 SCC 265.

³¹ Kans Raj v. State of Punjab, (2000) 5 SCC 207.

³² Girdhar Shankar Tawade v. State of Maharashtra, (2002) 5 SCC 177.

³³ Bharatiya Nyaya Sanhita, 2023, s. 351.

³⁴ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 173.

³⁵ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 175.

³⁶ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 176.

special safeguards for recording statements and confessions in sexual offence cases,³⁷ the medical examination of rape survivors,³⁸ and the final police report on completion of investigation³⁹ collectively exist to ensure that the strength of the case turns on evidence rather than on the relative influence of the parties before the investigating agency.

VIII. Institutional Oversight: The National Commission for Women

The National Commission for Women, established under the National Commission for Women Act, 1990, functions as a statutory safety valve for precisely the situations this article is concerned with: cases in which local police or administrative authorities are reluctant, or unable, to act against a socially, economically or politically influential accused. Its powers include receiving and examining complaints, taking suo motu notice of matters affecting women's rights, and exercising civil-court-like powers of summons and evidence-taking in the course of its inquiries.⁴⁰ It is not, however, a substitute for the criminal courts or the police; its function is investigatory and recommendatory, feeding into rather than replacing the ordinary criminal justice process, while also performing a longer-term role in reviewing the adequacy of existing legal safeguards for women.

IX. Persisting Obstacles

The legislative and constitutional architecture described above remains only as effective as its implementation, and a number of structural obstacles continue to blunt its impact where the accused is powerful. Reporting rates remain depressed by fear of retaliation, social stigma and the practical difficulty of pursuing a complaint against someone the victim depends upon economically or socially. Even where a complaint is registered, victims and witnesses frequently face direct or indirect intimidation, and investigations can be slowed, diluted or redirected where political or administrative influence intrudes into what ought to be an insulated process.

Digital platforms have added a further and rapidly evolving layer of vulnerability: online harassment, impersonation, non-consensual circulation of intimate images and coordinated abuse now form part of the toolkit available to powerful aggressors, often operating faster than

³⁷ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 183.

³⁸ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 184.

³⁹ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 193.

⁴⁰ National Commission for Women Act, 1990, ss. 8 and 10.

existing cyber-investigative capacity can respond. Beneath all of this lies a more diffuse problem of victim-blaming and social stigma, which continues to make disclosure costly even where the formal legal remedies are, on paper, entirely adequate. The intersection of social, economic and political power compounds each of these obstacles rather than merely adding to them, since an aggressor who commands all three forms of leverage simultaneously is correspondingly harder to hold to account through any single channel.

X. Reform Pathways

Addressing aggression of this kind requires more than the enactment of criminal offences, since offences already exist for virtually every form of conduct discussed in this article; what is missing, in practice, is consistent enforcement immune to the influence the accused happens to wield. Several measures follow from the analysis above.

First, equal enforcement in practice, not merely in principle, requires that complaints against socially, economically or politically prominent persons be registered and investigated exactly as any other complaint would be, without preferential treatment born of status. Second, investigations touching powerful accused persons need genuine independence ideally with the possibility of judicial supervision or transfer of investigation where interference is credibly apprehended, a safeguard consistent with the framework the BNSS itself establishes for investigation.⁴¹ Third, the POSH Act's institutional machinery needs to function as intended, with Internal Committees genuinely insulated from the influence of senior management. Fourth, and perhaps most urgently, victims and witnesses require protection mechanisms robust enough that pursuing a complaint does not itself become a source of danger confidentiality, safe channels of communication and freedom from retaliatory professional or social consequences chief among them.

Fifth, economic empowerment access to education, employment, equal wages and secure property rights reduces the structural dependency that makes economic aggression possible in the first place, and should be understood as a preventive measure in its own right rather than merely a remedial one. Sixth, police training in gender-sensitive investigation, coupled with meaningful accountability for failures to register or properly investigate complaints, addresses the point in the system where influence most often takes effect. Seventh, expedited and victim-

⁴¹ Bharatiya Nagarik Suraksha Sanhita, 2023, s. 175.

sensitive trial procedures reduce the window within which pressure can be brought to bear on a complainant, while still preserving the accused's right to a fair hearing. Finally, specialised cyber-investigative capacity, accessible legal aid for complainants facing well-resourced accused persons, and sustained gender-sensitisation across police, judiciary and workplaces together address the newer and more diffuse obstacles identified in Part IX.

XI. Conclusion

Gender-based aggression by socially, economically or politically powerful persons sits at an uncomfortable intersection of constitutional promise and social reality. India's legal architecture from the equality and dignity guarantees in Articles 14, 15 and 21, through the BNS's consolidated offences against women, to specialised statutes governing domestic violence and workplace harassment is, on its face, comprehensive. What the case law surveyed in this article shows, however, is that the decisive battles are rarely fought over the adequacy of the text; they are fought over whether that text is applied without regard to who the accused happens to be. The recurring judicial insistence from the refusal to shield a Director General of Police from prosecution to the refusal to let family or caste authority override an adult woman's choice of partner is that power, however acquired, creates no exception to the ordinary operation of the law. Translating that principle into everyday practice, at the level of the police station and the trial court rather than only in the law reports, remains the unfinished task.