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## **Introduction**

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## Preface

The Indian Journal of Legal Affairs and Research is a testament to our unwavering commitment to excellence in legal scholarship. This volume presents a curated selection of articles that reflect the diverse and dynamic nature of legal studies today. Our contributors, ranging from esteemed legal scholars to emerging academics, bring forward a rich tapestry of insights that address critical legal issues and offer novel contributions to the field. We are grateful to our editorial board, reviewers, and authors for their dedication and hard work, which have made this publication possible. It is our hope that this journal will serve as a valuable resource for researchers, practitioners, and policymakers, and will inspire further inquiry and debate within the legal community.

## **Description**

The Indian Journal of Legal Affairs and Research is an academic journal that publishes peer-reviewed articles on a wide range of legal topics. Each issue is designed to provide a platform for legal scholars, practitioners, and students to share their research findings, theoretical explorations, and practical insights. Our journal covers various branches of law, including but not limited to constitutional law, international law, criminal law, commercial law, human rights, and environmental law. We are dedicated to ensuring that the articles published in our journal adhere to the highest standards of academic rigor and contribute meaningfully to the understanding and development of legal theories and practices.

# **BEYOND THE COURTROOM: A SOCIO-LEGAL STUDY OF GENDER, CASTE, INTERSECTIONALITY, DIGITAL-RIGHTS AND ENVIRONMENT IN INDIA**

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## **ABSTRACT**

This paper conducts a detailed socio-legal analysis of current issues in India. It looks at how the connection between constitutional law, statutes, and real social conditions affects rights-based legal systems. The study focuses on five main themes: gender-based violence and women's rights, digital rights and privacy, caste-based discrimination and social exclusion, environmental damage, and intersectional marginalization. It uses landmark cases like *Vishaka v. State of Rajasthan* (1997), *K.S. Puttaswamy v. Union of India* (2017), *Navtej Singh Johar v. Union of India* (2018), *Shayara Bano v. Union of India* (2017), and *M.C. Mehta v. Union of India* (various cases) to track the development of dignity, equality, privacy, and environmental justice in law. The paper uses a socio-legal approach, mixing the study of constitutional provisions, statutes, and decisions from the Supreme Court and High Court with insights drawn from secondary literature, policy reports, and case studies. It shows that while Indian courts have expanded fundamental rights, the impact of these changes relies on how well they are implemented, the accountability of institutions, and social change. The study concludes that real socio-legal reform in India requires not only strong legal principles but also active governance, ongoing public involvement, and changes to address deep-rooted hierarchies of caste, gender, class, and technology in Indian society.

## 1. INTRODUCTION

### 1.1 BACKGROUND AND SIGNIFICANCE

India is a socio-legal environment that is faced with a paradoxical scenario of having an accelerated growth of liberalism, urbanization, digitization, and globalization along with the social stratification of society because of castes, genders, classes, and religion<sup>1</sup>. Therefore, several socio-legal issues have emerged in India, such as violence against women, digital rights infringement, discrimination based on caste, environmental pollution, and so forth. These issues cannot be explained by applying mere doctrinal approaches, because socio-legality demands the linkage between law and social realities<sup>2</sup>. The concept of socio-legal contemporary issues can be described as those issues that cannot be addressed without any social change or public understanding.

The judiciary in India has taken on an increasingly proactive approach in recent times to deal with such problems, thus widening the ambit of rights-based interpretation under the constitution. Cases like *Vishaka vs. State of Rajasthan*<sup>3</sup>, *Puttaswamy vs. Union of India*<sup>4</sup>, and *Navtej Singh Johar vs. Union of India*<sup>5</sup> are good examples of how the constitution is read as a living document which reacts and adapts to changing social needs and advancements in technology. Yet, the success of such approaches depends heavily on gaps in enforcement, lack of institutional momentum, and societal resistance against change<sup>6</sup>. A socio-legal approach can address the problem in question by analyzing the process through which the laws are made, understood, implemented, and lived with.

