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Going Further Than the Truth' – Socio-Legal Analysis of Women Empowerment in Modern India

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ABSTRACT

This paper shall endeavor to answer a basic question – Has empowerment become a pre-requisite for women in India? If yes, then why? In what social arena of circumstances has the need been felt? The author firmly believes that despite far-reaching projected effects that today's stringent laws seem to demonstrate; the tangible state of women in India is far from tolerable. Laws and court judgments, no matter how authoritative and well-put, cannot yield the necessary consequences that are often prophesized during their state of the nativity. The author seeks to illumine the dark corners of prejudice and illogical orthodoxy in which women seem to find themselves, time and again. Law alone becomes a rusted sword, its efforts thwarted by cultural conventions and beliefs that blind us and seep into our very roots. Successes and failures of Indian Legislature and Judiciary to do the same have also been highlighted. A brief focus has also been laid on channels that can be capitalized on, to achieve this goal. This research will provide a condensed and brief outlook upon the prevailing condition of women in India and showcase the escalating divergence between what is projected to be the truth and what is the actuality. The author has also taken the liberty to support the claim through doctrinal research hinging on secondary data sources related to India and further suggested certain measures and ways, as per a law student, which can be employed to prevent India's long evidential history of oppressing and degrading women.

Keyword(s): Channels, Empowerment, Laws, Prejudice, Stringent, Suppressing, Women.

I. OBJECTIVES & METHODOLOGY

This study aims to hypothesize and establish the following grounds-

1. Truth from falsehood- To showcase that major tenets of women empowerment in India remain unfulfilled

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2. Legal fora and legislative schemes alone are incapable of empowering women.

II. HYPOTHESIS

1. Legal and legislative assistance alone cannot empower women.
2. Social intervention is equally important and only by the amalgamation of three can we empower women.

III. RESEARCH METHODOLOGY

This study has been conducted in a ‘Doctrinal research² format’ primarily hinging on Secondary data resources obtained from government reports, International agencies, and case laws.

IV. INTRODUCTION

Another March 8³ has come and gone. Another day to celebrate the gender that continues to shatter itself to shape us into existence has come and gone. And although media and similar agencies had a lot to say and eulogize about the sufferings and struggles of women, not a single agency cares to ask the needful – why?

Why was *Mary Roy*⁴ not allowed to inherit her father’s property? What prompted *Bhanwari Devi*⁵ to stop a child marriage or prohibited *Lata Singh*⁶, *Hadiya*⁷ (also known by *Akhila Ashokan*) to marry a person of their own choice? What led to public outrage when *Bindu Ammini* and *Kanakadurga*⁸ entered *Sabrimala* temple after Supreme Court’s verdict⁹? What were the conditions that were so dire, so suppressing and intimidating in there a force that prompted this gender to choose a chattel like life over a dignified existence? Most importantly, are they still suffering?

UN theme for March 2019 was “*Think equal, build smart and Innovate for Change.*”¹⁰ Applying this in the Indian context, the Supreme Court has time and again reiterated the need for gender-neutral and anti-discriminatory laws¹¹. It has proven its resolve by delivering,

² *Doctrinal research is concerned with legal preposition and doctrines. It is research into the law and legal concepts. The sources of data are legal and appellate court decisions.*

³ March 8 is celebrated worldwide as International Women’s Day.

⁴ *Mrs. Mary Roy Etc. vs. State Of Kerala & Ors*, 1986 (1) S.C.R 371.

⁵ *Vishaka & Ors vs. State of Rajasthan & Ors*, A.I.R 1997 S.C 3011(India).

⁶ *Lata Singh vs. State Of U.P. & Another*, 2006(5) S.C.C 475 (India).

⁷ *Shafin Jahan vs. K.M Ashokan & Ors*, A.I.R 2018 S.C 357.

⁸ First two women to enter the Sabrimala premises after Supreme Court’s verdict.

⁹ *Indian Young Lawyers Assn. v. State of Kerala*, **2018 SCCOnLine S.C 1690** (India).

¹⁰ Author Unknown, *International Women’s Day 2020*, U.N WOMEN (May. 20, 2020, 10:04 AM), <https://www.unwomen.org/en/news/in-focus/international-womens-day>.

¹¹ Saurav Datta, ‘*Anti-Discrimination Bill: India needs comprehensive law to punish prejudice, uplift diversity*’ FIRSTPOST (May. 20, 2020, 10:30 AM), <https://www.firstpost.com/india/anti-discrimination-bill-india-needs->

perhaps rightly so, women-centric judgments to bring men and women on an equal pedestal. Various laws have been enacted to weaken the patriarchal rule of law in Indian society. Landmark judgments such as *Air India v. Nargesh Meerza*¹² (Article 14), *Kathi Ranning v. State Of Saurashtra*¹³ and *Dattatraya v. State*¹⁴ (Special provisions for women under Article 15 of constitution Of India), *Rajesh Gupta v. State Of U.P*¹⁵ (Reservation of 50% of posts in favor of female candidates is not arbitrary) have helped in establishing some sense into this man-dominant society. It seems that the general population has established precedence in failure to realize that women could potentially contribute to India's growth and think tank.

All is not well in the 'Land of Men'. The author has primarily concentrated on judge-made laws and policies of the government and how, despite there being a wave of upheaval and turnover in our democracy, this entire movement has been reduced to nothing but a passing wave.

This can be summarised in a better way in the words of Ex-CJI *Dipak Misra* who wrote- "*In the theatre of life, it seems the man has put the autograph and there is no space for a woman to put her sign. Historically, women have been treated with inequality and that is why, many have fought for their rights.*"¹⁶

The author argues that despite Innumerable judgments on breaking down the hegemonic patriarchal nature of Indian society, despite there being chants of this being the 21st century and all other identical gibberish that millennial appear to be fed today, Why is there a need for policy formations that take stock of poor women conditions in India? What was the need to reiterate such a statement in 2018¹⁷? It seems that what is projected to be the reality on paper lives on the opposite pole from the truth. The very fact that such judgments repeat adages prove that measures taken for women empowerment are, to some extent, failing and to most extent, merely telltale.

