

Women's Access to Justice – Breaking the Barriers: A Roadmap in Indian Context

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ABSTRACT

'Hassle-free access to justice for all' is a cornerstone of a good justice delivery system. It is a right through which victims can enforce their other rights against violators and perpetrators of violence. There are many laws defining crimes against women and prescribing punishments; declaring equal rights for women in properties and guardianship; removing patriarchal notions within the family setup; providing measures for safe workplace environment and special provisions for women empowerment. Despite constitutional guarantees and plethora of legislations in India, they face problems within the family, in the society and at the workplace and they continue to suffer due to various factors and access to justice is one major hindrance. Though access to justice is made legally free, there are many *de-facto* barriers, preventing her from getting justice for the wrongs done to her and the rights denied to her.

This research paper delves into the various factors hampering woman's access to justice, a very fundamental right, negation of which makes all other rights of hers meaningless. It is a study exploring the multifaceted challenges women face in their intersectional roles, the social norms, cultural attitudes and power dynamics within and outside the family, that prevents her from accessing justice. Drawing on statutes, reports, judicial pronouncements and empirical studies, the paper critically examines the gap between law and practice, the key findings highlight the need for institutional reforms to create a more conducive environment to approach the justice administrators. It suggests some significant indicators by which certain roadblocks can be removed and women can empower themselves and contribute for a more inclusive and gender-sensitive justice delivery system ordained under Sustainable Development Goals 5 and 16 referring to Gender equality and Peace, Justice and Institutions respectively. It highlights how important a woman should be empowered not merely legally but also morally, socially and financially to achieve real justice.

Keywords: Access to justice to women, multifaceted barriers faced by women, intersectional disadvantages for women, domestic violence, situational adversities of women.

INTRODUCTION

The term 'justice' is rooted in all national cultures and traditions and seen as a mixture of fairness, equity and impartiality. 'Access to justice for all is a critical litmus test of peaceful, just and inclusive societies and a sine qua non for substantive equality, human rights and sustainable development.'¹ 'Access to

¹ Preface to 'A Practitioner's Toolkit on Women's Access to Justice Programming' - UNwomen.org accessed on 1 July 2025. It was jointly developed by the United Nations Entity for Gender Equality and the Empowerment of Women (UN Women), the United Nations Development Programme (UNDP), the United Nations Office on Drugs and Crime (UNODC) and the Office

justice' is a broad concept, encompassing peoples' effective access to the systems, procedures, information, and locations used in the administration of justice,² including all judicial and quasi-judicial settings, religious, community, and/or customary legal systems, and law enforcement.³ In this context, access refers to both direct or indirect participation in these systems, including as complainants, defendants, witnesses, and prisoners.⁴ The United Nations Development Program (UNDP) defines access to justice as "the ability of people to seek and obtain a remedy through formal or informal institutions of justice, and in conformity with human rights standards."

Right to 'Access to justice' is fundamental to and interdependent on all fundamental rights. It is inherent in every citizen and even the devil has that right.⁵ It is a right in itself and an enabler of all other rights. Justice without access is negation of justice. Access to justice is a universal right cutting across gender, race, creed and religion. Nevertheless, it has special relevance for vulnerable sections of the society among which women constitute significant number.⁶ Their justice needs and experiences are different from men due to power dynamics within the family and in the community. They also face multiple and intersecting forms of discrimination and are subjected to gross violations of their basic rights. They suffer various forms of violence. Due to lack of education, awareness and courage to access to justice, 'Justice' appears to them as a preserve of a privileged few and access is surrounded by unsurmountable barriers. In India, although numerous constitutional and legal provisions do exist to protect and promote justice to women, the roadmap for actual realization of these rights is not a cakewalk, but filled with many barriers. This paper examines the systemic and structural barriers that continue to restrict women's access to justice in India.

The paper is structured in four Parts. Part I explains the various intersecting forms of injustice suffered by women globally, which are equally applicable to women in India. Much reliance is placed on UN reports and Action for justice programming and other reports. Part II highlights the International and national framework and projects facilitating access to justice for women wailing under different adverse situations within and outside family. Part III analyses and categorizes the various barriers experienced by women in accessing justice. Part IV proposes recommendations for legal, institutional and social reforms for affordable and quick access to justice. With the synthesis of inputs drawn from the discussion it indicates a way forward for a woman-centric justice administration system in India.

PART I

WOMEN CENTRIC INTERSECTIONAL INJUSTICES

Access to justice for women is a gender-specific global phenomenon. Women face various kinds of barriers in their capacities as claimants, victims, witnesses or offenders, and they are often driven by institutional, policy and legislative discrimination, gender bias, stereotyping, stigma, indifference and

of the United Nations High Commissioner for Human Rights (OHCHR) to improve justice delivery and outcomes for women and girls around the world.

² Stephanie Ortoleva, 'Inaccessible Justice: Human Rights, Persons with Disabilities, and the Legal System', 17:2 ILSA J. of Int. & Comp. Law 281, 284 (2011).

³ Committee on the Elimination of Discrimination against Women, General Recommendation No. 33: Women's Access to Justice, U.N. Doc. CEDAW/C/GC/33 (2015).