The primary purpose of this paper is to demonstrate the significance of socio-legal contemporary issues in India. Besides the importance of the said issues in relation to law researchers and scholars, it can be understood that such issues have immense relevance for policymakers, members of civil society, and even for the judicial body, as they will understand the challenges and opportunities in their field of law in a better way. The paper also attempts to analyze socio-legal issues through the

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<sup>1</sup> Jagdish Khobragade, *Modernisation and the Law*, 7 Int'l J. App. Soc. Sci. 343 (2025)

<sup>2</sup> Upendra Baxi, *Socio-Legal Research in India* (ICSSR 1975)

<sup>3</sup> *Vishaka v. State of Rajasthan*, (1997) 6 SCC 241

<sup>4</sup> *Puttaswamy v. Union of India*, (2017) 10 SCC 1

<sup>5</sup> *Navtej Singh Johar v. Union of India*, (2018) 10 SCC 1

<sup>6</sup> Marc Galanter, *Law and Society in Modern India* (1996)

prism of constitutions and important judgments of landmark cases so that readers may gain some insight into the role of law in reflecting and shaping social reality. It should also be mentioned that socio-legal issues cannot be regarded as “legal issues” alone.

## **1.2 OBJECTIVES OF THE PAPER**

The core of the research paper will consist of defining the socio-legal issues that prevail today in India and tracing their lineage both from the doctrine and society perspectives as well as evaluating how effective the constitutional laws and statute frameworks were in solving those. Further, this research paper will try to understand the issues in the context of articles from the constitution, especially Article 14, Article 15, Article 19, Article 21 and Article 39A and how landmark decisions have changed the meanings of the articles by keeping evolving values of the society in mind.

One other main purpose of this research paper is to look at the effectiveness of laws being framed and judgments pronounced in changing social circumstances with respect to socially excluded people such as women, Dalits, Adivasis, sexual minorities, and digital citizens. This research paper will try to examine whether the reforms brought about any significant changes in terms of making justice accessible to the marginalized communities, lowering the amount of violence against them and increasing awareness of their rights. Finally, this research paper will come up with critical recommendations as regards how gaps between socio-legal theory and socio-legal reality could be bridged.

## **1.3 SCOPE AND METHODOLOGY**

The research method chosen for this paper is doctrinal socio-legal analysis that entails interpretation of statutes, judicial decisions by the Supreme and High Courts, and socio-contextual examination of law. About the doctrinal element of the research approach, this paper will interpret the rationale of key judgments and statutes. In relation to the socio-legal element, this paper will study the influence that caste, gender, class and technology have on the law. Geographically, the area covered in the research is limited to India. Temporally, the focus of the paper will be on the

period after early 1990s, with emphasis placed on legislation enacted after 2010, such as the Digital Personal Data Protection Act, 2023<sup>7</sup>.

The research makes heavy use of secondary literature and judgment cases rather than field studies conducted by researchers; however, the work includes some case-law illustrations and statistics to contextualize the legal doctrine based on experiences of marginalized societies. It is organized in a thematic manner rather than a doctrinal way so that all contemporary sociological issues can be studied considering their social significance before linking them with frameworks of constitution and statute laws. This helps the paper highlight the relationship between various contemporary socio-legal issues that exist in an interrelated and mutually reinforcing way rather than independent fields of law.