V. LEGISLATIVE ACTIONS (SCHEMES)

Recently, The Indian government launched some important schemes to empower women. These schemes are sole "Women-Centric"¹⁸. Other schemes such as *Pradhan Mantra Jan Dhan*

a-comprehensive-law-to-punish-prejudice-encourage-diversity-3340830.html.

¹² A.I.R 1981 S.C 1829 (India).

¹³ S.C.R 1952 S.C 435 (India).

¹⁴ AIR 1953 Bom. 311(India).

¹⁵ Appeal (Civil) No. 3048-3064 of 2005(India).

¹⁶ *Supra* Note 8, ¶ 2.

¹⁷ *Ibid.*

¹⁸ *Adjective. (comparative more feminocentric, superlative most feminocentric) woman-centric, focused on women; of or pertaining to feminocentrism.- Oxford Dictionary Online*

*Yojna*¹⁹, *Stand Up India*²⁰ and *MUDRA Yojana*²¹ have been projected as Women-Centric which in fact, are meant to empower the Indian population in general.

1. 'Beti Bachao, Beti Padhao' Movement for eradicating cases of female foeticide and female illiteracy in India launched in 2015
2. One-Stop Centre 'SAKHI' Scheme for providing medical and legal aid to women across India launched in 2015
3. 'SWADHAR GREH' which provides free of cost water, food and clothing to women/girls from marginalized sections of Indian society launched in 2002
4. PRAGATI scheme for the scholarship for a girl child. However, it is interesting to note that for the last two years; only 4554 girls have been benefitted through this scheme²².
5. SUKANYA SAMRIDHI YOJNA scheme for opening saving accounts for girls.
6. Take-home salaries of women employees (only 8% EPFO for the first three years of employment)

All of these schemes, along with various other state-specific schemes aim at empowering women. They aim to provide easy access to public facilities that women might be denied. The author does not wish to argue or establish the helplessness of the government in combating the patriarchal rule of law in India nor do they deny the tiresome efforts for the same. Along the same lines, the author also wishes to agree that both, Judiciary and Legislature have made it clear *that their aim is not to handover crutches to women but only to level the field*. However, the real point of contention lies forth in there applicability, execution, and consequential relief. Why despite so many laws, does our motherland fail to defend her female child?

VI. LAWS & INTERVENTIONIST APPROACH OF JUDICIARY

Undeniably, the Supreme Court has been the greatest champion and perhaps the strongest of the strong guardians and defending the dignity of women. This fact remains undisputed till date. It is pertinent to add that in recent years, the judiciary has taken upon itself to fill up the lacunas and loopholes that legislators of our country fail to see while framing laws. As an ironically false outcome, *women have been projected to be free from the social stigma that usually accompanies them as a cost to being free*. It is a cost they must pay for dressing in

¹⁹ Increased access to financial and banking institution.

²⁰ Scheme dedicated to SC,ST and Women entrepreneurs.

²¹ No bank guarantee for loans to marginalised sections of the society.

²² Author Unknown, *A New Security Paradigm For Women Empowerment*, NARENDRA MODI (May. 20, 2020, 11:30 AM), <https://www.narendramodi.in/a-new-security-paradigm-for-women-empowerment-22-march-2019-544184>.

western attires and walking down alleys at night. But the truth lies in ever-increasing cases of ravishing and other forms of sexual assaults. Where the projected truth is shown by media as a woman reaching safely home despite being late at night, the reality lies in their complete inability to use public facilities or occupy public spaces at night or risk using them at the cost of their lives²³.

The situation remains the same at any time of the hour, at any day, with any attire and with any age²⁴. Women are subjected to soft forms of sexual assault like eve-teasing daily. This is done so much that it has become a new normal for them. Accompanied by it, is the social stigma or the prying eyes of people. Usually the family is blamed and their inability to control their daughters from using public spaces (a right which every human has) is shown as the root cause. This further destroys the victim's confidence in society and its projected channels of justice.

Recent women empowering judgments have also played a key role in revolutionizing the way women have essentially been viewed in India. It was Supreme Court that held that an unwed mother need not name her child's father²⁵. It has also been responsible for morphing men-dominant, discriminatory and predatory workplace zones into safe havens for women²⁶. Letting go of draconian unjustified principles covered as ethics, the Supreme Court held hands with the upcoming age and held that a couple living under the same roof, for an exceptional amount of time and seemingly appearing as married, consequently acquired the rights and liabilities arising out of a marriage²⁷. For the first time, unfettered selling of acid was banned, and consequently, throwing acid was also made punishable²⁸. One of the biggest reliefs came to Muslim women by the declaration of 'Triple Talaq' as unconstitutional²⁹. On the same grounds, discriminatory practices carried on in *Sabrimala* temple against menstruating women of age 10-50 was also declared unconstitutional³⁰.

²³ Shruti Rajagopalan, 'The Single-Word Answer To What Indian Women Want' LIVEMINT (May 20, 2020, 1:00 P.M), <https://www.livemint.com/opinion/online-views/the-single-word-answer-to-what-indian-women-want-1566236143934.html>.

²⁴ ELISE SOLÉ, *WHY DO PEOPLE BLAME SEXUAL HARASSMENT ON WOMEN'S OUTFIT?*, HUFF POST (MAY. 20, 2020, 1:30 P.M), [HTTPS://WWW.HUFFPOST.COM/ENTRY/WHY-DO-PEOPLE-BLAME-SEXUAL-HARASSMENT-ON-WOMENS-OUTFITS_N_5A3BDBEEE4B0B0E5A7A06154](https://www.huffpost.com/entry/why-do-people-blame-sexual-harassment-on-womens-outfits_n_5a3bdbeee4b0b0e5a7a06154).

²⁵ *ABC vs. The State (NCT of Delhi)*, SLP (Civil) No. 28367 of 2011.