⁴ Id., @ p.18

⁵ Jus. V.R. Krishna Iyer "Lawyers, Judges and Justice Jujitsu" - https://cdjlawjournal.com/articles_main.php?id=4

⁶ According to the latest National Family Health Survey 1920-21, in 2024 the sex ratio in India is 1020 females per 1000 males.

impunity. Women who face multiple and intersecting forms of discrimination as well as those affected by conflict and its aftermath, are often at the backend of justice service delivery.⁷

Women do not constitute a homogenous group. They differ in their personal characteristics and situational circumstances. Their experiences vary on their age, caste, disability, literacy, language, religion, ethnicity, marital status, socio-economic status, rural-urban settlement, level of autonomy and agency, sexual orientation and identity. They are pushed to vulnerability due to not only their gender of being female, but also due to these intersectional features. Discrimination and violence based on these intersectional factors affect women in varying degrees and in different ways and their exclusion from legal and justice institutions is determined by these factors to a great extent. For example, the judicial struggle of LGBTQ+ community women for their rights, the elderly women's exploitation within the family, the marginalised women's fight for justice against abuse speak a lot about their experiences, unique from each other, though each one is a victim of one or the other form of injustice.

Being young and female, girls and adolescents face various risks inside and outside the family, such as early marriage, female genital mutilation, teen pregnancy and risks associated with child birth. They also face heightened risk of rape, sexual exploitation, abduction and kidnapping, forced marriages, acid attacks and stalking. All States in India, equally share the numbers and the statistics is shocking and point out the increasing vulnerability of girl children. They lose their capacity to take crucial decisions about their lives, bodily integrity and reproductive rights. Girls, who do not have family support, are more vulnerable to pressure and they lack autonomy and agency and the voice to resist and report.

Rural women are placed in a unique situation. They represent a quarter of nation's population and play a crucial role in maintaining and improving rural livelihoods and strengthening rural communities. Despite making up 85% of the agricultural workforce, only 13% of rural women own land in India.⁸ They work very hard but earn a very little. Women working in unorganised sectors are left without formal protection and are exposed to varied degrees of physical, sexual and financial exploitation. They face a multitude of challenges due to intersecting factors like poverty, patriarchy, illiteracy, lack of access to resources, and entrenched social norms. Patriarchy reigns the rural society unabated. These issues are structural, cultural, and often legally neglected or connived at. They live in locations far away from formal justice institutions. Their life within the family witness male dominance, alcoholism and physical abuse by husbands and women compromise to the situation as natural and inescapable. Access to justice is an unknown phenomenon for them.

Violence against disabled women, who constitute 44% of the total population in India,⁹ is a matter of grave human rights concern and they are at a higher risk than other women due to mobility and cognitive challenges they face. They experience wider range of forms of violence and for longer duration than non-disabled women.¹⁰ They also suffer from intersectional violence depending on their age, intellect, ethnicity and socio-economic status. They face various types of disability-specific mistreatment—for example, forced pregnancy or sterilisation and deliberate withholding of personal care such as assistance with

⁷ Preface to 'A Practitioner's Toolkit on Women's Access to Justice Programming' - UNWomen.org accessed on 1 July 2025.

⁸ CEDAW General Recommendation No. 34 (2016) on the Rights of Rural Women

⁹ http://www.censusindia.gov.in/2011census/population_enumeration.html.

¹⁰ Eliona Gjeca et al., 'We Got Lucky with the Judge': Access to Justice for Disabled Women in Iceland. Yoshida, Karen K., Fran Odette, Susan Hardie, Heather Willis, and Mary Bunch. 2009. Women Living with Disabilities and their Experiences and Issues Related to the Context and Complexities of Leaving Abusive Situations. *Disability and Rehabilitation* 31: 1843–52. [Cross Ref] & Nixon, Jennifer. 2009. Domestic Violence and Women with Disabilities: Locating the Issue on the Periphery of Social Movements. *Disability & Society* 24: 77–89. [access to justice for disabled women.pdf](#) accessed on 4 Aug 2025

washing and menstruation management.¹¹ The UN Convention on the Rights of Persons with Disabilities (UNCRPD) is “the first human rights instrument which acknowledges that all disabled persons are rights holders, and that impairment may not be used as a justification for denial or restrictions of human rights.” They are subject to disability-specific mistreatment like forced pregnancy, forced sterilisation, absence of personal care, low reporting and prosecution and indifferent parental attitude and dismissive social attitude.

Laws explicitly strips women with intellectual disabilities of legal capacity and it prevents them from initiating legal proceedings or testifying in court. Women and girls with other physical disabilities face significant accessibility barriers to the justice system, due to lack of apathy, lack of reasonable accommodations throughout judicial proceedings. They fear forced institutionalisation by their care takers, if they start speaking out their minds against lack of care and exploitation.

Elderly women face different types of problems such as lack of family care and support, financial exploitation by children, physical and mental health issues, lack of nutritional food, abandonment, disrespect and physical abuse. They are vulnerable due to growing age and loss of physical and mental ability, restricted mobility and social exclusion. In rural areas they are at a heightened risk of accusations of witchcraft and forced widowhood. Physical ailments, poor eyesight, mobility issues prevent them from travelling to courts and police stations. Mental health issues and cognitive decline make legal navigation extremely difficult.

Women with different sexual orientation and gender identity like lesbian, bisexual, transgender and allied communities occupy a notable size of population in India and their fight for legal recognition of their rights for gender identity, marriage, adoption and parentage are matters of judicial and academic concern. Though historical and mythological references to *Napumsaka*, *Kinnar*, *Hijra* and *Aravani* are abundant in Indian literature, who had significant roles to perform, their plight during colonial period had deteriorated as social outcasts and criminal communities. In modern times, their social marginalisation and parental abandonment force them into sex work and other criminal activities for livelihood. Hostile environment at home, school and college, work place and public place disables them to integrate with main stream. Police harassment and extortion, in the name of law enforcement, pushes them into underground activities. Law is not clear about their legal status and their fundamental rights. Insistence on “medical proof” of gender identity, violate the NALSA principle of self-identification. Dignity, respect and equality are distant dreams for them.