## **2. THEORETICAL FRAMEWORK: SOCIO-LEGAL APPROACH**

### **2.1 CONCEPT OF SOCIO-LEGAL RESEARCH**

Socio-legal methodology, as opposed to other methods, is an interdisciplinary research approach wherein law is treated as a social phenomenon. This involves the examination of processes through which law is made, interpreted, applied, and practiced by legislators, judges, and legal practitioners. This is not only limited to the manner in which the law is enforced by the police, regulatory agencies, and citizens but more importantly, the socio-legal study also takes into account the experiences of marginalized groups of people<sup>8</sup>. Thus, in contrast to traditional legal scholarship, which is concerned solely with what law says, socio-legal inquiry questions how the law functions socially. The socio-legal perspective shifts attention away from pure black letter law to study the socio-economic conditions which influence the results of laws. It helps us understand why some rights-claims work in favor of communities but remain outside the reach of other communities, and why constitutional progressivism often falls short of altering reality. By applying a combination of legal theory and social science, this approach provides an understanding of the relationship between law, power, and injustice in ways which doctrinal formalism fails to do<sup>9</sup>. The current paper takes a socio-legal approach by considering constitutional discourse in relation to

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<sup>7</sup> Digital Personal Data Protection Act, No. 22 (2023)

<sup>8</sup> Roger Cotterrell, *Law, Culture and Society* (2006)

<sup>9</sup> Ratna Kapur, *Gender, Alterity and Social Justice*, 6 *Indian J. Const. L.* 146 (2012)

caste, gender, class, and technology. It shows the importance of a socio-legal perspective in comprehending rights and justice in contemporary India.

## **2.2 KEY SOCIAL VARIABLES IN INDIAN LAW**

Several social variables deeply structure Indian law and shape its outcomes. Caste continues to influence access to justice, with Scheduled Castes and Scheduled Tribes communities often facing discriminatory treatment by police and local officials, reluctance to register complaints, and social boycott when they assert rights. Gender shapes the framing of family law disputes, workplace harassment dynamics, and access to education and employment, with patriarchal-norms often undermining the effective implementation of women's rights provisions. Class and economic inequality mean that the informal-sector workforce, including construction-labourers, domestic-workers, and migrant-labourers, frequently lacks formal contracts, social-security coverage, and access to legal-aid or courts, creating a sociolegal gap between constitutional guarantees and everyday reality. Finally, technology and digitalization have produced new forms of rights claims and new forms of control, as seen in debates over data-privacy, surveillance, and intermediary liability.

A socio-legal approach treats these variables as constitutive of law rather than as external background, demonstrating that legal outcomes are embedded in social-power-relations. The paper thus argues that any serious analysis of socio-legal contemporary issues in India must explicitly engage with how caste, gender, class, and technology shape the production, interpretation, and experience of law. By doing so, it avoids the pitfalls of doctrinal-isolation and allows for a more realistic and critical understanding of legal-processes.

## **3. GENDER-BASED VIOLENCE AND WOMEN'S RIGHTS**

### **3.1 SOCIAL CONTEXT OF GENDER-BASED VIOLENCE**

Various types of gendered violence exist in India, including domestic violence, sexual harassment, rape, trafficking, acid attack, and honor-related crimes. Such dynamics emerge out of a patriarchal culture, which allows men to dominate, exercise control over the bodies and decisions of women, and maintain power imbalances within families and society. While the Constitution ensures

equality in Articles 14 and 15, and a life of dignity through Article 21, Indian women have been suffering from violence in their lives, as well as a lack of reporting and social stigma.

The 2012 Nirbhaya case in Delhi highlighted major deficiencies in the institutions of police, evidence collection, and victim support, prompting widespread protests that resulted in the Criminal Law (Amendment) Act, 2013, which imposed harsher penalties, broadened the scope of rape, and established new crimes such as voyeurism and stalking. But, according to the paper, legislation can never end gender-based violence since its underlying causes are rooted in social attitudes, family dynamics, and institutional policies. The stigma associated with sexual crimes, the tendency to blame victims for their own assault, the biased approach of the police, and the entrenched caste-class system act as strong disincentives for women to come forward and seek redress.