²⁶ *Supra* note 4.

²⁷ *Dhannulal & ors. V. Ganeshram and ors*, 2015(4) SCALE 613 (India).

²⁸ *Laxmi v. Union of India*, (2014) 4 S.C.C 427.

²⁹ *Sayarabano Vs. Union of India* - Pronounced on August 22, 2017, it set aside the practice of "Triple Talaq". The bench declared Triple Talaqs unconstitutional by a 3:2 majority. The Judgment by the minority bench also further directed the Government of Union of India to lay a proper legislation in order to regularize the proceedings of divorce as per Shariat law. Taking into consideration the views of the Supreme Court, the Muslim Women (Protection of Rights on Marriage) Bill, 2018 ("**Triple Talaq Bill**") was introduced in Lok Sabha by the Minister of Law and Justice, in December, 2018.

³⁰ *Supra* Note 8.

VII. SIFTING TRUTH FROM FALSEHOOD

The Author would like to reiterate that they do not deny the efforts of the Indian legislature and judiciary in respect of empowering women. But what they do wish to prove is the glaring abnormality between the effects such laws should have produced and the effect they are producing.

(A) Crimes Against Women

It cannot be disputed that women have struggled to reach where they are at the present. Many people would even call it a victory. However, the laws keep on getting stringent and crimes only keep on increasing. As per the recent NCRB (National Crime Record Bureau) data report of 2016 titled “Crimes In India”, nearly 520 cases were reported for rape on girls below 6 years of age and an overall 18,683 cases for girls below 18 years of age³¹. What is astonishing is that stringent regulatory laws had already been made in the form of Protection of Children from Sexual Offences Act of 2012.

However, the legislature woke up after the *Kathua* tragedy³² and framed even more stringent laws in the form of the death penalty for child sexual abuse and heavy fines for child pornography³³. The situation remains dark and grim. Even after such resolves, the Supreme Court faces 4 child rape cases every day. In the last 6 months from July 2019, nearly 729 cases had been recorded in the national capital alone³⁴. This only goes on to prove the worsening condition of girl children in India.

Women rape laws have been stretched to their maximum limit by introducing ‘Death penalty’ and ‘life Imprisonment’, which is to be interpreted as the remainder of a person’s natural life³⁵. One would assume that such an action would instill fear in the mind of the perpetrator and have the desired deterrent effect. However, even after the *Nirbhaya* case³⁶ and introduction of

³¹ National Crimes Record Bureau, *Crime In India 2016*, MINISTRY OF HOME AFFAIRS (May. 21, 2020) <https://ncrb.gov.in/sites/default/files/Crime%20in%20India%20%202016%20Complete%20PDF%20291117.pdf>

³² *The Kathua rape case refers to the abduction, rape, and murder of an 8-year-old girl, Asifa Bano, in Rasana village near Kathua in Jammu and Kashmir, India, in January 2018.*

³³ The Protection of Children from Sexual Offences (Amendment) Bill, 2019 amends Section-2, 4, 5, 6, 9, 14, 15, 34, 42 and 45 for the aforementioned purpose. The bill lapsed by dissolution of the 16th Lok Sabha session; however, on July 24, 2019 it was also approved by Rajya Sabha and is now pending presidential assent.

³⁴ Dhananjay Mahapatra, *4 child-rape cases every day, situation grim: Supreme Court*, TIMES OF INDIA (May 21, 2020, 10:00 A.M.), <https://timesofindia.indiatimes.com/city/delhi/4-child-rape-cases-every-day-situation-grim-sc/articleshow/70235527.cms>.

³⁵ New sections 376 AB, DB, DA in Indian Penal Code, 1860 by Criminal Law amendment Act, 2018 introduce 20 years of imprisonment, life imprisonment and punishment of death with fine.

³⁶ The 2012 Delhi gang rape case involved a rape and fatal assault that occurred on 16 December 2012 on a 23-year-old female physiotherapy intern, *Jyoti Singh Pandey*, who was beaten, gang raped, and tortured in a private bus in which she was travelling with her friend, *Awindra Pratap Pandey*. There were six others in the bus, including the driver, all of whom raped the woman and beat her friend. Eleven days after the assault, she was transferred to a hospital in Singapore for emergency treatment but succumbed to her injuries two days later.

amendments in 2013³⁷, nearly 22205 cases were registered for rape in the age group of 18-60³⁸.