Women in prison constitute another segment of condemned human beings either as under trial prisoners or convicts. Various studies done within Indian prisons have concluded that a majority of prisoners are Adivasis, Dalits or from other marginalised communities that are being criminalised. Their social and economic situation makes them vulnerable, being unable to defend themselves legally and financially.¹² Female prisoners are made to fit into prisons designed primarily with men in mind. These prison systems often ignore the gender-specific needs of female prisoners and refuse to provide essential services. ... a perilous prison world where women are caught in a web of physical violence, where children are separated from imprisoned mothers, where women are deemed as mentally “psychotic” and sent to psych wards,

¹¹ *Ibid.* Eliona Gjeca et al., ‘We Got Lucky with the Judge’.

¹² Plight of Women in Indian Prisons - A compilation of facts and figures by Centre for Justice and Peace
09, Mar 2019 <https://cjp.org.in/plight-of-women-in-indian-prisons/> visited on 4 Sep 2025

and pregnant women stripped of their newborns.¹³ Overcrowding, poor hygiene, lack of maternity care, prison staff sexism and poor surveillance system push them to trauma, especially when they have infants with them. The existing policies for women and children inside the prison is far from being satisfactory and far below the international standards laid down in the Standard Minimum Rules for the Treatment of Prisoners, popularly known as Nelson Mandela Rules. Custodial violence, coercion, sexual harassment and cruel and unusual revenge punishments, in most of the cases, go unreported for fear of further violence and torture. Abuse is used as a justified tool for enforcing discipline. Despite numerous reports detailing rampant sexual abuse of women in prison, the problem continues unabated. In US, the situation is further aggravated as ‘Men who declare themselves as woman are allowed to stay within the women’s cell.’¹⁴ Stress of recurring attacks and untreated illness make them vegetative with no voice to raise and no guts to resist. Sexually transmitted diseases affect not only the woman prisoner but also her new born. ‘The birth of a child – a momentous, joyful experience for many – is turned into a traumatic event for incarcerated women resulting from the lack of mobility and the psychological distress of holding their newborns while chained to a hospital bed’.¹⁵

The report on Women Prisoners in India, (2018) reveal the key findings¹⁶ that

- Implementation failure of rules and regulations that protect women from exploitation in prison are largely eyewash.
- There is a severe lack of female staff, which includes guards, officers, doctors, nurses, counsellors etc.
- Overcrowding in most prisons with lack of sanitation and menstrual hygiene.
- Educational facilities are largely missing.
- No legal aid centres which are mandatory in prisons
- Physical and sexual violence is a common scenario in prisons, faced by inmates at the hands of authorities and other prisoners.

In this scenario, it goes without saying that access to justice is a legal mockery for them. Women prisoners face the barriers in the form of lack of support from family, kith and kin and society, ignorance of the rights of under-trial and convicted prisoners, unaware of free legal aid, parole, remission, delay in judicial process, prolonged detention, complex bail procedure, non-implementation of prison manual, no access to judges and magistrates to ventilate their inhuman treatment, symbolic jail visits by judicial officers etc.

Scheduled caste and Scheduled tribe women constitute a significant segment in women populace, whose socio-economic status is deplorable due to dual disadvantage namely being women among men of their own community and being subject of social exclusion. They come across gender barriers and caste barriers and face discrimination within the community and outside the community. Their lives are intertwined with caste prejudices and untouchability stigma. Dalit women in rural areas are silent survivors of atrocities and oppression. Their opportunities to develop and become empowered are denied due to their perceived low social status. The scheduled tribes are cut off from main streams of legal system and they are kept outside the purview of most of the legislations making it harder to access to justice.

¹³ Kamilla Abasgulyeva et al., <https://www.oxjournal.org/prison-in-pink-the-struggles-of-female-incarceration/> visited on 5 Aug 2025

¹⁴ ‘Cruel & Unusual Punishment: Former Inmate Exposes Truth After Women’s Prisons Welcome Men’ - @IndependentWomensForum

¹⁵ *Supra* n. 13 Kamilla Abasgulyeva et al.

¹⁶ ‘Women In Prisons India’ June 2018, Ministry of Women and Child Development Government of India https://vmml-cwds.ac.in/sites/default/files/2024-02/Women_in_Prision.pdf

Geographical remoteness and lack of adequate and safe transportations turn them towards informal justice system, where justice is the privilege of patriarchs of either their own community or land lords.

Women and girls in refugee camps are more vulnerable to offences such as rape, gang rape, loss of nationality and citizenship, transmission of HIV, forced impregnation etc and lose their voice and capacity to resist all these injustices. It is more so in the context of the present international crisis of strained relationship between countries and human rights of women and children are blatantly and brutally violated. Their situational crisis makes them suffer from constant fear of life, torture and starvation. The word 'refugee camp' patently connotes that these unfortunate women and girls are rendered homeless and are under the mercy of another nation. 'Conflict-related gender-based violence results in a vast range of physical and psychological consequences for women, such as injuries and disabilities, increased risk of HIV infection and risk of unwanted pregnancy resulting from sexual violence. There is a strong association between gender-based violence and HIV, including the deliberate transmission of HIV, used as a weapon of war, through rape. Perpetrators of conflict related gender-based violence include members of government armed forces, paramilitary groups, non-State armed groups, peacekeeping personnel and civilians.'¹⁷

Women in general, despite their caste, creed, class, education and status are susceptible to be victims of various offences committed against her [as defined under the Bharatiya Nyaya Samhita (BNS 2024)] such as -