### **3.2 LEGAL FRAMEWORK AND LANDMARK CASE-LAW**

The Constitution of India acts as the source of law in respect of women's rights with respect to Articles 14 (equality clause), 15 (right against discrimination on grounds of sex) and 21 (right to life and personal liberty, construed as right to live with dignity which implies protection from violence)<sup>10</sup>. Other statutory laws, for example the Protection of Women from Domestic Violence Act, 2005 and the Sexual Harassment of Women at Workplace (POSH) Act, 2013 give teeth to these constitutional provisions<sup>11</sup>. The domestic violence act encompasses physical abuse, sexual abuse, emotional abuse, verbal abuse, and economic abuse, and empowers the court to pass orders regarding protection, residence, and financial compensation.

The Vishaka v. State of Rajasthan case (1997) established a legal framework for all such efforts when it was decided that sexual harassment violated Articles 14 (right to equality), 19(1)(g) (freedom of occupation or trade), and 21 (right to life) of the Constitution. Among other things, the court ordered the formation of complaint procedures, Internal Complaints Committees, and awareness trainings, which were incorporated into the POSH Act subsequently. This decision represented a move from viewing sexual harassment as a private personnel matter to seeing it as a violation of constitutional rights.

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<sup>10</sup> POSH Act, No. 14 (2013)

<sup>11</sup> Criminal Law (Amendment) Act, No. 13 (2013)

### **3.3 CRITICAL SOCIO-LEGAL ANALYSIS**

A socio-legal analysis shows that the triad of Vishaka, POSH Act, 2013, and the Protection of Women from Domestic Violence Act, 2005 represents the legal framework in response to patriarchy in workplaces and domestic-violence in India. Nevertheless, the existence of loopholes in implementation is notable. Prejudicial attitude of society, fear of victim-blaming, ineffective internal complaints committees, lack of internal complaints committees, and opposition of employers, particularly of small-scale and informal workplaces, prevent from full realisation of the law. Informal-sector workers frequently lack proper mechanisms for making a complaint even when facing sexual harassment and exploitation.

The paper argues that legal rules per se cannot contribute to transformation of the patriarchal mentality or institutional culture. Legal norms should be supplemented by awareness-raising programs, gender sensitization programs, and strict accountability of employers and state institutions<sup>12</sup>. A comprehensive solution requires the implementation of a multifaceted strategy combining legal measures and counseling, providing shelters and legal aid. While the gap between constitutional ideals and social practices exists due to poor enforcement, this gap is associated with deep structural inequalities based on such factors as caste, class, and gender.

## **4. DIGITAL RIGHTS, PRIVACY, AND MISINFORMATION**

### **4.1 DIGITAL TRANSFORMATION AND EMERGING ISSUES**

Digitalization in India has completely changed the way its citizens communicate, share information, and make claims to rights. With the advent of the internet and social media platforms, Indians have gained access to new ways of expressing themselves, participating politically, and organizing themselves socially. Yet, there are new problems associated with digitalization, such as issues of data privacy, surveillance, cyberbullying, and misinformation, among others. These issues have implications for the constitutional guarantees of fundamental rights, particularly the right to freedom of speech and expression provided by Article 19(1)(a) and the right to live with dignity guaranteed by Article 21, which also includes the right to privacy. This paper contends that

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<sup>12</sup> Flavia Agnes, *Law and Gender Inequality* (1999)

regulation of the digital space should strike a balance between freedom of expression and the need to prevent any abuse, such as hate speech and incitement to violence, including mob lynching and communal tensions.

Moreover, digitalisation has transformed the social and political arenas, generating not only new forms of inclusion but also new forms of exclusion. For example, online abuse, harassment, doxing, and targeting of women, sexual minorities, and dissidents is becoming a serious socio-legal issue. While anonymity and quick communication in the digital sphere ensure the quick spread of offensive messages, the legal framework dealing with such issues is far from being sufficiently developed. The article draws attention to the necessity of implementing a sophisticated regulation approach considering digital technologies as tools which may either increase rights or put rights at risk.