S. No	State/UT	Cases Reported	Victims of (Section 4 & 6 of POCSO Act r/w Section 376 IPC)					Victims of (Section 376 IPC)					Total Victims (Col.8+ Col.13)
			Below 6 Years	6 Years & Above - Below 12 Years	12 Years & Above - Below 16 Years	16 Years & Above - Below 18 Years	Total Girl /Child Victims	18 Years & Above - Below 30 Years	30 Years & Above - Below 45 Years	45 Years & Above - Below 60 Years	60 Years & Above	Total Women / Adult Victims	
1	2	3	4	5	6	7	8	9	10	11	12	13	14
STATES:													
1	Andhra Pradesh	994	17	43	142	261	463	436	85	9	2	532	995
2	Arunachal Pradesh	92	3	12	25	10	50	32	7	2	1	42	92
3	Assam	1779	0	52	147	265	464	938	373	4	0	1315	1779
4	Bihar	1008	0	7	41	121	169	684	146	9	0	839	1008
5	Chhattisgarh	1626	33	79	340	532	984	475	150	13	5	643	1627
6	Goa	61	2	3	15	20	40	8	11	2	0	21	61
7	Gujarat	982	10	23	175	319	527	304	146	7	2	459	986
8	Haryana	1187	32	82	194	210	518	474	165	29	3	671	1189
9	Himachal Pradesh	252	6	13	67	62	148	81	23	6	0	110	258
10	Jammu & Kashmir	256	2	1	9	9	21	182	51	2	0	235	256
11	Jharkhand	1109	0	16	51	138	205	657	212	36	0	905	1110
12	Karnataka	1655	39	73	295	735	1142	418	94	14	3	529	1671
13	Kerala	1656	42	146	276	412	876	525	226	27	7	785	1661
14	Madhya Pradesh	4882	39	153	964	1323	2479	1790	545	86	8	2429	4908
15	Maharashtra	4189	107	241	732	1230	2310	1425	436	42	3	1906	4216
16	Manipur	55	1	2	7	8	18	24	11	2	0	37	55
17	Meghalaya*	190	12	26	49	36	123	49	20	2	0	71	194
18	Mizoram	23	1	2	4	2	9	7	5	0	2	14	23
19	Nagaland	26	2	5	4	8	19	1	6	0	0	7	26
20	Odisha	1983	5	32	404	817	1258	597	127	2	0	726	1984
21	Punjab	838	15	33	175	187	410	281	139	9	1	430	840
22	Rajasthan	3656	6	37	195	539	777	2032	807	41	0	2880	3657
23	Sikkim	92	0	16	27	14	57	32	9	0	0	41	98
24	Tamil Nadu	319	0	0	0	0	0	279	37	4	0	320	320
25	Telangana	1278	25	65	272	257	619	480	137	26	16	659	1278
26	Tripura	207	5	28	40	35	108	73	24	2	0	99	207
27	Uttar Pradesh	4816	56	271	1078	710	2115	2092	543	65	2	2702	4817
28	Uttarakhand	336	2	13	41	35	91	166	74	5	0	245	336
29	West Bengal	1110	0	0	0	0	0	804	268	38	0	1110	1110
TOTAL STATE(S)		36657	462	1474	5769	8295	16000	15346	4877	484	55	20762	36762
UNION TERRITORIES:													
30	A & N Islands	30	1	0	0	0	1	25	3	1	0	29	30
31	Chandigarh	68	2	4	18	17	41	21	6	0	1	28	69
32	D&N Haveli	14	0	0	6	3	9	5	0	0	0	5	14
33	Daman & Diu	12	0	0	2	6	8	1	3	0	0	4	12
34	Delhi UT	2155	55	116	294	335	800	1059	302	9	0	1370	2170
35	Lakshadweep	5	0	2	0	0	2	2	1	0	0	3	5
36	Puducherry	6	0	0	2	0	2	3	0	0	1	4	6
TOTAL UT(S)		2290	58	122	322	361	863	1116	315	10	2	1443	2306
TOTAL (ALL INDIA)		38947	520	1596	6091	8656	16863	16462	5192	494	57	22205	39068
Percentage Share of Age-Group of Victims			1.3	4.1	15.6	22.2	43.2	42.1	13.3	1.3	0.1	56.8	100.0

³⁷ Throwing acid was made punishable along with sexual assault on women by insertion of sections 326 A and B along with 354 A, B, C, D (Disrobing, passing sexually coloured remarks, voyeurism, stalking).

³⁸ *Supra* note 30.

Table 3A.3 of Crimes in India-2016 titled 'Women and girl victims of rape in different age groups' Data provided by the National Crime Records Bureau website.

What is worse is the political cover-ups and witness vanishing trend that states like UP (which observes highest women related crimes – nearly 3000) seem to practice despite such laws³⁹. The *Unnao rape tragedy*⁴⁰ of 2017 remains one such soul-crushing example of political intervention in the justice delivery system of India. Although there has been a decrease of around 1000 cases from 2012 (24,100 approximately) to 22, 200 in 2016, the very fact that the difference remains insignificant is a clear example that laws alone cannot do wonders for empowering women.

Unfortunately, in all the rape cases reported from 2012-2016, 95% of the victims knew the culprit as belonging to a close circle of family and friends⁴¹. Trivial and marginal decrease in crime rates against women cannot be a thing to celebrate about; certainly when women still feel unsafe in occupying public spaces even today. In 2018, a total of 2043 rapes saw the light in comparison to 2059 cases of 2017. However, only 3175 cases of molestation were reported last year in comparison to an increase to 3275 this year. To further showcase the deteriorating health of women safety laws in India, 2018 saw nearly 5 women being raped every day in Delhi. 569 cases for sexually colored remarks were registered in 2018 as compared to 621 in 2017⁴². The author would like to point out that they do not aim to find out solutions that can end this social evil. However, given the population size, ever-increasing migrant population in metropolitan areas and borders slowly turning to bones rather than soil, the government ought to take steps to at least prevent an increase in such crimes, if not completely curb them.

Furthermore, Gender equality laws and schemes have always been eulogized for their thought process and philanthropy. When *Vishakha* guidelines⁴³ were introduced and consequently “The

³⁹ Divya Trivedi, *Unnao rape case: Corrupt nexus*, FRONTLINE (May 21, 2020, 10:05 A.M), <https://frontline.thehindu.com/the-nation/article29132282.ece>.

⁴⁰ The Unnao rape case refers to the gang rape of a 17-year-old girl on 4 June 2017. To date, two charge sheets have been filed in the case. The first charge, filed by the Central Bureau of Investigation on 11 July 2018, accused *Kuldeep Singh Sengar*, an expelled and former BJP leader and MLA from Uttar Pradesh, with the alleged rape of a 17-year-old girl. The second charge sheet was filed on 13 July 2018 and named *Kuldeep Singh Sengar*, his brother, three policemen and five other individuals for allegedly framing the Unnao rape survivor's father as the perpetrator.

⁴¹ Saachi Sharma, *NCRB data shows 95% rape victims in India known to offenders; Madhya Pradesh tops the list*, FIRSTPOST (May 21, 2020, 11:30 A.M), <https://www.firstpost.com/india/ncrb-data-shows-95-rape-victims-in-india-known-to-offenders-3433136.html>.