- Rape (Sections 63,64)
- Forceful sexual intercourse by a husband on his wife during separation (Section 67)
- Gang Rape (Section 70)
- Outraging the modesty of a woman (Sections 74 and 79)
- Sexually harassing a woman (Section 75)
- Forcing a woman to disrobe (Section 76)
- Voyeurism (Section 77)
- Stalking (Section 78)
- Cyber stalking such as sending obscene or pornographic electronically (Sections 67A and 67B of the IT Act)
- Causing hurt and grievous hurt (Sections 114-118)
- Causing grievous hurt by using an acid such as acid attacks [Sections 124 (1) & (2)] and
- Use of criminal force or Assault (Sections 129, 130 and 131)

The national crime bureau statistics on 'Crime in India' indicates that the number of reported crimes against women increased from 3.37 lakh in 2014 to 4.45 lakh in 2022, marking an increase of over 30%. The Crime Rate (crimes per lakh women) also increased from 56.3 in 2014 to 66.4 by 2022.¹⁸

All these multifaceted challenges faced by women are not illusory. They speak a lot about the flaws in the legal and justice administration system of the country. They reflect the broader issues of utter failure of institutional mechanisms in India and insensitivity to treat women's rights as human rights. Women don't matter. Family betrays them, society mocks at them and institutions exploit them. 'In general, violence against women is the result of women's "vulnerable positions" due to the still strong "discriminative-subordinative patriarchal culture" and "lame power relations" between men and women, husbands and wives, children and parents, labourers and employers, people and countries, teachers and students, as well

¹⁷ Practitioner's Toolkit on Women's Access to Justice Programming termination of pregnancy and sterilization.

¹⁸ <https://factly.in/data-the-number-of-reported-crimes-against-women> (22-8-2025)

as between subordinates and superiors.’¹⁹ ‘The diversity of women’s personal characteristics and circumstances can lead to complex forms of exclusion, aggravating systemic and structural discrimination, prejudice and stereotyping. Justice programming must therefore strive to be inclusive, which means that no woman can be denied justice due to personal and situational circumstances’.²⁰

PART II

BARRIERS PREVENTING WOMEN IN ACCESSING JUSTICE

Despite the intersectional challenges that women face, there are multiple systematic barriers and challenges common to all vulnerable women to access to justice.

1. **Cultural norms, patriarchy and religious practices:** All the three are interrelated and operate intersectionally.
 - a. Cultural norms are rooted in traditions, patriarchal attitudes, and community expectations, and they discourage or even punish women who seek to assert their rights. They operate as invisible but powerful barriers by silencing women, legitimizing male control, stigmatizing survivors, and discouraging them from approaching legal institutions. Across global cultures, a woman’s honour is linked to her chastity and sexual purity. Victim-blaming and social ostracism deters women from accessing justice.
 - b. Impact of Patriarchal Attitude: The root cause of women’s vulnerability is the patriarchal system of human society. It is a system characterized by male dominance, manifested in different forms such as gender-based violence, economic inequalities, and discrimination in education and employment opportunities. It is a malady, deeply ingrained in many cultures around the world and India is no exception. It reigns within the family, at workplace and in the society. It is connived at by law enforcers and at times by judicial institutions. Violence supportive norms in the society justify patriarchy and practiced under the garb of religious and customary practices. Women’s rights within the family are suppressed and they are made to accustom themselves to intimidation and harassment as natural. Women are expected to be obedient daughters, loyal wives and caring mother. It can also have significant negative impact on women’s mental well-being. It takes away her self-esteem and fills her mind with sense of despair, hopelessness and worthlessness. Reporting violence of marital rape, dowry harassment and domestic violence are often seen as bringing shame to the family. Even natal families pressure women to compromise or remain silent instead of seeking legal remedies.
 - c. Religious practices: Though all religions preach virtues, morals, equality and equity, the human practices under the garb of religion play havoc on the lives of women in many communities. Religion based Personal laws discriminate women in many areas of family relationship. Under the garb of religion, women are put to disadvantageous position. For instance, the practices of ‘halala’²¹ and ‘talaq at the instance of husband’ are derogatory to the dignity of women. Men are at liberty to pronounce talaq, without judicial process whereas, wife has to take legal recourse to get divorce by proving any

¹⁹ Rima Vien Permata Hartanto et al., ‘Paralegals and Women Access to Justice: Making Access to Justice of Women Victims of Violence Effective’ The Journal of Social Sciences Research ISSN(e): 2411-9458, ISSN(p): 2413-6670 Special Issue. 2, pp: 807-813, 2018

²⁰ *Supra* n.7 A practitioner’s tool kit p.18

²¹ Once divorce through triple talaq becomes irrevocable, if the husband wants to remarry the divorced wife, she has to undergo an intermediary marriage, that marriage should be consummated and that marriage should be dissolved either by way of talaq or death of her husband and she has to under *iddat*. Then only the former husband can marry her.

one of the grounds specified in the Dissolution of Muslim Marriage Act 1939. Access to justice is very costly and difficult to her. Hindu law and Christian laws are no exceptions to it.