#### **4.2 CONSTITUTIONAL PRIVACY AND PUTTASWAMY**

The significant decision in *K.S. Puttaswamy v. Union of India* (2017) represented the watershed moment where the right to privacy was deemed as an inherent aspect of the right to life and personal liberty under Article 21<sup>13</sup>. It was in this case that the right to privacy was categorised into informational, bodily and decisional aspects, and any infringement upon such right on the part of the State or third parties could only be justified if it was necessary and proportionate. This case highlighted that privacy is critical for protecting one's autonomy, dignity, and identity, which forms the bedrock for enjoyment of other fundamental rights.

In addition, the ruling provided an essential doctrinal foundation for the enactment of the Digital Personal Data Protection Act, 2023 and shaped discussions regarding issues of Aadhaar-based data collection, surveillance technology, and intermediary liability. The Court established the need for the establishment of comprehensive data protection policies by the state while also ensuring that any surveillance is not unnecessarily conducted. In the case of *Shreya Singhal v. Union of India* (2015), the Court declared Section 66A of the Information Technology Act, 2000 as void, since it provided vague and wide powers to arrest individuals by defining 'offensive' and 'annoying' as crimes<sup>14</sup>. The Court highlighted the need for restrictions on free speech to be well-defined,

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<sup>13</sup> Puttaswamy, (2017) 10 SCC at 44

<sup>14</sup> *Shreya Singhal v. Union of India*, (2015) 5 SCC 1

proportionate, and narrowly tailored, as criminalizing offenses such as offensive messages amounted to violation of freedom of speech and expression guaranteed under Article 19(1)(a)<sup>15</sup>.

### **4.3 MISINFORMATION, HATE SPEECH, AND ONLINE REGULATION**

Though Article 21 protects the right to privacy and Article 19, the right to freedom of speech and expression, issues such as misinformation, deep fakes, and hate speech continue to be faced. The circulation of misinformation and disinformation can lead to the distortion of discourse, instigation of communal hatred, and even acts of violence, including lynch mobs based on WhatsApp rumors. The IT (Intermediary Guidelines and Digital Media Ethics Code) Rules of 2021 mandates certain digital intermediaries to provide for the traceability of messages, thereby putting into jeopardy the right to privacy. From a socio-legal perspective, the framework needs to consider all the elements together. The authors suggest that there is a need for a multi-stakeholder approach when it comes to governing digital space<sup>16</sup>. The government should make sure that governance does not infringe upon the rights of people, and there is a need to consider technology. On the other hand, there is a need for the platforms to design systems where they are transparent, accountable, and they uphold the rights of users. The civil society could play a role in monitoring the implementation of policies, helping those who are victims of online bullying, and advocating regulation. There is a need for a holistic approach when addressing socio-legal issues relating to digital rights.

## **5. CASTE-BASED DISCRIMINATION AND SOCIAL EXCLUSION**

### **5.1 SOCIAL CONTEXT OF CASTE**

Caste continues to be an important dimension of social stratification in India, even when one considers the constitutional provisions for equality under Articles 14 and 15 and the prohibition of untouchability under Article 17 of the Constitution. Discrimination against Scheduled Castes and Tribes continues within the domain of education, employment, access to housing, and public utilities. Discriminatory practices take the form of denying access to water sources, temples, and common property resources, social boycott, economic sanctions, and violent atrocities including sexual violence against women from marginalized castes. This takes place against the backdrop of

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<sup>15</sup> IT (Intermediary) Rules (2021)

<sup>16</sup> Usha Ramanathan, Data Governance, 15 Indian J. Const. L. 45 (2020)

local power structures and police community relations. The paper suggests that discrimination based on caste should be treated as a structural issue that impacts the institutional level as well.