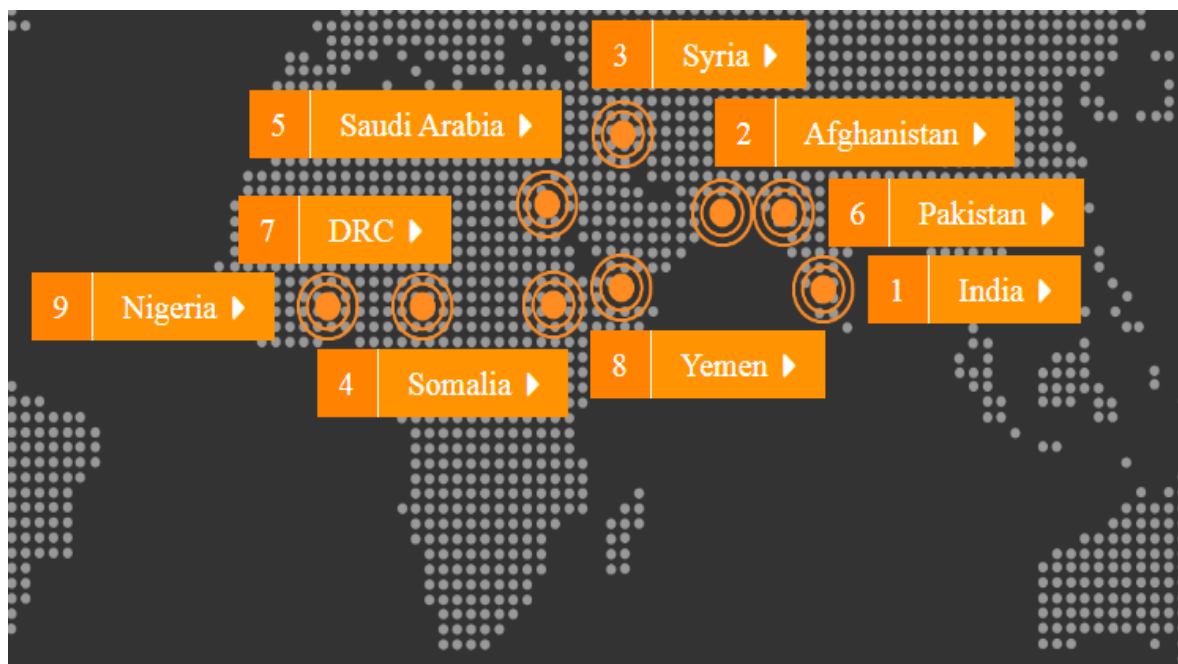
⁴² Author Unknown, *Five women raped everyday in Delhi last year: Police*, INDIA TODAY (May 21, 2020, 11:35 A.M), <https://www.indiatoday.in/india/story/five-women-raped-everyday-in-delhi-last-year-police-1427501-2019-01-10>.

⁴³ The Vishaka Guidelines were a set of procedural guidelines for use in India in cases of sexual harassment. They were promulgated by the Indian Supreme Court in 1997 and were superseded in 2013 by the Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

Sexual *Harassment of Women at Workplace* (Prevention, Prohibition and Redressal) Act, 2013” came into existence, it was assumed that the guidelines, enlightened by the act would lead to a safer environment for women at workplace. But, cases against sexual harassment at the workplace have seen a steep incline from 371 in 2013 to 570 in 2017, registering an increase of 54% in such cases⁴⁴. This clearly shows that both the law and legislature have failed to prevent, if not curb this heinous act.

(B) Gender Gap And Disparity In HDI

Globally, in 2018, India was named one of the most dangerous countries for women by a survey conducted by Thomson Reuter’s Foundation for 198 countries across the world⁴⁵. It was an eye-opener to watch countries with fewer women rights such as Syria, Afghanistan, and Saudi Arabia fall on the bottom low of the list and countries like India, where judiciary and legislature were working hand-in-hand to top such a list.



*Image 1*⁴⁶

As per the UNDP Report of 2018 on Human development indices and indicators, India stands at the bottom 130th rank out of 189 countries in HDI⁴⁷. This index has seen only a measly

⁴⁴Chaitanya Mallapur and Anmol Alphonso, *#MeTooIndia: 54% Rise In Sexual Harassment Reported At Workplaces between 2014-17*, INDIA SPEND (May 23, 2020, 3:45 P.M), <https://www.indiaspend.com/metooindia-54-rise-in-sexual-harassment-reported-at-workplaces-between-2014-17/>.

⁴⁵THOMSON REUTERS FOUNDATION ANNUAL POLL, *The World’s Most Dangerous Countries For Women*, THOMSON REUTERS FOUNDATION (May 24, 2020, 10:00 A.M), <https://Poll2018.Trust.Org/>.

⁴⁶*Ibid.*

⁴⁷Author Unknown, *India ranks 130 on 2018 Human Development Index*, UNDP INDIA (May 23, 2020, 5:00 P.M) <https://www.in.undp.org/content/india/en/home/sustainable-development/successstories/india-ranks->

increase from 0.427 to 0.640 from 1990 to 2018⁴⁸. This index is calculated on four bases namely GNI per capita, life expectancy at birth, expected years of schooling, and mean years of schooling. The greatest demerit of the HDI index is inequality in resource distribution. This index is calculated on average without due regard to the equal distribution of resources among the population. This is curbed by the IHDI (Inequality Human development Index). In this regard, India seems to perform far worse than countries like Bangladesh with a significant loss of HDI points from 0.640 to 0.48. This accounts for a total loss of 26.8 % which is greater than Bangladesh's 24.1%, thus indicating an unequal distribution of resources amongst the Indian population⁴⁹.