2. **Community pressure and informal justice delivery system:** In rural areas, informal institutions like Khap panchayats and community councils function parallelly to formal court system. They have their own mode of resolving disputes and punishing the guilt. Dominated by men folk, having patriarchal mindset they override statutory laws. Women victims are forced to accept unfair compromises at the cost of excommunication.
3. **Economic dependence and lack of access to financial resources:** One of the most disadvantages of patriarchy is that it does not recognise women as equal partners and denies economic independence to them. It does not tolerate women exercising financial freedom to acquire, maintain and spend resources as she thinks as necessary. Her finances are controlled by her husband or father making her to wait for their charity. Most of the personal laws too, moulded by patriarchy, disfavour women and daughters with unequal property rights. Even if they do have, they are not familiar with converting their properties for money to go to court, by way of either sale or mortgage because they are not aware of the procedure. For women who are dependent on the male members of their family for their survival may not risk litigation, even in case of abuse.
4. **Illiteracy and lack of awareness:** Women either educated or uneducated, literate or illiterate are prone for victimisation due to lack of awareness about the laws that give remedies and protection to them. They have little access to justice system.
5. **Lack of confidence:** Social conditioning of mind that they are not independent make them fear courthouses, witness boxes, police departments and legal aid offices. They fear retaliation by husbands, in-laws, or community members if they seek justice. Fear of living alone compels her to adjust to adverse situations.
6. **Affordability vs. High cost of litigation** - Litigation is a costly affair and it is not one time spending. From the date of consulting an advocate till getting a final verdict, money need to be spent at each and every stage of litigation. According to a study by the Centre for Civil Society, the average cost of a legal case in India is around INR 5,00,000. This cost is far beyond the means of most people in India, where over 50% of the population lives on less than INR 150 per day.²² Justice is a commodity of luxury to them and more so for women.
7. **Delayed justice**²³: Quick and fair justice is the cornerstone of justice administration. However, the dark reality is that the idea of going to court itself has become a nightmare for common man. President of India recently highlighted the issue as “Black Coat Syndrome,” indicating rising public distrust due to delayed justice.²⁴ Deficit of judicial strength²⁵, weak infrastructure and inadequate staffing, disproportionate influx of cases to judicial outcomes, abuse of procedure by legal professionals, frequent adjournments and fragmented case scheduling are a very few causes for the delayed justice syndrome in India. This justice crisis demotivates and creates an apprehension and distrust in the minds of victims about quick and fair justice. This is the biggest barrier standing between the need for justice and conferment of justice.

²² Centre for Civil Society Research, (ccs.in), <https://ccs.in/research> (last visited Sep. 9, 2025)

²³ Pratap Vardhan, Rebecca Rose Varghese, [Data | Justice delayed: 1 crore cases pending for over 5 years, 76% prisoners are undertrials - The Hindu](#) September 08, 2022

²⁴ www.insightsonindia.com [Judicial Pendency in India: Causes, Reforms & Way Forward \(2025\)](#)

²⁵ It is reported that the ratio is 15 judges: 10 lakh population.

8. **Hostile Police:** The police, instead of acting as bridge to justice, become barriers - especially in cases of domestic violence, sexual harassment, or other gender-based crimes. They hold patriarchal or stereotypical views about women, refuse to file FIRs, make mockery, succumb to perpetrator's pressure and influence and conduct faulty investigations and make the police stations an unworthy place to step in and create hostile environment.
- To sum up, women face multiple barriers to access to justice and suffer violence, injustice and abuse within themselves.

PART III

A BIRD'S EYE VIEW ON LEGAL FRAMEWORK UNDERPINNING THE EASY ACCESS TO JUSTICE

An overview of Inter-national framework

Women's access to justice is underpinned by a range of global standards, norms and guidelines. The international legal framework obliges states to guarantee women's equal, effective, and affordable access to justice, rooted in non-discrimination, fair trial rights, availability of legal aid, and gender-sensitive judicial systems, mainly under Universal Declaration of Human Rights (UDHR, 1948), International Covenant on Civil and Political Rights (ICCPR, 1966), Convention on the Elimination of All Forms of Discrimination Against Women (CEDAW, 1979), Beijing Platform for Action (1995), CEDAW Committee's General Recommendation No. 33 (2015), UN Convention on the Rights of Persons with Disabilities (CRPD) uniformly call for removing legal barriers and emphasize women's access to justice, including affordability, legal aid, and gender-sensitive mechanisms as key component of global justice. Agenda 2030 for Sustainable Development – specifically Agendas 5 (Gender Justice) and 16 (Peace, Justice and Strong institutions) prioritise women empowerment and barrier-free access to justice.

National legal framework for access to justice

The Constitution of India envisions justice, liberty, equality, and fraternity as its cardinal pillars, aspiring to ensure that every citizen can access justice without being hindered by social, economic, or institutional barriers. The importance of justice for all is further underscored by Article 39A, which was introduced through the forty-second constitutional amendment in 1976. This provision places a constitutional obligation on the State to secure equal justice for all, with particular emphasis on ensuring that the vulnerable and marginalized sections of society are not denied access to justice due to financial or other constraints.²⁶

National Legal Services Authorities Act 1987:

It is a direct legislation, catering to the access needs of every woman, irrespective of her socio-economic status and facilitates free and quality legal aid and assistance to seek redressal of her grievances.²⁷ Free legal assistance is provided to woman to prosecute or to defend in all matters covering family disputes, domestic violence, criminal cases, property rights, matrimonial issues and includes sexual harassment and assault. The Act is an outcome of the legal aid movement that gained momentum in India in the 1970s, particularly with the work of great individuals like Justice P.N. Bhagwati, Justice Krishna Iyer Justice

²⁶ Forward to "Legal Aid Through Law Schools: A Report on Working of Legal Aid Cells in India," (2024) Centre for Research and Planning, Supreme Court of India. Released on 5 November 2024 at Rashtrapati Bhavan.
<https://cdnbbsr.s3waas.gov.in/s3ec0490f1f4972d133619a60c30f3559e/uploads/2024/11/2024110665.pdf> visited on 9-Sep-2025

²⁷ Section 12 (c)

Chinnappa Reddy. In the landmark case *M.H. Hoskot v. State of Maharashtra*²⁸ (1978), the Supreme Court ruled that the right to legal aid is part of the fundamental right to a fair trial under Article 21 of the Indian Constitution. Under this Act, hierarchy of NALSA, State, District and Taluk level legal services authorities are established and the aggrieved woman may apply either online or offline at her nearest authority as the case may be and it is free of cost. Every higher educational institution imparting Legal education is mandated to operate a free legal aid clinic for the said purpose.