## 5.2 LEGAL FRAMEWORK AND LANDMARK CASE-LAW

Equality is assured by the Indian Constitution through articles 14 and 15, the abolition of untouchability by article 17, and special measures are promised for the uplifting of Scheduled Castes and Scheduled Tribes by article 46 and the reservation system. Within this context, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (POA Act)<sup>17</sup> was promulgated to deal with the continued existence of caste-based atrocities after independence. The POA Act penalizes practices like exclusion from public utilities, social boycott, acts of humiliation, forced labor, and crimes committed against the women of the SC and ST communities, and provisions for setting up special courts, time-bound trial procedures, and increased punishments have been made. The POA Act has been used by courts to emphasize the extent to which caste influences access to justice and to stress the need for the adoption of special measures by the SC/ST community. The Supreme Court has emphasized the importance of giving priority to POA cases, being sensitive to the vulnerability of caste oppressed groups, and resisting social pressure and victim intimidation. Moreover, the Supreme Court has cautioned against interpreting the POA act in a hostile manner, under-staffing of special courts, and political hesitancy about prosecuting the guilty. The socio legal significance of POA jurisprudence is that caste is seen as a tangible factor influencing rights realization rather than as an abstract one.

## 5.3 SOCIO-LEGAL CRITIQUE

Even with constitutional guarantees and the POA Act, caste-based discrimination and violence remain under-reported and inadequately investigated. Police reluctance to register cases, slow investigations, low conviction rates, and treating caste-violence as a private-dispute rather than a public-wrong indicates the existence of caste-based power and political will<sup>18</sup>. Fear of being socially boycotted, economically sanctioned, and subjected to further violence if they resort to legal action prevents victims from approaching the court or filing FIRs. The paper adopts a socio-

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<sup>17</sup> SC/ST (POA) Act, No. 33 (1989)

<sup>18</sup> Prathvi Raj Chauhan v. Union of India, (2020) 4 SCC 727

legal approach in arguing that merely having law-on-paper is insufficient to eliminate caste-hierarchy as caste perpetuates itself via daily-practice, social norms, and institutional culture<sup>19</sup>. While the POA Act serves as a symbolic and instrumental corrective, its success hinges on integrating it into social-transformation processes. The paper advocates affirmative-action, quality-education, land-reform, and economic-redistribution to ensure substantive-equality for SC/ST communities, sensitization of law-enforcement, judges' and prosecutors' training, and the establishment of victim-support-mechanisms<sup>20</sup>. Furthermore, the paper recommends that the judiciary adopt a proactive-stance towards monitoring POA-implementation by registering and disposing of the cases.

## **6. ENVIRONMENTAL DEGRADATION AS A SOCIO-LEGAL ISSUE**

### **6.1 SOCIAL IMPACT OF ENVIRONMENTAL HARM**

Environmental degradation in India impacts the poor, informal-sector workers, and marginalized groups such as Adivasis and coastal people more. Pollution of air and water, industrial accidents, and climate change-related phenomena infringe upon the constitutional right to life with dignity in Article 21, although there is no holistic regulatory approach to environmental protection in India that incorporates the socio-legal dimension<sup>21</sup>. Informal sector workers suffer from polluted air and lack of safety measures at their workplace without wearing protective equipment or accessing social protection schemes. Adivasis is forcibly removed from their homes due to mining activities, dam construction, and conservation efforts in sanctuaries without receiving appropriate compensation. Women, responsible for the supply of water in households and agricultural activities, are particularly affected by contamination of water resources and climatic variations.

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<sup>19</sup> Anupama Rao, *The Caste Question* (2009)

<sup>20</sup> Indra Sawhney v. Union of India, (1992) Supp (3) SCC 217

<sup>21</sup> Vellore Citizens' Forum v. Union of India, (1996) 5 SCC 647



## 6.2 CONSTITUTIONAL AND REGULATORY FRAMEWORK

Judgements rendered by the Supreme Court of India have expanded the ambit of the Article to incorporate a Right to a Healthy Environment as a necessity that must be guaranteed before people can enjoy their basic freedoms. Under the M.C. Mehta v. Union of India series of judgements, the court mandated shutting down of polluting units or relocation of such activities, the use of CNG in public transportation, and the application of principles like 'polluter pays' and 'absolute liability for hazardous activities'. Further, the court also established concepts like 'precautionary principle' and 'sustainable development principle', whereby a cautious approach had to be adopted towards the launching of any project if there was a threat of significant environmental damage arising out of it. The National Green Tribunal Act, 2010 gave shape to these innovations through the creation of a specialized forum to hear environmental damage cases<sup>22</sup>.