	IHDI value	Overall loss (%)	Human inequality coefficient (%)	Inequality in life expectancy at birth (%)	Inequality in education (%)	Inequality in income (%)
India	0.468	26.8	26.3	21.4	38.7	18.8
Bangladesh	0.462	24.1	23.4	17.3	37.3	15.7
Pakistan	0.387	31.0	29.6	31.0	46.2	11.6
South Asia	0.471	26.1	25.6	21.4	37.7	17.6
Medium HDI	0.483	25.1	24.9	20.3	33.1	21.2

TABLE 1

In terms of gender-based HDI known as GDI (Comparing women human development index with their male counterparts) India again ranks below Bangladesh and most of the South-Asian countries⁵⁰. This index is calculated based on female to male life expectancy ratio, expected years of schooling, and GNI per capita of females in comparison to males. For Bangladesh, the life expectancy ratio stands at 74.6 for females as compared to India's 70.4. Along the same front, the GII Index shows blatant irregularities and the true face of women empowerment in India⁵¹.

	Life expectancy at birth		Expected years of schooling		Mean years of schooling		GNI per capita		HDI values		F-M ratio
	Female	Male	Female	Male	Female	Male	Female	Male	Female	Male	GDI value
India	70.4	67.3	12.9	11.9	4.8	8.2	2,722	9,729	0.575	0.683	0.841
Bangladesh	74.6	71.2	11.7	11.3	5.2	6.7	2,041	5,285	0.567	0.644	0.881
Pakistan	67.7	65.6	7.8	9.3	3.8	6.5	1,642	8,786	0.465	0.620	0.750
South Asia	70.9	67.8	12.1	11.7	5.0	8.0	2,694	10,035	0.571	0.682	0.837
Medium HDI	71.1	67.2	12.2	11.8	5.6	7.9	3,673	9,906	0.598	0.680	0.878

TABLE 2

130-on-2018-human-development-index.html

⁴⁸ *Ibid.*

⁴⁹ HUMAN DEVELOPMENT REPORT (2019), *Inequalities in Human Development in the 21st Century*, UNDP (May 23, 2020, 3:45 P.M), http://hdr.undp.org/sites/all/themes/hdr_theme/country-notes/IND.pdf

⁵⁰ *Ibid.*

⁵¹ *Ibid.*

In the gender Inequality Index of 2017, India stands at 127 out of 189 countries⁵². This index is calculated on maternal mortality ratio, labor force participation, female seats in parliament, adolescent birth ratio, and least amount of secondary education. The UNDP report states that in India, only 11.6 % of parliamentary seats are held by women. In terms of education, 63.5% of males complete their secondary education while only 39 % of females can accomplish such a feat. Part of the problem also lies in the orthodox Indian mentality that believes that educating girls is a waste of precious resources as they are eventually going to be married. In terms of health as well, 174 women die during childbirth for every 100,000 live ones. Female participation in labor has sharply come down to 27.2% as compared to 78.8% for men⁵³.

	GII value	GII Rank	Maternal mortality ratio	Adolescent birth rate	Female seats in parliament (%)	Population with at least some secondary education (%)		Labour force participation rate (%)	
						Female	Male	Female	Male
India	0.524	127	174	23.1	11.6	39.0	63.5	27.2	78.8
Bangladesh	0.542	134	176	83.5	20.3	44.0	48.2	33.0	79.8
Pakistan	0.541	133	178	36.9	20.0	27.0	47.3	24.9	82.7
South Asia	0.515	—	176	32.1	17.5	39.8	60.6	27.9	79.1
Medium HDI	0.489	—	176	41.3	21.8	42.9	59.4	36.8	78.9

Maternal mortality ratio is expressed in number of deaths per 100,000 live births and adolescent birth rate is expressed in number of births per 1,000 women ages 15-19.

TABLE 3

This showcases that despite promises and projections when it comes to actual execution, the entire focus shifts from implementation to paper-pen schemes. In terms of the gender gap, the Gender Gap Index (World Economic Forum) 2017, saw India slipping from 87th position to 108th position (out of 144 countries)⁵⁴. The report mentions that there seems to be a Meta son preference in India with discrimination against girls beginning straight up from infancy. Due to such disparity, many girls, especially in low-income households grow anemic, illiterate and malnourished.

In terms of work, more than half of women remain underpaid. Almost all of their convention work remains largely unprotected. As a symbol of poor representation, it was also pointed out that despite having a 40% share in the labor workforce; only 9% owned the land.

⁵² Jayshree Sengupta, *Empowering Women In India – A Great Challenge For Govt. As Well As Society*, OBSERVER RESEARCH FOUNDATION (May 25, 2020, 11:00 A.M), <https://www.Orfonline.Org/Expert-Speak/Empowering-Women-In-India-A-Great-Challenge-For-Govt-As-Well-As-Society/>.

⁵³ *Ibid.*

⁵⁴ *Ibid.*

Percentage of women and men age 15-49

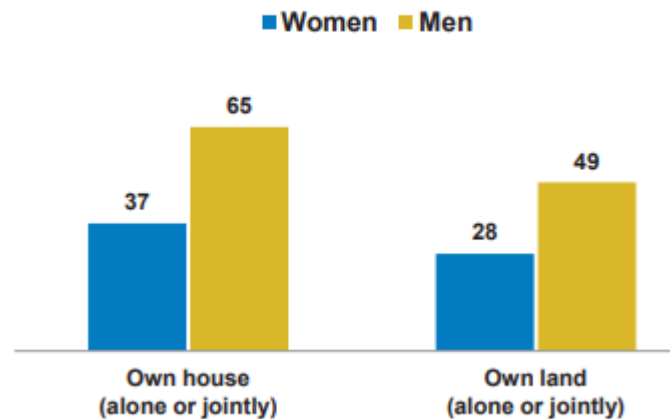


TABLE 4

(C) Health Deterioration And Family Violence

In 2017, 51% of women (14-49 years) were suffering from anemia which was the highest in the world. This is one of the major reasons why the birth of a child takes its toll on young mothers which consequently result in high maternal mortality rate (167 out of 10000 live births)⁵⁵

The Last National Family Health Survey (NFHS) 2016 also reveals some steep/marginal decline in quotients of women empowerment in India⁵⁶. In a shocking report published by NFHS, attitudes towards ‘wife-beating’ haven’t been affected much in the last 10 years, thus pointing at the diversion from much celebrated ‘Modern 21st-century Indian society’ to the society that existed 114 years ago. What is even more astonishing is the fact that 52% of women as compared to only 48% of men consider such beating justified. The same report also reveals that only 41% of the females were allowed to venture alone outside their homes, that too primarily for education and medical needs.⁵⁷

⁵⁵ International Institute for Population Sciences (IIPS) and ICF, *National Family Health Survey (NFHS-4)*, MUMBAI: IIPS (May 22, 2020, 3:00 P.M), <http://rchiips.org/nfhs/NFHS-4Reports/India.pdf>.