Protection of Women from Domestic Violence Act, 2005:

Female victims of domestic violence are afforded several remedies under the Act, including the right to reside in a shared household, right to protection orders, residence orders, monetary relief, custody orders, and compensation for Physical injuries, Mental trauma, Pain and suffering and Emotional distress. There is a strong infrastructure working under the Act, in which, the victim or any other person on behalf of the victim may file a complaint to Protection Officer or Service provider or to the Magistrate directly. The procedure is simple and time bound. Even intimate partner violence is covered under the Act, if it comes under the purview of judicial definition of live-in-relationship.²⁹

Sexual Harassment of Women at Workplace (Prevention, Prohibition and Redressal) Act, 2013

provides redressal mechanism for women who are victims of sexual harassment at work place. All work places employing ten or more than ten employees /workers are mandated to constitute an Internal Complaints Committee by an order of the employer in writing. For women in unorganised sectors, the Local Complaints Committee headed by the District Collector will be the presiding officer for conducting enquiry. If the allegations of sexual harassment are substantiated, the employer must take appropriate action against the perpetrator such as: disciplinary action, written apology, warning, suspension, termination of employment, demotion and change in work location. Complaint can be filed either by the victim herself or by her friend or relative or co-worker or National or state women's commission, on behalf of the victim.

Dowry Prohibition Act, 1961 makes both giving and taking dowry are punishable offences and a complaint may be made to the Dowry Prohibition Officer designated under the Act.

Prohibition of Child Marriage Act, 2006 declares child marriages as voidable³⁰ and it can be annulled by the child party on attaining majority. She is entitled to maintenance and separate residence from her husband or if he is minor, from her father-in-law till her death or remarriage. Anyone can file a complaint against child marriage before District Magistrate designated as Prohibition Officer. Any child marriage by force or fraud or abduction is no marriage in the eyes of law and is void. Such a girl is free to come out of the so-called marriage and free to remarry.

Model Prisons and Correctional Services Act 2023³¹ was passed in order to bring prison reforms and contains special provisions for women prisoners. Women prisoners must be housed separately from men, either in exclusive prisons or separate sections with independent entrances, to prevent contact with male prisoners. Gender-specific facilities to be provided with a separate female ward in the prison hospital. Only female prison staff should manage women's prisons/wards; male staff may assist only outside or in emergencies. Pregnant prisoners must receive proper medical care and diet. Women prisoners may keep their children with them until the child turns six, with healthcare and necessary facilities provided for the

²⁸ 1978 AIR 1548

²⁹ *D. Velusamy v. D. Patchaiahmmal* [(2010) 10 SCC 469]

³⁰ Section 3 of Prohibition of Child Marriage Act 2006.

³¹ Chapter X: Prison Regimen for Women Prisoners

child. Any sexual harassment complaint by a woman prisoner must be addressed immediately under the law.

The Rights of Persons with Disabilities (RPD) Act 2016³² was enacted to ensure that all persons including women with disabilities can lead their lives with dignity, without discrimination and with equal opportunities. Section 7 of the Act provides for Access to justice. Victims of violence, abuse or exploitation, on complaint, shall be rescued, protected and rehabilitated. Any person or registered organization may inform the Executive Magistrate of the incident. The police also on receipt of complaint or knowing about such incidents are obligated to inform the victim of their rights to apply for protection, free legal aid, right to file a complaint and the particulars of the Executive Magistrate and the nearest organization/institution working for the rehabilitation of persons with disabilities. Further, the National and State Legal Services Authority shall make provisions, including reasonable accommodation, to ensure access to any scheme, programme, facility or service offered by them. A Court of Session in each district shall be notified to be a Special Court for speedy trial under this Act. Article 13 of the UNCRPD requires states to ensure access to justice for persons with disabilities on an equal basis with others, through the provision of procedural and age-appropriate accommodations. a reasonable accommodation in this context is an adjustment to standard practice or procedure, undertaken to remove a particular disadvantage at which a specific disabled person would otherwise be placed, in order to access justice—for example, allowing more time to provide evidence; granting frequent breaks; arranging for them to visit the court facilities before the hearing; or changing the environment of the courtroom based on individual sensory needs. It is important to note that failure to provide reasonable accommodation constitutes discrimination as outlined in Article 5 of the Convention.³³

The three new criminal laws

Apart from specific legislations, the Bharatiya Nyaya Samhita (BNS) prescribes five types of punishments for the perpetrators of crime against women such as death, imprisonment for life, imprisonment (rigorous or simple), mandatory compensation to the victims and fine, and community service. The new CrPC code, the Bharatiya Nagrik Surksha Sanhita (BNSS 2023) directs the state governments to notify a Victim Compensation Scheme³⁴ and a witness Protection Scheme.³⁵ A woman's statement should be recorded by a female judicial officer³⁶ and the information about the woman's arrest should be given to her relatives or friends.³⁷

Institutional support services and policy initiatives towards access to justice for women

In addition to these legal framework, various gender responsive institutional mechanisms have been created with effective tools with the core mandate to coordinate, facilitate and monitor government policies on gender equality and women's empowerment.

1. National Legal Services Authority (NALSA) has been established in 1987 to provide free legal aid to women. It operates through various legal services authorities at the district, state, and national levels

³² Came into force from 19th April, 2017 replacing the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995.

³³ *Supra* n. 10 Eliona Gjecaj et al., 'We Got Lucky with the Judge'.

³⁴ Clause-396, The BNSS 2023

³⁵ Clause-398, *Ibid*.

³⁶ Clause-183 *Ibid*.