## 6.3 SOCIO-LEGAL CRITIQUE

Even with progressive developments in the judiciary, the socio-legal criticism is that there are inadequate monitoring and enforcement of environmental norms, particularly in areas like industries and mining areas, where economic concerns are more significant than ecological concerns. There could be evasion of rules by polluters, and environmental clearances may be done on the basis of defective impact assessments. Existing laws have also been seen to not take into consideration the involvement of Adivasis and rural communities in matters of acquisition of lands, mining, and construction of dams, leading to forced displacement and erosion of indigenous knowledge. It is suggested that environmental regulation needs to be participatory and rights-based and needs to include the right to information, participation, and consent<sup>23</sup>. Lastly, the need for social justice along with environmental justice has been pointed out in the paper, through steps like community forestry management.

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<sup>22</sup> NGT Act, No. 19 (2010)

<sup>23</sup> Narmada Bachao Andolan v. Union of India, (2000) 10 SCC 664

## **7. INTERSECTIONALITY AND EMERGING SOCIO-LEGAL DEBATES**

### **7.1 CONCEPT OF INTERSECTIONALITY**

Intersectionality is concerned with the combined and interactive nature of various forms of discrimination and oppression that individuals undergo. In the Indian context, socio-legal problems never come up based on just one form of discrimination but result from the intersection of caste, gender, class, sexuality, and religion. The violence faced by Dalit women is based not only on their status within the hierarchy of castes but also on being female. For sexual minorities hailing from lower castes and/or rural areas, the discrimination suffered by them due to their sexuality overlaps with the social discrimination resulting from caste/class<sup>24</sup>. Migrant laborers from disadvantaged castes suffer not only from exploitation due to their social status but also marginalization because of their identity as migrants. An intersectional approach becomes necessary for a socio-legal analysis if it is to avoid reducing the complexities of rights of claims into one-dimensional explanations.

### **7.2 KEY LANDMARK JUDGMENTS**

Two significant judicial decisions that illustrate the intersectional approach adopted by India are the cases of *Shayara Bano v. Union of India* (2017)<sup>25</sup> and *Navtej Singh Johar v. Union of India* (2018)<sup>26</sup>. In *Shayara Bano*, the Supreme Court declared triple talaq unconstitutional as it was found to violate Articles 14, 15, and 21 of the Indian Constitution. It was argued that the practice of instant talaq is discriminatory against Muslim women, infringing on their right to equality, liberty, and personal autonomy. The case of *Navtej Singh Johar v. Union of India* demonstrates how intersectionality can be used to interpret the constitution and laws. The Court held that criminalisation of consensual same-sex relations is contrary to the constitutional rights to privacy, equality, freedom from discrimination, and freedom of expression. The Court underscored the

<sup>24</sup> Kimberlé Crenshaw, *Mapping the Margins*, 43 *Stan. L. Rev.* 1241 (1991)

<sup>25</sup> *Shayara Bano v. Union of India*, (2017) 9 SCC 1

<sup>26</sup> *Navtej Singh Johar*, (2018) 10 SCC at 152

importance of sexual autonomy and identity, as well as the impact of sexuality as it relates to caste, class, and gender<sup>27</sup>.