⁵⁶ *Id.* at 508

⁵⁷ *Ibid.*

Figure 15.4 Attitudes toward Wife Beating

Percentage of women and men age 15-49 who agree that a husband is justified in beating his wife for specific reasons

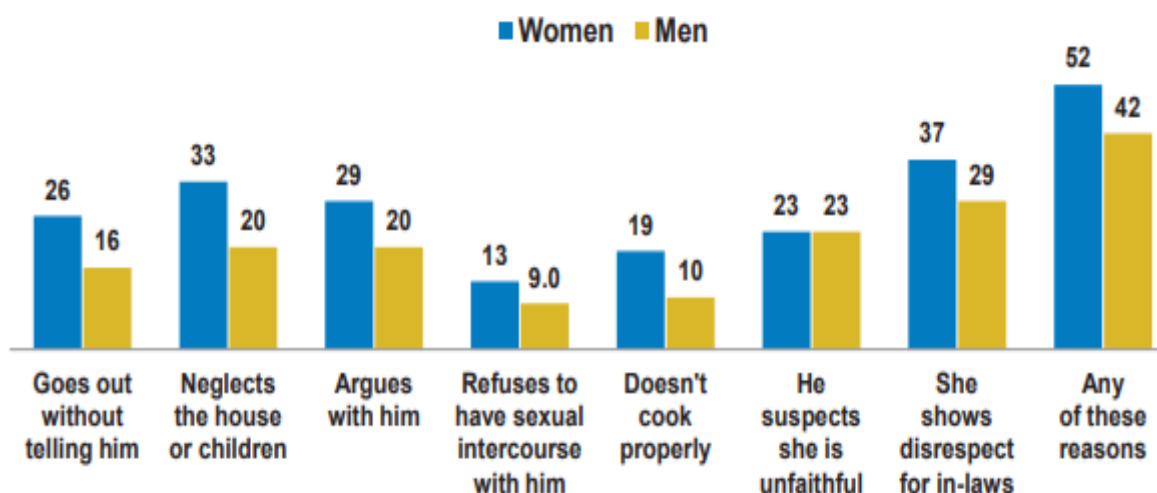


TABLE 5⁵⁸

Financially speaking, the percentage of money that women alone own and can use solely for their use has seen a steady decline from 45% to 42% from NFHS 3 to NHFS 4 of 2016. Very few women gain knowledge regarding micro-credit loans and even fewer use it (only 8%). Furthermore, only 59% of family men believe that women should have equal or greater autonomy in family decision making. To only support the author's claim, it was also found that percentage of employed married women had substantially decreased from 43% in NHFS 3 to 31% in NHFS 4, whereas men remained unaffected.⁵⁹

Figure 15.1 Employment by Age

Percentage of currently married women and men age 15-49

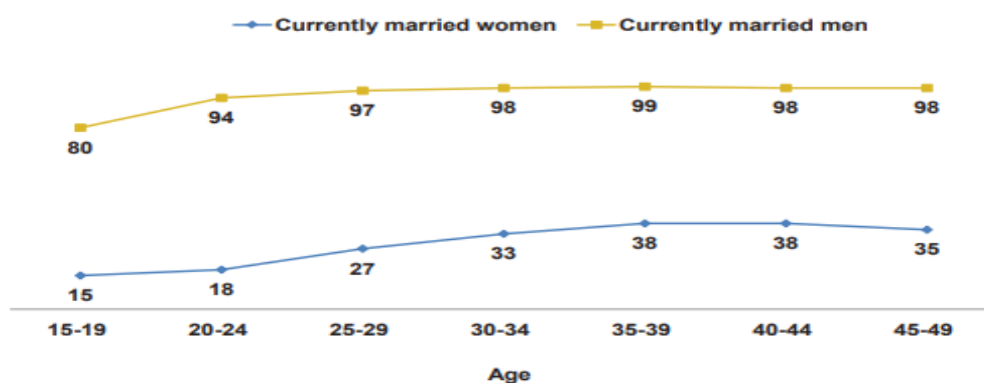


TABLE 6⁶⁰

⁵⁸ *Id.* at 514

⁵⁹ *Supra* note 53 at 511.

⁶⁰ *Id.* at 508

Property wise as well, a percentage gain of ownership of the property for men increases from 44% to 86% as they age from 15 to 49 but only 26 to 47 when it comes to women in the same age group. In terms of domestic violence, nearly one-third of women have experienced some form of spousal violence (physical, emotional, mental). Despite notions of education and illiteracy, 1 out of every 5 women who have had schooling and education of 12+ years, have experienced some amount of spousal violence. 71% of women whose husbands often get drunk have experienced some amount of spousal violence in their lifetime⁶¹.