³⁷ Clause-43 *Ibid*.

and runs legal literacy camps, seminars, and workshops to raise awareness and educate women on their legal rights and procedure to access to court system.

2. The National Human Rights Commission has been established as a statutory body in 1993 under the Protection of Human Rights Act, 1993, as the apex body to address the issues of human rights violations. Complaints can be filed online through the NHRC portal, by email, post, or in person. The NHRC typically responds within 24-48 hours in urgent cases and has been particularly active in addressing systemic issues affecting women's rights.
3. Family Courts, established under the Family Courts Act 1984 and having jurisdiction to resolve family disputes, are functioning in each district and they are governed by simple procedure where women themselves can attend personally without advocates involvement. The procedure inside the court is in camera proceedings and women need not feel the stigma.
4. Fast Track Courts and Special Courts are constituted for punishing sexual offences and crimes against women in a speedy manner.
5. POCSO Courts are established under the Protection of Children from Sexual Offences (POCSO) Act, a robust and stringent legal framework, to handle crimes against children of both genders. A victim of Child Sexual Abuse can file a complaint at any time irrespective of his/her present age. Reporting can be done through the toll-free number 1098.
6. Public Interest litigations are very powerful tools of access to justice permitted under Articles 32 and 226 of the Constitution through which the issues faced by voiceless women are brought under judicial scanner³⁸ and obtained significant orders from Supreme Court and High courts respectively.
7. SC/ST protection cells have been established in various states and union territories, including Andhra Pradesh, Assam, Bihar, Gujarat, Tamil Nadu, and others, as well as union territories like Delhi, Jammu and Kashmir, and Puducherry.
8. National Commission for Women (NCW) and State Commissions for Women are functioning to investigate complaints, recommend policy measures, and provide legal support. Women can file complaints directly through online complaint registration on the NCW website or email to complaints-ncw@nic.in or written complaints by post or through the NCW's 24/7 helpline at 7827170170. The NCW maintains specialized cells for dealing with different categories of complaints, including domestic violence, workplace harassment, and trafficking.
 - Police Mechanisms such as Women help desks, Mahila Thanas (women police stations), and special cells for women are set up to help women in distress and to get suitable reliefs for them. Mahila Police Volunteers are appointed to act as a link between police and community. Women Helplines (181, 1091) are launched for immediate assistance and Nirbhaya Fund has been created for initiatives ensuring women's safety.
 - One Stop Centre (OSC) program was launched in 2015 by the Ministry of Women and Child Development to provide a wide range of integrated services under one roof including police facilitation, medical aid, legal aid and counselling, psycho-social counselling, and temporary shelter to women affected by violence or in distress. Currently, 752 OSCs are operational across India, which have assisted over eight lakh women.³⁹

³⁸ *Vishakha & Ors. vs State of Rajasthan & Ors* (1997) 6 SCC 241

³⁹ Press Information Bureau, One Stop Centres, <https://pib.gov.in/PressReleaseIframePage.aspx?PRID=1706000> (last visited 9 Sep, 2025)

- SHe Box⁴⁰, a portal, was launched in 2017 as a centralized platform to facilitate the filing and tracking of workplace sexual harassment complaints in India. The portal aims to provide an accessible and efficient grievance redressal mechanism for women across organised, unorganised, public and private sectors, including domestic workers.

In short, access to justice for women in India is ensured through a multi-layered system of constitutional protection, gender specific legislations, special courts, free legal aid services and institutional mechanisms.

PART IV SUGGESTIONS & GOOD PRACTICES

Despite everything said and done, global studies show that women's access to justice is still very weak.⁴¹ According to a report by the World Justice Project, India ranks 110th position out of 126 countries in terms of accessibility and affordability of civil justice.⁴² The most important reason is the wide gap existing between the *de-jure* facilities and *de-facto* failures. This is the core issue and is a matter of perennial concern for all. Creating an enabling environment for women's access to justice involves:

1. *Changes should begin from home:*

Most violence against women occurs in a context of gendered power relations and coercive control at home. Daughters must be educated and brought up in a conducive environment to face any challenges in life boldly. Adequate financial security and parity must be provided on par with sons.

2. *Changes should happen at grass root level in communities.*

Panchayat Raj institutions with women representation must be strengthened and legal literacy camps through Anganwadis, self-help groups (SHGs), civil societies, ASHA workers, religious/fait-based institutions, Panchayati Raj Institutions, and women's collectives must be regularly conducted. Village-level protection committees under the PWDV Act to monitor domestic violence cases must be strengthened. These entities can raise awareness through educational campaigns, community outreach, and media engagement. They can operate by organising workshops, leveraging social media, and collaborating to address gender-based violence and promote a culture of respect and equality.⁴³ Male champions and local leaders must be engaged to challenge patriarchal norms that discourage women from seeking justice. These initiatives should happen simultaneously in remote areas too.

3. *Change should happen from within women through self-empowerment:*

Any number of laws to make her empowered will be of no use if she herself is determined to empower herself against odds. Self-empowerment means women gaining control over their lives, their thoughts, decisions, emotions and actions, to become confident, independent, and capable of influencing their personal, social and professional environment. She must know her own worth, abilities and rights. She must develop support network in case of need.

4. *Legal and Policy Reforms:*

The legislative framework has the potential to significantly transform the lived realities of women with intersectional disadvantages. Personal laws need to be simplified and harmonized to remove gender

⁴⁰ Sampurna Chatterjee, 'India's Fight Against Sexual Harassment: SHe-Box's Big Promises Leaves Bigger Gaps' <https://ohrh.law.ox.ac.uk/indias-fight-against-sexual-harassment-she-boxs-big-promises-leaves-bigger-gaps/> visited on 9 Sep, 2025

⁴¹ UNDP (2007). Justice for All? An Assessment of Access to Justice in Five Provinces of Indonesia. UNDP: Jakarta.