## **8. METHODOLOGY AND SCOPE**

### **8.1 DOCTRINAL SOCIO-LEGAL METHOD**

A doctrinal socio-legal approach is adopted for research in the paper. This involves doctrinal analysis of constitutional, statutory, and Supreme Court as well as High Court case law, alongside socio-legal analysis. The former involves the analysis of the language and ratio of decisions, development of legal doctrine and statutory structures such as the Protection of Women from Domestic Violence Act, 2005, the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, the POSH Act, 2013 and the Digital Personal Data Protection Act, 2023. The latter is the study of law in its wider social contexts, where issues of caste, gender, class, and technology act as intermediaries between society and the law. This approach eschews doctrinal formalism and speculative sociology in order to provide an evidence-based analysis of India's socio-legal problems which are intrinsically related and form battlegrounds for struggles of dignity, equality and justice.

### **8.2 LIMITATIONS**

Nevertheless, the study presents some weaknesses despite its richness of analysis. To begin with, the study is only focused on the Indian legal system and lacks a systematic comparative analysis of the social legal evolution of India compared to countries such as Brazil, South Africa, and even the United States. Moreover, the research draws much of its content from reported judgments and secondary literature, meaning that there was no primary field work involved and therefore, no creation of new empirical data. Another weakness in this study is the fact that it focuses on legal evolution since the early 1990s with more concentration on recent events after 2010. Furthermore, there are only five themes of interest considered by the research while there are many other socio-legal issues like disability rights, refugee law, migrant law, and AI regulation in India that require special consideration.

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<sup>27</sup> Sharmila Rege, *Writing Caste/Writing Gender* (2006)

## **9. DISCUSSION AND CRITICAL ANALYSIS**

### **9.1 JUDICIAL ACTIVISM VERSUS SOCIAL REALITY**

Judicial activism in India has ensured that fundamental rights have been furthered in many new spheres, like those of privacy, gender equality, anti-discrimination, and environmental protection, through Public Interest Litigations (PILs) and transformative constitutionalism<sup>28</sup>. Nevertheless, the gap between doctrine innovation and social reality still exists due to the dilution of environmental orders, under-reporting of caste atrocities, lack of implementation of digital rights, and the inability to enforce gender justice due to poor institutional capacity and patriarchy. This paper will argue that judicial activism is just one piece of the puzzle that needs to work together for a better future.

### **9.2 ROLE OF CIVIL SOCIETY AND PUBLIC DISCOURSE**

The role of civil society in generating socio-legal debates can be exemplified by actors such as women's rights groups, Dalit rights movements, queer rights networks, environmental activists, and digital rights organizations. Initiatives like the #MeToo campaign, and even grassroots mobilization, have had a great impact on how courts, workplaces, and environmental justice are interpreted and understood<sup>29</sup>. It is from a socio-legal framework that we can see that the law is not autonomous but socially contested and discursively produced. In other words, civil society addresses any gaps in implementation, holds training programs, and monitors accountability.

## **10. CONCLUSION**

In summary, socio-legal contemporary issues in India clearly illustrate the relationship between law and society as dynamic, whereby legal norms define and influence society, while society also influences and defines legal norms. Landmark judgments such as Vishaka, Puttaswamy, Navtej Singh Johar, Shayara Bano, and M.C. Mehta have enhanced constitutional rights related to dignity, equality, privacy, and environmental protection through reinterpretation of the Indian Constitution to reflect the living nature of the document. Nonetheless, the paper argues that for these judgments to transform society, it is important for their provisions to be implemented effectively and socially

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<sup>28</sup> Upendra Baxi, Taking Suffering Seriously, 4 Socio-Legal Rev. 21 (2008)

<sup>29</sup> Neera Chandhoke, Civil Society, 41 Econ. & Pol. Wkly. 51 (2006)

mobilized to overcome institutions. Law alone cannot eradicate patriarchy, caste hierarchy, digital inequality, or exploitation of the environment. In this regard, a socio-legal perspective enables moving away from doctrinal formalism in the application of legal rules to understand the realities of marginalized groups who feel excluded from the law because they experience power, inequality, and hope. The five themes of gender violence, digital rights, caste discrimination, environmental degradation, and intersectional marginalization are highly intertwined.

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