Figure 16.5 Spousal Violence by Husband's Alcohol Consumption

Percentage of ever-married women who have ever experienced spousal physical or sexual violence

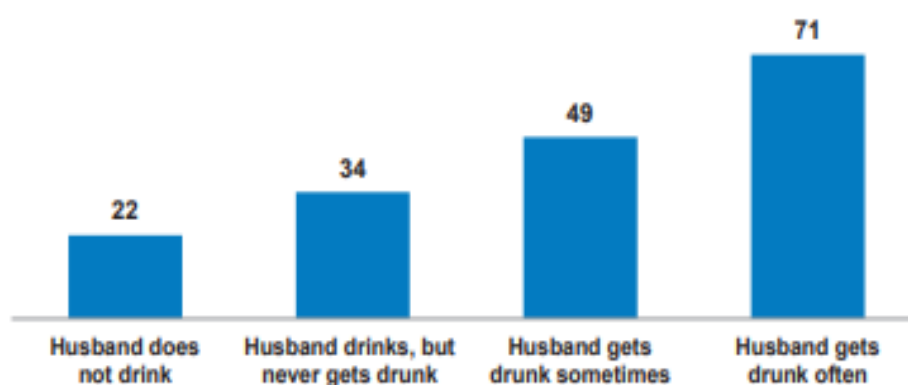


TABLE 7⁶²

Among married women age 15-49, nearly 83% attested to sexual violence by their husbands with 9% by their former husbands. In terms of physical violence 83% have experienced it at the hands of their husbands and for never-married; nearly 60% have experienced it at the hands of their mothers, sisters, brothers, etc.⁶³

Indian society seems to have a vengeful agenda against widows for they are, by far, the worst affected population group in terms of women empowerment. Many abandoned widows are sent to holy cities like *Vrindavan* or *Benaras* where they lead a life of abject poverty. It was found that as many as 6000 widows were presently residing in one or the other holy cities and were

⁶¹ *Id.* at 512

⁶² *Ibid* at 570

⁶³ *Ibid.* at 532.

largely dependent upon charity⁶⁴. Only a small amount of pension (Rs. 350 per month) is granted to them under the 'Indira Gandhi National Pension Scheme'. In most States, widows are treated as unwanted stigmas, social pariahs, and the bringers of bad luck.

Considering all these obvious disparities, it is very clear that law and the legislators cannot wield a magic sword that swiftly dissimilates all forms of discrimination against women. The society must let go of the orthodoxy and unjustified principles based upon a fool's logic to see development.

VIII. RESULTS

Hypothesis stands proved.

IX. LIMITATIONS

Data is limited to recent NFHS (phases 3 and 4) and UNDP (2016-2019) reports. Case laws are not exhaustive.

X. CONCLUDING REMARKS

It is reported that if women were allowed equal opportunity on economic grounds, India could increase its GDP by 27% in 2025. Women have always been a crucial part of every society across the world. There have been queens who have managed entire empires to warriors who have shown that women are physically and mentally no less inferior to men. In ancient times, women were treated as a direct incarnation of 'Shakti', roughly translated as the feminine power found within the universe. Her status was that of a goddess, for she carried human progeny within herself. However, medieval times saw the rampant exploitation of women. Her status was reduced to that of a mere property that could be disowned at a man's whim. This instilled fear in woman's mind, as a consequence of which, all that she did, or all that she was portrayed to be dignified in doing was please her master. Women have tasted slavery even before the term slavery was coined. Although, since its very inception, the Indian constitution vouched to protect a woman's right and dignity under Article 14, 15 and 21; however it seems that no matter the intention, India only saw her girl child degrading and shattering her very existence to be treated at par with men.

Woman Empowerment is primarily a social issue, the protection, and propagation of which was entrusted to the judiciary and the legislature. Along the same lines of action, it only seems logical that to protect it, society, legislature, and judiciary must together join forces. The Author

⁶⁴ Soumya Pillai, *Forgotten widows of vrindavan*, THE HINDU (May 22, 2020, 3:00 P.M), <https://www.thehindu.com/news/cities/Delhi/forgotten-widows-of-vrindavan/article19574277.ece>

has time and again reiterated that despite pro-active legislation and judge-made laws, the one pillar that seems to be completely harsh towards this gender is the society.

Indian society has been plagued with a social hierarchy which borders tyranny. Men, perhaps because of their physical superiority, have forever dominated women. Even today, despite legislations such as the Dowry Prohibition Act, the Domestic violence Act, the number of cases regarding offenses that these acts punish, only keeps on increasing. This clearly shows that society also needs to refurbish itself to combat the ailing conditions of women in India.

XI. SUGGESTIONS

The Author would like to make the following suggestions, in their humble opinion as law students-

1. Stringent laws have not acted as deterrents in the past. The need for the hour is the provision of effective mechanisms to implement women laws. Many women, especially in rural areas are not even aware that they have rights against their estranged spouses. Others, due to social stigma that might accompany police and court proceedings, refrain from opening up about their horrors.
2. Effective campaigning to encourage women to occupy more and more public spaces. The best way to ensure women's empowerment in public places is simply by being there. Women must try to occupy public spaces as much as men do.
3. Fast, responsive, and accountable police machinery. In many cases, women refrain from going to the police station because police officials themselves tend to ask unnecessary and unrequited questions that would deter women in enforcing their rights. In such scenarios, police officials must be held accountable.
4. A separate, quick, and transparent mechanism for people in power who are arrested in women exploitation cases and who, by the sheer power of their offices, drag such cases for years and years in court. During such pendency, the witnesses seem to diminish or withdraw or vanish and the litigant loses her faith in the judiciary.
5. Free workshops and seminars on Women Empowerment in India.
6. The author firmly believes that the greatest change that can come in terms of women empowerment can be from the women themselves. A woman must not bend to unfettered, unjustified criticism from her family and folks, nor should she allow herself to be subjected to any form of discrimination and cruelty. If a woman herself sleeps on her rights, no amount of law or mechanism or machinery could ever help her. She must learn to stand up for herself.

7. The Union Government on September 15, 2019, proposed for nearly 1000 Fast track special courts (FTSC) for quick disposal of cases involving rape and similar offenses. However, this has happened after repeated exhortation for the same by the Supreme Court. The author suggests that such measures must be implemented as soon as possible without further delay. Guidelines/directions issued by the Supreme Court must be considered and implemented upon, within a definite period, with necessary modification wherever required. Failure to consider within a given time frame should attract a penalty.

8. There should be provisions for confidential complaint/F.I.R filing in police stations for women who do not wish to disclose their identity for justified reasons.