⁴² Aarju, Sajal Anand & Aditi Shrivastava, 'Access to justice for women in India', Indian Journal of Integrated Research in Law, Volume V Issue I | ISSN: 2583-0538.

⁴³ Bushra Ansari and Sowmya Rajaram, 'It's Women's Day, but on the ground, little has changed', <https://www.isdm.org.in/blog/its-womens-day-but-on-ground-little-has-changed> visited on 12 Aug, 2025

discrimination within the family in matters of inheritance, guardianship, and divorce rights. Implementation of key laws such as DV Act 2005, POSH Act 2013, PCMA 2006 and DP Act 1961 protecting women must be strengthened. The long pending Women's Reservation Bill must be fast tracked for greater representation in Parliament and State Assemblies. Periodic gender audits of laws and policies by the Ministry of Law and Justice must happen in collaboration with the National Commission for Women (NCW). Gender budgeting within the justice sector must happen to ensure funds are earmarked for women-centric legal services.

5. *Institutional strengthening must be a priority for the government:*

More Women Police stations must be established, which will give confidence for women to approach without hesitation. Women police are skilled in talking to women's families and prevent re-victimization and collaborate with community.⁴⁴ Mahila Courts and Family Courts across all districts must be established for speedy resolution of gender-based cases. Special police units must be strengthened and better staffed for crimes against women in every police station. Mandatory gender-sensitization training for police, prosecutors, and judges must be held. Women's representation in judiciary, police, and prosecution services through targeted recruitment and promotion policies must be strengthened. Case disposal rates must be monitored and accountability must be ensured for delay in investigation or prosecution of women's cases. Multidisciplinary model of policing (which includes social workers, lawyers, psychologists and police) widens access to justice to prevent gender violence.⁴⁵ Interdisciplinary teams act as a gateway for integrated services in policing, legal support, counselling, and housing and financial advice to help address the multidimensional problems that survivors of domestic and sexual violence typically experience.

6. *Strengthening of Judicial infrastructure:*

It must happen on a war footing by increasing the ratio of judges to cases and judges to population at grassroot level. Measures like fast-track appointments of women judges, digitalisation of court procedure, strengthening of ADR mechanisms would go a long way to facilitate quicker justice and trust to approach the courts. Investing in justice sector and more budget allocation is a clarion call for justice to women.

7. *Legal Aid and Support Services:*

Legal services authorities must conduct 'Know Your Rights' programs for women. The role of Para legals is very crucial in this mission. Para legals are representatives of justice seekers. Their role is crucial in three ways in helping women victims to have access to justice. First, they are more accessible to women's groups. Their legal services are cheaper than similar services provided by lawyers or advocates. Second, paralegals play the role of "familiarization" of the legal system for poor and marginalized groups of women. Third, paralegals influence the power relations and bargaining position of women by approaching government institutions and law enforcement agencies. In general, paralegals apply methods of empowerment, education and legal training.⁴⁶ Their services should be extended to villages to help women file complaints, access protection orders, and attend court hearings. Functioning of Legal aid cells in law

⁴⁴ Kerry Carrington et al. 'How Women's Police Stations Empower Women, Widen Access to Justice and Prevent Gender Violence' IJCJ&SD 43 www.crimejusticejournal.com © 2020 9(1)

⁴⁵ *Id.*

⁴⁶ Rima Vien Permata Hartanto et al: "Paralegals and Women Access to Justice: Making Access to Justice of Women Victims of Violence Effective", The Journal of Social Sciences Research ISSN(e): 2411-9458, ISSN(p): 2413-6670 Special Issue. 2, pp: 807-813, 2018. https://arpgweb.com/journal/journal/7/special_issue

colleges and Universities must be made mandatory.⁴⁷ Youth should be trained in community outreach programs and their energies must be channelised in a proper direction.

- ***Special procedural accommodation to women with disability is to be ensured:***

There can be no effective access to justice if buildings of law-enforcement organs and judiciary aren't physically accessible, if the services they provide, information and communication aren't accessible (Art 13). Both are key obligations if disabled people are to be afforded equal access to justice.

- ***SHe-Box***, despite its potential and relaunch in 2024, it has fallen short in addressing the systemic barriers to reporting harassment. Hence to make it effective, the platform must improve accessibility, expand language options, enforce mandatory committee registration, and offer independent or supplementary complaint resolution mechanisms.⁴⁸

WAY FORWARD

Access to justice for women is a standalone right and is integral to many more rights of women. Lack of access to justice will reinforce vulnerability of women and perpetrators may feel emboldened when they know the justice system is unlikely to respond to complaints by women. The effective implementation of the 2030 Agenda for Sustainable Development is not conceivable without access to justice for women. Strengthening access to justice for women in India demands a multi-dimensional approach - combining legal reforms, institutional strengthening, awareness building, digital innovation, and community empowerment. In short, ensuring legal awareness and empowerment, fair treatment by police and judiciary, availability of affordable legal aid and enforcement of rights under personal, criminal, and family laws is the need of the hour. The goal is not just to make justice available but to make it accessible, affordable, timely, and dignified for every woman.

⁴⁷ Bar Council of India, Standards of Legal Education Rules, 2008, rule 11.

⁴⁸ Sampoorina Chatterjee, 'India's Fight Against Sexual Harassment: SHe-Box's Big Promises Leaves Bigger Gaps', <https://ohrh.law.ox.ac.uk/indias-fight-against-sexual-harassment-she-boxs-big-promises-leaves-bigger-gaps/> visited on 9 Sep, 2025